

COUNCIL ASSESSMENT REPORT
SYDNEY CENTRAL CITY PLANNING PANEL

PANEL REFERENCE & DA NUMBER	PPSSCC-382 - DA 284/2023/JP
PROPOSAL	Mixed Use Development including Warehouse Units, Motel (Respite) Accommodation, Respite Day Care Centre and Associated Works
ADDRESS	Lot 7 DP 1158760, 3 Money Close Rouse Hill
APPLICANT	North West Disability Services Australia Limited
OWNER	North West Disability Services Inc
DA LODGEMENT DATE	09 August 2022
APPLICATION TYPE	Development Application - Integrated
REGIONALLY SIGNIFICANT CRITERIA	Clause 5, Schedule 6 of the Planning Systems SEPP: Private Infrastructure and community facilities over \$5 million
CIV	\$24,219,511 (excluding GST) Community Facility component - \$5,893,403 (excluding GST)
CLAUSE 4.6 REQUESTS	Nil
KEY SEPPS / LEP	The Hills Local Environmental Plan 2019 SEPP (Planning Systems) 2021 SEPP (Resilience and Hazards) 2021 SEPP (Transport and Infrastructure) 2021 SEPP (Biodiversity and Conservation) 2021
TOTAL & UNIQUE SUBMISSIONS KEY ISSUES IN SUBMISSIONS	Two submissions <ul style="list-style-type: none"> - Permissibility - Acoustics
DOCUMENTS SUBMITTED FOR CONSIDERATION	Architect: Peter Brooks Projects Architects Acoustic Report: Day Design Pty Ltd Town Planner: James Lovell and Associates Landscape Architect: iScape Landscape Architecture Engineering: C&M Consulting Engineers

	Quantity Surveyor: Construction Consultants Traffic: Varga Traffic Planning Pty Ltd Arborist Report: Urban Arbor Site Investigations: Benbow Environmental and Aargus Accessibility: Morris Goding Access Consultant
SPECIAL INFRASTRUCTURE CONTRIBUTIONS (S7.24)	Not Applicable
RECOMMENDATION	Approval subject to conditions
DRAFT CONDITIONS TO APPLICANT	Yes
SCHEDULED MEETING DATE	Electronic
PLAN VERSION	N/A
PREPARED BY	Kate Clinton – Development Assessment Coordinator
CONFLICT OF INTEREST DECLARATION	None Declared
DATE OF REPORT	29 November 2023

EXECUTIVE SUMMARY

The proposed development is for a mixed use development comprising warehouse units, a respite day care centre, motel accommodation, associated offices and car parking for 121 cars, to be completed in two stages.

Stage 1

- Respite day care centre (830m²) comprising five activity rooms, meeting rooms, amenities and admin areas, an in-house 'training' café, outdoor landscaped space and a multi-use hard court;
- Car parking for 53 cars and a mini bus drop off area;
- Offices (435m²) ancillary to the North West Disability Services (NWDS) uses on the site.

Stage 2

- Six warehouse units, four with mezzanines;
- Three of the units will accommodate uses associated with NWDS "life skills" program;
- Six motel rooms (or suites) associated with NWDS.
- An additional 68 parking spaces and second vehicular entrance from Money Close.

The proposed development has been designed to accommodate the operational requirements of North West Disability Services (NWDS).

The proposed development is permissible in the E4 General Industrial zone and has been assessed under the relevant provisions of State Environmental Planning Policy (Planning Systems) 2021, 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 LEP 2019, and The Hills Development Control Plan 2012.

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

The proposed development includes a variation to building setbacks stipulated by the DCP for industrial development. The variations to setbacks is considered satisfactory given the built form of the proposal, the surrounding context of the site and high percentage of landscaped area of the site. The report also addresses the proposed parking on the site and its compliance with the applicant's "first principles" assessment and a merit assessment against the DCP controls.

The application was notified initially for 22 days, and also notified and advertised as Nominated Integrated Development following the submission of amended plans and information for a period of 37 days. One submission from an adjoining owner was received during each notification / advertising period. The issues raised in the objections relate to stormwater, permissibility and acoustics. Conditions of consent require compliance with LEP land use definitions and acoustic construction measures to address concerns raised in submissions. Other matters are addressed in the report and do not warrant refusal of the application.

General Terms of Approval were issued by the Department of Planning and Environment (Water) in relation to the riparian corridor at the rear of the site.

The Development Application is recommended for approval subject to conditions.

1. THE SITE AND LOCALITY

The site (Lot 7 DP1158760) is known as No. 3 Money Close, Rouse Hill and is located on the north-eastern side of Money Close, approximately 85 metres from the intersection with Mile End Road. It has an area of 8,004m² and is generally rectangular in shape with a frontage of approximately 85 metres to Money Close.

An aerial photograph of the subject site is outlined in red below (refer Figure 1):



Figure 1: Aerial photograph

The site is currently vacant and is relatively level, with a gentle fall towards the rear. The site has been substantially cleared of vegetation, with the exception of some small trees and shrubs, and a larger grouping of trees located near the rear boundary within a riparian corridor. This area is shown on Council's Vegetation Mapping to be characterised by Cumberland Plain Woodland and Shale/Sandstone Transition Forest, both of which are critically endangered ecological communities.

The site (Lot 7 within the Deposited Plan excerpt in Figure 2) is burdened by a number of restrictions and positive covenants, including an asset protection zone (K), easements to drain water (J), and a core riparian zone (M). The riparian corridor is to be maintained in accordance with the terms of approval of the (then) Department of Water and Energy issued in relation to Subdivision Consent No. 375/2003/ZB which created Money Close and Lots 1 to 8.

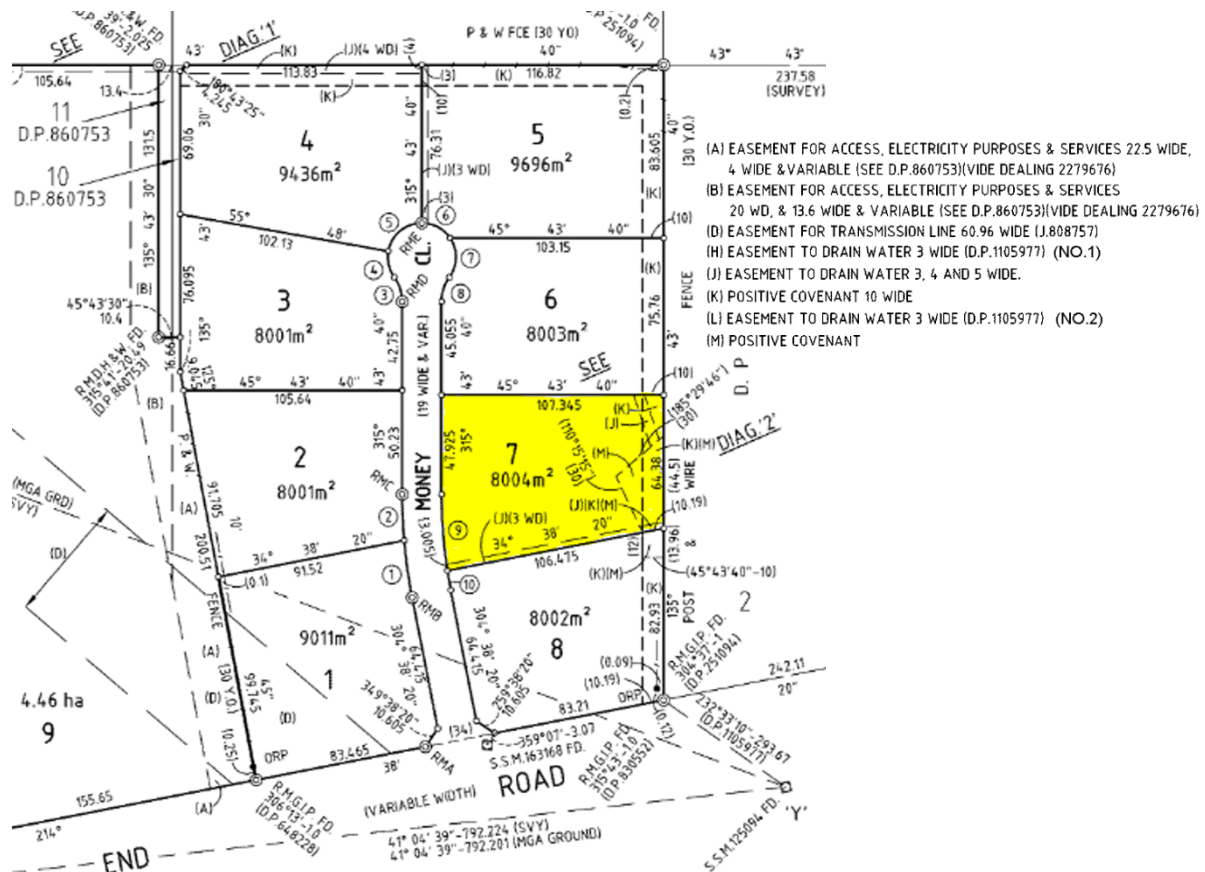


Figure 2: Deposited Plan 1158760

The site and immediately surrounding land is zoned E4 General Industrial pursuant to The Hills Local Environmental Plan 2019. A 16 metre height limit and maximum floor space ratio of 1:1 apply to the site.

The lots within Money Close have progressively developed for industrial and warehouse purposes, with the exception of No. 7 Money Close which remains vacant but with development consent for a warehouse development.

The adjoining land to the north-west (No. 5 Money Close) is occupied by a warehouse complex including ancillary office space, self-storage units and café. Adjoining the site to the south-east (No. 1 Money Close) is a child care facility catering for 154 children with an open car park. Adjoining the site to the north (No. 18-20 Mile End Road) is an approved staged warehouse development occupied by Oz Design. The riparian corridor within that site was reconstructed in accordance with Office of Water requirements.

Further to the north-west of the site is land known as No. 12 Mile End Road, owned by Sydney Water and is occupied by a sewage treatment plant. Further to the east of the site on the opposite side of Mile End Road is low density residential development on land zoned R2 Low Density Residential.

The Rouse Hill Metro Station is located 3.1km away and bus stops for services to Rouse Hill and Kellyville station, and to Pennant Hills via Kellyville and Castle Hill are located on Mile End Road in the vicinity of Money Close.

2. THE PROPOSAL AND BACKGROUND

2.1 The Proposal

The proposal is for a mixed use development comprising warehouse units, a respite day care centre, motel accommodation, associated offices and car parking for 121 cars, to be completed in two stages.

Stage 1

- Respite day care centre (830m²) comprising five activity rooms, meeting rooms, amenities and admin areas, an in-house 'training' café, outdoor landscaped space and a multi-use hard court. This use will incorporate 6 hour day program activities (for up to 100 clients) and shorter 2 hour therapy and support programs (for up to 25 clients);
- The café is not accessible to the general public (refer Condition No. 5).
- Car parking for 53 cars and a mini bus drop off area and one vehicular access point from Money Close; and
- Offices (435m²) ancillary to the NWDS uses on the site, located above the day care centre. The area includes a reception, office spaces, an open plan admin area, breakout area, open plan HR area, quiet room and bathroom facilities.

Stage 2

- Six warehouse units with a total area of 2,100m², four with mezzanines totalling 400m²;
- Three of the units will accommodate uses associated with NWDS "life skills" program;
- Six motel rooms (or suites) associated with NWDS. Each motel room is provided with 3 or 4 bedrooms, 2 or 3 bathrooms, a laundry, kitchen, living area and balcony area;
- An additional 68 parking spaces and second vehicular entrance from Money Close.

The proposed development has been designed to accommodate the operational requirements of North West Disability Services (NWDS). NWDS is a non-profit community organisation and a registered Charity and Public Benevolent Institution, governed by a volunteer board of Directors. NWDS operates a range of disability support services and currently operates three facilities in north-western Sydney which are located in Richmond, Castle Hill and Baulkham Hills. The applicant has provided a Management Statement in support of the application and to assist in explaining the various components of the NWDS uses on the site (refer Attachment P). It is recommended that the use of the site be conditioned to be consistent with the Management Statement.

Off-street car parking is proposed for a total of 121 vehicles, two (2) motorcycles and nine (9) bicycles. Vehicular access is proposed via two (2) separate entry/exit driveways located along the Money Close frontage of the site. A mini bus drop off bay is provided within the car park to service the day care centre. Mini buses are parked off site at another NWDS location.

It is anticipated that 80% of clients of the day care centre will be dropped off and picked up by NWDS operated community buses, and the remaining 20%, in addition to those attending the two hour sessions will be dropped off and picked up by carers.

The proposed warehouse units will typically operate between 7.00am and 6.00pm, Monday to Saturday. The motel accommodation will be accessible 24 hours per day, with access managed by swipe card/pin number.

The respite day care centre and in-house café will typically operate between 7.30am and 6.00pm, Monday to Friday, and between 9.00am and 5.00pm Saturdays and Sundays. The Traffic Report advises that a 6-hour day care program is anticipated to operate between 9am – 4pm, whilst the 2-hour therapy and support program will comprise 3 x 2-hour sessions between 9am – 4pm. The associated administration offices will typically operate during the same hours as the respite day care centre.

An NWDS operated community bus service is expected to provide 5 drop-off services in the morning, and 5 pick-up services in the afternoon, using the bus bay area proposed on Level 1. Buses are parked off-site at another NWDS location.

The proposed development also includes the removal of 21 trees at the rear of the site, retaining walls and landscaping adjacent to the riparian corridor.

The proposal is The Development Application is classified as 'Nominated Integrated Development' pursuant to Clause 4.46 of the Environmental Planning and Assessment Act 1979 requiring referral to the Department of Planning and Environment – Water under the provisions of the Water Management Act 2000.

The key development data is provided in Table 1.

Table 1: Development Data

Control	Proposal
Site area	8,004m ²
GFA	5,415m ²
FSR	0.6765:1
Clause 4.6 Requests	Not required
Max Height	16 metres
Car Parking spaces	121 spaces

2.2 Background

A prelodgement meeting was held with Council staff on 30 October 2020 for a multi-level light industrial complex with 24 units, and disability care services including respite day care and residential accommodation on the site.

The applicant was advised that the residential accommodation component of the development was prohibited in the zone. The remainder of the disability services facility would appear to fit within the definition of a 'respite day care centre' and the office component would need to be ancillary.

The subject application was lodged on 9 August 2022.

Including the motel use, three warehouses and respite day care centre, the NWDS use component of the development has a floor area of 3,145m². Including the mezzanine office area within warehouse Unit 3 and offices above the respite day care, the dedicated ancillary office floor space for the NWDS component of the development is 535m².

On 30 August 2022 a letter was sent to the applicant requesting further information with respect to waste storage and collection, site contamination (a detailed site investigation report), odour assessment, ecology and landscaping (biodiversity reporting, Arborist report, and final landscape plans).

On 3 November 2022, the Applicant attended a briefing with the Sydney Central City Planning Panel ("the Panel"). Key matters discussed at the meeting were:

- The Panel observed that the mix of uses was unusual and required further explanation and justification by the applicant.
- The Panel queried the choice of site, noting that an existing child care centre is located to the south of the site while 24/7 warehousing / logistics and light industrial uses are located on adjoining land.
- An additional RFI would be sent seeking further information from the applicant regarding site permissibility, including in relation to the diverse uses proposed on site as well as specifically with regard to the proposed motel use. Parking rates were also to be clarified.
- 1 submission had been received, which raised questions related to how the acoustic impact of the existing 24/7 warehousing / logistics use was proposed to be addressed on the site considering the respite uses that have been proposed.

On 9 November 2022 Council requested additional information and clarification in relation to various aspects of the proposed development including:

- Permissibility and operational details of the proposed uses, including the administration offices and the relationship with the NWDS uses on the site, and the operation of the proposed motel accommodation. It was suggested that legal advice be obtained in support of the proposed uses.
- Revised Accessibility Report, Traffic Report and Acoustic Report were requested due to containing information inconsistent with the proposed development.
- Justification of parking rates applied to the various uses.
- Ensuring adequate consideration of approved uses on adjoining land and their likely impact on the proposed uses.
- Advice that the development appears to be integrated due to works proposed within a watercourse.
- Clarification of proposed building height variation.
- Confirmation of gross floor area.
- Schedule of colours and materials.
- Clarification of proposed roof terrace use.
- Details of water, sewer and electricity servicing capabilities for the proposed development.
- Additional plans including Sections, staging plans, finished levels, setback notations and increases to setbacks to comply with the Industrial DCP.
- Flora and fauna assessment and vegetation management plan with respect to the riparian corridor and significant trees affected by proposed pathways, retaining walls and drainage works.

A full chronology of the development application since lodgement is outlined in Table 2 below. Amended plans and information were submitted a number of times throughout the assessment of the application. The most significant amendments to the proposal included: -

- Reduction in the number of proposed warehouse units from 11 to 6;
- Deletion of a roof top terrace;
- Reduction in building height to comply with the maximum permitted 16 metre height;

- Increased building setbacks to the north-western boundary and front boundary of the site; and
- Removal of retaining walls and pathways from the riparian corridor to minimise impacts on trees and significant vegetation.

General Terms of Approval were issued by the Department of Planning and Environment – Water on 27 October 2023, and all outstanding matters were resolved with the submission of updated supporting information, clarification as to the proposed uses on the site, and amended plans.

Table 2: Chronology of the DA

Date	Event
30 October 2020	Prelodgement meeting held.
9 August 2022	Development Application lodged. The original proposal included a rooftop terrace, eleven (11) warehouse units and a Clause 4.6 statement was submitted in support of a height variation.
15 August 2022	Notification commenced. One submission received during the notification period.
3 November 2022	SCCPP briefed on the development application.
9 November 2022	Request for information sent to applicant.
9 December 2022	Applicant submitted Detailed Site Investigation Report
15 February 2023	Letter to applicant requesting additional engineering and traffic information.
17 March 2023	Additional information and amended plans submitted by the applicant. Outstanding matters remaining include legal advice, odour assessment, updated acoustic and traffic report, operational overview.
25 March 2023	Legal advice submitted.
27 April 2023	Amended Statement of Environmental Effects submitted.
16 May 2023	Amended plans and traffic information submitted.
13 June 2023	Amended plans submitted. Warehouse units reduced from 11 to 6.
20 July 2023	Email to applicant advising that the application is to be reported to the Panel in August based on the information received.
4 August 2023	Odour assessment and updated amended plans submitted including the deletion of a roof terrace.

7 August 2023	Amended plans submitted, NWDS operational statement, waste management plan submitted. Roof terrace deleted, compliance with building height demonstrated.
9 August 2023	Meeting with Applicant and Council staff to discuss outstanding matters.
10 August 2023	Letter to applicant requesting further explanation of operational details and amended traffic report to coincide with the operational report, updated staging plans, updated acoustic report, accurate identification of trees on site and an Arboricultural Impact Assessment, and redesign of landscaping. The applicant was requested to pay the integrated development referral fee.,
14 August 2023	Amended plans, operational statement and staging plans submitted.
23 August 2023	Amended Stormwater Plans submitted.
28 August 2023	Notification and advertising commenced. Integrated referral to Department of Environment and Planning – Water. One submission received during the notification / advertising period.
3 October 2023	Amended Survey Plan submitted.
17 October 2023	Amended Traffic Report submitted.
20 October 2023	Amended Landscape Plan submitted, removing works from within the riparian corridor.
27 October 2023	General Terms of Approval issued by Department of Planning and Environment – Water.
31 October 2023	Amended Plans submitted to be consistent with landscape plans. Revised Arborist Report submitted.
14 November 2023	Final set of architectural plans submitted.

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.

It is noted that the proposal is considered to be Integrated Development (s4.46) (which is considered further in this report):

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;*
- *The Hills Local Environmental Plan 2019;*

A summary of the key matters for consideration arising from these State Environmental Planning Policies are outlined in **Table 3** and considered in more detail below.

Table 3: Summary of Applicable State Environmental Planning Policies

EPI	Matters for Consideration	Comply (Y/N)
Planning System SEPP	<ul style="list-style-type: none"> • Section 2.19(1) declares the proposal as regionally significant development pursuant to Clause 5 of Schedule 6. 	Y
Resilience and Hazards SEPP	<ul style="list-style-type: none"> • Clause 4.6 - Contamination and remediation has been considered in the Detailed Site Investigation Report and the proposal is satisfactory subject to conditions. 	Y
Transport and Infrastructure SEPP	<ul style="list-style-type: none"> • Section 2.48 - Impact on Electrical Infrastructure 	Y
Biodiversity and Conservation SEPP	<ul style="list-style-type: none"> • Chapter 2 Vegetation in non-rural areas has been considered in this report. • Chapter 6 Water Catchments 	Y
LEP	<ul style="list-style-type: none"> • Clause 4.3 – Height of Buildings • Clause 4.4 – Floor Space Ratio 	Y

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 5 of Schedule 6 of the SEPP as the proposal is development for private infrastructure and community facilities with a Capital Investment Value of more than \$5 million. 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 Detailed Site Investigation (DSI) was prepared for the site to consider the provisions of the SEPP. The conclusion of the report advised the following:

“Based on the results of this investigation it is considered that the risks to human health and the environment associated with soil contamination at the site are negligible within the context of the proposed use of the site...The site is therefore considered to be suitable for the proposed use.”

Council’s Environmental Health Team have reviewed the DSI and have raised no objections to the recommendations of the report, subject to conditions. The proposed development is therefore considered satisfactory in relation to the SEPP.

State Environmental Planning Policy (Transport and Infrastructure) 2021

Clause 2.48 of the SEPP relates to Development likely to affect an electricity transmission or distribution network. A substation is proposed within the front setback of the development. The application was referred to Endeavour Energy who raised no objection to the proposal. Comments have been incorporated into the recommended conditions of consent.

Accordingly, the proposal development is satisfactory with respect to the relevant provisions of the Transport and Infrastructure SEPP.

State Environmental Planning Policy (Biodiversity and Conservation) 2021

Chapter 2 (Vegetation in non-rural areas) aims to:

- (a) *Protect the biodiversity value of trees and other vegetation in non-rural areas of the State, and*
- (b) *Preserve the amenity of non-rural areas of the State through the preservation of trees and other vegetation.*

Pursuant to section 2.6(1) a person must not clear vegetation in a non-rural area of the State to which Part 2.3 applies without the authority conferred by a permit granted by the council under that Part.

The site is mostly cleared with the exception of a vegetated area at the northeastern end of the site within the riparian corridor identified on the deposited plan, including trees, which is proposed to remain and be supplemented by a hierarchy of new trees, shrubs and groundcovers. The indigenous trees and shrubs present are characteristic tree and shrub species associated with and consistent with Shale/Sandstone Transition Forest-Critically endangered ecological community.

The applicant submitted an Arboricultural Impact Assessment Report which investigated the existing trees and vegetation and the likely impacts of the proposed development, as amended. The report recommended the removal of 21 trees, and the retention of 45 trees.

The Report was considered by Council's Ecology and Landscaping staff. Adequate avoidance of impacts to vegetation in the riparian zone (as burdened by a positive covenant within the site) has been demonstrated. A Vegetation Management Plan (VMP) is recommended to be provided (refer Condition No. 40) due to the presence of the Critically Endangered Ecological Community and the riparian corridor. This is consistent with past development applications within the subject site.

Chapter 6 (Water Catchments) applies to land in the Hawkesbury-Nepean Catchment. Of relevance to the subject application is Division 2 (Controls on development generally). The consent authority is required to consider matters relating to water quality and quantity, aquatic ecology, flooding, recreation and public access and total catchment management.

A stormwater concept plan has been submitted with the application. Stormwater and civil works have been assessed by Council's Senior Subdivision Engineer. The proposed development is consistent with the form of established industrial development in the area and is not considered to have an adverse impact on the water catchment or any aquatic or riparian area. The application was also assessed by the Department of Planning and Environment – Water and has received General Terms of Approval.

The proposed development is considered satisfactory with respect to SEPP (Biodiversity and Conservation) 2021.

The Hills Local Environmental Plan 2019

The proposed development is pursuant to the provisions outlined within the LEP.

The proposed development is for the following uses which are permitted in the zone:

warehouse or distribution centre means a building or place used mainly or exclusively for storing or handling items (whether goods or materials) pending their sale, but from which no retail sales are made, but does not include local distribution premises.

respite day care centre means a building or place that is used for the care of seniors or people who have a disability and that does not provide overnight accommodation for people other than those related to the owner or operator of the centre.

hotel or motel accommodation means a building or place (whether or not licensed premises under the Liquor Act 2007) that provides temporary or short-term accommodation on a commercial basis and that—

(a) comprises rooms or self-contained suites, and

(b) may provide meals to guests or the general public and facilities for the parking of guests' vehicles,

but does not include backpackers' accommodation, a boarding house, bed and breakfast accommodation or farm stay accommodation.

The site is located within the E4 General Industrial Zone. The objectives of the E4 zone are:

- *To provide a range of industrial, warehouse, logistics and related land uses.*
- *To ensure the efficient and viable use of land for industrial uses.*
- *To minimise any adverse effect of industry on other land uses.*
- *To encourage employment opportunities.*
- *To enable limited non-industrial land uses that provide facilities and services to meet the needs of businesses and workers.*
- *To provide for a range of urban support services to serve the needs of residents in surrounding areas and workers in the locality.*
- *To facilitate the development of freight and logistics operations to enhance the viability and use of land in employment zones.*
- *To provide temporary overnight accommodation for the working population and businesses in the area.*

The proposed development includes a range of uses, including warehouses and support services, which will generate employment opportunities. The proposed development is considered to be compatible with the range of surrounding land uses and incorporates construction measures to ensure appropriate acoustic outcomes. Temporary overnight accommodation is provided which may also be utilised by the working population or businesses in the area if compatible with their needs. The proposal is considered to be consistent with these zone objectives.

The LEP also contains the following relevant controls relating to development standards, miscellaneous provisions and local provisions. The controls relevant to the proposal are considered in **Table 4** below.

Table 4: Consideration of the LEP Controls

Control	Requirement	Proposal	Comply
Minimum subdivision Lot size (CI 4.1)	8,000m ²	8,004m ² (existing)	Yes
Height of buildings (CI 4.3(2))	16 metres	16 metres	Yes
FSR (CI 4.4(2))	1:1	0.6765:1 (5,415m ²)	Yes

i) Compliance with Clause 6.3 Public Utility Infrastructure

Clause 6.3(1) states the following:

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

Clause 6.3 of the LEP defines public utility infrastructure as any of the following:

- a) the supply of water,
- b) the supply of electricity,
- c) the disposal and management of sewage.

Sydney Water and Endeavour Energy were consulted during the assessment of the application. A substation is accounted for on the development plans. The required services are available to service the development subject to Sydney Water and Endeavour Energy requirements. The proposal is satisfactory with respect to Clause 6.3 of the LEP.

The proposal is considered to be generally consistent with 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 Sections of The Hills DCP 2012 where relevant:

- Part B Section 7 – Industrial;
- Part C Section 1 – Parking;
- Part C Section 3 – Landscaping;

The proposed development complies with the above DCP sections with the exception of building setbacks which is discussed in Section 3.3(ii) of this report. In addition, due to the unique nature of the proposal, a parking assessment is outlined below in Section 3.3(i).

i. Parking

Development Control (a) of section 2.16 Carparking of Part B Section 7 – Industrial requires parking to be provided in accordance with Part C Section 1 – Parking. Table 1 of that DCP Section requires the following parking to be provided:

Table 5: Applicable Parking Rates and Proposed Parking

DCP Parking Rate	Parking generated by proposed development	Parking proposed
<i>Warehousing</i> 1 space per 50m ² 2 visitor parking spaces per 5 units	2,077m ² = 41.5 spaces 6 units = 2.4 visitor spaces	

<i>Motel Accommodation</i>		
1 space per 1 guest room 1 space per 2 employees	6 units = 6 spaces 6 staff = 3 spaces	
<i>Respite Day Care Centre and associated internal café</i>		
1 space per 25m ² *	830m ² – 33.2 spaces	
<i>Ancillary Offices</i>		
1 space per 25m ²	400m ² (mezzanine) = 16 spaces 435m ² (ancillary to day care) = 17.4 spaces	
TOTAL REQUIRED	Stage 1: 50.6 spaces (51) Stage 2: 68.9 spaces (69) All stages: 119.5 spaces (120)	Stage 1: 53 Stage 2: 68 All stages: 121

*Commercial rate applied.

The objectives of this section of the DCP are:

- (i) *To ensure the safety of all road users in industrial areas.*
- (ii) *To ensure that all car parking demands generated by the development are accommodated on the development site.*
- (iii) *To protect the free flow of traffic into and out of the industrial allotments and the surrounding street network.*
- (iv) *To ensure that the provision of off-street parking facilities does not detract from the overall visual amenity and character of the neighbourhood in relation to streetscape.*

The objectives of the general parking requirements of Part C Section 1 – Parking are:

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

Comment:

The Parking DCP section provides standard rates for warehousing, motel and ancillary office components of the development which have been applied in Table 5 above. A commercial (1 per 25m²) rate is applied to the respite day care centre component of the centre, since a child care centre is not an appropriate comparison to the proposed use. A Traffic Report was submitted with the application in support of the proposed parking.

The report advises that in practical terms, neither the *Guide to Traffic Generation* nor the *Technical Direction* (Transport for NSW publications) nominate traffic generation rates which are specific to the need of NWDS programs and services. Similarly, Council's DCP parking rates also do not specifically address the needs of the NWDS development.

A "first principles" assessment has therefore been undertaken which, according to the Traffic Report, yielded a total parking requirement of 113 spaces as follows:

“First Principles” Parking Assessment	
Number of Parking Spaces Required	
49 NWDS staff:	49 spaces
6-hour program (20% by carers):	20 spaces
2-hour program (by carers):	5 spaces
Sub-Total:	74 spaces
Disability motel (DCP rates):	6 spaces
Warehouses 4, 5, 6 (DCP rates):	33 spaces
Sub-Total:	39 spaces
TOTAL:	113 spaces

Figure 3: Revised Traffic Assessment and Parking Report, Varga Traffic Planning Pty Ltd, 16/10/23

The assessment of the proposed parking generation in accordance with the DCP and the “first principles” assessment undertaken by the applicant find that 120 and 113 parking spaces respectively, are required. The proposal provides 121 parking spaces which is compliant. The objectives of both the Parking and Industrial sections of the DCP are achieved.

ii. Setbacks

The Hills DCP Part B Section 7 – Industrial, Section 2.6 – Setbacks, control (b) requires a 5 metre building setback. The control does allow 2 metres for ground level car parking.

A minimum 5 metre building setback is provided to the front property boundary to Money Close. In place of a 5 metre setback to the side boundaries, a 2 metre setback to the northwestern boundary, and a minimum 3.2 metre setback to the south eastern boundary are proposed.

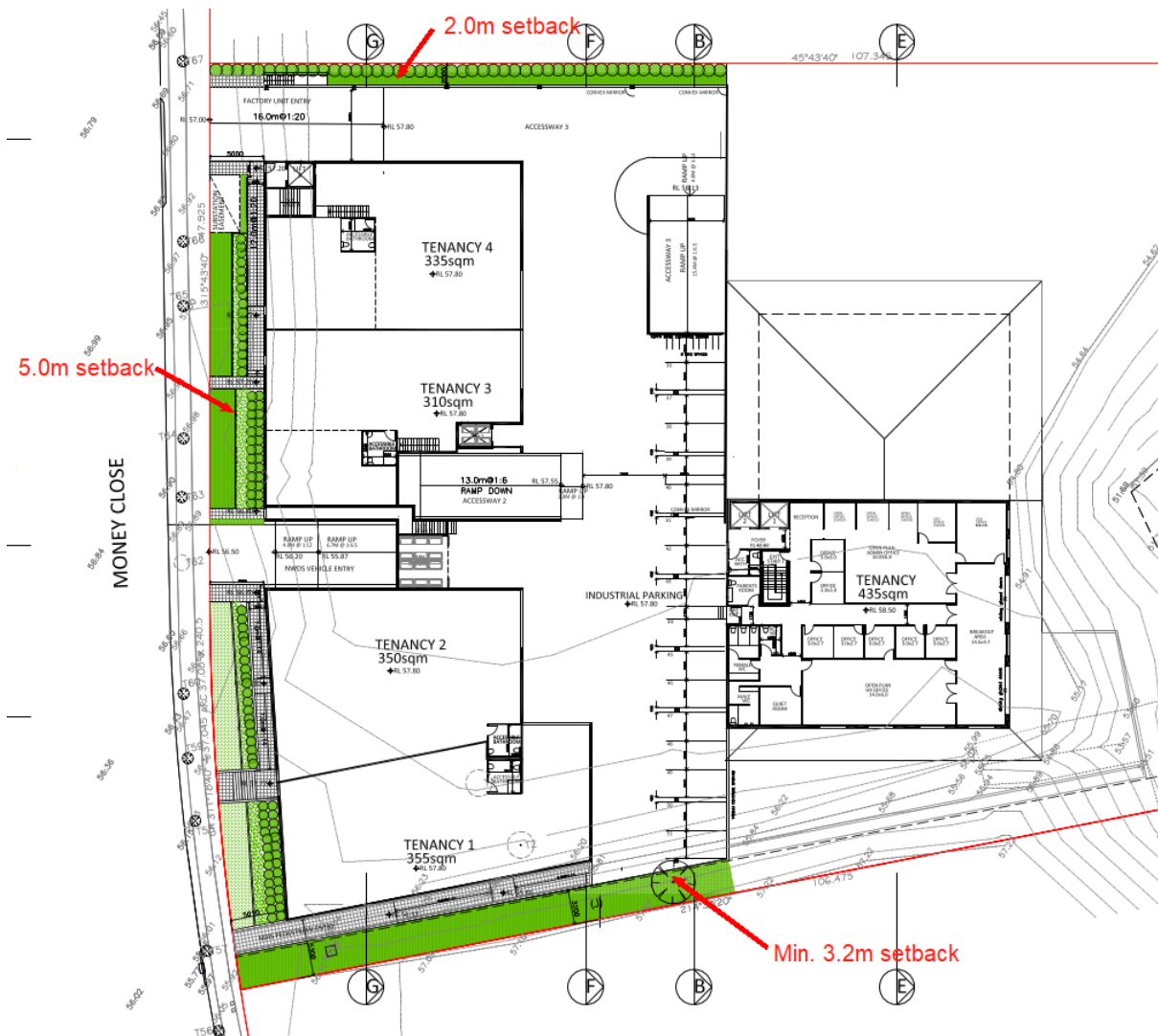


Figure 4: Excerpt of Level 2 Plan

Comment:

The objectives of this section of the DCP are:

- (i) To provide an open streetscape with substantial areas for landscaping and screen planting.
- (ii) To provide an effective buffer to preserve the natural features and creeks in accordance with Council's ESD objective 4.
- (iii) To minimise overshadowing of adjoining properties.
- (iv) To protect privacy and amenity of any adjoining land uses.
- (v) To provide a desirable and aesthetically pleasing working environment.

The front setback to Money Close complies with the 5 metres required by the DCP with the exception of pathways and stairs. This variation is considered minor and necessary to facilitate access to the development. The proposed landscaping within the remaining setback area will ensure these elements do not detract from the streetscape.

A 2m setback to the northwestern boundary of the site applies to a 42m side elevation of the building. A 3.2m setback to the southeastern boundary applies to a 13 metre length of the

Level 2 carpark, in addition to a side pathway entrance, and the overhanging roofline to warehouse Tenancy 1. All development on the southeastern boundary is outside of the 3m wide drainage easement on this boundary.

A review of other building setbacks in the locality found a number of similar variations for buildings in the vicinity of the site:

- 3 metre setback from the southeastern boundary to the industrial building located at No. 6 Money Close (746/2016/PCDC);
- 0 metre setback from the northeastern boundary to the industrial building located at No. 2 Money Close (2058/2021/PCDC); and
- 3 metre setback from the southeastern boundary to the elevated car park of No. 5 Money Close (408/2019/HA).

The proposed setback variations have been considered in relation to the objectives of the setback controls. Despite the reduced setback to the southeastern boundary, northwestern boundary and pathway / ramp encroachments within the front setback, the proposal is considered to be consistent with the objectives.

The proposed development is set back at least 27 metres from the rear boundary of the site, and a substantial percentage of the site (approximately 58%) is soft landscaped. As seen in Figure 1 – Aerial photograph, compared to the majority of the surrounding sites in Money Close, the proposed development will result in a superior landscaped outcome despite the variations to the front and side setbacks. Due to the orientation of the site and the position of the play area at the adjoining child care centre, there will be no overshadowing or amenity impacts. It is considered that the variations are acceptable.

3.4 Section 4.15(1)(a)(iiia) – 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

The application has been assessed in accordance with the relevant clauses of Division 4 Development Applications for Development Requiring Concurrence of the Regulations. General Terms of Approval have been granted by the Department of Environment and Planning – Water.

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

The proposed development is not considered likely to result in any adverse impacts. The proposed development is considered to be compatible with the locality and surrounding development. The use will provide valuable industrial and social infrastructure. The design of the proposal will make a positive contribution to the streetscape of Money Close and the biodiversity values of the riparian corridor at the rear of the site will be protected and enhanced.

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

The proposal is for a mix of uses that are considered to be compatible with the site and the surrounding existing and future development. The warehouse unit component of the development is consistent with existing industrial development in the vicinity. The respite day

care centre is compatible with the existing child care centre on the adjoining site to the south east. The two storey design of the day care and use of the rear of the site for landscaping and open space compliments and makes good use of the riparian corridor and existing trees. The acoustic report provided with the application has considered the nature of the development, including the motel component, in addition to the surrounding development and has made recommendations for the construction of the development to ensure there are no acoustic concerns. The site is easily accessible by car and bus services and the development itself is serviced by private mini bus. The site is considered to be suitable for the development.

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 proposed development is considered to be in the public interest and will provide valuable services to the community whilst being cognisant of surrounding development.

4. REFERRALS AND SUBMISSIONS

4.1 Agency Referrals and Concurrence

The development application has been referred to Sydney Water and Endeavour Energy for comment, and the Department of Environment and Planning – Water for concurrence as required by Clause 4.46 of the EP&A Act 1979. There are no outstanding issues arising from these referral requirements subject to the imposition of recommended conditions if development consent was granted for the application.

Table 6: Concurrence and Referrals to agencies

Agency	Concurrence/ referral trigger	Comments (Issue, resolution, conditions)	Resolved
Concurrence Requirements (s4.13 of EP&A Act)			
Referral/Consultation Agencies			
Endeavour Energy	Notification only	A substation is proposed on the site	Y
Sydney Water	s.78 Sydney Water Act	Servicing is available subject to a Section 73 application.	Y
Integrated Development (S 4.46 of the EP&A Act)			
Natural Resources Access Regulator	S89-91 – <i>Water Management Act 2000</i> water use approval, water management work approval or activity approval under Part 3 of Chapter 3	General Terms of Approval have been issued by Department of Planning and Environment – Water	Y

4.2 Council Referrals

The development application has been referred to various Council officers for technical review as outlined **Table 7**.

Table 7: Consideration of Council Referrals

Officer	Comments	Resolved
Engineering	Council's Engineer reviewed the civil engineering plans with respect to parking, stormwater and earthworks. Following the submission of amended plans all initial concerns were resolved. Conditions of consent are recommended.	Y
Traffic	Council's Traffic Engineer reviewed the application and no objections are raised. It is considered that the proposed development will not have unacceptable traffic implications in terms of the road network capacity.	Y
Landscaping and Ecology	Council's Landscape Assessment and Ecology Officers have reviewed the application. Amendments to the plans have resolved ecology and landscaping issues raised during the assessment of the application. Further markings on the final plans will ensure appropriate plantings in the riparian corridor and compliance with a vegetation management plan. Tree protection measures are proposed to be conditioned.	Y
Waste	Council's Waste Officer reviewed the application. Appropriate waste collection and storage is proposed subject to conditions.	Y
Health	Council's Health Officer has reviewed the application. Conditions relation to acoustics, contamination, erosion and sediment control, food premises, dust, lighting and noise are recommended.	Y
Contributions	Staged contributions are proposed as per a condition of consent.	Y
Land Information Systems	Numbering has been proposed as per a condition of consent.	Y

4.3 Community Consultation

The proposal was notified on two occasions and advertised as required for Nominated Integrated Development, including a public advertisement and signage on the site.

The Council received a total of two (2) submissions in relation to the proposal. The issues

raised in these submissions are considered in the following table:

Table 5: Community Submissions

Issue	Council Comments
<p>Information submitted with the application, including descriptions of the development in different documents is inconsistent (ie. references to commercial space, administration offices plus separate office tenancy, respite units, group homes, self-contained motel (respite) suites, factory or warehouse units, disability care centre etc).</p>	<p>It is acknowledged that there were references in reports and plans submitted with the application which made reference to different forms of development. This was brought to the attention of the applicant. An amended SEE, plans, Traffic Report and the Management Statement have clarified the intended use of the site.</p>
<p>The proposal is inconsistent with the zone objective <i>“To support and protect industrial land for industrial uses”</i>.</p>	<p>The quoted objective was not replicated in the transition from the IN2 Light Industrial zone to E4 General Industrial (Employment Zone Reforms, April 2023). Even so, the proposed development is not considered to be inconsistent with this objective.</p> <p>Hotel and Motel accommodation is a permitted use in the E4 General Industrial zone.</p>
<p>The proposed development will locate six residential units and open terraces (with an occupancy of 23 persons) within a distance of only 80m from the Oz Design building and 55m from the access drive and manoeuvring area. The proposed development would halve the distance from Oz Design to current the nearest residential receptor (which is the EPA Guideline measure of noise impacts) and hinder the night-time operations of the national warehouse and distribution facility.</p> <p>An acoustic assessment should be conducted to assess the impact of the current and approved Oz Design operations (including night-time truck movements) on the proposed development. The third stage of the development will expand the facility by some 50%.</p>	<p>Residential units are not proposed, whereby residents or tenants would permanently reside on the site. Hotel or motel accommodation is proposed, which is a type of tourist and visitor accommodation and is for temporary or short-term accommodation on a commercial basis. Expectations for occupants' amenity are aligned with that purpose.</p> <p>An Acoustic Report, and subsequent review by Council's Health and Environment staff, found that the applicant has adequately taken into consideration noise emissions from the adjoining site, and as a result they make recommendations as to the construction methods and specifications required to achieve a suitable noise level within the facility. These construction requirements are recommended to be conditioned (refer Conditions 44, 80 and 82).</p> <p>Refer Condition 97 which requires the operation of the motel accommodation component to be in accordance with the definition of hotel and motel accommodation as given in the LEP.</p>

<p>Any motel accommodation should include appropriate noise attenuation to prevent noise impact from the adjoining industrial development and should not provide open terraces or balconies.</p>	<p>It is unreasonable to prohibit balconies and terraces in association with motel accommodation.</p>
<p>The submission refutes the permissibility of the proposed motel accommodation use. It is noted that the references to motel accommodation in the SEE appear as ‘motel (respite)’ accommodation. The originally submitted plans were labelled as “transition” and “respite” units.</p> <p>The statutory definition of respite day care centre specifically excludes the provision of overnight accommodation:</p> <p><i>“respite day care centre means a building or place that is used for the care of seniors or people who have a disability and that does not provide overnight accommodation for people other than those related to the owner or operator of the centre.”</i></p> <p>Based on the information and plans submitted with the application, and notwithstanding the applicant’s legal advice, it is concluded that the proposed respite / transition units are a form of residential accommodation.</p> <p>NWDS previously raised concerns regarding a proposed extension to Oz Design operating hours citing concern that it “would have a negative impact on our activities and accommodation services”.</p> <p>The proposed accommodation is not consistent with the zone objective <i>“To provide temporary overnight accommodation for the</i></p>	<p>The permissibility of the proposed use is further discussed in Section 5 – Key Issues of this report.</p> <p>Amended plans were submitted, clarifying the description of the use as ‘respite motel units’. For clarity and consistency with LEP definitions, it is recommended that reference to ‘respite’ on the floor plans be removed (refer Condition 1).</p> <p>The proposed motel units, whilst located on the same site as the respite day care centre, are a separate component of the NWDS use of the site. Their use is not sought as part of the day care, but as a separate land use, being motel accommodation. It is acknowledged that clients of the motel will often also utilise services available at the day care facility, however it is intended as a separate land use.</p> <p>A condition of consent is proposed to ensure that the use of the motel accommodation complies with the definition of hotel and motel accommodation in the LEP (refer Condition No. 97).</p> <p>The extract of a previous submission made by NWDS in relation to an Oz Design application does not imply that the motel accommodation proposed in this application is akin to ‘residential accommodation’ as defined by the LEP.</p>

<p><i>working population and businesses in the area”.</i></p> <p>The proposed use would be correctly defined as either a ‘hostel’, or ‘residential care facility’ as defined by the LEP. Both of these are prohibited in the zone.</p> <p>The accommodation proposed does not serve the needs of businesses and workers nor does it provide temporary overnight accommodation for the working population and businesses in the area. When the land use table is read in conjunction with the relevant objectives, it is abundantly clear that the accommodation proposed is prohibited.</p> <p>Any motel accommodation should be conditioned to ensure that it is not used as residential premises.</p>	
<p>The proposal lacks detailed stormwater information. The adjoining land was required to undertake significant stormwater and riparian works to the satisfaction of the Department of Planning and Environment – Water.</p>	<p>This issue was resolved with the referral of the application as Nominated Integrated Development to the Department of Planning and Environment – Water. General Terms of Approval have been issued with respect to the riparian corridor and drainage works. Detailed amended civil engineer plans were submitted and reviewed by Council’s Subdivision Engineer. In a subsequent submission, the adjoining landowner acknowledges the resolution of this concern.</p>

5. KEY ISSUES

The key issue for consideration with this application is permissibility with respect to the proposed *motel accommodation* component, and consistency with the E4 General Industrial zone objectives.

The objectives of the E4 zone are:

- *To provide a range of industrial, warehouse, logistics and related land uses.*
- *To ensure the efficient and viable use of land for industrial uses.*
- *To minimise any adverse effect of industry on other land uses.*
- *To encourage employment opportunities.*
- *To enable limited non-industrial land uses that provide facilities and services to meet the needs of businesses and workers.*

- *To provide for a range of urban support services to serve the needs of residents in surrounding areas and workers in the locality.*
- *To facilitate the development of freight and logistics operations to enhance the viability and use of land in employment zones.*
- *To provide temporary overnight accommodation for the working population and businesses in the area.*

Hotel or motel accommodation is defined in the LEP as:

“a building or place (whether or not licensed premises under the Liquor Act 2007) that provides temporary or short-term accommodation on a commercial basis and that—

(a) comprises rooms or self-contained suites, and

(b) may provide meals to guests or the general public and facilities for the parking of guests’ vehicles,

but does not include backpackers’ accommodation, a boarding house, bed and breakfast accommodation or farm stay accommodation.”

This application proposes six motel rooms (or self-contained suites) associated with NWDS. Each motel room is provided with 3 or 4 bedrooms, 2 or 3 bathrooms, a laundry, kitchen, living area and balcony area.

The applicant’s Management Statement (refer Attachment P) in relation to this use can be summarised as follows:

- Provided on a commercial basis specifically for people who require in-residence support for their motel accommodation.
- Available to the general public who qualify for this support.
- For individuals that require additional supports, greater than a normal disabled unit in a motel.
- Will enable local and travelling families (including a disabled person) to gain support while attending other occasions, appointments, holidays etc.
- People may also attend as individuals and join a communal group with full support.
- Unique in providing for the full family in open plan units fitted out with wheelchair accessible kitchen and amenities and assistive technology.
- Staffing is available during the stay, provided by NWDS, if required.
- Example: A family attends Sydney for a wedding and books the full unit. If needed, the person with a disability may be supported by NWDS at the function, and may return to the unit if needed, and be provided with the required support.
- A unique offering to a growing community of people who are now more mobile with NDIS funding and have expectations that the community will provide for their needs by way of resources, facilities and support staff.

The application was supported by legal advice prepared by O’Brien Legal Solicitors (refer Attachment Q), which may be summarised as follows:

- Council’s assertion that “the intended function of the motel is inconsistent with a standard motel use as is envisaged in the zone”, is misconceived, as is Council’s observation that the internal layout and detail of the motel rooms “is not consistent with a typical motel use”.

- The zone objectives make no reference to or otherwise envisage a “standard motel use”.
- Council’s subjective opinion as to whether or not the proposed development constitutes a “standard motel” is an irrelevant consideration.
- One of the objectives of the zone is to provide temporary overnight accommodation for the working population and businesses in the area.
- The proposed motel accommodation will be for short-term or temporary overnight accommodation by persons who will have a connection with the business carried on by NWDS from the site, namely the business of providing disability support and respite services.
- The persons to be temporarily accommodated will pay for the accommodation.
- The motel accommodation is proposed for use by a specific sector of the general public.
- Rooms will not be available for use by tourists other visitors who do not require the specific disability support accommodation being proposed. If that were to be permitted, the proposed use would be inconsistent with zone objectives and be more consistent with *tourist and visitor accommodation* which is prohibited.
- With respect to Council’s statement that “the suitability of the site for a use which is residential in nature is questioned and may have impacts on the operations of industrial uses in the vicinity”, residential accommodation is a prohibited use in the zone.
- The development will not be utilised for a use which is residential in nature.
- It is hard to contemplate how the zone objective might otherwise be achieved if it were not for a development of the kind precisely in the form being proposed.

Comment:

Concern was raised at the prelodgement meeting held in October 2020, in relation to the permissibility of a proposed development which was described as a multi-level light industrial complex and disability care services including respite day care and residential accommodation including:

- 24 light industrial units located over two levels (including mezzanine)
- Disability care services facility over three levels including residential accommodation, and;
- 90 car parking spaces provided on the basement/ground level.

The applicant was provided with the following advice at that time:

- *Upon review of the relevant legislation including State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004, it is considered that the residential accommodation component of the development is prohibited. Although the land is zoned IN2 which would be considered ‘urban land’ as identified in SEPP(HSPD) 2004, the following types of development would also be required to be permitted, being; dwelling-houses, residential flat buildings, and hospitals. These uses do not appear to be permitted under any other planning instrument in that zone.*
- *The remainder of the disability services facility would appear to fit within the definition of a ‘respite day care centre’ and the office component would need to be ancillary.*

It has been purported in the submissions received during notification, that the motel accommodation component of the development is more accurately described as a *residential care facility* or *hostel* which are separately defined in the LEP. The definitions of these uses are as follows: -

residential care facility means accommodation for seniors or people with a disability that includes—

(a) meals and cleaning services, and

(b) personal care or nursing care, or both, and

(c) appropriate staffing, furniture, furnishings and equipment for the provision of that accommodation and care,

but does not include a dwelling, hostel, hospital or psychiatric facility.

hostel means premises that are generally staffed by social workers or support providers and at which—

(a) residential accommodation is provided in dormitories, or on a single or shared basis, or by a combination of them, and

(b) cooking, dining, laundering, cleaning and other facilities are provided on a shared basis.

Both a residential care facility (as a form of seniors housing) and hostel are prohibited, and also fall under the group term of residential accommodation which is prohibited in the E4 General Industrial zone.

residential accommodation means a building or place used predominantly as a place of residence, and includes any of the following—

(a) attached dwellings,

(b) boarding houses,

(baa) co-living housing,

(c) dual occupancies,

(d) dwelling houses,

(e) group homes,

(f) hostels,

(faa) (Repealed)

(g) multi dwelling housing,

(h) residential flat buildings,

(i) rural workers' dwellings,

(j) secondary dwellings,

(k) semi-detached dwellings,

(l) seniors housing,

(m) shop top housing,

but does not include tourist and visitor accommodation or caravan parks.

Despite the above, and possible other fitting descriptions of the proposed motel accommodation, the proposal does appear to be consistent with the basic definition of hotel or motel accommodation due to the fact that the accommodation is temporary, short-term, and provided on a commercial basis, may provide meals, provides parking for guests vehicles, and does not include backpackers accommodation, boarding house, bed and breakfast or farm stay accommodation. All forms of residential accommodation, including a hostel and

residential care facility, are not provided on a short-term, temporary, and commercial basis, but are predominantly provided on a permanent or long-term basis.

In terms of the E4 General Industrial zone objectives, the proposed development is considered to:

- Provide a range of land uses, including warehousing, respite day care centre, motel accommodation and ancillary offices;
- Is efficient and viable use of the land;
- Adopts measures to minimise adverse impacts on surrounding uses;
- Provides employment opportunities;
- Provides warehouse space which may be utilised by businesses, residents or workers in the locality;
- Does not prohibit the use of land in the vicinity for freight and logistics operations;
- Provides temporary overnight (or longer) accommodation which may be utilised by the working population and businesses in the area if special needs or disability care are required.

The proposed development is therefore both permitted in the zone and consistent with the zone objectives.

6. 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 issues raised in submissions and the key issues as outlined in Sections 4 and 5 have been resolved satisfactorily through amendments to the proposal and in the recommended draft conditions at **Attachment A**.

7. RECOMMENDATION

That the Development Application No. 284/2023/JP for a Mixed Use Development including Warehouse Units, Motel Accommodation, Respite Day Care Centre and Associated Works – 3 Money Close, Rouse Hill, 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.

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: Floor Plans
- Attachment H: Elevation Plans
- Attachment I – Section Plans
- Attachment J – Landscaping Plans
- Attachment K – Height Plane
- Attachment L - Staging Plans
- Attachment M – Appendix 1 – Endeavour Energy comments
- Attachment N – Appendix 2 – Sydney Water comments
- Attachment O – Appendix 3 – DPE Water General Terms of Approval
- Attachment P – Appendix 4 – Operational Management Statement
- Attachment Q – Applicant's Legal Advice

ATTACHMENT A – DRAFT CONDITIONS OF CONSENT

CONDITIONS OF CONSENT

ALL STAGES

GENERAL MATTERS

1. Development in Accordance with Submitted Plans (as amended)

The development being carried out in accordance with the approved plans and details submitted to Council, as amended in red, stamped and returned with this consent.

The amendments in red include: -

- Non-trafficable roof space (access for maintenance only)
- Units 1, 2 and 3 to be utilised by NWDS services only.
- Landscape plan amendments
- Deletion of 'respite' from motel accommodation floor plans

REFERENCED PLANS AND DOCUMENTS

DRAWING NO	DESCRIPTION	SHEET	REVISION	DATE
Sk11p	Level 1 Plan	-	P	13 November 2023
Sk12o	Level 2 Plan	-	O	13 November 2023
Sk13n	Level 3 Plan	-	N	13 November 2023
Sk14n	Level 4 Plan	-	N	13 November 2023
Sk15n	Level 5 Plan	-	N	13 November 2023
Sk16h	Elevations 1	-	H	8 August 2023
Sk17h	Elevations 2	-	H	8 August 2023
Sk18i	Sections 2	-	I	14 November 2023
Sk19h	Sections 1	-	H	8 August 2023
Sk20b	Height Plane	-	B	8 August 2023
Sk21	Accessway Long Sections	-	-	7 August 2023
Sk31a	Level 1 Staging Plan	-	A	13 November 2023
Sk32a	Level 2 Staging Plan	-	A	13 November 2023
Sk33a	Level 3 Staging Plan	-	A	13 November 2023
Sk34a	Level 4 Staging Plan	-	A	13 November 2023
153.23(21)/101'D'	Landscape Plan	One/One	D	8 November 2023
-	Street/Unit Numbering Plans (5 Pages – for	-	-	-

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

2. Construction Certificate

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

3. Building Work to be in Accordance with BCA

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

4. External Finishes

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

5. Day Care Centre Cafe

The day care centre café is for training purposes for North West Disability Services clients and is not to provide services to anyone other than North West Disability Services clients and their families whilst visiting the site. Any extension of this use into a Café servicing the general public would require a separate development application.

6. Parking

A minimum of 121 parking spaces is to be provided on the site including:

- 53 spaces for Stage 1.
- 68 spaces for Stage 2.

7. Signage

No signage is approved by this development consent. Any signage is to be the subject of a separate development application.

8. 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: - 3 Money Close, Rouse Hill

Approved unit numbering is as per plans submitted marked as Project No: BPA2103; Dwg No: Sk11f, Dated: 21.04.23, Issue: I; Dwg No: Sk12j, Dated: 21.04.23, Issue: J; Dwg No: Sk13h, Dated: 21.04.23, Issue: H; Dwg No: Sk14i, Dated: 21.04.23, Issue: J; Dwg No: Sk15g, Dated: 09.03.23, Issue: G and marked up as 'Numbering Plans' by Council's Land Information Team within consent documentation; and as follows:

Level

Ground	Respite Day Care Centre	G01
	Café	G02
Level 1	Offices	101
	Warehouses	102 - 105
Level 2	Warehouse Mezzanine	104 – 105
	Motel Units	201 - 203
Level 3	Motel Units	301 – 303
	Warehouses	304 - 305
Level 4	Warehouse Mezzanine	304 – 305

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

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

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

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

Mail Boxes

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

One Cluster mail box is to be located as shown on plans submitted marked as Project No: BPA2103; Dated: 21.04.23; Dwg No: Sk11j Issue: I and marked up as 'Numbering Plan' by Council's Land Information Team within consent documentation. Cluster mail boxes 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 flats/units/townhouses etc. 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 mail box.

Strata Developments

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

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

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

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

9. Construction of Waste Storage Area

The waste storage area must be designed and constructed in accordance with the following requirements.

- The waste storage area must be of adequate size to comfortably store and manoeuvre the total minimum required number of bins associated with the development.
- The layout of the waste storage area must ensure that each bin is easily accessible and manoeuvrable in and out of the areas with no manual handling of other bins. All internal walkways must be at least 1.5m wide.
- The walls of the waste storage area must be constructed of brickwork.

- The floor of the waste storage area must be constructed of concrete with a smooth non-slip finish, graded and drained to sewer. The rooms must not contain ramps and must be roofed (if located external to the building).
- The waste storage area must have a waste servicing door, with a minimum clear floor width of 1.5m. The door must be located to allow the most direct access to the bins by collection contractors. Acceptable waste servicing doors are single or double swinging doors and roller doors.
- All doors of the waste storage area, 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 storage area must be adequately ventilated (mechanically if located within the building footprint). Vented waste storage areas should not be connected to the same ventilation system supplying air to the units.
- The waste storage area must be provided with a hose tap (hot and cold mixer), connected to a water supply. If the tap is located inside the waste storage area, it is not to conflict with the space designated for the placement of bins.
- The waste storage area must be provided with internal lighting such as automatic sensor lights.
- The maximum grade acceptable for moving bins for collection purposes is 5%. Under no circumstance is this grade to be exceeded. It is to allow the safe and efficient servicing of bins.
- The waste storage area must have appropriate signage (EPA approved designs can be found on the NSW EPA website) mounted in a visible location on internal walls and are to be permanently maintained by Owners corporation.
- Finishes and colours of the waste storage area are to complement the design of the development.

Example Bin Measurements (mm)

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

10. 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.

11. 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.

12. Waste and Recycling Collection Contract

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

13. Access and Loading for Waste Collection

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

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

14. Adherence to Waste Management Plan

All requirements of the Waste Management Plan submitted as part of the Development Application must be implemented except where contrary to other conditions of consent. The information submitted regarding construction and demolition wastes can change provided that the same or a greater level of reuse and recycling is achieved as detailed in the plan. Any material moved offsite is to be transported in accordance with the requirements of the Protection of the Environment Operations Act 1997 and only to a place that can lawfully be

used as a waste facility. Receipts of all waste/recycling tipping must be kept onsite at all times and produced in a legible form to any authorised officer of the Council who asks to see them.

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

www.wastelocate.epa.nsw.gov.au.

15. Tree Removal on Public Land

Approval is granted for the removal of one tree numbered 62 on the Retention and Removal Plan within the Arboricultural Impact Assessment Report prepared by Urban Arbor Dated 30/10/23 located on the Council nature strip that will be impacted by works associated with the development.

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

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

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

16. Imported 'Waste Derived' Fill Material

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

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

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

17. Control of Noise from Trucks

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

18. 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.

19. Protection of Existing Trees and Native Vegetation

No additional native vegetation (trees and understorey) is to be removed for the creation of an Asset Protection Zone or otherwise without prior consent of Council.

20. Retention of Trees

All trees not specifically identified on the approved plans for removal are to be retained with remedial work to be carried out in accordance with the Arboricultural Impact Assessment Report prepared by Urban Arbor Dated 30/10/23.

21. Contamination Assessment & Site Remediation

The recommendations of the Detailed Site Investigation, prepared by Aargus Pty Ltd, dated 28 November 2022, referenced ES8432/2 and submitted as part of the Development Application are to be implemented as part of this approval.

22. Acoustic Requirements

The recommendations of the Environmental Noise Assessment, prepared by Day Design Pty Ltd, dated 1 June 2022, referenced 7415-1.1R and the acoustic letter prepared by Day Design Pty Ltd, dated 7415-1.2L and dated 16 August 2023 and submitted as part of the Development Application are to be implemented as part of this approval.

23. 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.

24. Reflective Qualities

Construction materials are to exhibit low reflective qualities and are to blend in with the surrounding environment.

25. Road Opening Permit

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

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

26. 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.

27. 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.

28. Structures Adjacent to Piped Drainage Easements

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

29. 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.

30. Planting Requirements

All trees planted as part of the approved landscape plan are to be in minimum 75 litre pot size, excluding trees approved within the existing landscaped batter to the rear of the site. All shrubs planted as part of the approved landscape plan are to be minimum 200mm pot size. Groundcovers are to be a minimum 140mm pot size.

Additional landscape planting is to be provided to the existing landscape batter to the rear of the site (not within easement [M]). The plant species are to be reflective of the species recommended in the Vegetation Management Plan and installed in accordance with pot sizes above. There are to be shrubs provided at a minimum of 1 per m² and ground covers at a minimum of 3 per m².

All plant species, pot size, and spacing for the areas identified as easement (M) on the plan are to be as per the Vegetation Management Plan. No landscape planting or hard landscaping is to be provided in this area.

31. Compliance with Endeavour Energy Requirements

Compliance with the requirements of Endeavour Energy attached to this consent as Appendix 1.

32. Compliance with Sydney Water Requirements

Compliance with the requirements of Sydney Water attached to this consent as Appendix 2.

33. Compliance with Department Planning and Environment – Water General Terms of Approval

Compliance with the General Terms of Approval issued by the Department of Planning and Environment – Water, attached as Appendix 3 to this consent and dated 27 October 2023.

34. Tree Removal

Approval is granted for the removal of twenty-one (21) trees numbered 1, 2, 3, 5, 6, 7, 8, 9, 10, 11, 30, 31, 32, 33, 47, 50, 51, 52, 53, 55 and 62 on the Retention and Removal Plan within the Arboricultural Impact Assessment Report prepared by Urban Arbor Dated 30/10/23.

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

35. 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.

36. Requirements for Council Drainage Easements

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

- Provision for overland flow path
- Maintain adequate drainage easement width for earthmoving equipment.
- The proposed alteration must ensure all developments in the locality are protected flood measures.
- No overland flow is to be diverted out of the easement.
- No fill, stockpiles, building materials or sheds can be placed within the easement.
- Open style fencing must be used across the easement. The fencing must be approved by Council.

PRIOR TO THE ISSUE OF A CONSTRUCTION CERTIFICATE

37. Construction Management Plan

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

38. Section 7.11 Contribution

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

Payments comprise of the following:-

Stage 1

<i>Development Category</i>	<i>Rate per m² of Floor Space</i>	<i>Total Floor Space 1312 m2</i>	<i>TOTAL \$7.11</i>
Capital	\$ 84.36	\$ 110,677.43	\$ 110,677.43
Land	\$ 14.46	\$ 18,970.73	\$ 18,970.73
Total	\$ 98.82	\$ 129,648.16	\$ 129,648.16

Stage 2

<i>Development Category</i>	<i>Rate per m² of Floor Space</i>	<i>Total Floor Space 5075 m2</i>	<i>TOTAL \$7.11</i>
Capital	\$ 84.36	\$ 428,115.82	\$ 428,115.82
Land	\$ 14.46	\$ 73,381.44	\$ 73,381.44
Total	\$ 98.82	\$ 501,497.26	\$ 501,497.26

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

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

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

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

This condition has been imposed in accordance with Contributions Plan No 11.

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

39. Erosion & Sediment Control Plan

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

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

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

40. Vegetation Management Plan

Due to the presence of the Critically Endangered Ecological Community Shale Sandstone Transition Forest and the Core Riparian Zone as delineated on Deposited Plan 1158760 and the associated 88b Instrument, a Vegetation Management Plan is to be prepared for the bushland conservation zone. This plan must strictly adhere to Council's Vegetation Management Plan Guideline, accessible on Council's website at:

https://www.thehills.nsw.gov.au/files/sharedassets/public/ecm-website-documents/page-documents/fact-sheets-guides/fact_sheet_vegetation_management_plan_guideline.pdf

The preparation of the plan necessitates engagement with a suitably qualified bush regenerator or restoration ecologist holding a minimum Certificate IV in Conservation Land Management. Following its preparation, the plan is to be submitted to Council's Manager – Environment and Health for approval.

The Vegetation Management Plan must include details relating to:

- The rehabilitation and management of Shale Sandstone Transition Forest within the Core Riparian Area with a two (2) year establishment phase.
- The wording and erection of signage at key locations.
- The location and type of fencing required.

Note: The bushland conservation zone is the area known as the core riparian zone and burdened within the site of the positive covenant (M) as indicated on Deposited Plan 1158760.

41. 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 set of concept civil engineering plans prepared by C & M Consulting Engineers submitted on 28/10/2023 to support the development proposal 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) Overland Flow Path (Stage 1)

An overland flow path is proposed over the 3m wide public drainage easement.

Detailed design must ensure the base width of altered flow path is to be consistent (a minimum 2.5m wide) with the submitted DRAINS model and to ensure sufficient maintenance access.

The rock scour protection provided when the public drainage structures were constructed (at subdivision stage) must be reinstated along the overland flow path, from the rear of the building alignment and at the outlet of existing headwall.

The alteration of ground levels must ensure maintaining the height clearance over the drainage pipe within the easement.

The swale below the headwall must be reinstated to provide a bend to direct the flow towards the watercourse traversing the site as per the completion at subdivision stage, and to avoid redirecting the downstream property/ies.

The footpath verge along the public drainage pipe must be revised to provide a reverse fall of 1% grade to direct the overland flow from the easement over to the drainage easement.

b) Footpath Verge Formation (Stage 1 & 2)

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

c) Site Stormwater Drainage (Stage 1)

The entire site area must be graded, collected and drained by pits and pipes to the natural water course via the new headwall proposed in the vicinity of the confluence of northern drainage shown on the Stormwater Drainage – Ground Floor Plan Drawing No. 02582_201 Revision 05 dated 28/10/2023 by C & M Consulting Engineers forms part of the set of concept engineering plans.

Note: No site stormwater runoff is allowed to be connected to the existing public drainage.

d) Stormwater Drainage – Creek Outlets (Stage 1)

The new headwall and riprap outlet protection proposed to drain the site stormwater that connects to a natural watercourse must comply with the requirements of Ecologist, Council, the Natural Resources Access Regulator (even where the receiving waterbody is not a natural watercourse) and Sydney Water, in the case of stormwater management land.

e) Water Sensitive Urban Design Elements (Stage 1)

Water sensitive urban design elements, consisting of Rainwater tank, Ocean Guards and Psorb Stormfilters, are to be provided generally in accordance with the plans, MUSIC model and the 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.

42. 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 \$243,000.00 is required to be submitted to Council to guarantee the protection of the road pavement and other public assets in the vicinity of the site during construction works. The above amount is calculated at the per square metre rate set by Council's Schedule of Fees and Charges, with the area calculated based on the road frontage of the subject site plus an additional 50m on either side (185m) multiplied by the width of the road (14m).

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.

43. Works on Adjoining Land

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

44. Acoustic construction requirements

Before the issue of the construction certificate, a written statement obtained from Day Design Pty Ltd is to be provided to the Certifier which confirms that plans and specifications comply with the acoustical treatment for residential premises as contained within the Environmental Noise Assessment – Mixed Use Development, 3 Money Close, Rouse Hill (Report No 7415-1R, dated 1 June 2022) prepared by Day Design Pty Ltd.

45. 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.

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. 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.

PRIOR TO WORK COMMENCING ON THE SITE

48. 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.

49. 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.

50. Engagement of a Project Arborist

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

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

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

51. Bushland Protection Fencing

Prior to any works commencing on site temporary bushland protection fencing must be in place as per Appendix 1C of the Arboricultural Impact Assessment Report prepared by Urban Arbor (dated 30th October 2023).

The temporary fence is to be a minimum chain-wire fence or similar and be suitable to restricted unauthorised entry.

The temporary fence is to stop the following occurring:

- Stockpiling of materials within significant bushland.
- Placement of fill within significant bushland.
- Parking of vehicles within significant bushland.
- Compaction of soil within significant bushland.
- Cement washout and other chemical or fuel contaminants within significant bushland.
- Damage to threatened plants and their habitat.

52. 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.

53. 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).

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. Consultation with Service Authorities

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

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

56. 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.

57. 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 within the likely zone of influence from any excavation, dewatering or construction induced vibration.

58. 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.

59. 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.

60. Trenching within Tree Protection Zone

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

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

61. 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.

62. Tree Protection Fencing

In addition to the provision of Bushland Protection Fencing in accordance with this consent, prior to any works commencing on site Tree Protection Fencing must be in place around the trees numbered 56, 57, 58, 59, 60, 61, 63, 64, 65, 66 and 67 in accordance with Appendix 1C - Stormwater Plan within the Arboricultural Impact Assessment Report prepared by Urban Arbor Dated 30/10/23.

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.

DURING CONSTRUCTION

63. Pedestrian Sight Distance

The proposed driveways shall be designed to comply with the pedestrian sight distance requirements of AS2890.1-2004 and AS2890.2-2018.

64. Contamination

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

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

65. Construction and Fit-out of Food Premises

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

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

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

66. 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.

67. 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.

68. Asbestos Removal

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

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

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

69. Mechanical ventilation in Food Premises

Exhaust hoods are to be of a stainless steel construction with an internal 50mm x 50mm gutter and unscrewable drainage plug at one corner. They are to have removable grease filters for cleaning.

Documentation shall be submitted to the certifying authority that the ventilation system has been installed and is operating in accordance with:

- AS1668.1:2015 – The use of ventilation and air conditioning in buildings – Fire and smoke control in buildings; and*
- AS1668.2:2012 – The use of ventilation and air-conditioning in buildings PART 2: mechanical ventilation in buildings.*

70. Additional Hand Wash Basin in Food Premises

An additional hand wash basin to the basin/s illustrated on the approved food premises floor plans is required to be installed.

Note: Taps that operate hands free shall be provided at hands wash basins and that hand wash basins must be located within five (5) metres of where food handlers are handling open food.

71. 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.

72. Landscaping Works

Landscaping works, associated plantings and the construction of any retaining walls are to be undertaken generally in accordance with the approved plans.

73. Roof Water Drainage

Gutter and downpipe and/or rainwater tank overflow, to be provided and connected to an approved lawful discharge point (ie. kerb, inter-allotment drainage easement or OSD) upon installation of roof coverings.

74. 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.

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. 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.

77. Critical Stage Inspections – Engineering Works

The engineering works must be inspected by Council in accordance with the schedule included in Council's Works Specification Subdivisions/ Developments. A minimum of 24 hour's notice is required for inspections. No works are to commence until the first inspection has been carried out.

78. 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.

79. Location of Works

The total extent of the development shall be contained wholly within the confines of the allotment boundaries including the footings and any associated drainage lines. A survey report from a registered land surveyor may be required for confirmation of the same.

PRIOR TO ISSUE OF AN OCCUPATION CERTIFICATE

80. Acoustic construction requirements

Before the issue of an occupation certificate, a written statement obtained from Day Design Pty Ltd is to be provided to the Certifier which confirms that construction has been carried out in accordance with the acoustic requirements specified in the Construction Certificate and the recommendations as contained within the Environmental Noise Assessment – Mixed Use Development, 3 Money Close, Rouse Hill (Report No 7415-1R, dated 1 June 2022) prepared by Day Design Pty Ltd.

81. Food Premises and Kitchen of Day Care Centre Final Inspection

Prior to the issue of any Occupation Certificate, the food premises and daycare shall be inspected by an Authorised Officer of The Hills Shire Council under the Food Act 2003, to

determine compliance with the Food Act 2003, Food Safety Standards and Australian Standard 4674:2004: Design Construction and Fit-out of Food Premises.

82. Acoustic Compliance Report

The acoustic consultant shall progressively inspect the installation of the required noise suppressant components as recommended in report Environmental Noise Assessment, prepared by Day Design Pty Ltd, dated 1 June 2022, referenced 7415-1.1R and the acoustic letter prepared by Day Design Pty Ltd, dated 7415-1.2L and dated 16 August 2023. Certification is to be provided.

83. Vegetation Management Plan (VMP) Implementation

All performance criteria for the establishment phase of the VMP (2 years) must be complied with prior to the issue of an Occupation Certificate.

A statement certifying such compliance must be provided by the author of the VMP or an equally qualified and experienced person.

Consideration may be given to early release of an Occupation Certificate in lieu of this by agreement with Council's Manager – Environment and Health, based on alternative arrangements to secure the completion of works.

Such agreement must comply with s6.15(2) of the EP&A Act and will be conditional upon there being no circumstances prohibiting the issuing of an Occupation Certificate contained within s6.15(1) of the EP&A Act at the time of any such agreement.

84. Food shop registration requirements

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

85. Validation report

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

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

86. Retaining Walls

All retaining walls shown on the approved plans shall be completed prior to the issue of a "Whole" Occupation Certificate.

87. 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.

88. Engineering Works – Submission Requirements

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

- Works as Executed Plans
- Stormwater Drainage CCTV Recording
- Structural Certification

The works as executed plan must be prepared by a civil engineer or registered surveyor. A copy of the approved detailed design must underlay the works as executed plan so clearly show any differences between the design and constructed works. The notation/ terminology used must be clear and consistent too. For bonded/ outstanding work the works as executed

plan must reflect the actual work completed. Depending on the nature and scope of the bonded/ outstanding work a further works as executed plan may be required later, when that work is completed.

The drainage pipe within the easement must be inspected by CCTV upon completion of all works in the vicinity. A copy of the actual recording must be submitted electronically for checking.

89. Creation of Restrictions/ Positive Covenants

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

a) Restriction/ Positive Covenant – 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.

b) 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.

90. 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.

91. Property Condition Report – Public Assets

Before an Occupation Certificate is issued, an updated property condition report must be prepared and submitted to Council. The updated report must identify any damage to public assets and the means of rectification for the approval of Council.

92. 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.

93. 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.

94. Section 73 Certificate must be submitted to the Principal Certifier before the issuing of an Occupation Certificate

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

Make early application for the certificate, as there may be water and sewer pipes to be built and this can take some time. This can also impact on other services and building, driveway or landscape design.

Application must be made through an authorised Water Servicing Coordinator. For help either visit www.sydneywater.com.au > Building and developing > Developing your land > water Servicing Coordinator or telephone 13 20 92.

The Section 73 Certificate must be submitted to the Principal Certifier before occupation of the development/release of the plan of subdivision.

THE USE OF THE SITE

95. Hours of Operation

Warehouse units associated with NDWS - 7.00am and 6.00pm, Monday to Saturday

Warehouse units (non North West Disability Services) - 7.00am and 6.00pm, Monday to Saturday

Motel accommodation – to be accessible 24 hours per day.

Respite day care centre - 7.30am and 6.00pm, Monday to Friday, and between 9.00am and 5.00pm Saturdays and Sundays.

Ancillary North West Disability Services administration offices - 7.30am and 6.00pm, Monday to Friday, and between 9.00am and 5.00pm Saturdays and Sundays.

96. Warehouse Units

Units 1, 2 and 3 are only permitted to be used for permissible uses associated with North West Disability Services, including disability supported work options such as bee hotel production, candle making, baking and the like. A separate development application is required for the first occupation and fit out of the warehouse units.

Units 4, 5 and 6 are permitted to be occupied by other uses permitted in the zone.

97. Motel Accommodation

The operation of the six motel units shall be consistent with the Management Statement (September 2023 Revision A), attached to this consent as Appendix 4, and shall comply with the definition of *hotel or motel accommodation* in The Hills Local Environmental Plan 2019 as follows:

hotel or motel accommodation means a building or place (whether or not licensed premises under the [Liquor Act 2007](#)) that provides temporary or short-term accommodation on a commercial basis and that—

(a) comprises rooms or self-contained suites, and

(b) may provide meals to guests or the general public and facilities for the parking of guests' vehicles,

but does not include backpackers' accommodation, a boarding house, bed and breakfast accommodation or farm stay accommodation.

The motel units are not to be used for any form of residential accommodation, all of which are prohibited in the E4 General Industrial zone.

98. Waste and Recycling Collection

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

99. Waste and Recycling Management

To ensure the adequate storage and collection of waste from the use of the premises, all garbage and recyclable materials emanating from the premises must be stored in the designated waste storage area(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. Ideally, waste storage containers should be kept inside the unit(s) and under no circumstances should waste storage containers be stored in locations that restrict access to any of the car

parking spaces provided onsite. 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.

100. Offensive Noise - Acoustic Report

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

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

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

Delivery of goods shall be restricted to the following times;

Monday to Saturday – 7.00am to 10pm

Sunday and public holidays – 8.00am –10pm

102. Operation of Regulated Water Cooling/Warm Water Systems

Regulated systems must be operated in accordance with *AS/NZS 3666:2011 Air handling and water systems of buildings – Microbial Control – Operation and Maintenance*.

103. 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*.

104. Noise to Surrounding Area

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

105. Grease Trap (Food Premises)

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

106. Maintenance of Landscaping Works

The landscaping works, associated plantings and construction of retaining walls are to be effectively maintained at all times and throughout the life of the development.

107. Ancillary Offices

The ancillary office floor space located on Level 2 shall be occupied only by North West Disability Services in association with the warehouses, motel accommodation and respite day care centre.

STAGE 2

GENERAL MATTERS

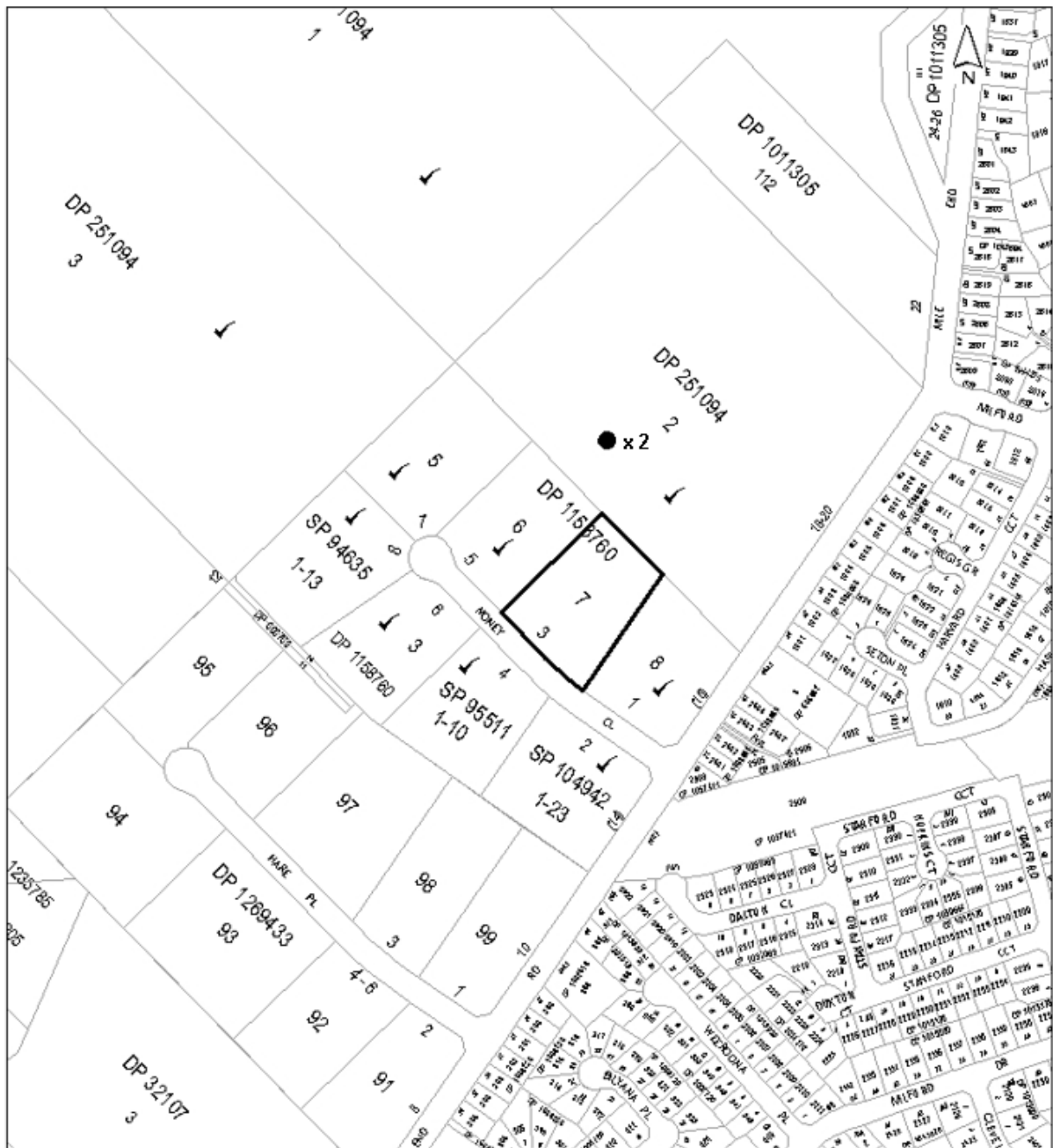
108. Flood Protection Requirements (Stage 2)

The building adjoining the public drainage easement must be designed and constructed to be consistent with the flooding constraint caused due to the overland flow conveyed over the easement. The following design elements are to be addressed with the detailed design and construction package to ensure compliance of THDCP Part C Section 6 – Flood Controlled Land, and address the following:

- (a) For the purposes of this design the flood levels and associated flood velocities expected to be experienced at the site are:
 - The Flood Planning Levels(FPL3) along the flow path are to be 1 in 100-year ARI flood level plus a 0.5m freeboard.

- The 1 in 100year ARI flood levels and flood velocity vary along flow path. They are to be referenced from the detailed engineering plans prepared for construction and the supporting DRAINS model.
- (b) The northern wall supporting the overland flow path along the easement, which forms part of the building, must be waterproofed up to the Flood Planning Levels.
- (c) The Structural elements below the flood planning levels including foundations of the walls supporting the flow path must be designed, constructed and as-built works certified by a structural engineer to ensure structural soundness during potential floods. The following criteria must be addressed having regard to the depth and velocity of flood water:
- Hydrostatic pressure;
 - Hydrodynamic pressure;
 - Impact of debris;
 - Buoyancy forces;
 - Saturated ground conditions;
 - Shear stress and scour forces around and downstream of the structure.
- (d) The design materials and construction of the wall adjoining the flow path must comply with the 'THDCP Guidance on Building in Flood Prone Areas'.
- (e) All service conduits located below FPL3 in the vicinity of overland flow path are to be flood compatible and suitable for continuous underwater immersion. Conduits are to be self-draining if subject to flooding.
- (f) No external storage of materials or structures are permitted below FPL3 which may cause pollution or be potentially hazardous during any flood.

ATTACHMENT B - LOCALITY PLAN



- ☐ SUBJECT SITE
- ✓ PROPERTIES NOTIFIED
- SUBMISSION RECEIVED

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

ATTACHMENT C – AERIAL MAP

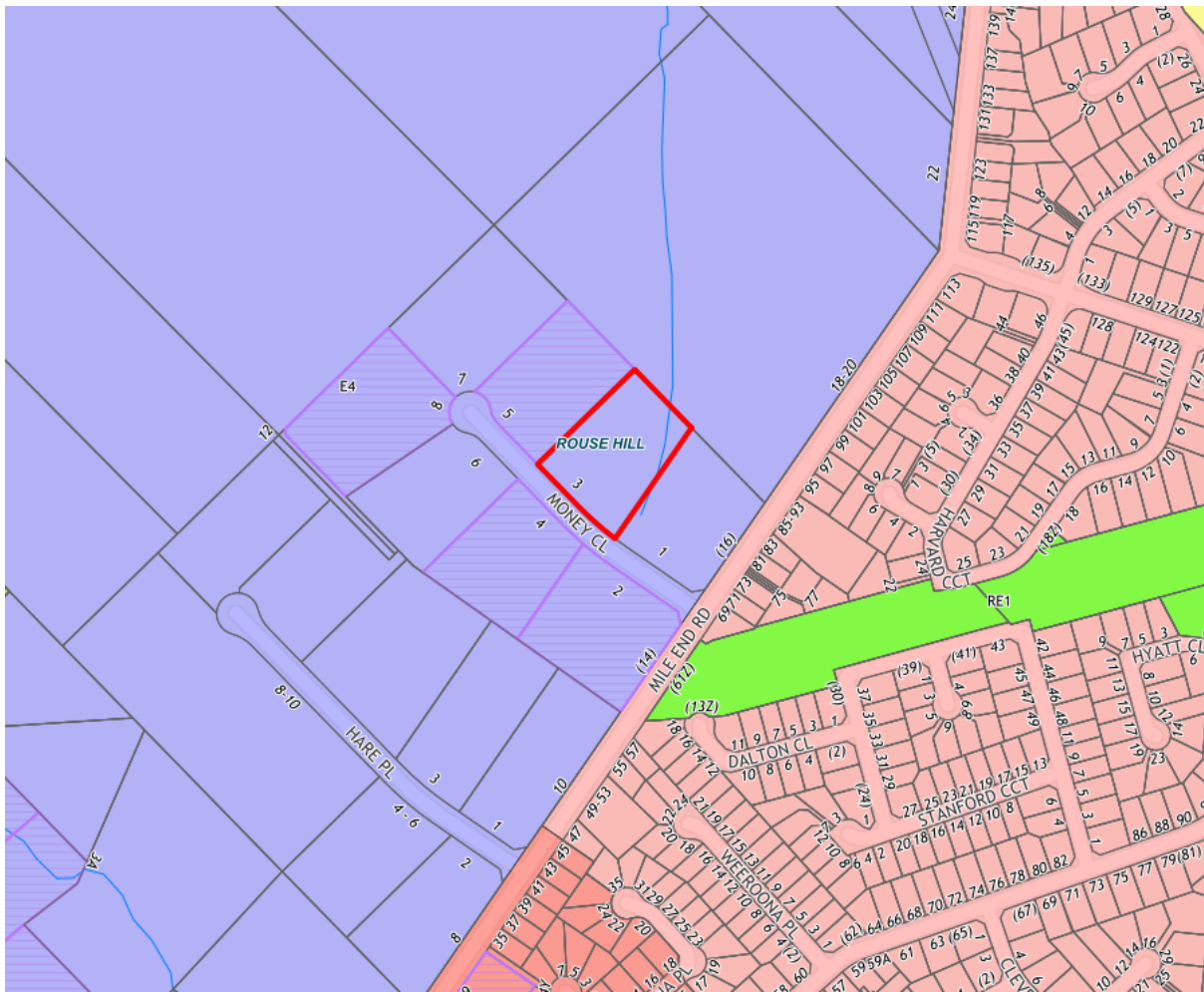


THE HILLS SHIRE COUNCIL

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ATTACHMENT D – ZONING MAP

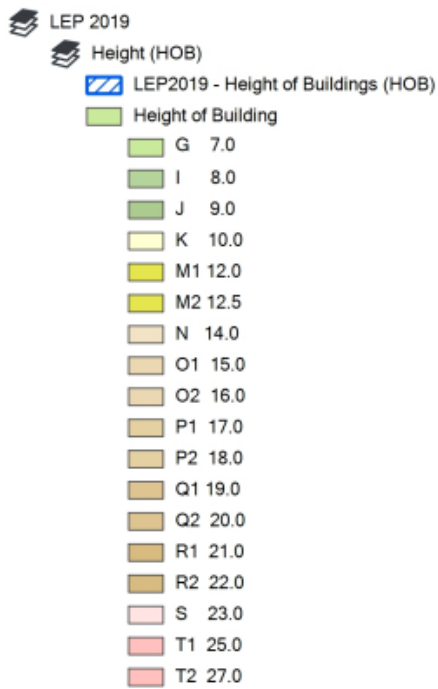
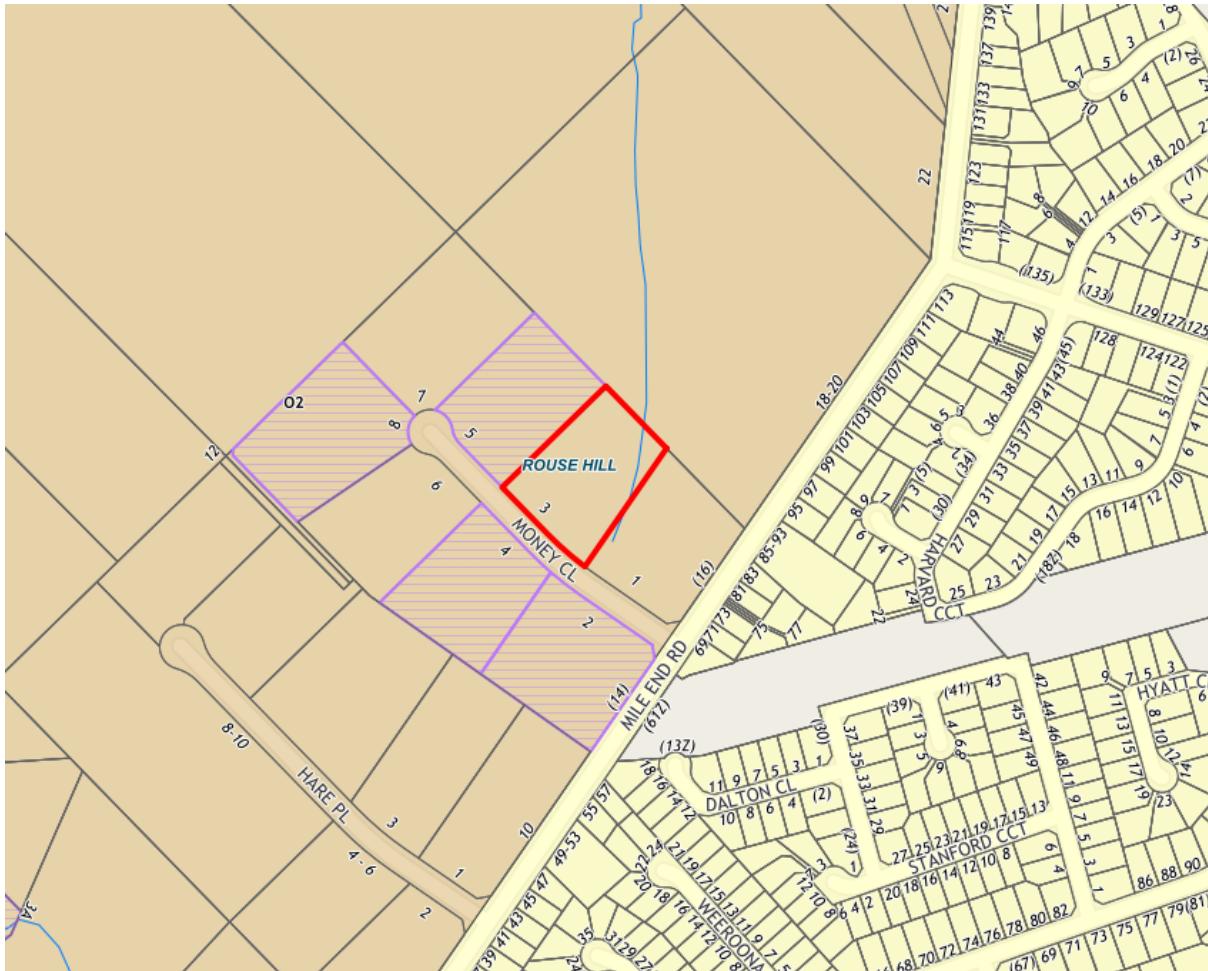


LEP 2019

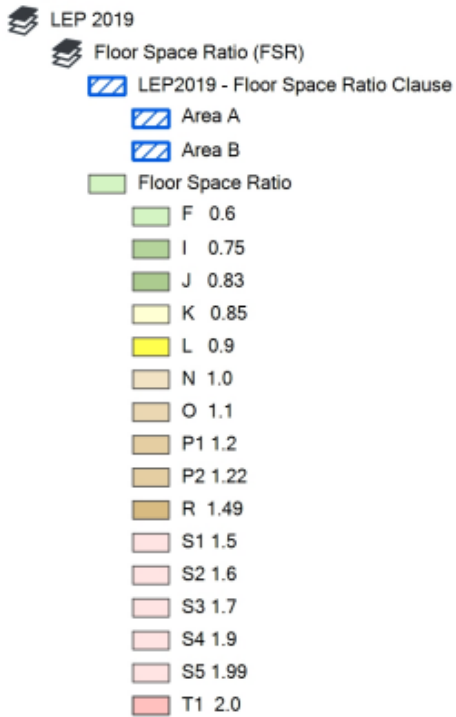
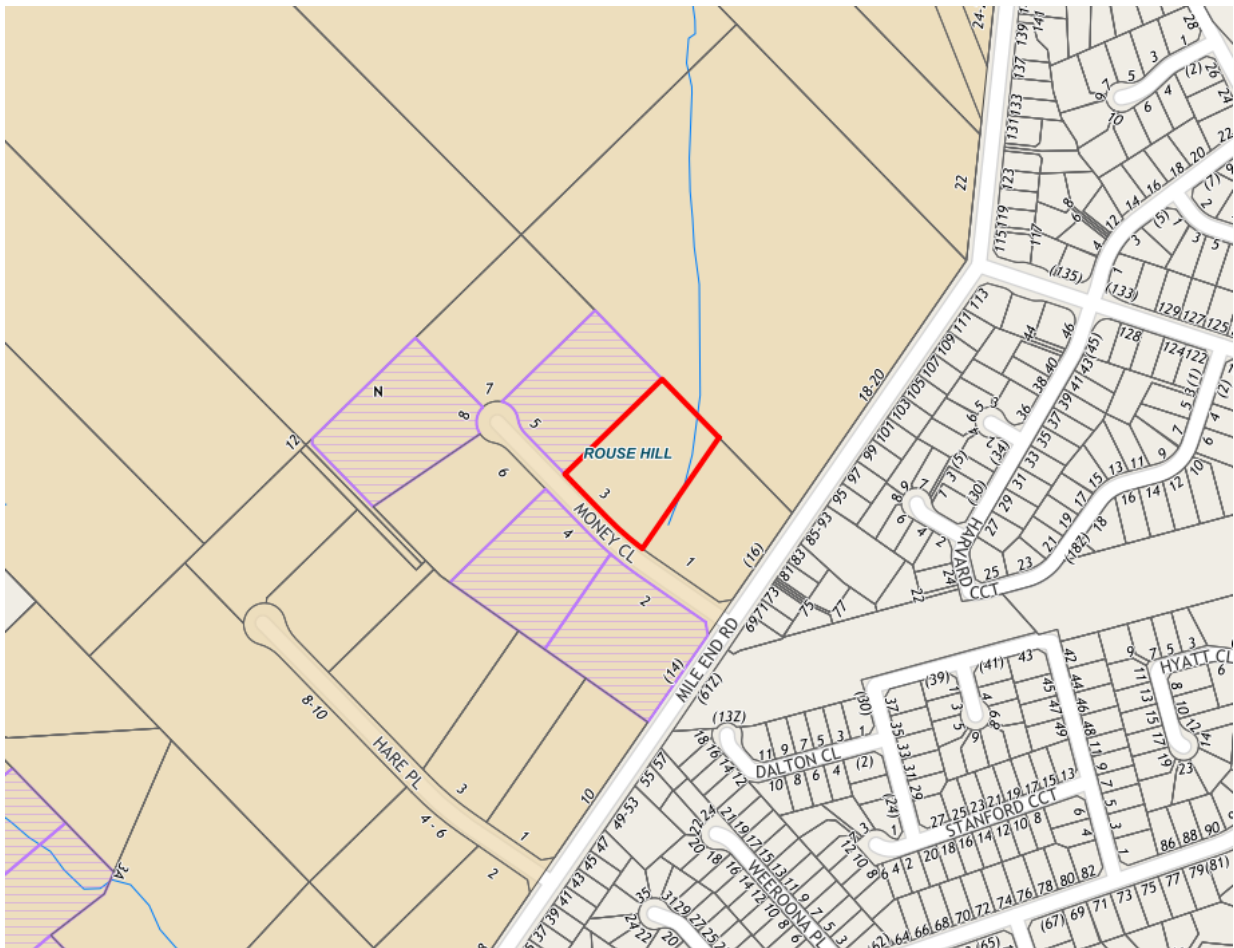
Land Zoning (LZN)

- C1 NATIONAL PARKS AND NATURE RE
- C2 ENVIRONMENTAL CONSERVATION
- C3 ENVIRONMENTAL MANAGEMENT
- C4 ENVIRONMENTAL LIVING
- E1 LOCAL CENTRE
- E3 PRODUCTIVITY SUPPORT
- E4 GENERAL INDUSTRIAL
- MU1 MIXED USE
- R1 GENERAL RESIDENTIAL
- R2 LOW DENSITY RESIDENTIAL
- R3 MEDIUM DENSITY RESIDENTIAL
- R4 HIGH DENSITY RESIDENTIAL
- RE1 PUBLIC RECREATION
- RE2 PRIVATE RECREATION
- RU1 PRIMARY PRODUCTION
- RU2 RURAL LANDSCAPE
- RU3 FORESTRY
- RU5 VILLAGE
- RU6 TRANSITION
- SP2 INFRASTRUCTURE
- SP3 TOURIST
- SP4 ENTERPRISE
- W2 RECREATIONAL WATERWAYS

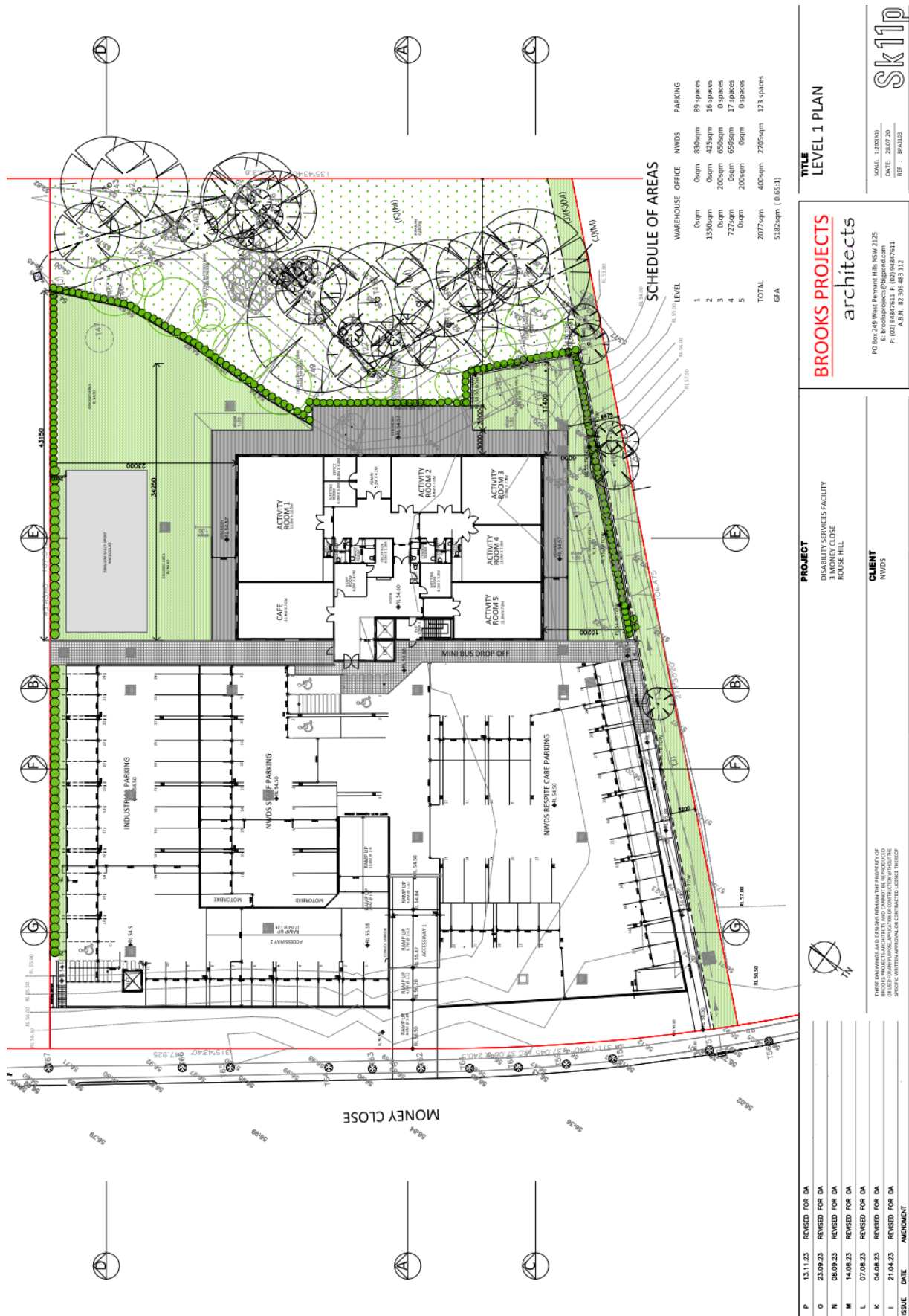
ATTACHMENT E – HEIGHT MAP

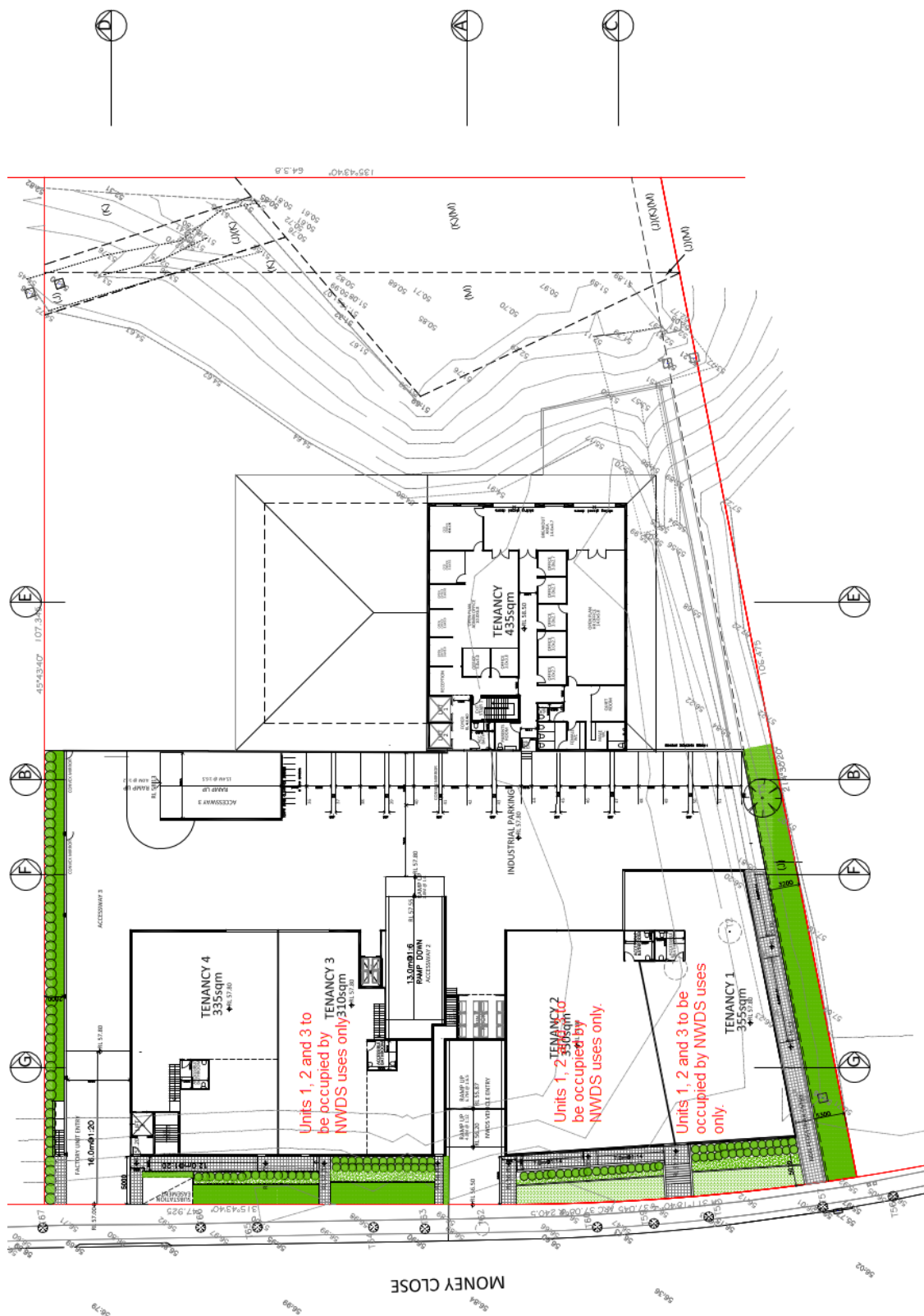


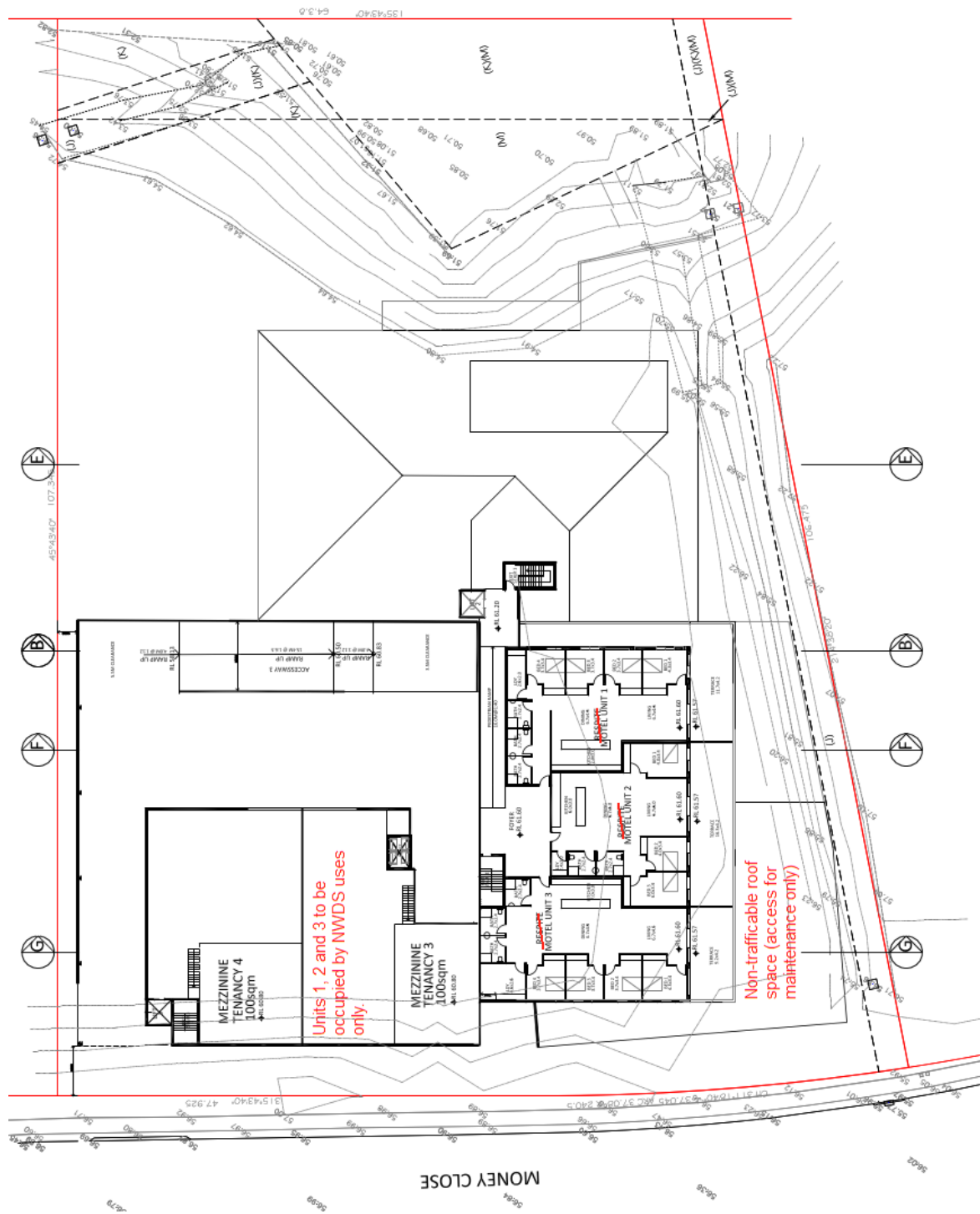
ATTACHMENT F – FSR MAP



ATTACHMENT G – FLOOR PLANS





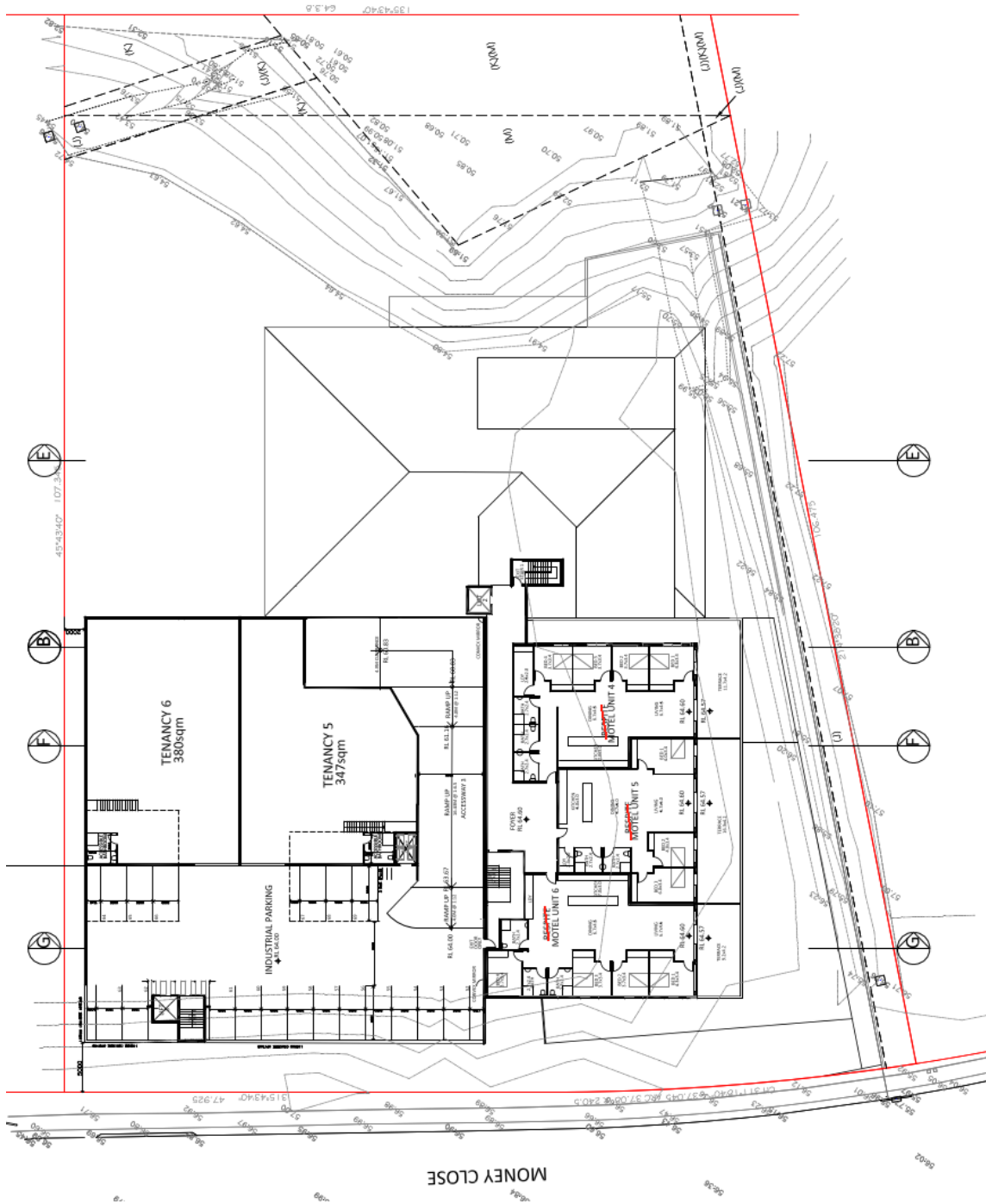


TITLE
LEVEL 3 PLAN

BROOKS PROJECTS

PROJECT
DISABILITY SERVICES FACILITY
3. IMPROVEMENT

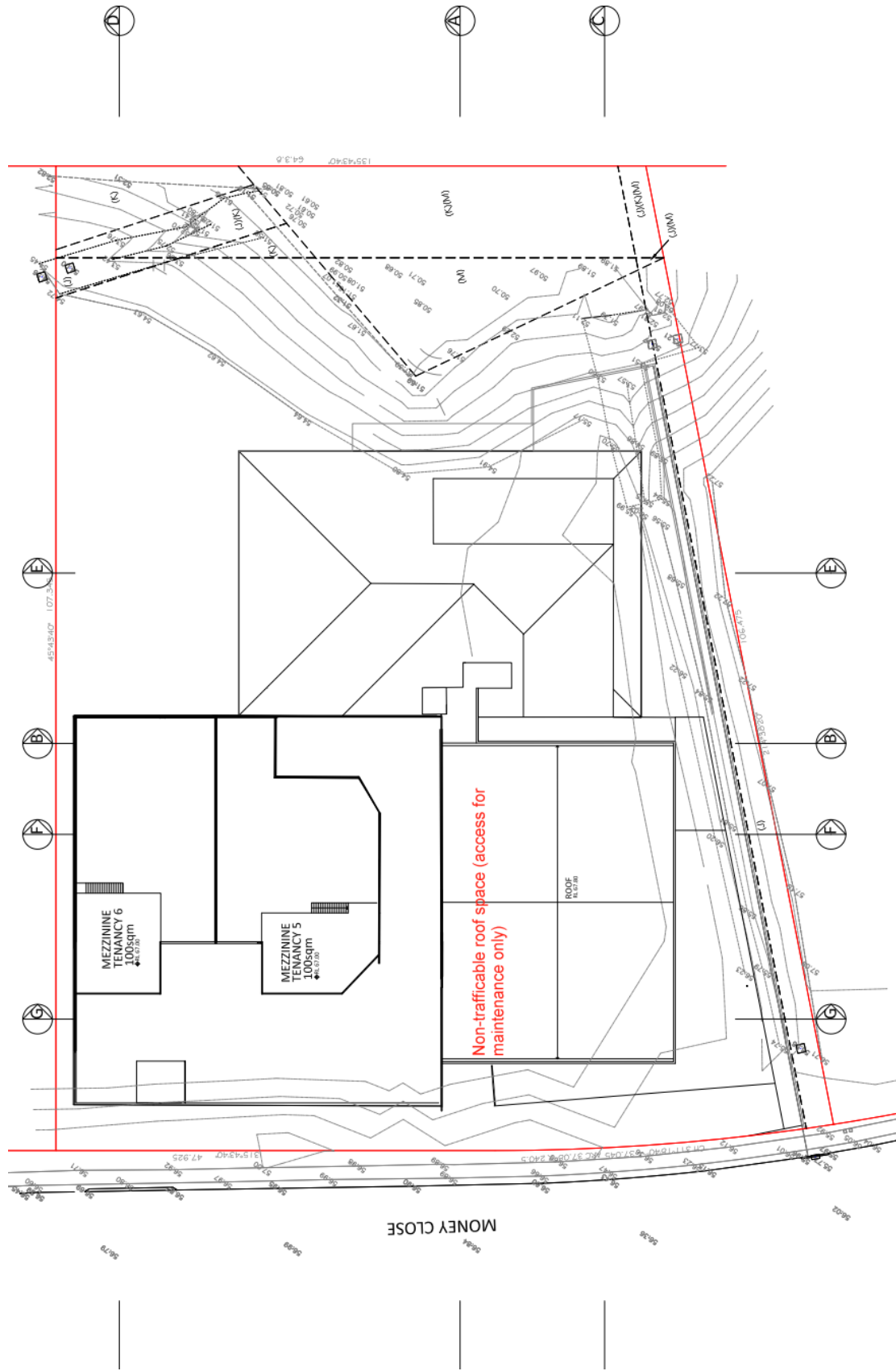




TITLE
LEVEL 4 PLAN

PROJECT
INDUSTRIAL DEVELOPMENT INCORPORATING
DISABILITY SERVICES FACILITY
3 MONEY CLOSE

BROOKS PROJECTS

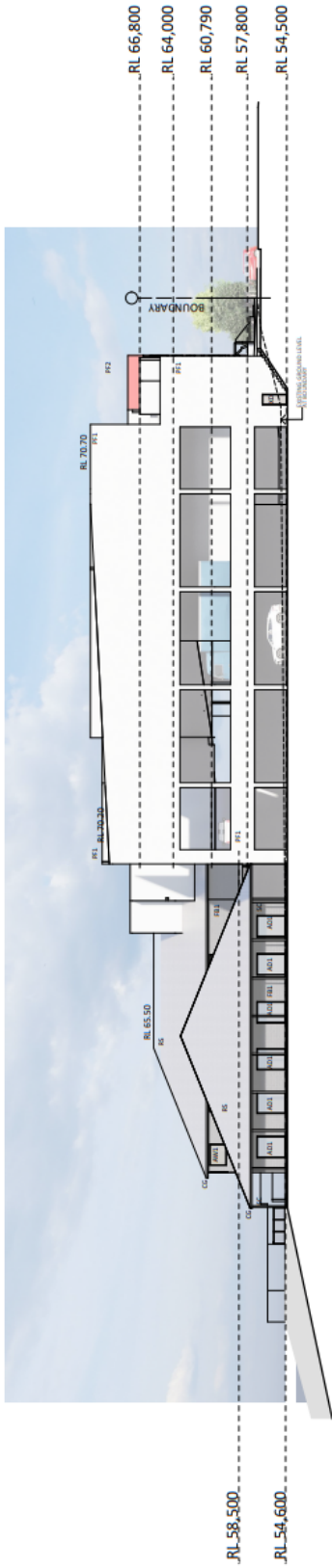


REVISED FOR DA	PROJECT DISABILITY SERVICES FACILITY MONEY CLOSE ROUSE HILL	CLIENT NMDS	TITLE LEVEL 5 PLAN
REVISED FOR DA			
REVISED FOR DA			
REVISED FOR DA			
DA ISSUE			
DWMT DA ISSUE	BROOKS PROJECTS architects PO Box 249 West Pennant Hills NSW 2125 E: brooksprojects@bigpond.com P: (02) 94847611 F: (02) 94847611		
THESE DRAWINGS AND DESIGN REMAIN THE PROPERTY OF BROOKS PROJECTS ARCHITECTS AND CANNOT BE REPRODUCED OR USED FOR ANY PURPOSE WITHOUT AN EXPLICIT WRITTEN INSTRUCTIONS FROM THE ARCHITECTS.			



ATTACHMENT H – ELEVATIONS





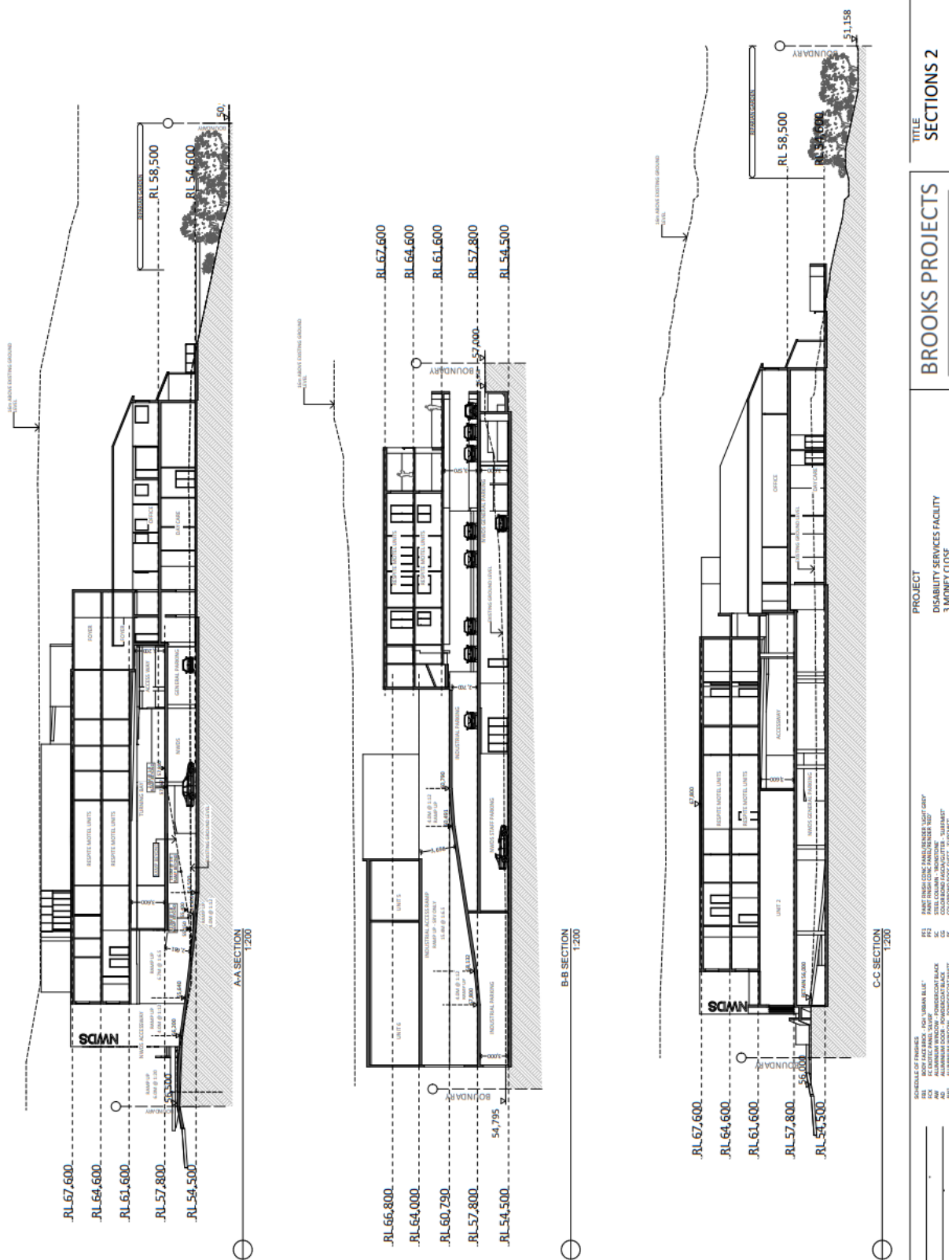
NORTH WEST ELEVATION
1:200



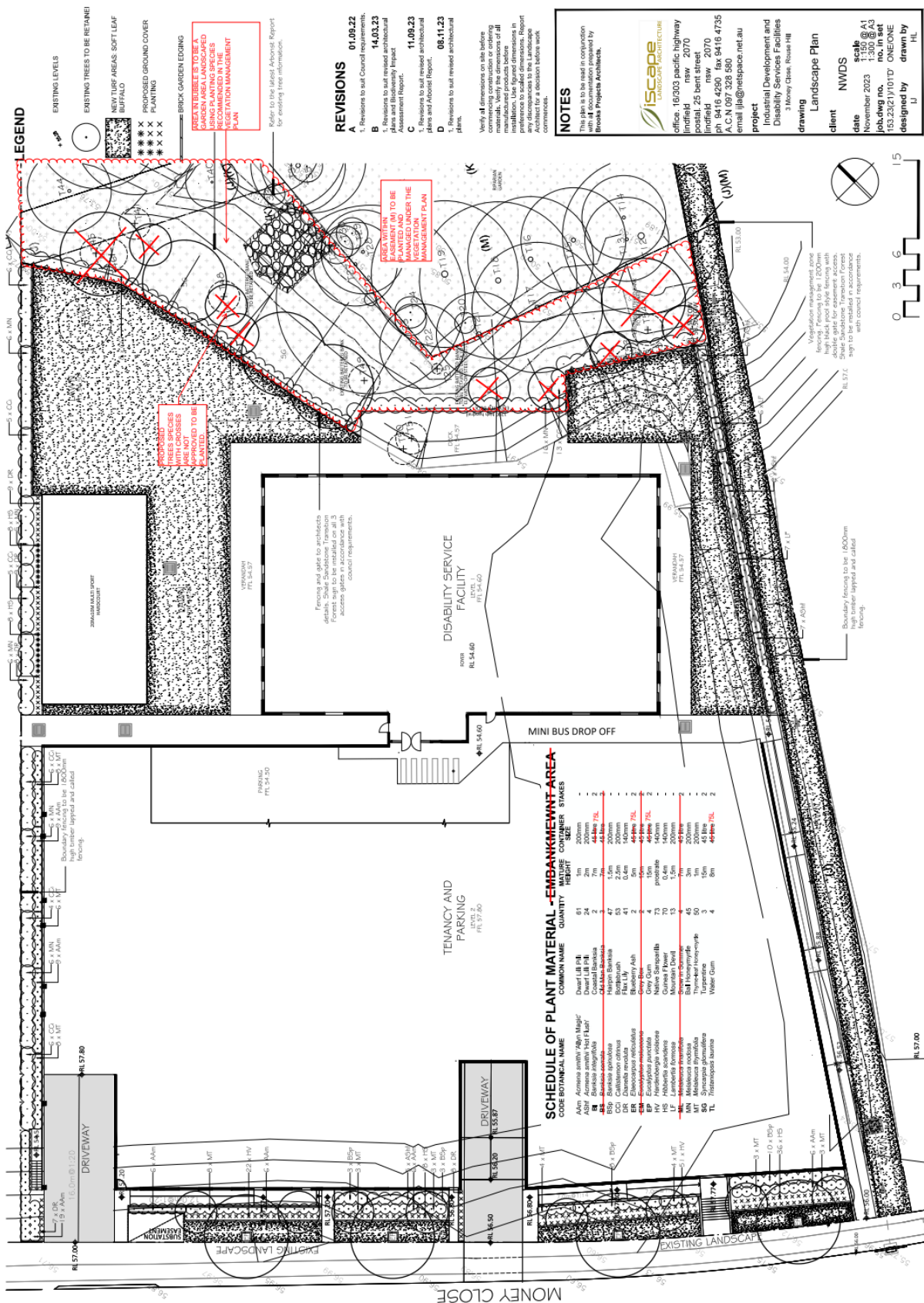
NORTH EAST ELEVATION
1:200

BROOKS PROJECTS			TITLE ELEVATIONS 2
PROJECT DISABILITY SERVICES FACILITY 3 LANGLEY PLACE			
SCHEDULE OF FINISHES	FOUR LUMINA BLUE	PE2	PAINT FINISH CONC PANEL FINISH 'SOFT GRAY'
FOUR	PE2	PAINT FINISH CONC PANEL FINISH 'SOFT GRAY'	
FOUR	PE2	PAINT FINISH CONC PANEL FINISH 'SOFT GRAY'	
ALUMINUM DOOR - POWDERCOAT BLACK	CC	COLOR BOND FACED CUTTER - SUBMIT	
AD			

ATTACHMENT I – SECTION PLANS



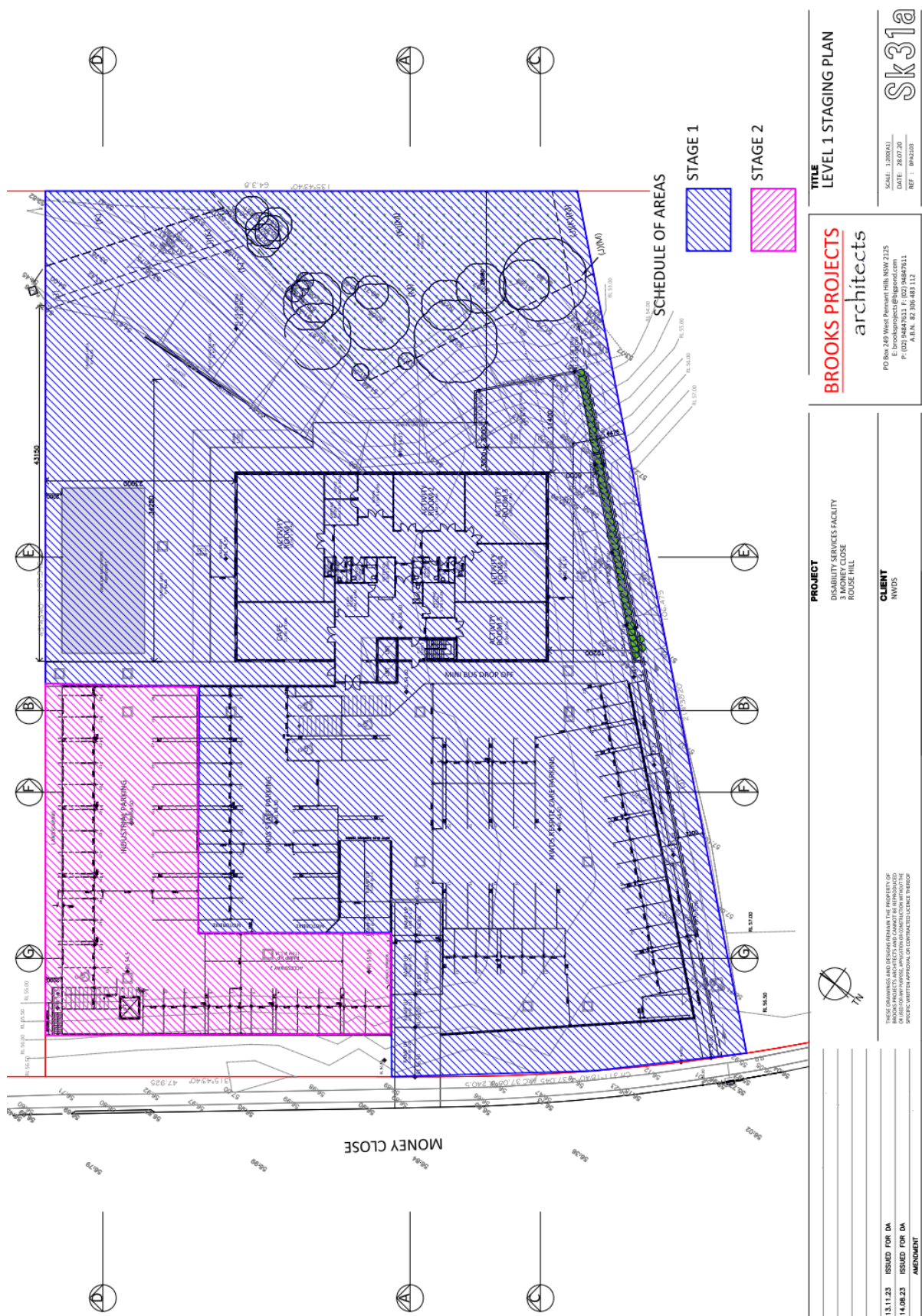
ATTACHMENT J – LANDSCAPE PLAN

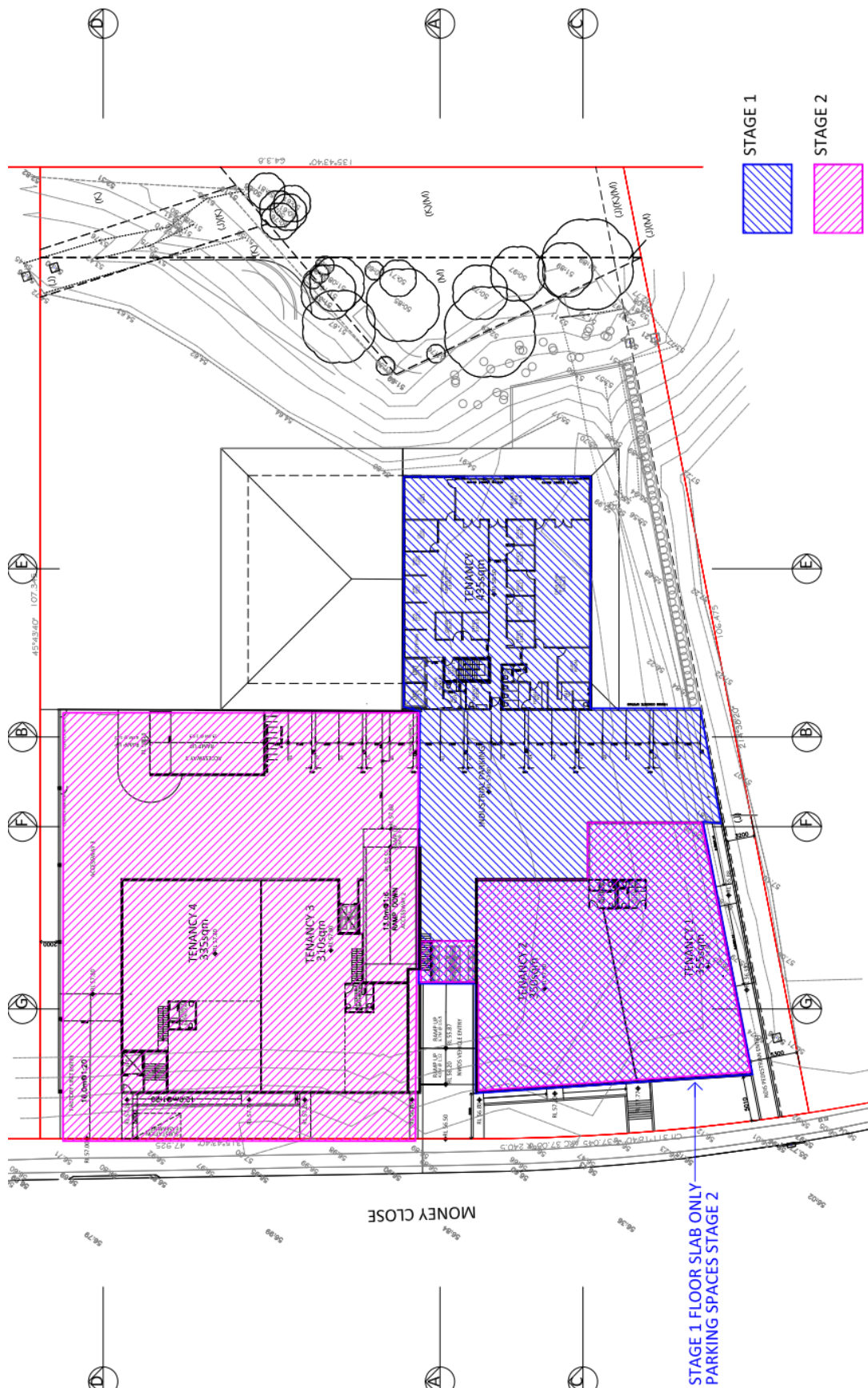


ATTACHMENT K – HEIGHT PLANE



ATTACHMENT L – STAGING PLANS





STAGE 1



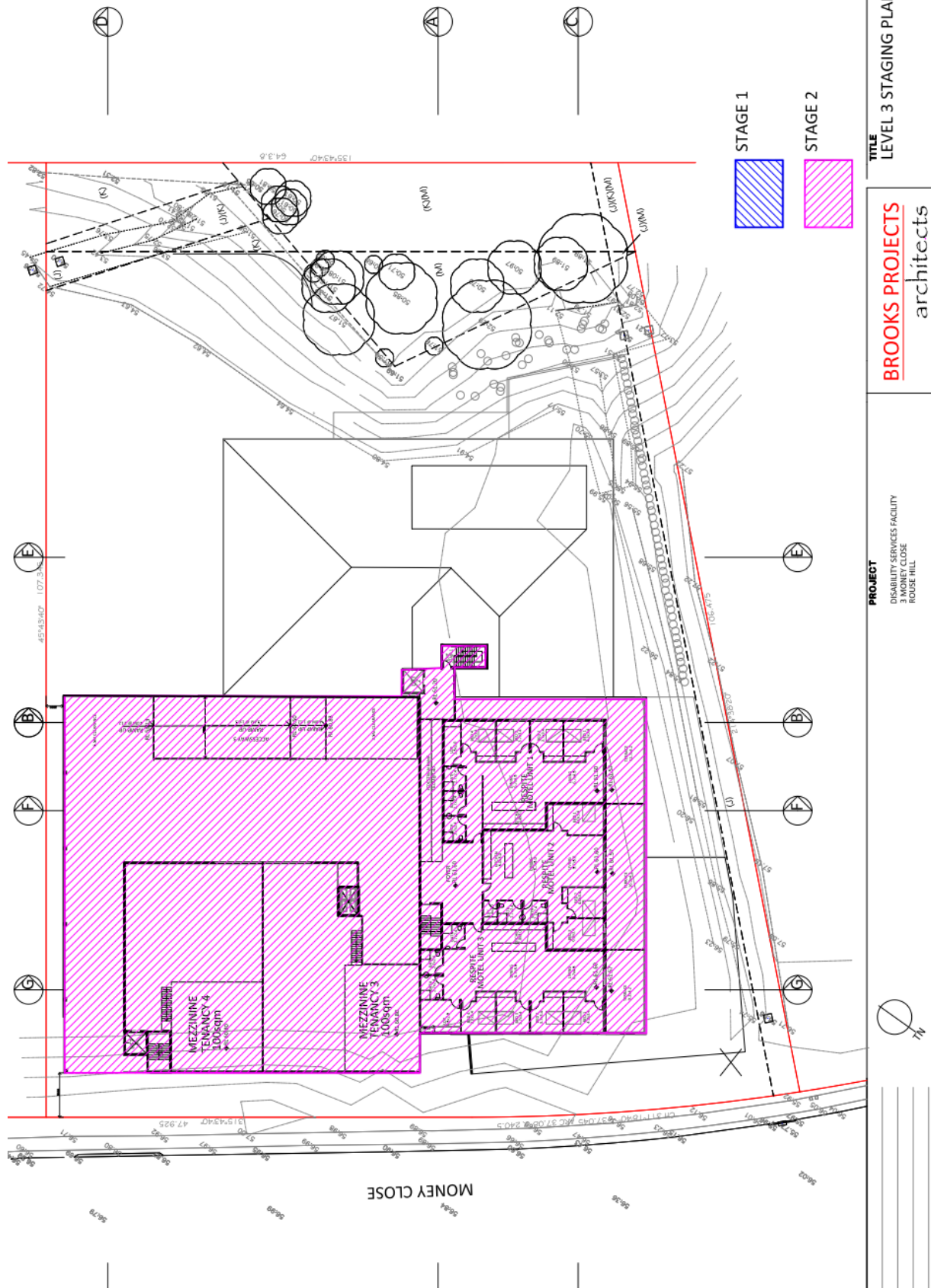
STAGE 2



TITLE
LEVEL 2 STAGING PLAN

BROOKS PROJECTS
architects

PROJECT
DISABILITY SERVICES FACILITY
3 MONEY CLOSE
ROUSE HILL



ATTACHMENT M – APPENDIX 1 – ENDEAVOUR ENERGY COMMENTS

APPENDIX 1

Development Application and Planning Proposal Review NSW Planning Portal Concurrence and Referral



Authority	Authority's Reference	Agency Concurrence and Referral	Authority Contact	Authority Notification	Submission Due	Submission Made
The Hills Shire Council	284/2023/JP	CNR-44121	Kate Clinton	15/08/2022	5/09/2022	15/08/2022

Address	Land Title
3 MONEY CLOSE ROUSE HILL 2155	Lot 7 DP 1158760

Scope of Development Application or Planning Proposal
Disability Services + Warehouse Units.

As shown in the below site plan from Endeavour Energy's G/Net master facility model:
<p>There are:</p> <ul style="list-style-type: none">• No easements benefitting Endeavour Energy (active easements are indicated by red hatching).• Low voltage (to part) and 22,000 volt / 22 kilovolt (kV) high voltage underground cables (including a low voltage pillar) to the road verge / roadway.



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

endeavourenergy.com.au

ABN 11 247 365 823

Relevant / applicable clause numbers from Endeavour Energy's standard conditions for Development Application and Planning Proposal Review indicated by ☒ .

Condition	Advice	Clause No.	Issue	Detail
<input type="checkbox"/>	<input type="checkbox"/>	1	Adjoining Sites	Adjoining or nearby development / use should be compatible with the use of Endeavour Energy's sites.
<input type="checkbox"/>	<input type="checkbox"/>	2	Asbestos	Area identified or suspected of having asbestos or asbestos containing materials (ACM) present in the electricity network.
<input type="checkbox"/>	<input checked="" type="checkbox"/>	3	Asset Planning	Applicants should not assume adequate supply is immediately available to facilitate their proposed development.
<input type="checkbox"/>	<input type="checkbox"/>	4	Asset Relocation	Application must be made for an asset relocation / removal to determine possible solutions to the developer's requirements.
<input type="checkbox"/>	<input type="checkbox"/>	5	Bush Fire	Risk needs to be managed to maintain the safety of customers and the communities served by the network.
<input type="checkbox"/>	<input type="checkbox"/>	6	Construction Management	Integrity of electricity infrastructure must be maintained and not impacted by vehicle / plant operation, excessive loads, vibration, dust or moisture penetration.
<input type="checkbox"/>	<input type="checkbox"/>	7	Contamination	Remediation may be required of soils or surfaces impacted by various forms of electricity infrastructure.
<input type="checkbox"/>	<input type="checkbox"/>	8	Demolition	All electricity infrastructure shall be regarded as live and care must be taken to not interfere with any part of the electricity network.
<input type="checkbox"/>	<input checked="" type="checkbox"/>	9	Dial Before You Dig	Before commencing any underground activity the applicant must obtain advice from the Dial Before You Dig 1100 service.
<input type="checkbox"/>	<input type="checkbox"/>	10	Dispensation	If a proposal is not compliant with Endeavour Energy's engineering documents or standards, the applicant must request a dispensation.
<input type="checkbox"/>	<input type="checkbox"/>	11	Driveways	For public / road safety and to reduce the risk of vehicle impact, the distance of driveways from electricity infrastructure should be maximised.
<input type="checkbox"/>	<input checked="" type="checkbox"/>	12	Earthing	The construction of any building or structure connected to or in close proximity to the electrical network must be properly earthed.
<input type="checkbox"/>	<input type="checkbox"/>	13	Easement Management	Preference is for no activities to occur in easements and they must adhere to minimum safety requirements.
<input type="checkbox"/>	<input type="checkbox"/>	14	Easement Release	No easement is redundant or obsolete until it is released having regard to risks to its network, commercial and community interests.
<input type="checkbox"/>	<input type="checkbox"/>	15	Easement Subdivision	The incorporation of easements into multiple / privately owned lots is generally not supported.
<input type="checkbox"/>	<input checked="" type="checkbox"/>	16	Emergency Contact	Endeavour Energy's emergency contact number 131 003 should be included in any relevant risk and safety management plan.
<input type="checkbox"/>	<input type="checkbox"/>	17	Excavation	The integrity of the nearby electricity infrastructure shall not be placed at risk by the carrying out of excavation work.
<input type="checkbox"/>	<input type="checkbox"/>	18	Flooding	Electricity infrastructure should not be subject to flood inundation or stormwater runoff.

Condition	Advice	Clause No.	Issue	Detail
<input type="checkbox"/>	<input type="checkbox"/>	19	Hazardous Environment	Electricity infrastructure can be susceptible to hazard sources or in some situations be regarded as a hazardous source.
<input type="checkbox"/>	<input type="checkbox"/>	20	Modifications	Amendments can impact on electricity load and the contestable works required to facilitate the proposed development.
<input type="checkbox"/>	<input type="checkbox"/>	21	Network Access	Access to the electricity infrastructure may be required at any time particularly in the event of an emergency.
<input type="checkbox"/>	<input checked="" type="checkbox"/>	22	Network Asset Design	Design electricity infrastructure for safety and environmental compliance consistent with safe design lifecycle principles.
<input checked="" type="checkbox"/>	<input type="checkbox"/>	23	Network Connection	Applicants will need to submit an appropriate application based on the maximum demand for electricity for connection of load.
<input type="checkbox"/>	<input type="checkbox"/>	24	Protected Works	Electricity infrastructure without an easement is deemed to be lawful for all purposes under Section 53 'Protection of certain electricity works' of the <i>Electricity Supply Act 1995</i> (NSW).
<input type="checkbox"/>	<input type="checkbox"/>	25	Prudent Avoidance	Development should avert the possible risk to health from exposure to emissions from electricity infrastructure such as electric and magnetic fields (EMF) and noise.
<input type="checkbox"/>	<input checked="" type="checkbox"/>	26	Public Safety	Public safety training resources are available to help general public / workers understand the risk and how to work safely near electricity infrastructure.
<input type="checkbox"/>	<input type="checkbox"/>	27	Removal of Electricity	Permission is required to remove service / metering and must be performed by an Accredited Service Provider.
<input type="checkbox"/>	<input type="checkbox"/>	28	Safety Clearances	Any building or structure must comply with the minimum safe distances / clearances for the applicable voltage/s of the overhead power lines.
<input type="checkbox"/>	<input type="checkbox"/>	29	Security / Climb Points	Minimum buffers appropriate to the electricity infrastructure being protected need to be provided to avoid the creation of climb points.
<input type="checkbox"/>	<input checked="" type="checkbox"/>	30	Service Conductors	Low voltage service conductors and customer connection points must comply with the 'Service and Installation Rules of NSW'.
<input type="checkbox"/>	<input type="checkbox"/>	31	Solar / Generation	The performance of the generation system and its effects on the network and other connected customers needs to be assessed.
<input type="checkbox"/>	<input type="checkbox"/>	32	Streetlighting	Streetlighting should be reviewed and if necessary upgraded to suit any increase in both vehicular and pedestrian traffic.
<input type="checkbox"/>	<input checked="" type="checkbox"/>	33	Sustainability	Reducing greenhouse gas emissions and helping customers save on their energy consumption and costs through new initiatives and projects to adopt sustainable energy technologies.
<input type="checkbox"/>	<input type="checkbox"/>	34	Swimming Pools	Whenever water and electricity are in close proximity, extra care and awareness is required.
<input type="checkbox"/>	<input type="checkbox"/>	35	Telecommunications	Address the risks associated with poor communications services to support the vital electricity supply network Infrastructure.
<input type="checkbox"/>	<input checked="" type="checkbox"/>	36	Vegetation Management	Landscaping that interferes with electricity infrastructure is a potential safety risk and may result in the interruption of supply.

Condition	Advice	Clause No.	Issue	Detail
			Other	

Endeavour Energy	
Completed by:	Decision
Cornelis Duba	Approve (with conditions)
Reason(s) for Conditions / Objection (If applicable)	
<ul style="list-style-type: none"> The Statement of Environmental Effects does not appear to address in detail whether the available electricity services are adequate for the proposed development. <p><u>The Hills LEP 2019</u></p> <p>Clause 6.3 requires the consent authority to be satisfied that any public utility infrastructure that is essential for the proposed development is available, or that adequate arrangements have been made to make that infrastructure available when it is required.</p> <ul style="list-style-type: none"> Whilst provision has been made for a customer connection point as part of the electricity distribution works for the urban industrial subdivision, the final connection of end use customers for the lot will not occur until the end use is known. <p>This can result in an electricity load that is outside of the existing Supply / Connection Offer requiring the incorporation of the additional load for consideration and may require the completion of additional contestable works projects that are outside of the existing approved / certified works.</p> <p>Whilst there are four padmount substations located in Money Close which are likely to have some spare capacity, it is not unlimited and may not be sufficient to provide for any additional load from the proposed development.</p> <ul style="list-style-type: none"> To ensure an adequate connection, the applicant may need to engage an Accredited Service Provider (ASP) of an appropriate level and class of accreditation to assess the electricity load and the proposed method of supply for the development. The low voltage service conductor and customer connection point must comply with the 'Service and Installation Rules of NSW'. Endeavour Energy is urging applicants /customers to engage with an Electrical Consultant / Accredited Service Provider (ASP) prior to finalising plans to in order to assess and incorporate any required electricity infrastructure. In so doing the consideration can also be given to its impact on the other aspects of the proposed development. This can assist in avoiding the making of amendments to the plans or possibly the need to later seek modification of an approved development application. The planting of large / deep rooted trees to near electricity infrastructure is opposed by Endeavour Energy. Existing trees which are of low ecological significance in proximity of electricity infrastructure should be removed and if necessary replaced by an alternative smaller planting. The landscape designer will need to ensure any planting near electricity infrastructure achieves Endeavour Energy's vegetation management requirements. Not all the conditions / advice marked may be directly or immediately relevant or significant to the Development Application. However, Endeavour Energy's preference is to alert proponents / applicants of the potential matters that may arise should development within closer proximity of the existing and/or required electricity infrastructure needed to facilitate the proposed development on or in the vicinity of the site occur. 	

Yours faithfully

Cornelis Duba

Development Application Specialist

Sustainability & Environment

M: 0455 250 981

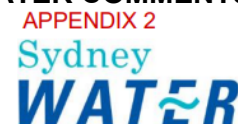
E: cornelis.duba@endeavourenergy.com.au

51 Huntingwood Drive, Huntingwood NSW 2148

www.endeavourenergy.com.au



ATTACHMENT N – APPENDIX 2 – SYDNEY WATER COMMENTS



18 August 2022

Our Ref: 173113

Kate Clinton

The Hills Shire Council

kclinton@thehills.nsw.gov.au

RE: Development Application 284/2023/JP at 3 Money Close, Rouse Hill

Thank you for notifying Sydney Water of 284/2023/JP at 3 Money Close, Rouse Hill, which proposes the construction of a mixed-use development with a GFA of 5,395sqm that incorporates a series of warehouse unit , motel (respite) accommodation, respite day care centre and associated administration office. Sydney Water has reviewed the application based on the information supplied and provides the following comments to assist in planning the servicing needs of the proposed development.

Water Servicing

- Potable water servicing should be available via a DN150 DICL watermain (laid in 2009) on Money Close.
- Amplifications, adjustments, and/or minor extensions may be required.

Recycled Water Servicing

- Recycled water servicing should be available via a DN150 uPVC watermain (laid in 2008) on Money Close.
- Amplifications, adjustments, and/or minor extensions may be required.

Wastewater Servicing

- Wastewater servicing should be available via a DN225 PP wastewater main (laid in 2009) within the property boundary.
- Amplifications, adjustments, and/or minor extensions may be required.

This advice is not formal approval of our servicing requirements. Detailed requirements, including any potential extensions or amplifications, will be provided once the development is referred to Sydney Water for a Section 73 application. More information about the Section 73 application process is available on our web page in the [Land Development Manual](#).

Sydney Water Corporation ABN 49 776 225 038

1 Smith St Parramatta 2150 | PO Box 399 Parramatta 2124 | DX 14 Sydney | T 13 20 92 | www.sydneywater.com.au

[Delivering essential and sustainable water services for the benefit of the community](#)

Further advice and requirements for this proposal are in Attachments 1 & 2. If you require any further information, please contact the Growth Planning Team at urbangrowth@sydneywater.com.au.

Yours sincerely,

A handwritten signature in black ink, appearing to read "Kristine Leitch".

Kristine Leitch
Commercial Growth Manager
City Growth and Development, Business Development Group
Sydney Water, 1 Smith Street, Parramatta NSW 2150

Attachment 1

Section 73 Compliance Certificate

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

The proponent is advised to make an early application for the certificate, as there may be water and wastewater pipes to be built that can take some time. This can also impact on other services and buildings, driveways or landscape designs.

Applications must be made through an authorised Water Servicing Coordinator. For help either visit www.sydneywater.com.au > Plumbing, building and developing > Developing > Land development or telephone 13 20 92.

Building Plan Approval

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

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

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

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

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

Sydney Water recommends developers apply for Building Plan approval early as in some instances the initial assessment will identify that an Out of Scope Building Plan Approval will be required.

Out of Scope Building Plan Approval

Sydney Water will need to undertake a detailed review of building plans:

1. That affect or are likely to affect any of the following:
 - Wastewater pipes larger than 300mm in size
 - Pressure wastewater pipes
 - Drinking water or recycled water pipes
 - Our property boundary
 - An easement in our favour
 - Stormwater infrastructure within 10m of the property boundary.
2. Where the building plan includes:
 - Construction of a retaining wall over, or within the zone of influence of our assets
 - Excavation of a basement or building over, or adjacent to, one of our assets
 - Dewatering – removing water from solid material or soil.

The detailed review is to ensure that:

- our assets will not be damaged during, or because of the construction of the development
- we can access our assets for operation and maintenance
- your building will be protected if we need to work on our assets in the future.

The developer will be required to pay Sydney Water for the costs associated with the detailed review.

Tree Planting

Certain tree species placed in close proximity to Sydney Water's underground assets have the potential to inflict damage through invasive root penetration and soil destabilisation. Sydney Water requires that all proposed or removed trees and vegetation included within the proposal adhere to the specifications and requirements within Section 46 of the Sydney Water Act (1994) and *Diagram 5 – Planting Trees* within our [Technical guidelines – Building over and adjacent to pipe assets](#). Please note these guidelines include more examples of potential activities impacting our assets which may also apply to your development.

If any tree planting proposed breaches our policy, Sydney Water may need to issue an order to remove every tree breaching the act, or directly remove every tree breaching the Act and bill the developer or Council for their removal.

Attachment 2

Requirements for **Business Customers for Commercial and Industrial Property Developments.**

Trade Wastewater Requirements

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

The permit application should be emailed to Sydney Water's [Business Customer Services](mailto:businesscustomers@sydneywater.com.au) at businesscustomers@sydneywater.com.au

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

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

Backflow Prevention Requirements

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

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

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

Before you install a backflow prevention device:

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

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

<https://www.sydneywater.com.au/plumbing-building-developing/plumbing/backflow-prevention.html>

Water Efficiency Recommendations

Water is our most precious resource and every customer can play a role in its conservation. By working together with Sydney Water, business customers are able to reduce their water consumption. This will help your business save money, improve productivity and protect the environment.

Some water efficiency measures that can be easily implemented in your business are:

- Install water efficiency fixtures to help increase your water efficiency, refer to WELS (Water Efficiency Labelling and Standards (WELS) Scheme, <http://www.waterrating.gov.au/>
- Consider installing rainwater tanks to capture rainwater runoff, and reusing it, where cost effective. Refer to <https://www.sydneywater.com.au/your-business/managing-your-water-use/water-efficiency-tips.html>
- Install water-monitoring devices on your meter to identify water usage patterns and leaks.
- Develop a water efficiency plan for your business.

It is cheaper to install water efficiency appliances while you are developing than retrofitting them later.

Contingency Plan Recommendations

Under Sydney Water's [customer contract](#) Sydney Water aims to provide Business Customers with a continuous supply of clean water at a minimum pressure of 15meters head at the main tap. This is equivalent to 146.8kpa or 21.29psi to meet reasonable business usage needs.

Sometimes Sydney Water may need to interrupt, postpone or limit the supply of water services to your property for maintenance or other reasons. These interruptions can be planned or unplanned.

Water supply is critical to some businesses and Sydney Water will treat vulnerable customers, such as hospitals, as a high priority.

Have you thought about a contingency plan for your business? Your Business Customer Representative will help you to develop a plan that is tailored to your business and minimises productivity losses in the event of a water service disruption.

For further information please visit the Sydney Water website at:

<https://www.sydneywater.com.au/your-business/managing-trade-wastewater/commercial-trade-wastewater.html> or contact Business Customer Services on 1300 985 227 or businesscustomers@sydneywater.com.au.

ATTACHMENT O – APPENDIX 3 – DPE WATER GENERAL TERMS OF APPROVAL

APPENDIX 3

Department of Planning and Environment



Contact: Department of Planning and Environment-Water
Phone: 1300081047
Email: waterlicensing.servicedesk@dpie.nsw.gov.au

Our ref: IDAS-2023-10533
Your ref: 284/2023/JP

27 October 2023

The General Manager
THE HILLS SHIRE COUNCIL
3 COLUMBIA COURT NORWEST 2153

Attention: Kate Clinton

Uploaded to the ePlanning Portal

Dear Sir/Madam

Re: IDAS-2023-10533 - Integrated Development Referral – General Terms of Approval
Dev Ref: 284/2023/JP
Description: Disability Services + Warehouse Units
Location: Lot 7, DP1158760, 3 MONEY CLOSE ROUSE HILL 2155

I refer to your recent referral regarding an integrated Development Application (DA) proposed for the above location. Attached, please find Department of Planning and Environment-Water's General Terms of Approval (GTA) for part of the proposed development requiring a Controlled Activity approval under the *Water Management Act 2000* (WM Act), as detailed in the subject DA.

Please note Council's statutory obligations under section 4.46 of the *Environmental Planning and Assessment Act 1979* (EPA Act) which requires consent, granted by a consent authority, to be consistent with the general terms of any approval proposed to be granted by the approval body.

If the proposed development is approved by Council, Department of Planning and Environment-Water requests these GTA be included (in their entirety) in Council's development consent. Please also note the department requests notification:

- if any plans or documents are amended and these amendments significantly change the proposed development or result in additional works or activities (i) in the bed of any river, lake or estuary; (ii) on the banks of any river lake or estuary, (iii) on land within 40 metres of the highest bank of a river lake or estuary; or (iv) any excavation which interferes with an aquifer.

The Department of Planning and Environment-Water will ascertain from the notification if the amended plans require review of or variation/s to the GTA. This requirement applies even if the amendment is part of Council's proposed consent conditions and do not appear in the original documentation.

- if Council receives an application under s4.46 of the EPA Act to modify the development consent and the modifications change the proposed work or activities described in the original DA.
- of any legal challenge to the consent.

As the proposed work or activity cannot commence before the applicant applies for and obtains an approval, the department recommends the following condition be included in the development consent:

The attached GTA issued by the Department of Planning and Environment-Water do not constitute an approval under the *Water Management Act 2000*. The development consent holder must apply to the department for a Controlled Activity approval after consent has been issued by Council and before the commencement of any work or activity.

A completed application must be submitted to the department together with any required plans, documents, application fee and proof of Council's development consent. Finalisation of an approval can take up to eight (8) weeks from the date the application and all required supporting documentation is received.

Applications for controlled activity approval should be made to the department, by lodgement of a Controlled Activity Approval – New approval application on the NSW Planning Portal at:
<https://www.planningportal.nsw.gov.au/>

The Department of Planning and Environment-Water requests that Council provide a copy of this letter to the development consent holder.

The Department of Planning and Environment-Water also requests a copy of the determination for this development application be provided by Council as required under section 4.47(6) the EPA Act.

Yours Sincerely



For
Patrick Pahlow
Team Leader
Licensing and Approvals
Department of Planning and Environment-Water



General Terms of Approval

for proposed development requiring approval under s89, 90 or 91 of the Water Management Act 2000

Reference Number:	IDAS-2023-10533
Issue date of GTA:	27 October 2023
Type of Approval:	Controlled Activity
Location of work/activity:	Lot 7, DP1158760, 3 MONEY CLOSE ROUSE HILL 2155
Waterfront Land:	Second Ponds Creek
DA Number:	284/2023/JP
LGA:	THE HILLS SHIRE

The GTA issued by Department of Planning and Environment-Water do not constitute an approval under the *Water Management Act 2000*. The development consent holder must apply to the Department of Planning and Environment-Water for the relevant approval **after development consent** has been issued by Council **and before** the commencement of any work or activity.

Condition Number	Details
------------------	---------

- | | |
|---------|---|
| TC-G001 | Before commencing any proposed controlled activity on waterfront land, an application must be submitted to Department of Planning and Environment-Water, and obtained, for a controlled activity approval under the Water Management Act 2000. |
| TC-G002 | <p>A. This General Terms of Approval (GTA) only applies to the proposed controlled activity described in the plans and associated documents relating to Development Application 284/2023/JP provided by Council to Department of Planning and Environment-Water</p> <p>B. Any amendments or modifications to the proposed controlled activity may render the GTA invalid. If the proposed controlled activity is amended or modified, Department of Planning and Environment-Water, must be notified in writing to determine if any variations to the GTA will be required.</p> |
-

ATTACHMENT P – APPENDIX 4 – OPERATIONAL MANAGEMENT STATEMENT

APPENDIX 4

NORTH WEST DISABILITY SERVICES – 3 MONEY CLOSE ROUSE HILL FACILITY

MANAGEMENT STATEMENT – SEPTEMBER 2023 REV A

- A summary of the staff numbers and general descriptions of their roles. This should include the day care centre staff/Administration staff with particular reference to their onsite role and potential training role/Respite Care workers/Café with particular mention of the use of clients staffing this as training.

The construction of the building at Money Close will be intended to provide a wide range of services to the local area and beyond. The intention of the site is to attract people with a disability to the site to participate in a wide scope of activities:

Staff Allocation Across Full 3 Money Close Site- are expected to use a range of car, and public Transport expected to be 50/50. People with a disability will catch public transport, be dropped to the site or picked up via Bus runs by NWDS. (Possibly 4 bus runs collecting up to 25 people per day) They will not drive themselves and park. Staff will not all be on the site at one time as they will come and go during the day and motel respite staff will typically be on site out of business hours.

Program space	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday	Sunday		
Admin Staff	15	15	15	15	15	Nil	Nil		
Day program									
Staff	40	40	40	40	40	20	20		
Vol	5	5	5	5	5	5	5		
Students	4	4	4	4	4	1	1		
Participants	90	90	90	90	90	40	40		
Therapy and Support Coordination									
Staff	3	3	3	3	3				
Participants and family members for Therapy	10	10	10	10	10				
Support Coordination in person and by phone	20	15	15	15	15				

6 Motel /Respite									
Staff	18	18	18	18	18	18	18		
Participants	24	24	24	24	24	24	24		
3 (of 6) NWDS Industrial units (will vary greatly)									
Staff	10	10	10	10	10				
Participants	9	9	9	9	9				
2 (of 6) Units leased by general public All will be encouraged to have a community focus and PWD as some staff.									
1.(of the 6) Café Unit to Public in Industrial unit									
Staff	2	2	2	2	2				
Participants over day	4	4	4	4	4				
Café in Day Program Space									
Staff	2	2	2	2	2				
Participants	6	6	6	6	6				
External Cleaning staff at Night	2	2	2	2	2	2			

Day Program site: Currently the Conie Avenue site supports 150 participants over the week and this new site is expected to support more participants with a maximum of 200 participants directly supported from the site with Day Program activities 16/7. STAFFING- 80 direct support staff over the week, 1 Lead Manager for the site, 3 Co-ordination staff and 8 admin support staff. Total Staff = 91 staff

Therapy and Support Coordination: The capacity to provide therapy and support coordination supports from the site will see up to 50 additional participants attending for therapeutic supports. Support Coordination from the site is also expected to involve another 80 participants. STAFFING = 4 staff and 1 admin staff person

Specialist Disability Motel Accommodation: The Motel style Accommodation will require 6 staff when fully occupied 24/7. This will equate to 21 shifts per week x 6 staff = 126 staff plus 2 Coordination staff and 2 admin staff, 2 cleaners = 132 over the week

Industrial Units: With the intention to utilise these units for a range of Disability Supported Work Options. Enabling training for Individuals with a disability to enter the workforce. The sites will be involved in small level manufacture, arts and crafts manufacturing. This area is expected to accommodate initially 3 units with up to 20 Participants involved in each unit over the week.

TYPES OF SMALL INDUSTRY NWDS MAY RUN IN EACH UNIT - building the skills of People with a disability to gain work or gain a career within the project.

Bee Hotel Production (Woodwork Projects),

Candle Making Production,

Art Studio and art manufacture,

Cookie and Slice manufacture,

Yoga and Meditation Studio,

Recycling of Clothing Products and Distribution,

Recycling of Furniture Product,

Food Bank for Sorting and Distribution to external Projects,

Small scale piece work on Consignment

STAFFING = 1 Manager, 3 coordinators and 6 support staff are expected to be the general staff requirements for a range of these enclave/ work type ventures for people with disabilities. These uses will be subject to a future Development Application.

CAFÉ Kitchen in Day Program Space: One a training Café situated in the Day Care Program in the Respite Day Care Facility space STAFFING: 1 Manager, 1 Coordinator and 2 staff over the week, 1 admin

CAFÉ for Public: Staffing: 1 Manager, 1 Coordinator and 2 staff over the week. This will be subject to a future Development Application

HR Supports: to support the above will require a 5 person HR team for staff training and supports and a 2 person Finance team for wages and accounts, A Manager on site to oversee the entire operation.

Facilities for the CEO to host meetings and generate support for the project into the future as it will require substantial voluntary and community engagement to ensure it meets the future objectives as an excellent innovative disability venue. This will include office space when the CEO on site, meeting rooms + training rooms for new staff for the site.

- ***Motel Accommodation*** will be provided on a commercial basis specifically for people who require in residence support for their motel accommodation. This will be available to the general public who need and qualify for this support.

The Motel accommodation/ Respite Accommodation will be provided to the General public a disability specific type of accommodation for those individuals who may present with a range of disabilities that require additional supports, greater than a normal disabled unit in a motel will provide.

The accommodation will enable local and travelling families with a person with a disability to gain staffing and physical supports for their person with a disability while attending other occasions, appointments, holidays and family functions in the area or further afield. The facility will be unique in providing for the full family in an open plan family units that they will be able to utilise as motel accommodation during the evenings of their short or long term stays and the units will be fitted out for Wheel Chair accessible kitchenette (benchtop heights to accommodate a wheel chair, access to cooking for a wheelchair, resources at wheelchair access height) bathrooms (Ceiling hoist, change table, accessible layout), bedrooms (Ceiling hoist, rails for beds, bedside tables movable) and layout that enables freedom of movement for wheelchairs and assistive technology for full access for those with vision impairment, physical and intellectual disabilities and for medical alerts.

NWDS will provide staffing for the site and this will entail staff to provide whatever supports are required during their stay. This could include 24/7 staffing support, intermittent supports (assistance with meal preparation, showering, toileting, hoisting into bed and turning at night) We would also engage our therapists as people may be attending to gain access to increased levels of therapeutic support. People may also attend as individuals whilst their families are away and they may also join a communal group with full support for the period and enjoy the tourist type activities during their awake hours.

EXAMPLE: Family attending the Sydney area for weddings, funeral, medical intervention or holiday. They would book a full family unit for the full family to stay and their person with a disability may gain support from NWDS during the stay with day program activities in the community, physical supports during the day or night. They may attend a wedding as a family but the person with a disability would have a NWDS support staff provided to also attend and return the person with a disability back to the unit when they became tired, leaving the family to fully enjoy the occasion. The unit would have all the requirements to fully support a person presenting with any disability. For behavioural disabilities the staff would have access and support from other staff on site to ensure their safety during the support periods.

- *The internal layout aims to provide shared motel accommodation with a carer in the unit to make it affordable for the potential users and provide them the opportunity to travel.*

The facilities provided on the site by NWDS will meet the changing needs of a person with a disability and their family. The facilities will be fully accessible with additional supports that are not currently available in Motel type accommodation. This is a unique offering to a growing community of people who are now more mobile with NDIS funding and their expectation is that the community will provide for their specific needs by way of resources, facilities and support staff. Also provided will be units for people with challenging behaviours who also travel with their families and need a range of stimulants, non-stimulants, engagement and alternate supports that will enable the family to engage in the medical requirements or holiday activities etc whilst also bringing their family member with them, knowing when it all gets too difficult, then other supports are available to step in and support their individual with a disability to also enjoy the trip away. Group supports will enable stays up to a few weeks so family members can access requirements, hospitalisation, holidays and respite to ensure they can continue in their caring role. Often people moving from interstate need a period of time to have their new home settled, or possibly renovations needed for others that means they need to move to other accommodation for a period and this type of accommodation will provide for many purposes.

NOTE: This is a unique and valuable addition to the Hills area as it is a growing area for medical care and has excelled over many decades to provide for individuals with a disability. NWDS had the first Acquired Brain Injury Facility in NSW and also lead the field in the quality provision of purpose build Disability Day Care Facilities fully supported by the Hills council.

ATTACHMENT Q – APPLICANT'S LEGAL ADVICE

O'BRIEN LEGAL Solicitors

13 Nevorie Crescent
Maroubra NSW 2035

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Our Ref: 230004
Your Ref: 284/2023/JP

25 March 2023

The General Manager
The Hills Shire Council
3 Columbia Court
NORWEST NSW 2153

Dear Sir

**RE: DEVELOPMENT APPLICATION 284/2023/JP
3 MONEY CLOSE, ROUSE HILL**

We act for the proponent for development, North West Disability Services Inc (NWDS).

Our client's proposed development comprises the construction of mixed use development incorporating a series of warehouse units, motel accommodation, a respite day care centre, and associated administration offices.

We have been provided with a copy of Council's letter to our client dated 9 November 2022 and have been instructed to address that part of the letter which requests *"additional information to justify the proposed use"* for motel accommodation.

The proposed motel accommodation comprises six self-contained suites that will provide temporary or short-term accommodation on a commercial basis. The individual suites include kitchen facilities for meal preparation and the accommodation will be accessible 24 hours per day, with access managed by swipe card or PIN code.¹

Further details regarding the operation and use of the proposed motel accommodation are set out in the letter from NWDS to Council dated 21 March 2023.

Council has in its letter dated 9 November 2022, stated that the *"permissibility of the proposed motel accommodation for respite uses is questioned."* However, permissibility is a jurisdictional fact which does not turn on Council's opinion as the consent authority.² The test for characterising the purpose of the proposed development is an objective test based on the application itself.³

¹ Statement of environmental effects, James Lovell and Associates Pty Ltd dated 16 July 2022 at page 12.

² *Woolworths Ltd v Pallas Newco Ltd & Anor* (2004) 61 NSWLR 707; [2004] NSWCA 422 at [62].

³ *Botany Bay City Council v Pet Carriers International Pty Limited* (2013) 201 LGERA 116; [2013] NSWLEC 147 at [25].

The site is zoned IN2 Light Industrial under *The Hills Local Environmental Plan 2019* ("LEP"). The LEP incorporates the following Land Use Table.

Zone IN2 Light Industrial

1 Objectives of zone

- To provide a wide range of light industrial, warehouse and related land uses.
- To encourage employment opportunities and to support the viability of centres.
- To minimise any adverse effect of industry on other land uses.
- To enable other land uses that provide facilities or services to meet the day to day needs of workers in the area.
- To support and protect industrial land for industrial uses.
- To provide temporary overnight accommodation for the working population and businesses in the area.

2 Permitted without consent

Nil

3 Permitted with consent

Building identification signs; Business identification signs; Depots; Food and drink premises; Garden centres; Hardware and building supplies; Heliports; Hotel or motel accommodation; Industrial training facilities; Light industries; Neighbourhood shops; Oyster aquaculture; Places of public worship; Roads; Self-storage units; Serviced apartments; Tank-based aquaculture; Timber yards; Vehicle sales or hire premises; Warehouse or distribution centres; Waste disposal facilities; Any other development not specified in item 2 or 4

4 Prohibited

Agriculture; Air transport facilities; Airstrips; Amusement centres; Animal boarding or training establishments; Boat launching ramps; Boat sheds; Camping grounds; Caravan parks; Cemeteries; Charter and tourism boating facilities; Commercial premises; Correctional centres; Crematoria; Eco-tourist facilities; Educational establishments; Entertainment facilities; Environmental facilities; Exhibition homes; Exhibition villages; Farm buildings; Forestry; Freight transport facilities; Function centres; Health services facilities; Heavy industrial storage establishments; Highway service centres; Home-based child care; Home businesses; Home occupations; Home occupations (sex services); Industries; Jetties; Marinas; Mooring pens; Moorings; Open cut mining; Pond-based aquaculture; Port facilities; Public administration buildings; Recreation facilities (major); Research stations; Residential accommodation; Resource recovery facilities; Restricted premises; Rural industries; Sewerage systems; Signage; Storage premises; Tourist and visitor accommodation; Water recreation structures; Water supply systems; Wharf or boating facilities

As hotel or motel accommodation is a permissible use, it is apparent that development of the site for hotel or motel accommodation is permissible with development consent.

Hotel or motel accommodation is defined in the Dictionary to the LEP as follows.

hotel or motel accommodation means a building or place (whether or not licensed premises under the Liquor Act 2007) that provides temporary or short-term accommodation on a commercial basis and that-

- (a) comprises rooms or self-contained suites, and
 - (b) may provide meals to guests or the general public and facilities for the parking of guests' vehicles,
- but does not include backpackers' accommodation, a boarding house, bed and breakfast accommodation or farm stay accommodation.

Note-

Hotel or motel accommodation is a type of tourist and visitor accommodation-see the definition of that term in this Dictionary.

Tourist and visitor accommodation is defined in the Dictionary to the LEP as follows.

tourist and visitor accommodation means a building or place that provides temporary or short-term accommodation on a commercial basis, and includes any of the following-

- (a) backpackers' accommodation,
 - (b) bed and breakfast accommodation,
 - (c) farm stay accommodation,
 - (d) hotel or motel accommodation,
 - (e) serviced apartments,
- but does not include-
- (f) camping grounds, or
 - (g) caravan parks, or
 - (h) eco-tourist facilities.

Tourist and visitor accommodation is a prohibited use under the Land Use Table notwithstanding that a species of that genus, namely hotel or motel accommodation, is a permissible use. However, because hotel or motel accommodation is a nominate permissible use, development for that purpose will be permissible even if it comes within a genus of purposes that are prohibited purposes.⁴

Preston CJ in *Botany Bay City Council v Pet Carriers International Pty Limited*⁵ held that the ultimate focus of an inquiry as to the characterisation of land should be whether a development is within a nominate or innominate purpose under the relevant instrument. If the proposed development is for a nominate permissible use, (in this case, hotel or motel accommodation), then it can be characterised as a permissible use.⁶

Council has correctly identified in its letter dated 9 November 2022 that consistently with the definition of hotel or motel accommodation, the proposed development will provide temporary or short-term accommodation on a commercial basis in rooms or self-contained suites. However, Council's assertion that *"the intended function of the motel is inconsistent with a standard motel*

⁴ *Botany Bay City Council v Pet Carriers International Pty Limited* op cit at [55].

⁵ Ibid.

⁶ *Sherman v Newcastle City Council* [2019] NSWLEC 1238 at [56].

use as is envisaged in the zone", is misconceived, as is Council's observation that the internal layout and detail of the motel rooms *"is not consistent with a typical motel use"*.

First, the zone objectives make no reference to or otherwise envisage a "standard motel use" or a "typical motel use" (whatever that might be).

Secondly, Council's subjective opinion as to whether or not the proposed development constitutes a "standard motel" or a "typical motel" is not only an irrelevant consideration, Council will fall into error if it were to assess the development application on that basis.⁷

Thirdly, one of the objectives of development in the zone is to provide temporary overnight accommodation for the working population and businesses in the area. That objective will be satisfied if development consent for the proposed use is granted for the reasons stated below.

It is apparent from what is set out in the letter from NWDS to Council dated 21 March 2023 that the motel accommodation will be for short-term or temporary overnight accommodation by persons who will have a connection with the business carried on by NWDS from the site, namely the business of providing disability support services and in particular, respite care services.

The persons proposed to be temporarily accommodated overnight in the rooms or suites will pay for that accommodation. The accommodation will therefore be provided on a commercial basis. Those persons will either be receiving respite care proposed to be provided in the respite day care centre or be family members or carers of persons receiving respite care. The duration of their stay will be temporary in that they will only be accommodated for the duration of the period that respite care is being provided to them or to their family members or to persons for whom they care.

The internal layout of the rooms with a common area, multiple bedrooms and separate bathrooms with access to the rooms being provided via the NDWS respite day care foyer is a design which is entirely consistent with accommodation being provided for persons who will either be receiving respite care in the respite day care centre or be family members or carers of persons receiving that care.

The motel accommodation is proposed to be provided for use by a specific sector of the general public, namely a disability specific type of accommodation for those individuals who may present with a range of disabilities that require additional support.

The rooms will not be available for use as temporary overnight accommodation by tourists or others who may be visitors to The Hills Local Government Area and who do not require the specific disability support accommodation being proposed. If that were to be permitted, the proposed use would be inconsistent with the zone objectives and be one more consistent with the prohibited use of tourist and visitor accommodation. Accordingly, any focus on the proposed use necessarily requiring the provision of temporary accommodation to members of the general public rather than a specific sector of the public (namely the disability sector), will be erroneous.

Finally, it is appropriate that we address the following statement made on page 3 of Council's letter:

"Regardless of the permissibility, the suitability of the site for a use which is residential in nature is questioned and may have impacts on the approved operations of industrial uses in the vicinity."

⁷ *Woolworths Ltd v Pallas Newco Ltd & Anor* (2004) 61 NSWLR 707; [2004] NSWCA 422 at [62].

Residential accommodation is a prohibited use in the zone. Residential accommodation is defined in the Dictionary to the LEP as meaning "*a building or place used predominantly as a place of residence*". None of the proposed buildings will be used predominantly as a place of residence. Our client is not proposing to develop its land for residential accommodation or otherwise for a use "*which is residential in nature*".

The provision of temporary overnight accommodation for persons dealing on a commercial basis with our client's business as a provider of respite care and disability services is consistent with an express objective of the zone. That use is permissible with development consent. In fact it is hard to contemplate how that objective might otherwise be achieved if it were not for a development of the kind precisely in the form being proposed by our client.

Furthermore, the proposed use is entirely consistent with other uses which are permissible in the zone and which are not otherwise ordinarily considered as "industrial uses" such as industrial training facilities, neighbourhood shops, places of public worship and serviced apartments.

Council's subjective assertion that the proposed use "*may have impacts on the approved operations of industrial uses in the vicinity*" is not supported with any objective evidence and is rejected. The proposed motel accommodation use will have no impact on currently approved industrial uses within the vicinity of the site as those uses are ordinarily only carried out during daylight hours. Persons using the proposed temporary accommodation will generally be doing so at night when industrial uses in the vicinity will have ceased operations for the day.

Yours faithfully
O'BRIEN LEGAL

A handwritten signature in blue ink, appearing to read 'Patrick O'Brien', is written over a horizontal line.

Patrick O'Brien
Director