

COUNCIL ASSESSMENT REPORT

SYDNEY CENTRAL CITY PLANNING PANEL

PANEL REFERENCE & DA NUMBER	PPSSCC-383 - DA 304/2023/JP
PROPOSAL	Health Services Facility
ADDRESS	Lot 1 DP 1273532, 6 McCausland Place, Kellyville
APPLICANT	SLR Consulting Australia Pty Ltd
OWNER	Northwest Healthcare Australian Property Pty Ltd
DA LODGEMENT DATE	12 August 2022
APPLICATION TYPE	Development Application
REGIONALLY SIGNIFICANT CRITERIA	Clause 5, Schedule 6 of the Planning Systems SEPP: Private infrastructure and community facilities over \$5 million
CIV	\$28,333,346.00 (excluding GST)
CLAUSE 4.6 REQUESTS	4.3 Building Height 4.4 Floor Space Ratio
KEY SEPP/LEP	LEP 2019. SEPP (Transport and Infrastructure) 2021
TOTAL & UNIQUE SUBMISSIONS KEY ISSUES IN SUBMISSIONS	15 (1 in support)
DOCUMENTS SUBMITTED FOR CONSIDERATION	Town Planner: SLR Consulting Architect: HSPC Landscape: Studio 151 Engineering: Northrop Traffic: SLR Consulting Acoustic: SLR Consulting Quantity Surveyor: Rider Levett Bucknall
SPECIAL INFRASTRUCTURE CONTRIBUTIONS (S7.24)	Yes
RECOMMENDATION	Approval

DRAFT CONDITIONS TO APPLICANT	Yes
SCHEDULED MEETING DATE	7 December 2023
PLAN VERSION	N/A
PREPARED BY	Robert Buckham – Principal Coordinator
CONFLICT OF INTEREST DECLARATION	None Declared
DATE OF REPORT	29 November 2023

EXECUTIVE SUMMARY

The proposed development includes the construction of a mental health hospital comprising:

- Basement car parking for 64 car parking spaces, services and temporary waste storage area.
- 1st level comprising 30 bed ward, 2 group rooms, meeting room, lounge and dining area, and associated lobby waiting room with reception and amenities.
- 2nd level comprising 30 bed ward, 2 group rooms, meeting room, lounge and dining area, and associated lobby waiting room with reception and amenities.
- 3rd level comprising a terrace, gym/yoga room with associated changing rooms, 3 group rooms, meeting room, staff room and plant.
- Construction of new vehicular access off McCausland Place and Arnold Avenue; and
- Landscaping works.

It is proposed that the development would operate in conjunction with the existing mental health hospital at 3 McCausland Place, operating 24 hours, 7 days a week to in-patients. Outpatient consulting appointments operate generally between 8:00am to 9.00pm Monday to Friday. Up to 50 staff will operate the facility on the subject site.

The proposed development is permissible in the R3 Medium Density zone and has been assessed under the relevant provisions of State Environmental Planning Policy (Planning Systems) 2021, State Environmental Planning Policy (Transport and Infrastructure) 2021, State Environmental Planning Policy (Biodiversity and Conservation) 2021, State Environmental Planning Policy (Resilience and Hazards) 2021, State Environmental Planning Policy (Industry and Employment) 2021, 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:

This application is accompanied by a request to vary development standards pursuant to Clause 4.6 of The Hills Local Environmental Plan. The proposal seeks to vary Clause 4.3 Building Height, Clause 4.4 Floor Space Ratio. Each variation is addressed in detail in this report. It is considered that the applicant's Clause 4.6 written request to vary The Hills LEP 2019 development standards be supported as they adequately justify the contravention of the development standards having regard to the requirements of Clause 4.6.

The variation to height is supported given the elements of the building exceeding the building height control on the northern side of the building adjacent to existing residents are either mechanical plant or fire stairs and a lift shaft. There are no habitable areas nor windows that would impact on privacy. The mechanical plant component of the building on the third is also inset from the two levels below and will read as two storeys. In addition, any additional built form will not result in overshadowing given the site is located to the south of residential properties. The additional height adjacent to Memorial Avenue is acceptable given the site is located opposite a local centre and is considered consistent with the character of the locality.

The variation to floor space ratio (FSR) is considered a technical non-compliance, specifically it was intended to control the amount of floor space for a residential flat building permitted on the site allowed by the additional permitted use provision. The majority of the site does not have a FSR standard applied, however the wording of the LEP requires that the entire site area be included in calculating FSR. Despite this, the overall massing, scale, bulk and height of the proposed development is consistent with the existing health services facility at 3 McCausland Place and will be in keeping with the character of the area.

The proposed development includes variations to the DCP relating to the number of parking spaces. The variation to parking is considered satisfactory given the operational characteristics of the site. The report also addresses the DCP setback controls for the area although they apply to residential development and do not technically apply to the subject proposal. The setbacks are considered reasonable given the existing character of the locality and surrounding developments.

The application was notified for a period of 14 days. Fourteen objections and one submission in support were received. The issues raised in the objections relate to traffic, privacy, built form and issues relating to the operation of existing facility primarily the behaviour of person attending the site. A Plan of Management was requested to be submitted as part of the assessment of the application to address issues by residents during the notification period. A condition of consent is recommended (refer Condition 79), that requires compliance with the Plan of Management and yearly review of the plan to ensure the amenity of residents is not impacted. Other matters raised in the submissions are addressed in the report and do not warrant refusal of the application.

The Development Application is recommended for approval subject to conditions.

1. THE SITE

The subject site is legally described as Lot 1 DP 1273532. The subject site is irregularly shaped and has an area of approximately 4,338m². The site has a gentle gradient which slopes from approximately 60.5m AHD at the north western corner to approximately 57.5m AHD at the northern corner of the site. The site will be operated as an extension to the existing The Hills Clinic located at 3 McCausland Place, Kellyville. The Hills Clinic is a specialist practice, providing private psychiatric and psychological treatment for a wide range of mental health issues.

The development site is zoned R3 Medium Density Residential (Refer Attachment D) and is subject to Height of Building (HOB) maximum heights of 10m (K) and 14m (N), (refer Attachment E) and an FSR of 1:1 (N) for a portion of the site, under Local Environmental Plan 2019.

It should be noted that when the application was submitted, the Arnold Avenue extension to the upgraded Memorial Avenue was under construction and access at this time remained through McCausland Place. The Arnold Avenue extension has recently been opened, despite

not yet operating under signals, and McCausland Place has been closed to through traffic. The planned cul-de-sac is currently under construction.

2. THE PROPOSAL AND BACKGROUND

2.1 The Proposal

The proposed development includes the construction of a mental health hospital comprising:

- Basement car parking for 64 car parking spaces, services and temporary waste storage area.
- 1st level comprising 30 bed ward, 2 group rooms, meeting room, lounge and dining area, and associated lobby waiting room with reception and amenities.
- 2nd level comprising 30 bed ward, 2 group rooms, meeting room, lounge and dining area, and associated lobby waiting room with reception and amenities.
- 3rd level comprising a terrace, gym/yoga room with associated changing rooms, 3 group rooms, meeting room, staff room and plant.
- Construction of new vehicular access off McCausland Place; and
- Landscaping works.

It is proposed that the development would operate with the existing mental health hospital at 3 McCausland Place, therefore, operating 24 hours, 7 days a week to enable the consistent care to in-patients. Outpatient consulting appointments operate generally between 8:00am to 9:00pm Monday to Friday. Visitors are restricted to visiting hours each day as follows:

- Monday to Friday: 12:00pm to 1:00pm; and 5:00pm to 8:00pm
- Weekends and Public Holidays: 1:00pm to 8:00pm

The proposal will be operated by 50 staff comprising nurses, doctors, back-office staff, kitchen and cleaning staff. The applicant has foreshadowed that these staffing levels will also service future stages.

The development will provide for a total of 64 car parking spaces will be provided, with 49 car parking spaces located within the basement level and 15 open air car parking spaces to the east of the proposed built form.

Access to the site will be provided via McCausland Place via a ramp, whereas the Arnold Avenue driveway is level with the basement.

Signage is proposed on the northern, western and southern elevations and comprises the wording "Aurora" and is internally illuminated. Each of the signs have dimensions of 3.3 metres x 0.5m.

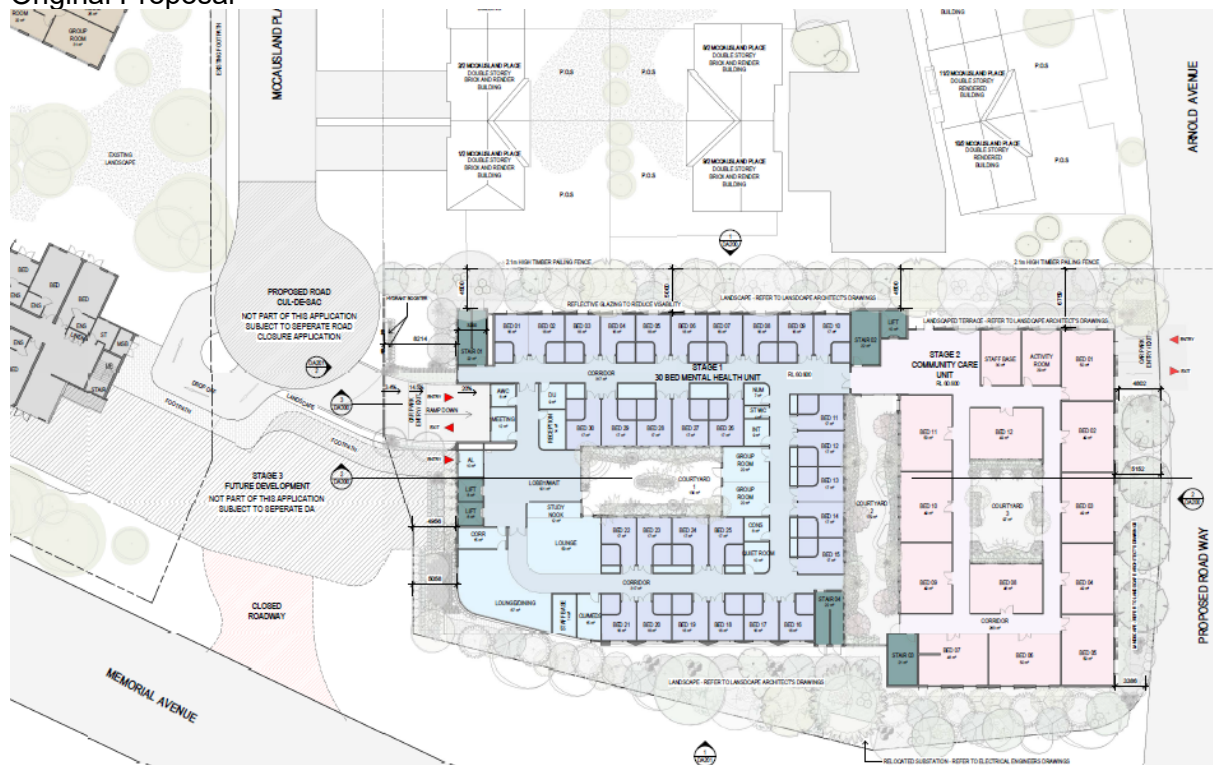
The applicant has provided indicative locations of future stages (not part of this development application) which will include a potential connection between this proposal with the current hospital at No. 3 McCausland Place, however these components are not part of the subject application and will be subject to separate approval.

2.2 Background

Two pre-lodgement meetings were held prior to the lodgement of the applicant on the 18 March 2002 and 13 May 2022.

The development application was lodged on 12 August 2022. The application as originally lodged sought to construct the future McCausland Place cul-de-sac to the north of its planned location adjacent to Memorial Avenue. This was to facilitate a future application for a building that would connect the existing hospital building and the building subject to this application. The building could only occur once the road had been formally closed and the redundant road reserve purchased from Council. The applicant had commenced discussions and submitted a road closure application with Council's property team. An indicative building footprint was identified on the submitted plans, see below. Given these works were to be part of a separate application, owner's consent from Council was not required for this application. It is noted that this proposal also had impacts on the adjoining property (2 McCausland Place) in terms of acquisition of adjoining private property for road verge that had not been accounted for.

Original Proposal

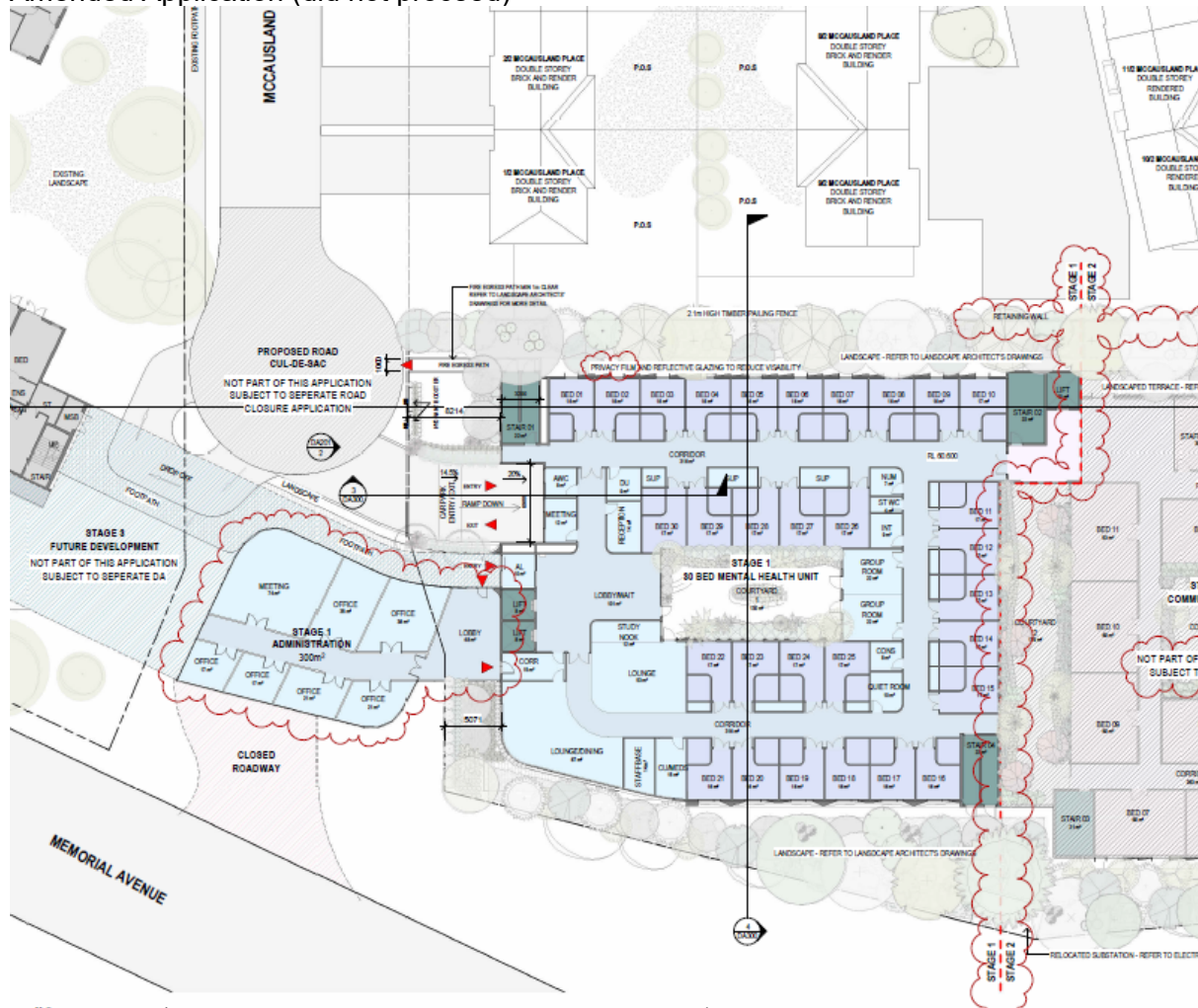


On 27 September 2022 a briefing was held with the Sydney Central City Planning Panel.

On 4 November 2022, a request for additional information was made. The issues raised included plan information, height variation justification, parking, servicing, plan of management, engineering matters, waste management, landscape matters and cost summary.

During the assessment of the application, and specifically in addition to the submission of additional information, the applicant sought to amend the application to seek to include an administrative office building (see below), associated with Stage 1 works and located over the land currently being processed for a road closure. Owner's consent has been provided by Council granting consent to lodge over Council owned land.

Amended Application (did not proceed)



Following an initial assessment, multiple correspondence between Council staff and the applicant and a meeting between both parties specifically related to issues associated with the road closure, the amendment was deleted from the proposal and the cul-de-sac located in the planned location adjacent Memorial Avenue. Additional information in this regard was lodged on 15 September 2023.

2.3 Site History

The following planning approvals have been previously granted at the site:

- 5 August 2014 – DA804/2014/HC – Approval was granted for the construction of fifteen Multi Dwelling Housing Units comprising 4x3 bedroom and 11 x 4 bedroom dwellings
- 15 September 2017 – Planning Proposal 4/2016/PLP – Amendments to The Hills LEP 2012 were gazetted. The planning proposal sought a higher density of residential developments on the site as a consequence of TfNSW additional land acquisition since the 2014 DA approval. The gazetted amendments included an additional permitted use on the site to permit residential flat buildings, with a maximum yield of 20 dwellings, increase the maximum building height in the south eastern corner of the site to 14 metres and applying a base floor space ratio in the same corner of the site of 1:1 with an incentivised floor space of 1.6:1.
- 24 May 2019 – DA 496/2018/HA – Approval was granted by the Local Planning Panel for the Demolition of Existing Structures and Construction of Multi-Dwelling Housing and an

Apartment Building Development containing 35 dwellings. It is noted this development consent was not enacted, with further TfNSW works impeding on the future development.

- 10 June 2022- DA 1895/2022/LA – Approval was granted for the demolition of the existing structures and required remediation at 6 McCausland Place. The works have been undertaken.

3. STATUTORY CONSIDERATIONS

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

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

These matters are further considered below.

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

The following Environmental Planning Instruments are relevant to this application:

- *State Environmental Planning Policy (Planning Systems) 2021;*
- *State Environmental Planning Policy (Transport and Infrastructure) 2021;*
- *State Environmental Planning Policy (Resilience and Hazards) 2021;*
- *State Environmental Planning Policy (Biodiversity and Conservation) 2021;*
- *State Environmental Planning Policy (Industry and Employment) 2021; and*
- *The Hills Local Environmental Plan 2019.*

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

Table: Summary of Applicable Environmental Planning Policies

EPI	Matters for Consideration	Comply (Y/N)
Planning System SEPP	<ul style="list-style-type: none"> • 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"> Section 4.6 - Contamination and remediation has been considered in the preceding application 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 Section 2.59 – Health Services Facilities Section 2.119 – Development with frontage to classified road 	Y Y Y
Biodiversity and Conservation SEPP	<ul style="list-style-type: none"> Chapter 6 Water Catchments. 	Y
Industry and Employment SEPP	<ul style="list-style-type: none"> Chapter 3 – Advertising and Signage 	Y
The Hills LEP	<ul style="list-style-type: none"> Clause 4.1 – Lot size. Clause 4.3 – Height of Buildings Clause 4.4 – Floor Space Ratio Clause 6.3 - Servicing Clause 7.2 – Earthworks 	Y N N Y 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 CIV of more than \$5 million. Accordingly, the Sydney Central City Planning Panel is the determining authority for the application.

State Environmental Planning Policy (Transport and Infrastructure) 2021

Clause 2.59 within Division 10 of the SEPP (Transport and Infrastructure) 2021 permits a “health services facility” located in a prescribed zone. The R3 Medium Density Residential zone is identified as a prescribed zone under Clause 2.60 within Division 10 of the SEPP.

The proposed development is defined as a “*health services facility*” according to the SEPP (Transport & Infrastructure) 2021, as defined by the Standard Instrument:

health services facility means a building or place used to provide medical or other services relating to the maintenance or improvement of the health, or the restoration to health, of persons or the prevention of disease in or treatment of injury to persons, and includes any of the following—

- (a) a medical centre,
- (b) community health service facilities,
- (c) health consulting rooms,
- (d) patient transport facilities, including helipads and ambulance facilities,
- (e) hospital.

Clause 2.48 of the SEPP relates to development likely to affect an electricity transmission or distribution network. The proposal is likely to impact existing overhead wires adjacent to the McCausland Place frontage of the site. The application was referred to Endeavour Energy who provided their concurrence to the proposal which has been incorporated into the recommended conditions of consent.

Clause 2.119 of this SEPP outlines the considerations for development with frontage to classified road. The site has frontage to Memorial Avenue, which is a classified road. Whilst the site has frontage to a classified road, the proposal is not anticipated to significantly or adversely impact on the operation of the classified road given access is only provided to McCausland Place and Arnold Avenue and does not seek direct access onto the classified road.

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

State Environmental Planning Policy (Resilience and Hazards) 2021

The provisions of State Environmental Planning Policy (Resilience and Hazards) 2021 have been considered in the assessment of the development application. Clause 4.6 of the 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 Site Assessment and Report prepared by SLR Consulting Australia Pty Ltd, referenced as 631.30598.00000-R01 v1.0, dated April 2022 was submitted and considered as part of the preceding development application (1895/2022/LA) for the demolition of existing structures. The report recommended:

- An asbestos assessment be completed prior to demolition of the dwelling. At this stage the occupational hygienist will stipulate whether or not the demolition and vegetation scrapping will be undertaken in accordance with Class A or Class B conditions.
- Following demolition of the dwelling, the vegetation and 50 mm of the topsoils be scrapped and disposed of as asbestos waste.
- Following removal of the vegetation and scrapping of the soils a suitably qualified person be engaged to supply an asbestos site clearance certificate.
- Following removal of the underground septic tank located to the immediate north of the dwelling the soil surrounding the underground septic tank will need to be classified as per EPA legislation prior to offsite disposal.
- If potentially hazardous materials are uncovered / discovered during excavations the Contractor shall:
 - Cease all work in that vicinity (and fence the area if appropriate)
 - Remove workers from the vicinity
 - An experienced environmental consultant should be contacted to assess the potential risks associated with the Unexpected Finds and provide appropriate management options
 - Investigate the nature of the risk of the materials, determine the appropriate response and document the actions in accordance with contractual obligations

Following satisfactory remediation of the site under the preceding DA which has occurred, the site can be considered suitable for its intended use and is consistent with the SEPP.

SEPP Biodiversity and Conservation

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

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

State Environmental Planning Policy (Industry and Employment) 2021

Chapter 3 Advertising and Signage of State Environmental Planning Policy (Industry and Employment) 2021 applies to the proposal since signage is proposed in the form of flush wall signs.

Section 3.1 Aims and Objectives of Chapter 3 states:

- (a) *to ensure that signage (including advertising)—*
 - (i) *is compatible with the desired amenity and visual character of an area, and*
 - (ii) *provides effective communication in suitable locations, and*
 - (iii) *is of high quality design and finish, and*
- (b) *to regulate signage (but not content) under Part 4 of the Act, and*
- (c) *to provide time-limited consents for the display of certain advertisements, and*
- (d) *to regulate the display of advertisements in transport corridors, and*
- (e) *to ensure that public benefits may be derived from advertising in and adjacent to transport corridors.*

The proposed “Aurora” signage has been assessed against the Assessment Criteria outlined in Schedule 5 of the SEPP and is considered satisfactory.

The Hills Local Environmental Plan 2019

The site is located within the R3 medium Density zone. The zone objectives include the following:

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

The proposal is considered to be consistent with the third zone objective.

Although not relevant to this application, the subject site is included in Schedule 1 Additional permitted uses, Clause 9 ‘Use of certain land at 6 McCausland Place, Kellyville’. Specifically, the clause states;

- 1) *This clause applies to land at 6 McCausland Place, Kellyville, being Lot 1, DP1273532, shown as “Item 10” on the Additional Permitted Uses Map.*

- 2) *Development for the purposes of a residential flat building is permitted with development consent.*
- 3) *Development consent under subclause (2) may only be granted if the number of dwellings contained, or proposed to be contained, in the residential flat building does not exceed 20.*

Given that the proposal is not for a residential flat building, it is not relevant to this application.

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 below.

Table: Consideration of the LEP Controls

Control	Requirement	Proposal	Comply
Clause 4.1 Minimum Lot Size	700m ²	No change to existing lot (4,340m ²)	Yes
Clause 4.3 Height of Buildings	10m (K) and 14m (N)	14.03m (in the 10m height control area) 40.3% variation.	No
Clause 4.4 Floor Space Ratio	FSR (1:1) – Portion of the site intended to restrict residential building use allowed through the Additional Permitted Use provision.	1.25:1 based on proposed GFA and entire site area (see discussion below)	No

i) Compliance with Clause 4.3 Building Height

LEP 2019 limits the height of the development site to 10 and 14 metres (refer Attachment E). The proposal has a maximum height of 14.03 metres. The proposal includes a maximum variation of 4.03 metres or 40.3% within the 10m height control area.

The applicant has submitted a Clause 4.6 variation request (see Attachment M)

Clause 4.6 Exceptions to Development Standards states:

- 1) *The objectives of this clause are as follows—*
 - a) *to provide an appropriate degree of flexibility in applying certain development standards to particular development,*
 - b) *to achieve better outcomes for and from development by allowing flexibility in particular circumstances.*
- 2) *Development consent may, subject to this clause, be granted for development even though the development would contravene a development standard imposed by this or any other environmental planning instrument. However, this clause does not apply to a development standard that is expressly excluded from the operation of this clause.*
- 3) *Development consent must not be granted to development that contravenes a development standard unless the consent authority is satisfied the applicant has demonstrated that—*

- a) *compliance with the development standard is unreasonable or unnecessary in the circumstances, and*
- b) *there are sufficient environmental planning grounds to justify the contravention of the development standard.*

Note—The Environmental Planning and Assessment Regulation 2021 requires a development application for development that proposes to contravene a development standard to be accompanied by a document setting out the grounds on which the applicant seeks to demonstrate the matters in paragraphs (a) and (b).

- 4) *The consent authority must keep a record of its assessment carried out under subclause (3).*
- 5) *(Repealed)*
- 6) *Development consent must not be granted under this clause for a subdivision of land in Zone RU1 Primary Production, Zone RU2 Rural Landscape, Zone RU3 Forestry, Zone RU4 Primary Production Small Lots, Zone RU6 Transition, Zone R5 Large Lot Residential, Zone C2 Environmental Conservation, Zone C3 Environmental Management or Zone C4 Environmental Living if—*
 - a) *the subdivision will result in 2 or more lots of less than the minimum area specified for such lots by a development standard, or*
 - b) *the subdivision will result in at least one lot that is less than 90% of the minimum area specified for such a lot by a development standard.*
- 7) *(Repealed)*
- 8) *This clause does not allow development consent to be granted for development that would contravene any of the following—*
 - a) *a development standard for complying development,*
 - b) *a development standard that arises, under the regulations under the Act, in connection with a commitment set out in a BASIX certificate for a building to which State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004 applies or for the land on which such a building is situated,*
 - (c) *clause 5.4,*
 - (caa) *clause 5.5,*
 - (cab) *(Repealed)*
 - (ca) *clause 6.3,*
 - (cb) *clause 7.11,*
 - (cc) *clause 7.15.*

The applicant has submitted a Clause 4.6 Variation and is summarised as follows:

- *The variation to the maximum building height will not impact upon the character of the locality due to the sloping nature of the site and the surrounding established residential development. The site slopes from approximately 60.5m AHD at the north western corner to approximately 57.5m AHD at the northern corner of the site, equating in total change of 3m across the site.*
- *The proposed development will allow the most practical use of the site whilst satisfying the objectives of the R3 land use zone. Permitting the proposed development will activate a vacant, dilapidated site. The development is permitted within the current R3 zone and is consistent with the zone objectives.*
- *The current design does not create overshadowing concerns for neighbouring properties or the public realm nor does the height variation create impacts to the adjoining residents open private space. Enforcing a reduced height would not benefit Council, neighbours, or general members of the public but would detract from the ability to provide a high quality, built for purpose health services facility.*
- *The development has been architecturally designed to a high standard which incorporates a façade made up of a variety of materials to soften the appearance of the facility. Materials include a mix of brickwork, concrete, and glass, together with features of steel work, art infusion and wall vegetation. The adopted materials are in keeping with the theme along*

McCausland Place with a combination of brick, concrete and glass utilised for the residential developments along the McCausland Place frontage.

- The closest built form to the residential developments is staggered in height, with level 3 being setback approximately 7 metres into the building. This staggered height reduces the sense of overbearing onto the residential dwellings and will read predominately as 2 storey from the residential interface level.*
- There is a height exceedance along the Memorial Drive frontage, which is a classified road. The additional height as well as the visual bulk of the building along the frontage which is broken up by horizontal architectural expressions will provide an identifiable and unique landmark, which will enhance the Memorial Drive streetscape.*
- The approach to the site regarding height has been carefully considered to ensure the outcome adheres to the design objectives for the development while also incorporating features that provide an appeal when viewing the development. Whilst the building exceeds the HOB controls in areas, setbacks and other design controls have been maintained. The proposed height exceedance will therefore have minimal impact when viewed from street level. The proposed outcome of the non-compliance allows for an equilibrium height design, resulting in an elegant composition of volumes and a clear strategic design.*

Comment:

The objectives of Clause 4.3 Height of Building of The Hills LEP 2019 are as follows:

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

The bulk and scale of the proposed development is considered to be appropriate for the intended character of the area given the planning controls in place. The proposed variation to the Building Height standard has been reviewed in context with the surrounding development, future streetscape and character of the area and will not result in the loss of privacy on adjoining properties and open space areas.

The elements of the building exceeding the building height control on the northern side of the building adjacent to existing residents are either mechanical plant or fire stairs and a lift shaft. There are no habitable areas not windows that would impact on privacy. The finish material of the fire stair and lift well wall also amended from a light beige colour to a dark grey. The mechanical plant component of the building on the third is also inset from the two levels below and will read as two storeys.

Windows are located across the northern façade of the ground floor and 2nd storey, are set back 5m from the boundary, these windows will be appropriately screened via dense landscaping with a mixture of canopy trees and shrubs. The landscape plans included in Attachment J include a number of sections along the boundary to detail the boundary interface treatment.

The landscaping buffer, in particular the canopy trees will assist in providing a visually screening to the existing dwellings and assist in minimising impacts to their open private space areas which are not primarily orientated towards the development. It is also noted that the adjoining development provides in part for common areas along the boundary providing for additional separation to two of the three townhouse dwellings adjacent to the boundary. Photographs taken along the boundary are provided in Attachment L, Photos 1 to 6.

In addition, any additional built form will not result in overshadowing given the site is located to the south of residential properties. The additional height adjacent to Memorial Avenue is acceptable given the site is located opposite a local centre and is considered consistent with the character of the locality

The proposed variation results in a development that is consistent with the objectives of Clause 4.3 Building Height, has demonstrated compliance with the development standard is unreasonable or unnecessary in the circumstances, and that there are sufficient environmental planning grounds to justify the contravention of the development standard

In view of the above, the proposed building height is considered satisfactory and can be supported in this instance.

ii) Compliance with Clause 4.4 Floor Space Ratio (FSR)

A portion of the site identified as Area A on the FSR Map (refer Attachment F), which stipulates a maximum FSR of 1:1. This clause relates to site specific planning proposal for residential development, specifically it was intended to control the amount of floor space for a residential flat building permitted on the site allowed by the additional permitted use provision. The majority of the site does not have a FSR standard applied. Given only basement is proposed in this portion of the site under this application, and basement parking is excluded from gross floor area calculation unless it includes parking beyond the required provisions, a floor space ratio is not able to be calculated.

The applicant has taken a more precautionary approach and applied that FSR to the entire site by virtue of the definition of site area under Clause 4.5 'Calculation of floor space ratio and site area' for the purpose of calculating FSR and subsequently provided a Clause 4.6 Exception (refer Attachment N).

The application of the FSR provision as applied by the applicant is considered and unreasonable, unnecessary and as outlined above not the intension of this provision. The variation to the control facilitates the development if the site in close proximity to an existing facility and a local centre close to public transport.

The overall massing, scale, bulk and height of the proposed development is consistent with the existing health services facility at 3 McCausland Place and will be in keeping with the character of the area.

In view of the above, the proposed floor space ratio is considered satisfactory and can be supported in this instance.

iii) 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 6.1 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.*

The applicant has provided advice from a Water Services Coordinator in relation to Sydney Water in relation to the supply of water and sewage, and Endeavour Energy have provided advice in relation to the supply of electricity demonstrating that adequate arrangements have been made.

The proposal is satisfactory with respect to Clause 6.3 of the LEP.

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

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

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

The proposal has been assessed against the following Sections of The Hills DCP 2012 where relevant:

- Part B Section 6 – Business;
- Part C Section 1 – Parking;
- Part C Section 2 – Signage
- Part C Section 3 – Landscaping; and
- Part D Section 7 – Balmoral Road Release Area

The proposal complies with the exception of the following controls;

Parking

Part C Section 1 – Parking requires that parking for a hospital be provided at the following rates:

- 1 space per 2 beds for visitors; plus
- 1 space per 1.5 staff/resident doctor; plus
- 1 space per 2.5 visiting medical officers.

This proposal provides for 60 beds and 50 staff. The staff numbers are conservative given nursing staff will work in shifts and not all staff will be on the property and any one time. This requires the provision of 105 car parking spaces on site. The development provides for 64 parking spaces.

The applicant has provided justification, summarised below to support the proposed development. The justification has been provided by the applicant's traffic consultant who has also considered the future stage 2 development in their calculations, however it is noted that staff numbers remain consistent. Stage 2 is foreshadowed to provide for an additional 24 beds and 14 car parking spaces, being a total of 84 beds and 78 car parking spaces.

Whilst the Health Services Facility is expected to operate in a similar manner to a standard private hospital with respect to employee parking, there are some critical operational characteristics with respect to non-employee (patient / visitor) parking demand. These are based on the transport requirements outlined by the applicant, where patients are not permitted to drive to the facility and therefore, they are either dropped off and picked up by others or they utilise the available public and active transport options.

The average length of stay of patients is significantly longer than a standard private hospital. Whilst a significant majority of private patients for private hospitals will normally be expected

to stay for short periods (say, up to two days), the average length of stay of in-patients is 21 days;

- The facility will have a policy of no driving for in-patients or out-patients. Patients are to be advised of this as part of the pre-admission information provided by the facility;
- If permitted, visitors are allowed during the following periods:
- 12:00pm – 1:00pm and 5:00pm – 8:00pm on weekdays; and
- 1:00pm – 8:00pm on weekends and public holidays.

A conservative visitor rate was adopted which is as follows:

- 8% of all in-patients will receive visitors who drive to the facility and stay for one full hour between 12:00pm and 1:00pm on weekdays; and
- 24% of all in-patients will receive visitors who drive to the facility and stay for one full hour between 5:00pm and 8:00pm on weekdays.

This means 32% of all in-patients (approximately one third) will receive a visitor every day, also meaning that every in-patient will be visited every three days.

No car parking assessment was undertaken for the weekends and public holidays based on the following:

- There will be minimal staff at the facility;
- There will be no outpatients at the facility; and
- Visitation hours will be much more spread out (1:00pm to 8:00pm) compared to the weekdays.

In-patients:

- The average in-patient treatment duration is 21 days;
- 100% of in-patients are picked up by private vehicles that park for 30 minutes between 9am and 11am; and
- 100% of in-patients are dropped off by private vehicles that park for 30 minutes between 11am and 1pm.

Out-patients (Group Rooms):

- Each out-patient group room has a capacity of seven patients, and each group room operates at 66.6% capacity at any given time;
- 80% of out-patients (group rooms) either drive or are dropped off and picked up by private vehicles that are parked for the entire day (conservatively assumed); and
- 20% of out-patients use public transport or active transport options.

Out-patients (Consultation Rooms):

- Each consultation room operates at 60% capacity from 9am to 5pm Monday to Friday;
- 10% patient overlap time (to compensate for the next patient arriving before the current patient leaving);
- 80% of out-patients (consultation) either drive or are dropped off & picked up by private vehicles which are parked for the entire duration of the consultation; and
- 20% of out-patients (consultation) use public transport or active transport options.

Staff numbers and shifts:

- 10 morning nurses (7am - 3.30pm);
- 7 afternoon nurses (3pm - 11.30pm);
- 6 night nurses (11pm - 7.30am);

- 6 doctors (8am – 5:30pm);
- 8 admin/finance/exec (8am - 5:30pm);
- 3 housekeeping (6.30am - 8pm);
- 7 Allied Health staff (24 hours a day); and
- 3 kitchens staff (24 hours day).

For conservatism, it is assumed that nurses arrive within the 30 minutes prior to the shift start time and depart within the 30 minutes after the shift end so that there is an overlap of 30 minutes for each shift. 72.80% of staff travel to work by passenger car as a driver (based on 2016 Census Data for Journey to Work in Kellyville).

For Allied Health and kitchen staff, the maximum values were applied across the entire day to be conservative.

The number of visitors onsite is also considered conservative as visitations with patients typically occur at other, nearby facilities (e.g. shops/cafes) as opposed to onsite at the mental health hospital.

The maximum parking demand for staff, patients and visitors is to occur between 12pm and 1pm. This is due to the fact that patient visitation is permitted during this time and it is conservatively assumed that all out-patients (group rooms as well as consultation rooms) will be at the facility and also in-patients can be picked up during this period.

The applicant has undertaken car parking and traffic generation surveys on Wednesday 15/06/2022 and Thursday 16/06/2022 at the existing The Hills Clinic to calibrate the proposed first principles car parking demand methodology. The applicant also captured the on-street parking demand on McCausland Place on Wednesday 15/06/2022 and Friday 17/06/2022 to understand if there were many parked vehicles that could be associated with the existing facility. Results indicated that there were only a few parked vehicles on McCausland Place which appeared to be ordinary for a local (and residential) street in a suburb.

The applicant also reviewed the historical NearMap aerial imagery to confirm the above findings from the site inspection. Based on a review of six aerial imagery (all weekdays) captured between 03/08/2020 and 21/04/2022, parking demand on McCausland Place averaged at 6.3 vehicles where the total car parking supply was identified to be 26 (17 in the west and 9 in the east).

The relevant objectives of the controls are:

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

Comment:

It is considered that the justification provided by the applicant for the proposed parking is reasonable and that adequate parking will be provided on site for staff, patients and visitors given the operational characteristics of the proposal.

The shortfall of spaces in accordance with the DCP rates is based on a worst case scenario and it is unlikely that all staff and patients will occur at one time particularly given the staff shifts and overlap between the existing facility and this proposal. It is considered that the 64 spaces will cater for staff demand, noting that some will utilise public transport and other means.

It is acknowledged that some on street parking currently occurs however this appears to have reduced in recent years.

Considering the assessment and survey of the existing facility and assessment by the applicant's traffic consultant, it is considered that parking variation is considered satisfactory in this instance given the specific operation characteristics of the facility, particularly how they vary from that of most hospitals.

Front Setbacks

The DCP requires for dwellings a 10m setback for the primary street frontage to an urban classified road and a 6m setback for secondary street frontages. Compliance with these controls are addressed below however it is acknowledged that the proposal is not for residential development and therefore these controls are used only as a guide. The proposal has a minimum 3.7m setback to the primary street frontage of Memorial Avenue which is a classified road, 5.1m to the secondary frontage setback of Arnold Avenue and 5 metres to McCausland Place.

Side Setbacks

The DCP requires a 6m side/rear boundary setback for residential development. The northern building facade of the development has a northern boundary setback of 5m, with the exception of 4.5m setback to the stair and lift.

The relevant objectives of the setbacks clauses of the DCP are:

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

Comment:

The front primary setback to Memorial Avenue is supported due to the constrained nature of the site, and the nature of the development. It is noted that the site opposite the subject site is zoned E1 Local Centre and the approved built form will be similar to the subject proposal. The setbacks on Arnold Avenue and McCausland Place are also consistent with the existing multi dwelling development. All three road frontages incorporate high quality landscaping, and a landscape buffer has been proposed between the built form and the residential dwellings to the north, through the addition of trees shrubs and structured planting.

In addition to the existing residential setbacks, the development provides suitable separation distances of minimum separation of 11 metres. Setbacks proposed for the third storey will limit visual and overlooking impacts to neighbouring properties and their private open spaces. This area is mechanical plant area and does not include windows proposed along the northern elevation (third storey).

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

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

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

Clause 92(1) of the Regulation contains matters that must be taken into consideration by a consent authority in determining a development application, given demolition has occurred under a preceding da, there are no relevant matters under the Regulation.

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

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

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

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

The proposal will provide for essential health service, responds to the site characteristics and is considered to be a suitable development for the proposed lot.

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

These submissions are considered in Section 5 of this report.

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

The proposal provides for a land use that serves the needs of the local and wider community. This development will supplement the existing mental health facility making the use compatible with surrounding land uses. The development will also result in further employment opportunity in the locality adjacent to a planned local centre. Given the address of the associated impacts outlined in this report, it is considered that the proposal is in the public interest.

4. REFERRALS AND SUBMISSIONS

4.1 Agency Referrals and Concurrence

The development application has been referred to Endeavour Energy and NSW Police. NSW Police did not respond. Endeavour Energy have no outstanding issues subject to the imposition of their requirements being incorporated into the recommended conditions of consent. Refer Condition No. 27.

4.2 Community Consultation

The proposal was notified in accordance with the DCP. A total of 15 submissions, were received including one submission in support of the application.

The issues raised in these submissions are considered in the Table below.

Table: Community Submissions

ISSUE/OBJECTION	COMMENT
There is already one Health Services Facility in McCausland Place. We are facing a lot of traffic congestion and illegal parking on the street that is affecting the neighbourhood.	<p>The subject proposal is to be operated in conjunction with existing facility at 3 McCausland Place. The use is permitted in the zone under State Environmental Planning Policy (Transport and Infrastructure) 2021.</p> <p>This development provides for 64 spaces which is considered to be adequate in catering for staff, patients and visitors as addressed in this report.</p> <p>Given the recent closure of McCausland Place and opening of Arnold Avenue where access is also proposed, it is considered likely that traffic and parking impacts will reduce.</p>
There is noise and air pollution from the current Health Clinic already. For example people smoking outside the street and having noisy conversation at night.	<p>A Plan of Management (POM) was requested to be submitted as part of the assessment of the application to address concerns raised by residents during the notification period. The Plan of Management is included at Attachment O.</p> <p>A condition of consent is recommended (refer Condition 79), that compliance with the Plan of Management and yearly review of the plan to ensure the amenity of residents is not impacted. The POM requires consultation with residents, a complaint register and the conditions requires ongoing review and submission to Council.</p>
The owners and operators of the Hills Clinic have a long history of disrupting the street with fire alarm issues, people loitering in the street, fights and constant emergency services vehicles at all hours of the day and night make it very difficult to live next to. This proposed development will only exasperate this current problem.	<p>As outlined above, A condition of consent is recommended (refer Condition 79), that compliance with the Plan of Management and yearly review of the plan to ensure the amenity of residents is not impacted.</p>

<p>I personally, pick up all the rubbish that visitors dump out of their cars into the gutter, and I'm sick of it. I also have tried to beautify the street and was successful in having the council plant some Jacaranda trees along the path, again, destroyed by non-caring visitors getting out of their cars.</p>	<p>As outlined above, A condition of consent is recommended (refer Condition 79), that compliance with the Plan of Management and yearly review of the plan to ensure the amenity of residents is not impacted.</p> <p>Landscaping will be provided on the site within the setback area, refer Attachment J.</p>
<p>It is important to recognise that the proposed clinic has patients with various mental health conditions and addictions. The program is run on a 3 week basis where they are not allowed to leave. There have been instances where they escaped by jumping the fence. Given our fence line is adjoining, residents are at risk if they enter our estate. There are instances where police have had to be called due to the violent or erratic behaviour of patients.</p>	<p>As outlined above, A condition of consent is recommended (refer Condition 79), that compliance with the Plan of Management and yearly review of the plan to ensure the amenity of residents is not impacted and incidents are recorded.</p>
<p>The extension of the Hills Clinic that has already been completed caused chaos in the street, particularly parking issues. I contacted the council nearly everyday regarding the illegal parking, whereby the council had to erect parking signs.</p>	<p>Council's Regulatory Team respond to complaints of illegal parking and issues fines where appropriate.</p>
<p>The additional height of 4.18m is unacceptable and will over tower our property reducing its value.</p> <p>The proposed structure is too high and significantly impacts the privacy of people living in 2 McCausland Place.</p> <p>The proposed height will tower over this residential neighbourhood. It at best should stay the same heights of the townhouses opposite. It is unsightly and should not be the main focus of our street.</p>	<p>The variation to the LEP building height control is addressed in Section 3.1(i) of this report. The elements of the building exceeding the building height control on the northern side of the building are either mechanical plant or fire stairs and a lift shaft. There are no habitable areas not windows that would impact on privacy.</p> <p>The merits of the height variation, in particular the impact of built form are addressed in this report.</p>
<p>The area is for residential purpose. The current clinic is already not a good fit for the suburb and is also bad for the overall image of local residences. If it were expanded, a lot of non-local visitors will use the roads and facilities in the area, make it crowded and noisy. In addition, the expansion will increase the security concern and risk due to the nature of the facility. There are quite a lot of elderly, children and women living in this</p>	<p>The use is permitted in the zone under State Environmental Planning Policy (Transport and Infrastructure) 2021. The impacts associated with the proposal are addressed in this report and do not warrant refusal of the application.</p>

area. We need a more peaceful living environment rather than the one disturbing us.	
The proposed basement is very deep and size of the complex will result in a very long building process and will require a complex build disrupting the residents right next door. The car park will be underground. To do this, blasting of existing rock and digging will occur. This will affect the foundations and the building of all the townhouses at 2 McCausland Place. My concern here is that the foundation will weaken, walls may crack and make my townhouse and all the townhouses unsafe to live in.	The proposal includes one level of basement. A number of conditions have been recommended to limit construction activities including the requirements for a dilapidation survey on the adjoining dwellings (refer Conditions 47 and 67).
This peaceful street that has been impacted heavily by roadwork will now be in construction for years with heavy vehicles permanently in place and a permanent issue of traffic in and out of the area and McCausland Place.	To limit construction impacts a numbers of conditions have been recommended including the requirement for a Construction Management Plan and Traffic Control Plan to manage construction impacts (refer Conditions 39 and 42).
There are 7-10 exterior windows that will be able to look directly into the backyards, over onto balconies and through some bedroom windows with no plan to put any privacy greenery in those areas. The proposed building dwarfs the house next to it and the greenspace they have between the boundary of 2 McCausland the exterior of the building is clearly not large enough for the trees they are proposing to place there.	The amended plans submitted during the assessment of the application provided for embellished landscaping detail along the northern boundary, refer Attachment J. The plans include a range of species at various heights that have been revied by Council's Landscape assessment staff and are considered appropriate to provide for screening one established.
The proposed driveway and drop-off point along with the proposed linkway will turn the cul-de-sac from a residential feeling area into purely an entrance for the clinic. There appears to be no space for footpaths or greenspace, and the proposed area will likely be gated which will deny use to residents.	The amended plans submitted during the assessment of the application have relocated the McCausland Place cul-de-sac to the planned location adjacent to Memorial Avenue. Appropriate verge widths and landscaped setbacks are proposed.
The proposed linkway between the old complex and the new will take away residents' access to the bus stop located on Memorial Avenue. With the proposal, residents on McCausland place will need to walk 10 minutes to reach the bus stop rather than the 1 minute it currently takes,	The link building foreshadowed on the submitted plans as originally lodged has been deleted. Any future works will require the lodgement of a new development application.

significantly impacting residents access to public services.	
The proposed lot contains around 82 extra rooms, which is far different from the proposed 23 extra consultation rooms. This proposal looks more to be a small apartment complex, with possibly 82 extra visiting families and relatives. I would argue that this will generate moderate traffic.	This proposal includes 60 rooms. The traffic impacts of the proposal were assessed by Council's Traffic Team and considered acceptable. The recent closure of McCausland Place and opening of Arnold Avenue will improve traffic impacts previously experienced on McCausland Place before the closure.
The proposed driveway will generate traffic attempting to get around to the 'back' of the clinic. It may be better to position this driveway on the other side of the building on Arnold Avenue.	Driveways are provided to both McCausland Place and Arnold Avenue. Given the closure of McCausland Place, it is expected that vehicle movements will occur primarily from Arnold Avenue.

5. CONCLUSION

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

The Development Application has been assessed against the relevant heads of consideration under Section 4.15 of the Environmental Planning and Assessment Act, 1979, State Environmental Planning Policy (Planning Systems) 2021, State Environmental Planning Policy (Biodiversity and Conservation) 2021, State Environmental Planning Policy (Resilience and Hazards) 2021, State Environmental Planning Policy (Transport and Infrastructure) 2021, The Hills Local Environmental Plan 2019 and The Hills Development Control Plan 2012 and is considered satisfactory.

It is considered that the applicant's Clause 4.6 written request to vary The Hills LEP 2019 development standards at Clauses 4.3 and 4.4 be supported as they have adequately justified the contravention of the development standards having regard to the requirements of Clause 4.6(3). It is considered that the variations can be supported as compliance with the standards are unreasonable or unnecessary in these instances and the proposal results in better environmental planning outcomes as outlined in this report.

Approval is recommended subject to conditions, refer Attachment A.

6. RECOMMENDATION

That the Development Application DA No 304/2023/JP for a Health Services Facility – 6 McCausland Place, Kellyville be APPROVED pursuant to Section 4.16(1)(a) of the Environmental Planning and Assessment Act 1979 subject to the draft conditions of consent attached to this report at Attachment A.

It is recommended that the applicant's Clause 4.6 written request to vary The Hills LEP 2019 development standards at Clauses 4.3 and 4.4 be supported as they have adequately justified the contravention of the development standards having regard to the requirements of Clause

4.6(3). It is considered that the variations can be supported as compliance with the standards are unreasonable or unnecessary in these instances and the proposal results in better environmental planning outcomes as outlined in this report.

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 Pap
- Attachment G: Floor Plans
- Attachment H: Roof Plan
- Attachment I: Elevations and Sections
- Attachment J: Landscape Plans
- Attachment K: Earthworks Plan
- Attachment L: Site Photographs
- Attachment M: Clause 4.6 Request – Height
- Attachment N: Clause 4.6 Request – FSR
- Attachment O: Plan of Management
- Attachment P: Endeavour Energy Comments (Appendix A)

ATTACHMENT A – DRAFT CONDITIONS OF CONSENT

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: - All plans to reflect current cul-de-dac location.

REFERENCED PLANS AND DOCUMENTS

PROJECT NO	DESCRIPTION	SHEET	REVISION	DATE
9-21-0042	Site Plan	DA051	E	14 September 2023
9-21-0042	Basement Plan	DA108	B	22 July 2022
9-21-0042	Ground Floor Plan	DA101	F	14 September 2023
9-21-0042	Level 1 Floor Plan	DA102	F	14 September 2023
9-21-0042	Level 2 Floor Plan	DA103	F	14 September 2023
9-21-0042	Roof Plan	DA104	E	14 September 2023
9-21-0042	Elevations	DA204	E	14 September 2023
9-21-0042	Elevations Sheet 1	DA200	E	14 September 2023
9-21-0042	Elevations Sheet 2	DA201	D	14 September 2023
9-21-0042	Sections	DA300	E	14 September 2023
2207	Landscape Package	LDA000 – LDA400	-	-

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

2. External Finishes

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

3. Planting Requirements

All trees planted as part of the approved landscape plan pursuant to Condition 1 of this consent are to be minimum 75 litre pot size. All shrubs planted as part of the approved landscape plan are to be minimum 200mm pot size. Groundcovers and ornamental grasses are to be minimum 150mm pot sizes. Any species that need substituting requires confirmation from Council.

4. Provision of Parking Spaces

The development is required to be provided with 64 off-street car parking spaces. These car parking spaces shall be available for off street parking at all times.

5. Separate application for other signs

A separate application is required to be submitted to, and approved by Council prior to the erection of any advertisements or advertising structures other than the sign(s) approved in this consent.

6. 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.

7. 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.

8. 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.

9. 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.

10. 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.

11. 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.

12. Acoustic Requirements

The recommendations of the Acoustic Assessment and Report prepared by SLR Consulting Australia Pty Ltd, referenced as 610.30698.00000-R01, dated July 2022 and submitted as part of the Development Application are to be implemented as part of this approval in particular mitigation measures as specified in section 4.2 of the report.

13. 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.

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. Clinical Waste

A yellow sharps container that complies with AS 4031-1992 must be provided at the premises for the storage and disposal of clinical and sharps waste. Clinical and sharps waste must be collected and disposed of by an authorised waste contractor in accordance with the Protection of the Environment Operations (Waste) Regulation 2005.

16. 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”.

17. 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.

18. 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.

19. 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.

20. Construction of Temporary Waste Storage Area – Stage 1

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 required for the site.
- 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 floor of the waste storage area must be constructed of concrete or bitumen with a smooth non-slip finish.
- 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.
- 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 facility.
- 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(s) 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)

21. Irrigation

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

22. Vehicular Crossing Request

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

23. Excavation/ Anchoring Near Boundaries

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

- Written owner's consent for works on adjoining land must be obtained.
- For works adjacent to a road, anchoring that extends into the footpath verge is not permitted, except where expressly approved otherwise by Council, or Transport for NSW in the case of a classified road.

- Where anchoring within public land is permitted, a bond must be submitted to ensure their removal once works are complete. The value of this bond must relate to the cost of their removal and must be confirmed by Council in writing before payment.
- All anchors must be temporary. Once works are complete, all loads must be removed from the anchors.
- A plan must be prepared, along with all accompanying structural detail and certification, identifying the location and number of anchors proposed.
- The anchors must be located clear of existing and proposed services.

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

24. Flood Protection Requirements

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

Structural elements of the structure below the flood planning level (FPL3) RL 56.9m AHD must be designed and the as-built works certified by a structural engineer to ensure structural soundness during potential floods. The following criteria must be addressed having regard to the depth and velocity of flood water:

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

The following additional requirements apply:

- The basement shall be protected upto FPL3 including and pedestrian access or ventilation.
- The design materials and construction of the structure must comply with the principles set out in the publication “Reducing Vulnerability of Buildings to Flood Damage – Guidance on Building in Flood Prone Areas” published by the NSW Government.
- See Schedule B of Part C Section 6 – Flood Controlled Land of Council’s DCP for more detail.
- The structure is must be used for the approved use only. Specifically, this relates to any non-habitable structures below the FPL4 (PMF).
- The openings in the structure have been located in line with the direction of flows. These are to be opened prior to the onset of a flood to allow for the through-flow of floodwater.
- All structures to have flood compatible building components below FPL4 (PMF).
- Note that foundations need to be included in the structural analysis.
- All service conduits located below FPL4 are to be made fully flood compatible and suitable for continuous underwater immersion. Conduits are to be self-draining if subject to flooding.

- No external storage of materials below FPL3 which may cause pollution or be potentially hazardous during any flood.
- Demonstrate that the structure can withstand the forces of floodwater, debris and buoyancy up to and including FPL4 (PMF) to satisfy evacuation/on site refuge.
- For development within the Hawkesbury River floodplain, all walls, up to FPL3, are to be constructed of flood resistant building materials, suitable for retaining structural integrity during and following long periods of continuous underwater immersion.

25. Site Flood Emergency Response Plan

Prior to the issue of the construction certificate by the registered certifier, a Site Flood Emergency Response Plan shall be prepared by qualified civil engineer specialise in flooding and a in accordance with Part C Section 6 – Flood Controlled Land of Council's DCP.

Any proposed flood route/plan/sign/indicators/colour coded markers relating to the flood evacuation plan, must be shown on the construction drawing and installed within the site boundary.

These requirements shall be reflected on the Construction Certificate plans and supporting documentation prior to the issue of any Construction Certificate.

26. Minor Engineering Works

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

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

a) Driveway Requirements

The design, finish, gradient and location of all driveway crossings must comply with the above documents and Council's Driveway Specifications.

The proposed driveway/s must be built to Council's heavy duty standard.

The proposed driveway/s must be built to Council's rural standard.

On high level sites a grated drain must be provided on the driveway at the property boundary.

Specifically, unless additional driveway crossings are clearly shown on the approved plans, only one driveway crossing is approved/ permitted.

A separate vehicular crossing request fee is payable as per Council's Schedule of Fees and Charges.

The details design level fronting McCausland Place must incorporate the constructed road levels as constructed by TfNSW.

b) Disused Layback/ Driveway Removal

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

c) Site Stormwater Drainage

The entire site area must be graded, collected and drained by pits and pipes to Arnold Ave. The Piped stormwater outlets/connections to Arnold Ave and crossing the road verge shall be replaced with RCP or RFC.

d) Traffic and concrete median island

Due to the proximity of the proposed Arnold Ave driveway location to the intersection of Memorial Ave/Arnold Ave/Hector Court, access will need to be restricted to left in left out. The upgraded road design for the intersection at Memorial Ave/Arnold Ave/Hector Court incorporates a concrete median island (including with appropriate line marking and sign posting) that extends beyond the proponent's driveway location on Arnold Avenue, thereby reinforcing this restriction. Details of the concrete median island, linemarking and signage shall be approved by council and subject to Local Traffic Committee too.

A Road Occupancy Licence (ROL) should be obtained from Transport Management Centre (TMC) for any works that may impact on traffic flows on Windsor Road during construction activities. A ROL can be obtained through <https://myrta.com/oplinc2/pages/security/oplincLogin.jsf>.

All demolition and construction vehicles are to be contained wholly within the site and vehicles must enter the site before stopping. A construction zone will unlikely be permitted from TfNSW on Windsor Road.

27. Compliance with Endeavour Energy Requirements

Compliance with the requirements of Endeavour Energy attached as Appendix A to this consent and dated 16 August 2022.

PRIOR TO THE ISSUE OF A CONSTRUCTION CERTIFICATE

28. 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.

29. Western Sydney Growth Areas – Payment of Special Infrastructure Contribution

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

More Information:

Information about the special infrastructure contribution can be found on the Department of Planning's website:

<http://www.planning.nsw.gov.au/PlanningSystem/DevelopmentContributionsSystem/tabid/75/language/en-US/Default.aspx>

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

30. 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.

31. 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 \$189,000.00 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 (175m) multiplied by the width of the road (9m).

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.

32. Engineering Works

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

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

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

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

The concept engineering plan prepared by NORTHROP, Revision C, drawing DA-C4.00, dated 14.09.23 is for development application purposes only and is not to be used for construction. The design and construction of the engineering works listed below must reflect the concept engineering plan and the conditions of consent.

a) Footpath Verge Formation

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

b) Disused Layback/ Driveway Removal

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

c) Earthworks/ Site Regrading

Earthworks and retaining walls are limited to those locations and heights shown on the concept engineering plan prepared by NORTHROP, Revision B, drawing DA-C3.00, dated 14.09.23. Where earthworks are not shown on the approved plan the topsoil within lots must not be disturbed. Retaining walls between lots must be located on the high side lot that is being retained, save the need for easements for support on the low side lot adjacent.

d) Stormwater Drainage

The entire site area must be graded, collected and drained by pits and pipes to Arnold Ave. The Piped stormwater outlets/connections to Arnold Ave and crossing the road verge shall be replaced with RCP or RFC.

e) Water Sensitive Urban Design Elements

Water sensitive urban design elements, are to be located generally in accordance with the plans and information submitted with the application.

The MSUIC model shall be amended to remove the buffer and swale from the model and shall be revised to comply with environmental targets outlined below/DCP.

Detailed plans for the water sensitive urban design elements including Rainwater tank, SPEL Stormsack, and SPEL Hydrosystem 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.

33. 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.

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

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

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

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

- Sediment fencing.
- Barrier fencing and no-go zones.
- Stabilised access.

- Waste receptacles.
- Stockpile site/s.

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

An SWMP is required for this development.

35. Erosion & Sediment Control Plan

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

- Allotment boundaries
- Location of the adjoining roads
- Contours
- Existing vegetation
- Existing site drainage
- Critical natural areas
- Location of stockpiles
- Erosion control practices
- Sediment control practices
- Outline of a maintenance program for the erosion and sediment controls

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

36. Section 7.12 Contribution

Pursuant to section 4.17 (1) of the Environmental Planning and Assessment Act 1979, and The Hills Section 7.12 Contributions Plan, a contribution of **\$311,666.81** shall be paid to Council. This amount is to be adjusted at the time of the actual payment in accordance with the provisions of the Hills Section 7.12 Contributions Plan.

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

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

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.

37. Completion of McCausland Place Closure

Prior to release of any Construction Certificate by the Registered certifier, excluding excavation and piling, for road closure including the construction of the Cul-De-Sac at the end of McCausland Place required to be completed and a practical completion shall be issued by the Council.

38. Intersection upgrade work between Memorial Avenue and Arnold Avenue

Prior to release of any Construction certificate by the Registered certifier, the intersection upgrade works on Memorial Avenue and Arnold Avenue by TfNSW must be completed and a practical completion shall be issued by the TfNSW. This work is required to be completed first by TfNSW as the site is relying on access via Arnold Avenue and for stormwater discharge from the site is draining to a future stormwater pit on Arnold Avenue.

39. 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.

40. 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.

PRIOR TO WORK COMMENCING ON THE SITE

41. 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.

42. 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.

43. Contractors Details

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

44. Erosion and Sediment Control/ Soil and Water Management

The approved ESCP or SWMP measures must be in place prior to works commencing and maintained during construction and until the site is stabilised to ensure their effectiveness. For

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

45. Property Condition Report – Private Assets

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

46. 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.

47. Dilapidation Survey

Prior to work commencing a practicing professional structural engineer shall carry out a dilapidation survey of the adjoining dwellings at 2 McCausland Place specifically Lots 1, 9 and 10 SP 90347 and submit a copy of the survey both to Council and the property owner.

48. 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.

49. 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.

50. 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.

51. 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.

52. Waste Management Details Required

Prior to the commencement of works, the location of waste disposal and recycling for all construction and/ or demolition waste materials (bricks, concrete, timber and so on) must be submitted to and approved by the Principal Certifying Authority. Alternatively, details of an appropriately licensed skip bin hire company or site clean company can be provided where the company is engaged to undertake all works during construction of the development (collection, transportation and disposal).

DURING CONSTRUCTION

53. 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.

54. 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.

55. 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.

56. 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.

57. 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.

58. Construction Noise

The emission of noise from the construction of the development shall comply with the *Interim Construction Noise Guideline published by the Department of Environment and Climate Change (July 2009)*.

PRIOR TO ISSUE OF AN OCCUPATION CERTIFICATE

59. 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.

60. Provision of Telecommunication Services

Prior to the issue of an Occupation Certificate the developer (whether or not a constitutional corporation) is to provide evidence satisfactory to the Certifying Authority that arrangements have been made for:

The installation of fibre-ready facilities to all individual lots and/ or premises in a real estate development project so as to enable fibre to be readily connected to any premises that is being or may be constructed on those lots. Demonstrate that the carrier has confirmed in writing that they are satisfied that the fibre ready facilities are fit for purpose; and

The provision of fixed-line telecommunications infrastructure in the fibre-ready facilities to all individual lots and/ or premises in a real estate development project demonstrated through an agreement with a carrier.

Real estate development project has the meanings given in Section 372Q of the Telecommunications Act 1978 (Cth).

For small developments, NBN Co will issue a Provisioning of Telecommunications Services – Confirmation of Final Payment. For medium and large developments, NBN Co will issue a Certificate of Practical Completion of Developers Activities.

For non-fibre ready facilities, either an agreement advice or network infrastructure letter must be issued by Telstra confirming satisfactory arrangements have been made for the provision of telecommunication services. This includes the undergrounding of existing overhead services, except where a specific written exemption has been granted by Council.

61. Landscaping Prior to Issue of any Occupation Certificate

The landscaping of the site shall be carried out in accordance with the relevant “Planting Requirements” Condition of the subject Development Consent prior to issue of an Occupation Certificate. The Landscaping shall be either certified to be in accordance with the approved plans 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.

62. Provision of Electricity Services

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

63. 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.

64. 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.

65. Water Sensitive Urban Design Certification

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

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

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

66. Compliance with Sydney Water Requirements

A letter from Sydney Water must be submitted confirming the works have been completed to their satisfaction.

67. Final Dilapidation Survey

On completion of the excavation, the structural engineer shall carry out a further dilapidation survey at the properties referred to in condition 47 above if required and submit a copy of the survey both to the Principal Certifier and the property owner.

68. Acoustic Compliance Report

The acoustic consultant shall progressively inspect the installation of the required noise suppressant components as recommended in Acoustic report prepared by SLR Consulting Australia Pty Ltd referenced as 610.30698.00000-R01 dated July 2022. Certification is to be provided.

69. Pump System Certification

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

70. 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.

c) Flooding

The site must be burden with a restriction requiring the approved Site Flood Emergency Response Plan to be maintained within all management/owners of the building.

The Site Flood Emergency Response Plan shall be updated every 5 years

d) Flooding

The subject site must be burdened with a positive covenant relating to model the PMF as part of stage two or any future development. The PMF shall be modelled and approved by council and shall comply with council's requirement.

Once the PMF is approved, the existing Site Flood Emergency Response Plan will need to be updated for the whole site.

71. Certification stormwater drainage

Prior to the issue of any Occupation Certificate, a submission of written certification from a suitably qualified civil engineer stating that all stormwater drainage and related works within the subject site have been constructed in accordance with the approved Construction Certificate plans, the conditions included within this consent, the requirements of AS/NZS 3500.3:2018, and Council's Design Guidelines Subdivision/Developments dated September 2011.

THE USE OF THE SITE

72. 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*.

73. 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.

74. Waste and Recycling Management

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

75. 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.

76. Operational noise level limits

The operational noise level limit for the development shall be in accordance with the noise limits as outlined in the Acoustic report prepared by SLR Consulting Australia Pty Ltd referenced as 610.30698.00000-R01 dated July 2022. These noise limits are;

Location	Period	Project noise trigger level (LAeq15min) (dBA)
Residential receivers	Day (7am – 6pm)	48
	Evening (6pm – 10pm)	46
	Night (10pm – 7am)	39

77. Hours of Operation

The hours of operation being restricted to the following: -

- In patient care – 24 hours Monday – Sunday
- Outpatient care – 8am – 9.00pm Monday – Friday

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

78. Maximums Staff Levels

The maximum number of staff permitted on the premises at any one time is 50.

79. Plan of Management

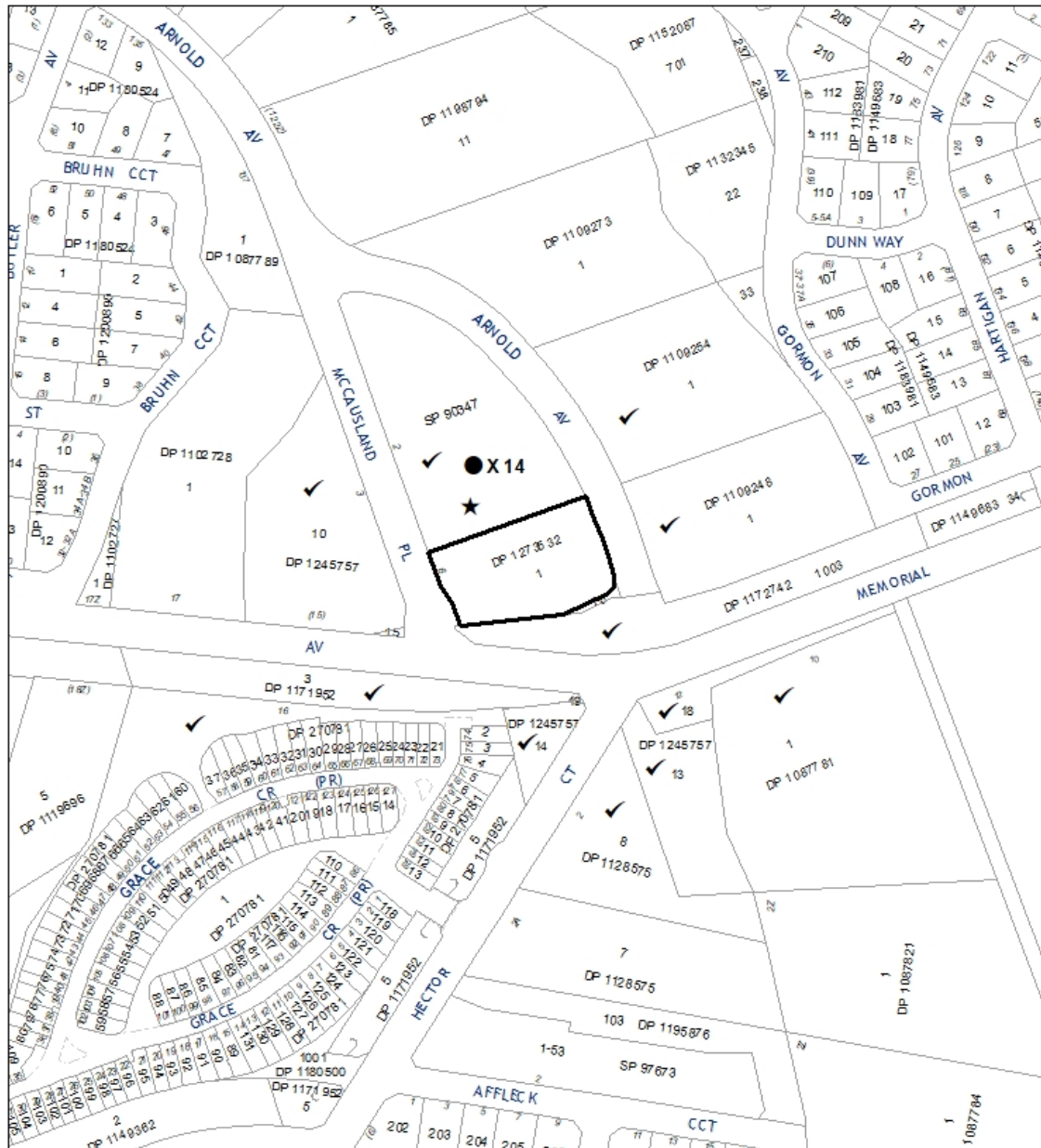
The use of the premises must be undertaken in accordance with the Plan of Management prepared by SLR Consulting dated 22 November 2022 and in accordance with the conditions of this consent.

In the event of any inconsistency between the Plan of Management and conditions of this consent, the consent conditions shall prevail.

The Plan of Management shall be reviewed on a regular basis and not less than once a year (from the date of issue of the final Occupation Certificate), in response to complaint(s), in response to any changes in relevant legislation or as required by Council to ensure that the facility operates in a manner which does not impact on the amenity of surrounding residents.

The revised/updated Plan of Management is to be provided to Council for their records. Where no revision to the Plan of Management is considered necessary, the operator is to advise Council in writing that the current version of the Plan of Management is still relevant.

ATTACHMENT B – LOCALITY PLAN



- ☐ SUBJECT SITE
- ✓ PROPERTIES NOTIFIED
- SUBMISSIONS RECEIVED
- ★ SUBMISSION IN SUPPORT

THE HILLS
Sydney's Garden Shire


THE HILLS SHIRE COUNCIL

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

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

ATTACHMENT C – AERIAL MAP



 SUBJECT SITE

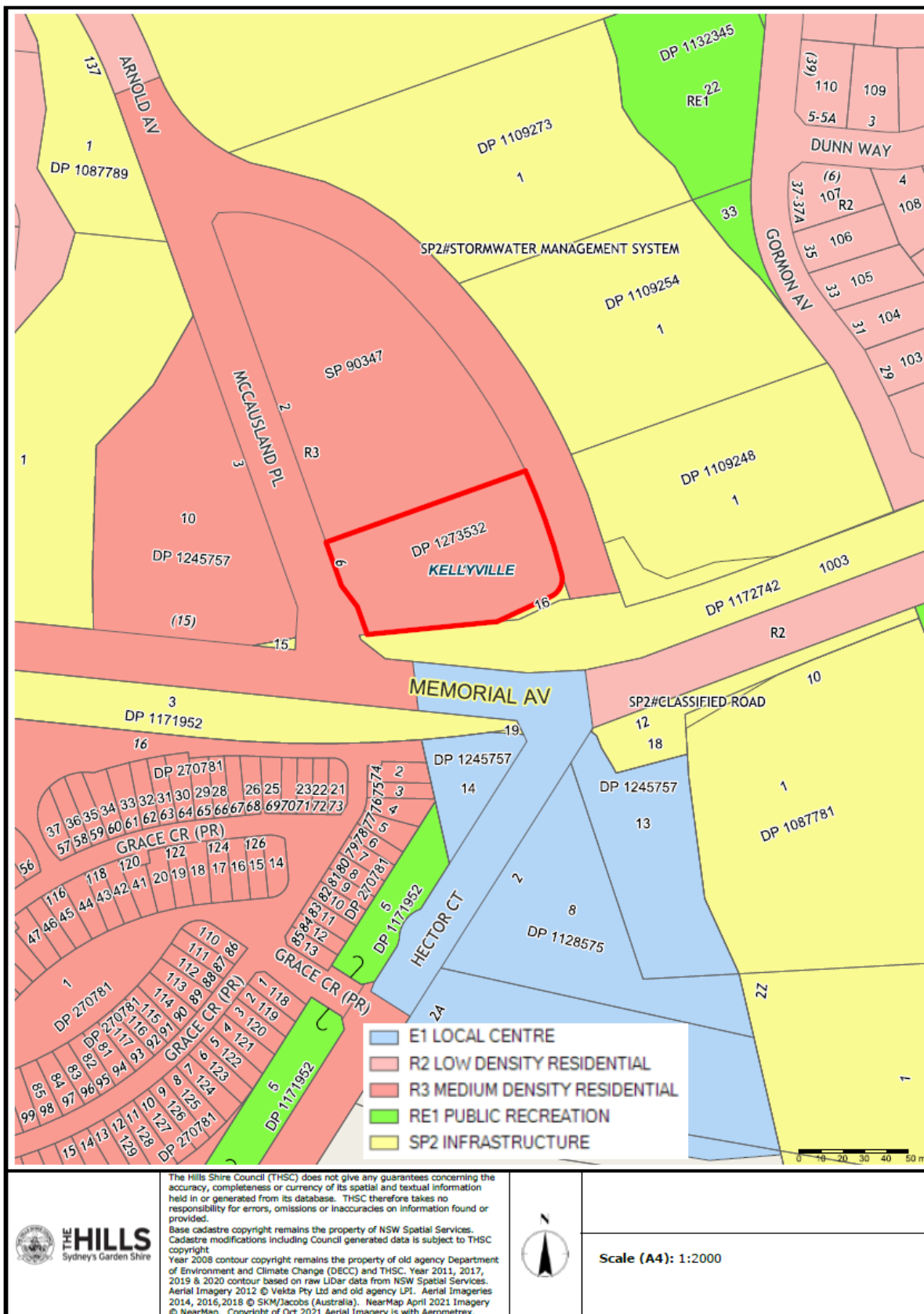
THE HILLS
Sydney's Garden Shire

THE HILLS SHIRE COUNCIL

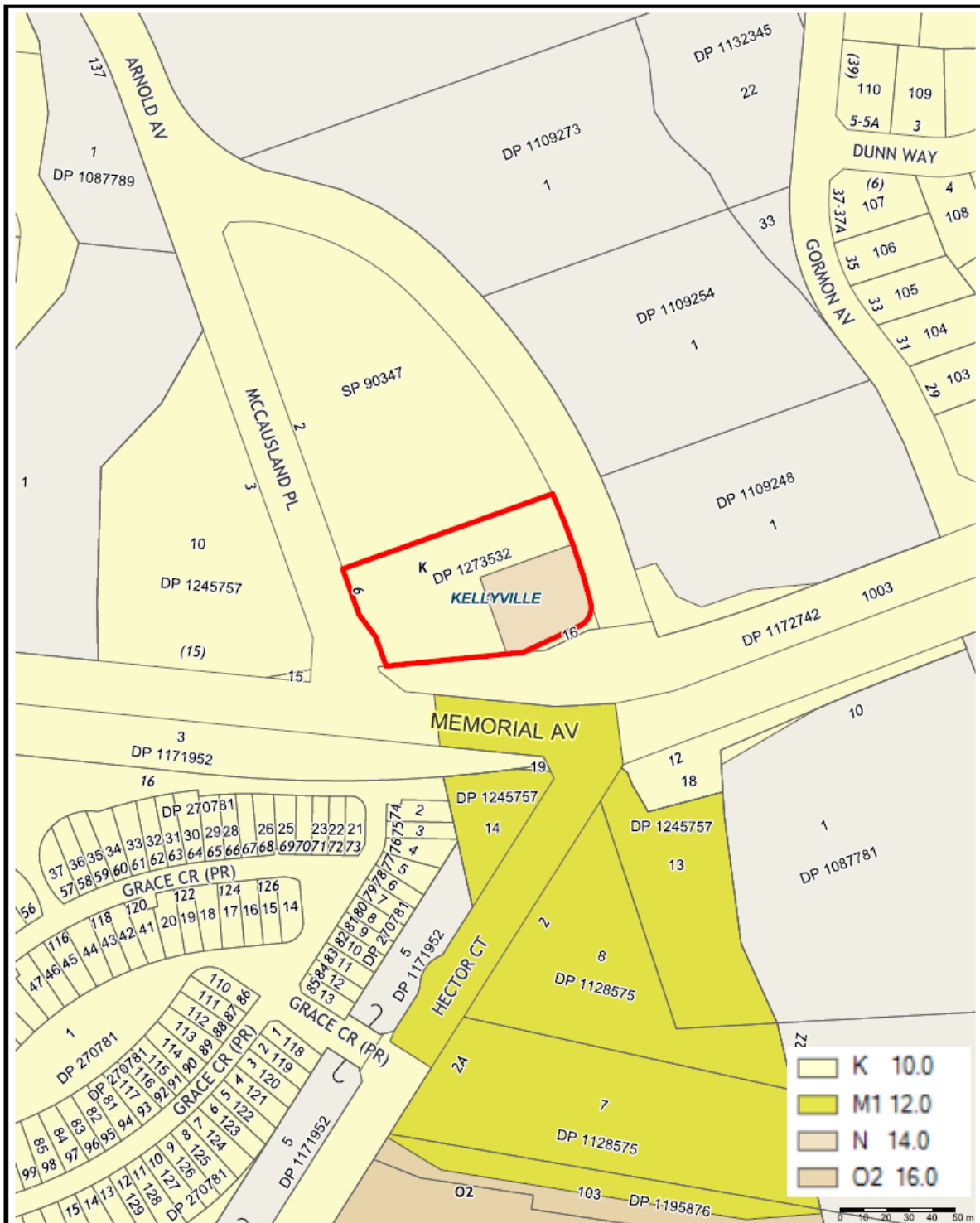
THE HILLS SHIRE COUNCIL DOES NOT GIVE ANY GUARANTEES CONCERNING THE ACCURACY, COMPLETENESS OR CURRENCY OF THE TEXTUAL INFORMATION HELD IN OR GENERATED FROM ITS DATABASE

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

ATTACHMENT D – ZONING MAP



ATTACHMENT E – HEIGHT MAP



The Hills Shire Council (THSC) does not give any guarantees concerning the accuracy, completeness or currency of its spatial and textual information held in or generated from its database. THSC therefore takes no responsibility for errors, omissions or inaccuracies on information found or provided.

Base cadastre copyright remains the property of NSW Spatial Services. Cadastre modifications including Council generated data is subject to THSC copyright.

Year 2008 contour copyright remains the property of old agency Department of Environment and Climate Change (DECC) and THSC. Year 2011, 2017, 2019 & 2020 contour based on raw LIDAR data from NSW Spatial Services.

Aerial Imagery 2012 © Vektia Pty Ltd and old agency LPI. Aerial Imageries 2014, 2016, 2018 © SKM/Jacobs (Australia). NearMap April 2021 Imagery © NearMap. Copyrights of Oct 2021 Aerial Imagery is with Aerometrex.



Scale (A4): 1:2000

© The Hills Shire Council

The Hills Shire Council (THSC) does not give any guarantee concerning the accuracy, completeness or currency of its spatial and textual information held in or generated from its database. THSC therefore takes no responsibility for errors, omissions or inaccuracies on information found or provided.

Base cadastre copyright remains the property of NSW Spatial Services. Cadastre modifications including Council generated data is subject to THSC copyright.

Year 2008 contour copyright remains the property of old agency Department of Environment and Climate Change (DECC) and THSC. Year 2011, 2017, 2019 & 2020 contour based on raw LiDAR data from NSW Spatial Services. Aerial Imagery 2012 © Velika Pty Ltd and old agency LPI. Aerial Imageries 2014, 2016, 2018 © SKM/Jacobs (Australia). NearMap April 2021 Imagery © NearMap. Copyright of Oct 2021 Aerial Imagery is with Aerometrex.

Scale (A4): 1:2000

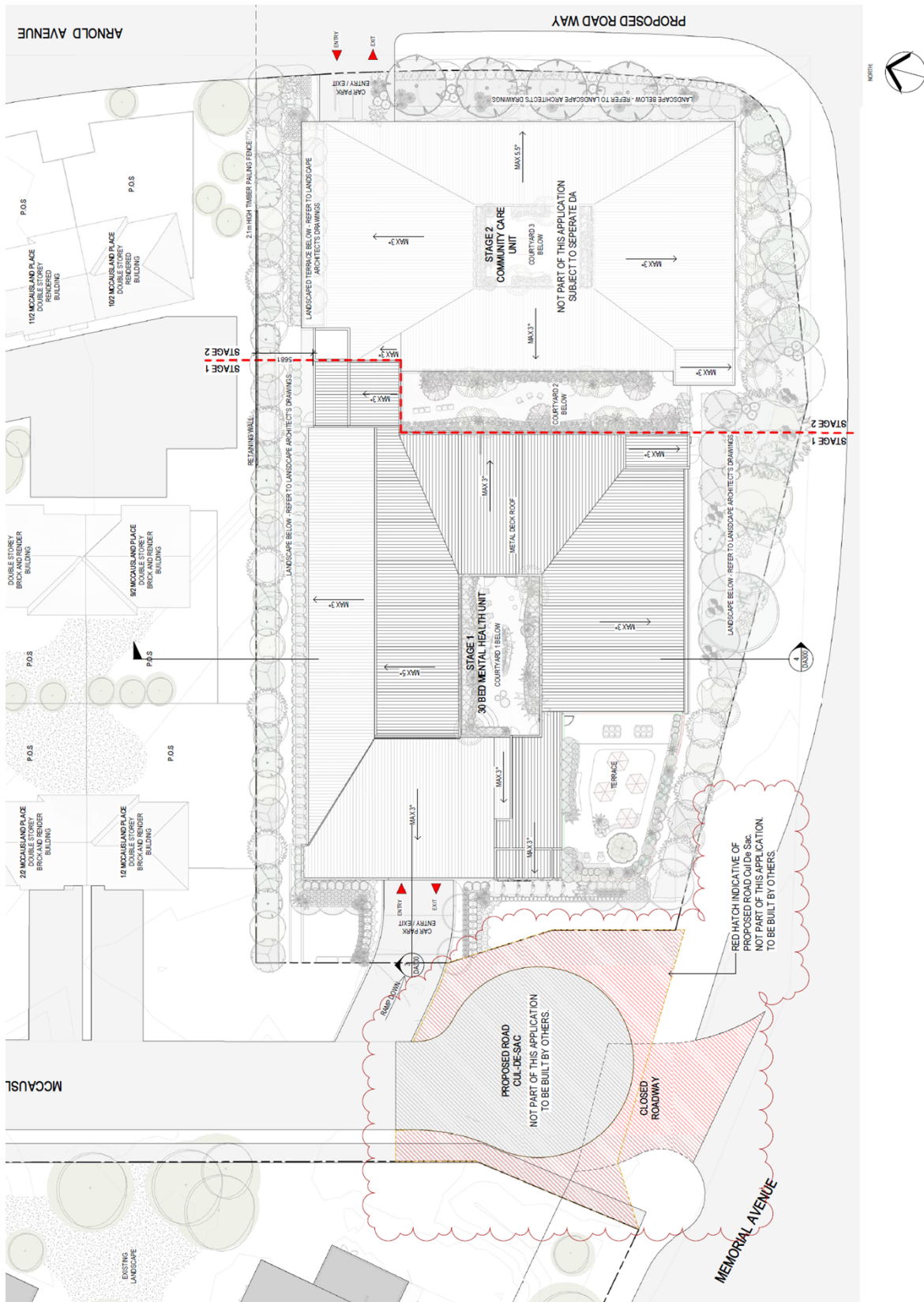
ATTACHMENT G – FLOOR PLANS



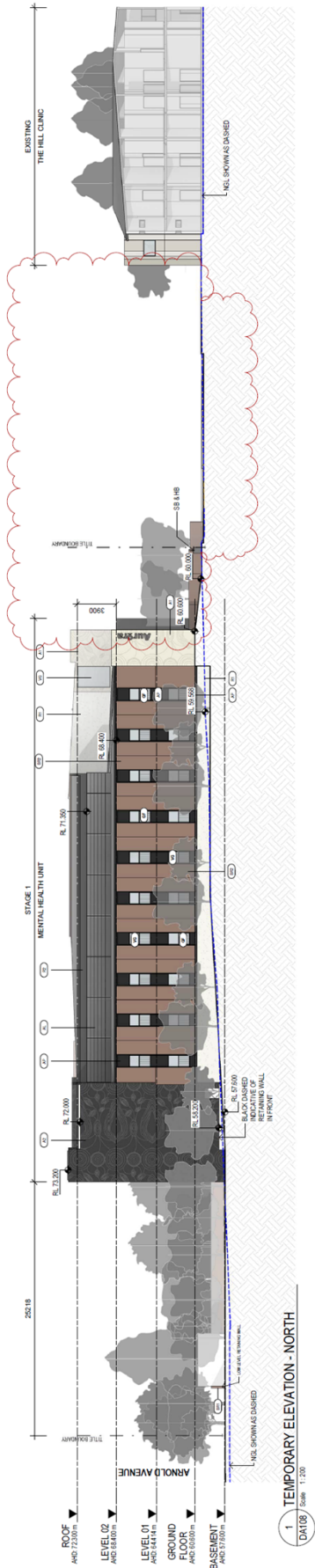


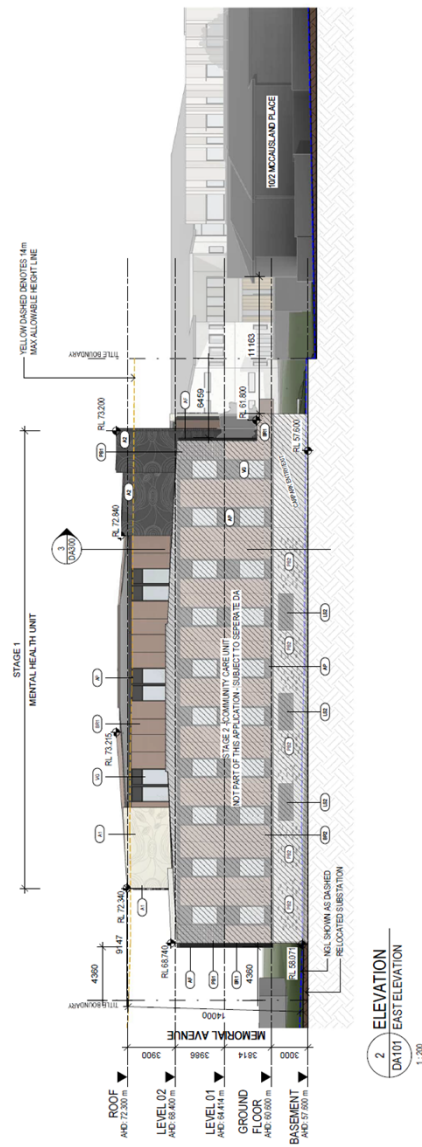
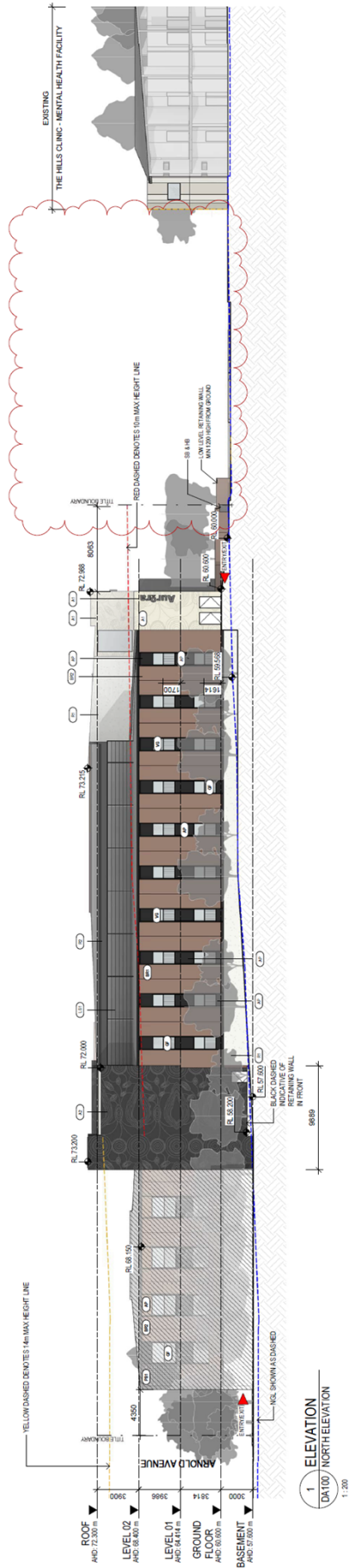


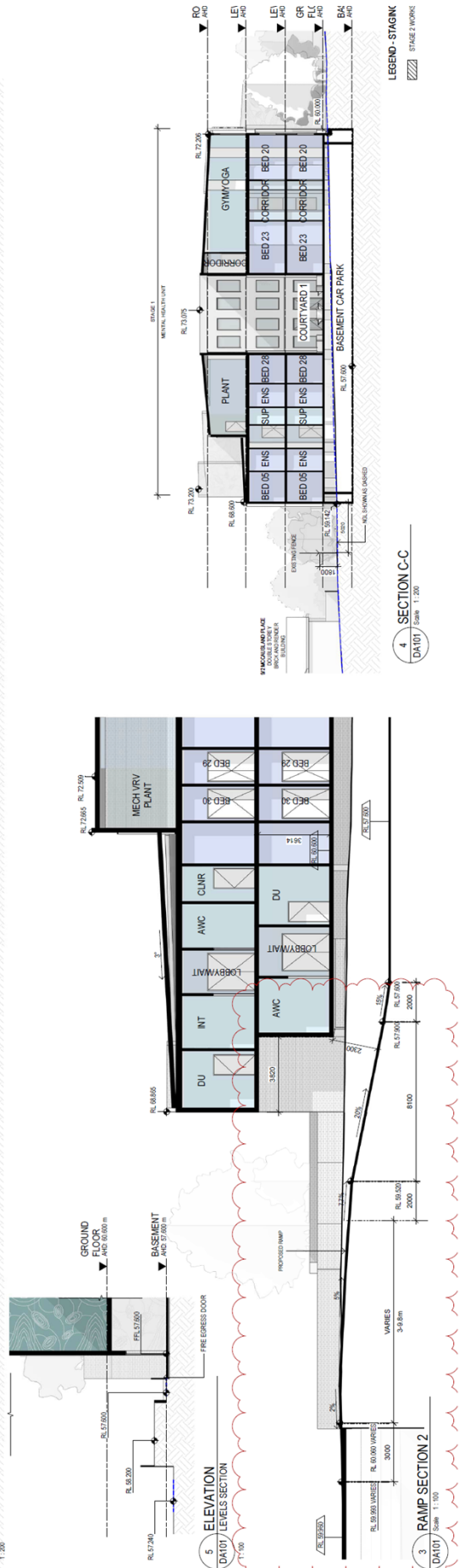
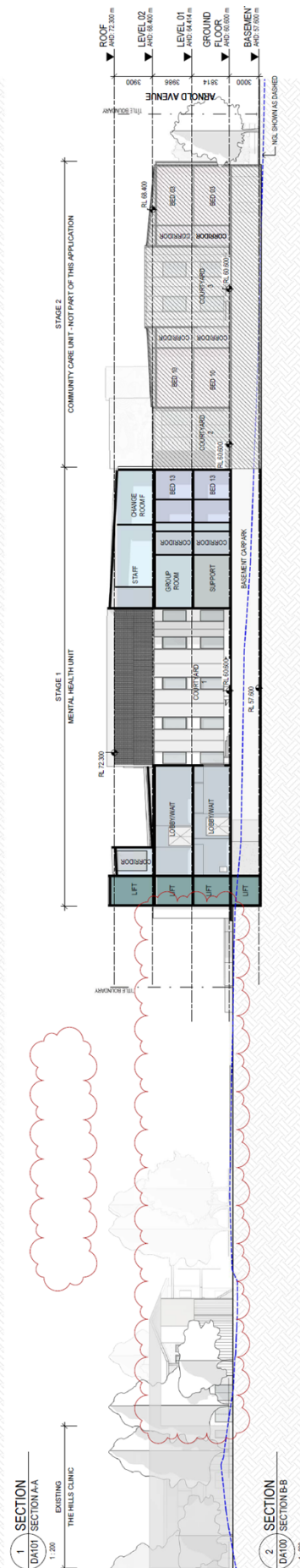
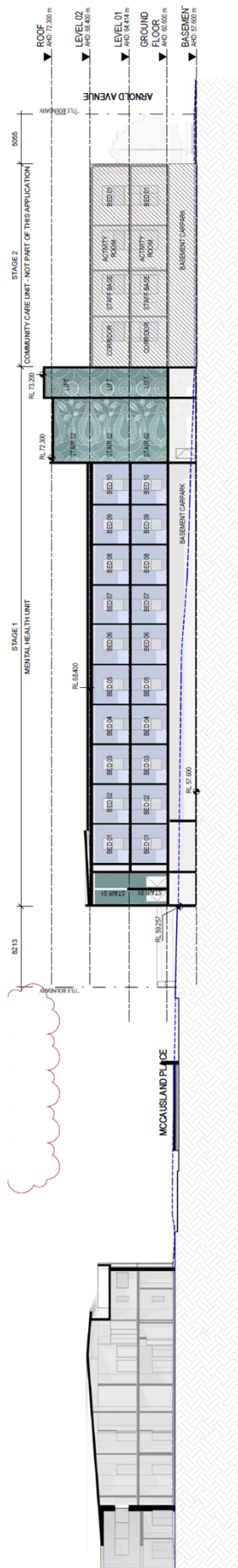
ATTACHMENT H – ROOF PLAN



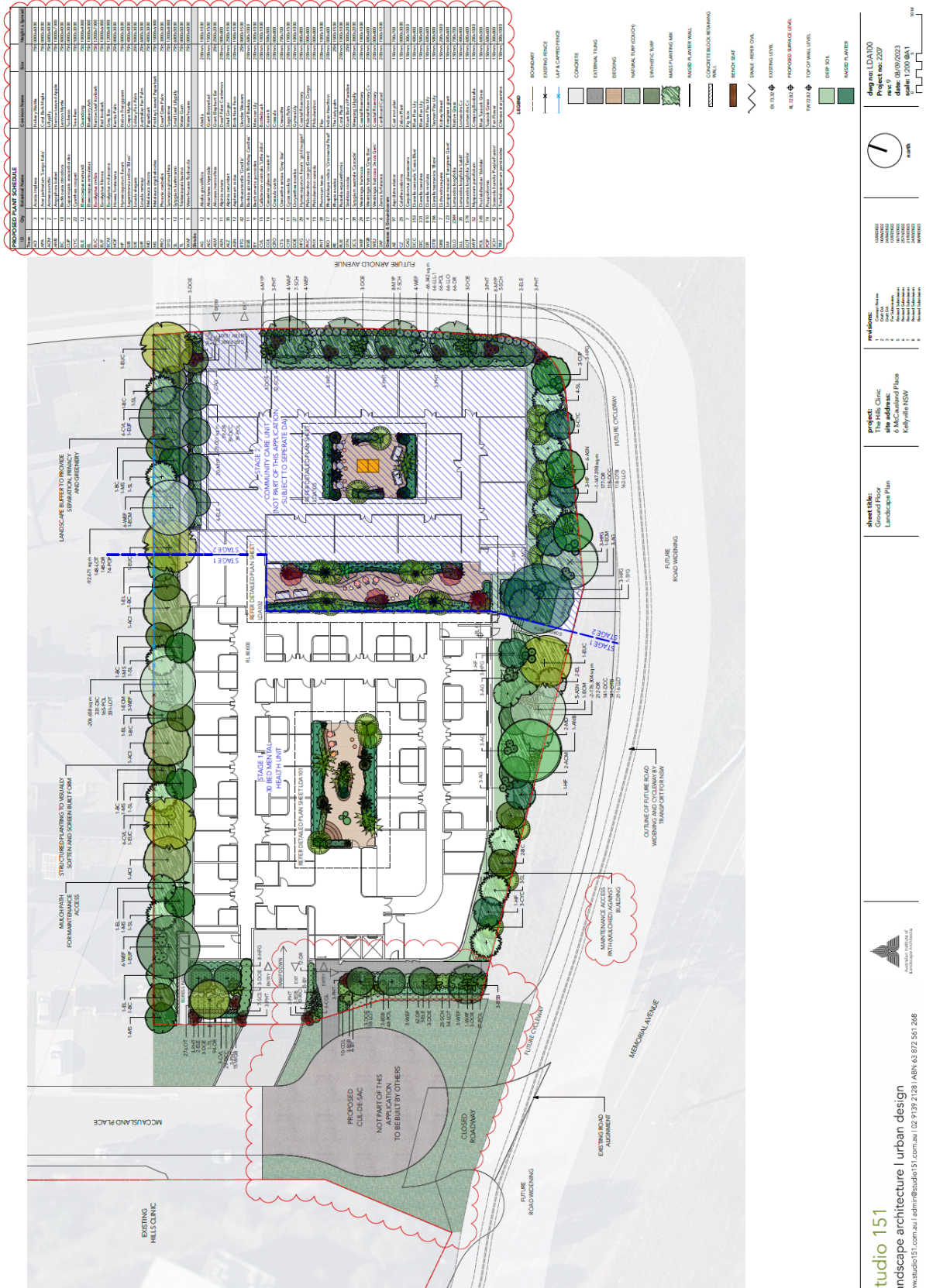
ATTACHMENT I – ELEVATIONS AND SECTIONS

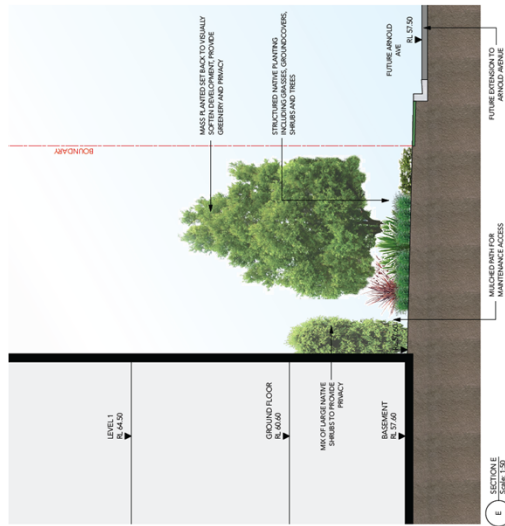
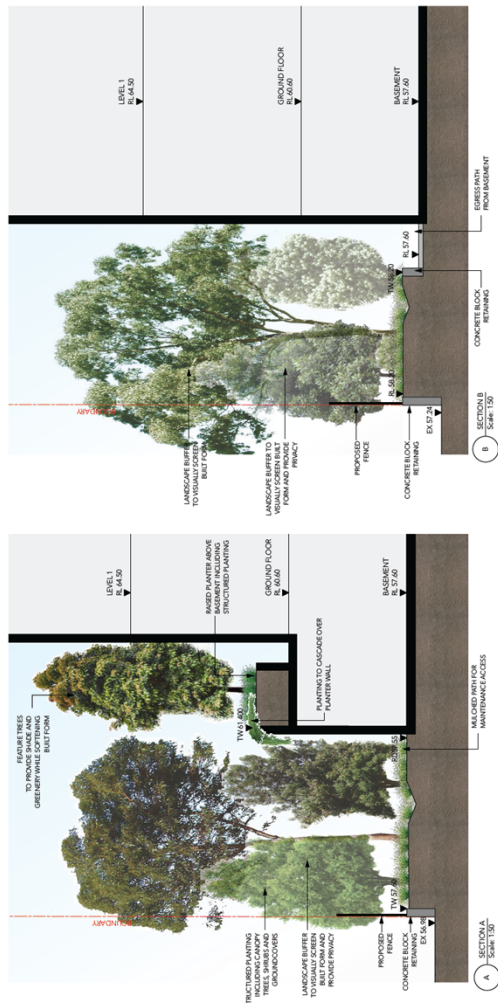
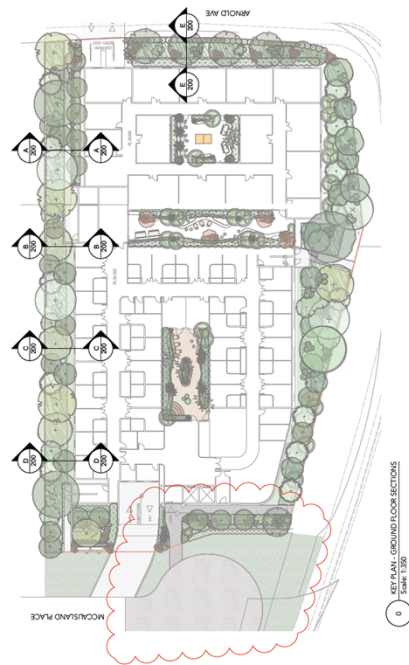


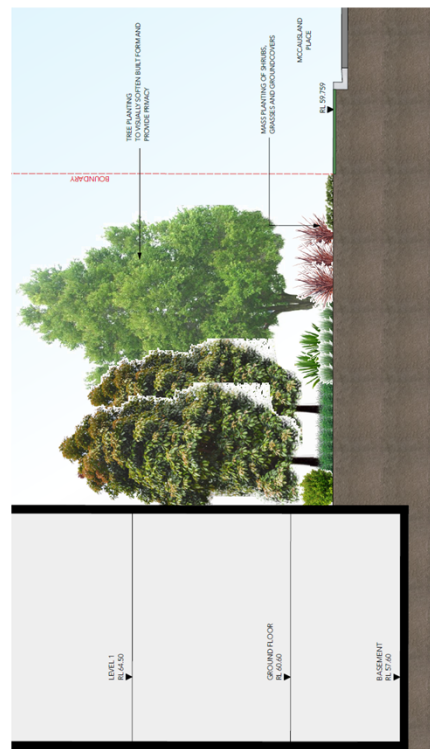
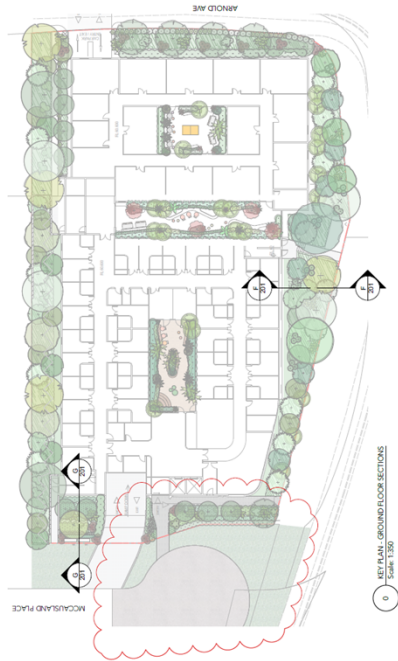




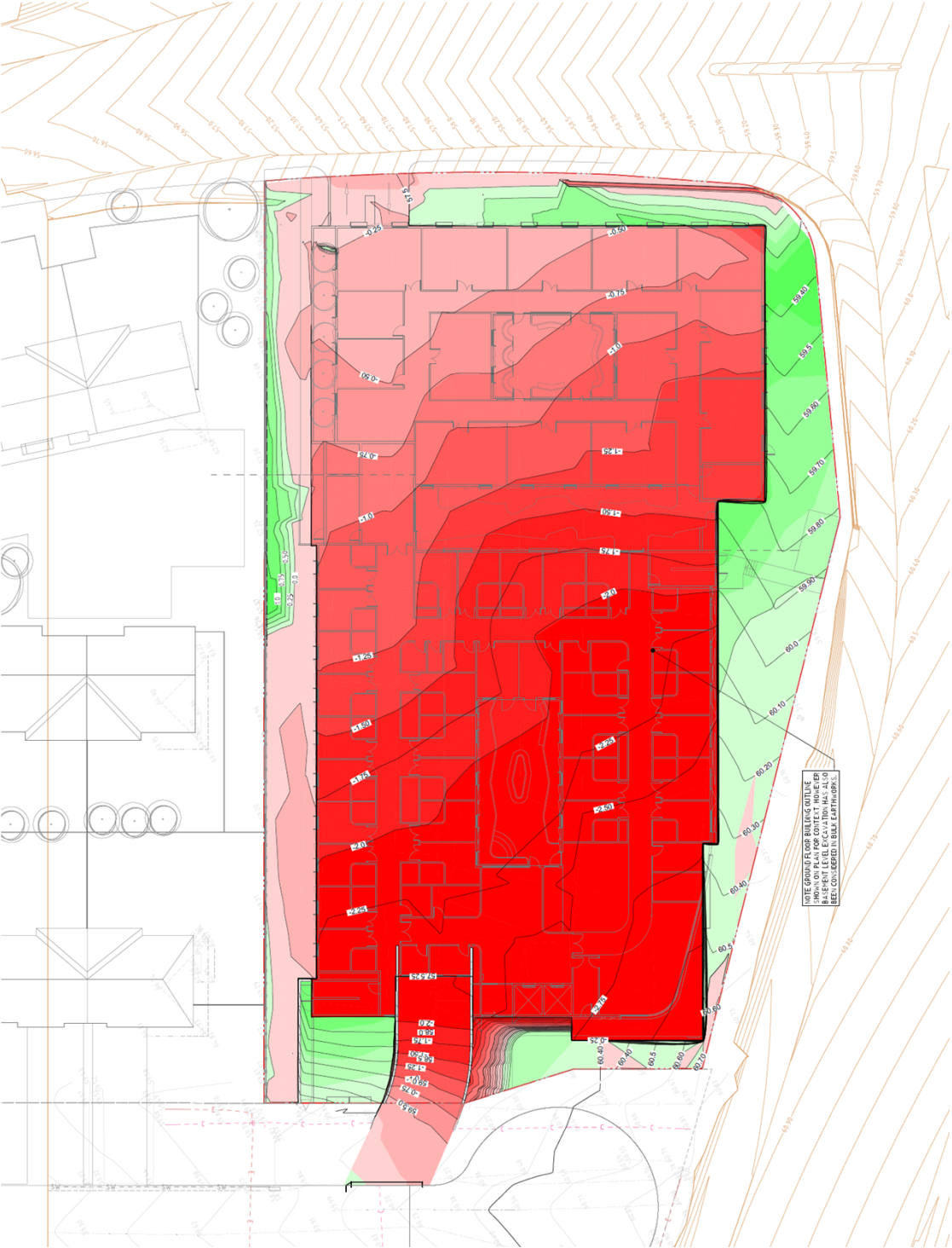
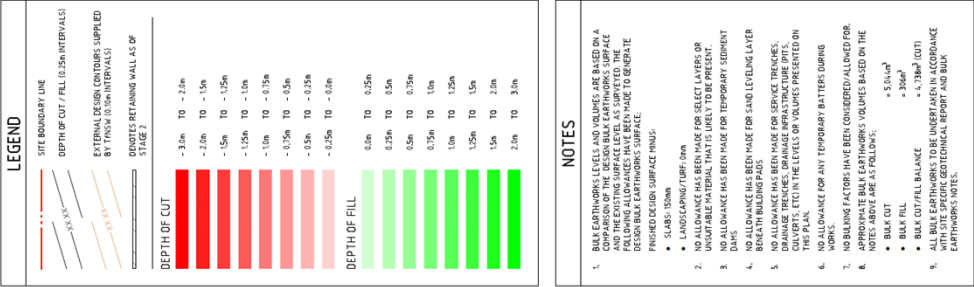
ATTACHMENT J – LANDSCAPE PLANS







ATTACHMENT K – EARTHWORKS PLAN



ATTACHMENT L – SITE PHOTOGRAPHS



Photo 1: Looking north east from McCausland Place Frontage towards adjoining development at 2 McCausland Place



Photo 2: Looking east along common boundary with 2 McCausland Place



Photo 3: Looking north east towards adjoining development at 2 McCausland Place, Units 9 and 10



Photo 4: Looking north towards Unit 1



Photo 5: Looking north east towards adjoining development at 2 McCausland Place, Units 10, 11, 12 and 13



Photo 6: Looking north towards adjoining development at 2 McCausland Place Units 6 to 21



Photo 7: Looking north west from site towards existing hospital at 3 McCausland Place

CLAUSE 4.6 VARIATION REQUEST - HEIGHT

6 McCausland Place, Kellyville NSW 2155

Prepared for:

Aurora Healthcare Australia Pty Ltd
Suites 603 and 604
Level 6 203 Robina Town Centre Drive
Robina QLD 4230



SLR Ref: 631.30598.00000-R01
Version No: -v2.0
December 2022

PREPARED BY

SLR Consulting Australia Pty Ltd
ABN 29 001 584 612
Suite 2B, 125 Bull Street
Newcastle West NSW 2302

T: +61 2 4940 0442
E: newcastleau@slrconsulting.com www.slrconsulting.com

BASIS OF REPORT

This report has been prepared by SLR Consulting Australia Pty Ltd (SLR) with all reasonable skill, care and diligence, and taking account of the timescale and resources allocated to it by agreement with Aurora Healthcare Australia Pty Ltd (the Client). Information reported herein is based on the interpretation of data collected, which has been accepted in good faith as being accurate and valid.

This report is for the exclusive use of the Client. No warranties or guarantees are expressed or should be inferred by any third parties. This report may not be relied upon by other parties without written consent from SLR.

SLR disclaims any responsibility to the Client and others in respect of any matters outside the agreed scope of the work.

DOCUMENT CONTROL

Reference	Date	Prepared	Checked	Authorised
631.30598.00000-R01-v2.0	22 December 2022	Hugh Jones	Yannis Comino	Katie Yang
631.30598.00000-R01-v1.0	28 July 2022	Hugh Jones	Yannis Comino	Katie Yang

CONTENTS

1	INTRODUCTION	4
2	BACKGROUND	5
3	SITE DETAILS	6
3.1	Site Description	6
3.2	Site Location and Context	6
4	PROPOSAL	8
5	EXCEPTION TO DEVELOPMENT STANDARD	9
5.1	Clause 4.6	9
5.2	Legal Context to Varying Development Standards	12
6	DEVELOPMENT STANDARD TO BE VARIED	14
7	JUSTIFICATION FOR THE CONTRAVENTION	18
7.1	Compliance is Unreasonable or Unnecessary (Clause 4.6 (3)(a))	19
7.2	Sufficient Environmental Planning Ground to Justify Contravention (Clause 4.6 (3)(b))	23
7.3	Public Interest (Clause 4.6(4)(a)(ii))	24
7.4	Secretary's Concurrence (Clause 4.6(4)(b))	25
8	CONCLUSION	26

DOCUMENT REFERENCES

TABLES

Table 1	Proposed Height Variation	16
---------	---------------------------------	----

FIGURES

Figure 1	Site Aerial (Source: Near Maps)	7
Figure 2	Land Zoning Map Extract from The Hills LEP 2019 (LZN_015)	14
Figure 3	Height of Building Extract from The Hills LEP (HOB_015)	15
Figure 4	Proposed Building Height – Sections (Source: HSPC)	17
Figure 5	Height Diagram (source: HSPC)	21
Figure 6	Shadow Diagrams (source: HSPC)	22

1 Introduction

This request to vary a development standard in accordance with Clause 4.6 of The Hills Local Environmental Plan (LEP) 2019 relates to the extension of the existing mental health hospital, by construction of a new Health Services Facility located at 6 McCausland Place, Kellyville NSW 2155. The site is formally known as Lot 1 DP 1273532.

The development control sought to be varied is contained in Clause 4.3 of The Hills LEP 2019, which relates to building height.

An assessment of the variation is provided in the following pages in accordance the requirements of Clause 4.6 of The Hills LEP 2019. This variation has been prepared generally in accordance with the NSW Department of Planning and Infrastructure's publication "Varying Development Standards: A Guide" (August 2011), which identifies matters to be addressed in an application to vary a development standard.

The objectives of Clause 4.6 are to provide an appropriate degree of flexibility in applying the development standards to achieve better outcomes for, and from, development.

The proposed variation is considered reasonable to the basis that:

- The proposal satisfies the objectives of Clause 4.3, the development standard which the variation is sought;
- The proposal meets the underlying intent of the controls and is a compatible form of development that does not result in unreasonable environmental amenity impact;
- The proposal is of an overall height, scale, bulk, design and external appearance that are in keeping with other similar developments approved, with the existing hospital at 3 McCausland Place, Kellyville.
- The proposed hospital development has been designed with an unobtrusive top level to reduce the overall bulk and height of the building; and
- The application satisfies other LEP numerical controls which results in a high-quality development proposal.

2 Background

The following planning applications have been previously granted at the site:

- 15th August 2014 – DA804/2014/HC – Approval was granted for the construction of fifteen Multi Dwelling Housing Units comprising 4x3 bedroom and 11 x 4 bedroom dwellings
- 15th September 2017 – Planning Proposal 4/2016/PLP – Amendments to The Hills LEP 2012 were gazetted. The planning proposal sought a higher density of residential developments on the site as a consequence of TfNSW additional land acquisition since the 2014 DA approval. The gazetted amendments included an additional permitted use on the site to permit residential flat buildings, with a maximum yield of 20 dwellings, increase the maximum building height in the south eastern corner of the site to 14 metres and applying a base floor space ratio in the same corner of the site of 1:1 with an incentivised floor space of 1.6:1.
- 24th May 2019 – DA 496/2018/HA – Approval was granted by the Local Planning Panel for the Demolition of Existing Structures and Construction of Multi-Dwelling Housing and an Apartment Building Development containing 35 dwellings. It is noted this development consent was not enacted, with further TfNSW works impeding on the future development.
- 10th June 2022- DA 1895/2022/LA – Approval was granted for the demolition of the existing structures and required remediation at 6 McCausland Place.

3 Site Details

3.1 Site Description

The site is located at 6 McCausland Place, Kellyville. The site is legally described as Lot 1DP 1273532. The subject site is irregularly shaped and has an area of approximately 4,338m². The site has a gentle gradient which slopes from approximately 60.5m AHD at the north western corner to approximately 57.5m AHD at the northern corner of the site.

The site currently contains an abandoned residential dwelling, which was approved for demolition along with associated remediation works under DA 1895/2022/LA on the 25 May 2022. Informal access is currently provided off McCausland Place, with the site not having a defined existing access point

3.2 Site Location and Context

The site will be an extension to the existing The Hills Clinic located at 3 McCausland Place, Kellyville. The Hills Clinic is a specialist practice, providing private psychiatric and psychological treatment for a wide range of mental health issues. The site is strategically positioned within 3km of Norwest Business Park and Norwest Metro Station.

The site has street frontages to McCausland Place to the west, Memorial Avenue on the south and future Arnold Avenue to the east. McCausland Place is a local road providing connection to a low density residential estate, which as outlined in Section 1.1.2 of this report and is currently undergoing a road closure application, which will in turn create a cul-de-sac around the health precinct. Memorial Avenue is a classified road providing access to the wider Metropolitan district, connecting the Westlink M7 and Old Windsor Road. Arnold Avenue is currently undergoing road works to create a new intersection point with Memorial Avenue.

The immediate locality is characterised by a mix of single and medium density residential dwellings, as well as some recreational uses. The site is located adjacent to bus route 619, providing direct connection to Macquarie Park Train Station.

A location plan showing the site and surrounding context is provided at **Figure 1**.

Figure 1 Site Aerial (Source: Near Maps)



4 Proposal

The DA seeks approval for Stage 1 of the new Health Services Facility at 6 McCausland Place. The height of the building shall range from two (2) storeys to three (3) storeys and include a basement level for car parking.

The DA seeks approval for Stage 1 of the development which will include the following elements:

- Stage 1 – Construction of a 3-storey mental health unit:
 - Basement car parking for 46 car parking spaces and services
 - Above ground bitumen car parking for 15 car parking spaces and temporary waste storage and loading area.
 - 1st level comprising 30 bed ward, 2 group rooms, meeting room, lounge and dining area, and associated lobby waiting room with reception and amenities.
 - 2nd level comprising 30 bed ward, 2 group rooms, meeting room, lounge and dining area, and associated lobby waiting room with reception and amenities.
 - 3rd level comprising a terrace, gym/yoga room with associated changing rooms, 3 group rooms, meeting room, staff room and plant.
- Construction of a one-storey 300m² administrative office connecting to the proposed 1st level of the mental health unit;
- Construction of new vehicular access off McCausland Place.
- Construction of a new egress and ingress off Arnold Avenue; and
- Landscaping works including native trees, shrubs and groundcovers.

The proposal only seeks approval for Stage 1 of the development, however, details of Stage 2 of the Mental Health facility has been included for context as detailed within the Statement of Environmental Effects (SEE).

5 Exception to Development Standard

The Department of Planning and Environment's publication "Varying Development Standards: A Guide" (August 2011), states that:

The NSW planning system provide the ability to vary development standards contained within environmental planning instruments through:

- *Clause 4.6 of the Standard Instrument Local Environment Plan (SI LEP).*

The Hills LEP 2019 is a Standard Instrument LEP, which therefore requires the inclusion of Clause 4.6, and subsequently the provision that variations to numerical controls can be sought. It is noted that the Guidelines do not identify any other mechanisms (such as a Planning Proposal) to vary a development standard.

5.1 Clause 4.6

A variation is requested to the building height in accordance with Clause 4.6 of The Hills LEP 2019. Clause 4.6 of The Hills LEP 2019 has the following stated objectives:

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

(a) to provide an appropriate degree of flexibility in applying certain development standards to particular development,

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

The proposed development is in accordance with the objectives of this clause and therefore a degree of flexibility is requested to allow the variation proposed. The height exceedance requested in this instance is owing to the scale of building required and the naturally sloping site. It is considered that the proposal will achieve a better outcome than it would by following the prescribed development standard of Clause 4.3.

Furthermore, there are conflicting and varying Height of Building (HOB) and Floor Space Ratio (FSR) requirements applicable to the site, making it difficult to determine the strategic vision of the built form for the area. The varying controls do not provide a clear benchmark and it is therefore considered suitable to allow a variation of this nature to provide strategic stability.

Clause 4.6(2) also relevantly provides that:

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

Clauses 4.6(6) & 4.6(8) specify the development standards that are excluded from the operation of clause 4.6, namely:

- *a subdivision of land in Zone RU1 Primary Production, Zone RU2 Rural Landscape, Zone RU3 Forestry, Zone RU4 Primary Production Small Lots, Zone RU6 Transition, Zone R5 Large Lot Residential, Zone C2 Environmental Conservation, Zone C3 Environmental Management or Zone C4 Environmental Living if:*
 - (a) subdivision will result in 2 or more lots of less than the minimum area specified for such lots by a development standard, or*
 - (b) the subdivision will result in at least one lot that is less than 90% of the minimum area specified for such a lot by a development standard.*
- *a development standard for complying development*
- *a development standard that arises, under the regulations under the Act, in connection with a commitment set out in a BASIX certificate for a building to which State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004 applies or for the land on which such a building is situated.*
- *clause 5.4*
- *clause 5.5*
- *clause 6.2 or 6.3*
- *clause 7.11*
- *clause 7.15*

The proposal seeks to vary the building height standard applicable to the site. The height of buildings standard as specified in Clause 4.3(2) is not excluded from the operation of this clause. Accordingly, pursuant to Clause 4.6, it is open to the Applicant to make a written request seeking to justify the contravention of the building height development standard by demonstrating that compliance with the standard is unreasonable or unnecessary in the circumstances and that there are sufficient environmental planning grounds to justify contravening the development standard.

(3) Development consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating.

This written Clause 4.6 variation request satisfies this provision.

(a) that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and

(b) that there are sufficient environmental planning grounds to justify contravening the development standard.

The development standard to be varied under this application is the maximum building height requirement. The maximum building height requirement for the site ranges between 10m and 14m. The standards are unnecessary in this case as the ranging height creates disparity across the site and does not provide a clear strategic direction for built form. The non-compliance does not result in an adverse impact to amenity of adjoining properties and open space areas regarding solar access and visual privacy. The development is contained on a large allotment.

The variation to the maximum building height shall not impact upon the character of the locality due to the sloping nature of the site and the surrounding established residential development. The site slopes from approximately 60.5m AHD at the north western corner to approximately 57.5m AHD at the northern corner of the site, equating in total change of 3m across the site.

The proposed development is suitable for the locality and will activate an unused, dilapidated site. This deviation to the standard will not contravene the objectives of the land use zone.

(4) Development consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating.

(a) the consent authority is satisfied that –

(i) the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and

(ii) the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out, and

(b) the concurrence of the Planning Secretary has been obtained.

The proposed development will allow the most practical use of the site whilst satisfying the objectives of the R3 land use zone. Permitting the proposed development will activate a vacant, dilapidated site. The development is permitted within the current R3 zone and is consistent with the zone objectives.

Appropriately, it has been evaluated that this proposal is in the public interest. Refer to discussion in Section 7.3 for further reasoning.

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

(a) whether contravention of the development standard raises any matter of significance for State or regional environmental planning, and

(b) the public benefit of maintaining the development standard, and

(c) any other matters required to be taken into consideration by the Planning Secretary before granting concurrence.

In respect to (a) the variation of the development standard for 'Clause 4.3' does not raise any matters of state or regional significance.

In respect to (b) there is no public benefit in refusing the proposed variation to Clause 4.3(2). The current design does not create overshadowing concerns for neighbouring properties or the public realm nor does the height variation create impacts to the adjoining residents open private space. Enforcing a reduced height would not benefit Council, neighbours, or general members of the public but would detract from the ability to provide a high quality, built for purpose health services facility.

In respect to (c), it is expected that this written request addresses any matter to be taken into consideration by the Planning Secretary.

5.2 Legal Context to Varying Development Standards

This submission has been prepared having regard to the latest authority on Clause 4.6, contained in the following NSW Land and Environment Court (Court) judgements:

- Winten Property Group Limited v North Sydney Council [2001] NSWLEC 46
- Wehbe v Pittwater Council [2007] NSWLEC 827
- Four2Five Pty Ltd v Ashfield Council [2015] NSWLEC 1009 (Four2Five No 1)
- Four2Five Pty Ltd v Ashfield Council [2015] NSWLEC 90 (Four2Five No 2)
- Four2Five Pty Ltd v Ashfield Council [2015] NSWCA 248 (Four2Five No 3)
- Moskovich v Waverley Council [2016] NSWLEC 1015
- Initial Action Pty Ltd v Woollahra Municipal Council [2018] NSWLEC 118

The Court has established questions to be addressed in variations to development standards. The objection principles identified in the decision of Justice Lloyd in Winten Property Group Limited v North Sydney Council are outlined below:

- 1) *Is the planning control in question a development standard;*
- 2) *What is the underlying object or purpose of the standard;*
- 3) *Is compliance with the development standard consistent with the aims of the Policy, and in particular does compliance with the development standard tend to hinder the attainment of the objects specified in section 5(a)(i) and (ii) of the EP&A Act 1979;*
- 4) *Is compliance with the development standard unreasonable or unnecessary in the circumstances of the case;*
- 5) *Is a development which complies with the development standard unreasonable or unnecessary; and*
- 6) *Is the objection well founded.*

In the decision of *Wehbe v Pittwater Council* [2007] NSW LEC 827 Chief Justice Preston outlined the rationale for development standards, and the ways by which a standard might be considered unnecessary and/or unreasonable. At paragraph 43 of his decision in that case Preston CJ noted:

"The rationale is that development standards are not ends in themselves but means of achieving ends. The ends are environmental or planning objectives. Compliance with a development standard is fixed as the usual means by which the relevant environmental or planning objective is able to be achieved. However, if the proposed development offers an alternative means of achieving the objective, strict compliance with the standard would be unnecessary (it is achieved anyway) and unreasonable (no purpose would be served)."

Wehbe V Pittwater [2007] NSW LEC 827 also established the 'five part test' to determine whether compliance with a development standard is unreasonable or unnecessary based on the following:

- (1) *Would the proposal, despite numerical non-compliance, be consistent with the relevant environmental or planning objectives;*
- (2) *Is the underlying objective or purpose of the standard not relevant to the development thereby making compliance with any such development standard is unnecessary;*

-
- (3) *Would the underlying objective or purpose be defeated or thwarted were compliance required, making compliance with any such development standard unreasonable;*
- (4) *Has Council by its own actions, abandoned or destroyed the development standard, by granting consent that depart from the standard, making compliance with the development standard by others both unnecessary and unreasonable; or*
- (5) *Is the "zoning of particular land" unreasonable or inappropriate so that a development standard appropriate for that zoning was also unreasonable and unnecessary as it applied to that land. Consequently, compliance with that development standard is unnecessary and unreasonable.*

Of particular relevance in this instance is Part 1, that *"the proposal, despite numerical non-compliance, [would] be consistent with the relevant environment or planning objectives"*.

Further discussion in response to Winten Property Group Limited v North Sydney Council objection principles and Wehbe V Pittwater five-part test is provided in Section 5 of this variation letter.

6 Development Standard to be Varied

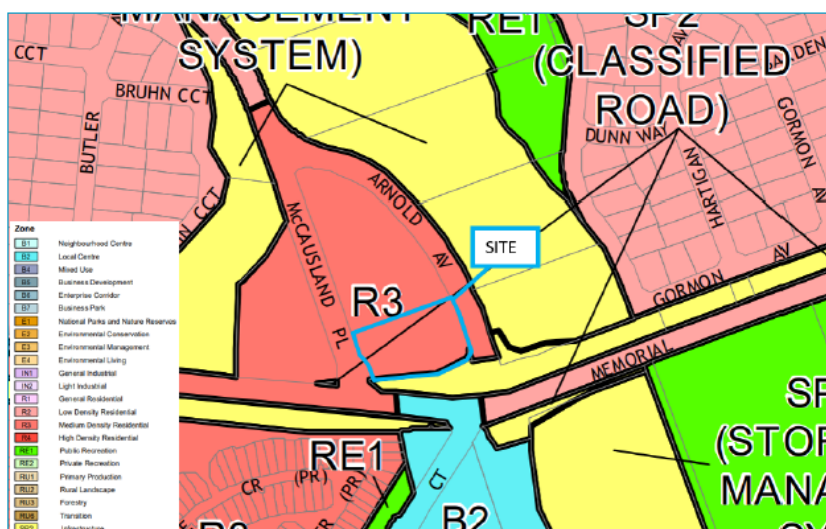
What is the name of the environmental planning instrument that applies to the land?

The Hills Local Environmental Plan 2019.

What is the zoning of the land?

The Hills LEP 2019 indicates that the site is within the R3 Medium Density Residential Zone, as illustrated in Figure 2.

Figure 2 Land Zoning Map Extract from The Hills LEP 2019 (LZN_015)



Zone Objectives

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

Development Standard Being Varied

The building height development standard contained in Clause 4.3 of The Hills LEP 2019.

Is the standard to be varied a development standard?

Yes, the standard is considered to be a 'development standard' in accordance with the definition contained in Section 1.4 of the *Environmental Planning and Assessment Act 1979* and not a prohibition. Clause 4.3 is also not listed under Clause 4.6(8) as a development standard that is unable to be varied.

What are the objectives of the development standard?

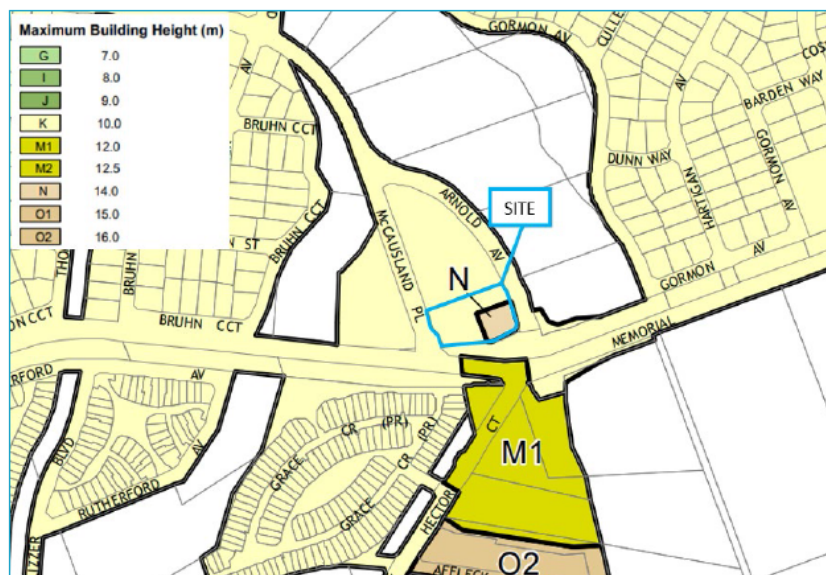
The objectives of Clause 4.3 – Height of Buildings are as follows:

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

What is the numeric value of the development standard in the environmental planning instrument?

The site is subject to a varying maximum height control of 10m to 14m pursuant to The Hills LEP 2019, as shown in Figure 3. The varying development standard creates an unwarranted strategic confusion on the site, which does not provide clear built form guidance. Accordingly, a building has been designed to provide a more visual equilibrium, rather than a design incorporating a dramatic changing height.

Figure 3 Height of Building Extract from The Hills LEP (HOB_015)



What is the proposed numeric value of the development standard in your development application?

The numerical value of the proposed development and percentage variation is detailed in Table 1 below.

Table 1 Proposed Height Variation

THLEP Height Control	Highest Proposed	Variation (m) to The Hills LEP 2019	Variation (%) to The Hills LEP 2019
Stage 1 Mental Health Unit			
10m	14.03m	4.03m	40%
Stage 2 Community Health Unit (approval not sought under this application)			
10 - 14m	11.7m	1.7m	Compliant - 17%

The Hills LEP 2019 defines building height as the following:

building height (or height of building) means:

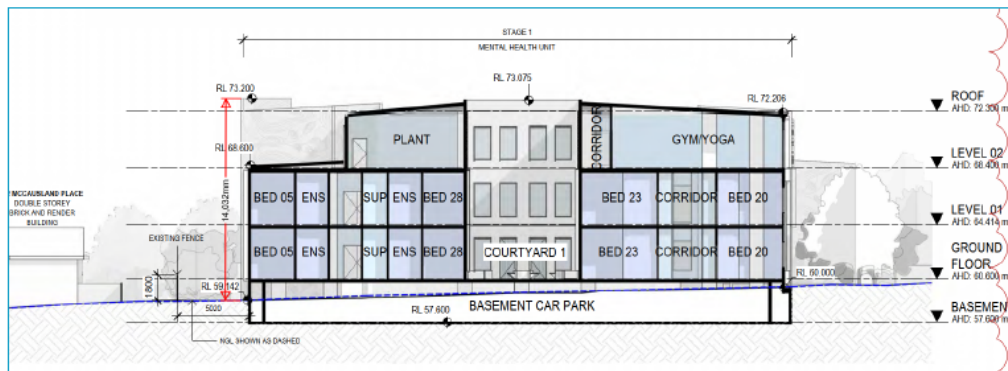
(a) in relation to the height of a building in metres—the vertical distance from ground level (existing) to the highest point of the building, or

(b) in relation to the RL of a building—the vertical distance from the Australian Height Datum to the highest point of the building,

including plant and lift overruns, but excluding communication devices, antennae, satellite dishes, masts, flagpoles, chimneys, flues and the like.

The numerical values in the table above in relation to building height are the vertical distance from ground level (existing) to the highest point of the building. **Figure 4** shows the extent of the proposed exceedance of the building height at the mental health unit, being 14.03m where the HOB requirement is 10m. The proposed non-compliance has arisen due to varying height controls across the site and the need for space within the health facility to provide for market demand. The building has been designed to create visual interest and remove the varying strategic uncertainty resulting from the FSR and HOB controls.

Figure 4 Proposed Building Height – Sections (Source: HSPC)



7 Justification for the Contravention

This section addresses Clause 4.6 (3), (4) and (5) of The Hills LEP 2019 and seeks to justify the contravention of the building height development standard in Clause 4.3 of The Hills LEP 2019.

Clause 4.6(3) – (5) provides as follows:

(3) Development consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating:

(a) that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and

(b) that there are sufficient environmental planning grounds to justify contravening the development standard.

(4) Development consent must not be granted for development that contravenes a development standard unless:

(a) the consent authority is satisfied that:

(i) the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and

(ii) the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out, and

(b) the concurrence of the Secretary has been obtained.

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

(a) whether contravention of the development standard raises any matter of significance for State or regional environmental planning, and

(b) the public benefit of maintaining the development standard, and

(c) any other matters required to be taken into consideration by the Secretary before granting concurrence.

7.1 Compliance is Unreasonable or Unnecessary (Clause 4.6 (3)(a))

In the decision of *Wehbe v Pittwater Council* [2007] NSWLEC 827 (Wehbe Decision), Preston CJ outlined the rationale for development standards (being not ends in themselves but means of achieving environmental planning objectives) and the common methods by which an applicant may establish that compliance with a development standard might be considered unnecessary and/or unreasonable. Whilst the Wehbe Decision was in relation to the former SEPP 1, case law has confirmed that it applies equally to Clause 4.6 of the Standard Instrument LEP (*Initial Action Pty Ltd v Woollahra Municipal Council* [2018] NSWLEC 118).

In that decision, Preston CJ identified that one way to establish that compliance with the development standard is unreasonable or unnecessary is by demonstrating that the objectives of the development standard are achieved notwithstanding noncompliance with the development standard.

The objectives of the building height development standard in Clause 4.3 of the The Hills LEP 2019 are:

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

The proposed development achieves the objectives of the building height development standard in Clause 4.3, as outlined in the below discussion.

a) **to ensure the height of buildings is compatible with that of adjoining development and the overall streetscape,**

The site is located within a newly developed residential area, surrounded by natural grasslands that are used for stormwater management. Adjoining residential development consists of a two-storey terrace housing built form presenting main entries to McCausland Avenue and continuous fencing and landscaping to Arnold Avenue. The site fronts Memorial Avenue, being a busy thoroughfare dedicated as a State Road. Accordingly, the development will shield the existing residential development from Memorial Avenue, and act as a sound barrier minimising impacts of traffic noise on residents.

Further, the proposed development shall result in an extension to the existing mental health clinic located opposite at 3 McCausland Place. The existing mental health clinic exhibits a similar scale and creates a local precedent. The proposed extension will complement the existing facility in both scale and architectural design and will be compatible within the existing streetscape. A road closure application is currently being assessed for McCausland Place which will sever the connection with Memorial Avenue. The amended application proposes an administrative building which is connected to the proposed development in this area. The strategic vision is to physically connect the existing facility with the proposed development, providing an overall integrated development and streetscape appearance.

The development has been architecturally designed to a high standard which incorporates a façade made up of a variety of materials to soften the appearance of the facility. Materials include a mix of brickwork, concrete, and glass, together with features of steel work, art infusion and wall vegetation. The adopted materials are in keeping with the theme along McCausland Place with a combination of brick, concrete and glass utilised for the residential developments along the McCausland Place frontage.

Carefully consideration during the design and site layout has been undertaken to ensure the built form does not create a sense of overbearing onto the residential dwellings adjacent. The closest built form to the residential developments is staggered in height as shown in **Figure 4**, with level 3 being setback approximately 7 metres into the building. This staggered height reduces the sense of overbearing onto the residential dwellings and will read predominately as 2 storey from the residential interface level.

The proposal is located at the end (soon to be cul-de-sac) of McCausland Place and adjacent to Memorial Drive. Therefore, the proposed development is not situated in the middle of residential developments, rather the outskirts. As such, the variation in the height is not seen as over imposing or out of place with the existing streetscape, as it is located on the final lot of the street and will not create a height variation in the middle of a row of residential houses.

Furthermore, in the context of the proposed use, that being a medical facility, the height is appropriate for the development. The Australian Health facility Guidelines dictate that a mental health ward has to have a minimum floor to ceiling height of 2.7metres. Having a higher minimum floor to ceiling height requirement extends the height of the 1st and 2nd storey. As such the predominant height exceedance, closest to the residential interface is mechanical services including plant deck, which are significantly setback, therefore, these services will not be easily discernible to the residents.

As shown in **Figure 5**, there is a height exceedance along the Memorial Drive frontage, which is a classified road. The additional height as well as the visual bulk of the building along the frontage which is broken up by horizontal architectural expressions will provide an identifiable and unique landmark, which will enhance the Memorial Drive streetscape. It is envisioned the proposed development is compatible with the adjoining development, even more so it will complement and enliven the surrounding development within the streetscape. For these reasons, strict application of the development standard for maximum height is unreasonable and unnecessary and does not achieve a greater planning or urban design outcome. This is because the scale of the proposed development will make a positive contribution towards the built form and streetscape. Further, the Australasian Health Facility Guidelines dictate minimum floor to ceiling heights for hospital developments, which contributes to the requirement for the height exceedance.

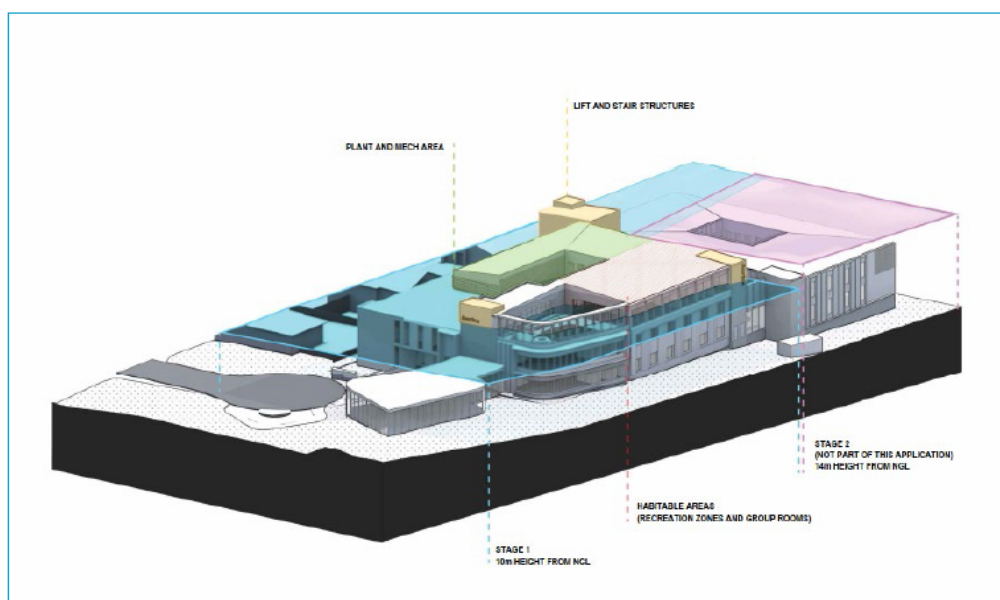
(b) to minimise the impact of overshadowing, visual impact and loss of privacy on adjoining properties and open space areas.

The development is located to the south of adjoining residential development and separated from residential development opposite the site to the south by Memorial Avenue. Due to the location of the site, perfect daylight access is provided to all surrounding development, post construction of the facility. There shall be no overshadowing impacts generated from the proposed development. Please refer to **Figure 6** below for winter (worst case) shadow diagrams.

As discussed above, the development has been architecturally designed by HSPC and consists of a high quality design that will make a positive contribution to the street frontage and built form of McCausland Place and Memorial Avenue, in addition to providing health services for the community. The proposal is considered to sit comfortably within the streetscape, integrating with the existing facility at 3 McCausland Place. The proposal is not considered to contribute to adverse visual impacts and does not obscure any significant views, as the exceedance is largely due to the plant deck which is set back from street level in the centre of the building, refer to **Figure 5**.

As shown below, there are three components which result in the height exceedance, that being the plant and mechanical area, lift and stairs structures and the recreation zone. Regarding the residential interface and limiting the impact on loss of privacy and open space areas, the proposal's height exceedance is due to the building services being mechanical plant and lift structure. These components do not contain any avenue for a direct visual line of sight into the residential properties or their open space area, as there are no windows on the third storey along the northern elevation. It is noted as well, that the height exceedance is not sought for a greater development yield, as no bedrooms for additional patients are contained on the third level. The third level provides an amenity enhancement for the patients with the recreation area, as well as surrounding residents by providing a contained mechanical plant.

Figure 5 Height Diagram (source: HSPC)



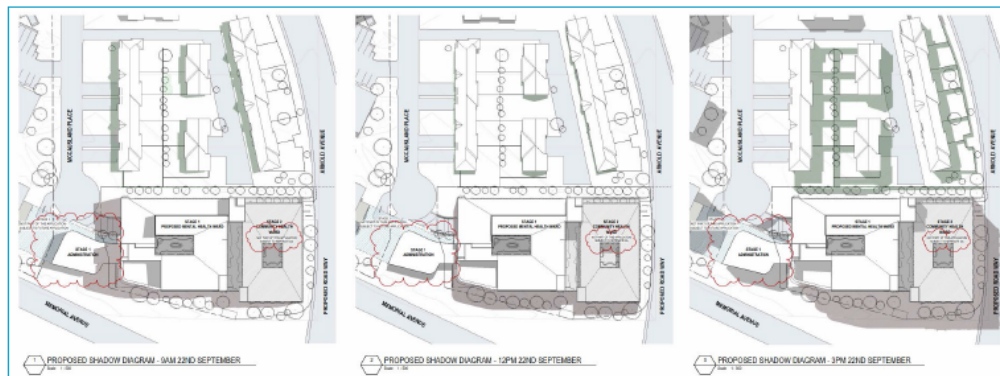
Furthermore, the materials and finishes have been selected to compliment and reflect the existing built form of the area. The chosen materials of the brick and concrete work as well as the black aluminium framing which is reflected in the residential developments to the north. This provides rhythm and symmetry which will assist in protecting the visual amenity of the area.

The northern elevation of the proposed development has been designed with consideration to the amenity of the neighbouring properties. Through a combination of a modern architecturally designed built form and selected landscaping it is considered the proposal will be appropriately screened from the residential properties to the north and will not impact on the amenity of these dwellings.

The proposed Stage 1 built form has a northern boundary setback of 5m, with the exception of 4.5m setback to the stair and lift. In addition to the existing residential setbacks, the development provides suitable separation distances of minimum separation of 11 metres.

Windows are located across the façade of the ground floor and 2nd storey, to provide essential natural light into the rooms for patients of the hospital. In addition to a 5m boundary setback, these windows will be appropriately screened via dense landscaping along the northern boundary with a mixture of canopy trees, shrubs and groundcovers. The landscaping buffer, in particular with the canopy trees will assist in providing a visually screening to the proposed built with the existing dwellings and assist in minimising impacts to their open private space. The proposed height variation will not result in any detrimental impact to any surrounding land uses. The proposed development achieves the objective in Clause 4.3(1)(b), irrespective of the proposed non-compliance and therefore strict compliance with the 10m or 14m height standards within the site would be unreasonable and unnecessary.

Figure 6 Shadow Diagrams (source: HSPC)



7.2 Sufficient Environmental Planning Ground to Justify Contravention (Clause 4.6 (3)(b))

This request for variation demonstrates that there are sufficient environmental planning grounds to justify a contravention to the height controls. The proposed height variation does not result in any unacceptable environmental impacts and provides additional benefits to the streetscape and public domain that would not be able to be realised if the development complied strictly with the 10m or 14m height controls.

The approach to the site regarding height has been carefully considered to ensure the outcome adheres to the design objectives for the development while also incorporating features that provide an appeal when viewing the development. Whilst the building exceeds the HOB controls in areas, setbacks and other design controls have been maintained. The proposed height exceedance will therefore have minimal impact when viewed from street level. The proposed outcome of the non-compliance allows for an equilibrium height design, resulting in an elegant composition of volumes and a clear strategic design.

The proposed extension to The Hills Clinic is also aligned with the local and regional strategic vision of the area. A Metropolis of Three Cities is the overarching strategic plan for the Sydney Region. The plan is founded upon the vision of three cities within the Sydney Region, which would enable most residents to live within 30 minutes of their job, education and health facilities. The subject site is located within the 'Central City', and the Regional Plan provides 10 directions to achieve the Plan's 2056 vision for a liveability, productivity and sustainable city.

Direction 3 of the plan is 'A city for people' places diversity and putting people at the heart of planning. The aim of the direction is to improve the quality of life for people living and visiting the region, which as the plan states can be achieved through collocating schools, transport health and community facilities, recreation social infrastructure and other local services in a walkable and mixed use places. The proposal will provide an extension to the existing The Hills Clinic, which supports this direction by collocating a health facility near by other uses and in close proximity to transportation.

Furthermore, Direction 5 of the Plan 'A city of Great Places' seeks to renew and create exciting and enlivening places that will attract and retain residents and works. This proposal will provide additional job opportunities which will attract new workers to the region, whilst the building which exhibits design excellence will provide a unique and visual pleasing landmark which will assist in creating great spaces in the region.

The Central City District Plan built upon the vision of the region plan for Greater Sydney outlined in 'A Metropolis of Three Cities'. The Central City District Plan sets out the planning priorities and actions requires for the district to reach its full potential and cater for demand which will be applied through the forecasted population growth. The Central City District covers the Blacktown, Cumberland, Parramatta and The Hills (LGAs) and is used to guide local strategic planning statements. The planning priorities and their actions are organised into four (4) core categories that being liveability, productivity, sustainability and infrastructure and collaboration. The proposed development meets the intent of the Plan as follows:

- The proposed extension to the existing health facility will assist in meeting the demand for an improved health service within the existing hospital site. It is noted that the health services is a key industry for the region and this proposal will assist in the developing The Hills Clinic health Precinct, which will attract additional employment for the region;
- The proposal's location which is in an accessible area serviced by existing public transport and in close proximity to a walkable business zone which will enable the health facility to continue to provide an improved quality of life; and

- The architecturally designed health services facility will provide an appropriate built form outcome within the locality, with careful consideration applied to surrounding land uses, with appropriate mitigation measures applied to minimise potential impacts.

As such, from the above it is considered that the proposal is aligned with the Central City District Plan. The Hills Local Strategic Planning Statement (LSPS) is an extension of the Regional and District planning which focuses on The Hills LGA. The proposal is aligned with key planning priorities for the LSPS including Planning Priority 1 'Plan for sufficient jobs, targeted to suit the skills of the workforce'. This planning priority aims to grow investment, business and job opportunities in strategic locations and support the growth of targeted industry sectors. The Health services is a key industry for the LGA, with a high number of residents (11.5%) in the LGA working in the sector. Currently residents are having to travel outside of the LGA for work as there are more residents who work in the health industry than local jobs available. This proposal will provide an extension to the existing health care facility which will enable additional job opportunities in the health sector, which can reduce the amount of residents having to travel outside of the LGA for work. This will also provide the additional benefit of achieving the 30-minute city.

Considering the above, there is considered to be sufficient environmental planning grounds to justify varying the development standard in this instance as it will support the strategic vision for the LGA and region.

7.3 Public Interest (Clause 4.6(4)(a)(ii))

As demonstrated in this assessment, the proposed development will be in the public interest as it is consistent with the objectives of Clause 4.3 (the height of building development standard) and the objectives of the R3 Zone.

As discussed in section 6.1 above, the proposal is consistent with the objectives of clause 4.3 of the THLEP 2019. The proposed variation has also been considered in accordance with the objectives of the R3 Medium Density Residential Zone. The objectives of the R3 Medium Density Residential zone are as follows:

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

The proposal is consistent with the zone objectives for the following reasons:

- The proposed development does not propose any 'residential uses', so therefore, the first, second and fourth objectives are not applicable to the development. However, the facility will certainly attract a desire to live within the immediate area due to the service that is provided by the facility.
- It will provide another land use that serves the needs of the local and wider community. This development will supplement the existing mental health facility making the use compatible with surrounding land uses. Due to the demand for services at the existing facility, it is critical that the facility extends to meet community demand. Thus, this extension will achieve the objective to provide for the needs of residents and the broader community.

- The extension of the health facility will generate a population centre within the area which will have the potential to demand increased public transport facilities. Accordingly, it is envisioned the proposed development will strengthen access to public facilities for those living within the vicinity, increasing liveability.
- The development will result in a wide range of employment generating uses, including construction jobs and jobs during the operational phase for both skilled and unskilled workers. The overall development will increase the ambiance of a desirable location to live, work and play.

Furthermore, the proposed variation is considered justified on the basis that:

- The design allows for visual equilibrium, and is compatible with the character of the locality;
- The proposal meets the objectives of the development control and R3 zone and is a compatible form of development that does not result in unreasonable environmental amenity impact;
- The proposed development will provide a sound barrier to defend existing residents from undesirable traffic generated noise;
- The proposed development will further reinforce the long-term viability of the immediate area by promoting improved public facilities as a direct and by-product of the development;
- The proposed development has been architecturally designed to uplift the amenity of the area and create a place to desire;
- The proposed development represents a high-quality urban design, which seeks to reinvigorate and enhance a dilapidated, unused site;
- The development will provide additional facilities to the public that are already at peak demand; and
- The additional building height resulting from the exceedance does not result in any significant impacts on adjoining properties, particularly with respect to overshadowing, loss of privacy and loss of views.

7.4 Secretary's Concurrence (Clause 4.6(4)(b))

It is understood that the Secretary's concurrence under Clause 4.6(4)(b) of The Hills LEP 2019 has been delegated by the Department of Planning & Environment (DPE).

8 Conclusion

This Clause 4.6 Variation to Development Standard submission has been prepared in response to numerical non-compliance with the development standard for Clause 4.3 – Height of Buildings in The Hills LEP 2019. The extent of non-compliance is considered to be justified having regard to the requirements of Clause 4.6 of The Hills LEP 2019.

It is therefore requested that development consent be granted for the proposed development.

CLAUSE 4.6 VARIATION REQUEST - FLOOR SPACE RATIO

6 McCausland Place, Kellyville NSW 2155

Prepared for:

Aurora Healthcare Australia Pty Ltd
Suites 603 and 604
Level 6 203 Robina Town Centre Drive
Robina QLD 4230



SLR Ref: 631.30598.00000-R01
Version No: -v1.0
July 2022

SLR

PREPARED BY

SLR Consulting Australia Pty Ltd
ABN 29 001 584 612
Suite 2B, 125 Bull Street
Newcastle West NSW 2302

T: +61 2 4940 0442
E: newcastleau@slrconsulting.com www.slrconsulting.com

BASIS OF REPORT

This report has been prepared by SLR Consulting Australia Pty Ltd (SLR) with all reasonable skill, care and diligence, and taking account of the timescale and resources allocated to it by agreement with Aurora Healthcare Australia Pty Ltd (the Client). Information reported herein is based on the interpretation of data collected, which has been accepted in good faith as being accurate and valid.

This report is for the exclusive use of the Client. No warranties or guarantees are expressed or should be inferred by any third parties. This report may not be relied upon by other parties without written consent from SLR.

SLR disclaims any responsibility to the Client and others in respect of any matters outside the agreed scope of the work.

DOCUMENT CONTROL

Reference	Date	Prepared	Checked	Authorised
631.30598.00000-R01-v1.0	28 July 2022	Yannis Comino	Anna Kleinmeulman	Katie Yang
631.30598.00000-R01-v0.2	28 July 2022	Yannis Comino	Anna Kleinmeulman	

CONTENTS

1	INTRODUCTION	4
2	BACKGROUND	6
3	SITE DETAILS	7
3.1	Site Description	7
3.2	Site Location and Context	7
4	EXCEPTION TO DEVELOPMENT STANDARD	9
4.1	Clause 4.6	9
4.2	Legal Context to Varying Development Standards	10
5	DEVELOPMENT STANDARD TO BE VARIED	12
6	JUSTIFICATION FOR THE CONTRAVENTION	16
6.1	Compliance is Unreasonable or Unnecessary	16
6.2	Sufficient Environmental Planning Ground to Justify Contravention	17
6.3	Public Interest	18
7	CONCLUSION	19

DOCUMENT REFERENCES

TABLES

Table 1	Proposed FSR Variation	15
---------	------------------------------	----

FIGURES

Figure 1	Site Aerial (Source: Near Maps)	8
Figure 2	Land Zoning Map Extract from LEP 2019 (LZN_015)	12
Figure 3	Floor Space Ratio Map Extract from The Hills LEP 2019	14

1 Introduction

This request to vary a development standard in accordance with Clause 4.6 of The Hills Local Environmental Plan (LEP) 2019 relates to the extension of the existing mental health hospital, by construction of a new Health Services Facility located at 6 McCausland Place, Kellyville NSW 2155. The site is formally known as Lot 1 DP 1273532.

The Development Application (DA) seeks approval for Stage 1 of the development as follows:

- Stage 1 – Construction of a 3-storey mental health unit:
 - Basement car parking for 64 car parking spaces, services and temporary waste storage area.
 - 1st level comprising 30 bed ward, 2 group rooms, meeting room, lounge and dining area, and associated lobby waiting room with reception and amenities.
 - 2nd level comprising 30 bed ward, 2 group rooms, meeting room, lounge and dining area, and associated lobby waiting room with reception and amenities.
 - 3rd level comprising a terrace, gym/yoga room with associated changing rooms, 3 group rooms, meeting room, staff room and plant.
- Construction of new vehicular access off McCausland Place.
- Construction of a new egress and ingress off Arnold Avenue; and
- Landscaping works including native trees, shrubs and groundcovers.

Details of future Stage 2 have been documented to provide Council context of the whole development. Stage 2 involves the construction of the community care unit including:

- Extension of basement carparking below the new community care unit to provide a total of 78 car parking spaces within the basement.
- 1st level comprising 12 bed ward, staff base, activity room and courtyards.
- 2nd level comprising a 12 bed ward, staff and activity room.
- Landscaping alterations associated with the new Stage 2 construction.

The development control sought to be varied in this instance is the Floor Space Ratio (FSR), as contained in Clause 4.4 of The Hills Local Environmental Plan (LEP) 2019. It is noted that Stage 1, subject to this application, is located outside of Area A as identified on the FSR Map. Notwithstanding, although the majority of the site does not have an applicable FSR control, this 4.6 variation request has been prepared seeking a variation to the standard, providing context for future Stage 2

An assessment of the variation is provided in the following pages in accordance the requirements of Clause 4.6 of The Hills LEP 2019. This variation has been prepared generally in accordance with the NSW Department of Planning and Infrastructure's publication "Varying Development Standards: A Guide" (August 2011), which identifies matters to be addressed in an application to vary a development standard.

The objectives of Clause 4.6 are to provide an appropriate degree of flexibility in applying the development standards to achieve better outcomes for, and from, development.

The proposed variation is considered reasonable to the basis that:

- The proposal meets the underlying intent of the controls and is a compatible form of development that does not result in unreasonable environmental amenity impact;
- The majority of the site does not have a stipulated FSR control, with only the south western corner having a FSR standard. This standard was imposed through the planning proposal 4/2016/PLP, and was specifically in relation to residential flat building development. Therefore, this FSR control was not intended to be applied to a health services facility.
- The proposal is of an overall height, scale, bulk, design and external appearance that are in keeping with other similar developments approved, with the existing hospital at 3 McCausland Place, Kellyville.
- The proposed hospital development has been designed with an unobtrusive top level to reduce the overall bulk and height of the building;
- The application satisfies other LEP numerical controls, with the exception of a minor departure from the Height of Building controls, which results in a high-quality development proposal.

2 Background

The following planning applications have been previously granted at the site:

- 15th August 2014 – DA804/2014/HC – Approval was granted for the construction of fifteen Multi Dwelling Housing Units comprising 4x3 bedroom and 11 x 4 bedroom dwellings
- 15th September 2017 – Planning Proposal 4/2016/PLP – Amendments to The Hills LEP 2012 were gazetted. The planning proposal sought a higher density of residential developments on the site as a consequence of TfNSW additional land acquisition since the 2014 DA approval. The gazetted amendments included an additional permitted use on the site to permit residential flat buildings, with a maximum yield of 20 dwellings, increase the maximum building height in the south eastern corner of the site to 14 metres and applying a base floor space ratio in the same corner of the site of 1:1 with an incentivised floor space of 1.6:1.
- 24th May 2019 – DA 496/2018/HA – Approval was granted by the Local Planning Panel for the Demolition of Existing Structures and Construction of Multi-Dwelling Housing and an Apartment Building Development containing 35 dwellings. It is noted this development consent was not enacted, with further TfNSW works impeding on the future development.
- 10th June 2022- DA 1895/2022/LA – Approval was granted for the demolition of the existing structures and required remediation at 6 McCausland Place.

3 Site Details

3.1 Site Description

The site is located at 6 McCausland Place, Kellyville. The site is legally described as Lot 1DP 1273532. The subject site is irregularly shaped and has an area of approximately 4,338m². The site has a gentle gradient which slopes from approximately 60.5m AHD at the north western corner to approximately 57.5m AHD at the northern corner of the site.

The site currently contains an abandoned residential dwelling, which was approved for demolition along with associated remediation works under DA 1895/2022/LA on the 25 May 2022. Informal access is currently provided off McCausland Place, with the site not having a defined existing access point

3.2 Site Location and Context

The site will be an extension to the existing The Hills Clinic located at 3 McCausland Place, Kellyville. The Hills Clinic is a specialist practice, providing private psychiatric and psychological treatment for a wide range of mental health issues. The site is strategically positioned within 3km of Norwest Business Park and Norwest Metro Station.

The site has street frontages to McCausland Place to the west, Memorial Avenue on the south and future Arnold Avenue to the east. McCausland Place is a local road providing connection to a low density residential estate, which as outlined in Section 1.1.2 of this report and is currently undergoing a road closure application, which will in turn create a cul-de-sac around the health precinct. Memorial Avenue is a classified road providing access to the wider Metropolitan district, connecting the Westlink M7 and Old Windsor Road. Arnold Avenue is currently undergoing road works to create a new intersection point with Memorial Avenue.

The immediate locality is characterised by a mix of single and medium density residential dwellings, as well as some recreational uses. The site is located adjacent to bus route 619, providing direct connection to Macquarie Park Train Station.

A location plan showing the site and surrounding context is provided at **Figure 1**.

Figure 1 Site Aerial (Source: Near Maps)



4 Exception to Development Standard

The Department of Planning and Environment's publication "Varying Development Standards: A Guide" (August 2011), states that:

The NSW planning system provide the ability to vary development standards contained within environmental planning instruments through:

- *Clause 4.6 of the Standard Instrument Local Environment Plan (SI LEP).*

The Hills LEP 2019 is a Standard Instrument LEP, which therefore requires the inclusion of Clause 4.6, and subsequently the provision that variations to numerical controls can be sought. It is noted that the Guidelines do not identify any other mechanisms (such as a Planning Proposal) to vary a development standard.

4.1 Clause 4.6

Clause 4.6 of the The Hills LEP 2019 aims to provide an appropriate degree of flexibility in applying certain development standards to achieve better planning outcomes.

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

(a) to provide an appropriate degree of flexibility in applying certain development standards to particular development,

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

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

The proposal seeks to vary the FSR standards applicable to the site and does not introduce new controls across an area. The Clause 4.6 guidelines also express when this clause is not to be used, namely:

"...in Rural or Environmental zones to allow subdivision of land that will result in 2 or more lots less than the minimum area specified for such lots by a development standard, or the subdivision of land that will result in any lot less than 90% of the minimum area specified for such lots by a development standard in the following SI zones: Zone RU1 Primary Production, Zone RU2 Rural Landscape, Zone RU3 Forestry, Zone RU4 Rural Small Holdings, Zone RU6 Transition, Zone R5 Large Lot Residential, Zone E2 Environmental Conservation, Zone E3 Environmental Management or Zone E4 Environmental Living."

Neither the site nor the proposal is included within these criteria and therefore, the use of Clause 4.6 is appropriate to vary the FSR standard in this instance.

4.2 Legal Context to Varying Development Standards

This submission has been prepared having regard to the latest authority on Clause 4.6, contained in the following NSW Land and Environment Court (Court) judgements:

- Winten Property Group Limited v North Sydney Council [2001] NSWLEC 46
- Wehbe v Pittwater Council [2007] NSWLEC 827
- Four2Five Pty Ltd v Ashfield Council [2015] NSWLEC 1009 (Four2Five No 1)
- Four2Five Pty Ltd v Ashfield Council [2015] NSWLEC 90 (Four2Five No 2)
- Four2Five Pty Ltd v Ashfield Council [2015] NSWCA 248 (Four2Five No 3)
- Moskovich v Waverley Council [2016] NSWLEC 1015
- Randwick City Council v Micaul Holdings Pty Ltd [2016] NSWLEC 7

In the decision of *Moskovich v Waverley Council [2016] NSWLEC 1015* it was deemed consistent with the decision in *Four2Five* and the Court agreed that the public interest test (incl 4.6(4)(a)(ii)) is different to the “unreasonable or unnecessary in the circumstances of the case” test (incl 4.6(3)(a)). The Court said that “*the latter, being more onerous, would require additional considerations such as the matters outlined by Preston CJ in Wehbe at [70-76]*”.

Randwick City Council v Micaul Holding Pty Ltd [2016] NSWLEC 7 documents a decision of the Chief Judge of the Court in an appeal against a decision of Commissioner Morris to uphold a request under Clause 4.6 of the Randwick LEP 2012 to vary development standards relating to the height and FSR of a building.

The Chief Judge observed at paragraph 39 of his judgement that clause 4.6(4) of the Standard Instrument does not require the consent authority to be satisfied directly that compliance with each development standard is unreasonable or unnecessary in the circumstances of the case, but only indirectly by being satisfied that the applicant’s written request has adequately addressed those matters. This lessens the force of the Court’s earlier judgement in *Four2Five* that a variation request must demonstrate consistency with the objectives of the standard in addition to consistency with the objectives of the standard and zone.

The objection principles identified in the decision of Justice Lloyd in *Winten v North Sydney Council* are outlined below:

- (1) Is the planning control in question a development standard;*
- (2) What is the underlying object or purpose of the standard;*
- (3) Is compliance with the development standard consistent with the aims of the Policy, and in particular does compliance with the development standard tend to hinder the attainment of the objects specified in section 5(a)(i) and (ii) of the EP&A Act 1979;*
- (4) Is compliance with the development standard unreasonable or unnecessary in the circumstances of the case;*
- (5) Is a development which complies with the development standard unreasonable or unnecessary; and*
- (6) Is the objection well founded.*

In the decision of *Wehbe v Pittwater Council* [2007] NSW LEC 827, Chief Justice Preston outlined the rationale for development standards, and the ways by which a standard might be considered unnecessary and/or unreasonable. At paragraph 43 of his judgement Preston CJ noted:

"The rationale is that development standards are not ends in themselves but means of achieving ends. The ends are environmental or planning objectives. Compliance with a development standard is fixed as the usual means by which the relevant environmental or planning objective is able to be achieved. However, if the proposed development proffers an alternative means of achieving the objective, strict compliance with the standard would be unnecessary (it is achieved anyway) and unreasonable (no purpose would be served)."

Wehbe V Pittwater [2007] NSW LEC 827 also established the 'five-part test' to determine whether compliance with a development standard is unreasonable or unnecessary based on the following:

- (1) Would the proposal, despite numerical non-compliance, be consistent with the relevant environmental or planning objectives;*
- (2) Is the underlying objective or purpose of the standard not relevant to the development thereby making compliance with any such development standard is unnecessary;*
- (3) Would the underlying objective or purpose be defeated or thwarted were compliance required, making compliance with any such development standard unreasonable;*
- (4) Has Council by its own actions, abandoned or destroyed the development standard, by granting consent that depart from the standard, making compliance with the development standard by others both unnecessary and unreasonable; or*
- (5) Is the "zoning of particular land" unreasonable or inappropriate so that a development standard appropriate for that zoning was also unreasonable and unnecessary as it applied to that land. Consequently, compliance with that development standard is unnecessary and unreasonable.*

Of particular relevance in this instance is Part 1, that *"the proposal, despite numerical non-compliance, [would] be consistent with the relevant environment or planning objectives"*.

5 Development Standard to be Varied

This section pertains to the “Application form to vary a development standard” by the Department of Planning and Environment.

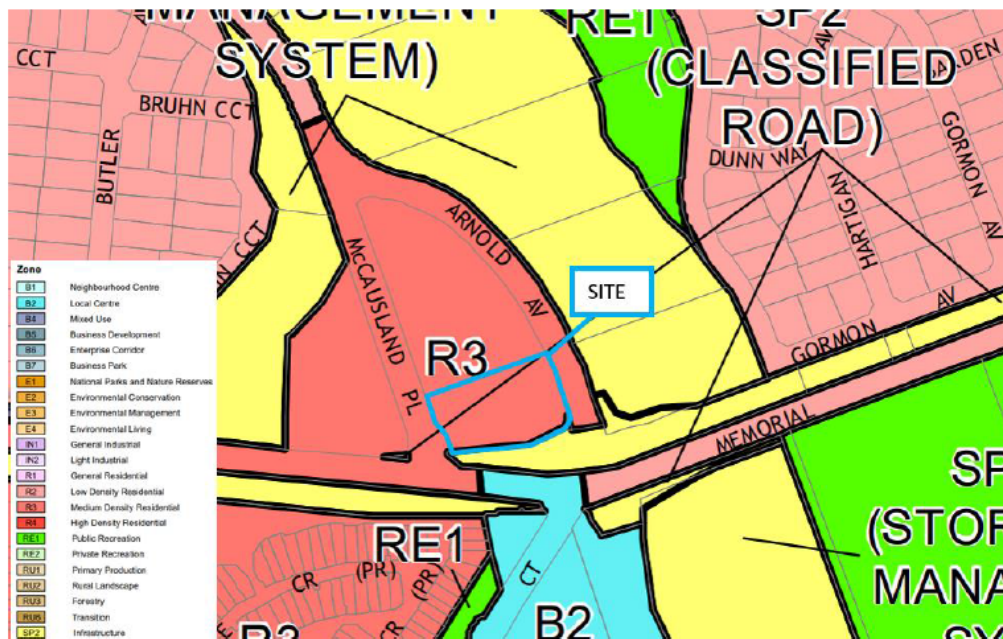
What is the name of the environmental planning instrument that applies to the land?

The Hills Local Environmental Plan 2019.

What is the zoning of the land?

The Hills LEP 2019 indicates that the site is within the R3 Medium Density Zone, as illustrated in **Figure 2**.

Figure 2 Land Zoning Map Extract from LEP 2019 (LZN_015)



Comment: The proposed site redevelopment will contribute to establishing another land use that provides a facility to the surrounding residents and community. The proposed hospital at 6 McCausland Place, will be an expansion of the existing hospital at 3 McCausland Place, Kellyville, which is located in the same R3 Medium Density Residential zoning. The expansion of the existing hospital will provide a much needed offering to the community, providing additional mental health facilities which are safe and supportive environments.

What are the development standards being varied?

The Floor Space Ratio development standard contained in Clause 4.4 of The Hills LEP 2019.

Are the standards to be varied a development standard?

The standard is considered to be a development standard in accordance with the definition contained in Section 4(1) of the Environmental Planning and Assessment Act 1979; and not a prohibition. Clause 4.4 is also not listed under Clause 4.6(8) as a development standard that is not able to be varied.

What are the objectives of the development standard?

The objectives of Clause 4.4 – Floor Space Ratio are as follows:

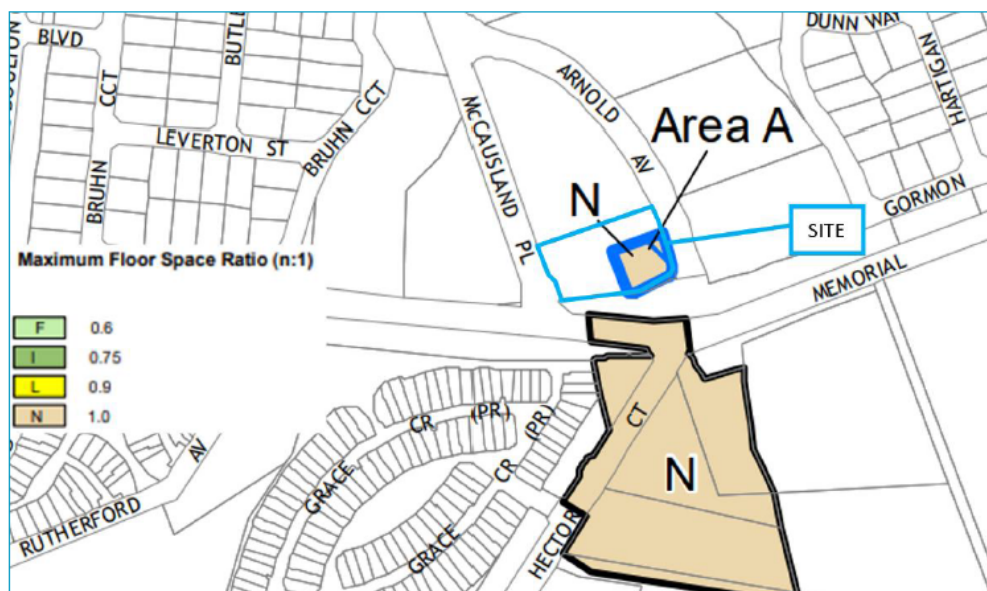
(a) to ensure development is compatible with the bulk, scale and character of existing and future surrounding development,

(b) to provide for a built form that is compatible with the role of town and major centres

What is the numeric value of the development standard in the environmental planning instrument?

There are two separate FSR standard under The Hills LEP 2019 at the site. The majority of the site does not have a stipulated FSR standard, whilst the south eastern corner of the site has an FSR standard of 1:1, as shown in Figure 3.

Figure 3 Floor Space Ratio Map Extract from The Hills LEP 2019



What is the proposed numeric value of the development standard in your development application?

The Hills LEP 2019, under Clause 4.5 defines **floor space ratio** as the following:

*The **floor space ratio** of buildings on a site is the ratio of the gross floor area of all buildings within the site to the site area.*

The Hills LEP 2019, under Clause 4.5 defines **site area** as the following:

***Site area** In determining the site area of proposed development for the purpose of applying a floor space ratio, the site area is taken to be—*

- (a) if the proposed development is to be carried out on only one lot, the area of that lot, or*
- (b) if the proposed development is to be carried out on 2 or more lots, the area of any lot on which the development is proposed to be carried out that has at least one common boundary with another lot on which the development is being carried out.*

It is noted that the majority of the site does not have a stipulated FSR standard, with only the south-eastern corner of the site having a FSR standard. As per the above LEP definitions, FSR is taken to be the ratio of the gross floor area of all buildings within the site area, with the site area taken to be the area of the lot. Therefore, in this instance, although the FSR is only applicable to a small portion of the site, the FSR for the proposal has to be taken for the whole of the site.

As previously stated, Stage 1, subject to this application, is located outside of Area A as identified on the FSR Map. Notwithstanding, although the majority of the site does not have an applicable FSR control, this 4.6 variation request has been prepared seeking a variation to the standard, providing context for future Stage 2

The numerical value of Stage 1 and Stage 2 of the development and the future and percentage variation is detailed in the following table.

Table 1 Proposed FSR Variation

Requirement	Site Area	Proposed GFA	Proposed FSR	Percentage Exceedance
1:1 FSR	4,338m ²	8,242.9m ²	1.9: 1	90%

The Hills LEP 2019 defines **gross floor area** as the following:

***gross floor area** means the sum of the floor area of each floor of a building measured from the internal face of external walls, or from the internal face of walls separating the building from any other building, measured at a height of 1.4 metres above the floor, and includes—*

- (a) the area of a mezzanine, and*
- (b) habitable rooms in a basement or an attic, and*
- (c) any shop, auditorium, cinema, and the like, in a basement or attic,*
but excludes—
- (d) any area for common vertical circulation, such as lifts and stairs, and*
- (e) any basement—*
 - (i) storage, and*
 - (ii) vehicular access, loading areas, garbage and services, and*
- (f) plant rooms, lift towers and other areas used exclusively for mechanical services or ducting, and*
- (g) car parking to meet any requirements of the consent authority (including access to that car parking), and*
- (h) any space used for the loading or unloading of goods (including access to it), and*
- (i) terraces and balconies with outer walls less than 1.4 metres high, and*
- (j) voids above a floor at the level of a storey or storey above.*

6 Justification for the Contravention

This section addresses Section (3), (4) and (5) of Clause 4.6 and seeks to justify the contravention from development standard Clauses 4.4.

(3) Development consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating:

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

(4) Development consent must not be granted for development that contravenes a development standard unless:

- (a) the consent authority is satisfied that:*
 - (i) the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and*
 - (ii) the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out, and*
- (b) the concurrence of the Secretary has been obtained.*

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

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

6.1 Compliance is Unreasonable or Unnecessary

As mentioned above, compliance with a development standard might be shown as unreasonable or unnecessary if the objectives of the standard are achieved notwithstanding noncompliance with the standard.

The proposed development achieves the objectives of Clause 4.4:

- (a) to ensure development is compatible with the bulk, scale and character of existing and future surrounding development,*

The subject site is within a R3 Medium Density Residential zone and is situated in an area that is predominately residential and health services facility, which is of similar built form and structure. The area is currently undergoing changes, as Memorial Avenue gets upgraded by TfNSW and the Arnold Avenue and Memorial Avenue intersection gets created. These changes have already impacted on the site, with land acquisitions occurred in the past with TfNSW, which has reduced the size of the site.

The bulk and scale of the development is minimized through high quality architectural design by HSPC. The visual bulk of the building is broken up by the horizontal architectural expression of tinted glass in contrast to vertical bricks. Details of the façade and articulation are provided in the Architectural Plans appended at **Appendix A**. Measures to soften the façade of the proposed development includes the use of varying materials, modulated design, upper level setback and appropriate landscaping.

Taking into account the above, the strict application of the development standard for maximum floor space ratio is unreasonable and unnecessary and would not achieve a greater planning or urban design outcome.

(b) to provide for a built form that is compatible with the role of town and major centres.

The proposed built form will enable the expansion of the existing health services facility at 3 McCausland Place. This expansion will assist in developing a health precinct which will be compatible with the role of the Kellyville town centre. The proposal is compatible with the role of the town centre as it will not take people away from the high street, rather it will provide a unique specific offering which will assist the community. The proposal represents an efficient use of land, providing essential medical infrastructure and high-quality health services to the community.

The proposed development achieves the objective of the clause and therefore strict compliance with the 1:1 FSR standard that applies to only a small proportion of the site would be unreasonable, unnecessary, and would not achieve a greater planning or urban design outcome, especially considering the original intent for the FSR control was in relation to a separate development and land use.

6.2 Sufficient Environmental Planning Ground to Justify Contravention

Clause 4.6 requires the applicant to demonstrate that there are sufficient environmental planning grounds to contravene the development standard. The above assessment demonstrates that the resultant environmental impacts are satisfactory. If made to strictly comply with Clause 4.4, there would be no additional benefit to the streetscape, neighbouring properties and the local area. The variation will enable a high quality, architecturally designed medical facility to be provided in Kellyville. It is considered that the objectives of Clause 4.4 have been met and there is sufficient environmental planning grounds to justify contravening the development standard in this instance, especially considering the original intent of the floor space ratio control was for a residential apartment building.

This submission demonstrates that the resultant environmental impacts of the proposal are considered to be satisfactory. If made to strictly comply with Clause 4.4, there would be no additional benefit to the surrounding built form and amenity of the local area, yet significant impact on the offerings at the site and diminished services.

6.3 Public Interest

As demonstrated in this assessment, the proposed development will be in the public interest as it is consistent with the objectives of Clause 4.4 and the objectives of the R3 Medium Residential zone in The Hills LEP 2019.

The proposed development is a 'health service facility' which will generate significant employment and social benefit. It is compatible with the objectives of the zone and will complement the existing health facilities at 3 McCausland Place.

The proposed development will provide a number of significant public benefits to the community.

- It will provide an expansion to the variety of high quality health services on offer at the existing The Hills Clinic. The proposed purpose built building supports the expansion of a much needed service sector as the area continues to undergo growth and transformation;
- The proposed development will also generate employment in the expanding health sector and therefore provide ongoing economic and social benefits;
- The building will create a landmark that is identifiable and consistent with leading contemporary hospitals making it a centre of excellence thereby attracting further leading specialists to the area.

It is considered that the floor space ratio exceedances do not outweigh these public benefits given the merits of the proposal.

7 Conclusion

This Clause 4.6 Variation to Development Standard submission has been prepared in response to numerical non-compliance with the development standard for Clause 4.4 – Floor Space Ratio in The Hills LEP 2019. The extent of non-compliance is considered acceptable in the context of the site given the type, location and scale of the development proposed and the intent of the imposed FSR standard in the south eastern corner of the site.

As demonstrated within this submission, the majority of the site does not have a stipulated FSR control, with only the south-eastern corner having a maximum FSR. The intent for this standard was not to restrict a health services facility, rather it was imposed in relation to the Planning Proposal 4/2012/PLP, which enabled the additional permitted use of residential flat buildings. Therefore, it is considered that the proposal should be in accordance with the majority of the site's FSR control, which does not have a maximum FSR.

Furthermore, the overall massing, scale, bulk and height of the proposed development is consistent with the existing health services facility at 3 McCausland Place and will be in keeping with the character of the area.

The variations allow for the orderly and economic use of the land in an appropriate manner, whilst allowing for a better outcome based on planning merits and public benefit. Further, the proposal will not result in any unreasonable impact on amenity or any significant adverse environmental impacts as a result of the variations.

SLR is satisfied that compliance with the development standard is unreasonable or unnecessary in the circumstances of the proposed development and that there are sufficient environmental planning grounds to justify contravening the development standards.

It is therefore requested that development consent be granted for the proposed development.

ATTACHMENT O – PLAN OF MANAGEMENT

PLAN OF MANAGEMENT



The Hills Clinic

3 & 6 McCausland Place

Kellyville NSW 2155

Prepared | November 2022

PLAN OF MANAGEMENT

Final

The Hills Clinic | November 2022

SIGNED for and on behalf of AURORA
HEALTHCARE PTY LTD (ACN 636 441 355) by its
authorised representative in the presence of:

)
)
)
)
)



Ashley Baker

Chief Executive Officer/Director Of Clinical Services | The Hills Clinic

CONTENTS

1	INTRODUCTION.....	4
1.1	Purpose of Plan of Management.....	4
2	SITE CONTEXT.....	4
3	OPERATIONAL HOURS	4
4	SAFETY AND SECURITY.....	5
4.1	Surveillance.....	5
4.2	Lighting.....	5
4.3	Signage and Space Management.....	5
4.4	Access Control.....	5
4.5	Staff Training.....	6
4.6	Police Involvement	6
4.7	Weapons.....	6
4.8	Incident Register	6
4.9	First Aid	6
4.10	Medicine Storage.....	6
5	SITE MAINTENANCE.....	7
5.1	Cleaning	7
5.2	Waste Management	7
6	CONSULTATION.....	7

1 Introduction

This Plan of Management (PoM) has been prepared to accompany a Development Application for the proposed extension of the existing Health Services Facility (The Hills Clinic) through the development of land at 6 McCausland Place, Kellyville NSW 2155.

The Hills Clinic recognises the need to ensure the safety and security of patients, visitors, staff, residents and the greater Hills community. The following measures will be implemented to ensure the utmost safety of all parties involved.

1.1 Purpose of Plan of Management

The purpose of this PoM is to ensure the proposal is consistent with the principles of Crime Prevention through Environmental Design (CPTED) as described in the *Crime Prevention and the Assessment of Development Applications* guideline prepared by the former NSW Department of Urban Affairs and Planning (now Department of Planning and Environment).

The policies and procedures outlined in this PoM will help to make the premises a safe, efficient and pleasant environment in which to work, visit and stay. Additionally, the safety and security issues addressed in this PoM have been devised to ensure the amenity of neighbouring properties is maintained at all times during the operation of the premises.

As part of the induction process, all staff at The Hills Clinic will be required to be familiar with this Management Plan.

2 Site Context

The site is described as 6 McCausland Place, Kellyville NSW. It is situated within the local government area of The Hills Shire. The site is legally described as Lot 1 DP 1273532.

The site will be an extension to the existing The Hills Clinic located at 3 McCausland Place, Kellyville. The Hills Clinic is a specialist practice, providing private psychiatric and psychological treatment for a wide range of mental health issues.

3 Operational Hours

This PoM has been prepared in regard to the following operational hours:

- Hospital (In patient care) – 24 hours Monday – Sunday
- Hospital (Outpatient care) – 8am – 5.30pm Monday – Friday

4 Safety and Security

The security and safety of employees and the general public are highly valued by management and staff of The Hills Clinic. The following management strategies will be implemented to ensure the utmost safety of patrons and staff.

4.1 Surveillance

CCTV surveillance cameras will be installed in and around the premises in strategic locations. All cameras will operate 24 hours a day. CCTV cameras will remain in working condition at all times. If damage to CCTV cameras occurs, repairs will be undertaken as soon as practicable. CCTV footage of any security incident on the site will be copied and made available to NSW Police Force as required.

Management will also ensure that the coverage will be operated with due regard to the privacy and civil liberties of all persons within the operation.

4.2 Lighting

All 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 to ensure no adverse impact on the amenity of the surrounding area by light overspill. Lighting shall comply with the AS 4282:1997 Control of the obtrusive effect of outdoor lighting.

External lighting will be provided around the building, building entries and car park to enable clear vision and will be designed in such a manner so as to prevent concealment and shadowing. The standard of lighting will also serve to provide clear identification of activity using the high technology CCTV cameras proposed.

Broken light fixtures and bulbs within the premises and car park will be replaced within 24 hours where practical.

4.3 Signage and Space Management

Clearly identifiable signage will be installed in and around the building to indicate which areas are open to day patients, inpatients, visitors and staff and members of the public and which areas are restricted to staff.

Toilets for staff and patient use will be clearly sign posted.

4.4 Access Control

Access to the facility will be limited at various times of the day. Outside of 8:30am – 5pm, staff will require a swipe card to access the facility. Drop in patients will not be permitted outside these hours. Visitor access is restricted to the following times:

- Monday to Friday: 12:00pm to 1:00pm; and 5:00pm to 8:00pm
- Weekends and Public Holidays: 1:00pm to 8:00pm

4.5 Staff Training

All staff will be trained in relevant security measures. Staff training days will be held on a regular basis to reinforce safety and security procedures for the business. Training will ensure that in the event of violent or anti-social behaviour, staff act in a manner to best protect themselves, other patients and local residents. Employees will be encouraged to report any anti-social activity or persons in and around the area to Management.

4.6 Police Involvement

Staff will be issued with duress alarms to carry at all times, so that in the event of a patient becoming violent, aggressive or unmanageable, Police can be called to the facility to assist.

4.7 Weapons

Weapons of any type i.e. knives, firearms will not be permitted at any time, unless in the hands of authorised security personnel or Police.

4.8 Incident Register

An incident register will be held on site. This will monitor any complaints or anti-social incidents from patients and will be made available to NSW Police Force when requested. The frequency of incidents together with the respective response will be included in the regular site performance reviews to ensure the maintenance of acceptable standards.

After an incident, staff will complete the appropriate incident form and will be provided to Aurora Healthcare head office and The Hills Clinic management team.

Management will supervise all of the above practices and make sure all measures are adhered to.

4.9 First Aid

At all times staff members and nurses proficient and appropriately certified in first aid qualification will be on duty to respond to a medical incident on the premises. Appropriate equipment such as a first aid kit will be available on site.

4.10 Medicine Storage

Medicine will be securely stored within the facility to the approval of the NSW Department of Health.

5 Site Maintenance

5.1 Cleaning

Staff will ensure as far as practical that the premises is kept in a clean and tidy condition both internally and externally to the extent of the building. Cleaning of both internal and external areas of the premises will be undertaken by cleaning staff.

5.2 Waste Management

Staff will separate operational waste and recyclables where possible. Waste and recycling bins will be clearly labelled and identifiable. In accordance with relevant health guidelines, waste areas will be cleaned by staff with protective gloves.

6 Consultation

The Hills Clinic is committed to ongoing consultation with adjoining property owners, NSW Police Force and The Hills Shire Council to foster a better understanding of relevant operational issues that may arise at the site and would be available to be contacted to discuss potential issues as they may arise.

Ongoing review of this document may be undertaken to ensure that the PoM remains relevant to the operation of The Hills Clinic and that issues that arise can be managed into the future.

ATTACHMENT P – ENEAVOUR ENERGY COMMENTS (APPENDIX A)

APPENDIX A

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	304/2023/JP	CNR-44150	Robert Buckham	15/08/2022	5/09/2022	16/08/2022


Address	Land Title
6 MCCausland PLACE KELLYVILLE 2155	Lot 1 DP 1273532

Scope of Development Application or Planning Proposal

Stage 1 of the proposed Health Services Facility.

As shown in the below site plan from Endeavour Energy's G/Net master facility model:

There are:

- No easements benefitting Endeavour Energy (active easements are indicated by red hatching).
- Low voltage overhead power lines (including a pole) to the McCausland Place road verge / roadway. Fitted (which as well as a pole on the corner of Memorial Avenue is 'Proposed removed' as indicated by the colouring ).
- Low voltage and 22,000 volt / 22 kilovolt (kV) high voltage underground cables coming from the opposite side of the McCausland Place to the road verge / roadway at the corner of Memorial Avenue (including a low voltage pillar) with the 22 kV high voltage underground cables continuing along the future road verge for the widening of Memorial Avenue.
- No existing low voltage service conductor / customer connection point to the site.



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 checked="" 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 checked="" 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 (NSW)</i> .
<input type="checkbox"/>	<input checked="" 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 checked="" 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 checked="" 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.

Con- dition	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 whether the available electricity services are adequate for the proposed development. The electricity distribution network generally provides a single customer connection point for each developable lot for the provision of electricity supply for a basic low voltage connection service where the total maximum demand is no greater than 100 amperes 230 volts (single phase) or no greater than 63 amperes 400 volts (three phase). To ensure an adequate / suitable connection, the applicant will 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. An extension and / or augmentation of the existing local network may be required. Whilst padmount substation no. 29529 located on the opposite site of McCausland Place (within the existing Health Service Facility) is likely to have some spare capacity, it is not unlimited and may not be sufficient to facilitate the proposed development. <p>Other factors such as the size and rating / load on the conductors and voltage drop (which can affect the quality of supply particularly with long conductor runs) etc. need to be assessed. However the extent of any works required will not be determined until the final load assessment is completed.</p> <ul style="list-style-type: none"> Any required padmount substation will need to be located within the property (in a suitable and accessible location) and be protected (including any associated cabling) by an easement and associated restrictions benefiting and gifted to Endeavour Energy. Please refer to Endeavour Energy's Mains Design Instruction MDI 0044 'Easements and Property Tenure Rights'. 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 minimum required safety clearances and controls for building and structures (whether temporary or permanent) and working near overhead power lines must be maintained at all times. If there is any doubt whatsoever regarding the safety clearances to the overhead power lines, the applicant will need to have the safety clearances assessed by a suitably qualified electrical engineer / Accredited Service Provider (ASP). <p>Even if there is no issue with the safety clearances to the building and structures, consideration must be given to WorkCover (now SafeWork NSW) 'Work Near Overhead Power Lines Code of Practice 2006' eg. ordinary persons must maintain a minimum safe approach distance of 3.0 metres to all voltages up to and including 132,000 volts / 132 kilovolt (kV).</p>	

- 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 ie. a padmount substation may not be required on the site. 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

