

COUNCIL ASSESSMENT REPORT

SYDNEY CENTRAL CITY PLANNING PANEL

PANEL REFERENCE & DA NUMBER	PPSSCC-480 - DA 11/2024/JP
PROPOSAL	Housing Central and Housing North Precincts for the construction of 105 integrated attached and detached dwellings, individual lot subdivision and associated lot civil works and associated landscape works.
ADDRESS	Lot 61 DP 737386, 55 Coonara Avenue West Pennant Hills
APPLICANT	Mirvac Projects (Retail & Commercial) Pty Ltd
OWNER	Mirvac Projects (Retail & Commercial) Pty Ltd
DA LODGEMENT DATE	21 July 2023
APPLICATION TYPE	Development Application – Integrated
REGIONALLY SIGNIFICANT CRITERIA	Clause 2, Schedule 6 of the SEPP (Planning Systems) 2021
CIV	\$63,517,335.00 (excluding GST)
CLAUSE 4.6 REQUESTS	Clause 4.3 Height of LEP 2019
KEY SEPP/LEP	LEP 2019
TOTAL & UNIQUE SUBMISSIONS	Ten (10) – 9 objection and 1 in support
DOCUMENTS SUBMITTED FOR CONSIDERATION	<p>Architectural Plans – Mirvac Design</p> <p>Landscape Package - Turf Design Studio</p> <p>Statement of Environmental Effects - Mecone</p> <p>Clause 4.6 Written Variation Request - Mecone</p> <p>Site Specific Design Guidelines - Mecone</p> <p>Site Survey Plan - Craig and Rhodes</p> <p>Subdivision Plans - Craig and Rhodes</p> <p>Photomontages - Mirvac</p> <p>Civil Engineering - Northrop</p> <p>Accessibility Design Review - ABE Consulting</p> <p>Bushfire Assessment Report - Building Code & Bushfire Hazard Solutions</p> <p>Geotechnical Assessment and Comments - Douglas Partners</p>

	Statement of Heritage Impact - Maxim Archaeology and Heritage Aboriginal Due Diligence Assessment - McCardle Cultural Heritage Land Contamination Reporting - JBS&G Traffic Impact Assessment - PTC Consultants Construction Traffic Management Plan - PTC Consultants Environmental Noise Impact Assessment - Acoustic Logic Biodiversity Development Assessment Report (Cover Letter) - Keystone Ecological Construction Waste Management Plan - Mirvac BASIX and NatHERS Certificates - Efficient Living Urban Design Report - Mirvac Design Cost Estimate Report - Mirvac
SPECIAL INFRASTRUCTURE CONTRIBUTIONS (S7.24)	No
RECOMMENDATION	Approval subject to conditions
DRAFT CONDITIONS TO APPLICANT	Yes
SCHEDULED MEETING DATE	25 July 2024
PLAN VERSION	N/A
PREPARED BY	Sanda Watts – Development Assessment Coordinator
CONFLICT OF INTEREST DECLARATION	None Declared
DATE OF REPORT	11 July 2024

EXECUTIVE SUMMARY

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

- The site is subject to a Planning Proposal which was approved by the Department of Planning, Industry and Environment to rezone the site from B7 Business Park to part R3 Medium Density Residential, part R4 High Density and part C2 Environmental Conservation zone. As part of the re-zoning, a maximum of 600 dwellings were permitted on the site. Maximum height limits of 9, 12 and 22 metres were also introduced, as well as minimum lot sizes of 86m² (attached or semi-detached dwellings) and 180m² for detached dwellings.
- The subject application known as 'Northern and Central Housing Precinct' seeks approval for the construction of 105 attached and detached dwellings with individual Torrens Title lot subdivision within community lots, and associated landscape and stormwater works.

These are the remaining dwellings that were approved under the concept and civil works DA (860/2022/JP) which was approved by the SCCPP on 3 November 2022 that included approval for 417 dwellings (165 dwelling houses and 252 apartments) and associated internal road and superlot arrangement, and civil works including tree removal, earthworks and new road construction. The subject built form application is consistent with the concept DA and satisfies Clause 4.24 of the Environmental Planning and Assessment Act.

- In addition to the concept DA, two other applications were approved concurrently, being:
 - DA 859/2022/JP – Southern Housing Precinct for the construction of 60 integrated attached and detached dwelling, associated subdivision and civil and landscape works,
 - DA 861/2022/JP - Apartment Precinct for 252 dwellings contained in four residential flat buildings, basement car parking for 456 vehicles, associated earthworks and landscaping.
- This application is accompanied by a request to vary Clause 4.3 Building Height development standard pursuant to Clause 4.6 of The Hills Local Environmental Plan. Clause 4.3 of LEP 2019 limits the height of the development site for land R3 Medium Density Residential to 9 and 12 metres. The proposal seeks to vary the maximum building height for 40 of the 105 dwellings that form the subject application, which range from variations of 0.22% up to 43.86%. Of the 40 dwellings, 34 dwellings have a variation of less than 10%, and 21 dwellings have a variation of less than 5%. On average, a variation of 6.11% is sought over the 40 dwellings. It is noted that similar variations to height were contemplated and approved by the Panel under the southern housing precinct (DA 859/2022/JP).
- With respect to the subject DA, the maximum exceedance in building height for the subject application relates to Dwelling 1.05, located in Superlot 1 which straddles the 9 and 12 metre height limit boundary. Dwelling 1.05 is 12.948m which is a 43.86% variation to the maximum 9 metre development standard and 13.602m, which is a variation of 13.35% to the 12 metre height standard. The breaches in height that are subject to the 4.6 variation are based on the existing ground levels prior to works commencing on the site, and do not reflect the future overall building height which are 2 and 3 storey built forms. The most significant breaches in the height limits are dwellings which are 'internal' to the site as the site topography becomes more variable. The development has been designed to encompass both the challenging topography of the site, and the internal road network that was approved as part of DA 860/2022/JP. It is considered that the breaches in height do not have a significant impact on the internal amenity of the site, nor does it represent an overdevelopment of the site. All non-compliances are generally internal to the site and will not impact existing neighbouring dwellings. Overall, the housing central and northern precinct development provides for 2 and 3 storey dwellings which were envisaged with the 9 and 12 metre height limit applied to the site when it was rezoned. It is considered that strict compliance is unreasonable and unnecessary in this instance and the variations to building height can be supported.
- The site is located on land identified as bushfire prone "Category 1" and 'Vegetation Buffer'. Pursuant to Section 4.46 of the EP&A Act 1979, development that requires authorisation under section 100B of the Rural Fires Act, 1997 is defined as Integrated Development. Section 100B identifies subdivision of land that could lawfully be used for residential or rural residential purposes or development of land for special fire protection purposes as development which requires a bush fire safety authority. The subject application includes subdivision, therefore Section 100B of the Rural Fire Act, 1997 applies and the application was referred to NSW Rural Fires Services (RFS). NSW RFS have

issued General Terms of Approval, and have provided a Bush Fire Safety Authority for the development.

- The application is defined as 'Nominated Integrated Development' under the provisions of Section 4.46 of the Environmental Planning and Assessment Act, 1979. The proposal requires approval under the provisions of the Water Management Act 2000. The proposal was referred to the Department of Planning and Environment—Water and General Terms of Approval (GTA) for part of the proposed development requiring a Controlled Activity approval under the Water Management Act 2000 (WM Act) have been provided.
- No tree removal is required or proposed as part of the subject DA. All tree removal was considered and approved under the demolition DA 585/2021/HC and as part of concept DA 860/2022/JP. To offset the loss of biodiversity from the site from the development, ecosystem and species credits were retired prior to clearing of vegetation under these applications. It was determined that the development on the site would not result in a Serious and Irreversible Impact on Blue Gum High Forest or the Large-eared Pied Bat (*Chalinolobus dwyeri*).
- The application was advertised and 10 submissions to the proposal were received which included 9 objections, and 1 submission in support. The main concerns raised relate to tree removal, fauna impacts, non-compliance with building height, and visual appearance of the development. These issues are addressed in the report and do not warrant refusal of the application.

The application is recommended for approval subject to conditions.

1. THE SITE AND LOCALITY

The site is legally identified as Lot 61 in Deposited Plan 737386, and has an address of 55 Coonara Avenue, West Pennant Hills. The site is located approximately 2.8 kilometres southeast of the Castle Hill town centre and 20 kilometres northwest of the Sydney Central Business District (CBD). The site is also located within the Cherrybrook Station Precinct and was identified by the 2013 North West Rail Link Cherrybrook Station Structure Plan as a significant site subject to further consideration and collaboration with stakeholders. Areas immediately to the east and south of the subject site form part of the Cumberland State Forest. To the north and west of the site are single dwelling houses.

The site has an area of 25.87 hectares and is located on the south-eastern side of Coonara Avenue, which generally slopes downhill from the intersection at Coonara Avenue and Castle Hill Road towards the south. The site was previously developed by IBM in the 1980's as a purpose-built business park consisting of a GFA of approximately 36,000m². The remainder of the site contains internal roads, 1,670 car parking spaces, landscaped gardens, open spaces and bushland.

The site contains critically endangered ecological communities (EECs) identified under the Biodiversity Conservation Act 2016, including Blue Gum High Forest and Sydney Turpentine Ironbark Forest. The site also contains habitat of threatened species including the Powerful Owl and the Dural Land Snail.

2. THE PROPOSAL AND BACKGROUND

2.1 The Proposal

The proposed development seeks consent for the Northern and Central Housing Precinct being:

- The construction of 105 dwellings, being:
 - 48 x 3 bedroom dwellings
 - 30 x 4 bedroom dwellings; and
 - 27 x 5 bedroom dwellings.
- Civil works including:
 - Earthworks necessitated to support proposed development and shape public open space areas,
 - Construction of internal roadways within the site (including public pathways),
 - Construction of onsite stormwater and drainage infrastructure,
- Landscaping works, including those within,
 - Individual dwelling allotments,
 - Internal road reserves, and,
 - Publicly accessible areas such as the public parks,
- Onsite utilities and connections (including power, water and telecommunications infrastructure) and other necessary infrastructure such as street lighting, and
- Torrens Title subdivision of the proposed dwellings within community lots.

It is noted that the construction of the 105 dwelling under the subject DA is the remainder of the dwellings approved under the concept master plan (DA 860/2022/JP).

The proposed lot sizes (153m² to 622m²) are substantially larger than the lot size development standards specified in THLEP 2019 (86m² and 180m² for attached and detached dwellings respectively).

Housing Central

The Central Housing Precinct comprises of 6 superlots, identified as Superlots 3A, 3B, 5A, 5B, 13A and 13B (refer figures 1 and 2 below). Superlots 3A, 3B, 5A and 5B are to be accessed from new roads (approved and constructed as part of 860/2022/JP) and superlots 13A and 13B will be accessed from the existing perimeter road.



Figure 1: Location of Central Housing Precinct. Source: Turf Design Studio



Figure 2: Central Housing Precinct superlot arrangement

Housing North

The location of Housing North within the site is shown on Figure 3 below:



Figure 3: Location of Northern Housing Precinct. Source: Turf Design Studio

The Northern Housing Precinct comprises of 7 superlots, identified as Superlots 1A, 1B, 2A, 2B, 4A and 4B (refer figure 4 below). Each of these lots is to be accessed from the existing northern driveway from Coonara Avenue (which is to be retained) and the embellished perimeter road.



Figure 4: location of Housing Northern Precinct. Source: Turf Design Studio

An overall site plan showing the superlot arrangement, and the site as a whole is provided in figure 5 below.



Figure 5: Location of Superlots (Source Northrop)

Background

A pre-lodgement meeting was held prior to the lodgement of the application on 2 December 2022.

The development application was lodged on 21 July 2023. The application was notified and advertised from 1 August 2023 to 6 September 2023. The Panel was briefed on 31 August 2023. On 8 December 2023 a letter was sent to the applicant requesting additional information relating to landscaping. On 16 January 2024 further correspondence was issued to the applicant requesting additional information relating to engineering matters. On 15 February 2024 additional information as provided by the applicant. On 7 June 2024 further landscape details were requested from the applicant.

2.2 Site History

The Planning Proposal

The site was subject to a Planning Proposal (1/2018/PLP) to re-zone the site from B7 Business Park to Residential and Environmental Conservation to facilitate a medium to high density residential development with a maximum yield of 600 dwellings and dedication of part of the site for the Cumberland State Forest. Whilst Council resolved on 19 November 2019 to write to the Minister for Planning and Public Spaces and request that the Minister determine that the planning proposal not proceed to finalisation, the planning proposal was subsequently approved and the Plan was made by the Minister's delegate on 17 June 2020. This planning proposal was included in the second tranche of planning assessments fast-tracked and finalised through the Planning System Acceleration Program.

The Hills LEP 2019 (Amendment No. 14) was made by the Minister's delegate on 17 June 2020 and was notified on the NSW Legislation website on 18 June 2020. The instrument rezoned the subject site from B7 Business Park to part R3 Medium Density Residential, R4

High Density Residential and E2 Environmental Conservation, increased the maximum height of buildings, minimum lot sizes and additional permitted uses on the land.

Demolition DA (DA 585/2021/HC)

A DA for the demolition of existing buildings and ancillary structures and associated vegetation clearing (585/2021/HC) was approved by the Local Planning Panel on 20 September 2021.

State Voluntary Planning Agreement

Mirvac Projects (Retail and Commercial) Pty Ltd submitted a VPA offer in association with residential development on the site, which proposes that the Developer will make monetary contributions to Council, of \$2 million towards the provision of active open space, in addition to the contributions levied under the Shire-Wide Section 7.12 Contributions Plan, at a rate of 1% of the cost of development. Accordingly, the VPA offer provides additional public benefits to Council and the community in the form of a \$2 million monetary contribution towards future active open space. The VPA was executed on 20 October 2022. The combination of Council's Section 7.12 Contributions Plan, the additional monetary contribution under the VPA and the outcomes intended to be delivered on-site by the Developer are considered to be sufficient to address the local infrastructure demand associated with the development.

Subdivision (DA 1414/2022/ZB)

Subdivision of the site into 5 lots to facilitate the development on the site. Three of the five lots (which are zoned C2 Environmental Conservation) are to be dedicated to the Minister administering the Environment and Assessment Act 1979. This DA was approved on 24 October 2022 by the LPP. As part of this DA there is a condition of consent requiring, prior to the issue of a Subdivision Certificate, the lots are to be dedicated to the Minister. As any subdivision registration must occur in sequence, this means the land must be dedicated before any subsequent subdivisions relating to built-form applications occur.

Housing South Precinct (DA 859/2022/JP)

Construction of 60 integrated attached and detached dwellings, individual lot subdivision and associated lot civil works and associated landscape works was approved by the SCCPP on 3 November 2022.

Concept Master Plan (DA 860/2022/JP)

Approval for 417 dwellings which includes 165 dwelling houses and 252 apartments, associated internal road and superlot arrangement, civil works including tree removal, earthworks and new road construction approved by the SCCPP on 3 November 2022.

Apartment Precinct (DA 861/2022/JP)

Apartment Precinct for 252 dwellings contained in four residential flat buildings, basement car parking for 456 vehicles, associated earthworks and landscaping approved by the SCCPP on 3 November 2022.

Referral to Commonwealth Department of Climate Change, Energy, the Environment and Water (DCCEEW)

Separate to the development applications that were subject to the site, the concept masterplan development was submitted to DCCEEW in August 2023 by Mirvac Projects Pty Ltd and the proposed action was declared a Controlled Action requiring further assessment under the Commonwealth Environment Protection and Biodiversity Conservation Act 1999 (EPBC Act) in September 2023. As part of the Commonwealth assessment process, the requisite Preliminary Documentation, along with several supporting documents were submitted to DCCEEW. The supporting documentation included the VMP prepared for the Concept Masterplan DA. This VMP was subsequently updated in response to DCCEEW review comments as well as subsequent discussion meetings with DCCEEW. The referral was

approved with conditions on 1 May 2024. The review comments were relatively minor in nature and did not include any significant alterations to proposed management actions.

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.

Further, the subject built form application is consistent with the concept application (DA 860/2022/JP) and satisfies Clause 4.24 of the Environmental Planning and Assessment Act

It is noted that the proposal is considered to be:

- Integrated Development (s4.46)

These matters are further considered below.

Rural Fire Services Act, 1997

The site is located on land identified as bushfire prone "Category 1" and 'Vegetation Buffer'. Pursuant to Section 4.46 of the EP&A Act 1979, development that requires authorisation under section 100B of the Rural Fires Act, 1997 is defined as Integrated Development. Section 100B identifies subdivision of land that could lawfully be used for residential or rural residential purposes or development of land for special fire protection purposes as development which requires a bush fire safety authority. The subject application includes subdivision, therefore Section 100B of the Rural Fire Act, 1997 applies. The application was referred to NSW Rural Fires Services (RFS) for review. NSW RFS have issued General Terms of Approval, and have provided a Bush Fire Safety Authority for the development, and have been included as condition 53, and a copy is also included as Attachment 16.

Water Management Act 2000

The application is defined as 'Nominated Integrated Development' under the provisions of Section 4.46 of the Environmental Planning and Assessment Act, 1979. The proposal requires approval under the provisions of the Water Management Act, 2000. The proposal was referred to the Department of Planning and Environment—Water and General Terms of Approval (GTA) for part of the proposed development requiring a Controlled Activity approval under the Water Management Act, 2000 (WM Act) have been provided and included as condition 54, and a copy is also included as Attachment 17.

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

The following Environmental Planning Instruments are relevant to this application:

- *State Environmental Planning Policy (Planning Systems) 2021*
- *State Environmental Planning Policy (Resilience and Hazards) 2021*
- *State Environmental Planning Policy (Biodiversity and Conservation) 2021*
- *State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004*
- *The Hills Local Environmental Plan 2019;*

A summary of the key matters for consideration arising from these State Environmental Planning Policies are outlined in **Table 1** and considered in more detail below.

Table 1: Summary of Applicable State Environmental Planning Policies

EPI	Matters for Consideration	Comply (Y/N)
Planning System SEPP	<ul style="list-style-type: none"> Section 2.19(1) declares the proposal as regionally significant development pursuant to Clause 2 of Schedule 6. 	Y
Resilience and Hazards SEPP	<ul style="list-style-type: none"> Clause 4.6 - Contamination and remediation has been considered in the Contamination Report and the proposal is satisfactory subject to conditions. 	Y
Biodiversity and Conservation SEPP	<ul style="list-style-type: none"> Chapter 2 Vegetation in non-rural areas and Chapter 6 Water Catchments. 	Y
LEP	<ul style="list-style-type: none"> Clause 2.6 - Subdivision Clause 4.1 – Lot size Clause 4.3 – Height of Buildings Clause 4.6 – Exceptions to Development Standards Clause 5.10 - Heritage Clause 5.21 - Flood Clause 6.3 - Servicing Clause 7.2 – Earthworks Clause 7.7 – Design Excellence Clause 7.15 – Development at 55 Coonara Avenue West Pennant Hills 	Y Y N Y Y Y Y Y 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 2 of Schedule 6 of the SEPP as the proposal is development for *general development* with a CIV of more than \$30 million (\$63,517,335.00). Accordingly, the Sydney Central City Planning Panel is the determining authority for the application.

State Environmental Planning Policy (Resilience and Hazards) 2021

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

Clause 4.6 of the SEPP states:

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

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

A Detailed Site Investigation (DSI) and accompanying letter, prepared by JBS & G and a Site Audit Report and accompanying letter prepared by Seversa was submitted as part of 860/2022/JP - the concept master plan DA, which identified the potential of contamination on the site, and whether or not the proposed future uses are suitable on the land.

The DSI concluded that *“there is no contamination on the site that represents an unacceptable risk to human or ecological receptors when considered against the most conservative land use as per NEPC 2013 – Residential with accessible soils and the site is suitable for the proposed [future] redevelopment for mixed land use including residential (townhouses and apartments buildings ranging from 2 storeys to 6 storeys) and recreational/open space land use.”* The Site Audit Report also confirmed that based on the information presented in JBS&G reports and observations made on site, and following the Decision-Making Process for Assessing Urban Redevelopment Sites in NSW EPA (2017) Guidelines for the NSW Site Auditor Scheme, the Auditor concludes that the site is suitable for the purposes of (future) residential with gardens and accessible soil. A condition of consent was imposed as part of DA 860/2022/JP as the civil works formed part of that DA which related to contamination and ground conditions (refer to condition no. 85 of DA 860/2022/JP).

In this regard, it is considered that the site is suitable for the proposed development with regard to land contamination and the provisions of SEPP Resilience and Hazards.

SEPP (Biodiversity and Conservation) 2021

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.

The provisions within Chapter 2 (Vegetation in non-rural areas) are not applicable to this proposal, as no tree removal is proposed. The provisions within Chapters 3 and 4 (Koala habitat protection 2020 and Koala habitat protection 2021) are not applicable to this proposal, as the site is not one to which these chapters apply.

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

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

sustainable development. A BASIX certificate has been provided to accompany the amended proposal.

The Hills Local Environmental Plan 2019

Permissibility

The site has multiple zones being, C2 Environmental Conservation, R3 Medium Density Residential and R4 High Density Residential under The Hills Local Environmental Plan 2019.

The subject application is located in the portion of the site zoned R3 Medium Density Residential and R4 High Density Residential.

The proposal seeks approval for attached, semi-detached and detached dwellings which are permissible in the R3 Medium Density and R4 High Density Residential zone.

Compliance with LEP 2019 – Zone Objectives

The portion of the site subject to the application is zoned R3 Medium Density and R4 High Density Residential under The Hills Local Environmental Plan 2019.

The objectives of the R3 zone are:

- *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 objectives of the R4 zone are:

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

The proposal is considered to be consistent with the stated objectives of the zones, in that the proposal will provide for medium density development to meet the housing and facility needs of the community which is in close proximity to public transport. A variety of housing forms are proposed as part of the application including attached, semi-detached and detached dwelling with a mix of 3, 4 and 5 bedroom dwellings.

The Hills LEP 2019 - Development Standards

The following addresses the principal development standards of the LEP relevant to the subject proposal. The LEP also contains miscellaneous provisions and local provisions. The provisions relevant to the proposal are considered in **Table 2** below.

Table 2: Consideration of the LEP Controls

CLAUSE	REQUIRED	PROVIDED	COMPLIES
4.1 Minimum Lot Size	700m ² , 1,800m ² , 6,000m ² and 2ha.	Integrated development with community title subdivision, and individual Torrens Title lots proposed. Refer Clause 7.15 below. Superlot subdivision proposed under DA 1414/2022/ZB.	Yes – refer below.
4.3 Building Height	The R3 Medium Density Residential zoned portion of the site is subject to a maximum height of 9m and 12m.	The maximum exceedance in dwelling height is Dwelling 1.05 at 12.948m, a 43.86% variation to the 9 metre building height standard.	No, refer to discussion below.
4.4 Floor Space Ratio	Not applicable to the site.	N/A	N/A
4.6 Exceptions to development standards	Exceptions will be considered subject to appropriate assessment.	A variation to Clause 4.3 Height of Buildings is proposed and addressed below.	Yes, refer to discussion below.
5.10 Heritage	The site is located on land adjoining a heritage item (Clause 5.10 (5)(c)), being the Local Item A26, archaeological site - site Cumberland State Forest, Bellamy Quarry and Sawpit located to the east of the site.	A Heritage Impact Statement has been provided with the application which addresses the impact of the proposal on the adjoining heritage item.	Yes
5.21 Flood Planning	Development to be compatible with flood function and behaviour.		Yes, refer to discussion below.
7.2 Earthworks	Development consent required for earthworks and considerate of impacts.		Yes, refer to discussion below.
7.7 Design Excellence	Development consent must not be granted unless the development exhibits design excellence.	The development has achieved design excellence.	Yes, refer to discussion below.
7.15 Development at 55 Coonara	Refer below for site specific clause.		Yes

Avenue, West Pennant Hills			
Schedule 1 Additional Permitted Uses Clause 17	<p>Use of certain land at 55 Coonara Avenue – Items 24 and 25.</p> <p>2) Development for the purposes of recreation areas or recreation facilities (indoor) is permitted with development consent on the land shown as “Item 23”.</p> <p>(3) Development for the following purposes is permitted with development consent on the land shown as “Item 24”—</p> <p>(a) building identification signs,</p> <p>(b) kiosks,</p> <p>(c) recreation areas,</p> <p>(d) restaurants or cafes, but only if the gross floor area of any restaurant or cafe on the land does not exceed 50 square metres.</p>	The uses for those items will be subject to a separate (future) DA.	N/A to subject DA.

Variation to Clause 4.3 Height of Buildings

This application is accompanied by a request to vary Clause 4.3 Building Height development standard pursuant to Clause 4.6 of The Hills Local Environmental Plan. Clause 4.3 of LEP 2019 limits the height of the development site (R3 Medium Density Residential zoned portion of the site) to 9 and 12 metres.

The proposal seeks to vary the maximum building height for 40 of the 105 dwellings that form the subject application.

Overall, the maximum exceedance in building height for the subject application is:

- **9 metre height limit** - Dwelling 1.05, located in Superlot 1 straddles the two height limits of 9m and 12 metres. The dwelling over the portion of the land which has a maximum height limit is 9 metres and the maximum dwelling height is 12.948m, a 43.86% variation to the development standard.
- **12 metre height limit** - Dwelling 1.05, located in Superlot 1 straddles the two height limits of 9m and 12 metres. The dwelling over the portion of the land which has a maximum height limit is 12 metres has a maximum dwelling height is 13.602, a 13.35% variation to the development standard. It is noted that this dwelling when measured from the future or proposed ground level complies with the 12m maximum building height.

It is noted that the dwellings located in Superlot 13 in the Central Housing Precinct are located in the R4 zoned portion of the site which is subject to a 22 metre height limit. No exceedance in height are proposed for these dwellings.

A summary of the dwellings exceeding the maximum height limit have been detailed below.

The applicant has provided a Clause 4.6 Variation which is provided at Attachment 15.

On 1 November 2023, reforms commenced to Clause 4.6 Exceptions to Development Standards. In accordance with Schedule 6 of the Environmental Planning and Assessment Regulations 2021, the reforms apply only to a Development Application made on or after 1 November 2023. The subject application was lodged on 21 July and has been determined as if changes had not commenced.

Clause 4.6 Exceptions to Development Standards states:

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

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

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

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

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

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

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

(b) the concurrence of the 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) 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) After determining a development application made pursuant to this clause, the consent authority must keep a record of its assessment of the factors required to be addressed in the applicant's written request referred to in subclause (3).
- (8) This clause does not allow development consent to be granted for development that would contravene any of the following:
- (a) a development standard for complying development,
 - (b) a development standard that arises, under the regulations under the Act, in connection with a commitment set out in a BASIX certificate for a building to which [State Environmental Planning Policy \(Building Sustainability Index: BASIX\) 2004](#) applies or for the land on which such a building is situated,
 - (c) clause 5.4,
 - (ca) clause 6.2 or 6.3,
 - (caa) clause 5.5,
 - (cab) (Repealed)
 - (ca) clause 6.2 or 6.3,
 - (cb) clause 7.11,
 - (cc) clause 7.15.

In determining the appropriateness of the variation request, a number of factors identified by the Applicant have been taken into consideration to ascertain whether the variation is supportable in this instance. The applicant has advised that the contraventions proposed are generally a result of:

- The existing site being located within a challenging topographical setting; in addition to significant slopes across the site, the directions of those slopes dictate the orientation of residential development on the site to ensure that adequate solar access is provided to private open space and internal living areas,
- The placement of the dwellings within sloped areas is dictated by the approved locations and levels of the internal road network. The placement of the internal road network includes an existing perimeter ring road that abuts areas containing BGHF and STIF (thereby acting as a physical delineation point between existing remnant forested areas and the previously disturbed portion of the site), and was the subject of the earlier rezoning of the site and subsequent planning approvals associated with earlier residential approvals on the site. In essence this is a fixed topographical and development constraint which protects areas of high value biodiversity on the site,
- The necessity to slightly change the placement of part of the internal road network within the 'Housing North' precinct (required so that the design and gradients of the

road comply with relevant Australian Standards), which has resulted in some proposed allotments being subject to varying building height development standards,

- *Restrictions associated with easements within the site, in particular an easement within the proposed Housing North precinct, the purpose of which is to protect Sydney Water infrastructure within that part of the site. In addition to influencing the locations of some dwellings, ground levels within those easements cannot be changed due to the locations and levels of infrastructure within the easements; this dictate the amount and locations of earthworks around the site as a result of:*
 - *Necessary modifications to the levels so that they match levels within the easement, and*
 - *Such modifications to site levels have flow-on impacts, since they influence changes to ground levels within the wider area as a consequence of needing to provide appropriate gradients for internal roads and footpaths.*

As increases to ground levels need to be included when calculating the height of buildings, topographical modifications in response to easement constraints are therefore partially attributable to some of the proposed height variations,

- *The need for various-sized and family-oriented dwellings to provide floor plates and levels that facilitate logical, flexible and functional internal layouts that also provide high levels of amenity, within a medium density environment providing for small lots, which prevents dwellings with larger building footprints and further stepping along slopes within the site,*
- *Altering existing ground levels both as a consequence of:*
 - *Earlier site and topographical modifications associated with the International Business Machines (IBM) Business Park that was previously constructed on the site,*
 - *Ensuring that the levels of the proposed residential development are compatible with other parts of the site, particularly in areas where altered ground levels have occurred as a result of earlier approvals for major civil works and internal roadways,*
- *The lodgement of this DA as a single application for detailed civil works and the proposed dwellings. Had the proposed development been lodged as two separate proposals (i.e. a detailed civil works DA followed by a DA for the proposed dwellings), then both the number of dwellings affected by height non-compliances and the size of those non-compliances would be significantly reduced.*
- *The need to provide for a built form that, pursuant to clause 7.7 of THLEP 2019:*
 - *Is of a high standard of architectural design (including high levels of articulation and associated features such as parapets and skylights),*
 - *Provides a high quality and congruous visual presentation that improves the quality and amenity of the public domain, and*
 - *Maintains the existing and desired future character of the area.*

Comment:

The approved Concept Development Application (DA 860/2022/JP) includes civil works, including bulk earthworks and proposed new site levels. Final detailed lot civil works are proposed as part of this subject application. If the subject Central / Northern Precinct was lodged following completion of the detailed earthworks proposed as part of concept DA, the predicted height departures would be significantly reduced.

The applicant has provided a Clause 4.6 variation that considers the existing ground levels, in accordance with the definition provided in THLEP, and also identifies the proposed finished ground levels, subject of this DA, which will become the existing ground levels at the time the

dwellings within the Central and Northern Precinct are constructed. The applicant has referred to the ground level subject to approval with the subject DA as the “*Finished Ground Levels*”.

The proposal seeks to vary the maximum building height for 40 of the 105 dwellings that form the subject application.

The specific heights for the proposed buildings that breach the height limit are summarised in the below tables:

1. Building height variations within Superlot 1

Table 3 below provides a summary of the 11 dwellings within Superlot 1 that result in a variation to the height of building standard

Dwelling	Maximum Building height (metres)	Proposed Building Height (metres)	Encroachments percentage (%)
1.01	9m	10.735	19.28
1.04	9m 12m	10.459 11.77	16.21 -
1.05	9m 12m	12.948 13.602	43.86 13.35
1.06	9m	9.673	7.48
1.07	9m	9.675	6.64
1.08	9m	9.675	7.5
1.09	9m	10.438	15.97
1.10	9m	9.175	1.94
1.11	9m	9.1	1.11
1.13	9m	9.1	1.11
1.14	9m	9.38	3.53

Table 3: Building height variations for Superlot 1

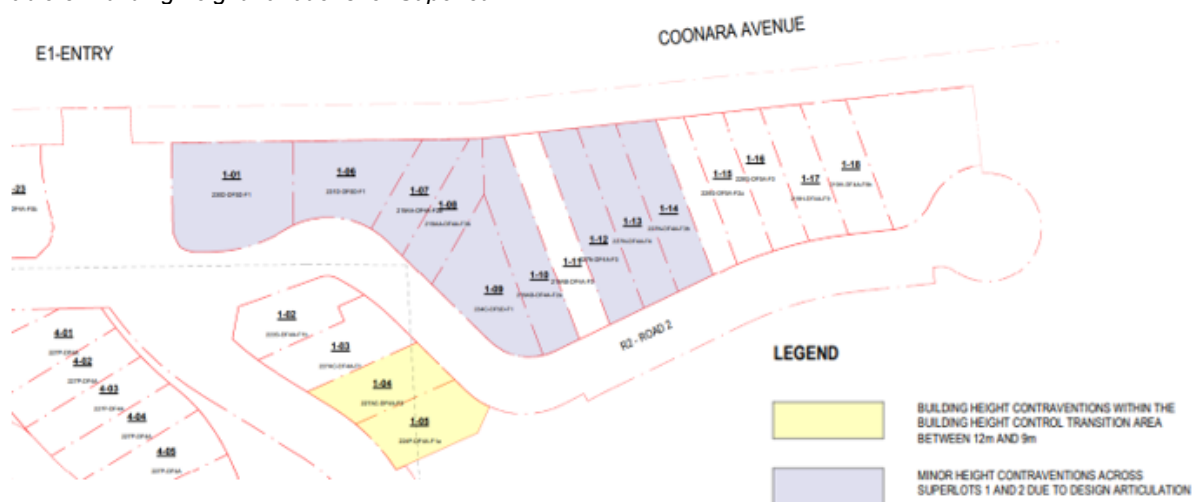


Figure 6: Lots in Superlot 1 shown in yellow exceed the maximum height limit 12 m height limit, and lots shown in purple exceed the 9m height limit. (Source: Mirvac Design)

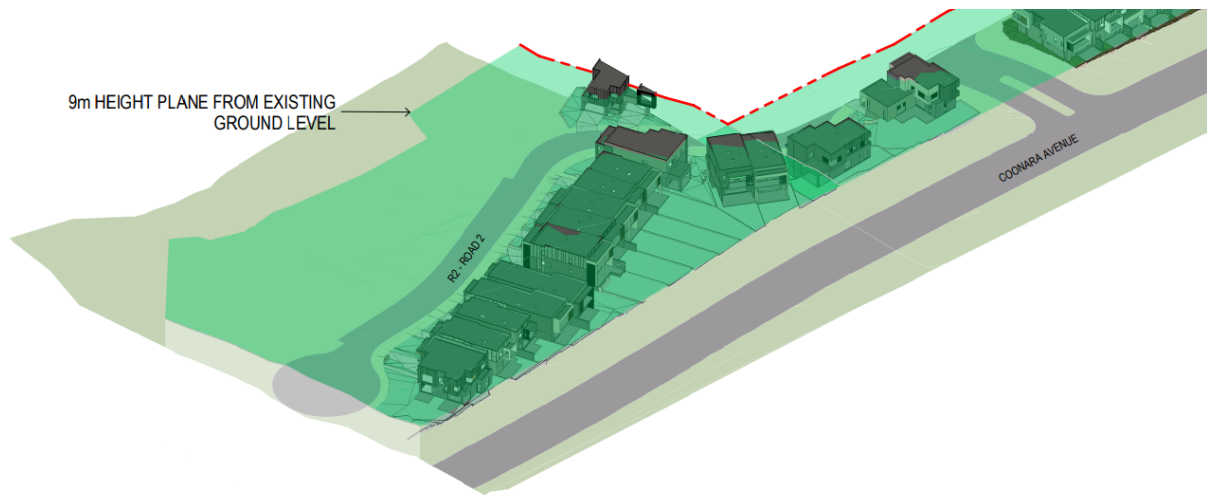


Figure 7: Birds eye view from the top of Coonara Avenue, looking south, down on to Superlot and the 9 metre height plane shown in green, and the dwellings exceed the 9m height limit protruding through the green height plane. (Source: Mirvac Design)

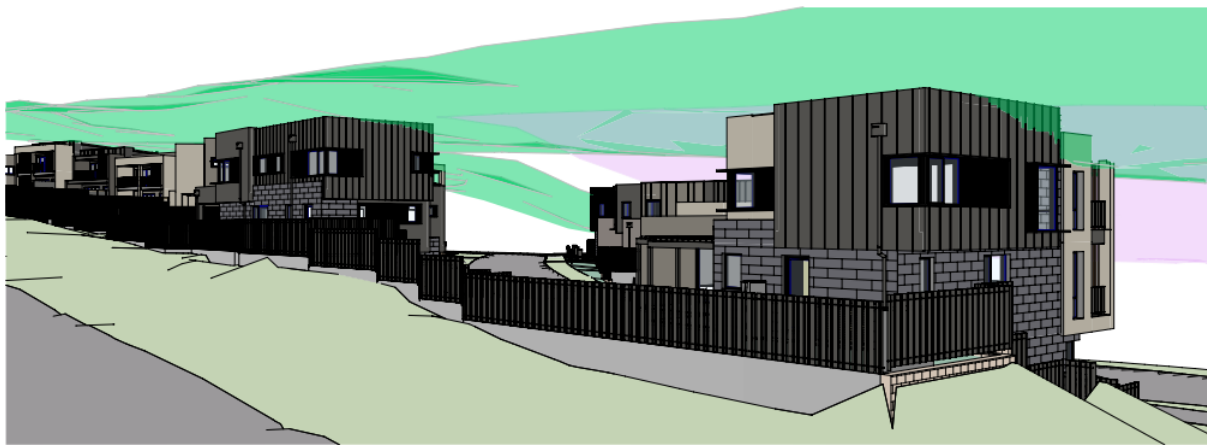


Figure 8: View of Superlot 1, looking north/east – up Coonara Avenue. Dwelling 1.01 on the right hand side of image which show height exceedance to 9m height limit. (Source: Mirvac Design)

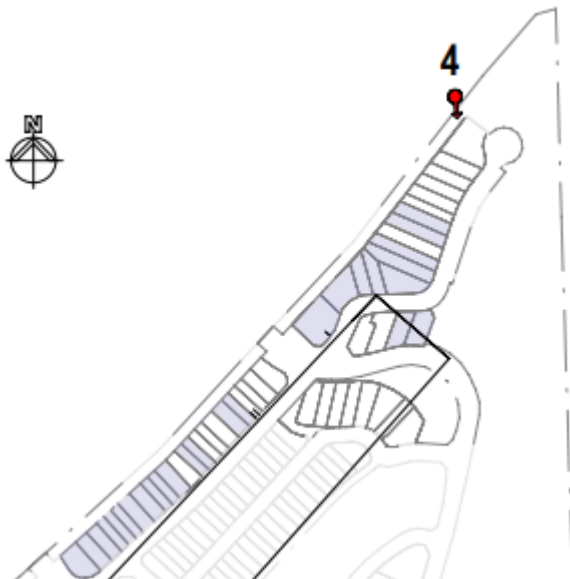


Figure 9: View of Superlot 1, looking south/west down Coora Avenue. (Source: Mirvac Design)

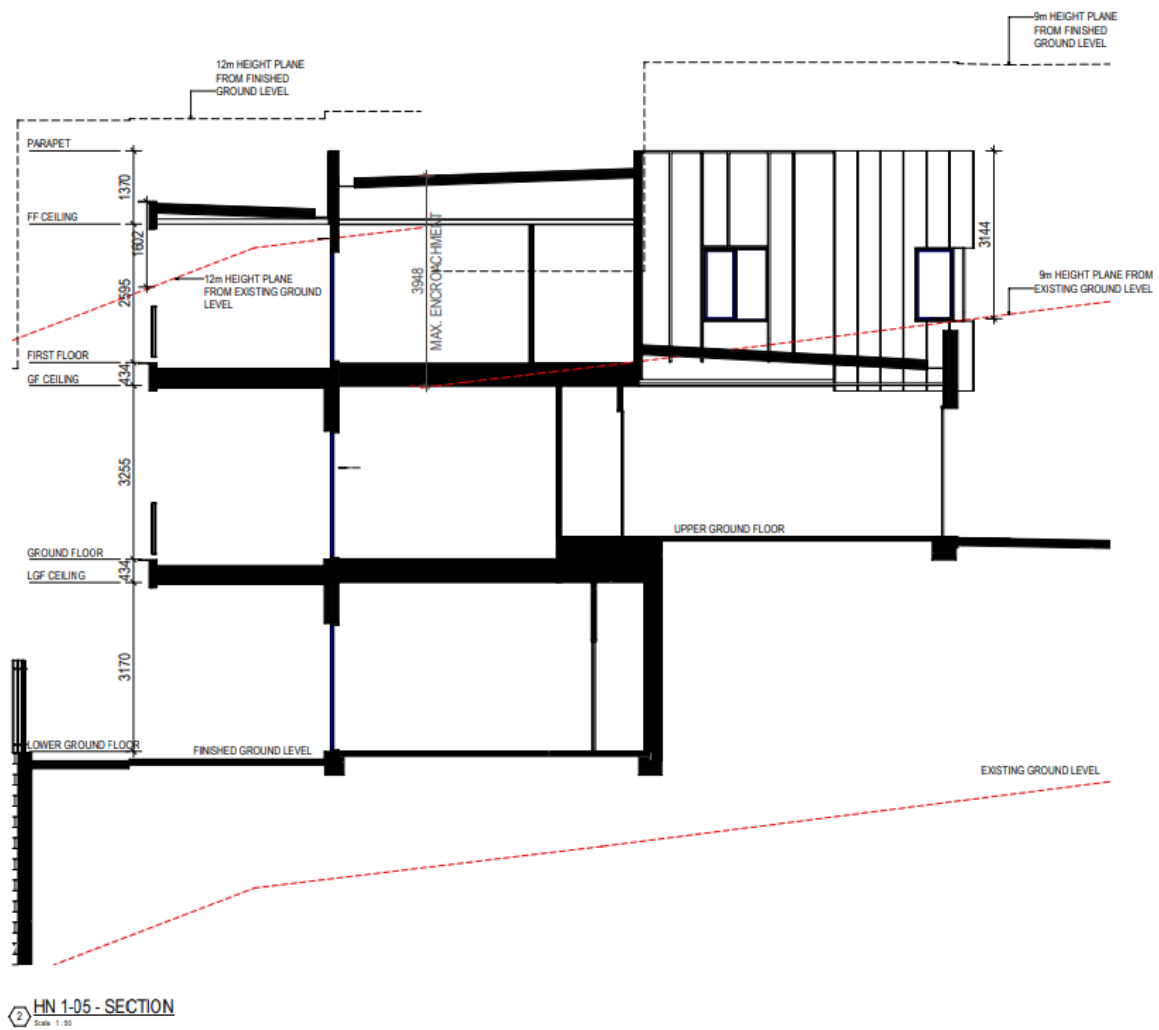


Figure 10: Cross section of Dwelling 1.05 which down the exceedance in height to the 9m and 12m height limit. (Source: Mirvac Design)



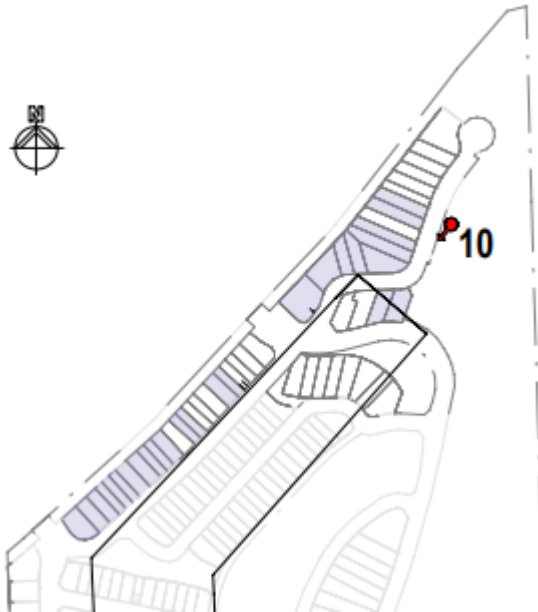


Figure 11: View of Dwelling 1.05 (boxed in yellow) looking south, down the internal road to the dwelling. Dwelling 1.05 is the maximum exceedance and as the images above shows its located over both the 9m and 12 metre height limit area. (Source: Mirvac Design)

2. Building height variations within Superlot 2

Table 4 provides a summary of the 15 dwellings with Superlot 2 that result in a variation to the height of building standard.

Dwelling	Maximum height (metres)	Building Proposed (metres)	Building Height	Encroachments percentage (%) – Existing ground levels
2.01	9m	9.594		6.6
2.02	9m	9.296		3.43
2.03	9m	9.309		3.43
2.04	9m	9.594		6.6
2.05	9m	9.174		1.93
2.06	9m	9.481		5.34
2.07	9m	9.665		7.38
2.08	9m	9.859		9.54
2.09	9m	10.094		12.15
2.10	9m	10.214		13.48
2.11	9m	9.767		8.52
2.13	9m	9.059		0.65
2.14	9m	9.173		1.92
2.18	9m	9.091		1.01
2.19	9m	9.02		0.22

Table 4: Building height variations for Superlot 2

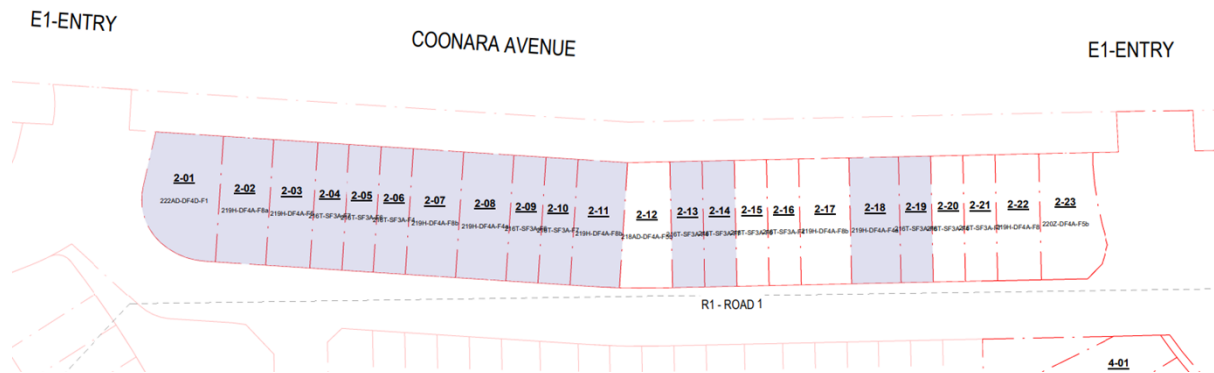


Figure 12: Dwellings in Superlot 2 shown in purple which exceed the 9 metre height limit. (Source: Mirvac Design)

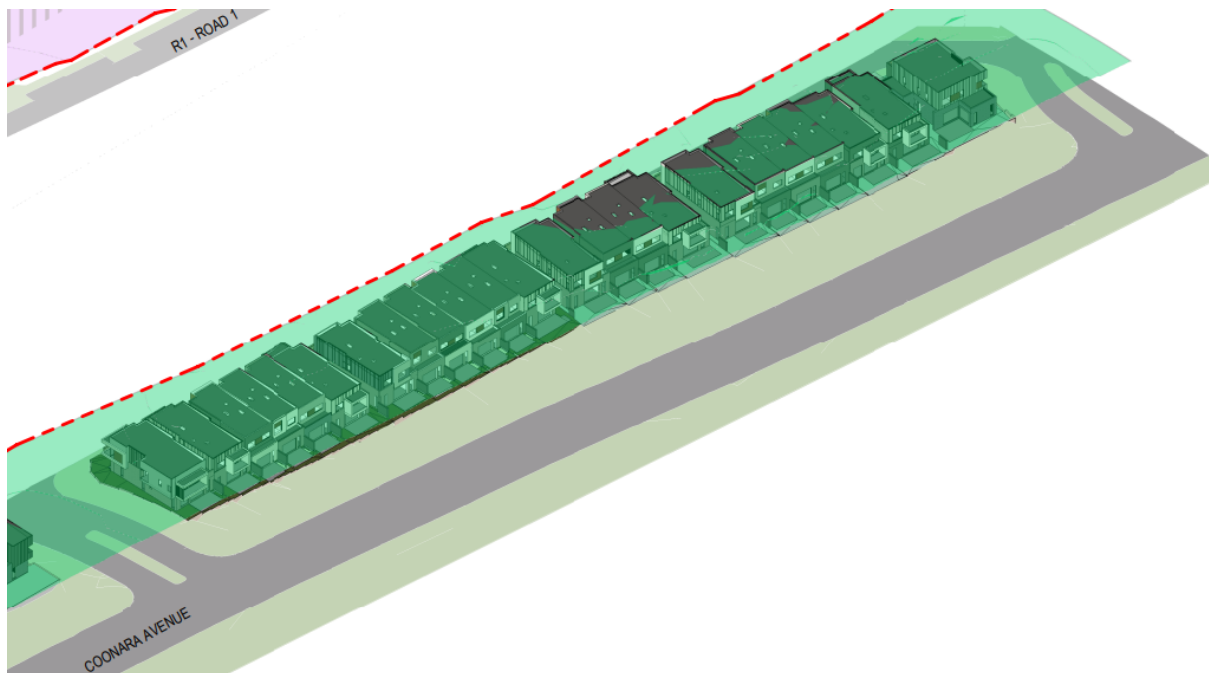


Figure 13: Birds eye view of Superlot 2, looking down to the south east, across Coonara Avenue. The 9 metre height plane shown in green (Source: Mirvac Design)



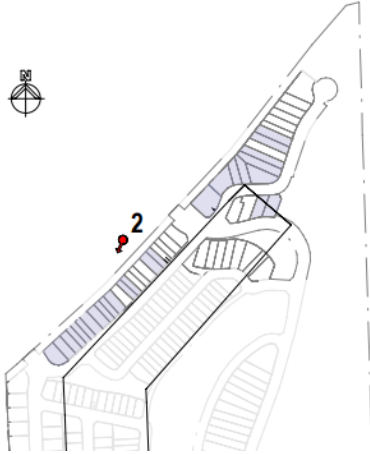


Figure 14: Looking from Coonara Avenue (looking south) with the rear of the dwellings for Superlot 2. (Source: Mirvac Design)

3. Building height variations within Superlot 3 and Superlot 5

Table 5 provides a summary of the 5 dwellings with Superlot 3, and the 9 dwellings within Superlot 5 that result in a variation to the height of building standard.

Dwelling	Maximum height (metres)	Building Height (metres)	Proposed Building Height (metres)	Encroachments percentage (%) – Existing ground levels
3.05	12m	12.133	12.133	1.11
3.06	12m	12.028	12.028	0.23
3.07	12m	12.516	12.516	4.3
3.09	12m	12.5	12.5	4.16
3.10	12m	12.859	12.859	7.15
5.07	12m	12.359	12.359	2.99
5.08	12m	12.158	12.158	1.32
5.09	12m	12.324	12.324	2.7
5.10	12m	12.718	12.718	5.98
5.11	12m	12.338	12.338	2.81
5.12	12m	12.438	12.438	3.65
5.13	12m	12.728	12.728	6.06
5.14	12m	12.878	12.878	7.32
5.15	12m	12.478	12.478	3.98

Table 5: Dwellings in superlots 3 and 5 that exceed the 12m height standard..

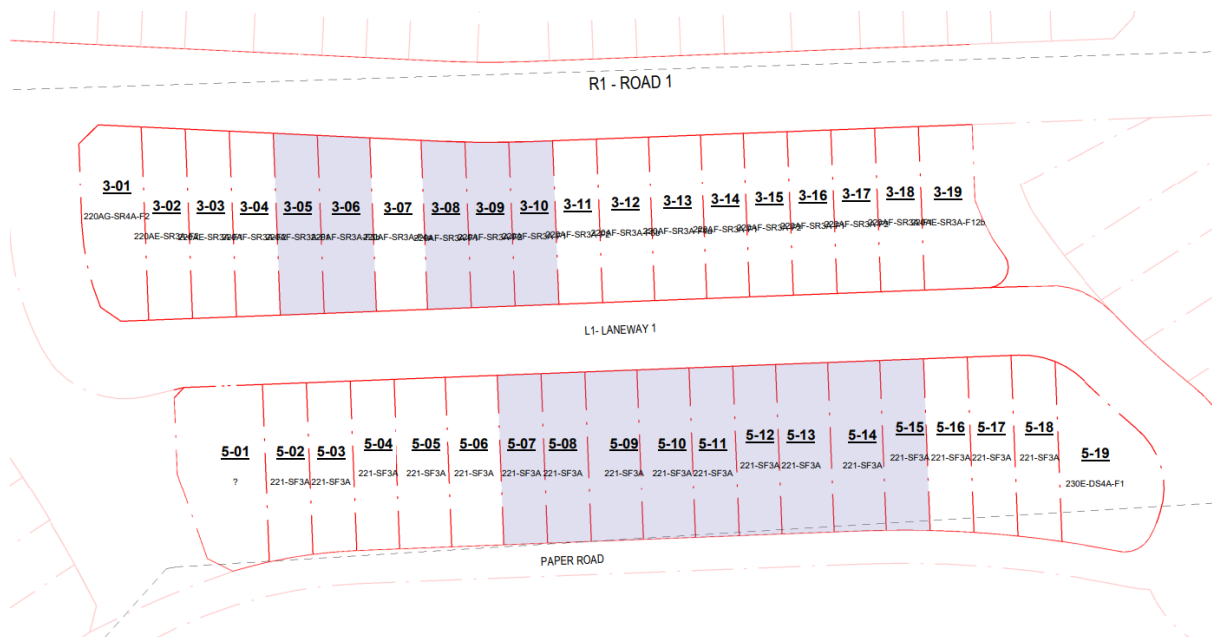


Figure 15: Dwellings in Superlots 3 and 5 shown purple that exceed the 12m height limit. (Source: Mirvac Design)



Figure 16: Birds eye view of Superlots 3 and 5, looking from the northern part of the site, down to the west of the site (with the apartment precinct down in orange). The 12 metre height plane shown in purple (Source: Mirvac Design)

The objective of Clause 4.3 'Building Height' is to ensure that the height of buildings is compatible with that of adjoining development and the streetscape. Additionally, the building height development standard aims to minimise the impact of overshadowing, visual impact, and loss of privacy on adjoining properties and open space areas. As such, the development standard for building height and the development controls for building setbacks, building design, solar access and overshadowing have been considered with respect to the merits of a variation pursuant to Clause 4.6.

The proposal seeks to vary the maximum building height for 40 of the 105 dwellings that form the subject application, which range from variations of 0.22% up to 43.86%. Of the 40 dwellings, 34 dwellings have a variation of less than 10%, and 21 dwellings have a variation of less than 5% (which is just over half of the dwellings). On average, a variation of 6.11% is sought over the 40 dwellings.

The dwellings along Superlots 1 and 2 have a two storey appearance from Coonara Avenue, with some of the dwellings having a very minor encroachment due to the sloping nature of the land, which slopes away from Coonara Avenue. This results in the encroachments mainly being internal to the site (and not visible from the public domain). The interface to Coonara Avenue is 2 storeys (rear of the dwelling) with flat roofs. The most significant breaches in the height limits are dwellings which are 'internal' to the site as the site topography becomes more variable. The development has been designed to encompass both the challenging topography of the site, and the internal road network that was approved as part of DA 860/2022/JP. It is considered that the breaches in height do not have a significant impact on the internal amenity of the site, nor does it represent an overdevelopment of the site. Overall, the housing central and northern precinct development provides for 2 and 3 storey dwellings which were envisaged with the 9 and 12 metre height limit applied to the site when it was rezoned.

The applicant has adequately demonstrated that the proposed development is in the public interest and is consistent with the objectives of Clause 4.3 'Building Height' and the R3 Medium Density Residential zone. The variation to building height will not create buildings of excessive height, bulk or scale nor will it cause undue impacts upon the amenity of adjoining residential properties. A variation to the building height in this instance is considered to be satisfactory and can be supported.

Specifically, in relation to recent judgments of the Land and Environment Court, for the reasons identified in this report and the Applicant's Clause 4.6 Variation Request, it is considered that the variation can be supported as:

- The Applicant's request is well founded;
- The proposed variation results in a development that is consistent with the objectives of Clause 4.3 Height of Building and the R3 Medium High Density zone objectives;
- Compliance with the standard is unnecessary or unreasonable in this instance and there are sufficient environmental grounds to justify the contravention;
- Strict compliance with the building height development standard is considered unreasonable and unnecessary in this instance; and
- The proposed development will be in the public interest because it is consistent with the objectives of the development standard and the objectives for the development within the relevant zone.

Court cases dealing with applications to vary development standards resulted in the Land and Environment Court setting out a five part test for consent authorities to consider when assessing an application to vary a standard to determine whether the objection to the development is well founded. In relation to the 'five part test' the objection to the building height is well founded on Part 1 of the test as the objectives of these standards are achieved notwithstanding non-compliance with the standards.

It is also noted that in accordance with the Departments Circular PS 18-003 that Director General's concurrence can be assumed in respect of any Environmental Planning Instrument that adopts Clause 4.6 Exceptions to Development Standards of the Standard Instrument or a similar clause.

Clause 5.21 - Flood planning

The objectives of this clause are as follows:

- *to minimise the flood risk to life and property associated with the use of land,*
- *to allow development on land that is compatible with the flood function and behaviour on the land, taking into account projected changes as a result of climate change,*

- *to avoid adverse or cumulative impacts on flood behaviour and the environment,*
- *to enable the safe occupation and efficient evacuation of people in the event of a flood.*

Comment: Currently, a natural watercourse traversing the site diagonally from east to west conveys stormwater runoff from the upstream catchment and merges with a minor tributary conveying the site, ultimately discharging at the south-western boundary. As a result, the site and properties downstream in the locality are identified as flood control lots.

As part of 860/2022/JP, the infrastructure works including road and drainage works, earthworks and stormwater management works were approved. The applicant provided multiple reports and supporting documentation to address flooding and stormwater management measures for the site, to facilitate the future development.

Overall, the proposal has demonstrated appropriate and sufficient flood and stormwater measures to ensure no adverse impacts result from the proposal.

Clause 7.2 Earthworks

The relevant objective of this clause is:

- *to ensure that earthworks for which development consent is required will not have a detrimental impact on environmental functions and processes, neighbouring uses, cultural or heritage items or features of the surrounding land*

Comment: The significant bulk earthworks for the overall development formed the approval for DA 860/2022/JP. Minor earthworks are proposed to facilitate the construction of the Housing Central and Northern Precinct, with no earthworks proposed as part of the subject application within the vicinity of neighbouring properties to the west (in The Glade). No earthworks are proposed within the 8 metre vegetated setback along Coonara Avenue which is subject to the VMP (approved as part of DA 860/2022/JP). Overall, the earthworks proposed as part of the development will not have detrimental impacts and are consistent with the clause above.

Clause 7.7 Design Excellence

The Design Excellence of the proposal was assessed as part of DA 860/2022/JP.

The Clause also prescribes that development consent must not be granted to development to which this clause applies unless the consent authority considers that the development exhibits design excellence. In considering whether the development exhibits design excellence, the consent authority must have regard to the following matters:

- whether a high standard of architectural design, materials and detailing appropriate to the building type and location will be achieved,*
- whether the form, arrangement and external appearance of the development will improve the quality and amenity of the public domain,*
- whether the development detrimentally impacts on view corridors,*
- whether the development detrimentally impacts on any land protected by solar access controls established under a development control plan,*
- the requirements of any development control plan to the extent that it is relevant to the proposed development,*
- how the development addresses the following matters:*

- (i) *the suitability of the land for development,*
- (ii) *existing and proposed uses and use mix,*
- (iii) *heritage issues and streetscape constraints,*
- (iv) *the relationship of the development with other development (existing or proposed) on the same site or on neighbouring sites in terms of separation, setbacks, amenity and urban form,*
- (v) *bulk, massing and modulation of buildings,*
- (vi) *street frontage heights,*
- (vii) *environmental impacts such as sustainable design, overshadowing, wind and reflectivity,*
- (viii) *the achievement of the principles of ecologically sustainable development,*
- (ix) *pedestrian, cycle, vehicular and service access, circulation and requirements,*
- (x) *the impact on, and any proposed improvements to, the public domain,*
- (xi) *the configuration and design of public access areas, recreation areas and communal open space on the site and whether that design incorporates exemplary and innovative treatments,*

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

It should also be noted that Clause 7.15 (4) of the LEP states that:

(4) Clause 7.7 (other than clause 7.7(4)(g)) extends to development on the subject land involving the erection of a new building, or external alterations to an existing building, of any height.

Noting the above clause, any development at 55 Coonara Avenue is to demonstrate design excellence, however not always required to be subject to review of the Design Excellence Panel. In this instance, both the both the concept application (DA 860/2022/JP) and the residential flat building (861/2022/JP) were presented at the DEP meeting, as these two applications proposed development of 25 metres or more.

With regard to Clause 7.7(4)(a), the design has been amended to ensure that the standard of design, building materials, building type and location is consistent with the context of the site and the surrounding bushland.

With regard to Clause 7.7(4)(b), the high level of architectural design ensures that the form, arrangement and external appearance of the development will improve the quality and amenity of the public domain.

With regard to Clause 7.7(4)(c), the Applicant has adequately demonstrated that there would be negligible impacts to view corridors from both the public domain and internal view corridors have been considered.

With regard to Clause 7.7(4)(d), the proposal results in no significant impact on adjoining properties in terms of overshadowing.

With regard to Clause 7.7(4)(e), the proposed development has been assessed in detail and addressed in this report.

With regard to Clause 7.7(4)(f), subclauses (i) to (xi) the applicant has adequately demonstrated that the development satisfactorily addresses the matters noted in the clause.

In this regard, the proposal satisfies the provisions of Clause 7.7 of LEP 2019.

Clause 7.15 Development at 55 Coonara Avenue, West Pennant Hills

Clause 7.15 specifies the following:

- (1) *This clause applies to land at 55 Coonara Avenue, West Pennant Hills, being Lot 61, DP 737386 (the subject land).*
- (2) *Development consent may be granted to a single development application for development on the subject land in Zone R3 Medium Density Residential or Zone R4 High Density Residential that is both of the following—*
- (a) the subdivision of land into 2 or more lots,*
 - (b) the erection of a dwelling house, an attached dwelling or a semi-detached dwelling on each lot resulting from the subdivision, if the size of each lot is equal to or greater than—*
 - (i) for the erection of a dwelling house—180 square metres, or*
 - (ii) for the erection of an attached dwelling or a semi-detached dwelling—86 square metres.*

Comment: With respect to Clause 7.15 (2)(a) the application includes subdivision of the individual lots in the R3 and R4 Zones, with dwellings houses having lots of 180m² or greater, and attached dwellings having lots 86m² or greater. As identified in the table below, for the Central and Northern Housing Precinct, the minimum lot size for an attached or semi-detached dwelling is 153.6m² and the minimum lot size for a detached dwelling is 340.7m², both meeting the minimum lot sizes of 86m² and 180m² respectively.

Lot Number	Dwelling Type	Lot Size (m ²)	Compliance
76	Semi-detached	309.5	Yes
77	Attached	171	Yes
78	Attached	167.1	Yes
79	Attached	162.9	Yes
80	Attached	160.3	Yes
81	Semi-detached	189.6	Yes
82	Semi-detached	159.3	Yes
83	Attached	189.6	Yes
84	Attached	159.3	Yes
85	Semi-detached	189.6	Yes
86	Semi-detached	189.6	Yes
87	Attached	159.3	Yes
88	Attached	159.3	Yes
89	Semi-detached	189.6	Yes
90	Semi-detached	189.6	Yes
91	Attached	159.3	Yes
92	Attached	160	Yes
93	Attached	163.7	Yes
94	Semi-detached	311.6	Yes
95	Semi-detached	383	Yes
96	Attached	252.1	Yes
97	Semi-detached	369.3	Yes
98	Semi-detached	317.5	Yes
99	Attached	262.4	Yes
100	Attached	258.2	Yes
101	Attached	255.1	Yes
102	Semi-detached	311.1	Yes
103	Semi-detached	242.3	Yes

Lot Number	Dwelling Type	Lot Size (m²)	Compliance
104	Attached	179.5	Yes
105	Attached	176	Yes
106	Attached	172.4	Yes
107	Attached	168.9	Yes
108	Semi-detached	196.3	Yes
109	Semi-detached	191.3	Yes
110	Attached	157	Yes
111	Attached	154.5	Yes
112	Attached	153.6	Yes
113	Attached	153.6	Yes
114	Semi-detached	182.7	Yes
115	Semi-detached	182.7	Yes
116	Attached	153.6	Yes
117	Attached	153.6	Yes
118	Attached	153.6	Yes
119	Attached	153.6	Yes
120	Attached	153.6	Yes
121	Semi-detached	221.5	Yes
122	Dwelling - Detached	340.7	Yes
123	Semi-detached	250.3	Yes
124	Attached	219.9	Yes
125	Attached	159.9	Yes
126	Attached	159.9	Yes
127	Attached	159.9	Yes
128	Semi-detached	250.3	Yes
129	Semi-detached	250.3	Yes
130	Attached	159.9	Yes
131	Attached	159.9	Yes
132	Semi-detached	250.2	Yes
133	Semi-detached	237	Yes
134	Attached	160	Yes
135	Attached	160	Yes
136	Attached	160	Yes
137	Attached	160	Yes
138	Semi-detached	250.3	Yes
139	Semi-detached	250.3	Yes
140	Attached	160	Yes
141	Attached	160	Yes
142	Attached	160	Yes
143	Attached	217.4	Yes
144	Semi-detached	291.6	Yes
145	Dwelling - Detached	623	Yes
146	Semi-detached	374.1	Yes
147	Attached	323.1	Yes
148	Attached	342.6	Yes
149	Attached	355.3	Yes
150	Semi-detached	423.5	Yes
151	Semi-detached	426.6	Yes
152	Attached	367.8	Yes
153	Attached	366.8	Yes
154	Attached	363.3	Yes
155	Attached	358.2	Yes
156	Semi-detached	414	Yes
157	Semi-detached	406.9	Yes
158	Attached	349.6	Yes
159	Attached	348.9	Yes
160	Attached	350	Yes

Lot Number	Dwelling Type	Lot Size (m ²)	Compliance
161	Semi-detached	419.5	Yes
162	Semi-detached	309	Yes
163	Attached	279.3	Yes
164	Attached	339	Yes
165	Semi-detached	301.5	Yes
166	Dwelling - Detached	618.7	Yes
167	Dwelling - Detached	420.7	Yes
168	Semi-detached	236.4	Yes
169	Semi-detached	258.4	Yes
170	Dwelling - Detached	414.6	Yes
171	Semi-detached	414.7	Yes
172	Attached	353.5	Yes
173	Attached	372.6	Yes
174	Attached	348	Yes
175	Semi-detached	334.4	Yes
176	Semi-detached	285.9	Yes
177	Attached	264.1	Yes
178	Attached	270	Yes
179	Semi-detached	302.3	Yes
180	Dwelling - Detached	604.6	Yes

(3) Development consent must not be granted to development on the subject land unless the building setback of any building resulting from the development is equal to, or greater than, 11 metres from Coonara Avenue, West Pennant Hills.

Comment: As part of the subject Northern Housing Precinct application, Superlots 1A, 1B, 2A and 2B, have a frontage (rear of dwelling) to Coonara Avenue. All dwellings have a building setback of 11 metres or greater to Coonara Avenue. Compliance with this standard is achieved.

(4) Clause 7.7 (other than clause 7.7(4)(g)) extends to development on the subject land involving the erection of a new building, or external alterations to an existing building, of any height.

Comment: Refer above.

(5) Development consent must not be granted to development on the subject land unless the consent authority is satisfied that the development—
(a) is designed to maximise the use of water permeable surfaces on the land having regard to the soil characteristics affecting on-site infiltration of water, and
(b) includes, if practicable, on-site stormwater retention for use as an alternative supply to mains water, groundwater or river water, and
(c) avoids any significant adverse impacts of stormwater runoff on adjoining properties, native bushland and receiving waters, or if that impact cannot be reasonably avoided, minimises and mitigates the impact.

Comment: On-site detention tanks have been designed and incorporated into the development as part of DA 860/2022/JP to ensure stormwater is management, to ensure no adverse flood risks caused by the subject development over the downstream properties, and to incorporate Water Sensitive Urban Design Measures (WSUD) to comply with the achievement of water quality treatment targets. The reports and civil plans provided with the application(s) confirm that the subject development does not change the existing flood behaviour within the subject site, as well as downstream properties within the locality.

Stormwater management has been satisfactorily addressed and the proposal will not result in significant stormwater impacts

(6) Development consent must not be granted to development that results in more than 600 dwellings on the subject land.

Comment: The subject application seeks approval for 105 dwellings as part of the northern and central housing precinct (which forms part of the approved master plan for the site which is for 417 dwellings, being 165 dwelling houses and 252 apartments), which is below the maximum 600 dwellings permitted on the site. So in summary, the following is approved/proposed for the site:

- DA 861/2022/JP – approved -252 dwellings (units)
 - DA 859/2022/JP – approved – 60 dwellings
 - DA 11/2023/JP – proposed – 105 dwellings
- TOTAL = 417 dwellings

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 proposed development has been assessed against the relevant development controls of The Hills DCP 2012, specifically:

- Part C Section 1 – Parking
- Part C Section 3 – Landscaping
- Part C Section 4 – Heritage
- Part C Section 6 – Flood Controlled Land

The proposal achieves compliance with the relevant requirements of the development controls.

Part B Section 9 Small Lot Housing (Integrated)

This DCP applies to development for the purposes of front-loaded detached or attached dwellings under Clause 4.1B (small lot housing). The proposal is not seeking approval for small lot housing under Clause 4.1B of the LEP which requires lots to have an area resulting in lot equal or greater to 240m². Subdivision of the attached and detached dwelling of the subject application are pursuant to Clause 7.15(2) of the LEP (specific to 55 Coonara Avenue) which sets a minimum lot size of 180m² for a dwelling house and 86m² for an attached or semi-detached dwelling.

Compliance with Site-Specific Design Guidelines

Draft THDCP Part D Section 19, related to the proposed redevelopment of 55 Coonara Avenue and was exhibited with the Planning Proposal from 30 April 2019 to 31 May 2019. Whilst Council officers recommended the Planning Proposal for approval, the Draft DCP Section was not endorsed by Council on 26 November 2019 and as a consequence of that document not being adopted, THDCP does not contain any controls which relate to dwelling lots of 180m² for detached dwellings or 86m² for an attached dwelling. These are the minimum lot sizes that apply to the site, pursuant to Clause 7.15 of THLEP 2019.

In order to address the lack of relevant development controls within THDCP which are applicable to the site as a result of the rezoning, the DA is supported by Site Specific Design Guidelines which was endorsed as part of DA 860/2022/JP. The Site Specific Design Guidelines are intended to act in place of a site specific DCP and provide a series of objectives and controls that will guide future development of the site consistent with this housing development.

An assessment of the proposed housing south against the controls within the Site-Specific Design Guidelines has been provided in the table below:

DEVELOPMENT GUIDELINE	GUIDELINE REQUIREMENTS	PROPOSED DEVELOPMENT	COMPLIANCE
Part 2 – Vision and Character			
2.1 Vision and Development Objectives	Objectives a. To accommodate the new residential population, in a manner which responds to environmental constraints. b. To protect remnant forest areas. c. To encourage a variety of housing types and densities. d. To promote economically viable development. e. To provide an appropriate and suitable built form urban response to the Site.	The proposed development is consistent with the objectives outlined with respect to the vision and character of the site.	Yes
Part 3 - Site Specific Development Control			
3.1 Dwelling Site and Mix	A maximum of 20% of all dwellings on the land are to be 1-bedroom dwellings.	Overall, the development will achieve compliance with the control. Only 38 x 1 bedroom units are provided as part of DA 861/2022/JP, the RFB DA. No single bedroom dwellings were proposed as part of DA 859/2022/JP (southern precinct). No one bedroom dwellings are proposed as part of the subject DA. 38 of 417 dwellings = 9%	Yes
	At least 40% of all dwellings on the land are to be 3-	A minimum of 167 of the 417 dwellings are required to achieve	Yes

DEVELOPMENT GUIDELINE	GUIDELINE REQUIREMENTS	PROPOSED DEVELOPMENT	COMPLIANCE
	bedroom dwellings (or larger).	compliance with this control. All 60 dwellings approved as part of DA 859/2022/JP are 3 bedrooms or more, and 78 of the 252 units (DA 860/2022/JP) are 3 bedroom or larger. The subject DA proposes that all dwellings are 3 bedrooms or more. Therefore $60 + 78 + 105 = 243$ dwellings of the 417 dwellings = 58% of dwellings are 3 bedrooms (or more).	
	At least 40% of all 3-bedroom dwellings (or larger) on the land will have a minimum internal floor area of 135m ² .	All the dwellings in the southern housing precinct and the proposed dwellings in the northern and central precinct are 135m ² or greater ($60 + 105 = 165/165 = 100\%$)	Yes
3.2 Streetscape and Character	Future development should provide landscaping within the housing lots and apartment development which includes a diversity of local native species at a scale which compliments the built form.	Provided	Yes
	High quality landscaping is to be provided for all street reserves, including landscaped verges, public spaces and communal areas.	Provided	Yes
	Native street trees are to be provided within the landscaped verges.	Provided where possible.	Yes
	Street trees are to be sited in consideration of driveways and infrastructure and to allow adequate site lines in proximity to intersections.	Provided where possible	Yes

DEVELOPMENT GUIDELINE	GUIDELINE REQUIREMENTS	PROPOSED DEVELOPMENT	COMPLIANCE
	Plant selection is to consider sight lines so as not to obstruct views where vehicular sight lines are required to be maintained	Satisfactory	Yes
	Colours and materials shall be of natural, earthy tones that are compatible with the landscape.	Satisfactory	Yes
3.3 Access	Future development on the site shall be publicly accessible from Coonara Avenue	The development is accessed from the existing southern and northern entrance on Coonara Avenue.	Yes
	Waste collection is to be undertaken from the rear laneway, where applicable.	Satisfactory	Yes
	Each dwelling requires at least 1.6m clear dedicated space along the kerbside for bin presentation (clear of tree pits and other obstructions).	Provided	Yes
	No building element (such as eaves, balconies, gutters and the like) shall encroach into the rear laneway reservation area (carriageway plus verge).	Satisfactory	N/A
	Garbage bin storage for the houses is to be screened or concealed from view from the street. For detached or semi-detached dwellings with side access this may be behind fences. For attached dwellings, bin storage may be within a dedicated, screened bin enclosure, which may be located within the building setback.	Satisfactory, subject to amended details as required (refer condition no. 58).	Yes
	Apartment garbage loading will be via a basement loading area suitable for access by Councils garbage collection vehicle.	Refer to DA 861/2022/JP	N/A
	Driveway crossover width shall be designed in consideration of the	Satisfactory	Yes

DEVELOPMENT GUIDELINE	GUIDELINE REQUIREMENTS	PROPOSED DEVELOPMENT	COMPLIANCE
	streetscape and landscaping.		
3.4 Vegetation	Future development on the site should include the provision of a Vegetation Management Plan (VMP) in accordance with Council's Vegetation Management Plan Guidelines, except where the land is to be dedicated to a State Government agency.	Approval of the VMP forms part of DA 860/2022/JP. Dedication of land on the site is not a matter for consideration as part of the subject application	Yes
3.5 Parking Attached and semi-detached dwelling	2 spaces per dwelling. A minimum 40 visitor car parks are to be provided through a combination of on-street parking through the provision on internal roads with a minimum carriageway of 8.1 metres including parking bays	Each dwelling is provided is with either a single or double garage. Where a single garage is provided, a car can be parked within the driveway, therefore each dwelling provided with a minimum of 2 car parking spaces (minimum 210 residential spaces provided overall). 20 visitor spaces were provided under DA 859/2022/JP. The subject application provides for an additional 33 visitor spaces, therefore 53 spaces are provided.	Yes
4. Dwelling House Design Controls			
4.2 Building Length	The maximum building length is 50m (block of dwellings).	Yes, maximum is Superlot 13 (northern block) which is 49.4m	Yes
4.3 Lot Dimensions	Lot sizes are to comply with the minimum lot sizes prescribed in the Hills Local Environmental Plan 2019.	Dwellings houses have lots of 180m ² or greater and attached dwellings having lots 86m ² or greater.	Yes
4.3 Minimum lot dimensions			
2 storey front loaded (detached)	Minimum lot width – 9m Minimum lot depth – 20m	2 storey front loaded (detached) meet minimum lot width and depth requirements	Yes, however some lots are irregular in shape but still achieves minimums overall. Also noting that the

DEVELOPMENT GUIDELINE	GUIDELINE REQUIREMENTS	PROPOSED DEVELOPMENT	COMPLIANCE
			minimum lots sizes exceeding minimums required.
2 storey front loaded (attached, semi-detached)	Minimum lot width – 5m Minimum lot depth – 20m	2 storey front loaded (attached, semi-detached) meet minimum lot width and depth requirements	Yes, however some lots are irregular in shape, or corner lots but achieve compliance with minimums overall. Also noting that the minimum lots sizes exceed the minimum required.
2 & 3 storey rear loaded (attached)	Minimum lot width – 5.4m Minimum lot depth – 20m	All 2 & 3 storey rear loaded (attached) meet the minimum lot width and depth requirements.	Yes
3 storey front loaded (attached, semi-detached)	Minimum lot width – 6m Minimum lot depth – 20m	All 3 storey front loaded (attached, semi-detached) meet the minimum lot width and dept requirements.	Yes
4.4 Building Setbacks			
Front Loaded single garage	Front setback – 4m Garage setback – 5.5m Rear setback – 3m	Required setbacks provided.	Yes
Front loaded double garage	Front setback – 2.5m Garage setback – 3.5m Rear setback – 3m	Required setbacks provided.	Yes, noting that where lots are irregular in shape, variations to the front, garage and rear setbacks may be permitted, which occurs on irregular shaped corner lots.
Rear loaded single garage	Front setback – 2m Garage setback – 5.5m from rear lane Rear setback – 2m	Required setbacks provided.	Yes

DEVELOPMENT GUIDELINE	GUIDELINE REQUIREMENTS	PROPOSED DEVELOPMENT	COMPLIANCE
Rear loaded double garage	Front setback – 2m Garage setback – 0.5m from rear lane Rear setback – 2m	Required setbacks provided.	Yes
Articulation Zone	Minor façade elements such as balconies, porches or verandahs may be 1.5m forward of front building line or within the rear setback to provide articulation. On corner blocks the articulation zone may be extended along the secondary frontage for a max of 3m or 25% of façade length with a min. of 1m setback from boundary.	Reasonable articulation provided in accordance with the articulation zone requirement which provides some architectural relief and flexibility with the setback controls.	Yes
Side Setbacks (varies)	0m between dwellings 900mm from detached boundary lines (end of block) and through site links 1.5m from side boundaries fronting roadways and laneways Note: Where lots are irregular in shape, variations to the front, garage and rear setbacks may be permitted	Required setbacks provided with appropriate articulation as required.	Yes
Wall length	The maximum allowable lot wall length is equal to the maximum lot length minus the front and rear articulation setbacks.	Satisfactory	Yes
4.5 Garage design			
Single garage	5.5m x 3m minimum internal dimension Garage door – no more than 2.5m wide	Provided	Yes
Double garage	5.5m x 5.4m minimum internal dimension Garage door – no more than 5m wide	Provided	Yes
4.6 Private Open Space	Each dwelling shall have access to an area of private open space that is directly accessible from primary living area	Provided	Yes
	Private open space shall be fenced to provide protection of wildlife through separation from domestic	Provided	Yes

DEVELOPMENT GUIDELINE	GUIDELINE REQUIREMENTS	PROPOSED DEVELOPMENT	COMPLIANCE
	pets. Variable fence heights are required to respond to the location and interface		
Minimum area of private open space (total combined area)	Detached – private open space at ground level – 25m ²	Provided	Yes
	Attached, semi-detached Where private open space located at ground level – 15m ² Where secondary private open space is provided and located above ground level – 8m ²	Provided	Yes
4.7 Solar Access	A minimum of 2 hours sunlight between 9 am and 3pm on 21 June, shall be achieved to at least 50% of the required private open space in at least 80% of all dwellings	Provided	Yes
4.8 Landscaped Area (noting that section has been replaced with condition no. 7 of DA 860/2022/JP)	Front setbacks are to maximise any opportunity for soft landscaping, taking into consideration the requirement for any services, including fencing and letterboxes.	Provided.	Yes
	For dwellings which abut other dwellings on both sides, a minimum landscape area of 15% is to be achieved with no minimum landscape area dimension.	A minimum of 15% landscape is provided for these dwellings where practically possible.	Yes
	For dwellings which abut other dwellings on one side only, a minimum landscape area of 20% is to be achieved with a minimum landscape area dimension of 1.5m. For the purpose of calculating landscape area, landscape area is defined as an uncovered part of a site used for growing plants, grasses and trees, but does not include any building, structure or hard paved area. This landscaped area can include services (excluding bin storage	A minimum of 20% is provided for these dwellings where practically possible.	Yes

DEVELOPMENT GUIDELINE	GUIDELINE REQUIREMENTS	PROPOSED DEVELOPMENT	COMPLIANCE
	areas), fencing, water tanks and spaced steppers where they are adequately incorporated into planted landscaping.		
	Clothes drying device is to be provided within private open space areas	Provided.	Yes
	Planting to be provided between the driveway and side fence.	Provided where possible.	Yes
	Front gardens are to include a small tree. Trees are to be incorporated wherever possible to increase canopy coverage.	Provided.	Yes
	Irregular shaped lot landscape design is generally required to achieve the above, however may be required to be assessed on merit.	Corner and irregular lot landscape provisions are reviewed to ensure a suitable landscape outcome is provided.	Yes
	Driveway widths are to be minimised wherever possible to maximise landscape area and sufficient planting.	Driveway widths are minimised where possible.	Yes
	Bin storage areas are to be located to maximise opportunities for meaningful landscaping.	Provided	Yes
	Letterboxes are to be incorporated into fencing wherever possible to maximise landscape area.	Provided	Yes
	Front fencing is to be no higher than 1.2m in height.	Provided	Yes
	Fencing for Private Open Space areas are to be 1.8m high and of solid construction. Open style (such as palisade style) rear fencing may be considered where rear boundaries interface with Communal Open Space areas, or the Perimeter Road.	Appropriate fencing provided.	Yes
	1.8m high fencing on corner lots is not to extend more	Appropriate fencing is provided.	Yes

DEVELOPMENT GUIDELINE	GUIDELINE REQUIREMENTS	PROPOSED DEVELOPMENT	COMPLIANCE
	than 50% of the secondary boundary.		
	Corner lot dwellings with split level typologies must be provided with sufficient landscape area between the secondary boundary building footprint to allow the resolution of significant landscape level changes whilst maintaining a positive streetscape outcome.	Provided	Yes
	Street tree and verge planting forward of all dwelling houses are to be considerate of bin presentation, and collection. Verge planting is to utilise locally native vegetation communities and be of hardy species appropriate for occasional foot traffic.	Provided	Yes
	Where dwelling housing closely interface with bushland areas, planting is to be considerate of the locally native vegetation communities.	Appropriate planting provided.	Yes
4.9 Privacy	Private open space areas and habitable rooms of adjacent dwellings should be reasonably protected from overlooking.	Dwellings have been designed to provide for mutual privacy.	Yes
	Windows of living rooms with direct outlook to any living room of any proposed or existing dwelling within 9 metres should: - Be offset a minimum of 1 metre from the edge of one window to the edge of another, or - Have a minimum sill height of 1.5m above finished floor level, or - Provide fixed obscure glazing to a height of 1.5 metres above finished floor level.	Designed measures incorporated to ensure privacy is maintained.	Yes
	Where new dwellings adjoin an existing dwelling, screening landscaping with	No new dwellings adjoining existing	N/A

DEVELOPMENT GUIDELINE	GUIDELINE REQUIREMENTS	PROPOSED DEVELOPMENT	COMPLIANCE
	a minimum dimension of 1.5 metres is to be planted along the boundary between the dwellings.	dwellings as part of the subject DA.	

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

As discussed above, the subject site was the subject of a planning proposal lodged in 2018, as well as an associated draft Voluntary Planning Agreement which would have obliged the developer to construct a new playing field on the site and dedicate the land to Council. In late-2019, Council resolved not to proceed with the planning proposal and not to enter into the draft Voluntary Planning Agreement.

However, contrary to Council's decision, the Department of Planning and Environment (DPE) determined to finalise the planning proposal, permitting up to 600 residential dwellings on the site formerly used for employment-only purposes. The Department finalised the proposal without any infrastructure solution or mechanism in place to address the additional demand for local infrastructure that would be generated by the development and identified in their finalisation material, that contributions would be payable under The Hills Section 7.12 Contributions Plan (1% of the cost of development), which currently applies to the site but does not contemplate the new development outcome.

Council typically negotiates VPAs with developers as part of the rezoning process to ensure that an appropriate contributions mechanism is in place before any rezoning of land occurs. However, in this instance, the rezoning phase has already been completed by the Department of Planning and Environment. In finalising the rezoning, the Department did not ensure that there was any contributions mechanism in place beyond the existing Section 7.12 Contributions Plan. This had placed Council and the community in a situation that lead to an infrastructure shortfall as a result of this development.

The Developer made a VPA offer to Council as part of the initially concept development application to provide additional infrastructure to support the proposed development, beyond the minimum contributions otherwise payable under the existing Section 7.12 Contributions Plan.

Mirvac Projects (Retail and Commercial) Pty Ltd submitted a VPA offer in association with the Development Applications, which proposes that the Developer make monetary contributions to Council, with a total value of \$5.1 million, comprising:

1. Contributions at a rate of 1% of the estimated cost of development; and
2. A \$2 million monetary contribution towards the provision of active open space.

The VPA was executed on 20 October 2022. Relevant conditions of consent have been imposed as part of DA 859/2022/JP and 861//2022/JP, and a recommended condition of consent has been included as part of the subject DA (refer condition no. 11)

It is considered that the combination of Council's Section 7.12 Contributions Plan, the additional monetary contribution under the VPA, and the outcomes intended to be delivered on-site by the Developer are considered to be sufficient to address the local infrastructure demand associated with the development.

The proposal is consistent with this Planning Agreement as discussed in this report.

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. There are no relevant matters in regard to the subject application.

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

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

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

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

The site has been zoned for a residential development outcome. The proposal is a suitable development for the site consistent with the zone objectives, as well as being consistent with the approved concept masterplan DA 860/2022/JP.

The proposal will provide for additional dwellings for the locality which have been design to respond to the site characteristics and is considered to be a suitable development for the site.

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

These submissions are considered in Section 4.3 of this report.

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

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

The proposed development is considered to be consistent with this objective as it will assist in maximising housing supply within the Cherrybrook Station Precinct which will have direct access to high frequency public transport services. On balance the proposal is consistent with the public interest.

4. REFERRALS AND SUBMISSIONS

4.1 Agency Referrals and Concurrence

The development application has been referred to various agencies for comment/concurrence/referral as required by the EP&A Act and outlined below in Table 6.

There are no outstanding issues arising from these concurrence and referral requirements subject to the imposition of the recommended conditions of consent being imposed.

Table 6: Concurrence and Referrals to agencies

Agency	Concurrence/ referral trigger	Comments (Issue, resolution, conditions)	Resolved
Concurrence Requirements (s4.13 of EP&A Act) (N/A)			
Referral/Consultation Agencies			
Electricity supply authority (Endeavour Energy)	CI 2.48 – Transport and Infrastructure SEPP Development likely to affect an electricity transmission or distribution network.	Endeavour Energy have reviewed the master plan DA, in addition to the subject DA and have provided	Y
Sydney Water	Clause 2.161 Development permitted with consent of State Environmental Planning Policy (Transport and Infrastructure) 2021	The proposal requires connection to Sydney Water's sewer and water supply system. Sydney Water has reviewed the proposed works, and conditions have been recommended, with a specific condition relating to works proposed adjacent to the critical mains.	Y
Integrated Development (S 4.46 of the EP&A Act)			
Rural Fire Service (RFS)	S100B - <i>Rural Fires Act 1997</i> bush fire safety of subdivision of land that could lawfully be used for residential or rural residential purposes or development of land for special fire protection purposes	Conditions of consent and Bushfire Safety Authority provided by RFS.	Y
Department of Planning - Water	S91 – <i>Water Management Act 2000</i> activity approval under Part 3 of Chapter 3	General Terms of Approval provided.	Y

4.2 Council Referrals

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

Table 7: Consideration of Council Referrals

Officer	Comments	Resolved
Engineering	Council's Senior Subdivision Engineer has reviewed the submitted plans and information and raised no objections subject to conditions.	Y
Ecology	Council's Environment Coordinator has reviewed the submitted plans and information and raised no objections subject to conditions.	Y
Health	Council's Senior Environmental Health Officer has reviewed the submitted plans and information and raised no objections subject to conditions.	Y
Waste	Council's Resource Recovery Project Officer has reviewed the submitted plans and information and raised no objections subject to conditions.	Y
Landscape	Council's Senior Landscape Officer has reviewed the submitted plans and information and raised no objections subject to conditions.	Y
Contributions	Council's Senior Forward Planner has reviewed the submitted plans and information and raised no objections subject to conditions.	Y

4.3 Community Consultation

The proposal was placed on exhibition and notified in accordance with the DCP from 1 August 2023 to 6 September 2023. A total of 10 submission were received, which included one submission in support of the application. The submissions that were received are summarised in the table below.

Table 8: Community Submissions

Issue	Council Comments
Submission in Support	
Based upon the DA documents I have no objections to this development being undertaken in the location and in the form proposed. The development of the central and north housing district is consistent with the prior DA for the South precinct and considerable effort	Noted. No further action required.

<p>and research has been undertaken to ensure that the development is concluded in an appropriate manner that is consistent with the planning controls and the sensitivity of the area which is adjacent to the Cumberland State Forest</p>	
<p>Tree Removal / Flora and Fauna</p>	
<p>Mirvac have destroyed the one of the last remaining reserve forest in Sydney, by demolishing thousands of trees from the site. Do any of the "Approval authorities" care about the "vandalism" caused to the forest as a result of this Development?</p>	<p>A Planning Proposal to rezone the former IBM business park from B7 Business Park to part R3 Medium Density Residential, part R4 High Density and part C2 Environmental Conservation zone was submitted, and the planning proposal was subsequently approved, and the Plan was made by the Minister's delegate on 17 June 2020. This planning proposal was fast-tracked and finalised through the State's Planning System Acceleration Program. The Department of Planning's advice to the Minister was that the rezoning would, amongst other things, secure the protection of the forested areas and Powerful Owl habitat on site through an C2 Environmental Conservation zoning. The subject DA does not seek to remove any additional trees or vegetation. Ecological impacts were considered carefully with the demolition DA and the Masterplan DA, which were accompanied by a Biodiversity Assessment Reports (BDAR). To offset the loss of biodiversity from the site from the development, ecosystem and species credits were retired prior to clearing of vegetation under DA 585/2021/HC and DA 860/2022/JP. As part of these DAs, conditions of consent required project ecologists and arborists on site during works, and works have occurred in accordance with consents in place.</p>
<p>The ecological report is lacking and refers to a BDAR provided for other DAs on the site. There has been no dedicated BDAR provided for 11/2024/JP and no offset payments made for clearing of critically endangered Blue Gum High Forest (BGHF) in the north east section of the site section 5a from Figure 8 BDAR Version 2.2 dated 16th June 2022. There must be an additional BDAR written for this DA which outlines the Biodiversity credits and offsets payable for loss of BGHF for the proposed central and proposed housing north. Proposed housing central and proposed</p>	<p>Biodiversity Offset Credits are not required for this proposal. The subject site and development area are located within an area mapped on the Biodiversity Values (BV) map, however no additional tree or vegetation removal is proposed under the subject DA than approved under the concept DA 860/2022/JP, and the demolition DA 585/2021/HC which was subject to a conditions of consent for Biodiversity Credits to be retired.</p>

housing north are in areas of vegetation loss for housing and Asset Protection Zones which have not been offset with biodiversity credits from the BDAR showing vegetation zone 5a Blue Gum.	
As part of any planning approvals for this current DA, I would ask that the Planning Panel put in place ALL previous Conditions of Consent that have been applied to this site at 55 Coonara Avenue. It is essential that previous Conditions of Consent – especially those relating to mitigating harm to the diverse wildlife on this site – are continued throughout this entire planning approval process.	As required by condition 44 of DA 860/2022/JP, a Fauna Management Plan was prepared and submitted to Council for assessment and subsequent approval. There is no requirement for an additional FMP to be submitted with this DA, as any ongoing construction works would be subject to the requirement of that document
The site is adjacent to the Cumberland State Forest and contains BGHF on the site. With the sudden loss of 3000+ trees from the site, there must be an FMP provided to prevent further detriment to wildlife on the site and planned care for wildlife encountered during construction. All conditions of consent regarding fauna management must be included in the conditions of consent for this DA/11/2024JP.	Refer comment above. As required by condition 44 of DA 860/2022/JP, a Fauna Management Plan was prepared and submitted to Council for assessment and subsequent approval.
Any Fauna Management Plan must be compliant with the NSW Codes of Practice for Injured, Sick and Orphaned Protected Fauna. Anyone handling fauna must be suitably experienced and/or trained and licensed. It is the developers' responsibility to ensure all suitable licences are held regarding fauna handling on the site. DPIE have previously clarified that "any wildlife handling must be in accordance with a wildlife management plan (which must be in place if there is wildlife present)". Without appropriate licensing to cover the fauna handling on this site, Prevention of Cruelty to Animals Act (POCTAA) 1979 applies and penalties may result. I object to the approval of this DA until a further Fauna Management Plan for the new areas is submitted and approved by Council's Manager – Environment & Health OR acknowledgement is given to the community that the previous FMP will be	Refer comment above in relation to Condition 44. Section 3.1 Licences, and 4.1. Fauna Care of the approved Fauna Management Plan details the requirements in relation to wildlife handling.

applied with updates and amendments as deemed necessary.	
According to Animal Care & Ethics Committee (ACEC) updated advice as of May 2023, it is necessary for any companies working under an Animal Ethics licence to ensure a Site Specific Amendment is lodged and approved prior to any works commencing and the responsibility lies with the Authorising Authority, in this case Hills Shire Council and the Sydney Central City Planning Panel, to ensure that DPI has been given notice of, and approved, the works that will be carried out on this development site prior to any works commencing.	The Project/Consulting Ecologists involved in the implementation of the Fauna Management Plan are required to ensure that any relevant licences and document are provided to any relevant authority. The Ecology company who prepared the approved Fauna Management Plan provided their Scientific Licence and Animal Ethics Licence under section 3.1. Licences.
The development being proposed in this DA will detrimentally impact Threatened Species of native fauna and further remove more mature trees with hollows which are essential habitat for breeding. Hollows form over decades and new planting cannot replace this loss. It is unfortunate that the 'SAVE OUR SPECIES' program does not hold any legislative weight regarding protection of unique ecosystems but this is no reason why serious consideration should not be given to any detrimental impacts on these areas given such high regard. Approval must not be given for any further removal of CEEC's or mature trees with hollows on this development site.	As discussed above, the subject DA does not seek to remove any additional trees or vegetation. Ecological impacts were considered carefully with each development application and the Masterplan DA which allowed the clearing and was accompanied by a Biodiversity Assessment Report (BDAR). To offset the loss of biodiversity from the site from the development, ecosystem and species credits were retired prior to clearing of vegetation under DA 585/2021/HC and DA 860/2022/JP.
Altogether, the total amount of Endangered Ecological Communities being removed for this residential development is 2.24 hectares and could even be significantly higher. Independent ecological assessment by Council is required before ANY further vegetation is removed.	As discussed above, no further vegetation is sought for removal as part of this DA. No additional (independent) ecological assessment is required.
Further consideration and assessment must be performed prior to any approvals for Housing in the North of this site to ensure irreversible and detrimental impacts on CEEC's are not taking place as part of this DA proposal. I object that Hills Shire Council has not carried out any independent	Ecological impacts were considered carefully with each development application and the Masterplan DA. DA 860/2022/JP was accompanied by a Biodiversity Assessment Report (BDAR) which was reviewed by Council's Senior Biodiversity Officer who raised concerns with the proposed impacts to the Powerful Owl and disagreed with the

determination of the Vegetation Zone 5a for evidence of CEEC's as part of their due diligence. No approval for removal of these trees can be given with this disparity in reporting.	classification of some vegetation proposed for removal. Modifications to the design were requested to better protect Blue Gum High Forest (BGHF) and the Powerful Owls. To offset the loss of biodiversity from the site from the development, it was conditioned that ecosystem and species credits are to be retired prior to any clearing of vegetation. Council's Senior Biodiversity Officer reviewed all information and inspected the site and concluded that the current development will not result in a Serious and Irreversible Impact on Blue Gum High Forest.
I would request that the developer be advised to educate and regulate any future residents with respect to pet ownership and management that purchase any properties on this site that safeguarding the threatened species that inhabit their doorstep is a pre-requisite of their purchase.	A condition of consent has been recommended (which is consistent with DA 859/2022/JP for the Housing South Precinct) which imposes a restriction/covenant on title regarding pet ownership and the keeping of pets in an enclosed area (refer condition no. 111(n))
I recommend investigations into the very best nest boxes available is carried out by the developer and that these are incorporated into any plans for installing nest boxes as part of this planning approval.	Nest boxes are required to be installed under DA 860/2022/JP as per the approved Fauna Management Plan. Compliance with this condition is required under Condition 100. Biodiversity Compliance.
The Eastern Pygmy Possum is an endangered species and known to inhabit this site. There must be pre-clearance Targeted surveys for Eastern Pygmy Possums included in the Conditions of Consent. A condition of consent must be added to the FMP to ensure harm to this protected species is not occurring when it is possible to mitigate the risks.	The Fauna Management Plan was submitted by the applicant, and approved by Council's Manager Environment and Health under DA 860/2022/JP. No amendments to the FMP will be considered as part of the subject DA.
Any vegetation removal will be carried out in an environmentally sustainable manner, in small sections so as to allow continued foraging by the native species that inhabit the area in the top north-east section of the site around the dam and near the adjacent Cumberland State Forest. The developer must continue to work with Birdlife Australia to ensure no detrimental impacts on the Powerful Owls on this site, now and until the end of all building works. A donation to Birdlife Australia for their time and effort would be very welcome I am sure for	As discussed above, no tree removal is sought as part of the subject application. Ecological impacts were considered carefully with each development application. A Biodiversity Assessment Report (BDAR) was submitted with the DAs which was reviewed by Council's Senior Biodiversity Officer.

their attention to this ongoing development over a number of years.	
The southern C2 Conservation Zone must be surveyed for existing fauna before any further release of fauna is undertaken. Releasing fauna into this site with little consideration for the populations which are already here will not result in good outcomes for the relocated animals. According to the NSW Codes of Practice, there are protocols to be followed regarding release of different species and in former fauna reports for this site, it has been documented that animals have just been released 'at the bottom of a tree' containing a nest box. Concerningly, several animals were released at the bottom of the same tree. A pre-clearance survey of the release site should be undertaken prior to any further release of displaced animals and all release protocols must be in accordance with the NSW Codes of Practice for Injured, Sick and Orphaned Protected Fauna.	Any potential non-compliance with the approved Fauna Management Plan and associated reporting requirements can be reported to The Hills Shire Council for investigation. Compliance with the FMP and other biodiversity conditions of consent can be investigated as potential breaches of conditions of consent and are not a consideration for this Development Application.
The current FMP - Condition 44e)- now mentions protocols for echidnas found on the site. However, particular attention must be given to breeding season and if there is a likelihood there are puggles in burrows, the burrows must be probed with cameras to ensure no echidna young are injured or killed during works. A condition of consent must ensure that any echidna burrows discovered will be examined by camera probes to ensure no echidna young are impacted by these construction works.	The Fauna Management Plan was prepared and approved by Council's Manager Environment and Health under DA 860/2022/JP. No amendments to the FMP will be considered as part of the subject DA.
A list of vet practices has been included in the current FMP yet no mention has been made of any reimbursement for wildlife treatment to these vet clinics despite the 6 practices been named in the development documentation. Given the fact that there is currently an Upper House Parliamentary Inquiry underway into Vet Shortages and the stressful conditions many vets are working in, it is inappropriate for any developer not to reimburse vets for their wildlife work carried out on behalf of the developer	This recommended condition of consent to reimburse vet is not supported by Council staff. No changes to the FMP approved as part of 860/2022/JP are recommended as part of the subject application.

<p>and their consultants. It would also be prudent to include in the conditions of consent that it is preferable for wildlife to be 'taken to an exotic vet clinic' if not critically injured, rather than a local vet clinic which do not specialise in native wildlife treatment. SASH at North Ryde is only 10 minutes from the site. A condition of consent will be applied that will ensure any vet practices mentioned in the DA documentation will be suitably reimbursed for the work they do for wildlife in relation to this site. A condition of consent should be included that an 'exotic vet clinic' is preferable for any injured or displaced wildlife.</p>	
<p>Targeted surveys are required for the numerous microbat species and for Grey-Headed Flying Foxes and must be carried out by expert bat ecologists and must include provisions for any rescues, containment and release protocols. Release of Bats in Bat Boxes must be considered after consultation with bat experts so as to ensure any relocation is done using best practices and to ensure a successful relocation is more likely. These targeted surveys will include the Southern Myotis and Large-eared Pied Bat specifically. A condition of consent will be applied to ensure the numerous bat species, many of which are endangered, will be carried out by experts in bat behaviour and that targeted surveys will be carried out to ensure these species will be protected during any vegetation removal works.</p>	<p>Impacts to fauna were assessed as part of the concept master plan DA 860/2022/JP. Given the scope of works proposed as part of the subject DA, it is not appropriate to include the recommended condition for bat surveys.</p>
<p>A condition of consent must be applied to ensure the Authorising Authority, Hills Shire Council, does the necessary due diligence to ensure the conditions of consent are followed regarding fauna handling. This would include spot check visits during tree removal works to ensure anyone handling fauna is experienced and licensed to do so. There must be penalties applied if reporting conditions are not met. Last year some reports were delayed by several weeks and when it comes to fauna removal, this is unacceptable. Reporting must be done weekly, as specified in previous Conditions of</p>	<p>The applicant is required to comply with conditions of consents imposed as part of any approval, and when raised, Council staff will investigate any alleged breaches to development consents/conditions etc.</p>

Consent, so as to ensure any protocols may be examined and the likelihood of injury to wildlife mitigated at the earliest timeframe possible.	
The 8 metre wide vegetation strip along Coonara Ave has been almost denuded of vegetation. All that is left is a few widely spaced young trees which provides a scant visual barrier between the back yards of the houses in the development and the roadway. An understorey and ground covers of Sydney Turpentine-Ironbark Forest species must be planted along Coonara Ave in the vegetated strip within Mirvac boundary, to provide an adequate visual barrier.	As discussed above, this area is subject to a VMP which has been approved as part of DA 860/2022/JP.
The developer has removed a lot of vegetation along the frontage of Coonara Avenue and this understorey is critical from both a privacy perspective for nearby residents but also as essential protection from feral animals and domestic pets from outside the development site. This vegetation must be replanted as soon as possible. A condition of consent must be added to ensure replanting of the understorey along Coonara Avenue is done to replace the vegetation removed by the developer.	The vegetated along Coonara Avenue is subject to the VMP approved as part of DA 860/2022/JP and consists of 0.31ha of planted vegetation. As required by the VMP, this area is to be retained and protected, and the exotic weed species in that area is to be reduced and controlled. The removal of trees within the site is in accordance with previous approvals. With respect to privacy, the proposed (rear of the) dwellings along Coonara Avenue are setback 11 metres or more from the boundary, and given the distance of these dwellings, and the existing dwellings on the other side of Coonara Avenue, the proposal will not have significant adverse privacy impacts.
Consideration must be given for the timing of all proposed works on this important forest site. No tree or vegetation removal can be considered in Spring or early Summer when most bird and mammal species will be breeding. Any detrimental works done at this time will injure or kill two generations rather than just one. For other species which breed during Autumn & Winter, such as Powerful Owls and echidnas, provisions MUST be put in place to ensure no detrimental impacts will occur to these species. Furthermore, any reptile species disturbed in winter must not be released, this is not compliant with the NSW Codes of Practice for native fauna. Release of animals must give them the best chance of survival and reptiles are vulnerable when disturbed from torpor in	The timing of works, and the requirement for a Fauna Management Plan were considered as part of DA 860/2022/JP.

<p>the colder months. Conditions of consent will ensure that timing of works will consider and provide protection in respect to breeding seasons for all the species that are known to inhabit and/or forage on this forest site. Timing of works will be pre-approved by ACEC in accordance with licensing protocols as is a requirement by DPI.</p>	
<p>The APZ must be taken out of the BGHF and STIF to be contained entirely within the construction R3/R4 footprint. The APZ must not encroach on the E2 zoning. If any APZ falls into an E2 zoned area, this would contravene permitted uses of E2 zones. We believe it is likely that any reduced quality of BGHF on the site is a result of the site owner, Mirvac neglecting upkeep of the BGHF areas, possibly to their own advantage. The transition zones between bushland and suburbia are often weed infested and degraded. To remove these transition zones, or use them as APZ's, only creates another transition zone in the higher quality section of the bushland which will then become degraded, and the cycle continues. All areas of BGHF and STIF must be preserved and not allocated as APZ's.</p>	<p>Vegetation management of areas outside of residential allotments for the purposes of maintaining adequate Asset Protection Zones (APZs) was the subject of the approved Concept DA (860/2022/JP). Additional vegetation management outside of residential allotments for fire management activities is not proposed, nor required by the subject application.</p>
<p>With the loss of 3000+ trees from the site, the remaining wildlife will be struggling to find food. All species listed for planting in the Landscape Design plans must only be BGHF and STIF species. The vegetation strip along Coonara Ave has had most of the vegetation and understory removed. There must be an understory and taller trees replanted along Coonara Ave to reduce heat, provide habitat for wildlife and to provide screening between the houses and the street.</p>	<p>As discussed above, the 8 metre vegetated strip along Coonara Avenue is subject to a VMP which was approved as part of DA 860/2022/JP. The landscaping proposed as part of the subject application comprises largely of endemic species, including low-growing shrubs and larger trees such as Turpentine, Blackbutt and Sydney Blue Gum trees.</p>

<p>Council and the LPP must investigate whether the subject DA meets the minimum requirements for landscaping set out in the Hills DCP page 16 Development Controls (b) “the minimum required landscaped or naturally vegetated area for residential development as a percentage of the total site area is 40%.”</p>	<p>The development is subject to condition of consent 7. Landscaping Requirements as part of DA 860/2022/P which sets out the minimum landscape area required. This condition amends the landscape area requirements the approved Site Specific Guidelines as per condition 6. Compliance with Site-Specific Design Guidelines. This development application complies with the minimum landscape area calculations as per condition 7.</p>
<p>The BGHF on the north-east area of the site, close to the area covered by the current DA, provides habitat and foraging areas to a pair of breeding Powerful Owls. Conditions of consent must be applied to avoid disruption to the Powerful Owls. There must be no work during breeding and roosting season and no tree removal during Spring or early Summer.</p>	<p>Ecological noise control measures for endangered nesting Powerful Owl species is subject to Condition 27. Acoustic Requirements of DA 860/2022/JP and the approved Fauna Management Plan. Further, condition no. 7 of the subject DA also reinforces this requirement.</p>
<p>The Site Specific controls must include a clause to prohibit pet cats entirely or to only allow indoor cat breeds (ragdolls, bengals, hairless cats etc). Pet cats and dogs must not be allowed to kill local wildlife. Dogs must not be allowed to roam outside off lead. According to “Science for Saving Species, Research findings factsheet Project 7.4” pet cats allowed to roam kill on average 186 reptiles, birds and mammals per year in Australia (from the Threatened Species Recovery Hub). This number will likely increase for cats allowed to roam into native bushland on the site and the adjoining CSF. Cats must not be allowed on the site or outside of buildings.</p>	<p>A condition of consent has been recommended (which is consistent with DA 859/2022/JP for the Housing South Precinct) which imposes a restriction/covenant on title regarding pet ownership and the keeping of pets in an enclosed area (refer to condition 111(n). Keeping of Domestic Animals).</p>
<p>We welcome the landscaping plans to replant a large number of trees, but many of them will be within 5m of an approved structure, meaning they will not be protected under The Hills Shire Council’s Tree Policy. Residents will be able to remove trees within 5m of an approved structure without seeking council approval. There must be a by-law for this development to protect all the trees, regardless of their proximity to approved structures</p>	<p>The exemption does not apply to trees that are required to be planted or retained under a development consent, as they would in this instance, as outlined in The Hills Shire Council’s Tree Management Guidelines.</p>
<p>The Landscape Plan for the public and private areas within the site should not</p>	<p>The landscape plan and the species proposed has been reviewed by Council’s Environment</p>

<p>include any vegetation that is not either Sydney Turpentine-Ironbark Forest or Blue Gum High Forest species. Otherwise seeds from non-endemic species planted within the development footprint will germinate within these two Forest areas that are being dedicated to NSW Forestry Corporation. This would put at risk the critically endangered classification of these areas. Mirvac had advised their CRG that this would be considered, which has not occurred. Furthermore, priority should be given to species that are known foraging plants for local wildlife. All landscaping plants must be specified and conditioned as being species from either the Sydney Turpentine-Ironbark Forest or Blue Gum High Forest. No other species should be permitted. Priority should be given to species that are known foraging plants for local wildlife.</p>	<p>Coordinator and deemed satisfactory. Planting areas in proximity to bushland areas were most encouraged to be include landscape panting consistent with the adjacent bushland species. It is considered inappropriate to utilise only bushland species in small terrace-style dwelling Private Open Space Areas.</p>
<p>There are foraging and roosting areas for the breeding pair of Powerful Owls that are within the north-east corner of the site. These must be protected both during construction (hours and times of year) and when the site is occupied. Specific Consent Conditions must be applied to protect the Powerful Owls foraging and roosting areas, particularly the hours of work and times of year. The area should also be fenced off to prevent residents walking within this area.</p>	<p>Ecological noise control measures for endangered nesting Powerful Owl species are subject to Condition 27. Acoustic Requirements of DA 860/2022/JP and the approved Fauna Management Plan. Further, condition no 7 of the subject DA also reinforces this requirement.</p>
<p>During spring and early summer the young of native fauna are still in their nests. If clearing of trees occurs during that time, then hundreds of fledglings will be killed. It is ridiculous to suggest that shaking the trees with a bulldozer with 'encourage' baby bird, possums, etc to quietly leave their nests. To suggest this only shows Mirvac's ignorance of matters pertaining to wildlife. No clearing of trees can occur during spring or early summer.</p>	<p>As discussed above, no tree removal is proposed as part of the subject application.</p>
<p>All previous Consent Conditions pertaining to wildlife, including wildlife-friendly fencing and prohibitions on roaming cats, must be included in the Consent Conditions for this DA.</p>	<p>These referenced conditions are subject to DA 860/2022/JP which underpin and apply to the subject Development Application (refer condition no. 111).</p>

Strategic Planning	
Infrastructure should be in place to cater for the additional dwellings included (i.e. extra schools, additional parking at Cherrybrook station, shops, hospital, more public transport). The Council is not protecting the existing lifestyle of the residents by allowing big developments to happen, especially in a forest.	The scale of residential development and associated impacts arising from residents to be accommodated at the site have previously been considered as part of the rezoning of the site which was approved by the Department of Planning. The proposed number of dwellings and associated numbers of residents are in accordance with the approval of the Concept Development Application (DA 860/2022/JP).
In the Minutes of the Council meeting of 28/3/2017 the following reasons were stated why the rezoning was being rejected:- “the site has a number of constraints that inhibit it’s suitability for residential development including steep topography, EEC’s and Bushfire Risk”, “Water courses traverse the site”, “Poor accessibility”, “Constrained by infrastructure”, “Pressure on the greater local road network”, “Does not align with the State or local strategic plan for the Cherrybrook precinct”. These issues all still apply. The proposed development site is unique and irreplaceable in that it contains Critically Endangered Ecological Community (CEEC) and is one of six areas given Save our Species Protection by the NSW Government. Removal of any Blue Gum High Forest (BGHF) and Sydney Turpentine-Ironbark Forest (STIF) as part of this DA must be avoided.	As discussed in detail above, the site was rezoned by the Department of Planning. No tree removal is proposed as part of the subject site, and all impacts to flora and fauna were considered as part of DA 860/2022/JP.
The Cherrybrook Precinct Plan and its Environmental policy must be given consideration in relation to this site and any approvals to ensure the neighbourhood and local amenity is protected.	Strategic documentation was taken into consideration by the state government when the site was rezoned.
Bulk and Scale	
Most of the buildings are over height. Buildings must conform to height limits. Superlots 1 and 2 will exceed the height limit of 9m from finished ground level. Superlot 4 will exceed the height limit of 12m.	The development application was accompanied by a Clause 4.6 variation to building height. 40 of the 105 dwellings (so less than half) exceed the building height. Of the 40 dwellings, 34 dwellings have a variation of less than 10%, and 21 dwellings have a variation of less than 5% (which is just over half of the dwellings). On average, a variation of 6.11% is sought over the 40 dwellings.

<p>A substantial number of excuses are provided by Mirvac to justify its Clause 4.6 Variation application regarding the significant number of height exceedances ie 40 out of 105 dwellings, or 38%. It is suffice to say that Mirvac could simply put 2-storey housing in the areas where the exceedances will occur. It can be seen from the Building Height Contravention Plans that the 2-storey building fit quite nicely within the height limits. Either that, or remove the parapets that seem to be the cause of many of the exceedances. The height limits should be adhered to unless there is an important reason not to. Design features and placement of houses are not valid enough reasons. The height limits should be adhered to as the parapets and placement of 2 or 3 storey homes are not valid reasons for the exceedances.</p>	<p>The written variation request that accompanies the DA has been prepared in accordance with statutory requirements and relevant NSW Land and Environment Court caselaw. As identified in the variation request, there are numerous reasons demonstrating why it is not possible for certain dwellings to comply with building height development standards, and that compliance with such standards are unreasonable and unnecessary in the circumstances in this instance. Dwelling placement, levels and associated breaches are a result of internal road levels approved as part of DA 860/2022/JP. To require that design changes be made to enforce compliance with the building height standards would result in a discordant streetscape presentation. In this instance, the building placement and designs are acceptable grounds for variations to building heights in this instance.</p>
<p>All houses on Coonara Avenue must face Coonara Avenue. We strongly object to having the backsides of the houses facing us and would prefer to have the frontage of the houses facing the road with rear loading for garages and driveways as constructed by the Glades where the frontage of the houses face Coonara Ave with rear loading which looks much better.</p>	<p>All dwellings on the northwest side of the site are designed so that habitable areas (rear) address Coonara Avenue. It is not possible for the front elevation of these dwellings to address Coonara Avenue, as building setbacks cannot encroach upon the 11-metre buffer required by clause 7.15(3) of the LEP. Individual pedestrian access would not be supported from Coonara Avenue if the dwellings were designed in such a manner, as it would encroach into the 8 metre vegetated buffer subject to a VMP. The lot layout is consistent with the approved masterplan 860/2022/JP.</p>
<p>Visual impacts on imposing towers from the forest</p>	<p>The residential flat building precinct was approved as part of DA 861/2022/JP. No RFBs are proposed as part of the subject application.</p>
<p>Design, Colours and Finishes</p>	
<p>Objection is raised to the colours and finishes and the dark colour palate. Lighter and warmer tones should be used such as warm tones of beige and light brown which will blend into the trees. Green or brown roofs should be used. Not black roofs which will increase the urban heat island effect.</p>	<p>The colours and finishes are consistent with the Site Specific Guidelines that were approved as part of DA 860/2022/JP. The roof colour proposed is a lighter colour to the previous dwellings, and is a medium grey/brown colour. The external colour schedules were chosen so that the development would better blend with the vegetation within the buffer zone adjacent to Coonara Avenue and the Cumberland State Forest. Considerations associated with urban heat generation and sustainability have been considered as part of the DA, noting that the</p>

	development provides both suitable landscaped area and design, that will provide large amounts of canopy cover for developed parts of the site, and include measures that will reutilise water and optimise energy usage, noting that the dwellings will attain average seven-star NatHERS ratings. Council has no requirements to implement green roofs on residential dwellings.
The fencing needs to be much higher. That spiked steel fence looks awful, and it should once again be a forest green not black.	The proposed fencing is suitable in this instance, and black fencing is recessive, and in keeping with the proposed colours and finishes for the development.
Traffic and Parking	
Construction workers and staff must use public transport or park on site. We don't want any parking on the surrounding local roads when all the cleared area is being built on.	Transport arrangements for workers is contained within the Construction Transport Management Plan, which identifies that staff and contractors are expected to make suitable arrangements to travel to and from the site. The site has sufficient room to provide parking to accommodate the parking demand generated by the site personnel for the construction. As part of the induction program, staff shall be made aware of the numerous public transport options and cycling opportunities and encouraged to use such alternative means of transport to limit parking on the surrounding local roads.
There is already a lack of parking at Coonara shops.	The scale of residential development and associated impacts arising from residents to be accommodated at the site have previously been considered as part of the rezoning of the site. The proposed number of dwellings and associated numbers of residents are in accordance with the approval of the Concept DA. It is expected that residents will likely walk to the Coonara Shopping Village, given both its proximity to the site and pedestrian connectivity.
Traffic and congestion from additional dwellings.	The anticipated traffic volumes are consistent with those anticipated by the approved Concept DA for the site and are therefore capable of being accommodated both by internal and local road networks and nearby road intersections. The surrounding road network will therefore not be adversely affected by the proposal.
In order to promote the use of public transport, the applicant must provide a shuttle bus service between Cherrybrook metro station and the work site for construction workers.	Refer to comment above. The Cherrybrook Metro station is within walking distance. The applicant is not required to provide a shuttle bus.

Other Matters	
A water storage tank size of 1500L per house is inadequate.	The rainwater tanks are sized appropriately, and comply with the requirements of the valid BASIX Certificate(s) provided with the application.
It seems that Mirvac has continued its "salami" approach to incremental variations which breach its initial approvals. The Applicant had known all along the restrictions imposed on previous approval and could have and should have designed its plans accordingly to comply. The approval authorities should not permit Mirvac to subvert the process of approvals and against the objections of the local community. The Council and all approval authorities seems to have disregarded the numerous previous objections from the Community to date on this project, so what is the point of seeking submissions now, when it is plainly clear that any public submission may have little or no effect on any approval for this Development Application?	The subject DA for the Central and Northern Housing Precinct is consistent with the concept masterplan DA approved in November 2022. Any landowner is entitled to lodge a development application to development their land which is subject to legislative requirements, controls, restrictions etc.
Noise and air pollution adding to greenhouse gas emissions.	The development is for residential accommodation and will not result in unnecessary emissions above and beyond what is anticipated or expected for such development. As identified above, the development achieves compliance BASIX certificates, and 7 star-natHERS ratings.

5. CONCLUSION

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

The variations to the LEP Height development standard are addressed in the report and is considered satisfactory. In relation to the Clause 4.6 written submission, it is considered that the Applicant's request is well founded, and the proposed variation results a development that is consistent with the relevant objectives, and compliance with the development standard are unreasonable and unnecessary in this instance, and the proposal results in a desirable urban design and planning outcome as outlined in this report.

The issues raised in the submissions have been addressed in the report and do not warrant refusal of the application.

Accordingly, approval is recommended subject to conditions.

6. RECOMMENDATION

That the Development Application DA 11/2024/JP for the construction of 105 integrated attached and detached dwellings, individual lot subdivision and associated lot civil works and associated landscape works at 55 Coonara Avenue, West Pennant Hills be APPROVED pursuant to Section 4.16(1)(a) of the *Environmental Planning and Assessment Act 1979* subject to the draft conditions of consent attached to this report at Attachment A.

The following attachments are provided:

- Attachment 1: Draft Conditions of consent
- Attachment 2: Locality Plan
- Attachment 3: Aerial Map
- Attachment 4: Aerial Map – Nearmap
- Attachment 5: Zoning Plan
- Attachment 6: Building Height Map
- Attachment 7: Site Plan – Housing North and Central Precinct
- Attachment 8: Superlot Arrangement
- Attachment 9: Housing Central Precinct
- Attachment 10: Housing North Precinct
- Attachment 11: Subdivision Plans
- Attachment 12: Superlot 1
- Attachment 13: Superlot 2
- Attachment 14: Perspectives
- Attachment 15: Clause 4.6 Written Submission
- Attachment 16: NSW Rural Fire Service General Terms Approval
- Attachment 17: Department of Planning and Environment – Water – General Terms of Approval

ALL DEVELOPMENT TYPES

GENERAL CONDITIONS

1.

Approved Plans and Supporting Documentation

Development must be carried out in accordance with the following approved plans and documents, except where the conditions of this consent expressly require otherwise.

Approved plans				
Architectural Drawings				
Drawing number	Revision number	Plan title	Drawn by	Date of plan
Superlot 1A				
000	J	COVER SHEET	Mirvac Design	11.01.2024
001	J	LOCALITY & SITE ANALYSIS PLAN	Mirvac Design	11.01.2024
100	J	LOT LAYOUT & SITING PLAN	Mirvac Design	11.01.2024
110	K	EROSION, SEDIMENT CONTROL & BENCHING PLAN	Mirvac Design	11.01.2024
120	J	HYDRAULIC CONCEPT PLAN	Mirvac Design	11.01.2024
200	J	LOWER GROUND FLOOR - LOT 1-01 & 1-06	Mirvac Design	11.01.2024
202	J	LOWER GROUND FLOOR - LOTS 1-02_1-05	Mirvac Design	11.01.2024
205	J	LOWER GROUND FLOOR - LOT 1-07_1-09	Mirvac Design	11.01.2024
210	J	GROUND FLOOR - LOT 1-01 & 1-06	Mirvac Design	11.01.2024
211	J	GROUND FLOOR - LOT 1-02_1-05	Mirvac Design	11.01.2024
212	J	GROUND FLOOR - LOTS 1-07_1-09	Mirvac Design	11.01.2024
220	J	FIRST FLOOR - LOT 1-01 & 1-06	Mirvac Design	11.01.2024
221	J	FIRST FLOOR - LOT 1-02_1-05	Mirvac Design	11.01.2024
223	J	FIRST FLOOR - LOT 1-07_1-09	Mirvac Design	11.01.2024
250	J	ROOF - LOT 1-01 & 1-06	Mirvac Design	11.01.2024
251	J	ROOF - LOT 1-02_1-05	Mirvac Design	11.01.2024
253	J	ROOF - LOT 1-07_1-09	Mirvac Design	11.01.2024

	260	H	ELEVATION	Mirvac Design	11.01.2024
	261	H	ELEVATION	Mirvac Design	11.01.2024
	262	H	ELEVATION	Mirvac Design	11.01.2024
	263	H	ELEVATION	Mirvac Design	11.01.2024
	264	H	ELEVATION	Mirvac Design	11.01.2024
	265	H	COLOURED STREETSCAPES	Mirvac Design	11.01.2024
	266	H	COLOURED STREETSCAPES	Mirvac Design	11.01.2024
	267	H	COLOURED STREETSCAPES	Mirvac Design	11.01.2024
	270	H	SECTIONS	Mirvac Design	11.01.2024
	271	H	SECTIONS	Mirvac Design	11.01.2024
	272	H	SECTIONS	Mirvac Design	11.01.2024
	273	H	SECTIONS	Mirvac Design	11.01.2024
	274	H	SECTIONS	Mirvac Design	11.01.2024
	410	J	PRIVATE OPEN SPACE- LOWER GROUND FLOOR	Mirvac Design	11.01.2024
	411	J	PRIVATE OPEN SPACE- GROUND FLOOR	Mirvac Design	11.01.2024
	412	J	PRIVATE OPEN SPACE- FIRST FLOOR	Mirvac Design	11.01.2024
	720	H	BASIX REQUIREMENTS	Mirvac Design	11.01.2024
	721	H	BASIX REQUIREMENTS	Mirvac Design	11.01.2024
	Superlot 1B				
	000	L	COVER SHEET	Mirvac Design	11.01.2024
	001	L	LOCALITY & SITE ANALYSIS PLAN	Mirvac Design	11.01.2024
	100	L	LOT LAYOUT & SITING PLAN	Mirvac Design	11.01.2024
	110	L	EROSION, SEDIMENT CONTROL & BENCHING PLAN	Mirvac Design	11.01.2024
	120	L	HYDRAULIC CONCEPT PLAN	Mirvac Design	11.01.2024
	200	L	LOWER GROUND FLOOR - LOTS 1-10_1-14	Mirvac Design	11.01.2024
	210	L	GROUND FLOOR - LOTS 1-10_1-14	Mirvac Design	11.01.2024
	211	L	GROUND FLOOR - LOTS 1-15_1-19	Mirvac Design	11.01.2024
	220	L	FIRST FLOOR - LOTS 1- 10_1-14	Mirvac Design	11.01.2024
	221	L	FIRST FLOOR - LOTS 1- 15_1-19	Mirvac Design	11.01.2024
	250	K	ROOF PLAN - LOTS 1- 10_1-14	Mirvac Design	11.01.2024
	251	L	ROOF PLAN - LOTS 1- 15_1-19	Mirvac Design	11.01.2024
	260	L	ELEVATIONS	Mirvac Design	11.01.2024
	261	L	ELEVATIONS	Mirvac Design	11.01.2024

	262	L	ELEVATIONS	Mirvac Design	11.01.2024
	265	L	COLOURED STREETSCAPES	Mirvac Design	11.01.2024
	266	L	COLOURED STREETSCAPES	Mirvac Design	11.01.2024
	270	L	SECTIONS	Mirvac Design	11.01.2024
	271	L	SECTIONS	Mirvac Design	11.01.2024
	272	L	SECTIONS	Mirvac Design	11.01.2024
	410	L	PRIVATE OPEN SPACE	Mirvac Design	11.01.2024
	411	L	PRIVATE OPEN SPACE	Mirvac Design	11.01.2024
	720	L	BASIX REQUIREMENTS	Mirvac Design	11.01.2024
	721	L	BASIX REQUIREMENTS	Mirvac Design	11.01.2024
	Superlot 2A				
	000	K	COVER SHEET	Mirvac Design	11.01.2024
	001	K	LOCALITY & SITE ANALYSIS PLAN	Mirvac Design	11.01.2024
	100	K	LOT LAYOUT & SITING PLAN	Mirvac Design	11.01.2024
	110	K	EROSION, SEDIMENT CONTROL & BENCHING PLAN	Mirvac Design	11.01.2024
	120	K	HYDRAULIC CONCEPT PLAN	Mirvac Design	11.01.2024
	210	K	GROUND FLOOR PLAN LOTS 2-01_2-03	Mirvac Design	11.01.2024
	211	K	GROUND FLOOR PLAN LOTS 2-04_2-07	Mirvac Design	11.01.2024
	212	K	GROUND FLOOR PLAN LOTS 2-08_2-11	Mirvac Design	11.01.2024
	220	K	FIRST FLOOR PLAN LOTS 2-01_2-03	Mirvac Design	11.01.2024
	221	K	FIRST FLOOR PLAN LOTS 2-04_2-07	Mirvac Design	11.01.2024
	222	K	FIRST FLOOR PLAN LOTS 2-08_2-11	Mirvac Design	11.01.2024
	250	K	ROOF PLAN LOTS 2-01_2- 03	Mirvac Design	11.01.2024
	251	K	ROOF PLAN LOTS 2-04_2- 07	Mirvac Design	11.01.2024
	252	K	ROOF PLAN LOTS 2-08_2- 11	Mirvac Design	11.01.2024
	260	K	ELEVATIONS	Mirvac Design	11.01.2024
	261	K	ELEVATIONS	Mirvac Design	11.01.2024
	262	K	ELEVATIONS	Mirvac Design	11.01.2024
	263	K	ELEVATIONS	Mirvac Design	11.01.2024
	265	K	COLOURED STREETSCAPES	Mirvac Design	11.01.2024
	266	K	COLOURED STREETSCAPES	Mirvac Design	11.01.2024
	267	K	COLOURED STREETSCAPES	Mirvac Design	11.01.2024

	270	K	SECTIONS	Mirvac Design	11.01.2024
	271	K	SECTIONS	Mirvac Design	11.01.2024
	272	K	SECTIONS	Mirvac Design	11.01.2024
	273	K	SECTIONS	Mirvac Design	11.01.2024
	274	K	SECTIONS	Mirvac Design	11.01.2024
	275	K	SECTIONS	Mirvac Design	11.01.2024
	410	K	PRIVATE OPEN SPACE	Mirvac Design	11.01.2024
	720	K	BASIX REQUIREMENTS	Mirvac Design	11.01.2024
	721	K	BASIX REQUIREMENTS	Mirvac Design	11.01.2024
	Superlot 2B				
	000	M	COVER SHEET	Mirvac Design	11.01.2024
	001	M	LOCALITY & SITE ANALYSIS PLAN	Mirvac Design	11.01.2024
	100	M	LOT LAYOUT & SITING PLAN	Mirvac Design	11.01.2024
	110	M	EROSION & SEDIMENT CONTROL PLAN	Mirvac Design	11.01.2024
	120	M	HYDRAULIC CONCEPT PLAN	Mirvac Design	11.01.2024
	210	M	GROUND FLOOR PLAN LOTS 2-12_2-15	Mirvac Design	11.01.2024
	211	M	GROUND FLOOR PLAN LOTS 2-16_2-19	Mirvac Design	11.01.2024
	212	M	GROUND FLOOR PLAN LOTS 2-20_2-23	Mirvac Design	11.01.2024
	220	M	FIRST FLOOR PLAN LOTS 2-12_2-15	Mirvac Design	11.01.2024
	221	M	FIRST FLOOR PLAN LOTS 2-16_2-19	Mirvac Design	11.01.2024
	222	M	FIRST FLOOR PLAN LOTS 2-20_2-23	Mirvac Design	11.01.2024
	250	M	ROOF PLAN LOTS 2-12_2-15	Mirvac Design	11.01.2024
	251	M	ROOF PLAN LOTS 2-16_2-19	Mirvac Design	11.01.2024
	252	M	ROOF PLAN LOTS 2-20_2-23	Mirvac Design	11.01.2024
	260	M	ELEVATIONS	Mirvac Design	11.01.2024
	261	M	ELEVATIONS	Mirvac Design	11.01.2024
	262	M	ELEVATIONS	Mirvac Design	11.01.2024
	263	M	ELEVATIONS	Mirvac Design	11.01.2024
	264	M	ELEVATIONS	Mirvac Design	11.01.2024
	266	M	ELEVATION COLOURED STREETSCAPES	Mirvac Design	11.01.2024
	267	M	ELEVATION COLOURED STREETSCAPES	Mirvac Design	11.01.2024
	268	M	ELEVATION COLOURED STREETSCAPES	Mirvac Design	11.01.2024
	270	M	SECTIONS	Mirvac Design	11.01.2024
	271	M	SECTIONS	Mirvac Design	11.01.2024
	272	M	SECTIONS	Mirvac Design	11.01.2024

	273	M	SECTIONS	Mirvac Design	11.01.2024
	274	M	SECTIONS	Mirvac Design	11.01.2024
	275	M	SECTIONS	Mirvac Design	11.01.2024
	410	M	PRIVATE OPEN SPACE	Mirvac Design	11.01.2024
	720	M	BASIX REQUIREMENTS	Mirvac Design	11.01.2024
	721	M	BASIX REQUIREMENTS	Mirvac Design	11.01.2024
	Superlot 3				
	000	H	COVER SHEET	Mirvac Design	11.01.2024
	001	H	LOCALITY & SITE ANALYSIS PLAN	Mirvac Design	11.01.2024
	100	J	LOT LAYOUT & SITING PLAN LOTS 3-01_3-10	Mirvac Design	11.01.2024
	101	J	LOT LAYOUT & SITING PLAN LOTS 3-11_3-19	Mirvac Design	11.01.2024
	110	H	EROSION, SEDIMENT CONTROL & BENCHING PLAN LOTS 3-01_3-10	Mirvac Design	11.01.2024
	111	H	EROSION, SEDIMENT CONTROL & BENCHING PLAN LOTS 3-11_3-19	Mirvac Design	11.01.2024
	120	H	HYDRAULIC CONCEPT PLAN LOTS 3-01_3-10	Mirvac Design	11.01.2024
	121	H	HYDRAULIC CONCEPT PLAN LOTS 3-11_3-19	Mirvac Design	11.01.2024
	200	H	LOWER GROUND FLOOR - LOTS 3-01_3-05	Mirvac Design	11.01.2024
	201	H	LOWER GROUND FLOOR - LOTS 3-06_3-10	Mirvac Design	11.01.2024
	202	H	LOWER GROUND FLOOR - LOTS 3-11_3-15	Mirvac Design	11.01.2024
	203	J	LOWER GROUND FLOOR - LOTS 3-16_3-19	Mirvac Design	11.01.2024
	210	J	GROUND FLOOR - LOTS 3-01_3-05	Mirvac Design	11.01.2024
	211	J	GROUND FLOOR - LOTS 3-06_3-10	Mirvac Design	11.01.2024
	212	J	GROUND FLOOR - LOTS 3-11_3-15	Mirvac Design	11.01.2024
	213	J	GROUND FLOOR - LOTS 3-16_3-19	Mirvac Design	11.01.2024
	220	K	FIRST FLOOR - LOTS 3-01_3-05	Mirvac Design	11.01.2024
	221	J	FIRST FLOOR - LOTS 3-06_3-10	Mirvac Design	11.01.2024
	222	K	FIRST FLOOR - LOTS 3-11_3-15	Mirvac Design	11.01.2024
	223	K	FIRST FLOOR - LOTS 3-16_3-19	Mirvac Design	11.01.2024
	250	K	ROOF PLAN - LOTS 3-01_3-05	Mirvac Design	11.01.2024
	251	J	ROOF PLAN - LOTS 3-06_3-10	Mirvac Design	11.01.2024

	252	K	ROOF PLAN - LOTS 3-11_3-15	Mirvac Design	11.01.2024
	253	J	ROOF PLAN - LOTS 3-16_3-19	Mirvac Design	11.01.2024
	260	J	ELEVATIONS	Mirvac Design	11.01.2024
	261	J	ELEVATIONS	Mirvac Design	11.01.2024
	262	J	ELEVATIONS	Mirvac Design	11.01.2024
	263	J	ELEVATIONS	Mirvac Design	11.01.2024
	264	H	ELEVATIONS	Mirvac Design	11.01.2024
	265	H	ELEVATIONS	Mirvac Design	11.01.2024
	266	J	COLOURED STREETSCAPES	Mirvac Design	11.01.2024
	267	J	COLOURED STREETSCAPES	Mirvac Design	11.01.2024
	268	J	COLOURED STREETSCAPES	Mirvac Design	11.01.2024
	269	H	COLOURED STREETSCAPES	Mirvac Design	11.01.2024
	270	H	SECTIONS	Mirvac Design	11.01.2024
	271	H	SECTIONS	Mirvac Design	11.01.2024
	272	H	SECTIONS	Mirvac Design	11.01.2024
	273	H	SECTIONS	Mirvac Design	11.01.2024
	274	H	SECTIONS	Mirvac Design	11.01.2024
	275	H	SECTIONS	Mirvac Design	11.01.2024
	276	H	SECTIONS	Mirvac Design	11.01.2024
	277	H	SECTIONS	Mirvac Design	11.01.2024
	278	H	SECTIONS	Mirvac Design	11.01.2024
	279	H	SECTIONS	Mirvac Design	11.01.2024
	280	H	SECTIONS	Mirvac Design	11.01.2024
	281	H	SECTIONS	Mirvac Design	11.01.2024
	410	H	PRIVATE OPEN SPACE- LOWER GROUND FLOOR	Mirvac Design	11.01.2024
	411	H	PRIVATE OPEN SPACE- GROUND FLOOR	Mirvac Design	11.01.2024
	412	K	PRIVATE OPEN SPACE- FIRST FLOOR	Mirvac Design	11.01.2024
	720	H	BASIX REQUIREMENTS	Mirvac Design	11.01.2024
	721	H	BASIX REQUIREMENTS	Mirvac Design	11.01.2024
	722	H	BASIX REQUIREMENTS	Mirvac Design	11.01.2024
	723	H	BASIX REQUIREMENTS	Mirvac Design	11.01.2024
	Superlot 4A				
	000	H	COVER SHEET	Mirvac Design	16.06.2023
	001	H	LOCALITY & SITE ANALYSIS PLAN	Mirvac Design	16.06.2023
	100	H	LOT LAYOUT & SITING PLAN	Mirvac Design	16.06.2023
	110	H	EROSION, SEDIMENT CONTROL & BENCHING PLAN	Mirvac Design	16.06.2023
	120	H	HYDRAULIC CONCEPT PLAN	Mirvac Design	16.06.2023

	210	H	LOWER GROUND FLOOR PLAN LOTS 4-01_4-03	Mirvac Design	16.06.2023
	211	H	LOWER GROUND FLOOR PLAN LOTS 4-04_4-05	Mirvac Design	16.06.2023
	212	H	GROUND FLOOR PLAN LOTS 4-01_4-03	Mirvac Design	16.06.2023
	213	H	GROUND FLOOR PLAN LOTS 4-04_4-05	Mirvac Design	16.06.2023
	220	H	FIRST FLOOR PLAN LOTS 4-01_4-03	Mirvac Design	16.06.2023
	221	H	FIRST FLOOR PLAN LOTS 4-04_4-05	Mirvac Design	16.06.2023
	250	H	ROOF PLAN	Mirvac Design	16.06.2023
	260	H	ELEVATIONS	Mirvac Design	16.06.2023
	261	H	ELEVATIONS	Mirvac Design	16.06.2023
	262	H	ELEVATIONS	Mirvac Design	16.06.2023
	263	H	COLOURED STREETSCAPES	Mirvac Design	16.06.2023
	264	H	COLOURED STREETSCAPES	Mirvac Design	16.06.2023
	270	H	SECTIONS	Mirvac Design	16.06.2023
	271	H	SECTIONS	Mirvac Design	16.06.2023
	272	H	SECTIONS	Mirvac Design	16.06.2023
	273	H	SECTIONS	Mirvac Design	16.06.2023
	410	H	PRIVATE OPEN SPACE	Mirvac Design	16.06.2023
	720	H	BASIX REQUIREMENTS	Mirvac Design	16.06.2023
	Superlot 4B				
	000	K	COVER SHEET	Mirvac Design	11.01.2024
	001	K	LOCALITY & SITE ANALYSIS PLAN	Mirvac Design	11.01.2024
	100	K	LOT LAYOUT & SITING PLAN	Mirvac Design	11.01.2024
	110	K	EROSION, SEDIMENT CONTROL & BENCHING PLAN	Mirvac Design	11.01.2024
	120	K	HYDRAULIC CONCEPT PLAN	Mirvac Design	11.01.2024
	210	K	GROUND FLOOR PLAN	Mirvac Design	11.01.2024
	211	K	FIRST FLOOR PLAN	Mirvac Design	11.01.2024
	212	K	ROOF PLAN	Mirvac Design	11.01.2024
	260	K	ELEVATIONS	Mirvac Design	11.01.2024
	261	K	ELEVATIONS	Mirvac Design	11.01.2024
	262	K	COLOURED STREETSCAPES	Mirvac Design	11.01.2024
	263	K	COLOURED STREETSCAPES	Mirvac Design	11.01.2024
	270	K	SECTIONS	Mirvac Design	11.01.2024
	271	K	SECTIONS	Mirvac Design	11.01.2024
	410	K	PRIVATE OPEN SPACE	Mirvac Design	11.01.2024
	720	K	BASIX REQUIREMENTS	Mirvac Design	11.01.2024
	Superlot 5				

	000	M	COVER SHEET	Mirvac Design	11.01.2024
	001	K	LOCALITY & SITE ANALYSIS PLAN	Mirvac Design	11.01.2024
	100	N	LOT LAYOUT & SITING PLAN	Mirvac Design	11.01.2024
	110	M	EROSION, SEDIMENT CONTROL & BENCHING PLAN	Mirvac Design	11.01.2024
	120	M	HYDRAULIC CONCEPT PLAN	Mirvac Design	11.01.2024
	200	L	LOWER GROUND FLOOR - LOTS 5-01_5-07	Mirvac Design	11.01.2024
	201	L	LOWER GROUND FLOOR - LOTS 5-08_5-13	Mirvac Design	11.01.2024
	202	L	LOWER GROUND FLOOR - LOTS 5-14_5-19	Mirvac Design	11.01.2024
	210	L	GROUND FLOOR - LOTS 5-01_5-07	Mirvac Design	11.01.2024
	211	L	GROUND FLOOR PLAN LOTS 5-08_5-13	Mirvac Design	11.01.2024
	212	L	GROUND FLOOR PLAN LOTS 5-14_5-19	Mirvac Design	11.01.2024
	220	L	FIRST FLOOR PLAN - LOTS 5-01_5-07	Mirvac Design	11.01.2024
	221	L	FIRST FLOOR PLAN - LOTS 5-08_5-13	Mirvac Design	11.01.2024
	222	L	FIRST FLOOR PLAN - LOTS 5-014_5-19	Mirvac Design	11.01.2024
	250	M	ROOF PLAN - LOTS 5-01_5-07	Mirvac Design	11.01.2024
	251	M	ROOF PLAN - LOTS 5-08_5-13	Mirvac Design	11.01.2024
	252	M	ROOF PLAN - LOTS 5-14_5-19	Mirvac Design	11.01.2024
	260	L	ELEVATIONS	Mirvac Design	11.01.2024
	261	L	ELEVATIONS	Mirvac Design	11.01.2024
	262	L	ELEVATIONS	Mirvac Design	11.01.2024
	263	L	ELEVATIONS	Mirvac Design	11.01.2024
	267	L	COLOURED STREETSCAPES	Mirvac Design	11.01.2024
	268	L	COLOURED STREETSCAPES	Mirvac Design	11.01.2024
	269	L	COLOURED STREETSCAPES	Mirvac Design	11.01.2024
	270	L	SECTIONS	Mirvac Design	11.01.2024
	271	L	SECTIONS	Mirvac Design	11.01.2024
	272	L	SECTIONS	Mirvac Design	11.01.2024
	273	L	SECTIONS	Mirvac Design	11.01.2024
	274	L	SECTIONS	Mirvac Design	11.01.2024

	410	L	PRIVATE OPEN SPACE AND PERMEABLE AREA PLAN	Mirvac Design	16.06.2023
	720	K	BASIX REQUIREMENTS	Mirvac Design	16.06.2023
	721	C	BASIX REQUIREMENTS	Mirvac Design	16.06.2023
	722	K	BASIX REQUIREMENTS	Mirvac Design	16.06.2023
	Superlot 13				
	000	K	COVER SHEET	Mirvac Design	11.01.2024
	001	K	LOCALITY & SITE ANALYSIS PLAN	Mirvac Design	11.01.2024
	100	K	LOT LAYOUT & SITING PLAN - LOTS 13-01_13-11	Mirvac Design	11.01.2024
	101	K	LOT LAYOUT & SITING PLAN - LOTS 13-12_13-17	Mirvac Design	11.01.2024
	110	L	EROSION, SEDIMENT CONTROL & BENCHING PLAN - LOTS 13-01_13-11	Mirvac Design	11.01.2024
	111	L	EROSION, SEDIMENT CONTROL & BENCHING PLAN - LOTS 13-12_13-17	Mirvac Design	11.01.2024
	120	K	HYDRAULIC CONCEPT PLAN - LOT 13-01_13-11	Mirvac Design	11.01.2024
	121	K	HYDRAULIC CONCEPT PLAN - LOT 13-12_13-17	Mirvac Design	11.01.2024
	200	K	LOWER GROUND FLOOR - LOTS 13-12_13-15	Mirvac Design	11.01.2024
	201	K	LOWER GROUND FLOOR - LOTS 13-16_13-17	Mirvac Design	11.01.2024
	210	K	GROUND FLOOR PLAN - LOTS 13-01_13-05	Mirvac Design	11.01.2024
	211	K	GROUND FLOOR PLAN - LOTS 13-06_13-11	Mirvac Design	11.01.2024
	212	K	GROUND FLOOR PLAN - LOTS 13-12_13-15	Mirvac Design	11.01.2024
	213	K	GROUND FLOOR PLAN - LOTS 13-16_13-17	Mirvac Design	11.01.2024
	220	K	FIRST FLOOR PLAN - LOTS 13-01_13-05	Mirvac Design	11.01.2024
	221	K	FIRST FLOOR PLAN - LOTS 13-06_13-11	Mirvac Design	11.01.2024
	222	K	FIRST FLOOR PLAN - LOTS 13-12_13-15	Mirvac Design	11.01.2024
	223	K	FIRST FLOOR PLAN - LOTS 13-16_13-17	Mirvac Design	11.01.2024
	250	K	ROOF PLAN - LOTS 13-01_13-05	Mirvac Design	11.01.2024
	251	K	ROOF PLAN - LOTS 13-06_13-11	Mirvac Design	11.01.2024

252	K	ROOF PLAN - LOTS 13-12_13-17	Mirvac Design	11.01.2024
260	K	ELEVATIONS	Mirvac Design	11.01.2024
261	K	ELEVATIONS	Mirvac Design	11.01.2024
262	K	ELEVATIONS	Mirvac Design	11.01.2024
263	K	ELEVATIONS	Mirvac Design	11.01.2024
264	K	ELEVATIONS	Mirvac Design	11.01.2024
266	K	COLOURED STREETSCAPES	Mirvac Design	11.01.2024
267	K	COLOURED STREETSCAPES	Mirvac Design	11.01.2024
268	K	COLOURED STREETSCAPES	Mirvac Design	11.01.2024
270	K	SECTIONS	Mirvac Design	11.01.2024
271	K	SECTIONS	Mirvac Design	11.01.2024
272	K	SECTIONS	Mirvac Design	11.01.2024
273	K	SECTIONS	Mirvac Design	11.01.2024
274	K	SECTIONS	Mirvac Design	11.01.2024
275	K	SECTIONS	Mirvac Design	11.01.2024
410	K	PRIVATE OPEN SPACE LOTS 13-01_13-17	Mirvac Design	11.01.2024
411	K	PRIVATE OPEN SPACE LOTS 13-01_13-17	Mirvac Design	11.01.2024
720	C	BASIX REQUIREMENTS	Mirvac Design	11.01.2024
721	C	BASIX REQUIREMENTS	Mirvac Design	11.01.2024
722	B	BASIX REQUIREMENTS	Mirvac Design	16.06.2023

Landscape Design				
Ref	Revision number	Report Name	Prepared by	Date
L-DA	B	COONARA - NORTH AND CENTRAL HOUSING PRECINCT LANDSCAPE DA REPORT	Turf Design Studio	January 2024
L-DA-1	-	H NORTH & H CENTRAL PRIVATE LOTS FENCE TYPOLOGIES	Turf Design Studio	June 2024

Numbering Plan				
Plan no.	Revision number	Plan Name	Prepared by	Date
-	-	Numbering Plans	THSC	16/06/2023

Subdivision Plan				
Sheet No.	Revision number	Plan Name	Prepared by	Date
1 of 1	03	D.P. Draft	Craig & Rhodes	23/05/2023
1 of 6	02	D.P. Draft	Craig & Rhodes	22/05/2023
2 of 6	02	D.P. Draft	Craig & Rhodes	22/05/2023

3 of 6	02	D.P. Draft	Craig & Rhodes	22/05/2023
4 of 6	02	D.P. Draft	Craig & Rhodes	22/05/2023
5 of 6	02	D.P. Draft	Craig & Rhodes	22/05/2023
6 of 6	02	D.P. Draft	Craig & Rhodes	22/05/2023

Civil Drawings				
Drawing number	Revision number	Plan title	Drawn by	Date of plan
C-HN-8300	P5	COVER SHEET, LOCALITY PLAN AND DRAWING SCHEDULE	NORTHROP	08.02.2024
C-HN-8301	P4	SPECIFICATION NOTES	NORTHROP	07.06.2023
C-HN-8302	P4	GENERAL ARRANGEMENT PLAN	NORTHROP	07.06.2023
C-HN-8303	P4	BULK EARTHWORKS CUT AND FILL PLAN - SHEET 01	NORTHROP	07.06.2023
C-HN-8304	P4	BULK EARTHWORKS CUT AND FILL PLAN - SHEET 02	NORTHROP	07.06.2023
C-HN-8305	P4	BULK EARTHWORKS CUT AND FILL PLAN - SHEET 03	NORTHROP	07.06.2023
C-HN-8306	P4	BULK EARTHWORKS CUT AND FILL SECTIONS - SHEET 01	NORTHROP	07.06.2023
C-HN-8307	P4	BULK EARTHWORKS CUT AND FILL SECTIONS - SHEET 02	NORTHROP	07.06.2023
C-HN-8308	P1	BULK EARTHWORKS CUT AND FILL SECTIONS - SHEET 03	NORTHROP	07.06.2023
C-HN-8309	P1	BULK EARTHWORKS CUT AND FILL SECTIONS - SHEET 04	NORTHROP	07.06.2023
C-HN-8310	P1	BULK EARTHWORKS CUT AND FILL SECTIONS - SHEET 05	NORTHROP	07.06.2023
C-HN-8311	P4	SITEWORKS AND STORMWATER MANAGEMENT PLAN - SUPERLOT 01-SHEET 01	NORTHROP	07.06.2023
C-HN-8312	P4	SITEWORKS AND STORMWATER MANAGEMENT PLAN - SUPERLOT 01-SHEET 02	NORTHROP	07.06.2023
C-HN-8313	P4	SITEWORKS AND STORMWATER MANAGEMENT PLAN - SUPERLOT 02	NORTHROP	07.06.2023
C-HN-8314	P4	SITEWORKS AND STORMWATER MANAGEMENT PLAN - SUPERLOT 03	NORTHROP	07.06.2023
C-HN-8315	P4	SITEWORKS AND STORMWATER MANAGEMENT PLAN - SUPERLOT 04	NORTHROP	07.06.2023
C-HN-8316	P4	SITEWORKS AND STORMWATER MANAGEMENT PLAN - SUPERLOT 05	NORTHROP	07.06.2023
C-HN-8317	P4	SITEWORKS AND STORMWATER MANAGEMENT PLAN - SUPERLOT 13-SHEET 01	NORTHROP	07.06.2023

	C-HN-8318	P4	SITEWORKS AND STORMWATER MANAGEMENT PLAN - SUPERLOT 13-SHEET 02	NORTHROP	07.06.2023
	C-HN-8321	P4	STORMWATER LONGITUDINAL SECTIONS- SHEET 01	NORTHROP	07.06.2023
	C-HN-8322	P4	STORMWATER LONGITUDINAL SECTIONS - SHEET 02	NORTHROP	07.06.2023
	C-HN-8323	P4	STORMWATER LONGITUDINAL SECTIONS - SHEET 03	NORTHROP	07.06.2023
	C-HN-8324	P4	STORMWATER LONGITUDINAL SECTIONS- SHEET 04	NORTHROP	07.06.2023
	C-HN-8328	P4	STORMWATER PIT SCHEDULE	NORTHROP	07.06.2023
	C-HN-8331	P4	RETAINING WALL ALIGNMENT CONTROL PLAN - SHEET 01	NORTHROP	07.06.2023
	C-HN-8332	P4	RETAINING WALL ALIGNMENT CONTROL PLAN - SHEET 02	NORTHROP	07.06.2023
	C-HN-8333	P4	RETAINING WALL ALIGNMENT CONTROL PLAN - SHEET 03	NORTHROP	07.06.2023
	C-HN-8336	P4	RETAINING WALL ELEVATIONS - SHEET 01	NORTHROP	07.06.2023
	C-HN-8337	P4	RETAINING WALL ELEVATIONS - SHEET 02	NORTHROP	07.06.2023
	C-HN-8338	P4	RETAINING WALL ELEVATIONS - SHEET 03	NORTHROP	07.06.2023
	C-HN-8339	P4	RETAINING WALL ELEVATIONS - SHEET 04	NORTHROP	07.06.2023
	C-HN-8340	P4	RETAINING WALL ELEVATIONS - SHEET 05	NORTHROP	07.06.2023
	C-HN-8341	P4	RETAINING WALL ELEVATIONS - SHEET 06	NORTHROP	07.06.2023
	C-HN-8342	P4	RETAINING WALL ELEVATIONS - SHEET 07	NORTHROP	07.06.2023
	C-HN-8343	P4	RETAINING WALL ELEVATIONS - SHEET 08	NORTHROP	07.06.2023
	C-HN-8344	P4	RETAINING WALL ELEVATIONS - SHEET 09	NORTHROP	07.06.2023
	C-HN-8345	P4	RETAINING WALL ELEVATIONS - SHEET 10	NORTHROP	07.06.2023
	C-HN-8346	P4	RETAINING WALL ELEVATIONS - SHEET 11	NORTHROP	07.06.2023
	C-HN-8347	P4	RETAINING WALL ELEVATIONS - SHEET 12	NORTHROP	07.06.2023
	C-HN-8348	P4	RETAINING WALL ELEVATIONS - SHEET 13	NORTHROP	07.06.2023
	C-HN-8349	P4	RETAINING WALL ELEVATIONS - SHEET 14	NORTHROP	07.06.2023
	C-HN-8350	P4	RETAINING WALL ELEVATIONS - SHEET 15	NORTHROP	07.06.2023
	C-HN-8351	P4	RETAINING WALL ELEVATIONS - SHEET 16	NORTHROP	07.06.2023
	C-HN-8352	P4	RETAINING WALL ELEVATIONS - SHEET 17	NORTHROP	07.06.2023

	C-HN-8353	P4	RETAINING WALL ELEVATIONS - SHEET 18	NORTHROP	07.06.2023
	C-HN-8354	P4	RETAINING WALL ELEVATIONS - SHEET 19	NORTHROP	07.06.2023
	C-HN-8355	P4	RETAINING WALL ELEVATIONS - SHEET 20	NORTHROP	07.06.2023
	C-HN-8356	P4	RETAINING WALL ELEVATIONS - SHEET 21	NORTHROP	07.06.2023
	C-HN-8357	P4	RETAINING WALL ELEVATIONS - SHEET 22	NORTHROP	07.06.2023
	C-HN-8358	P4	RETAINING WALL ELEVATIONS - SHEET 23	NORTHROP	07.06.2023
	C-HN-8359	P4	RETAINING WALL ELEVATIONS - SHEET 24	NORTHROP	07.06.2023
	C-HN-8360	P4	RETAINING WALL ELEVATIONS - SHEET 25	NORTHROP	07.06.2023
	C-HN-8361	P4	RETAINING WALL ELEVATIONS - SHEET 26	NORTHROP	07.06.2023
	C-HN-8362	P4	RETAINING WALL ELEVATIONS - SHEET 27	NORTHROP	07.06.2023
	C-HN-8363	P4	RETAINING WALL ELEVATIONS - SHEET 28	NORTHROP	07.06.2023
	C-HN-8364	P4	RETAINING WALL ELEVATIONS - SHEET 29	NORTHROP	07.06.2023
	C-HN-8365	P4	RETAINING WALL ELEVATIONS - SHEET 30	NORTHROP	07.06.2023
	C-HN-8366	P4	STORMWATER CATCHMENT PLAN - SHEET 01	NORTHROP	07.06.2023
	C-HN-8367	P4	STORMWATER CATCHMENT PLAN - SHEET 02	NORTHROP	07.06.2023
	C-HN-8368	P4	STORMWATER CATCHMENT PLAN - SHEET 03	NORTHROP	07.06.2023
	C-HN-8371	P4	DETAILS SHEET 01	NORTHROP	07.06.2023
	C-HN-8372	P4	DETAILS SHEET 02	NORTHROP	07.06.2023
	C-HN-8373	P4	DETAILS SHEET 03	NORTHROP	07.06.2023
	C-HN-8381	P1	DRIVEWAY LONGITUDINAL SECTIONS - SHEET 01	NORTHROP	08.02.2024
	C-HN-8382	P1	DRIVEWAY LONGITUDINAL SECTIONS - SHEET 02	NORTHROP	08.02.2024
	C-HN-8383	P1	DRIVEWAY LONGITUDINAL SECTIONS - SHEET 03	NORTHROP	08.02.2024
	C-HN-8384	P1	DRIVEWAY LONGITUDINAL SECTIONS - SHEET 04	NORTHROP	08.02.2024
	C-HN-8385	P1	DRIVEWAY LONGITUDINAL SECTIONS - SHEET 05	NORTHROP	08.02.2024
	C-HN-8386	P1	DRIVEWAY LONGITUDINAL SECTIONS - SHEET 06	NORTHROP	08.02.2024
	C-HN-8387	P1	DRIVEWAY LONGITUDINAL SECTIONS - SHEET 07	NORTHROP	08.02.2024
	C-HN-8388	P1	DRIVEWAY LONGITUDINAL SECTIONS - SHEET 08	NORTHROP	08.02.2024

	C-HN-8389	P1	DRIVEWAY LONGITUDINAL SECTIONS - SHEET 09	NORTHROP	08.02.2024
	<p>In the event of any inconsistency with the approved plans and a condition of this consent, the condition prevails.</p> <p>Condition reason: To ensure all parties are aware of the approved plans and supporting documentation that applies to the development.</p>				
2.	<p>Construction Certificate</p> <p>Before building works commence for 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.</p> <p>Condition reason: To ensure appropriate safeguarding measures are in place prior to the commencement of any building work, demolition or excavation, and to ensure compliance with the legislative requirements.</p>				
3.	<p>Building Work to be in Accordance with BCA</p> <p>During building work, 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.</p> <p>Condition reason: To ensure compliance with the legislative requirements.</p>				
4.	<p>Flood Control System</p> <p>The development is required to ensure the protection of the subject site and downstream properties in the locality from flood risks during all storm events, and throughout the subject development. Given this sensitive nature, the construction activities including earth works changing the terrain, road network and stormwater management are to ensure no additional runoff is directed towards downstream properties.</p> <p>It must be confirmed that prior to commencement of construction or earth works and throughout each phase of the subject development, necessary flood control structures (respective Onsite Stormwater Detention Systems) and/ or alternative temporary detention systems must have been in place onsite ensuring the hydraulic compliance intended in the Flood Analysis, the latest response by Northrop dated 05/09/2022 and other references and based on the 'Onsite Detention Tanks Construction Sequencing' letter dated 16 February 2024 pursuant to the Concept of Master Plan development DA 860/2022/JP/A.</p> <p>The five Onsite Stormwater Detention Systems are shown on the amended Stormwater layout Catchment Plan - OSD C-MP-8372 Revision P9 dated 05/02/2024 pursuant to the DA 860/2022/JP/A.</p> <p>The Integrated Onsite Stormwater Detention and Water Sensitive Urban Design systems 1, 2 and 5 cater the subject development proposed within Northern and Central precincts.</p> <p>The final set of completed WAE drawings approved for the master plan DA 860/2022/JP must be referenced.</p> <p>Separate Compliance Certificates must be approved for the construction of alternative Interim Flood Control System if required.</p> <p>Copies of work as drawings of such interim flood control systems, and structural certificates and hydraulic compliance certificates issued by respective accredited engineers are to be provided to the Principal Certifying Authority, and a copy of such must be kept on site.</p> <p>The flood control systems are to be maintained throughout, all phases of the development.</p>				

	Condition reason: To ensure the locality and the development are protected from stormwater runoff and flooding																																																			
5.	<p>Planning Agreement</p> <p>The obligations in the Planning Agreement between Mirvac Projects (Retail and Commercial) Pty Ltd and The Hills Shire Council dated 27 September 2022 (Planning Agreement), or any future variation of this Planning Agreement, must be satisfied in accordance with the terms of the Planning Agreement including but not limited to, the Payment of Monetary Contributions, Completion of Capital Works and Dedication of Land as detailed within the Planning Agreement.</p> <p>Condition reason: To contribute towards public infrastructure for the area.</p>																																																			
6.	<p>Property Numbering for House Numbering</p> <p>The responsibility for property numbering is vested solely in Council under the <i>Local Government Act 1993</i>.</p> <p>Approved numbering is as per plans submitted marked as Project: Coonara, Date 16.06.2023 and marked up as ‘Numbering Plans’ by Council’s Land Information Team within consent documentation; and as follows:</p> <p>Site: Superlot 1A</p> <table><tr><th>Dwelling Reference</th><th>Street Numbering</th><th>Road Name Reference</th></tr><tr><td>1-01</td><td>2</td><td>ROAD 2</td></tr><tr><td>1-02</td><td>1</td><td>ROAD 2</td></tr><tr><td>1-03</td><td>3</td><td>ROAD 2</td></tr><tr><td>1-04</td><td>5</td><td>ROAD 2</td></tr><tr><td>1-05</td><td>7</td><td>ROAD 2</td></tr><tr><td>1-06</td><td>4</td><td>ROAD 2</td></tr><tr><td>1-07</td><td>6</td><td>ROAD 2</td></tr><tr><td>1-08</td><td>8</td><td>ROAD 2</td></tr><tr><td>1-09</td><td>10</td><td>ROAD 2</td></tr></table> <p>Site: Superlot 1B</p> <table><tr><th>Dwelling Reference</th><th>Street Numbering</th><th>Road Name Reference</th></tr><tr><td>1-10</td><td>12</td><td>ROAD 2</td></tr><tr><td>1-11</td><td>14</td><td>ROAD 2</td></tr><tr><td>1-12</td><td>16</td><td>ROAD 2</td></tr><tr><td>1-13</td><td>18</td><td>ROAD 2</td></tr><tr><td>1-14</td><td>20</td><td>ROAD 2</td></tr><tr><td>1-15</td><td>22</td><td>ROAD 2</td></tr></table>	Dwelling Reference	Street Numbering	Road Name Reference	1-01	2	ROAD 2	1-02	1	ROAD 2	1-03	3	ROAD 2	1-04	5	ROAD 2	1-05	7	ROAD 2	1-06	4	ROAD 2	1-07	6	ROAD 2	1-08	8	ROAD 2	1-09	10	ROAD 2	Dwelling Reference	Street Numbering	Road Name Reference	1-10	12	ROAD 2	1-11	14	ROAD 2	1-12	16	ROAD 2	1-13	18	ROAD 2	1-14	20	ROAD 2	1-15	22	ROAD 2
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1-15	22	ROAD 2																																																		

1-16	24	ROAD 2
1-17	26	ROAD 2
1-18	28	ROAD 2
1-19	30	ROAD 2

Stage: HNORTH Site: Superlot 2A

Dwelling Reference	Street Numbering	Road Name Reference
2-01	2	ROAD 1
2-02	4	ROAD 1
2-03	6	ROAD 1
2-04	8	ROAD 1
2-05	10	ROAD 1
2-06	12	ROAD 1
2-07	14	ROAD 1
2-08	16	ROAD 1
2-09	18	ROAD 1
2-10	20	ROAD 1
2-11	22	ROAD 1

Stage: HNORTH Site: Superlot 2B

Dwelling Reference	Street Numbering	Road Name Reference
2-12	24	ROAD 1
2-13	26	ROAD 1
2-14	28	ROAD 1
2-15	30	ROAD 1
2-16	32	ROAD 1
2-17	34	ROAD 1
2-18	36	ROAD 1
2-19	38	ROAD 1
2-20	40	ROAD 1
2-21	42	ROAD 1
2-22	44	ROAD 1

2-23	46	ROAD 1
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Stage: HNORTH Site: Superlot 03

Dwelling Reference	Street Numbering	Road Name Reference
3-01	1	ROAD 1
3-02	3	ROAD 1
3-03	5	ROAD 1
3-04	7	ROAD 1
3-05	9	ROAD 1
3-06	11	ROAD 1
3-07	13	ROAD 1
3-08	15	ROAD 1
3-09	17	ROAD 1
3-10	19	ROAD 1
3-11	21	ROAD 1
3-12	23	ROAD 1
3-13	25	ROAD 1
3-14	27	ROAD 1
3-15	29	ROAD 1
3-16	31	ROAD 1
3-17	33	ROAD 1
3-18	35	ROAD 1
3-19	37	ROAD 1

Stage: HNORTH Site: HN_S04A

Dwelling Reference	Street Numbering	Road Name Reference
4-01	40	LANEWAY 1
4-02	42	LANEWAY 1
4-03	44	LANEWAY 1
4-04	46	LANEWAY 1
4-05	48	LANEWAY 1

Stage: HNORTH Site: S04B

Dwelling Reference	Street Numbering	Road Name Reference
4-06	50	LANEWAY 1
4-07	52	LANEWAY 1
4-08	54	LANEWAY 1

Stage: HCENTRAL Site: SUPERLOT 05

Dwelling Reference	Street Numbering	Road Name Reference
5-01	1	LANEWAY 1
5-02	3	LANEWAY 1
5-03	5	LANEWAY 1
5-04	7	LANEWAY 1
5-05	9	LANEWAY 1
5-06	11	LANEWAY 1
5-07	13	LANEWAY 1
5-08	15	LANEWAY 1
5-09	17	LANEWAY 1
5-10	19	LANEWAY 1
5-11	21	LANEWAY 1
5-12	23	LANEWAY 1
5-13	25	LANEWAY 1
5-14	27	LANEWAY 1
5-15	29	LANEWAY 1
5-16	31	LANEWAY 1
5-17	33	LANEWAY 1
5-18	35	LANEWAY 1
5-19	37	LANEWAY 1

Site: SUPERLOT 13

Numbering Starting at Northern intersection of P1 perimeter road and R5 – Road 5 as per numbering plan.

	Street Numbering	Road Name Reference
	2	ROAD 5
	4	ROAD 5
	6	ROAD 5
	8	ROAD 5
	10	ROAD 5
	12	ROAD 5
	14	ROAD 5
	16	ROAD 5
	18	ROAD 5
	20	ROAD 5
	22	ROAD 5
	24	ROAD 5
	26	ROAD 5
	28	ROAD 5
	30	ROAD 5
	32	ROAD 5
	34	ROAD 5
	<p>These addresses shall be used for all correspondence, legal property transactions and shown on the final registered Deposited Plan lodged with Land Registry Services NSW as required. This addressing and by extension the development; may only be used in accordance with Council's Development Consent.</p> <p>The street numbers as issued are to be displayed at the entrance to the property for mail delivery and service providers including emergency services.</p>	
	<p>Condition reason: To ensure consistency in addressing as per Council and Geographical Names Board Guidelines. Final development can be located in the event of an emergency and for mail delivery.</p>	
7.	Acoustic Requirements	
	<p>The recommendations of the Acoustic Assessment and report prepared by Acoustic Logic, refenced as (Project ID 20201245.11), dated 27/03/2023, Revision 1, and submitted as part of the Development Application are to be implemented as part of this approval. In particular:</p> <p>a) Section 4.3 Complying Façade Constructions and recommendations in the conclusion – Section 7.</p> <p>The recommendations of the Acoustic Assessment and Report prepared by Acoustic Logic, referenced as (Project ID20201245), dated 1 October 2021 and submitted as part of DA 860/2022/JP are to be implemented as part of this approval. In particular:</p> <p>b) Noise and vibration controls detailed in sections 10 to 13.</p> <p>c) Ecological noise control measures for endangered nesting Powerful Owl species, including -</p>	

	<p>i. Hours of work will be restricted within 100m during the breeding season (March – September) and to commence 1 hour after sunrise (8.00am) and finish before 4.00pm; and</p> <p>ii. Noise monitoring to be established during the breeding period in these areas.</p>
	Condition reason: To protect the acoustic amenity of the local area and of the development.
8.	<p>Control of early morning noise from trucks</p> <p>Trucks associated with the construction of the site that will be waiting to be loaded must not be brought to the site prior to 7am. To protect the amenity of neighbouring residents, construction vehicles are not permitted to queue outside of the site, along Coonara Avenue before 7:00am.</p> <p>Out of hours deliveries for oversize vehicles where required, are to be managed in accordance with TfNSW approvals.</p>
	Condition reason: To protect the acoustic amenity of the local residents
9.	<p>Compliance with Sydney Water Requirements - Sydney Water Building Plan Approval – Critical Mains</p> <p>Prior to the commencement of works on housing lots adjacent to the DN1200 and DN500 watermain and their easements, a Sydney Water Out of Scope Building Plan must be submitted and approved by Sydney Water to ensure that the approved housing lots will not impact Sydney Water infrastructure and operations.</p> <p>A copy of the building plan approval from Sydney Water must be submitted to the Principal Certifier prior to works commencing on the housing lots adjacent to the DN1200 and DN500 easements.</p> <p>Please refer to the website http://www.sydneywater.com.au/tapin/index.htm, Sydney Water Tap in™, or telephone 13 20 92.</p>
	Condition reason: To ensure compliance with Sydney Water requirements.

BEFORE ISSUE OF A CONSTRUCTION CERTIFICATE

10.	<p>Flood Control System & Integrated Stormwater Management</p> <p>Integrated Stormwater Management in the form of Onsite Stormwater Detention (OSD) incorporating Water Sensitive Urban Design systems are required with the development.</p> <p>The Onsite Stormwater System must be designed in accordance with the Council's adopted policy for the Upper Parramatta River catchment area, the Upper Parramatta River Catchment Trust OSD Handbook.</p> <p>The OSD systems OSD 1, OSD 2 and OSD 5 shown on the Stormwater layout Catchment Plan - OSD C-MP-8372 Revision P9 dated 05/02/2024 approved under the conceptual master plan application DA 860/2022/JP/A cater the subject developments within Northern and Central precincts.</p> <p>The integrated Water sensitive urban design elements are to be located generally in accordance with the Stormwater Catchment Plan – WSUD drawing C-MP-8373 Revision P6 dated 13/01/2023.</p> <p>If the development relies on completion of OSDs 1, 2 and 5 for the interim flood control system required, they must have been completed prior to commencement of any works approved under this development.</p>
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	<p>The set of completed WAE drawings and Hydraulic and Structural Certificates requested under the master plan DA must be provided with the construction certificate application documentation.</p> <p>Condition reason: To provide stormwater management system compliant to Council’s requirements</p>																
11.	<p>Planning Agreement</p> <p>Before the issuing of a Construction Certificate, written evidence is to be submitted to Council, demonstrating that the relevant obligations of the Planning Agreement between Mirvac Projects (Retail and Commercial) Pty Ltd and The Hills Shire Council dated 27 September 2022 (Planning Agreement), or any future variation of this Planning Agreement, have been satisfied including, but not limited to, the Payment of Monetary Contributions as specified in Schedule 2 of the Planning Agreement: -</p> <table><tr><th>Contribution</th><th>Timing of Payment</th><th>Purpose: ‘Housing Central Precinct’</th><th>Total Contribution</th></tr><tr><td>Dwelling Contribution</td><td>Prior to or concurrent with the issue of the first Construction Certificate.</td><td>13% of Total Dwelling Yield (55 Dwellings)</td><td>\$267,942.58</td></tr></table> <table><tr><th>Contribution</th><th>Timing of Payment</th><th>Purpose: ‘Housing North Precinct’</th><th>Total Contribution</th></tr><tr><td>Dwelling Contribution</td><td>Prior to or concurrent with the issue of the first Construction Certificate.</td><td>12% of Total Dwelling Yield (50 Dwellings)</td><td>\$234,449.76</td></tr></table> <p>The contributions above are applicable at the time this consent was issued. In accordance with the provisions of the Voluntary Planning Agreement, contributions are indexed annually and will be updated at the time of payment.</p> <p>Prior to payment, it is advised to phone or email Council to confirm the amount. Payments will be accepted via Debit or Credit Card. Cash payments will not be accepted.</p> <p>Condition reason: To contribute towards public infrastructure for the area.</p>	Contribution	Timing of Payment	Purpose: ‘Housing Central Precinct’	Total Contribution	Dwelling Contribution	Prior to or concurrent with the issue of the first Construction Certificate.	13% of Total Dwelling Yield (55 Dwellings)	\$267,942.58	Contribution	Timing of Payment	Purpose: ‘Housing North Precinct’	Total Contribution	Dwelling Contribution	Prior to or concurrent with the issue of the first Construction Certificate.	12% of Total Dwelling Yield (50 Dwellings)	\$234,449.76
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12.	<p>Section 7.12 Contribution</p> <p>Before the issuing of a Construction Certificate, a contribution of \$733,625.22 must be paid to Council. This amount may be adjusted at the time of payment.</p> <p>The contributions levy has been calculated in accordance with the table below:</p> <table><tr><th>Proposed cost of the development</th><th>Maximum percentage of the levy</th></tr><tr><td>Up to \$100,000</td><td>Nil</td></tr><tr><td>\$100,001 - \$200,000</td><td>0.5 %</td></tr><tr><td>More than \$200,000</td><td>1%</td></tr></table> <p>Prior to payment, it is advised to phone or email Council to confirm the amount. Payments will be accepted via Debit or Credit Card. Cash payments will not be accepted. This condition has been imposed in accordance with Section 7.12 of the Environmental Planning and Assessment Act 1979 and The Hills Section 7.12 Contributions Plan.</p> <p>Condition reason: To contribute towards public infrastructure for the area.</p>	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%								
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More than \$200,000	1%																
13.	<p>Notice of Requirements</p>																

	<p>Before the issue of a construction certificate, submit 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.</p> <p>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.</p>
	<p>Condition reason: To ensure compliance with Sydney Water requirements.</p>

BEFORE WORK COMMENCES

14.	Consultation with Service Authorities
	<p>Before building work commences, applicants are advised to consult with Telstra, NBN Co and Australia Post regarding the installation of telephone conduits, broadband connections and letterboxes as required.</p> <p>Applicants are advised to consult with the relevant electricity authority with respect to electricity supply and connection points to the site, or any other electrical infrastructure located in close proximity to the proposed works. Unimpeded access must be available to the electricity supply authority, during and after building, to the electricity meters and metering equipment.</p> <p>In the interest of health and safety, applicants are to contact before you dig Australia www.byda.com.au in order to protect damage to third party assets. It is the individuals responsibility to anticipate and request the nominal location of plant or assets on the relevant property via contacting the dial before you dig service in advance of any construction or planning activities.</p>
	<p>Condition reason: To ensure compliance with relevant service provider’s requirements.</p>
15.	Builder and Principal Certifier Details
	<p>Before building work commences, the builders name, address, telephone and email information must be submitted to the Principal Certifier. Where Council is not the Principal Certifier, Council must be notified of the Principal Certifier in writing two days before building works commence in accordance with the Regulations.</p> <p>Condition reason: To ensure compliance with the legislative requirements.</p>
16.	Management of Building Sites
	<p>Before building work commences, 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 is to be provided.</p> <p>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.</p>
	<p>Condition reason: To protect workers, the public and the environment.</p>
17.	Completion of Flood Control System (Interim/Permanent OSD Basin)
	<p>No construction activity or earth works is to commence until the interim flood control system or permanent OSD 1, OSD 2 and OSD 5 catering the Apartment precinct catchment (the subject development) is completed to ensure the downstream flood behaviour is not adversely affected.</p>

	Documentation required must be provided to the Principal Certifying Authority prior to commencement of other activities.
	Condition reason: Provide a reason for the condition.
18.	<p>Engagement of a Project Arborist</p> <p>Before site works commence, a Project Arborist (minimum AQF Level 5) is to be appointed and the following details provided to The Hills Shire Council's Manager – Environment & Health:</p> <p>a) Name:</p> <p>b) Qualification/s:</p> <p>c) Telephone number/s:</p> <p>d) Email:</p> <p>If the Project Arborist is replaced, Council is to be notified in writing of the reason for the change and the details of the new Project Arborist provided within 7 days.</p> <p>Condition reason: To protect vegetation.</p>
19.	<p>Ground Protection within Tree Protection Zone</p> <p>Before any work begins on the site, if any construction access or works is required within the TPZ of any trees identified for retention ground protection measures shall be required.</p> <p>Ground protection shall include temporary access for machinery, vehicular and foot traffic within the TPZ of trees on the site and/or on adjoining Council site/s.</p> <p>The measures may include a permeable membrane such as geo-textile fabric beneath a layer of mulch or crushed rock below rumble boards as per Clause 4.5.3 Ground protection AS4970-2009 Protection of trees on development sites.</p> <p>Any site activity within the Tree Protection Zone and Structural Root Zone of the tree/s to be preserved must have elevated protection installed clear of the ground to avoid compaction and damage to roots. Protection may comprise of timber planks or metal decking supported on scaffolding or the like.</p> <p>All areas within the root protection zone are to be mulched with composted leaf mulch to a depth of no less than 100mm as outlined in the mulching condition of this Consent.</p> <p>Documentation relating to the implementation of the subject tree protection measures (including certification of supervision) by a Project Arborist shall be provided to Council as outlined in this Consent and/or upon request by the Consent Authority.</p> <p>Condition reason: To protect trees during the carrying out of site work.</p>
20.	<p>Erosion and Sediment Controls in Place</p> <p>Before site work commences, the certifying authority must be satisfied the erosion and sediment controls in the erosion and sediment control plan are in place. These controls must remain in place until any bare earth has been restabilised in accordance with the NSW Department of Housing manual 'Managing Urban Stormwater: Soils and Construction Certificate' (the Blue Book) (as amended from time to time).</p> <p>Condition reason: To ensure sediment laden runoff and site debris do not impact local stormwater systems and waterways.</p>
21.	<p>Waste Management Plan requirements</p> <p>Before site work commences, a waste management plan for the development must be prepared and provided to the Principal Certifying Authority. The plan must be prepared</p> <p>a) in accordance with</p> <p>i. the Environment Protection Authority's Waste Classification Guidelines as in force from time to time, and</p>

	<p>ii. a development control plan that provides for waste management that applies to the land on which the work or the clearing of vegetation is carried out, and</p> <p>b) include the following information—</p> <p>i. the contact details of the person removing waste,</p> <p>ii. an estimate of the type and quantity of waste,</p> <p>iii. whether waste is expected to be reused, recycled or sent to landfill,</p> <p>iv. the address of the disposal location for waste.</p> <p>A copy of the waste management plan must be kept on-site at all times while work approved under the development consent is being carried out.</p> <p>Condition reason: To ensure resource recovery is promoted and local amenity protected during construction</p>
22.	<p>Tree Protection Fencing</p> <p>Before any work begins on the site, Tree Protection Fencing must be in place around trees or groups of trees nominated for retention. In order of precedence the location of fencing shall be: a) In accordance with the 'Detail Tree Retention & Tree Protection Plans' prepared by Footprint Green Pty Ltd, dated 12 September 2022 (Rev. 12 – Dwg. No. atrpd 3.00); or b) As per directed by a AQF Level 5 (or greater) Project Arborist; or c) In accordance with the Tree Protection Zone (TPZ) as calculated under AS4970 (2009) Protection of trees on development sites. Note: Any variations to the Standards shall be documented and certified by the Project Arborist.</p> <p>The erection of a minimum 1.8m chain-wire fence to delineate the TPZ is to stop the following occurring:</p> <ul style="list-style-type: none"> • Excavation, installation of services or other works within the TPZ; • Stockpiling of materials within TPZ; • Placement of fill within TPZ; • Parking of vehicles within the TPZ; • Compaction of soil within the TPZ; • Cement washout and other chemical or fuel contaminants within TPZ; and • Damage to tree crown. <p>Where the provision of the tree protection fencing is impractical due to its proximity to the proposed development footprint, trunk protection shall be erected around nominated trees to avoid accidental damage. The trunk protection shall consist of a layer of carpet underfelt (or similar) wrapped around the trunk, followed by 1.8m metre lengths of softwood timbers (90 x 45mm in section) aligned vertically and spaced evenly around the trunk at 150mm centres (i.e. with a 50mm gap) and secured together with galvanised hoop strap.</p> <p>All areas within the root protection zone shall be mulched with composted leaf mulch to a depth of no less than 100mm as outlined in the mulching condition of this Consent.</p> <p>Documentation relating to the implementation of the subject tree protection measures (including certification of supervision) by a Project Arborist shall be provided to Council as outlined in this Consent and/or upon request by the Consent Authority.</p> <p>Condition reason: To protect trees during the carrying out of site work.</p>
23.	<p>Tree Protection Signage</p> <p>Before any work begins on the site, a Tree Protection Zone sign must be attached to the Tree Protection Fencing stating "Tree Protection Zone No Access" (The lettering size on the sign shall comply with Australian Standard – AS1319).</p>

	<p>Signs identifying the TPZ shall be placed around the edge of the TPZ and be visible from within the development site.</p> <p>Access to this area can only be authorised by the Project Arborist or Site Manager. All activities within this area shall be documented by the Project Arborist.</p> <p>Condition reason: To protect trees during the carrying out of site work.</p>
24.	<p>Mulching within Tree Protection Zone</p> <p>Before any work begins on the site, all areas within the Tree Protection Zone (TPZ) are to be mulched with composted leaf mulch to a depth of 100mm. The material of the mulch shall consist of approximately 75% leaf litter and 25% fine woodchip as certified to Australian Standard (AS 4454-2012) Composts, Soil Conditioner and Mulches.</p> <p>Mulch shall be spread to cover the entire TPZ of the trees to be retained or at the discretion of an AQF Level 5 Project Arborist and shall be maintained for the duration of the works.</p> <p>Condition reason: To protect trees during the carrying out of site work.</p>

DURING WORKS

25.	<p>Documentation – Civil works</p> <p>A copy of the following certified documents must be kept on site and made available upon request:</p> <ul style="list-style-type: none"> a) Design and Construction Plans (Construction Certificate Documentation) b) Construction Management Plans c) Construction Verification Plan d) Construction Risk Management Plan e) Sediment and Erosion Control Plan. f) Details of Flood Control Systems provided (Interim/Permanent) g) Stormwater Management Documentation & Certifications. <p>Condition reason: To ensure the construction activities are being followed by the correct approved documents.</p>
26.	<p>Site Inspection –Earth Works</p> <p>All site works must be carried out under the supervision of suitably qualified geotechnical engineer confirming the works are carried out in accordance with the requirements of Geotechnical Report issued to the Construction Certificate.</p> <p>Condition reason: To ensure that site works are conducted to the geotechnical recommendation.</p>
27.	<p>Dust Control</p> <p>During site works, dust suppression techniques must be used to minimise nuisance to surrounding properties. In the absence of any alternative measures, the following measures must be taken to control the emission of dust:</p> <ul style="list-style-type: none"> a) Dust screens must be erected around the perimeter of the site and be kept in good repair for the duration of the demolition and construction work; b) 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

	<p>c) All stockpiles of materials that are likely to generate dust must be kept damp or covered.</p> <p>Condition reason: To prevent the movement of dust outside the boundaries of the development.</p>
28.	<p>Protection of Tree Canopy</p> <p>Whilst works are being carried out, care shall be taken when operating cranes, drilling rigs and similar equipment near trees to avoid damage to tree canopies (foliage and branches). Under no circumstances shall branches be torn-off by construction equipment. Where there is potential conflict between tree canopy and construction activities, the advice of the Project Arborist must be sought.</p> <p>Where scaffolding is required, it should be erected outside the TPZ. Where it is essential for scaffolding to be erected within the TPZ, branch removal shall be minimised or avoided. This can be achieved by designing to avoid branches or tying back branches. The ground below the scaffolding shall be protected by boarding such as scaffold board or plywood sheeting. Boarding shall be placed over a layer of mulch and impervious sheeting to prevent soil contamination. The boarding shall be left in place until the scaffolding is removed.</p> <p>In the event of any tree becoming damaged for any reason during the construction period the Project Arborist shall be engaged to inspect and provide advice on any remedial action to minimise any adverse impact. Such remedial action shall be implemented as soon as practicable and certified by the Project Arborist.</p> <p>The removal of a small portion of the crown (foliage and branches) is generally tolerable provided that the extent of pruning required is within 10% of the total foliage volume of the tree and the removal of branches does not create large wounds or disfigure the natural form and habit of the tree. All pruning cuts must be undertaken in accordance with the Australian Standard of Pruning of Amenity Tree (AS 4373-2007).</p> <p>Documentation relating to the implementation of the subject tree protection measures (including certification of supervision) by a Project Arborist shall be provided to Council as outlined in this Consent and/or upon request by the Consent Authority.</p> <p>Condition reason: To protect the tree canopy during the carrying out of site work.</p>
29.	<p>Tree Irrigation / Watering Maintenance</p> <p>Whilst works are being carried out on the site, the Project Arborist shall regularly monitor the levels of soil moisture within the TPZ of any trees identified to be retained.</p> <p>Temporary irrigation system or manual watering may be required within the TPZ of the trees to the discretion of the Project Arborist.</p> <p>Where practicable an above ground irrigation system shall be installed and maintained by a competent individual under direction and supervision of the Project Arborist.</p> <p>Condition reason: To ensure adequate soil moisture is maintained surrounding trees.</p>
30.	<p>Streetscape Planting</p> <p>Banksia 'Birthday Candles' species proposed within Streetscape Planting Palettes are to be substituted for a soft wooded perennial native plant species capable of occasional foot traffic.</p> <p>Designated Bin Collection Area locations within streetscape verge plantings are to be provided with pads to place the bins on, as bins cannot be presented on the vegetated verges. Bin pads are to be sufficiently sized to present required bin numbers and are to be constructed of any of the following materials:</p> <ul style="list-style-type: none"> • Honed earth tone concrete as per the approved Materials Palette • Crushed sandstone/granite with steel garden edging surround • Selected pebble/gravel of a light natural tone with steel garden edging surround

	Condition reason: To ensure that plant species are suitable and that bins are not placed on top of verge planting for bin collection.
31.	<p>Fencing Locations</p> <p>Fencing for the following locations are to be set back as follows:</p> <p>Superlot 01A:</p> <p>1-02 - Fencing is to be set back a minimum of 500mm from the boundary to the extent of the rear POS area, excluding the small area designated for bin storage.</p> <p>Superlot 03A:</p> <p>3-01 – Fencing is to be set back a minimum of 500mm from the boundary for the portion of fencing forward of the building line which faces Road 1.</p> <p>3-19 - Fencing is to be set back a minimum of 500mm from the boundary for the portion of fencing forward of the building line which faces Laneway 1.</p> <p>Superlot 013B:</p> <p>13-17 - Fencing is to be set back a minimum of 500mm from the boundary for the extent the fencing facing Road 5 extending past the corner, ending at the staircase on the Perimeter Road at the rear of the lot.</p> <p>Note:</p> <p>Where fences are set back, water tanks or other services to be screened must be relocated as to not be visible within the streetscape.</p> <p>Minimum 500mm high planting is to be provided in the landscape strip between the set back fences and the property boundary for the nominated lots to provide softening of the fencing behind.</p> <p>Condition reason: To ensure that prominent fencing viewed from streetscapes are adequately softened.</p>
32.	<p>Screen Planting Adjacent Lots 1-02, 1-03, 1-04, and 1-05</p> <p><i>Acmena smithii</i> trees proposed adjacent the rear of lots 1-02, 1-03, 1-04, and 1-05 are to be substituted for the hedge form <i>Acmena smithii</i> 'minor'. This hedging with private property is to be maintained at a minimum height as to screen the masonry portion of the wall from the streetscape.</p> <p>Condition reason: To ensure a hedge species is provided rather than a tree species, where a hedge/screen is the desired effect.</p>
33.	<p>Electrical Substation Planting</p> <p>Low groundcover planting to a maximum 200mm height is to be provided and maintained surrounding the padmount substation easement within H North Park. Planting to be provided at a density of 5 per 1m².</p> <p>Condition reason: To ensure that an area with no surface or planting proposed has a landscape resolution.</p>
34.	<p>Planting Over OSD</p> <p>All planting over an OSD slab must achieve the following minimum soil depths for the approved landscaping:</p> <ul style="list-style-type: none"> • 1.2m for large trees or 800mm for small trees; • 650mm for shrubs;

	<ul style="list-style-type: none"> • 300-450mm for groundcover; and • 200mm for turf. <p>Where planting for trees occurs over an OSD, an artificial soil profile is to be introduced, using a structural soil system to give stability and structural support.</p> <p>Condition reason: To ensure that when planting is provided with sufficient soil depth, and that tree planting over is of sufficient structure for tree stability.</p>
35.	<p>Hours of Work</p> <p>Site work must only be carried out between the following times – For all works from 7:00am to 5:00pm on Monday to Saturday. No work to be carried out on Sunday or Public Holidays. Site work is not to be carried out outside of these times except where there is an emergency, or for urgent work directed by a police officer or a public authority.</p> <p>Condition reason: To protect the amenity of the surrounding area.</p>
36.	<p>Surveys by a Registered Surveyor</p> <p>While building work is being carried out, the positions of the following must be measured and marked by a registered surveyor and provided to the principal certifier:</p> <ol style="list-style-type: none"> All footings / foundations in relation to the site boundaries and any registered and proposed easements; and At other stages of construction – any marks that are required by the principal certifier. <p>Condition reason: To ensure buildings are sited and positioned in the approved location.</p>
37.	<p>Waste Management</p> <p>While site work is being carried out:</p> <ol style="list-style-type: none"> all waste management must be undertaken in accordance with the waste management plan, and upon disposal of waste, records of the disposal must be compiled and provided to the principal certifying authority, detailing the following: <ol style="list-style-type: none"> The contact details of the person(s) who removed the waste; The waste carrier vehicle registration; The date and time of waste collection; A description of the waste (type of waste and estimated quantity) and whether the waste is to be reused, recycled or go to landfill; The address of the disposal location(s) where the waste was taken; The corresponding tip docket/receipt from the site(s) to which the waste is transferred, noting date and time of delivery, description (type and quantity) of waste. If waste has been removed from the site under an EPA Resource Recovery Order or Exemption, records in relation to that Order or Exemption must be maintained and provided to the principal certifier and council. <p>Condition reason: To require records to be provided, during site work, documenting the lawful disposal of waste.</p>
38.	<p>Stockpiles</p> <p>During site work, stockpiles of topsoil, sand, aggregate or other material capable of being moved by water must be stored clear of any drainage line, easement, natural watercourse, footpath, kerb or roadside.</p> <p>Condition reason: To protect waterways</p>

39.	<p>Trenching and Excavation within Tree Protection Zone</p> <p>Whilst site works are being carried out, any trenching and excavation for installation of drainage, sewerage, irrigation or any other services, and/or for construction of driveways and roads, and/or any ancillary structures shall not occur within the Tree Protection Zone (TPZ) of any trees identified for retention unless under supervision and certification of a suitably qualified AQF Level 5 (or greater) Project Arborist.</p> <p>Certification of supervision by a Project Arborist must be provided to Council within 14 days of completion of trenching works and/or upon request by the Consent Authority.</p> <p>The installation of the stormwater drainage system and/or sewerage drainage system, the construction of driveways and roads, and/or the construction of any ancillary structures within the TPZ of trees on site and/or on any adjacent sites identified to be retained shall be carried out by adopting sensitive construction methods under the supervision of the Project Arborist.</p> <p>The installation of underground services shall be undertaken by adopting non-destructive excavation techniques such as horizontal directional drilling (trust boring) and/or hydro & vacuum excavation and/or hand excavation. Where the method of trust boring is selected the directional drilling bore shall be at least 600mm deep and the pilot bore pits for the machinery should be out of the TPZ of any trees to be retained. Note, prior to the adoption of trust boring practice the Project Arborist shall adequately assess the species and dimension of the tree/s to be preserved, the root structure and associated level of tolerance to soil disturbances, topography of the site and condition of the soil. Accordingly, where necessary the minimum depth (600mm) of the directional drilling bore shall be increased.</p> <p>Demolition, construction, or any form of earth works within the Tree Protection Zone of trees identified for retention shall be carried out so as to avoid damage to the tree roots. Manual excavation shall be carried out under the supervision of the Project Arborist. Manual excavation may include the use of pneumatic and hydraulic tools. Note, mattocks and axes shall not be used.</p> <p>Where roots within the Tree Protection Zone are exposed by excavation, temporary root protection should be installed to prevent them drying out. This may include jute mesh or hessian sheeting as multiple layers over exposed roots and excavated soil profile, extending to the full depth of the root zone. Root protection sheeting should be pegged in place and kept moist during the period that the root zone is exposed.</p> <p>Root pruning should be avoided, however where necessary, all cuts shall be clean cuts made with sharp tools such as secateurs, pruners, handsaws, chainsaws or specialised root pruning equipment. Where possible, the roots to be pruned should be located and exposed using minimally destructive techniques such as hand-digging, compressed air or water-jetting, or non-destructive techniques. No roots larger than 40mm in diameter shall be cut without Project Arborist advice and supervision. All root pruning must be done in accordance with Section 9 of Australia Standard 4373-2007 Pruning of Amenity Trees.</p> <p>Condition reason: To protect trees during the carrying out of site work</p>
40.	<p>Notification of New Contamination</p> <p>During ground work, ground conditions must be monitored and when new evidence including, but not limited to, imported fill, buried building materials, asbestos, odour and/or staining, works are to immediately cease and Council's Manager- Environment and Health is to be notified.</p> <p>A site contamination investigation is to be carried out in accordance with the <i>State Environmental Planning Policy (Resilience and Hazards) 2021</i> and submitted to Council's Manager – Environment and Health for review.</p> <p>Approval from Council's Manager – Environment and Health must be obtained in writing prior to works recommencing on site.</p>

Condition reason: To ensure controls are in place for contamination management

ON COMPLETION OF WORKS

41.	Removal of waste upon completion
	After completion of all site work: all refuse, spoil and material unsuitable for use on-site must be removed from the site and disposed of in accordance with the approved waste management plan, and written evidence of the waste removal must be provided to the satisfaction of the principal certifying authority.
	Condition reason: To ensure waste material is appropriately disposed or satisfactorily stored.

BEFORE ISSUE OF OCCUPATION/SUBDIVISION CERTIFICATE

42.	Project Arborist Final Certification Before the Issue of an Occupation Certificate
	Before the issue of an Occupation Certificate, the Project Arborist shall provide final documentary evidence and certification together with photographs of all points of supervision including but not limited to the following hold points:
	<ol style="list-style-type: none"> 1. Prior to installation of tree protection measures; 2. Prior to and during the tree removal work being carried out; 3. Following installation of tree protection measures, including ground protection, canopy protection, irrigation maintenance within the TPZ and prior to any works commencing on site (including demolition, earth work and construction); 4. During all works within the TPZ of any trees to be retained on site and on any adjacent sites; 5. Monthly inspections by site arborist from commencement of works until completion of works; and 6. At completion of all works including landscaping (i.e. retaining walls, installation of lighting and irrigation, topdressing, planting, paving, etc.). <p>Any changes in tree health, condition of growing environment or potential damage to trees during construction shall be documented and discussed, and any ongoing tree management recommendations including any taken remedial action shall be provided. The above certification and documentation shall be submitted to the satisfaction of Council's Manager – Environment and Health prior to the issue of an Occupation Certificate.</p> <p>Note, documentation relating to the implementation of any required tree protection measures including certification of supervision by the Project Arborist of the tree removal work and any form of work undertaken within the TPZ of trees identified to be retained shall be provided to Council during the stages of the development as described under the relevant conditions of Consent and/or upon request by the Consent Authority.</p>
	Condition reason: To ensure all tree protection measures have been adequately implemented and the trees remain viable for retention.

OCCUPATION AND ONGOING USE

43.	Maintenance of Landscaping Works
	During occupation and ongoing use of the site, the landscaping works, associated plantings and the completed retaining walls are to be maintained in a satisfactory condition throughout the life of the development.
	Condition reason: To ensure landscaping of the site is maintained on a regular basis.
44.	Visitor Parking Spaces
	The Northern and Central Housing Precinct is to provide for 33 on-street visitor parking spaces.
	Condition reason: To ensure adequate visitor parking is provided for the development.

BUILDING WORK GENERAL CONDITIONS

45.	External Finishes
	During occupation and ongoing use of the development, the external finishes and colours shall be in accordance with the details submitted with the development application and approved with this consent.
	Condition reason: To ensure quality built form of development.
46.	Management of Surface Drainage
	Stormwater, surface water or seepage from the development shall be collected by a subsurface/surface drainage system which is to be connected to a suitable system of disposal. The development, either during construction or upon completion, must not impede or divert natural surface water and the system of drainage must not cause a nuisance to adjoining properties.
	Condition reason: To ensure the development adequately manages stormwater runoff.
47.	Approved Subdivision Plan
	Before the issue of any subdivision work certificate, the consent holder must deliver/complete the subdivision component of the development in accordance with the approved plan of subdivision prepared by Tasy Moraitis of Craig and Rhondes, Sheets 1-7, Revision 02 , dated 22/05/2023 except were amended by other conditions of consent. These requirements shall be reflected on the Construction Certificate plans and supporting documentation.
	Condition reason: To ensure the construction plans are consistent with the approved DA plans.
48.	Protection of Public Infrastructure
	During works, Council must be notified of any damage to public infrastructure caused by the development. Adequate protection must be provided prior to work commencing and maintained during building operations. Any damage caused must be made good, to the satisfaction of Council, before an Occupation Certificate can be issued. Public infrastructure includes the road pavement, kerb and gutter, concrete footpaths, drainage structures, utilities and landscaping fronting the site.

	Condition reason: To document any damaged to public infrastructure during construction and subsequently any damage is to be made good prior to Occupation Certificate.
49.	<p>Structures Adjacent to Piped Drainage Easements</p> <p>Buildings and structures, including footings and brick fences, adjacent to existing or proposed drainage easements must be located wholly outside the easement. A design certificate must be provided by a structural engineer and provided to the to the certifier's satisfaction certifying that the structure will not impart a load on the pipe in the easement.</p> <p>Before the issue of any construction certificate, these requirements shall be reflected on the Construction Certificate plans and supporting documentation.</p> <p>Condition reason: To protect the stormwater structures within the stormwater easement.</p>
50.	<p>Requirements for Council Drainage Easements</p> <p>No works are permitted within existing or proposed public drainage easements unless approved by Council. Where works are permitted, the following requirements must be adhered to:</p> <ul style="list-style-type: none"> a) Provision for overland flow and access for earthmoving equipment must be maintained. b) The existing ground levels must not be altered. No overland flow is to be diverted out of the easement. c) No fill, stockpiles, building materials or sheds can be placed within the easement. d) Open style fencing must be used. New or replacement fencing must be approved by Council. <p>These requirements shall be reflected on the Construction Certificate plans and supporting documentation before the issue of a construction certificate or a subdivision work certificate, whichever precedes first/earlier.</p> <p>Condition reason: To ensure no impedance to the designated flow path over the public drainage easements.</p>
51.	<p>Vehicle Crossing Application</p> <p>Before the issue of any construction certificate, the consent holder must lodge a vehicular crossing application with council. Each driveway approved within public footpath verge requires the lodgement of a separate gutter and footpath crossing application, accompanied by the applicable fee as per Council's Schedule of Fees and Charges.</p> <p>Driveways entry points must be located clear of all utility services. It is recommended that discussion be held with the relevant authorities before construction works commence. Council does not accept any responsibility towards these services. The applicant is to arrange with the appropriate service provider for any above ground service riser or access point to be constructed clear of any proposed or existing pedestrian footways, and if possible, located in recessed unobtrusive locations. Should any service provider require and/or insist the applicant/developer build a service riser that would create an obstruction and pose a potential safety hazard, then the applicant/developer should refer the request to Council for negotiation directly with the Service Network Authority.</p> <p>NOTE: The receipt shall be provided to the Certifier as evidence of lodgement.</p> <p>Condition reason: To ensure that the vehicular crossing to the development has been constructed in accordance with council's design standards, and to the requirements of other services authorities.</p>
52.	<p>Road Opening Permit</p> <p>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</p>

	<p>road opening permit must be applied for and the works inspected by Council's Maintenance Services team.</p> <p>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.</p>
	Condition reason: To protect the roads.
53.	<p>Compliance with NSW Rural Fire Service Requirements</p> <p>During the development of the site, occupation and ongoing use of the development, compliance with the requirements of New South Wales Rural Fire Services attached as an Appendix to this consent and dated 1 March 2024.</p>
	Condition reason: To ensure compliance with the relevant authority's General Terms of Approval.
54.	<p>Compliance with Department of Planning and Environment - Water Requirements</p> <p>During the development of the site, occupation and ongoing use of the development, compliance with the requirements of the Department of Planning and Environment – Water attached as Appendix to this consent and dated 26 June 2024.</p>
	Condition reason: To ensure compliance with the relevant authority's General Terms of Approval.

BEFORE THE ISSUE OF A CONSTRUCTION CERTIFICATE

55.	<p>Security Bond – Road Pavement and Public Asset Protection</p> <p>In accordance with Section 4.17(6) of the Environmental Planning and Assessment Act 1979, The applicant must provide a security bond of \$990,000.00 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 (640m) multiplied by the width of the road (13m).</p> <p>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.</p> <p>The bond must be lodged with Council before the issue of a construction certificate or a subdivision work certificate, whichever precedes first/earlier.</p> <p>Evidence of the payment shall be referred to/ included in the Construction Certificate documentation.</p>
	Condition reason: To ensure any damage to public infrastructure is rectified
56.	<p>Engineering Works and Design</p> <p>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.</p> <p>Engineering works can be classified as either "subdivision works" or "building works".</p> <p>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.</p>

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.

All Infrastructure works including internal road network and circulation, services, earth works, and stormwater management are provided under the approved conceptual master plan application DA 860/2022/JP.

The design and construction of the engineering works listed below must reflect the concept engineering plan and the conditions of consent.

a) Full Width Road Construction

With various staged DAs approved subsequent to the Master Plan DA 860/2022/JP for the site, the road network around each stage is required in order to facilitate the subject development unless the facilities are already completed under the master plan DA 860/2022/JP.

The full width construction of the roads listed below is required, including footpath paving and other ancillary work to make this construction effective:

- R1 - Road 1
- R2 - Road 2
- R3 - Road 3 (Northern Part)
- R5 - Road 5
- L1 - Laneway 1
- P1 – Perimeter Road
- Greenlink

Design details are to be referenced under the DA 860/2022/JP and subsequent construction certificates.

Except where a one-way cross fall is required all roads are to have a two-way cross fall with a crown in the middle of the carriageway.

With respect to private roads, the intersection needs to delineate the public road from the private road using a gutter crossing rather than kerb returns, pavement threshold treatment or similar.

The R5-Road 05 is restricted for one-way traffic movement only.

b) Temporary Turning Heads - Staged Activities

A temporary turning head is required if construction staging of the road network if terminates at the end of any proposed road/s. The cul-de-sac must have a minimum diameter of 19m measured from the edge pavement.

c) Signage and Line Marking Requirements/ Plan

A signage and line marking plan must be submitted with the detailed design. This plan needs to address street name signs and posts, regulatory signs and posts (such as no parking or give way signs), directional signs and posts (such as chevron signs), speed limit signs and posts and line marking, where required.

Thermoplastic line marking must be used for any permanent works. Any temporary line marking must be removed with a grinder once it is no longer required, it cannot be painted over.

Details for all signage and line-marking must be submitted to Council's Construction Engineer for checking prior to works commencing. For existing public roads, signs and line marking may require separate/ specific approval from the Local Traffic Committee.

Street name signs and posts must be provided in accordance with the above documents and Council's Standard Drawing 37. With respect to street name signs specifically, all private roads must include a second sign underneath which reads "private road".

d) Footpath Verge Formation

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

e) Concrete Footpath

A 1.5m wide concrete footpath, including access ramps at all intersections, must be provided across frontage of the site unless provided under separate approvals. The footpath must be provided on the eastern side of E1-Entry driveway and the western side of E2-Entry driveway in order to protect the existing trees between the E1 & E2 driveways.

The construction must be completed with the subject development unless provided under other approvals issued for the site.

f) Gutter Crossings

Gutter crossings to each of the proposed new lots are required.

Gutter crossings are not required where roll kerb has been provided/ permitted.

g) 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.

h) Service Conduits

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

i) Earthworks/ Site Regrading

Earthworks and retaining walls are limited to those locations and heights shown on the concept engineering plan prepared Northrop Revision P4 dated 07/06/2023. Where earthworks are not shown on the approved plan the topsoil within lots must not be disturbed. Retaining walls between lots must be located on the high side lot that is being retained, save the need for easements for support on the low side lot adjacent.

j) Stormwater Drainage – external catchment

Grassed swale drains or temporary piped drainage must be installed to intercept, control and redirect surface stormwater runoff from upstream undeveloped properties.

k) Stormwater Drainage – Pipe Extension

The Coonara Avenue Street drainage extension required under master plan DA 860/2022/JP is to be completed with the subject development unless such works are already provided as per the master plan approval.

l) Inter-allotment Stormwater Drainage

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

	<p>m) Stormwater Drainage Connection to OSD 1, 2 and 5</p> <p>Piped stormwater from the development lots must be connected to the Onsite Stormwater Detention Systems 1, 2 and 5 compliant to the approved network pursuant to the DA 860/2022/JP/A.</p> <p>Condition reason: To ensure that the engineering design associated with this development have been designed and completed in accordance with Australian standards, Council's relevant DCP and Council's Design Guidelines Subdivisions/ Developments and Works Specifications Subdivisions/ Developments.</p>
57.	<p>Earth Works and Retaining Structures</p> <p>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.</p> <p>a) Design and Construction Details</p> <p>The detailed design and construction of Earth Works and Retaining Structures of the subject DA must be reflect of the approved Stage 1 works of the Conceptual Master Plan development consent DA 860/2022/JP, and outlined in Condition No. 1 above. The plans for the subject DA are approved for development application and consent purposes only and is not to be used for construction.</p> <p>Detailed design and construction drawings must be endorsed by the geotechnical engineer confirming the design compliance of a detailed Geotechnical Report.</p> <p>b) Construction Verification Plan</p> <p>A construction verification plan shall be developed as part of the projects Quality Management Plan (QMP) to confirm that the works are carried out to relevant standards.</p> <p>The QMP shall include the requirement for the site inspection to be undertaken by a Geotechnical Engineer.</p> <p>c) Construction Risk Management Plan</p> <p>A detailed risk management plan shall be prepared to identify hazards, risk level and appropriate controls during the construction process. The plan shall include:</p> <ul style="list-style-type: none"> • Trigger levels/criteria in relation to monitoring and earthworks control. • Actions and controls to be taken. • Surface and groundwater management and materials management in the event of significant wet weather events. <p>d) Stormwater Drainage</p> <p>The entire site area must be graded, collected and drained by pits and pipes to a suitable flood control system and also to be consistent to the recommendation of the detailed Geotechnical report required.</p> <p>e) Erosion and Sediment Control</p> <p>Erosion and sedimentation control is to be provided in accordance with Council's "Works Specifications - Subdivisions/Developments" (November 2001). Details are to be shown on the engineering plans and all devices are to be established prior to the commencement of engineering works and maintained for a minimum period of six (6) months after the date of issue of a Subdivision Certificate. Periodic maintenance of the erosion and sedimentation control devices is to be undertaken to ensure their effectiveness.</p> <p>f) Geotechnical and Structural Certification</p> <p>All the detailed design and construction documentation required under this consent must be certified by the geotechnical or structural engineer.</p>

	Condition reason: To ensure that the engineering design associated with this development have been designed and completed in accordance with Australian standards, Council's relevant DCP and Council's Design Guidelines Subdivisions/ Developments and Works Specifications Subdivisions/ Developments
58.	Bin Storage Design Amended architectural plans and landscape plans are to be prepared which adequately design and locate bin storage areas to: <ul style="list-style-type: none"> ensure that bin enclosures are not overly prominent within front setbacks, and that the footprint of the enclosure and any associated paths/steppers are minimised as far as possible create greater consolidated soft landscape planting areas by integrating letterboxes, front fences, services, and bin storage areas. avoid bin storage enclosures abutting front porches Plans with amended bin storage design, locations and landscaping are to be submitted to the satisfaction of Council's Manager – Environment and Health prior to the issue of Construction Certificate for the following lots: 2-03, 2-04, 2-05, 2-06, 2-09, 2-10, 2-13, 2-14, 2-15, 2-16, 2-19, 2-20, 2-21, 2-22, 4-07, 13-02, 13-03, 13-04, 13-07, 13-08, 13-09, 13-10, 13-13, 15-14, and 13-15. Condition reason: To ensure Condition 7 of masterplan DA 860/2022/JP is satisfactorily complied with.
59.	Irrigation An automatic watering system is to be installed as a minimum to the H North and H Central Parks. 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. Condition reason: Ensuring public areas are adequately irrigated.
60.	Provision of Domestic Waste Storage Area(s) Before the issue of a construction certificate, the certifier must be satisfied that construction plans incorporate a bin storage area sized for a minimum of 3 x 240 litre bins for every dwelling within the lot boundary. The area(s) must: <ol style="list-style-type: none"> be screened from view from public land and neighbouring residential property; be located within the property boundaries in a dedicated bin cupboard in the front setback, or behind the building line in the rear courtyard, side access path or a dedicated area in the garage; Have a flat or ramped bin transfer path leading directly from the bin storage area(s) to the approved bin collection point along the kerbside. The path must have a minimum clear floor width of 820mm, must not exceed a grade of 7% (1:14), be free of steps and must be external to the dwelling (excludes garage); an associated clear nature strip length of 2.74m must be dedicated along the kerbside for each dwelling for bin presentation. Condition reason: To ensure adequate storage space is provided onsite for every residential dwelling to accommodate Council's standard domestic waste service and to promote source separation.

BEFORE WORK COMMENCES

61.	Sydney Water Building Plan Approval
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	<p>Before building work commences, a building plan approval must be obtained from Sydney Water Tap in™ to ensure that the approved development will not impact Sydney Water infrastructure.</p> <p>A copy of the building plan approval and receipt from Sydney Water Tap in™ (if not already provided) must be submitted to the Principal Certifier upon request prior to works commencing.</p> <p>Please refer to the website http://www.sydneywater.com.au/tapin/index.htm, Sydney Water Tap in™, or telephone 13 20 92.</p> <p>Condition reason: To ensure compliance with Sydney Water requirements.</p>
62.	<p>Stabilised Access Point</p> <p>Before building work commences, a stabilised all weather access point is to be provided and maintained throughout construction activities until the site is stabilised. The controls shall be in accordance with the requirements with the details approved by Council and/or as directed by Council Officers. These requirements shall be in accordance with Managing Urban Stormwater – Soils and Construction produced by the NSW Department of Housing (Blue Book).</p> <p>Condition reason: To ensure construction sites are managed properly.</p>
63.	<p>Toilet Facilities</p> <p>Before building work commences, toilet facilities are to be provided, at or in the vicinity of the work site on which work involved in the erection or demolition of a building is being carried out, at the rate of one toilet for every 20 persons or part of 20 persons employed at the site.</p> <p>Each toilet provided:</p> <ul style="list-style-type: none"> a) must be a standard flushing toilet, and b) must be connected: <ul style="list-style-type: none"> i. to a public sewer, or ii. if connection to a public sewer is not practicable, to an accredited sewage management facility approved by the council, or iii. if connection to a public sewer or an accredited sewage management facility is not practicable, to some other sewage management facility approved by the council. <p>Condition reason: To ensure there are amenities provided to workers on site.</p>
64.	<p>Public Infrastructure Inventory Report</p> <p>Before works commencing on site the Principal Contractor must get a public infrastructure inventory report 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:</p> <ul style="list-style-type: none"> a) Planned construction access and delivery routes; and b) Dated photographic evidence of the condition of all public assets. <p>Condition reason: To document and ensure protection of the condition of public infrastructure prior to works commencing.</p>
65.	<p>Dust Management Plan – Major Construction/ Subdivision Works</p> <p>Before works commencing on site the Principal Contractor must get a site specific dust management plan developed to proactively address the issue of dust during construction. This plan must be submitted to</p>

	<p>Council's Manager – Subdivision and Development Certification for written approval before works commence. The plan must address/ include the following matters, where relevant:</p> <ul style="list-style-type: none"> • Water carts must be used to regularly wet down exposed areas. The number of water carts required on site (at all times, and with additional carts available on demand) must be nominated and justified. • Additives that can be mixed with the water to aid dust suppression. • A dust cloth must be installed along the perimeter of the site. • Where required, a sprinkler/ misting system along the perimeter of the site. • Dust control at source, such as machine mounted sprinklers, ground mounted water cannons where material is being excavated, loaded and placed and measures to ensure loads are covered. • Speed control on haul routes. • Stockpile management such as location, orientation, volume and height to minimise impacts on neighbouring properties. Covering of stockpiles with tarpaulins or vegetation should also be considered where warranted by the duration of the stockpile. Stockpiles expected to be in place for longer than 14 days are considered non-temporary. • Interim seeding and/ or hydro-mulching of exposed areas as work progresses. • Final topsoil placement and planting or seeding exposed areas as soon as possible. • Jute matting of the core riparian zone within any creeks/ riparian corridors. • Weather forecast systems to predict adverse weather conditions and allow for early action for dust management and to avoid dust generating activities when weather conditions are unfavourable. • Education of all site personnel on reducing dust. • Community engagement plan and complaints management system demonstrating how dust complaints will be received, recorded, resolved and responded to. <p>How the dust management controls will be monitored, reviewed and revised on a regular basis to ensure their ongoing effectiveness</p> <p>Condition reason: To ensure appropriate dust control in is in place for large Construction/ Subdivision works.</p>
66.	<p>Traffic Control Plan</p> <p>Before the works commence on site a person with the relevant accreditation must complete and approve/sign a Traffic Control relevant to the site. A copy of the approved plan must be submitted to Council before being implemented.</p> <p>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.</p> <p>Condition reason: To Ensure safe movement of vehicles around/past the site</p>
67.	<p>Erection of Signage – Supervision of Work</p> <p>Before works commencing on site the Certifier is to ensure a sign is erected in a prominent position displaying the following information:</p> <ul style="list-style-type: none"> • The name, address and telephone number of the Principal Certifying Authority; • The name and telephone number (including after hours) of the person responsible for carrying out the works; • That unauthorised entry to the work site is prohibited.

	This signage must be maintained while the work is being carried out and must be removed upon completion.
	Condition reason: To address requirements Environmental Planning and Assessment Regulations 2021.

DURING BUILDING WORKS

68.	Landscaping Works
	During building works, any required landscaping works, associated plantings and the construction of any retaining walls are to be undertaken generally in accordance with the approved plans.
	Condition reason: To ensure compliance with the approved landscaping plans.
69.	Location of Works
	During building works, any of the approved works / dwelling house (inclusive of any services, equipment and/or utilities), footings, walls, roof barges and guttering are to be constructed and contained wholly within the property boundaries. A survey report from a registered land surveyor may be required for confirmation of its location.
	Condition reason: To ensure no encroachment occurs onto the adjoining property.
70.	Roof Water Drainage
	During building works, gutters and downpipes and/or rainwater tank overflows are to be provided and connected to an approved discharge point (ie. kerb, inter-allotment drainage easement or OSD) upon installation of roof coverings.
	Condition reason: To minimise stormwater impacts on adjoining properties.
71.	Construction Noise
	During building work, the emission of noise from the construction of the development shall comply with the <i>Interim Construction Noise Guideline published by the Department of Environment and Climate Change (July 2009)</i> .
	Condition reason: To protect residential amenity
72.	Rock Breaking Noise
	During building work and upon receipt of a justified complaint in relation to noise pollution caused by rock breaking. Rock breaking will only occur between the hours of 9am to 3pm, Monday to Friday. No rock breaking is to occur Saturday – Sunday and on public holidays. Details of noise mitigation measures and likely duration of the activity must be submitted to Council's Manager – Environment and Health within seven (7) days of receiving notice from Council.
	Condition reason: To minimise noise impacts on neighbouring properties
73.	Retention of Trees
	While works are being carried out, all trees not specifically identified for removal in the Arboricultural Impact Assessment – Part 3 prepared by Footprint Green Pty Ltd, dated 12 September 2022 (Rev. 12 – Dwg. No. aiacc 3.01) shall be retained and protected strictly in accordance with the imposed Conditions of the subject Development Consent and the Australian Standard (AS4970-2009) Protection of trees on development sites. No additional vegetation (trees and understorey) shall be removed for the creation of an Asset Protection Zone or otherwise without before obtaining consent from Council.
	Condition reason: To ensure retained trees are adequately protected during works.
74.	Project Arborist

	<p>During site works, the Project Arborist must be on site to supervise any works within the Tree Protection Zone (TPZ) of any trees to be retained on the site and/or any adjacent sites. Note, this requirement extends to where there is potential conflict between a tree canopy and construction work on the site.</p> <p>Supervision of the works shall be certified by the Project Arborist and a copy of such certification shall be submitted to Council within 14 days of completion of the works and/or upon request by the Consent Authority.</p> <p>Condition reason: To protect trees during carrying out of site work</p>
75.	<p>Procedure for Critical Stage Inspections</p> <p>While building work is being carried out, the work must not continue after each critical stage inspection unless the principal certifier is satisfied the work may proceed in accordance with this consent and the relevant construction certificate.</p> <p>Condition reason: To require approval to proceed with building work following each critical stage inspection.</p>
76.	<p>Notification of New Contamination</p> <p>During building work, ground conditions must be monitored and when new evidence including, but not limited to, imported fill, buried building materials, asbestos, odour and/or staining, works are to immediately cease and Council's Manager- Environment and Health is to be notified.</p> <p>A site contamination investigation is to be carried out in accordance with the <i>State Environmental Planning Policy (Resilience and Hazards) 2021</i> and submitted to Council's Manager – Environment and Health for review.</p> <p>Approval from Council's Manager – Environment and Health must be obtained in writing prior to works recommencing on site.</p> <p>Condition reason: To ensure controls are in place for contamination management</p>
77.	<p>Disposal of Surplus Excavated Material</p> <p>During works, in accordance with the waste management plan, the disposal of surplus excavated material is to be transported to a licensed facility. Receipts of all waste/ recycling tipping must be always kept onsite and produced in a legible form to any authorised officer of the Council who asks to see them.</p> <p>Condition reason: To ensure disposal of surplus excavated material is completed safely and in accordance with the Protection of the Environment Operations Act 1997.</p>
78.	<p>Compliance with BASIX Certificate</p> <p>During works, all commitments listed in BASIX Certificate Nos.: Superlot 1: 1379481M, Superlot 2: 1378317M, Superlot 3: 1379006M, Superlot 4: 1379017M, Superlot 5: 1379251M, Superlot 5: 1379251M, and Superlot 13: 1379282M_02 are to be complied with. Any subsequent version of this BASIX Certificate will supersede all previous versions of the certificate.</p> <p>Condition reason: To ensure compliance with the BASIX Certificate requirements.</p>
79.	<p>Confirmation of Compliance with Zero Lot Line</p> <p>During building works, and before the installation of the external roof tiles/sheeting, a survey certificate signed and dated (including contact details) from a registered land surveyor may be requested by the Principal Certifier stating that the as constructed wall, cappings, guttering and fascia to the wall on the zero lot line is located wholly within the property boundary.</p> <p>Condition reason: To ensure no encroachment occurs within the easement.</p>
80.	<p>Location of Dwelling to be Clear of Easement for Access and Maintenance</p> <p>During building works, the proposed construction of the dwelling (inclusive of any services, equipment and/or utilities) is to be located wholly within the confines of the subject property's boundaries and clear of the total extent of the easement for access and maintenance that is located within the property.</p>

	A survey report from a registered land surveyor may be requested by the Principal Certifier for confirmation of its location.
	Condition reason: To ensure no encroachment occurs into the easement for access and maintenance within the allotment.
81.	Roof Water Drainage
	During building works, gutters and downpipes and/or rainwater tank overflows are to be provided and connected to an approved discharge point (ie. kerb, inter-allotment drainage easement or OSD) upon installation of roof coverings.
	Condition reason: To minimise stormwater impacts on adjoining properties.

BEFORE ISSUE OF OCCUPATION CERTIFICATE/SUBDIVISION CERTIFICATE

82.	Public Infrastructure Inventory Report - Post Construction
	Before the release of an Occupation Certificate an updated public infrastructure inventory 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.
	Condition reason: To determine where required suitable remediation of public assets
83.	OSD System Certification
	Before the release of an Occupation Certificate the Onsite Stormwater Detention (OSD) system must be completed to the satisfaction of the Principal Certifying Authority (PCA). The following documentation is required to be submitted upon completion of the OSD system and prior to a final inspection: a) Works as executed plans prepared on a copy of the approved plans; b) A certificate of hydraulic compliance (Form B.11) from a suitably qualified engineer or surveyor verifying that the constructed OSD system will function hydraulically; c) A certificate of structural adequacy from a suitably qualified structural engineer verifying that the structures associated with the constructed OSD system are structurally adequate and capable of withstanding all loads likely to be imposed on them during their lifetime. Where Council is not the PCA a copy of the above documentation must be submitted to Council.
	Condition reason: To ensure completion of the OSD system in accordance with the approved plans and it is operation.
84.	Water Sensitive Urban Design Certification
	Before the issue of an Occupation Certificate the WSUD elements conditioned earlier in this consent must be constructed and operational. The following documentation must be submitted in order to obtain an Occupation Certificate: a) WAE drawings confirming the construction works are completed as per the approval; b) Records of inspections;

	<p>c) An approved operations and maintenance plan;</p> <p>d) Civil engineering certification confirming the hydraulic efficiency and treatment efficiency of the constructed system/s; and</p> <p>e) 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.</p> <p>Where Council is not the PCA a copy of the above documentation must be submitted to Council.</p> <p>Condition reason: To ensure the water quality treatment measures have been completed in accordance with the approval.</p>
85.	<p>Registration of Subdivision</p> <p>Before the issue of an Occupation Certificate the registration of the preceding subdivision Development Consents DA 1414/2022/ZB and DA 1606/2023/ZD must occur.</p> <p>Condition reason: To ensure that the requirements of the preceding development have been completed and the subdivision registered before an Occupation Certificate is issued.</p>
86.	<p>Stormwater CCTV Recording</p> <p>All piped stormwater drainage systems and ancillary structures which will become public assets must be inspected by CCTV. A copy of the actual recording must be submitted electronically for checking.</p> <p>Condition reason: To ensure all newly built and existing stormwater infrastructure traversing the site have been constructed to Council satisfaction without any defects and all products used are in accordance with the approved plans.</p>
87.	<p>Completion of Engineering Works</p> <p>An Occupation Certificate must not be issued before the completion of all engineering works covered by this consent, in accordance with this consent.</p> <p>Condition reason: To ensure all engineering works are completed before an occupation certificate is issued.</p>
88.	<p>Planting Requirements</p> <p>All trees planted as part of the approved landscape plan are to be minimum 75 litre pot size. All shrubs planted as part of the approved landscape plan are to be minimum 200mm pot size. Groundcovers are to be planted at 5/m².</p> <p>All planting on slab is to achieve the following minimum soil depths for the approved planting:</p> <ul style="list-style-type: none"> • 1.2m for large trees or 800mm for small trees; • 650mm for shrubs; • 300-450mm for groundcover; and • 200mm for turf. <p>Condition reason: To ensure the approved landscaping works have been completed in accordance with the approved landscaping plan(s) and that sufficient soil depth for planting is provided.</p>
89.	<p>Landscaping Prior to Issue of any Occupation Certificate</p> <p>Landscaping of the site shall be carried out prior to issue of an Occupation Certificate. The Landscaping shall be either certified to be in accordance with the approved plan by an Accredited Landscape Architect or be to the satisfaction of Council's Manager Environment and Health. Note: Approved plans</p>

	<p>include any approved plans or planting details approved by Council prior to Issue of Construction Certificate.</p> <p>All landscaping is to be maintained at all times in accordance with THDCP Part C, Section 3 – Landscaping and the approved landscape plan.</p> <p>Condition reason: To ensure that landscaping is implement in accordance with approved plans and maintained in accordance with approved plans.</p>
90.	<p>Commencement of Domestic Waste Service</p> <p>Before the occupation of the site, Council's domestic waste service must commence. The service must be arranged no earlier than two (2) days prior to occupancy and no later than seven (7) days after occupancy of the development. Contact Council's Resource Recovery Team on (02) 9843 0310 to commence a domestic waste service.</p> <p>Condition reason: To ensure residential dwellings have an active waste service for the lawful disposal of garbage, recyclables and garden organics through Council's Contractor.</p>
91.	<p>Provision of Kitchen Waste Storage Cupboard</p> <p>Before the issue of an Occupation Certificate, the certifier must be satisfied with a kitchen waste storage area storage facility provided in each unit/dwelling for the to enable source separation of recyclable material from residual garbage. Each unit/dwelling must have:</p> <ul style="list-style-type: none"> a) a waste storage cupboard provided in the kitchen with a minimum of 2 removable 15L bins. b) convenient transportation of waste from the kitchen to the main household bins or waste disposal point. c) at least 2 removable indoor bins with a minimum capacity of 15 litres each. <p>The bins provided must allow convenient transportation of waste from the kitchen to the main household bins or waste disposal point.</p> <p>Condition reason: To ensure that the kitchen waste storage area is suitable for the unit or dwelling.</p>
92.	<p>Preservation of Survey Marks</p> <p>Before the issue of an occupation certificate, documentation must be submitted by a registered surveyor to the principal certifier which demonstrates that:</p> <ul style="list-style-type: none"> a) no existing survey mark(s) have been removed, damaged, destroyed, obliterated or defaced, or b) any survey mark(s) that were damaged, destroyed, obliterated or defaced have been re-established in accordance with the Surveyor General's Direction No. 11 – Preservation of Survey Infrastructure. <p>Condition reason: To protect the state's survey infrastructure.</p>
93.	<p>Completion of Landscape and Tree Works</p> <p>Before the issue of an occupation certificate, the principal certifier must be satisfied all landscape and tree-works have been completed in accordance with approved plans and documents and any relevant conditions of this consent.</p> <p>Condition reason: To ensure the approved landscaping works have been completed in accordance with the approved landscaping plan(s).</p>

OCCUPATION AND ONGOING USE

94.	<p>Maintenance of Screen Planting Adjacent to Lots 1-02, 1-03, 1-04, and 1-05</p> <p>To ensure that the <i>Acmena smithii</i> 'minor' hedge is sufficiently and consistently maintained to the height of the masonry wall behind lots 1-02 to 1-05, the community association is to manage the maintenance and pruning of the hedges at all times. Plants are to be replaced in the event of failure to ensure ongoing visual screening of the wall behind from within the streetscape.</p> <p>Condition reason: To ensure that the screen planting is sufficiently and consistently maintained to obscure views of high blank walling viewed from the streetscape.</p>
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95.	Waste and Recycling Management
	During the occupation and use, all garbage and recyclable materials must be separated into dedicated waste collection containers and stored in a designated waste storage area(s), which must include provision for the storage of all waste generated on the premises between collections. Arrangements 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 places. Waste storage areas(s) must be kept clean and tidy, bins must be washed regularly, and contaminants must be removed from bins prior to any collection.
	Condition reason: To ensure responsibility is placed upon the site's occupier or resident to management all waste generated on the site without it affected local amenity of neighbouring properties.
96.	Maintenance of Wastewater and Stormwater Treatment Device
	During occupation and ongoing use of the building, all wastewater and stormwater treatment devices (including drainage systems, sumps and traps, and on-site detention) must be regularly maintained to remain effective and in accordance with any positive covenant (if applicable).
	Condition reason: To protect sewerage and stormwater systems.

SUBDIVISION WORK GENERAL CONDITIONS

97.	Proposed Street Naming
	<p>Before the issue of a construction certificate or a subdivision works certificate, whichever precedes first/earlier, the consent holder must submit an application for street naming to Council for approval, along with the applicable fee as per Council's Schedule of Fees and Charges. The street names proposed must comply with requirements of the NSW Geographical Names Board and Council.</p> <p>The application must nominate three suggested names per street, in order of preference, and the source of the names proposed.</p> <p>These requirements shall be reflected on the Construction Certificate plans and supporting documentation before the issue of a construction certificate or a subdivision work certificate, whichever precedes first/earlier.</p>
	Condition reason: To ensure new street naming is complying with council's guidelines/policy.
98.	Street Trees
	<p>Street trees must be provided for internal private roads within or fronting the development site spaced between 7m and 10m apart and with a minimum of one tree per lot frontage. The location of street trees must be considerate of driveways, services, drainage pits and sight lines at intersections. The species and size of street trees must comply with the requirements of Council. Details demonstrating compliance with the above must be submitted for approval before any street trees are planted.</p> <p>Before the issue of a construction certificate or a subdivision work certificate, whichever precedes first/earlier; these requirements shall be reflected on the Construction Certificate plans and supporting documentation.</p>
	Condition reason: To ensure that the construction certificate is consistent with the conditions of this consent.
99.	Subdivision Works Approval
	The Civil works required under this consent must be consistent with Conceptual Master Plan Stage 01 Civil Works pursuant to the DA 860/2022/JP.

	<p>Before any works are carried out, a Subdivision Works Certificate must be obtained and a principal Certifier appointed. The plans and accompanying information submitted with the Subdivision Works Certificate must comply with the conditions included with this consent.</p> <p>As per the Environmental Planning and Assessment Act 1979, only Council can issue a Subdivision Certificate which means only Council can be appointed as the Principal Certifier for subdivision works.</p>
	<p>Condition reason: To ensure the applicant is aware of the need to obtain a Subdivision Works Certificate for any subdivision works.</p>

BEFORE WORK COMMENCES

100.	Contractors Details
	<p>Before works commencing on site the Principal 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.</p> <p>A copy of this insurance must be submitted to Council prior to works commencing</p>
	<p>Condition reason: To address requirements under Section 109E(3) of the Environmental Planning and Assessment Act 1979</p>
101.	Service Authority Consultation – Subdivision Works
	<p>Before the subdivision works commence documentary evidence must be submitted to the PC confirming that satisfactory arrangements have been made for:</p> <ul style="list-style-type: none"> • The provision of electrical services for the non-residue lots created by the subdivision. This includes the undergrounding of existing overhead services, except where a specific written exemption has been granted by Council. • The provision of water and sewerage facilities. • The provision of telecommunication services for the non-residue lots created by the subdivision, typically requiring the installation of pits and pipes complying with the standard specifications of NBN Co current at the time of installation. This includes the undergrounding of existing overhead services, except where a specific written exemption has been granted by Council. The Telecommunications Act 19978 (Cth) specifies where the deployment of optical fibre and the installation of fibre-ready facilities is required.
	<p>Condition reason: To ensure appropriate provisions are made for supply of utility services within the subdivision.</p>
102.	Public Infrastructure Inventory Report
	<p>Before works commencing on site the Principal Contractor must get a public infrastructure inventory report 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:</p>

	a) Planned construction access and delivery routes; and
	b) Dated photographic evidence of the condition of all public assets.
	Condition reason: To document the condition of public infrastructure prior to works commencing.

DURING WORKS

103.	Critical Stage Inspections – Subdivision Works
	During Construction the Principal Contractor is to ensure a minimum of 24 hours' notice is provide to Council for inspections. No works are to commence until the first inspection has been carried out.
	Condition reason: To provide adequate notice to Council as the Principal Certifier to arrange inspections to be completed.
104.	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.
	Condition reason: To ensure all works are carried out in accordance with Council's Works Specification Subdivisions/ Developments.

BEFORE ISSUE OF SUBDIVISION CERTIFICATE/OCCUPATION CERTIFICATE

105.	Completion of Subdivision Works
	Before the release of a Subdivision Certificate the Principal Certifier must ensure completion of all subdivision works covered by this consent
	Condition reason: To ensure all works required by this consent are completed prior to release of subdivision certificate
106.	Works as Executed Plans
	Before the release of a Subdivision Certificate the applicant must have completed a Works as executed (WAE) plan prepared by a suitably qualified engineer or registered surveyor for all subdivision/Engineering works. This Plan is to be submitted to the Principal Certifier
	The plans must be accompanied by pavement density results, pavement certification, concrete core test results, site fill results, structural certification, CCTV recording, signage details and a public asset creation summary, where relevant.
107.	Confirmation of Pipe Locations
	Condition reason: To ensure works have been completed in accordance with the plans approved by the relevant certifier and in accordance with Council Standards. Required plans also provide a reference to Council for all works constructed, some of which may be dedicated to Council.

	<p>Before the release of a Subdivision Certificate a letter from a registered surveyor certifying that all pipes and drainage structures are located within the proposed/ existing drainage easements must be submitted to the Principal Certifier</p> <p>Condition reason: To ensure all relevant drainage infrastructure built under the consent is within the respective easements.</p>
108.	<p>Section 73 Compliance Certificate</p> <p>Before the release of a Subdivision Certificate being issued a Section 73 Compliance Certificate issued under the Sydney Water Act 1994 must be obtained from Sydney Water confirming satisfactory arrangements have been made for the provision of water and sewer services. Application must be made through an authorised Water Servicing Coordinator. The certificate must refer to this development consent and all of the lots created. This Certificate must be submitted to the Principal Certifier</p> <p>Sydney Water's guidelines provide for assumed concurrence for the strata subdivision of a development approved by an earlier consent covered by a compliance certificate.</p> <p>Condition reason: To ensure appropriate water and/ or sewer facilities are provided when covered by land under the Sydney Water Act 1994</p>
109.	<p>Provision of Electrical Services</p> <p>Before the release of a Subdivision Certificate a notification of arrangement certificate confirming satisfactory arrangements have been made for the provision of electrical services must be submitted to the Principal Certifier. This must include the under-grounding of the existing electrical services fronting the site and removal of all redundant poles and cables, unless otherwise approved by Council in writing. The certificate must refer to this development consent and all of the lots created.</p> <p>Condition reason: To ensure lots created are appropriately serviced by a relevant electrical services provider</p>
110.	<p>Provision of Telecommunication Services</p> <p>Before the release of a Subdivision Certificate for a fibre-ready facility, written certification from a qualified installer must be submitted to the Principal Certifier confirming that the telecommunications infrastructure has been installed in accordance with the following requirements:</p> <ul style="list-style-type: none"> • The Telecommunications Act 19978 (Cth). • The standard specifications of NBN Co current at the time of installation. • All telecommunications infrastructure must be undergrounded. <p>The Telecommunications Act 19978 (Cth) specifies where the deployment of optical fibre and the installation of fibre-ready facilities is required. In all other cases (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. A copy of the works as executed (WAE) plans for the telecommunications infrastructure must also be submitted.</p> <p>Condition reason: To ensure lots created are appropriately serviced by a relevant telecommunication services provider</p>
111.	<p>Final Plan and Section 88B Instrument</p> <p>Before the release of the subdivision Certificate the final plan and Section 88B Instrument must provide for the following. Council's standard recitals must be used.</p>

a) Easement – Temporary Public Access

A temporary public access easement must be created within proposed lots, in which over the temporary cul-de-sac turning head using the “temporary public access easement” terms included in the standard recitals.

b) Easement – Public Stormwater Drainage

Drainage easements must be created over all stormwater drainage pipelines and structures which convey public stormwater runoff, in accordance with the requirements of Council. Easement widths must comply with Council’s Design Guidelines Subdivisions/ Developments.

c) Easement – Private Stormwater Drainage

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

d) Easement – Overhanging/ Encroaching Structure

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

e) Restriction – Restricted Access

Lots 122 to 144 must be burdened with a restriction precluding access to Coonara Avenue using the “restricted access” terms included in the standard recitals.

f) Easement – Repairs/ Zero Lot Line Dwellings

A 900mm wide (minimum) easement for repairs is required over those lots adjacent to the zero-lot line dwellings identified on the approved plan using the “zero lot line dwellings” terms included in the standard recitals.

g) Restriction – Rainwater Tanks

All residential lots must be burdened with a restriction using the “rainwater tanks” terms included in the standard recitals.

h) Restriction/ Covenant – Asset Protection Zone

Lots identified in the NSW Rural Fire Service – General Terms of Approval letter dated 1 March 2024, under the heading Asset Protection Zones and Construction Standards must be burdened with a restriction and a positive covenant using the “bushfire requirements/ asset protection zone” terms included in the standard recitals:

- i. Lots required to be managed as an asset protection zone require a positive covenant affecting the entire lot.
- ii. Lots with a defined asset protection zone measured to a boundary or restricted development area (see below) require a restriction and a positive covenant that refers to an area defined on the plan.
- iii. Lots with a defined approved dwelling footprint require a separate restriction (see above) within the nominated asset protection zone.
- iv. The restriction and positive covenant must specifically identify that the asset protection zone referred to earlier has been determined based on a performance based solution as noted in the Rural Fire Service comments attached to this consent.

i) Restriction – Bedroom Numbers

	<p>All lots that contain a new dwelling home/ attached dwelling must be burdened with a restriction using the “bedroom numbers” terms included in the standard recitals.</p> <p>j) Covenant – Waste Collection/ Bin Presentation</p> <p>Lots 122-144 must be burdened with a positive covenant requiring 400mm clearance for lots fronting a 1.6m verge using the “waste collection/ bin presentation” terms included in the standard recitals.</p> <p>k) Covenant – Onsite Waste Collection</p> <p>The subject site must be burdened with a positive covenant relating to onsite waste collection using the “onsite waste collection” terms included in the standard recitals.</p> <p>l) Restriction/ Covenant – Onsite Stormwater Detention</p> <p>The site must be burdened with a restriction and a positive covenant using the “onsite stormwater detention systems” terms included in the standard recitals.</p> <p>m) Restriction/ Covenant – Water Sensitive Urban Design</p> <p>The site must be burdened with a restriction and a positive covenant that refers to the WSUD elements referred to earlier in this consent using the “water sensitive urban design elements” terms included in the standard recitals.</p> <p>n) Restriction / Covenant – Keeping of Domestic Animals</p> <p>Domestic dogs and cats are to be kept from entering wildlife habitat areas at all times.</p> <p>Dogs and cats are to be kept in an enclosed area and/or inside the dwelling, or on a leash such that they cannot enter areas of wildlife habitat or bushland, on the site or surrounding properties or reserves.</p> <p>o) Restriction – The use of SGARS Poisons for Pest Control</p> <p>The use of Second-Generation anticoagulant rodenticides (SGARS) is not permitted on the site for the control of pest rodents or any other purpose.</p> <p>p) Restriction / Covenant – Fauna Friendly Fencing</p> <p>All fencing within bushland areas is to be fauna friendly. It must allow fauna passage and be suitably visible to reduce the likelihood of collisions. The use of barbed wire on any sharp materials is prohibited.</p> <p>Residential fencing must not contain sharp tops that have the potential to injure wildlife and must be suitably visible to reduce the likelihood of fauna collisions</p> <p>Condition reason: To ensure appropriate restrictions, positive covenants and easements are created and legally binding to address where relevant conditions of consent.</p>
112.	<p>Removal/ Amendment of Existing Easement</p> <p>Before the release of a Subdivision Certificate the existing easement/s that may become redundant as part of realignment must be removed/ amended. Where Council is listed as the benefiting authority, the relevant release or amendment documentation must be submitted along with payment of the applicable fee as per Council’s Schedule of Fees and Charges.</p> <p>Condition reason: To ensure any redundant easements are removed from any future titles</p>

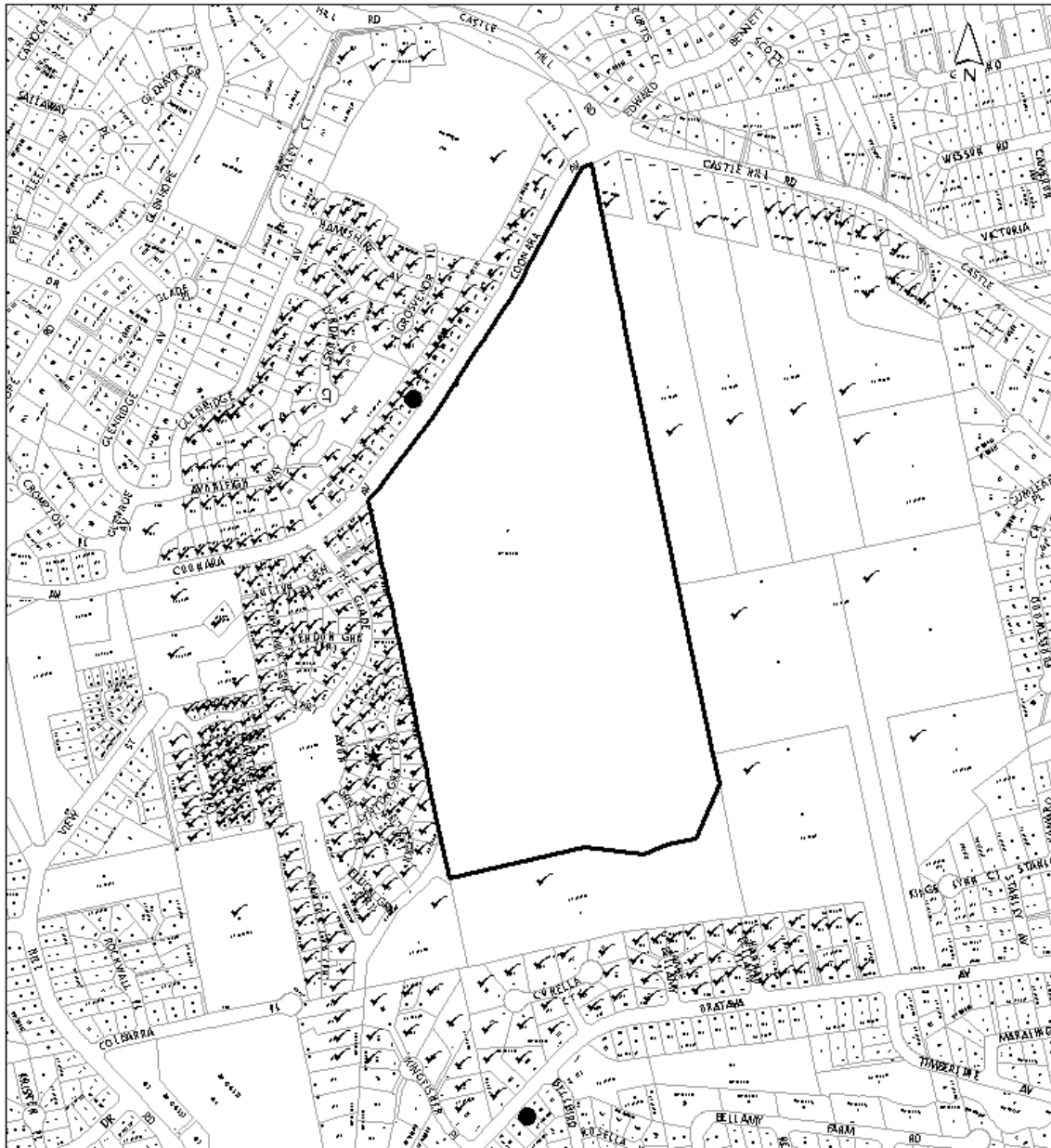
LAND SUBDIVISION GENERAL CONDITIONS

113.	Process for Council Endorsement of Legal Documentation
	Where an encumbrance on the title of the property is required to be released or amended and Council is listed as the benefiting authority, the relevant release or amendment documentation must be submitted to Council along with payment of the applicable fee as per Council's Schedule of Fees and Charges. Sufficient time should be allowed for the preparation of a report and the execution of the documents by Council.
	Condition reason: To ensure all parties are aware of the process and documentation required to remove an encumbrance on the title of a property where Council is the benefiting authority.

DURING WORKS

114.	European Sites or Relics
	If, during the earthworks, any evidence of a European archaeological site or relic is found, all works on the site are to cease and the NSW Office of Environment and Heritage must be contacted immediately. All relics are to be retained in situ unless otherwise directed by the NSW Office of Environment and Heritage.
	Condition reason: To ensure that the developer is aware of the need to stop works and notify the NSW Office of Environment and Heritage should any unidentified sites or relics be found during works.

ATTACHMENT 2 – LOCALITY PLAN



SUBJECT SITE



SUBMISSION RECEIVED IN SUPPORT



PROPERTIES NOTIFIED

**SEVEN SUBMISSIONS RECEIVED OFF
THE SCOPE OF THIS MAP**



SUBMISSION RECEIVED

THE HILLS
Sydney's Garden Shire

THE HILLS SHIRE COUNCIL

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

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

ATTACHMENT 3 – AERIAL MAP



SUBJECT SITE

THE HILLS
Sydney's Garden Shire

THE HILLS SHIRE COUNCIL

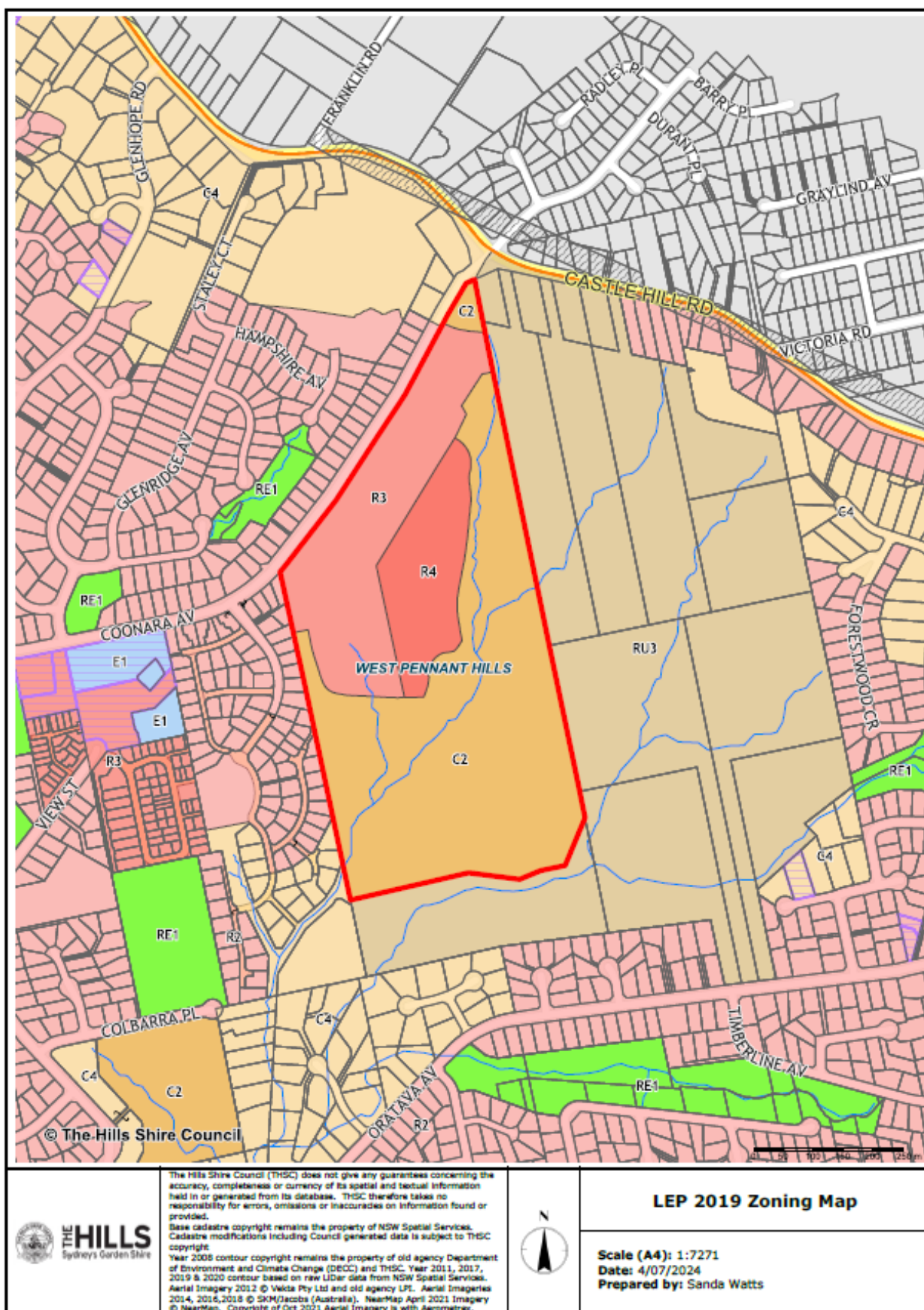
THE HILLS SHIRE COUNCIL DOES NOT GIVE ANY GUARANTEES CONCERNING THE ACCURACY, COMPLETENESS OR CURRENCY OF THE TEXTUAL INFORMATION HELD IN OR GENERATED FROM ITS DATABASE
BASECADASTRE COPYRIGHT LAND & PROPERTY INFORMATION NSW (LPI). CADASTRE UPDATE INCLUDING COUNCIL GENERATED DATA IS SUBJECT TO THSC COPYRIGHT.

ATTACHMENT 4 – AERIAL MAP – NEARMAP

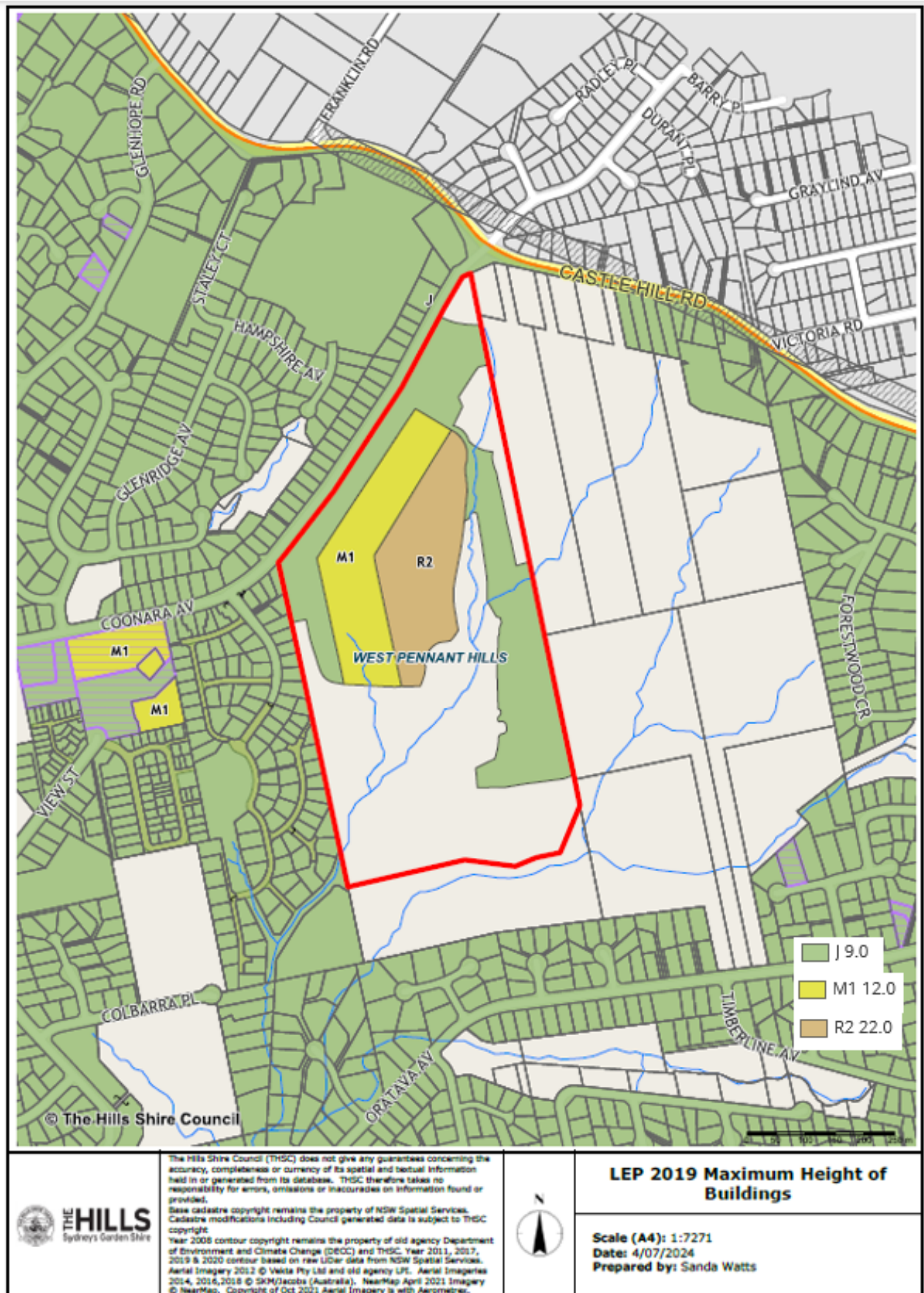


Source: Nearmap – image taken June 26 2024

ATTACHMENT 5 – ZONING PLAN



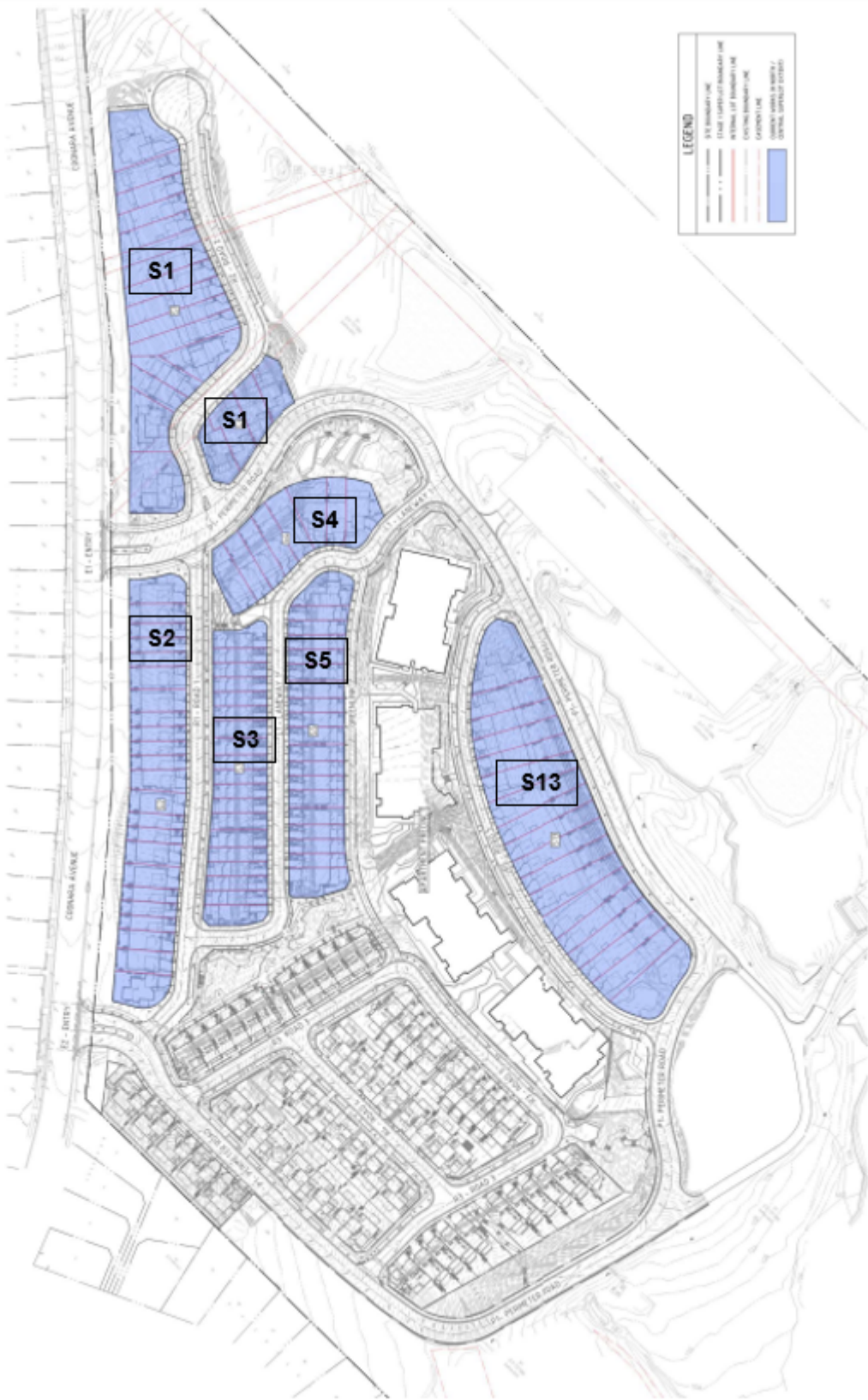
ATTACHMENT 6 – BUILDING HEIGHT MAP



ATTACHMENT 7 – SITE PLAN - HOUSING NORTH AND HOUSING CENTRAL PRECINCT



ATTACHMENT 8 - SUPERLOT ARRANGEMENT

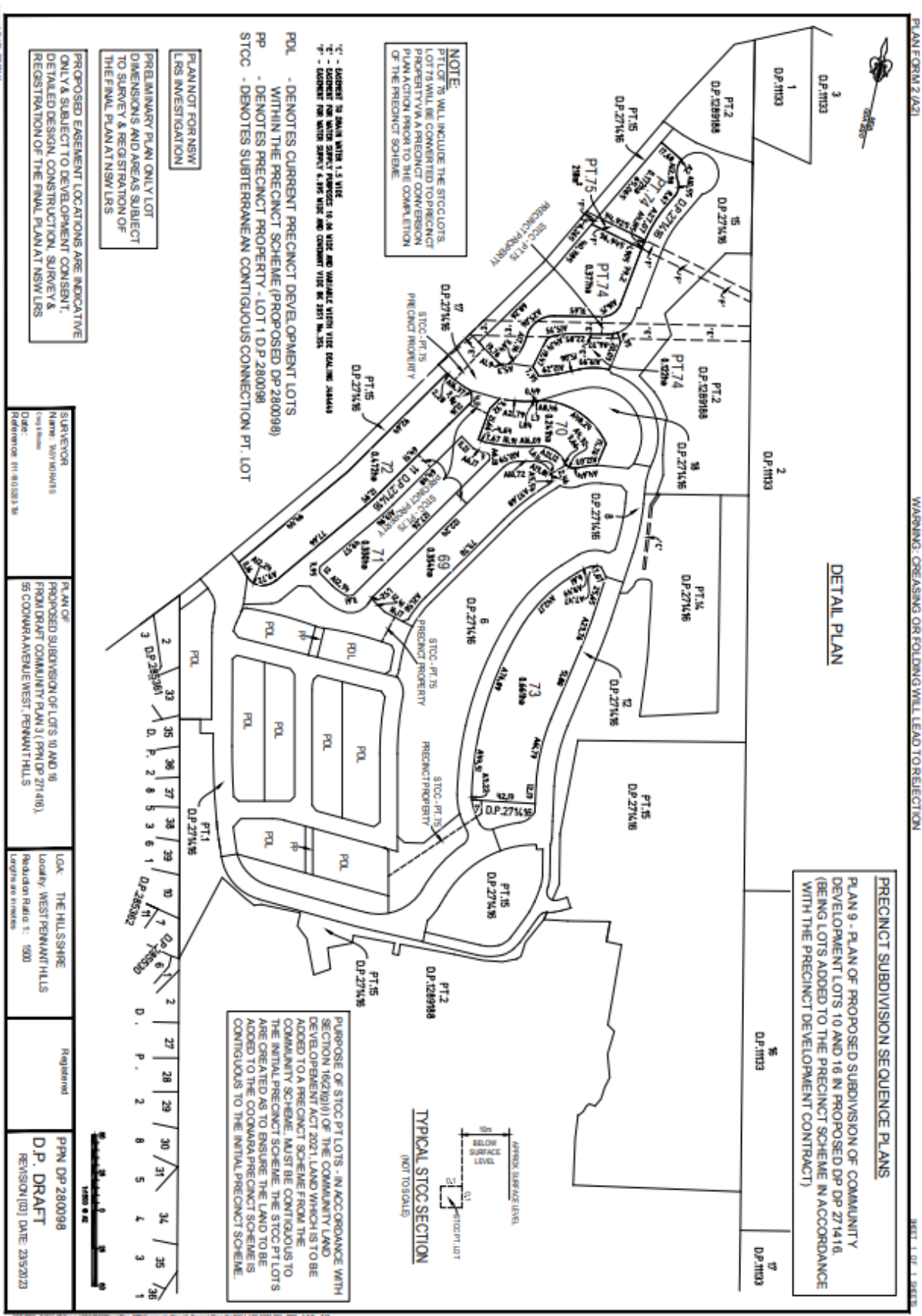


ATTACHMENT 9 – HOUSING CENTRAL PRECINCT



ATTACHMENT 10 – HOUSING NORTH PRECINCT







PRECINCT SUBDIVISION SEQUENCING PLANS

6 D.P.271416

PROPOSED EASEMENT LOCATIONS ARE INDICATIVE ONLY & SUBJECT TO DEVELOPMENT CONSENT, DETAILED DESIGN, CONSTRUCTION, SURVEY & REGISTRATION OF THE FINAL PLAN AT NSW LRS

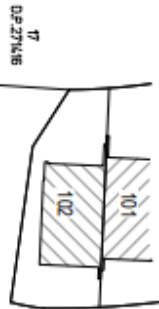
PPN D.P. 280 098
D.P. DRAFT
REVISION [02] DATE 22/5/2023

PRECINCT SUBDIVISION SEQUENCING PLANS

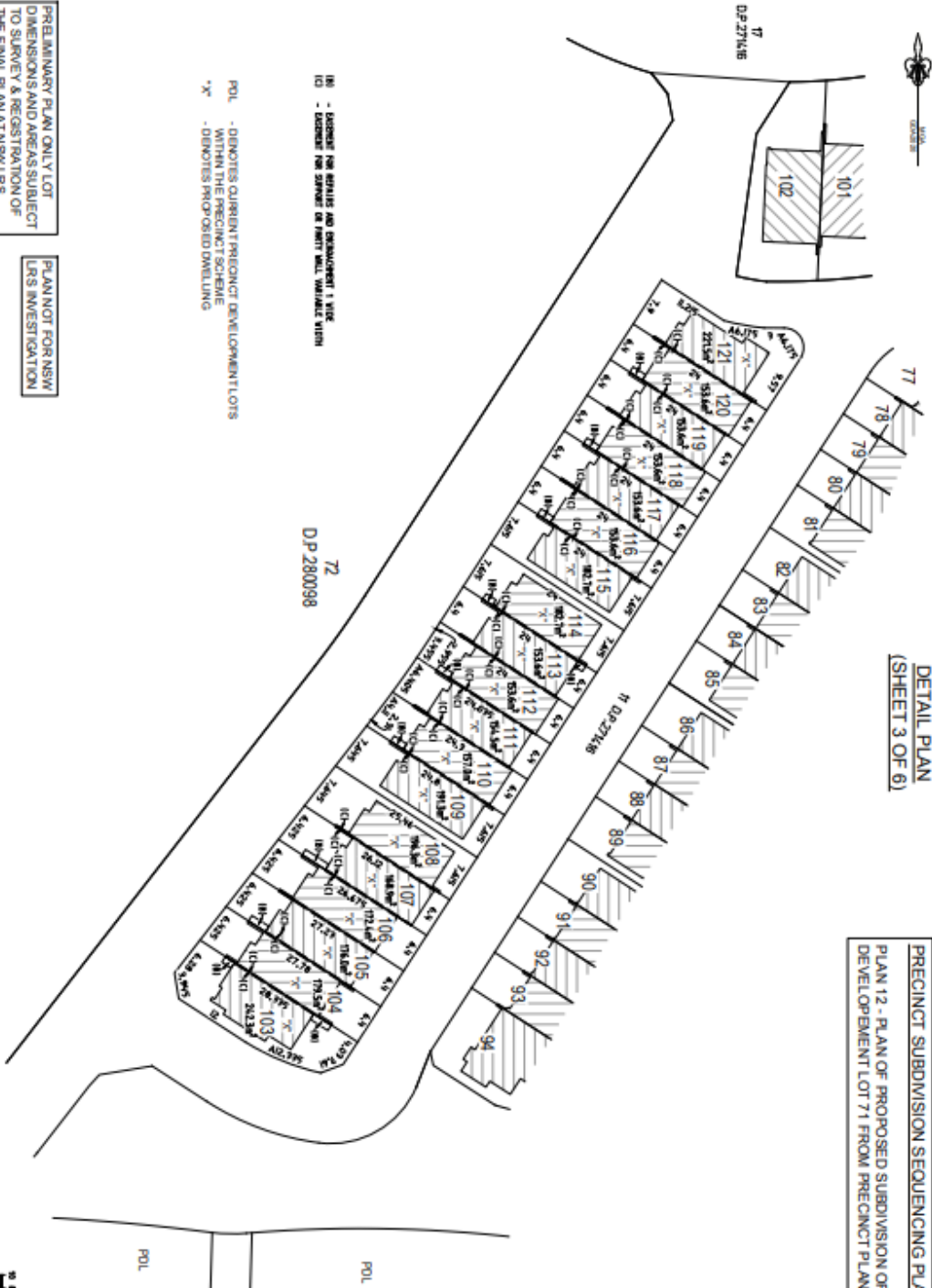
PLAN NOT FOR NSW
LRS INVESTIGATION

PROPOSED EASEMENT LOCATIONS ARE INDICATIVE ONLY & SUBJECT TO DEVELOPMENT CONSENT, DETAILED DESIGN, CONSTRUCTION, SURVEY & REGISTRATION OF THE FINAL PLAN AT NSW LRS

<p>SUPERVISOR Name: TONY HARRIS E-mail: tony.harris@cityofhills.com Date: 11/15/2023 Reference ID: 00000438</p>	<p>PLAN OF PROPOSED SUBDIVISION OF LOT 10 D.P.200/08 FROM PRECINCT PLAN 9 BEING PART OF THE 55 CONRAD AVENUE COMMUNITY SCHEME</p>	<p>LGA: THE HILLS SHIRE Locality: WEST PENNANT HILLS Regulation Rate: 1: 250 Lengths are in metres</p>	<p>Registered</p>	<p>PPN D.P. 200/08 D.P. DRAFT REVISION [02] DATE: 23/5/2023</p>
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PRECINCT SUBDIVISION SEQUENCING PLANS



POL - DENOTES CURRENT PRECINCT DEVELOPMENT PLOTS
WITHIN THE PRECINCT SCHEME
X - DENOTES PROPOSED DWELLING

PLAN NOT FOR NSW
LRS INVESTIGATION

PROPOSED EASEMENT LOCATIONS ARE INDICATIVE ONLY & SUBJECT TO DEVELOPMENT CONSENT, DETAILED DESIGN, CONSTRUCTION, SURVEY & REGISTRATION OF THE FINAL PLAN AT NSWLRS

PPN D.P. 280 098
D.P. DRAFT
REVISION [02] DATE 22/5/2023



PRECINCT SUBDIVISION SEQUENCING PLANS

PLAN 13 - PLAN OF PROPOSED SUBDIVISION OF PRECINCT DEVELOPMENT LOT 72 FROM PRECINCT PLAN 9 - (PROPOSED D.P. 280098)



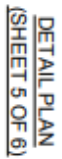
- POL** - DENOTES CURRENT PRECINCT DEVELOPMENT PLOTS
WITHIN THE PRECINCT SCHEME
X - DENOTES PROPOSED DWELLING

PRELIMINARY PLAN ONLY LOT
DIMENSIONS AND AREAS SUBJECT
TO SURVEY & REGISTRATION OF
THE FINAL PLAN AT NSW LRS

PLAN NOT FOR NSM
LRS INVESTIGATION

PROPOSED EASEMENT LOCATIONS ARE INDICATIVE ONLY & SUBJECT TO DEVELOPMENT CONSENT, DETAILED DESIGN, CONSTRUCTION, SURVEY & REGISTRATION OF THE FINAL PLAN AT NSW LRS

<p>SURVEYOR Name: TREVINO Days: 10 Date: 01/18/2023 Reference: 611480-04-000</p> <p>PLAN OF PROPOSED SUBDIVISION OF LOT 21 D.P. 20039 FROM PRECINCT PLAN 9 BEING PART OF THE 55 COONARRA AVENUE COMMUNITY SCHEME</p> <p>LGA: THE HILLS SHIRE Locality: WEST PENWORTHILLS Production Ratio: 1: 400 <small>(As per the relevant standard)</small></p>	<p>Registered</p> <p>D.P. DRAFT REVISION (02) DATE: 23/05/2023</p>
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DETAIL PLAN

(SHEET 5 OF 6)

PRECINCT SUBDIVISION SEQUENCING PLANS

PLAN 14 - PLAN OF PROPOSED SUBDIVISION OF PRECINCT DEVELOPMENT LOT 73 FROM PRECINCT PLAN 9 - (PROPOSED D.P. 280098)



- (A) - EXISTING FOR DRAINAGE OF WATER 1.5 WIDE AND VARIABLE
- (B) - EXISTING FOR DETAILS AND ENCLOSURE 1 WIDE
- (C) - EXISTING FOR SUPPORT OF PARTY WALL, VARIABLE WIDTH

- DENOTES PROPOSED DWELLING

PRELIMINARY PLAN ONLY LOT
DIMENSIONS AND AREAS SUBJECT
TO SURVEY & REGISTRATION OF
THE FINAL PLAN AT NSW LRS

PLAN NOT FOR NSW
LRS INVESTIGATION

PROPOSED EASEMENT LOCATIONS ARE INDICATIVE ONLY & SUBJECT TO DEVELOPMENT CONSENT, DETAILED DESIGN, CONSTRUCTION SURVEY & REGISTRATION OF THE FINAL PLAN AT NSWLRS

<p>SURVEYOR Name: MOVEMENTS Logo: C/O: 111 Reference: 111 REF: 111</p>	<p>PLAN OF PROPOSED SUBDIVISION OF LOT 111 P.23019 FROM PRECINCT PLAN 9 BEING PART OF THE 56 CORNWALL AVENUE COMMUNITY SCHEME</p>	<p>LGA: THE HILLS SHIRE Locality: WEST PENMANT HILLS Lot/Block Ratio: 1: 400 Lengths are in metres</p>	<p>Registered</p>	<p>PPN D.P. 230108 D.P. DRAFT REVISION [02] DATE: 22/5/2023</p>
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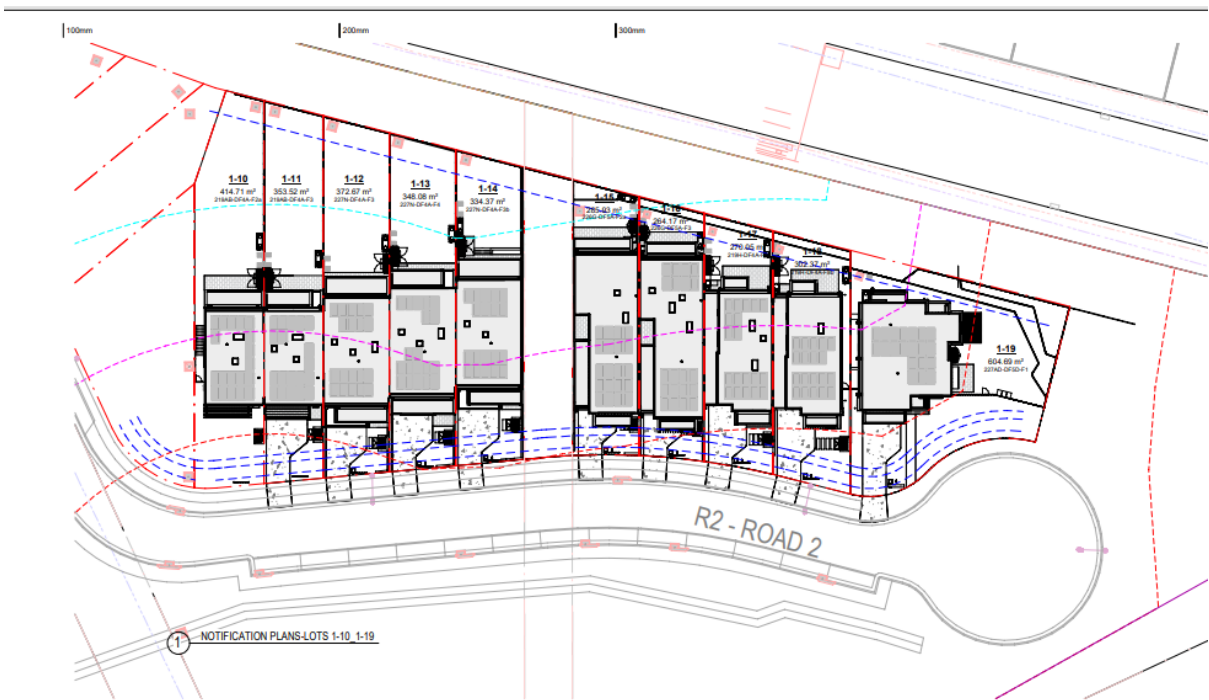
PRECINCT SUBDIVISION SEQUENCING PLANS

PLAN 15 - PLAN OF PROPOSED SUBDIVISION OF PRECINCT DEVELOPMENT LOT 74 FROM PRECINCT PLAN 9 - (PROPOSED D.P. 280098)

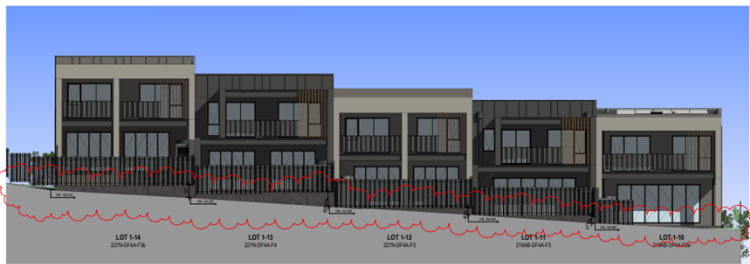
PLAN NOT FOR NSW
LRS INVESTIGATION

<p>SURVEYOR Name: WATKINSON Coping Details: Date: Reference: 1718/05/24 30</p>	<p>PLAN OF PROPOSED SUBDIVISION OF LOT 14 D.P.200198 FROM PRECINCT PLAN 9 BEING PART OF THE 55 COMMARAVENUE COMMUNITY SCHEME</p>	<p>LGA: THE HILLS SHIRE Locality: WEST PERINANT HILLS Abandon Rate %: 400 Lengths are in metres</p>	<p>Registered</p>	<p>D.P. DRAFT REVISION [02], DATE: 20/5/2023</p>
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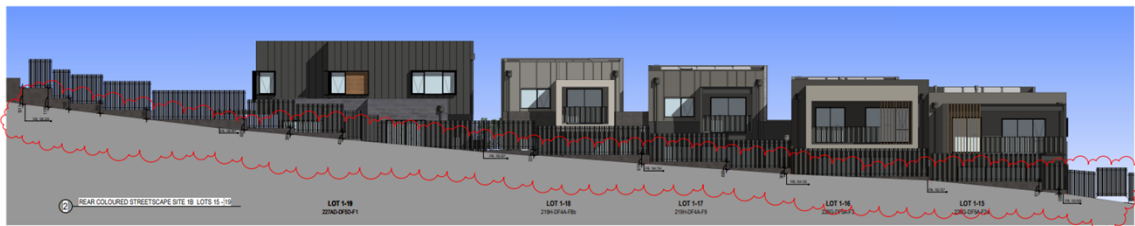
ATTACHMENT 12 – SUPERLOT 1



Site plan of Superlot 1 (Coonara Avenue shown top of page)



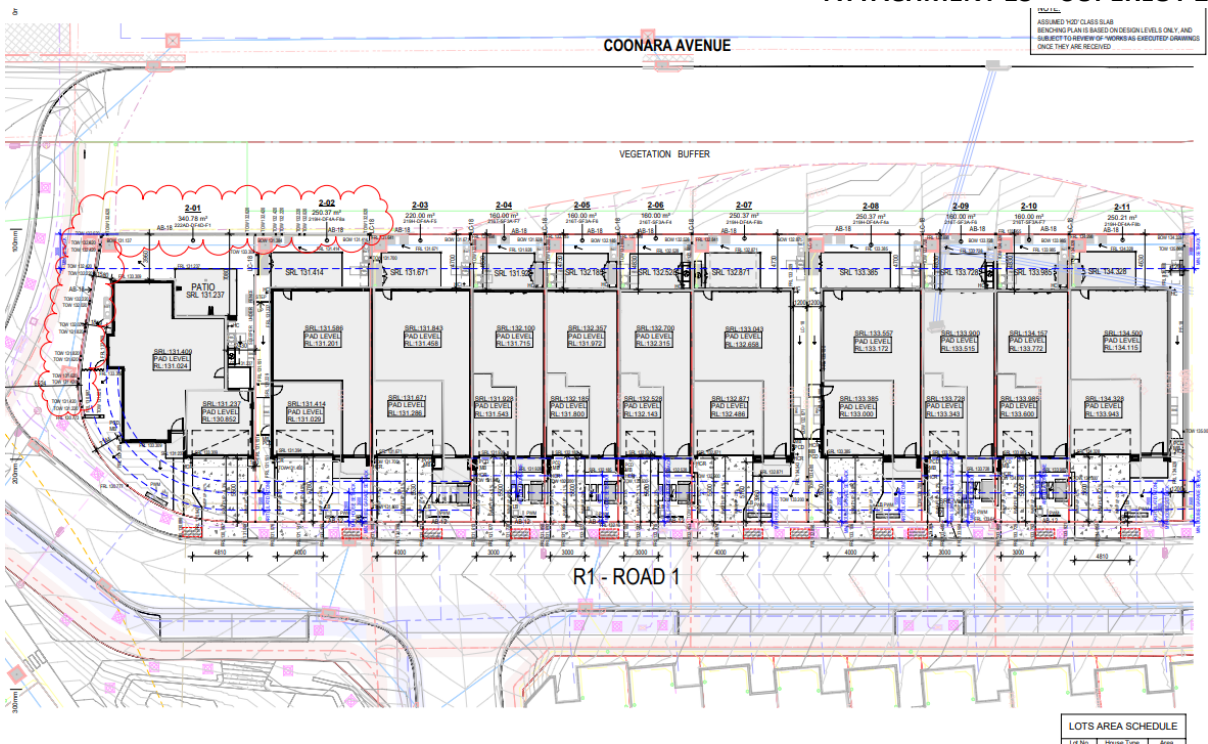
REAR COLOURED STREETSCAPE SITE 18 LOTS 10-14



REAR COLOURED STREETSCAPE SITE 18 LOTS 15-19

Elevations and photomontages of Superlot 1 – rear elevation as seen from Coonara Avenue

ATTACHMENT 13 – SUPERLOT 2



Site plan of Superlot 2



1 REAR COLOURED STREETSCAPE SITE 02 LOTS 01 - 05



2 REAR COLOURED STREETSCAPE SITE 02 LOTS 06 - 11

Rear elevations of Superlot 2 (from Coonara Avenue)



Housing Central - Superlot 3 (2 and 3 storey elements)



Housing Central – Superlot 5 (2 and 3 storey elements)



Housing North – Superlot 1



Housing North – Superlot 4



*Proposed initiative artist impression of housing precinct inspired by townhouse living subject to DCA determination. All landscape features are initiative only. Refer to landscape consultant documentation package for landscape design & plant species selection.



Development Application – Housing North and Housing Central

Clause 4.6 Written
Request – Building Height

PREPARED FOR
MIRVAC
JUNE 2023
MECONE.COM.AU

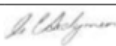
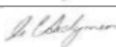
Document Set ID: 20827390
Version: 1, Version Date: 21/07/2023

Project Director

Georgia Sedgmen

Contributors

Tyson Ek-Moller

REVISION	REVISION DATE	STATUS	AUTHORISED: NAME & SIGNATURE
A	16 June 2023	For review	Georgia Sedgmen 
B	26 June 2023	Development Application	Georgia Sedgmen 

* This document is for discussion purposes only unless signed and dated by the persons identified.
This document has been reviewed by the Project Director.

Contact

MECONE

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Sydney, New South Wales 2000

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mecone.com.au

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Document Set ID: 20827390
Version: 1, Version Date: 21/07/2023

1 Executive Summary

Contained within this report is a written request relating to the proposed variation to Clause 4.3(2) (Height of buildings) of *The Hills Local Environmental Plan 2019* (THLEP 2019), in accordance with the provisions of Clause 4.6 (Exceptions to development standards) of the THLEP 2019.

This Clause 4.6 Written Request has been prepared on behalf of Mirvac in support of a Development Application (DA) for the second and third stage of housing at 55 Coonara Avenue, West Pennant Hills; for reference, these stages shall be referred to hereon as 'Housing Central' and 'Housing North'. This DA follows a recently determined Concept DA (860/2022/JP), which comprised of civil works, and which established the development framework for the site, including a concept plan for building within developable areas and site-specific design guidelines. In addition to the Concept DA, two further DAs have been approved for the Apartments Precinct (861/2022/JP) and Southern Housing Precinct (859/2022/JP) comprising a total of 252 and 60 dwellings respectively.

This DA proposes development within the 'Housing Central' and 'Housing North' precincts within the subject site (refer to **figure 4**) that will comprise of 105 two and three storey attached, semi-detached and detached dwellings. Such development will be located within R3 and R4 zoned parts of the site (refer to **figure 18**), which are subject to height of buildings standards of 9, 12 and 22 metres (**figure 5**).

The site was rezoned in June 2020 from B7 Business Park zoning that applied across the entire site, to a combination of R3 Medium Density Residential, R4 High Density residential, and E2 Environmental Conservation zones. The E2 Environmental Conservation zoning was sought during the rezoning process to provide the highest form of environmental protection to the critically endangered ecological communities in the Blue Gum High Forest (BGHF) and the Sydney Turpentine Ironbark Forest (STIF) that are located within the site near the proposed development footprint. The rezoning process also changed maximum permitted building height from 22 metres sitewide, to 9, 12 and 22 metres. The rezoning enables R3 and R4 zoned parts of the site to be redeveloped into a new residential development capped at 600 dwellings.

40 of the 105 proposed dwellings will breach applicable building height development standards imposed by clause 4.3(2) of THLEP 2019 (refer to **figures 1** and **2**) below.

All 40 of the noncompliant dwellings will be located within R3-zoned areas that are subject to the 9 and 12 metre building height development standards prescribed by clause 4.3(2) of THLEP 2019 (refer to **figures 3** and **4**). All development within areas subject to the 22-metre building height standard will comply with clause 4.3(2) of THLEP 2019, and as such will not be discussed further within this written variation request.

The proposed variations to the building height development standard are the result of the following:

- The existing site being located within a challenging topographical setting; in addition to significant slopes across the site, the directions of those slopes dictate the orientation of residential development on the site to ensure that adequate solar access is provided to private open space and internal living areas,
- The placement of the dwellings within sloped areas is dictated by the approved locations and levels of the internal road network. The placement of the internal road network includes an existing perimeter ring road that abuts areas containing BGHF and STIF (thereby acting as a physical delineation point between existing remnant forested areas and the previously disturbed portion of the site), and was the subject of the earlier rezoning of the site and subsequent planning



Document Set ID: 20827390
Version: 1, Version Date: 21/07/2023

approvals associated with earlier residential approvals on the site. In essence this is a fixed topographical and development constraint which protects areas of high value biodiversity on the site,

- The necessity to slightly change the placement of part of the internal road network within the 'Housing North' precinct (required so that the design and gradients of the road comply with relevant Australian Standards), which has resulted in some proposed allotments being subject to varying building height development standards,
- Restrictions associated with easements within the site, in particular an easement within the proposed Housing North precinct, the purpose of which is to protect Sydney Water infrastructure within that part of the site. In addition to influencing the locations of some dwellings, ground levels within those easements cannot be changed due to the locations and levels of infrastructure within the easements; this dictate the amount and locations of earthworks around the site as a result of:
 - Necessary modifications to the levels so that they match levels within the easement, and
 - Such modifications to site levels have flow-on impacts, since they influence changes to ground levels within the wider area as a consequence of needing to provide appropriate gradients for internal roads and footpaths.

As increases to ground levels need to be included when calculating the height of buildings, topographical modifications in response to easement constraints are therefore partially attributable to some of the proposed height variations,

- The need for various-sized and family-oriented dwellings to provide floor plates and levels that facilitate logical, flexible and functional internal layouts that also provide high levels of amenity, within a medium density environment providing for small lots, which prevents dwellings with larger building footprints and further stepping along slopes within the site,
- Altering existing ground levels both as a consequence of:
 - Earlier site and topographical modifications associated with the International Business Machines (IBM) Business Park that was previously constructed on the site,
 - Ensuring that the levels of the proposed residential development are compatible with other parts of the site, particularly in areas where altered ground levels have occurred as a result of earlier approvals for major civil works and internal roadways,
- The lodgement of this DA as a single application for detailed civil works *and* the proposed dwellings. Had the proposed development been lodged as two separate proposals (i.e. a detailed civil works DA followed by a DA for the proposed dwellings), then both the number of dwellings affected by height non-compliances and the size of those non-compliances would be significantly reduced.
- The need to provide for a built form that, pursuant to clause 7.7 of THLEP 2019:
 - Is of a high standard of architectural design (including high levels of articulation and associated features such as parapets and skylights),
 - Provides a high quality and congruous visual presentation that improves the quality and amenity of the public domain, and
 - Maintains the existing and desired future character of the area.

With regard to earlier development on the site, a detailed background of the site's development history is contained within the Statement of Environmental Effects (SEE) (prepared by Mecone) to which this written variation request is appended, however an outline of the site's development history is provided within **figures 1 and 2** below.



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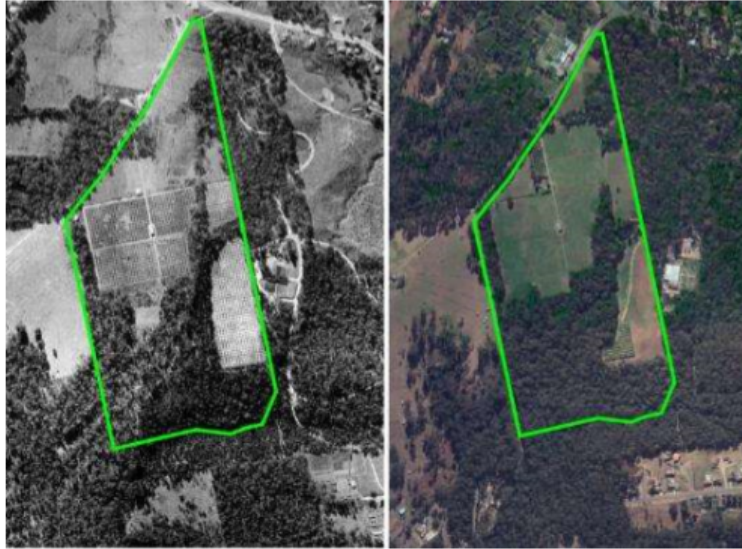


FIGURE 1: THE SUBJECT SITE (THE APPROXIMATE BOUNDARIES OF WHICH ARE DENOTED BY THE GREEN BORDERS) IN 1943 (LEFT) AND 1982 (RIGHT).

Source: Spatial Collaboration Portal, 2023 (modified by Mecone, 10 May 2023)



FIGURE 2: THE SUBJECT SITE (THE APPROXIMATE BOUNDARIES OF WHICH ARE DENOTED BY THE GREEN BORDERS) IN 1991 (LEFT) AND MARCH 2023 (RIGHT). NOTE: THE 2023 IMAGE SHOWS THE SITE FOLLOWING APPROVED DEMOLITION WORKS.

Source: Spatial Collaboration Portal, 2023 and MetroMap, 2023 (modified by Mecone, 10 May 2023)



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This written request contains a detailed assessment of:

- Relevant provisions within clauses 4.3 and 4.6 of THLEP 2019,
- Building heights in accordance with relevant caselaw, and
- Statutory obligations of both the applicant and the consent authority

Also submitted as part of this DA package are sets of plans (prepared by Mirvac) for the Housing Central and Housing North housing precincts; these plans have been prepared specifically to accompany this written request, and include:

- Multi-plane section plans relating to both individual dwellings and groups of dwellings,
- 3D models with height blanket overlays, and
- 3D perspectives (taken both within and adjacent to the subject site) with height blanket overlays.

It is imperative that these documents be referenced in conjunction with any review or assessment of this written variation request.

Notwithstanding the contraventions identified within this written request, the objectives of both clause 4.3 of THLEP 2019 and those of the R3 zone are satisfied, as the proposed development will be compatible with the character of, and provide for appropriate housing typologies within, a medium density residential environment.

The dwellings have been designed to ensure any visual impact associated with the proposed built form, including that above the height standard, have been minimised. The proposal has retained the high value biodiversity forest setting of the site, in addition to providing further landscaping to assist with screening the built form, as viewed from within the site, the public domain and adjoining properties. The applicant's statutory requirements pursuant to clause 4.6 of the THLEP 2019 are therefore satisfied, and the proposed variations to the building height development standard can be approved.

Notwithstanding the contraventions identified above, the objectives of both clause 4.3 of THLEP 2019 and those of the R3 zone are satisfied, as the proposed development will be with the character of, and providing for appropriate housing typologies within, a medium density residential environment.



2 Introduction

This Clause 4.6 Written Request has been prepared on the behalf of Mirvac to support a DA for the residential development of the Housing Central and Housing North Housing Precincts at 55 Coonara Avenue, West Pennant Hills (Lot 61, DP 737386).



FIGURE 3: AN AERIAL IMAGE OF THE SITE (DENOTED BY THE GREEN BORDER).

Source: MetroMap, 25 May 2023

This DA proposes the construction of 105 dwellings comprising of detached, semi-detached and attached dwellings, civil works (including minor earthworks, the construction of retaining walls, embellishment of private community road pavements, stormwater works, etc.), landscaping (including individual allotments, public open spaces and streetscapes) and subdivision.

This report has been prepared to request a contravention to the building height development standard pursuant to clause 4.3(2) of THLEP 2019. This request is made pursuant to clause 4.6 of the THLEP 2019.



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This clause 4.6 written request has been prepared having regard to the LEC judgements in the matters of:

- *Wehbe v Pittwater Council* [2007] NSWLEC 827 (Wehbe),
- *Four2Five Pty Ltd v Ashfield Council* [2015] NSWCA 248,
- *Initial Action Pty Ltd v Woollahra Municipal Council* [2018] NSWLEC 118,
- *Baron Corporation Pty Limited v Council of the City of Sydney* [2019] NSWLEC 61,
- *RebelMH Neutral Bay Pty Limited v North Sydney Council* [2019] NSWCA 130,
- *Merman Investments Pty Ltd v Woollahra Municipal Council* [2021] NSWLEC 1582, and
- *Project Venture Developments v Pittwater Council* [2005] NSWLEC 191



FIGURE 4: THE LOCATION OF DWELLINGS PROPOSED BY THIS DA (SHADED IN BLUE).
Source: Northrop, 26 May 2023



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3. The Hills Local Environmental Plan 2019

3.1 Clause 4.3 – Height of buildings

3.1.1 Details of building height development standard

As demonstrated by **figure 5**, pursuant to clause 4.3(2) of THLEP 2019 areas of the site where the proposed development is to be located is subject to building height development standards of 9 metres, 12 metres and 22 metres.

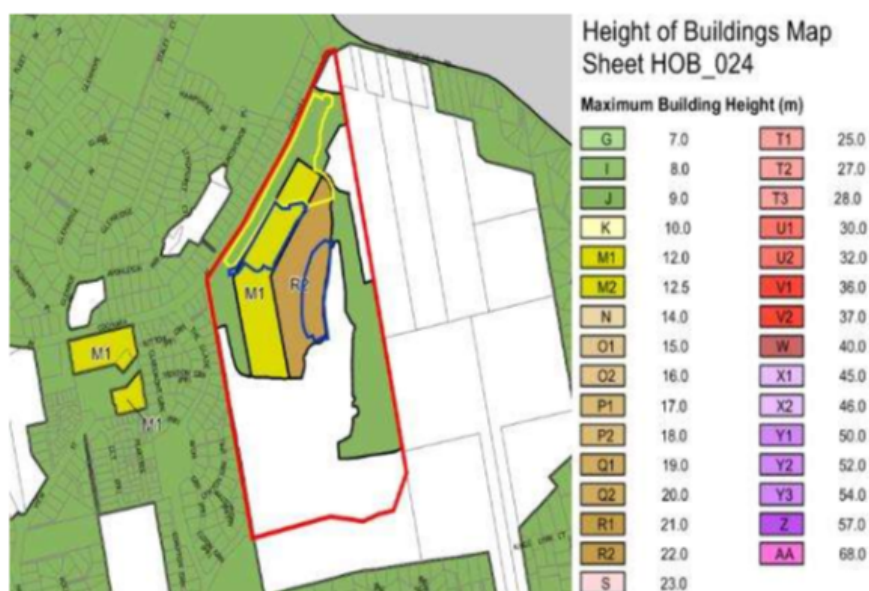


FIGURE 5: AN EXTRACT OF THE THLEP 2019 BUILDING HEIGHT STANDARD MAP. THE SITE IS DENOTED BY THE RED BORDER, WHILE THE APPROXIMATE LOCATIONS OF THE HOUSING CENTRAL AND HOUSING NORTH PRECINCTS ARE DENOTED BY THE BLUE AND YELLOW BORDERS RESPECTIVELY.

Source: legislation.nsw.gov.au, 2023 (Modified by Mecone, 4 May 2023)

The objectives of clause 4.3(1) 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.



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3.1.2 Details of development standard to be varied

As demonstrated by **figure 5**, pursuant to clause 4.3(2) of THLEP 2019 areas of the site where the proposed development is to be located is subject to building height development standards of 9 metres, 12 metres and 22 metres.

Of the 105 proposed dwellings, 40 will breach applicable building height development standards imposed by clause 4.3(2) of THLEP 2019 (refer to **figures 6 and 7**). All 40 of the noncompliant dwellings will be located within R3-zoned areas that are subject to the 9 and 12 metre building height development standards prescribed by clause 4.3(2) of THLEP 2019. All development within areas that are subject to the 22-metre building height standard will comply with clause 4.3(2) of THLEP 2019, and as such will not be discussed further within this written variation request.

Table 1 below provide details regarding of each of the proposed building height variations when measured from existing ground levels (note: buildings complying with the building height development standard are not listed).

TABLE 1 – PROPOSED BUILDING HEIGHT VARIATIONS

SUPERLOT NO.	LOT NO.	MAXIMUM BUILDING HEIGHT (METRES)	MAXIMUM PROPOSED BUILDING HEIGHT (METRES)	SIZE OF VARIATION	TYPE OF BREACH
1	01	9	10.735	1.735 metres (19.28%)	Roof, eaves
1	04	9	10.459	1.459 metres (16.21%)	Parapets
		12	11.77	-	-
1	05	9	12.948	3.948 metres (43.86%)	Balcony roof
		12	13.602	1.602 metres (13.35%)	
1	06	9	9.673	0.673 metres (7.48%)	Parapet
1	07	9	9.598	0.598 metres (6.64%)	Roof, parapet
1	08	9	9.675	0.675 metres (7.5%)	Roof, parapet
1	09	9	10.438	1.438 metres (15.97%)	Roof, parapet
1	10	9	9.175	0.175 metres (1.94%)	Parapet
1	11	9	9.1	0.1 metres (1.11%)	Parapet
1	13	9	9.1	0.1 metres (1.11%)	Parapet
1	14	9	9.318	0.318 metres (3.53%)	Parapet

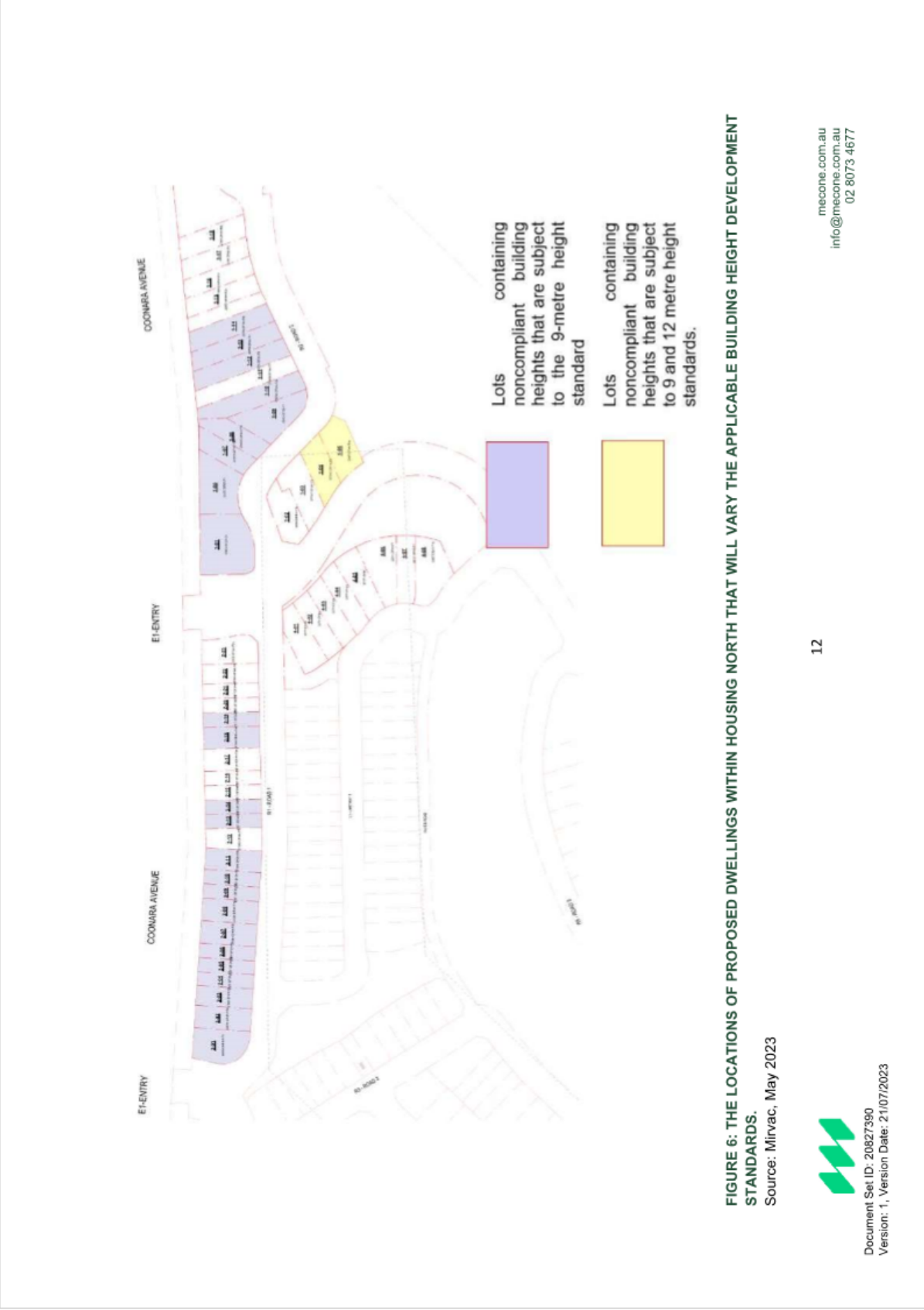


2	01	9	9.594	0.594 metres (6.6%)	Parapet
2	02	9	9.296	0.296 metres (3.28%)	Parapet
2	03	9	9.309	0.309 metres (3.43%)	Parapet
2	04	9	9.594	0.594 metres (6.6%)	Parapet, roof
2	05	9	9.174	0.174 metres (1.93%)	Parapet
2	06	9	9.481	0.481 metres (5.34%)	Parapet
2	07	9	9.665	0.665 metres (7.38%)	Parapet
2	08	9	9.859	0.859 metres (9.54%)	Parapet, roof
2	09	9	10.094	1.094 metres (12.15%)	Parapet, roof
2	10	9	10.214	1.214 metres (13.48%)	Parapet, roof
2	11	9	9.767	0.767 metres (8.52%)	Parapet, roof
2	13	9	9.059	0.059 metres (0.65%)	Parapet
2	14	9	9.173	0.173 metres (1.92%)	Parapet
2	18	9	9.091	0.91 metres (1.01%)	Parapet
2	19	9	9.02	0.02 metres (0.22%)	Parapet
3	05	12	12.133	0.133 metres (1.11%)	Parapet
3	06	12	12.028	0.028 metres (0.23%)	Parapet
3	08	12	12.516	0.516 metres (4.3%)	Parapet
3	09	12	12.5	0.5 metres (4.16%)	Parapet
3	10	12	12.859	0.859 metres (7.15%)	Parapet
5	07	12	12.359	0.359 metres (2.99%)	Parapet
5	08	12	12.158	0.158 metres (1.32%)	Parapet
5	09	12	12.324	0.324 metres (2.7%)	Parapet
5	10	12	12.718	0.718 metres (5.98%)	Parapet, roof
5	11	12	12.338	0.338 metres (2.81%)	Parapet



5	12	12	12.438	0.438 metres (3.65%)	Parapet
5	13	12	12.728	0.728 metres (6.06%)	Parapet, roof
5	14	12	12.878	0.878 metres (7.32%)	Parapet
5	15	12	12.478	0.478 metres (3.98%)	Parapet, roof





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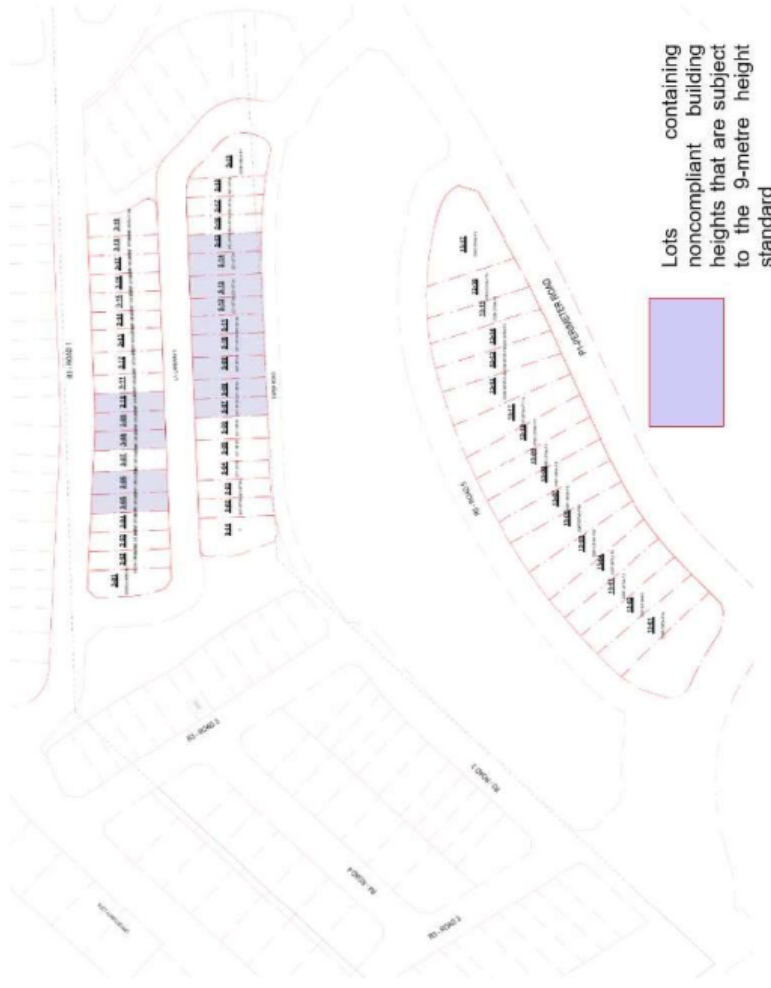


FIGURE 7: THE LOCATIONS OF PROPOSED DWELLINGS WITHIN HOUSING CENTRAL THAT WILL VARY THE APPLICABLE BUILDING HEIGHT DEVELOPMENT STANDARDS.
Source: Mirvac, May 2023



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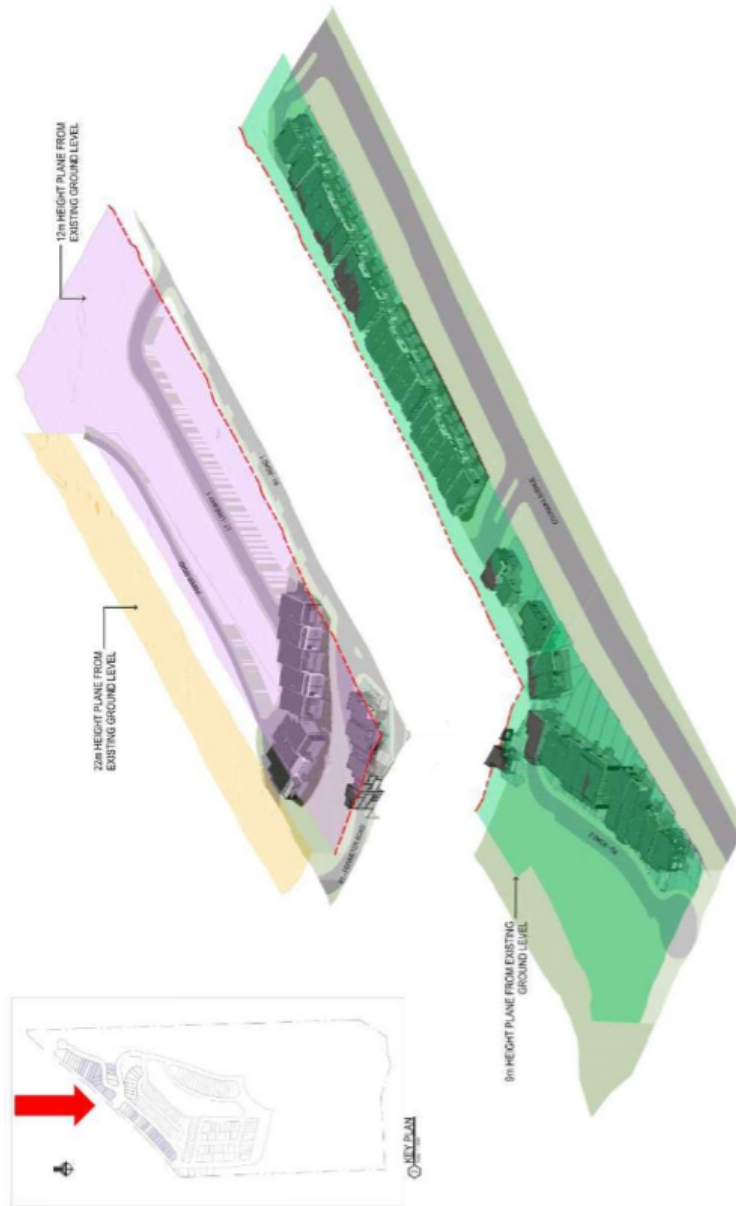


FIGURE 8: THE PROPOSED DEVELOPMENT AND BUILDING HEIGHT OVERLAYS FOR HOUSING NORTH. FOR REFERENCE, THE 9, 12 AND 22 METRE BUILDING HEIGHT STANDARDS ARE DENOTED BY THE GREEN, PURPLE AND YELLOW OVERLAYS RESPECTIVELY, WHILE THE RED ARROW DENOTES THE DIRECTION OF PERSPECTIVE USED FOR THE OVERLAY IMAGES.

Source: Mirvac, May 2023



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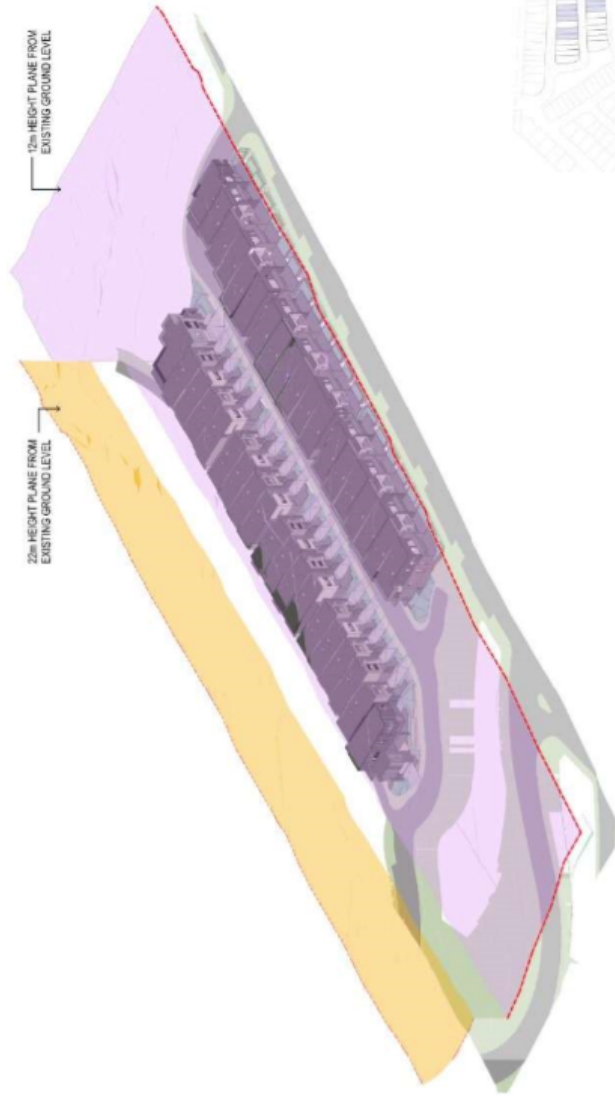


FIGURE 9: THE PROPOSED DEVELOPMENT AND BUILDING HEIGHT OVERLAYS FOR HOUSING CENTRAL. FOR REFERENCE, THE 12 AND 22 METRE BUILDING HEIGHT STANDARDS ARE DENOTED BY THE PURPLE AND YELLOW OVERLAYS RESPECTIVELY, WHILE THE RED ARROW DENOTES THE DIRECTION OF PERSPECTIVE USED FOR THE OVERLAY IMAGES.

Source: Mirvac, May 2023



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3.2 Clause 4.6 – Exceptions to Development Standards

Clause 4.6(1) of THLEP 2019 provides the following:

- (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 decision handed down by Chief Justice Preston in *Initial Action Pty Ltd v Woollahra Municipal Council* [2018] NSWLEC 118 (Initial Action) provides guidance in respect of the operation of clause 4.6, subject to the clarification by the NSW Court of Appeal in *RebelMH Neutral Bay Pty Limited v North Sydney Council* [2019] NSWCA 130 at [1], [4] and [51] where the Court confirmed that properly construed, a consent authority has to be satisfied that an applicant's written request has in fact demonstrated the matters required to be demonstrated by cl 4.6(3).

Initial Action involved an appeal pursuant to Section 56A of the *Land and Environment Court Act 1979* against the decision of a Commissioner.

At [90] of Initial Action, the Court held that:

"In any event, cl 4.6 does not give substantive effect to the objectives of the clause in cl 4.6(1)(a) or (b). There is no provision that requires compliance with the objectives of the clause. In particular, neither cl 4.6(3) nor (4) expressly or impliedly requires that development that contravenes a development standard "achieve better outcomes for and from development". If objective (b) was the source of the Commissioner's test that non-compliant development should achieve a better environmental planning outcome for the site relative to a compliant development, the Commissioner was mistaken. Clause 4.6 does not impose that test."

The legal consequence of the decision in Initial Action is that clause 4.6(1) is not an operational provision, and that the remaining clauses of clause 4.6 constitute the operational provisions.

Clause 4.6(2) of THLEP 2019 applies to clause 4.3 of THLEP 2019, and 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.*

Clause 4.6(3) of THLEP 2019 provides that:

- (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.*

This DA proposes contraventions to the height of buildings development standard pursuant to clause 4.3(2) of THLEP 2019. Clause 4.3(2) prescribes a maximum building height, however strict compliance is considered to be unreasonable or unnecessary in the specific circumstances of this case, and there are considered to be sufficient environmental planning grounds to justify contravening the development standard.

Relevant grounds establishing that compliance with the standard is unreasonable and unnecessary and environmental planning grounds are set out later within this written request.

Clause 4.6(4) of THLEP 2019 provides that:

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

In Initial Action, the Court found that clause 4.6(4) required the satisfaction of two preconditions ([14] and [28]).

- The first precondition is found in clause 4.6(4)(a), and requires the formation of two positive opinions of satisfaction by the consent authority.
 - The first positive opinion of satisfaction (cl 4.6(4)(a)(i)) is that the applicant's written request has adequately addressed the matters required to be demonstrated by clause 4.6(3)(a)(i) (Initial Action at [25]).
 - The second positive opinion of satisfaction (cl 4.6(4)(a)(ii)) is that the proposed development will be in the public interest because it is consistent with the objectives of the development standard and the objectives for development of the zone in which the development is proposed to be carried out (Initial Action at [27]).
- The second precondition is found in clause 4.6(4)(b), and requires the consent authority to be satisfied that the concurrence of the Secretary (of the Department of Planning and the Environment) has been obtained (Initial Action at [28]).

Regarding the second precondition, pursuant to Section 55 of the *Environmental Planning and Assessment Regulation 2021*, the Secretary has given written notice dated 21 February 2018, attached to the Planning Circular PS 20-002 issued on 5 May 2020, to each consent authority, that it may assume the Secretary's concurrence for exceptions to development standards in respect of applications made under cl 4.6, subject to the conditions in the table in the notice.



Clause 4.6(5) of THLEP 2019 provides:

- (1) *In deciding whether to grant concurrence, the Director-General 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 Director-General before granting concurrence*



4. Relevant Case Law

In Initial Action, the Court summarised the legal requirements of clause 4.6 and confirmed the continuing relevance of previous case law at [13] to [29]. In particular, the Court confirmed that the five common ways of establishing that compliance with a development standard might be unreasonable and unnecessary as identified in *Wehbe v Pittwater Council* (*Wehbe v Pittwater Council* (2007) 156 LGERA 446; [2007] NSWLEC 827 continue to apply as follows:

- 1) *The first and most commonly invoked way is to establish that compliance with the development standard is unreasonable or unnecessary because the objectives of the development standard are achieved notwithstanding non-compliance with the standard.*
- 2) *A second way is to establish that the underlying objective or purpose is not relevant to the development with the consequence that compliance is unnecessary.*
- 3) *A third way is to establish that the underlying objective or purpose would be defeated or thwarted if compliance was required with the consequence that compliance is unreasonable.*
- 4) *A fourth way is to establish that the development standard has been virtually abandoned or destroyed by the Council's own decisions in granting development consents that depart from the standard and hence compliance with the standard is unnecessary and unreasonable.*
- 5) *A fifth way is to establish that the zoning of the particular land on which the development is proposed to be carried out was unreasonable or inappropriate so that the development standard, which was appropriate for that zoning, was also unreasonable or unnecessary as it applied to that land and that compliance with the standard in the circumstances of the case would also be unreasonable or unnecessary: Wehbe v Pittwater Council at [48]. However, this fifth way of establishing that compliance with the development standard is unreasonable or unnecessary is limited, as explained in Wehbe v Pittwater Council at [49]-[51]. The power under cl 4.6 to dispense with compliance with the development standard is not a general planning power to determine the appropriateness of the development standard for the zoning or to effect general planning changes as an alternative to the strategic planning powers in Part 3 of the EPA Act.*
- 6) *These five ways are not exhaustive of the ways in which an applicant might demonstrate that compliance with a development standard is unreasonable or unnecessary; they are merely the most commonly invoked ways. An applicant does not need to establish all of the ways. It may be sufficient to establish only one way, although if more ways are applicable, an applicant can demonstrate that compliance is unreasonable or unnecessary in more than one way.*

The relevant steps identified in Initial Action (and the case law referred to in Initial Action) can be summarised as follows:

- 1) Is clause 4.3 of THLEP 2019 a development standard?
- 2) Is the consent authority satisfied that this written request adequately addresses the matters required by clause 4.6(3) by demonstrating that:
 - a) compliance is unreasonable or unnecessary; and
 - b) there are sufficient environmental planning grounds to justify contravening the development standard
- 3) Is the consent authority satisfied that the proposed development will be in the public interest because it is consistent with the objectives of clause 4.6 and the objectives for development in the zone?
- 4) Has the concurrence of the Secretary of the Department of Planning and Environment been obtained?



- 5) Where the consent authority is the Court, has the Court considered the matters in clause 4.6(5) when exercising the power to grant development consent for the development that contravenes clause 4.3 of THLEP?



5. Written Request – Building Height

5.1 Clause 4.6(3)(a) – Whether compliance with the development standard is unreasonable or unnecessary

Wehbe v Pittwater Council set out the following five ways in which a variation may be well founded:

1. *The objectives of the standard are achieved notwithstanding non-compliance with the standard;*
2. *The underlying objective or purpose of the standard is not relevant to the development and therefore compliance is unnecessary;*
3. *The underlying object or purpose would be defeated or thwarted if compliance was required and therefore compliance is unreasonable;*
4. *The development standard has been virtually abandoned or destroyed by the Council's own actions in granting consents departing from the standard and hence compliance with the standard is unnecessary and unreasonable;*
5. *The zoning of the particular land is unreasonable or inappropriate so that a development standard appropriate for that zoning is also unreasonable and unnecessary as it applies to the land and compliance with the standard that would be unreasonable or unnecessary. That is, the particular parcel of land should not have been included in the particular zone.*

It is generally understood that Clause 4.6(3) can be satisfied if it is established that the proposal satisfies one or more of those five points. In this instance, point 1 is investigated and is considered to be well founded for the proposed development.

DEVELOPMENT STANDARD OBJECTIVES

The objectives of the building height development standard under clause 4.3(1) of THLEP 2019 are provided below, with a response demonstrating how each objective is satisfied notwithstanding the proposed noncompliance with the building height standard.

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

Mecone response:

The proposed development is compatible with that of adjoining residential development within the subject site and the overall streetscape more broadly. Given that development with the subject site and Coonara Avenue vary quite significantly (due to different zoning and lot size requirements), the two built environments are separated and discussed as follows.



55 Coonara Avenue

The subject site was the subject of a planning proposal that saw the site rezoned from a B7 Business Park to R3 Medium Density Residential and R4 High Density Residential zones (refer to **figure 18**). The Concept Master Plan for the site envisioned 417 dwellings that included 165 dwelling houses and 252 apartments. Further, the LEP was amended to allow for individual dwelling allotments as small as 86m².

In addition to building height development standards (i.e. for 12- and 22-metre-high buildings) that varied to the surrounding area, it was envisioned that such zoning and both minimum lot size and building height standards would facilitate residential development within the subject site that would contain two-and-three storey dwelling houses and multi-storey apartment buildings. Such a concept has subsequently been realised with the approval of Development Consent nos. 859/2022/JP and 861/2022/JP, which approved two-and-three storey dwellings and eight-to-nine storey residential flat buildings respectively.



FIGURE 10: AN EXTRACT OF THE APPROVED PLANS FOR 859/2022/JP. THIS IMAGE DEPICTS A PHOTOMONTAGE FOR THREE-STOREY DWELLINGS WITHIN SOUTH SUPERLOT 6 (I.E. A SUPERLOT WITHIN HOUSING SOUTH THAT ADDRESSES HOUSING CENTRAL AND HOUSING NORTH).

Source: Mirvac, September 2022



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FIGURE 11: AN EXTRACT OF THE APPROVED PLANS FOR 859/2022/JP. THIS IMAGE DEPICTS A PHOTOMONTAGE FOR TWO-STOREY DWELLINGS WITHIN SOUTH SUPERLOT 12 I.E. A SUPERLOT WITHIN HOUSING SOUTH THAT ADDRESSES HOUSING CENTRAL AND NORTH).
Source: Mirvac, September 2022



FIGURE 12: AN EXTRACT OF PHOTOMONTAGES FOR PROPOSED DEVELOPMENT WITHIN SUPERLOT 5 (I.E. DEVELOPMENT THAT IS THE SUBJECT OF VARIATIONS TO THE BUILDING HEIGHT STANDARD) AND WHICH IS LOCATED OPPOSITE DEVELOPMENT WITHIN THE APPROVED HOUSING SOUTH PRECINCT). NOTE THE SIMILARITY OF SCALE TO THAT SHOWN WITHIN FIGURE 10.
Source: Mirvac, May 2023



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FIGURE 13: AN EXTRACT OF PHOTOMONTAGES FOR PROPOSED DEVELOPMENT WITHIN SUPERLOT 2 (I.E. DEVELOPMENT THAT IS BOTH THE SUBJECT OF VARIATIONS TO THE BUILDING HEIGHT STANDARD AND WHICH IS LOCATED OPPOSITE DEVELOPMENT WITHIN THE APPROVED HOUSING SOUTH PRECINCT). NOTE THE SIMILARITY OF SCALE TO THAT SHOWN WITHIN FIGURE 11.

Source: Mirvac, May 2023

The height, form and scale of such approved developments (refer to **figures 10 and 11**) is consistent with that being proposed by this DA (refer to **figures 12, 13, 21, 22 and 23**), noting that 38 of the 60 dwellings approved by 861/2022/JP proposed building heights that exceeded the building height development standard (with building heights (measured from existing ground levels within that part of the site) of up to 15.74 metres).

It is also important to note that the proposed building height variations are largely attributable to civil works that will alter the levels below the proposed dwellings, and that,

- Such changes to existing site levels are required so that the levels of the proposed development are compatible with both those of previously approved developments on the site (e.g. internal roads) and easements protecting Sydney Water infrastructure, and
- If the works proposed by this DA were split into two separate DAs (i.e. one proposing the detailed civil works (and associated modifications to existing ground levels) followed by another for the proposed residential development), then most of the proposed non-compliances will be removed or reduced to a size where they will not be perceptible from surrounding dwellings and publicly accessible areas within the subject site.

Once works are complete, the apparent visual scale of the proposed dwellings will be consistent and compatible with surrounding residential development.



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Coonara Avenue

As shown by **figures 14 and 15**, Existing residential development on the northwest (i.e. opposite) side of Coonara Avenue comprises of part one-two and three-storey dwelling houses in mostly landscaped settings.



FIGURE 14: AN EXAMPLE OF RESIDENTIAL DEVELOPMENT ON THE NORTHWEST (I.E. OPPOSITE) SIDE OF COONARA AVENUE.

Source: Google, June 2022



FIGURE 15: AN EXAMPLE OF RESIDENTIAL DEVELOPMENT ON THE NORTHWEST (I.E. OPPOSITE) SIDE OF COONARA AVENUE.

Source: Google, December 2021

As shown by **figures 16, 17, 19, 21, 22 and 23** proposed dwellings within the Housing North precinct with rear frontages to Coonara Avenue will contain dwellings that step down the north-to-south slope; as such, these dwellings will present to Coonara Avenue as two-storey dwellings in landscaped settings (noting that pursuant to clause 7.15(3) of THLEP 2019, no buildings are permitted within the 11-metre setback to Coonara Avenue). Further, the modest size of height contraventions on the Coonara Avenue frontages of noncompliant dwellings are such that (in



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combination with the large setbacks and landscape settings) such height breaches will not be perceptible when viewed from either Coonara Avenue and dwellings opposite the subject site. Also refer to character assessments contained within Section 5.2 of this written variation request.

Further, the heights of any height non-compliances will not be evident from areas to the east (i.e. within the Cumberland State Forest), as a result of:

- Buildings of similar size (in terms of scale and number of storeys) elsewhere in residential areas within the Coonara development), and
- Views to buildings with noncompliant heights from the Cumberland State Forest being obscured by:
 - Residential dwellings within Superlot 13 (noting that all dwellings within this part of site comply with the building height standard), and
 - Eight-to-nine storey RFB approved by Development Consent no. 861/2022/JP.

As such, the height of the proposed dwellings will be compatible with existing and likely future development within the Coonara Avenue Streetscape.



FIGURE 16: AN EXTRACT OF PHOTOMONTAGES FOR PROPOSED DEVELOPMENT WITHIN SUPERLOT 1B (I.E. DEVELOPMENT THAT IS BOTH THE SUBJECT OF VARIATIONS TO THE BUILDING HEIGHT STANDARD AND WHICH IS LOCATED OPPOSITE DEVELOPMENT WITHIN COONARA AVENUE). NOTE THE SIMILARITY OF SCALE (IN TERMS OF HEIGHT AND NUMBER OF STOREYS) TO DEVELOPMENT SHOWN WITHIN FIGURES 14 AND 15, AND LANDSCAPED SETTINGS THAT WILL REDUCE THE VISUAL APPEARANCE OF THE BUILDINGS.

Source: Mirvac, May 2023



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FIGURE 17: AN EXTRACT OF PHOTOMONTAGES FOR PROPOSED DEVELOPMENT WITHIN THE SOUTHERN END OF SUPERLOT 1B AND THE NORTHERN END OF SUPERLOT 2 (I.E. DEVELOPMENT THAT IS BOTH THE SUBJECT OF VARIATIONS TO THE BUILDING HEIGHT STANDARD AND WHICH IS LOCATED OPPOSITE DEVELOPMENT WITHIN COONARA AVENUE). NOTE THE SIMILARITY OF SCALE (IN TERMS OF HEIGHT AND NUMBER OF STOREYS) TO DEVELOPMENT SHOWN WITHIN FIGURES 14 AND 15, AND LANDSCAPED SETTINGS THAT WILL REDUCE THE VISUAL APPEARANCE OF THE BUILDINGS.

Source: Mirvac, May 2023

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

The proposed development has been designed in accordance with the Site Specific Design Guidelines (Guidelines) for the subject site. While reference is made to the SEE to which this written variation request is attached, brief planning comments are provided below with regard to overshadowing, visual impact and visual privacy.

Solar access

The proposed development has been designed in accordance with both Section 4.7 (Solar Access) of the Guidelines and guidance from The Hills Shire Council (Council). As demonstrated by the SEE to which this written variation request is attached, 80% of dwellings¹ within the Coonara development (i.e. all dwellings within the Housing South, Housing Central and North) will obtain at least two hours of direct solar access on June 21 accordance with Section 4.7 of the Design Guidelines. Further, the dwellings that are the subject of the greatest height breaches (e.g. allotments 1-01, 1-04 and 1-05) will not cast significant shadows over public open space areas (such as the park on the northeast side of the Housing North precinct), therefore the proposed height variations will not adversely nor unreasonably affect the public domain.

Further, being located:

- to the southeast side of Coonara Avenue, and
- Significantly to the north of the southwest boundary,

the proposed development will have no solar access impact on existing residential areas on the opposite side of Coonara Avenue.

¹ Excluding the residential flat buildings (RFBs) approved by Development Consent no. 861/2022/JP, which are subject to the provisions of the Apartment Design Guide (ADG).



Visual amenity

Visual amenity is also addressed elsewhere both within the SEE and this written variation request. To summarise however, the proposed development has been designed in accordance with the Site Specific Design Guidelines as well as the design excellence provisions within clause 7.7 of THLEP 2012. In addition to satisfying the relevant numerical criteria, the design subsequently proposes built forms that:

- Apply high standards of architectural design, materials and detailing that is appropriate to the proposed building types and their locations,
- Will substantially improve both the quality and amenity of the public domain, noting that the dwellings and associated landscaping replaces a former business centre carpark, and
- Have no impacts on view corridors.

As demonstrated by **figures 12, 13, 16 and 17**, the proposed development will present a high-quality visual appearance that is consistent with previously approved development within the Housing South precinct (refer to **figures 10 and 11**). It is important to note that dwellings within the Housing South precinct proposed similar (and in some cases, greater) height and scale, however such development was found to have acceptable outcomes as reflected by the approval of Development Consent nos. 859/2022/JP. The proposed height variations will therefore not be perceptible from both private residences and the public domain within the subject site; such variations will therefore not give rise to adverse visual impacts when viewed from both within the subject site and surrounding area.

Visual privacy

While they have been approved in stages, all development within the residential precincts of the Coonara development have been designed from their inception to interact in a manner that does not compromise visual privacy both within living and private open space areas. Such measures include adequate separation, specific window/door placement, landscaping and internal floor layouts that will prevent direct overlooking into sensitive parts of dwellings within the site. The placement of the proposed development to the southeast of established surrounding residential areas is also such that it will not adversely affect the visual privacy of such surrounding areas, including public open space.

Further, as elements breaching height standards are limited to upper articulation elements (e.g. parapets at the like) and does not include windows, the proposed building height non-compliances will have no impact on visual privacy (both to private and public areas) within the subject site.



ZONE OBJECTIVES

As demonstrated by **figure 18** below, the subject site is located within both the R3 Medium Density Residential zone and R4 High Density Residential zone.

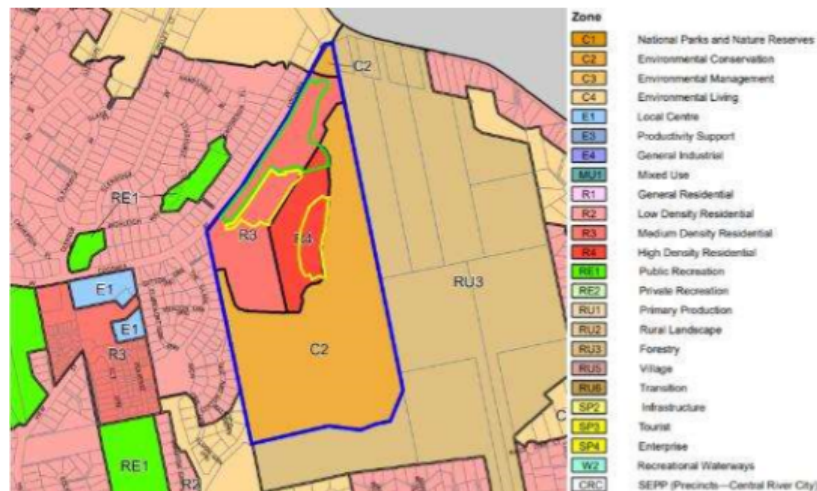


FIGURE 18: AN EXTRACT OF THE THLEP 2019 ZONING MAP. THE SITE IS DENOTED BY THE BLUE BORDER, WHILE THE APPROXIMATE LOCATIONS OF THE HOUSING CENTRAL AND CONARA NORTH PRECINCTS ARE DENOTED BY THE YELLOW AND GREEN BORDERS RESPECTIVELY.
Source: legislation.nsw.gov. au, 2023 (Modified by Mecone, 4 May 2023)



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Assessments of the objectives of the zones are provided below.

R3 Medium Density Residential zone

To provide for the housing needs of the community within a medium density residential environment.

Mecone response:

This DA proposes a range of three-, four- and five-bedroom dwellings in a variety of different configurations. Such development is to be provided in the form of detached, semi-detached and attached dwellings. Such development will subsequently provide for the housing needs of the community within the context of a medium density residential environment.

To provide a variety of housing types within a medium density residential environment.

Mecone response:

Development proposed by this DA includes a wide range of dwelling designs comprising of three-, four- and five-bedroom homes within the forms of two- and three storey detached, semi-detached and attached dwellings. The proposed development will therefore provide a significant variety of floor sizes and layouts and building typologies that are consistent within the context of a medium density residential environment.

To enable other land uses that provide facilities or services to meet the day to day needs of residents.

Mecone response:

The dwellings are designed to provide sufficient facilities for residential activities such as home offices and the like. The proposal will have no impact on the site or surrounding sites to provide facilities and services that will meet the daily needs of residents.

To encourage medium density residential development in locations that are close to population centres and public transport routes.

Mecone response:

As previously recognised by its rezoning, the location of the proposed development is well sited, as all dwellings be located within walking distance of the Cherrybrook metro station, which provides both fast and regular services to surrounding population centres and associated services.

R4 High Density Residential zone

None of the proposed dwellings which breach the building height development standard are located within the R4 High Density Residential zone. For completeness however, a brief response to the objectives of the R4 zone is as follows:

To provide for the housing needs of the community within a high density residential environment.



Mecone response:

The proposed development will provide for the housing needs for members of the community within the context of a high-density residential environment.

To provide a variety of housing types within a high density residential environment.

Mecone response:

Development proposed by this DA includes a wide variety of housing typologies that includes a range of bedrooms, number of building storeys and internal floor layouts. The proposed development will therefore provide a significant variety of floor sizes and layouts and building typologies that are consistent within the context of a medium density residential environment.

To enable other land uses that provide facilities or services to meet the day to day needs of residents.

Mecone response:

The proposed development will have no impact on the site or surrounding sites to provide facilities and services that will meet the daily needs of residents.

To encourage high density residential development in locations that are close to population centres and public transport routes.

Mecone response:

As previously recognised by its rezoning and earlier approvals for high-density residential development (such as the residential flat buildings), the location of the proposed development is well sited, as all dwellings be located within walking distance of the Cherrybrook metro station, which provides both fast and regular services to surrounding population centres and associated services.

5.2 Clause 4.6(4)(b) – Are there sufficient environmental planning grounds to justify contravening the development standard?

In Initial Action the Court found at [23]-[24] that:

23. As to the second matter required by cl 4.6(3)(b), the grounds relied on by the applicant in the written request under cl 4.6 must be "environmental planning grounds" by their nature: see Four2Five Pty Ltd v Ashfield Council [2015] NSWLEC 90 at [26]. The adjectival phrase "environmental planning" is not defined, but would refer to grounds that relate to the subject matter, scope and purpose of the EPA Act, including the objects in s 1.3 of the EPA Act.

24. The environmental planning grounds relied on in the written request under cl 4.6 must be "sufficient". There are two respects in which the written request needs to be "sufficient". First, the environmental planning grounds advanced in the written request must be sufficient "to justify contravening the development standard". The focus of cl 4.6(3)(b) is on the aspect or element of the development that contravenes the development standard, not on the development as a whole, and why that contravention is justified on environmental planning grounds.



25. *The environmental planning grounds advanced in the written request must justify the contravention of the development standard, not simply promote the benefits of carrying out the development as a whole: see Four2Five Pty Ltd v Ashfield Council [2015] NSWCA 248 at [15]. Second, the written request must demonstrate that there are sufficient environmental planning grounds to justify contravening the development standard so as to enable the consent authority to be satisfied under cl 4.6(4)(a)(i) that the written request has adequately addressed this matter: see Four2Five Pty Ltd v Ashfield Council [2015] NSWLEC 90 at [31].*

In this regard, we submit that there are numerous and substantive environmental planning grounds to justify the proposed contraventions of the building height development standard; these are detailed below.

Despite the contravention of the building height development standard, the proposed development maintains the existing and desired future character of the area

When considering compatibility with surrounding residential environments, reference is made to the planning principles within *Project Venture Developments v Pittwater Council* [2005] NSWLEC 191; such principles determined that compatibility is not about 'sameness' but rather about a proposal's ability to exist in harmony with its surroundings. Compatibility also relates to the acceptability of a proposal's physical impacts on surrounding development. When considering the proposal's compatibility with the surrounding area, the two tests used in Senior Commissioner Roseth's findings are as follows:

Test 1 - Is the proposal's appearance in harmony with the buildings around it and the character of the street?

Following its rezoning, residential parts of the subject site have been subject to a number of approvals, including Development Consent nos. 859/2022/JP and 861/2022/JP, which approved two-and-three storey dwellings on small allotments and eight-to-nine storey residential flat buildings respectively.

Once constructed, such residential development (in particular dwellings within Coonara South Housing Precinct) will be similar in typology, form and scale to the dwellings proposed by this DA (including those that breach the height standard), in that they will:

- Be situated on small allotments,
- Comprise of two and three storey semi-detached and attached dwellings on small allotments with similar street setbacks and landscape designs to those proposed by this DA,
- Will comprise of heights that (when measured from finished ground levels following civil works) are very similar to those proposed by this DA (noting that 38 of the 60 dwellings approved by 861/2022/JP had heights that exceeded applicable building height development standards), and
- Feature similar contemporary architectural styles and external finishes, materials and colours.



Further, as the proposed development has been designed as part of a master-planned precinct, the location and design of the dwellings that are the subject of this written variation request will not significantly nor unreasonably affect adjoining and nearby residences within the Coonara South, Central and North Housing Precincts in terms of visual privacy, overshadowing, view loss and visual amenity. Once development on the site has been completed (i.e. levels upon which the dwellings will be based match those of surrounding areas), the proposed dwellings will also not have any visual amenity impacts on surrounding sites within the subject site.

Sites on the northwest (i.e. opposite) side of Coonara Avenue are both located within a different (i.e. R2 Low Density Residential) zone and are located on much larger residential allotments. Irrespective of whether they breach the height standard, the proposed allotments with rear frontages to Coonara Avenue will present as two-storey buildings (noting that the tallest parts of these dwellings will be oriented to the southeast, away from Coonara Avenue) with large/predominately landscaped rear setbacks to Coonara Avenue. The development will subsequently:

- Provide a transition between larger/higher density development (e.g. the residential flat buildings) within R3 and R4 zones to the southeast, and
- Present a development scale to the Coonara Avenue streetscape that is consistent with established residential areas.

As a result of:

- Significant spatial separation between, and
- The location of the proposed development both southeast and downslope from,

established residential areas, the consequence of the height breaches are that they will not significantly nor unreasonably affect nearby residences within low-density residential areas in proximity to the subject site.

With regard to the above, it is submitted that the physical appearance of the proposed dwellings and their associated landscaped character will continue to be compatible and exist in harmony with the existing and likely future character of the streetscape.

Test 2 - Are the proposal's physical impacts on surrounding development acceptable? The physical impacts include constraints on the development potential of surrounding sites.

The amenity of surrounding properties will not be significantly impacted as a result of the dwellings that are the subject of this written variation request.

There will be no physical impacts on established residential areas surrounding the subject site. The only physical impact on development within the subject site will be some additional overshadowing, however such additional overshadowing is a consequence of new development being provided within a residential part of the site where no residential development has previously been approved.

Overshadowing impacts were anticipated at an early design stage, due to both the site's orientation and significant north-to-south downhill slope, which constrains the placement and design of development that is capable of obtaining adequate solar access during mid-winter. The proposed design therefore carefully considered the physical interactions of the different residential precincts. The design response has subsequently optimised solar access to sites within the Housing Central and Housing North precincts, noting that the proposed development



comply with solar access provisions within the design guidelines (in that 80% of all dwellings (excluding RFBs) will obtain at least two hours of direct solar access on June 21).

The proposed building height variations will therefore not result in adverse quantitative impacts.

From a qualitative perspective, the subject dwellings will not give rise to adverse visual impacts when viewed from surrounding areas (refer to **figures 12, 13, 16 and 17**). As indicated elsewhere within this written request, the proposed height noncompliance are partially attributable to changed ground levels, which are necessitated for the levels of the proposed allotments to match those of other internal features, such as roads and easements. Once both:

- The dwellings, and
- Associated civil works (including changes to ground levels)

are completed, the apparent heights of dwellings subject to height non-compliances will be consistent with other compliant dwellings. Further, as a result of such level changes (and as demonstrated by **figures 19, 20, 21, 22 and 23²**), the varying sizes and locations of building height variations when viewed from internal and surrounding streetscapes will not be discernible if compared to built forms with compliant building heights.



FIGURE 19: AN EXTRACT OF A STREETSCAPE PERSPECTIVE, TAKEN FROM THE SOUTHWEST-MOST END OF SUPERLOT 2 LOOKING NORTHWEST (I.E. FROM THE SOUTHWEST-MOST END OF THE DEVELOPMENT, LOOKING UP THE COONARA AVENUE FRONTAGE). THE NINE METRE BUILDING HEIGHT STANDARD IS DENOTED BY THE GREEN OVERLAY.

Source: Mirvac, May 2023

² Note: This written request contains a selection of perspectives and does not include all perspectives provided in support of this DA. Reference is made to the height contravention plans (prepared by Mirvac) that have been submitted as part of this DA package).





FIGURE 20: AN EXTRACT OF A STREETSCAPE PERSPECTIVE, TAKEN FROM THE NORTHWEST-MOST END OF SUPERLOT 2 LOOKING SOUTH (I.E. LOOKING DOWN THE COONARA AVENUE FRONTAGE OF SUPERLOT 2). THE NINE METRE BUILDING HEIGHT STANDARD IS DENOTED BY THE GREEN OVERLAY.

Source: Mirvac, May 2023



FIGURE 21: AN EXTRACT OF A STREETSCAPE PERSPECTIVE, TAKEN FROM THE NORTHWEST-MOST END OF SUPERLOT 1 LOOKING SOUTH (I.E. FROM THE NORTHWEST-MOST END OF THE DEVELOPMENT, LOOKING DOWN THE COONARA AVENUE FRONTAGE OF SUPERLOT 1). THE NINE METRE BUILDING HEIGHT STANDARD IS DENOTED BY THE GREEN OVERLAY.

Source: Mirvac, May 2023



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FIGURE 22: AN EXTRACT OF A STREETSCAPE PERSPECTIVE, TAKEN FROM THE SOUTHERN-MOST END OF THE NORTHERN INTERNAL ROAD (I.E. THE CUL-DE-SAC), LOOKING NORTH (I.E. LOOKING TOWARDS THE SOUTHERN-MOST END OF SUPERLOT 1). THE 9 AND 12 METRE BUILDING HEIGHT STANDARDS ARE DENOTED BY THE GREEN AND PURPLE OVERLAYS RESPECTIVELY.

Source: Mirvac, May 2023



FIGURE 23: AN EXTRACT OF A STREETSCAPE PERSPECTIVE, TAKEN FROM THE SOUTHERN-MOST END OF SUPERLOT 4, LOOKING NORTH. THE 12 METRE BUILDING HEIGHT STANDARD IS DENOTED BY THE PURPLE OVERLAY.

Source: Mirvac, May 2023

Further, due to the sloping and undulating form of the site, to provide dwellings that comply with the building height standard will result in a built form with inconsistent and therefore incongruous apparent heights and poor streetscape presentation.

To increase the building heights beyond those permitted by the building height development standard will therefore provide for both:

- A congruent built form that will further enhance the visual appearance of the development, (both from surrounding dwellings and publicly accessible areas), and.
- The maximisation of ceiling heights that will further improve natural light access and internal amenity within the proposed dwellings,

that will not result in adverse impacts upon the surrounding area.



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In summary, the form and scale of the subject dwellings, and the site's presentation to both surrounding sites and the public domain will continue to be compatible with the existing and future character of the streetscape and the local area more broadly. The proposal therefore satisfies this test.

Placement, design options and subsequent building heights are limited by prior development approvals – orderly and economic development of land

The placement of the dwellings within sloped areas is dictated by the approval of earlier approvals on the site, in particular:

- The concept master plan approved by Development Consent no. 860/2022/JP,
- The Southern Housing Precinct approved by Development Consent no. 859/2022/JP, and
- The apartment precinct approved by Development Consent no. 861/2022/JP.

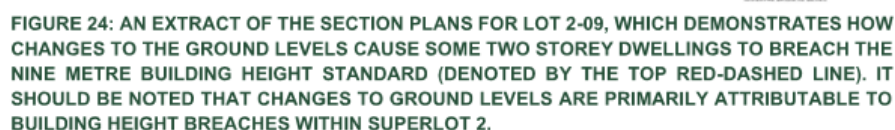
Such approvals also determined the locations of the internal road network, which includes an existing perimeter ring road that is to be located between residential areas and areas containing BGHF and STIF. The locations and levels of the road were the subject of the earlier rezoning of the site, the locations of Sydney Water easements (which dictates the levels of some parts of the land, the gradients of some internal roads and the subsequent levels of certain allotments) and subsequent planning approvals associated with residential development and civil works.

The levels of the internal roads and associated sites subsequently dictate both:

- The placement of residential development within the Housing Central and Housing North Housing Precincts, and
- The proposed ground levels within the Housing Central and Housing North upon which future development will be based (i.e. so that they align with those of both the internal roads and other parts of the subject site once developed).

To provide the proposed ground levels requires filling that will subsequently raise the existing ground levels within proposed development areas; the changes to the existing ground levels must be included when calculating the proposed heights of the dwellings. The total combined heights of both the dwellings *and* altered ground levels subsequently causes some dwellings (including dwellings less than nine metres high, such as those within Superlot 2 (e.g. Lots 2-09 and 2-10) to breach the building height standard (refer to **figure 24**)).





It is also important to note that the majority of both the number and size of the proposed height variations are a consequence of lodging a single DA that proposes both residential development and detailed civil works. If the works proposed by this DA were split into two separate DAs (i.e. one proposing the detailed civil works (and associated modifications to existing ground levels) followed by another for the proposed residential development), then:

- In other words, if a detailed civil works DA were submitted, then such civil works would alter ground levels; those amended ground levels would subsequently become the 'existing ground levels' that would be used to calculate the heights of dwellings that would be the subject of the second DA. Despite a single DA proposing more/greater building height variations than two separate DAs, both approaches would result in the same built form outcome.

While the locations of the internal road network remain mostly unchanged from that which was lodged to support the Concept DA, changes to the routing of the northern cul-de-sac's southernmost section (Road 2, located within the Housing North precinct) were necessary to



accommodate Council's preferred ecological outcome for a wider buffer³. This is consistent with the object of the Act for ecologically sustainable development. The changes required that roadway to continue to provide gradients that are in accordance with relevant Australian Standards.

Such changes necessitated the amendment of four allotments (i.e. allotments 1-02, 1-03, 1-04 and 1-05) and the placement of dwellings within these allotments. Such a change has situated these allotments (in particular, Lots 1-04 and 1-05) above a steeply sloped part of the site that also straddles the boundary separating the 9 and 12 metre building height development standards. While the buildings have been designed to mostly comply with the greater of these two standards (due to the greater slope within the area affected by the 12-metre development standard), the 'step' within the building height standard within the centre of the site results in dwellings that propose the greatest variations to the building height standard.

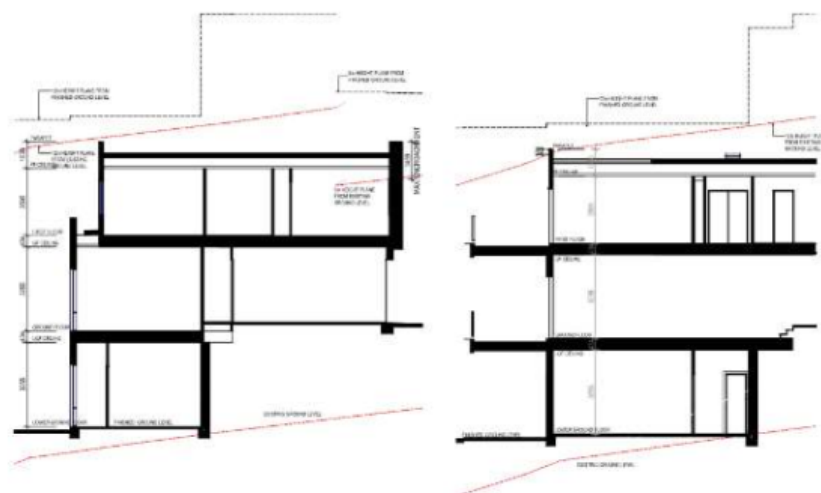


FIGURE 25: EXTRACTS OF SECTION PLANS FOR LOT 1-04, WHICH DEMONSTRATE HOW THE 9 AND 12 METRE BUILDING HEIGHT STANDARDS (DENOTED BY THE TOP RED-DASHED LINES) AFFECT DIFFERENT PARTS OF THIS DWELLING.

Source: Mirvac, May 2023

Such variations are technical in nature, as the greatest variation to the building height standards are within the centre of the dwellings (i.e. at the point of the boundary separating the 9 and 12 metre building height standards; refer to **figures 24 and 25**). The dual frontages of the dwellings

³ Such revisions to the road layout swapped the locations of some residential allotments and southern sections of the northern cul-de-sac. With regard to the bushfire hazard (primarily associated with the Cumberland State Forest) that affects the site, such changes enabled the relocated sections of the internal road to form part of the Asset Protection Zone (APZ) for dwellings within the Housing North precinct; this subsequently reduced the encroachment of the APZ into ecologically sensitive areas, thereby reducing proposed tree removal which improved ecological outcomes.



have been designed to represent the building height standards that apply to each side of the site (i.e. the northern frontage affected by the nine-metre development standard has been designed to appear like a nine-metre-high building, while the southern frontage affected by the 12-metre development standard has been designed to appear like a 12-metre-high building). The overall appearance of the two allotments that are subject to the greatest variations are therefore not out of character with the surrounding area, and as with remainder of the development, will not adversely affect surrounding areas by way of excessive overshadowing, poor visual amenity, etc (refer to both prior environmental planning grounds and the assessment of objectives related to clause 4.3 of THLEP 2019, above).

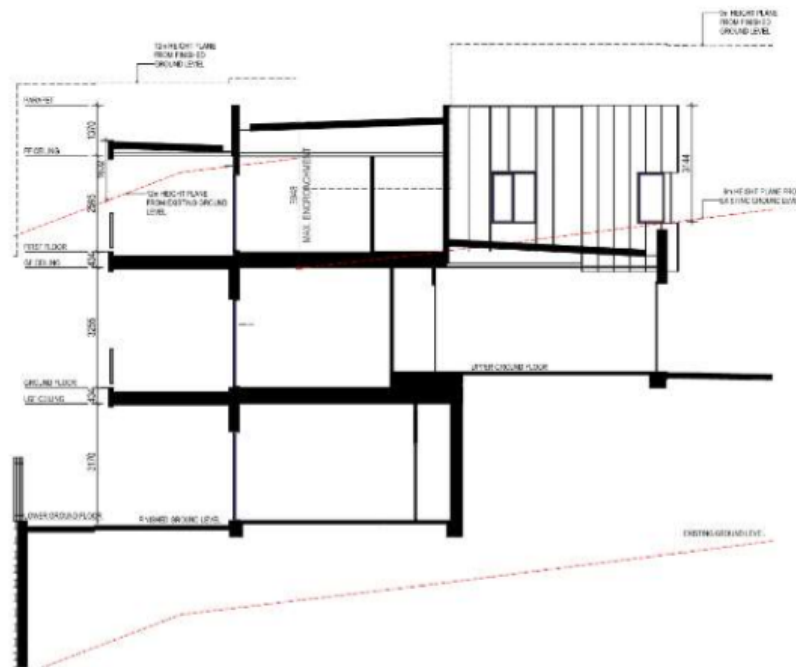


FIGURE 26: AN EXTRACT OF THE SECTION PLAN FOR LOT 1-05, WHICH DEMONSTRATE HOW THE 9 AND 12 METRE BUILDING HEIGHT STANDARDS (DENOTED BY THE TOP RED-DASHED LINES) AFFECT DIFFERENT PARTS OF THIS DWELLING, WITH THE GREATEST PART OF THE BUILDING HEIGHT NONCOMPLIANCE BEING LOCATED WITHIN THE CENTRE OF THE BUILDING (RATHER THAN AT THE STREETSCAPE FRONTAGES).

Source: Mirvac, May 2023

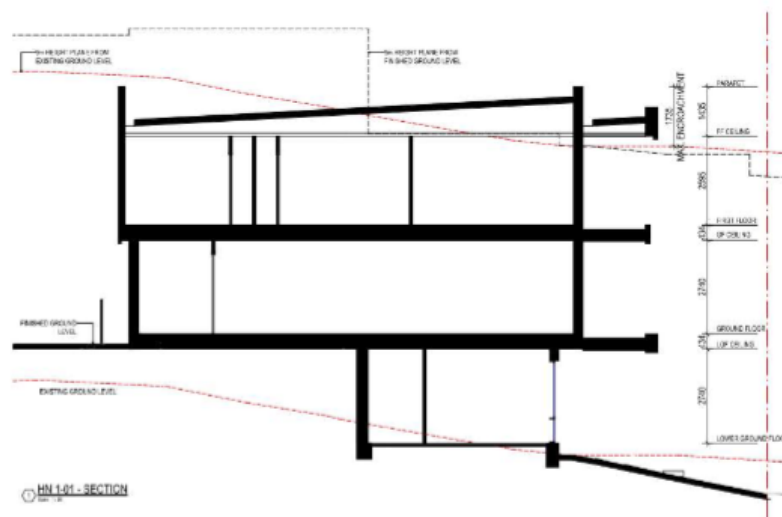
Superior design and built form outcomes that achieve consistency in approach, good design and improved future amenity and maintenance

Most of the height variations within the Coonara development are associated with three-storey structures, consisting of two levels and a lower-ground floor level on the lower parts of those respective allotments. Such a layout is proposed to step the building footprints along the slope,



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As demonstrated by the section plans (both within the architectural plans and clause 4.6 plans prepared by Mirvac and submitted with this DA), the proposed variations mostly occur within areas where the 'highest' points of the three storey elements are situated above the lowest parts of the sites; refer to **figure 27** for an example of stepping of the building envelope in response to site topography affects compliance with the building height standard.



Source: Mirvac, May 2023

- Internally step the floor levels,
- Increase setback on the top levels, and/or
- Lower/ remove roof parapets.

- The altered levels and sloping topography of the site is so highly variable that it is not possible to provide a consistent design solution(s) that would facilitate a congruous form of development (i.e. building heights would appear to be continuously stepped at different points, resulting in highly discordant streetscape appearances),
- The relatively small sizes and depths of affected allotments are such that any stepping of the floor levels will significantly affect the flexibility, functionality and accessibility of such dwellings,



- To lower the ceiling levels to reduce the height of the dwellings will significantly lower their internal amenity, particularly on lower levels (noting that such areas are to be oriented to the southeast due to the south/southeast downhill slope), and
- The removal of features (e.g. parapets) to enable compliance will reduce building articulation features, thereby worsening the appearance of the highly articulated dwellings.

It is therefore submitted that enabling relatively small breaches of the building height envelopes will result in a better design outcome that will improve streetscape presentation and internal amenity, without causing unreasonable and adverse impacts on other dwellings within the subject site. Such outcomes will also better address the requirements of clause 7.7 (Design excellence) of THLEP 2019, which amongst other things, requires that residential development:

- Be of a high standard of architectural design (including high levels of articulation and associated features such as parapets and skylights), and
- Which provides a high quality and congruous visual presentation that improves the quality and amenity of the public domain, and
- Considers the development's relationship with other development (existing or proposed) on the same site or on neighbouring sites in terms of separation, setbacks, amenity and urban form.

For the reasons outlined above, it is evident that there are substantive environmental planning grounds which justify contravening the height development standard.

5.3 Clause 4.6(4)(a)(ii) – Is the proposed development in the public interest because it is consistent with the objectives of Clause 4.3 and the objectives of the R3 Medium Density Residential zone and R4 High Density Residential zone

The consent authority needs to be satisfied that the proposed development will be in the public interest if the standard is varied because it is consistent with the objectives of the standard and the objectives of the zone(s).

Preston CJ in Initial Action (Para 27) described the relevant test for this as follows:

"The matter in cl 4.6(4)(a)(ii), with which the consent authority or the Court on appeal must be satisfied, is not merely that the proposed development will be in the public interest but that it will be in the public interest because it is consistent with the objectives of the development standard and the objectives for development of the zone in which the development is proposed to be carried out. It is the proposed development's consistency with the objectives of the development standard and the objectives of the zone that make the proposed development in the public interest. If the proposed development is inconsistent with either the objectives of the development standard or the objectives of the zone or both, the consent authority, or the Court on appeal, cannot be satisfied that the development will be in the public interest for the purposes of cl 4.6(4)(a)(ii)."



This written request has demonstrated that the proposed development is consistent with the objectives of the development standard and the objectives of the zones within which the development is proposed to be carried out. Refer to the assessment of Clause 4.6(3)(a) (i.e. Section 5.1 of this written request) above for assessments of the objective of the development standard and of the zones.

It is our opinion that the consent authority can be satisfied that the proposed development will be in the public interest if the standard is varied, given its consistency with the objectives of the building height development standard and the objectives of both the R3 and R4 zones.

5.4 Secretary's concurrence

By Planning Circular dated 5 May 2020 No. PS 20-002, the Secretary of the Department of Planning, Industry and Environment advised that consent authorities can assume concurrence to a clause 4.6 request except in the circumstances set out below:

- Lot size standards for rural dwellings where the development is local and regionally significant development;
- Contraventions exceeding 10% where the decision is to be made by a delegate of a local Council; and
- Contraventions to non-numerical development standards where the decision is to be made by a delegate of a local Council.

Due to the proposed Capital Investment Value (CIV) of the proposed development, this DA is subject to determination by the Sydney Central City Planning Panel; the Secretary's concurrence may therefore be assumed, even for contraventions to development standards that exceed 10%.



6.0 Conclusion

Having regard to the clause 4.6 contravention provisions we have formed the considered opinion:

- a) that the contextually responsive development is consistent with the objectives of both the R3 and R4 zones, and
- b) that the contextually responsive development is consistent with the objectives of clause 4.3 of the THLEP 2019, and
- c) that there are sufficient environmental planning grounds to justify contravening the development standard, and
- d) that having regard to (a), (b) and (c) above, compliance with the height of buildings development standard is unreasonable or unnecessary in the circumstances of the case, and
- e) that given the development's ability to comply with the objectives of both the affected zones and the height of buildings standard objectives that, approval of the DA will not be antipathetic to the public interest, and
- f) that contravention of the development standard does not raise any matter of significance for State or regional environmental planning; and
- g) Concurrence of the Secretary can be assumed by the Regional Planning Panel as the determining authority in this case.

Pursuant to clause 4.6(4)(a) of THLEP 2019, the consent authority can be satisfied that the applicant's written request has adequately addressed the matters required to be demonstrated by clause 4.6(3), being:

- 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.*

In conclusion, we believe that in working with the constraints of the site, the proposed building height contraventions are consistent with the intent of the site's rezoning and present superior planning and design outcomes when compared to alternate options that were explored throughout the design process. Further, we have formed the considered opinion that there is no statutory or environmental planning impediment to the granting of a building height contravention in this instance. We therefore believe the proposed development be approved for the reasons outlined above.



ATTACHMENT 16 – RFS GENERAL TERMS OF APPROVAL



The Hills Shire Council
PO Box 7064
BAULKHAM HILLS BC NSW 2153

Your reference: CNR-58287 11/2024/JP
Our reference: DA20230731003340-Original-1

ATTENTION: Sanda Watts

Date: Friday 1 March 2024

Dear Sir/Madam,

Integrated Development Application
s100B – Subdivision – Subdivision
55 Coonara Avenue West Pennant Hills 2125, 61//DP737386

I refer to your correspondence dated 13/10/2023 seeking general terms of approval for the above Integrated Development Application.

The New South Wales Rural Fire Service (NSW RFS) has considered the information submitted. General Terms of Approval, under Division 4.8 of the *Environmental Planning and Assessment Act 1979*, and a Bush Fire Safety Authority, under section 100B of the *Rural Fires Act 1997*, are now issued subject to the following conditions:

Asset Protection Zones

The intent of measure is to provide sufficient space and maintain reduced fuel loads to ensure radiant heat levels at the buildings are below critical limits and prevent direct flame contact.

1. At the commencement of building works or the issue of a subdivision certificate, whichever comes first, the area identified as APZ in 'Bushfire Construction (BAL) Overlay' for the proposed Housing North prepared by Building Code & Bushfire Hazard Solutions (dated: 15/01/2024 and referenced:230564) must be maintained as an inner protection area in accordance with the requirements of Appendix 4 of *Planning for Bush Fire Protection 2019*.

At the commencement of building works or the issue of a subdivision certificate, whichever comes first, the area identified as 'APZ-Asset Protection Zone' as shown in drawing L-DA-69 for the proposed Housing Central prepared by Turf Design Studio (dated: January 2024, issue B) must be maintained as an inner protection area in accordance with the requirements of Appendix 4 of *Planning for Bush Fire Protection 2019*.

When establishing and maintaining an inner protection area, the following requirements apply:

- Minimal fine fuel at ground level;
- Grass mowed or grazed;
- Trees and shrubs retained as clumps or islands and do not take up more than 20% of the area;
- Trees and shrubs located far enough from buildings so that they will not ignite the building;
- Garden beds with flammable shrubs not located under trees or within 10 metres of any windows or doors;
- Minimal plant species that keep dead material or drop large quantities of ground fuel;

1

Postal address

NSW Rural Fire Service
Locked Bag 17
GRANVILLE NSW 2142

Street address

NSW Rural Fire Service
4 Murray Rose Ave
SYDNEY OLYMPIC PARK NSW 2127

T (02) 8741 5555
F (02) 8741 5550
www.rfs.nsw.gov.au

- Tree canopy cover not more than 15%;
- Tree canopies not located within 2 metres of the building;
- Trees separated by 2-5 metres and do not provide a continuous canopy from the hazard to the building; and,
- Lower limbs of trees removed up to a height of 2 metres above the ground.

Construction Standards

The intent of measure is to minimise the risk of bush fire attack and provide protection for emergency services personnel, residents and others assisting firefighting activities.

2. Construction of the proposed works as referenced below must comply with section 3 and section 7 (BAL 29) Australian Standard AS3959-2018 *Construction of buildings in bushfire-prone areas* or the relevant requirements of the NASH Standard - *Steel Framed Construction in Bushfire Areas* (incorporating amendment A - 2015). New construction must also comply with the construction requirements in Section 7.5 of *Planning for Bush Fire Protection 2019*.

- The proposed dwellings on proposed lot 1-05, 1-19, 13-01, 13-02 & 13-17;
- The roof, north and east elevations of the proposed dwelling on the proposed lot 4-08; and
- The roof, east, north and south elevations of the proposed dwellings on the proposed lots 1-04, 1-09 to 1-18, 13-03 to 13-16 lots.

3. Construction of the proposed works as referenced below must comply with section 3 and section 6 (BAL 19) Australian Standard AS3959-2018 *Construction of buildings in bushfire-prone areas* or the relevant requirements of the NASH Standard - *Steel Framed Construction in Bushfire Areas* (incorporating amendment A - 2015). New construction must also comply with the construction requirements in Section 7.5 of *Planning for Bush Fire Protection 2019*.

- The west elevation of the proposed dwellings on the proposed lots 1-04, 1-09 to 1-18, 13-03 to 13-16 lots.
- The roof, east and north elevations of the proposed dwelling on the proposed lot 4-07;
- The south and west elevations of the proposed dwelling on the proposed lot 4-08; and
- The roof, east, north and south elevations of the proposed dwelling on the proposed lot 1-03.

4. Construction of the proposed works as referenced below must comply with section 3 and section 5 (BAL 12.5) Australian Standard AS3959-2018 *Construction of buildings in bushfire-prone areas* or the relevant requirements of the NASH Standard - *Steel Framed Construction in Bushfire Areas* (incorporating amendment A - 2015). New construction must also comply with the construction requirements in Section 7.5 of *Planning for Bush Fire Protection 2019*.

- The west elevation of the proposed dwelling on the proposed lot 1-03;
- The west and south elevations of the proposed dwelling on the proposed lot 4-07; and
- The proposed dwellings on the proposed lots 1-01, 1-02, 1-06 to 1-08, 4-01 to 4-06, 5-11 to 5-19.

5. The balconies of the proposed dwellings within the proposed lots 1-05, 1-19, 13-01 to 13-17 which protrude into the Asset Protection Zone must be separated from the proposed dwelling by a fire rated wall as per option (b) or (c) of Section 3.2.3 of AS3959-2018 *Construction of buildings in bush fire-prone areas*, and must be constructed entirely from non-combustible materials.

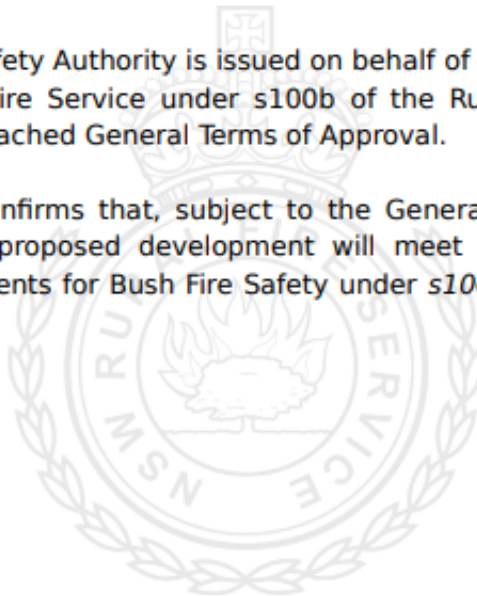
6. Fences and gates must comply with Section 7.6 of *Planning for Bush Fire Protection 2019*. New fences and gates are to be made of either hardwood or non-combustible material. Where a fence or gate is constructed within 6m of a dwelling or in areas of BAL-29 or greater, they must be made of non-combustible material only.

BUSH FIRE SAFETY AUTHORITY

Subdivision – Subdivision
55 Coonara Avenue West Pennant Hills 2125, 61//DP737386
RFS Reference: DA20230731003340-Original-1
Your Reference: CNR-58287 11/2024/JP

This Bush Fire Safety Authority is issued on behalf of the Commissioner of the NSW Rural Fire Service under s100b of the Rural Fires Act (1997) subject to the attached General Terms of Approval.

This authority confirms that, subject to the General Terms of Approval being met, the proposed development will meet the NSW Rural Fire Service requirements for Bush Fire Safety under *s100b of the Rural Fires Act 1997*.



Nika Fomin

Manager Planning & Environment Services
Built & Natural Environment

Friday 1 March 2024

ATTACHMENT 17 – THE DEPARTMENT OF PLANNING AND ENVIRONMENT – WATER - GTAs

Department of Planning and Environment



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

Our ref: IDAS-2023-10628
Your ref: 11/2024/JP

26 June 2024

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

Attention: Sanda Watts

Uploaded to the ePlanning Portal

Dear Sir/Madam

Re: IDAS-2023-10628 - Integrated Development Referral – General Terms of Approval
Dev Ref: 11/2024/JP
Description: Housing Central and Housing North Precincts – Construction of 105 integrated attached, semi attached and detached dwellings, communal lot works, individual lot subdivision and associated lot civil works and associated landscape works.
Location: Lot 61, DP737386, 55 COONARA AVENUE WEST PENNANT HILLS 2125

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

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

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

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

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

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

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

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

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

supporting documentation is received.

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

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

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

Yours Sincerely



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



General Terms of Approval

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

Reference Number: IDAS-2023-10628
Issue date of GTA: 26 June 2024
Type of Approval: Controlled Activity
Location of work/activity: Lot 61, DP737386, 55 COONARA AVENUE WEST PENNANT HILLS 2125
Waterfront Land: unnamed 1st order tributary of Bellamys Creek
DA Number: 11/2024/JP
LGA: THE HILLS SHIRE

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

Condition Number	Details
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TC-G001	Before commencing any proposed controlled activity on waterfront land, an application must be submitted to Department of Planning and Environment-Water, and obtained, for a controlled activity approval under the Water Management Act 2000.
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TC-G004	A. This General Terms of Approval (GTA) only applies to the proposed controlled activity described in the plans and associated documents found in Schedule 1, relating to Development Application 11/2024/JP provided by Council to Department of Planning and Environment-Water.
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B. Any amendments or modifications to the proposed controlled activity may render the GTA invalid. If the proposed controlled activity is amended or modified, Department of Planning and Environment-Water, must be notified in writing to determine if any variations to the GTA will be required.

TC-G005	A. The application for a controlled activity approval must include the following plan(s):
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- Site plans
- Erosion and sediment control plans
- Construction detailed drainage plans
- Construction stormwater drainage outlet plan
- Construction detailed bulk earthworks plans

B. The plan(s) must be prepared in accordance with Department of Planning and Environment-Water's guidelines located on the website

<https://www.dpie.nsw.gov.au/water/licensing-and-trade/approvals/controlled-activity-approvals/what/guidelines>



General Terms of Approval

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

SCHEDULE 1

The plans and associated documentation listed in this schedule are referred to in general terms of approval (GTA) issued by Department of Planning and Environment-Water for integrated development associated with IDAS-2023-10628 as provided by Council:

- Statement of Environmental Effects, prepared by Mecone, dated June 2023
- Engineering Plans, prepared by Northrop, dated 07/06/23
- RFI response plans, prepared by Northrop, dated 21.09.22