

COUNCIL ASSESSMENT REPORT

| | |
|---|--|
| Panel Reference | PPSSCC-66 |
| DA Number | DA 906/2020/JP |
| LGA | The Hills Shire Council |
| Proposed Development | Data Facility Constructed over 4 Stages |
| Street Address | Lot 11, DP 1011305, Nos. 24-26 Mile End Road Rouse Hill and Unformed Council Road |
| Applicant | T J Mile Pty Ltd c/- Trifalga |
| Owner | Blanjo Investments Pty Ltd |
| Consultant/s Town Planner: Architect: Landscape Architect: Engineering: Arborist: Ecologist: Bushfire: Acoustics: Surveyor: Traffic: Quantity Surveyor: Contamination: | RPS Australian Consulting Architects Ground Ink BG&E Ecological Australia GHD Barry Eadie Consulting Pty Ltd Acoustic Logic North Western Surveys Transport and Traffic Planning Associates Construction Consultants Geotest Services |
| Date of DA lodgement | 23 December 2019 |
| Number of Submissions | Nine |
| Recommendation | Approval subject to conditions |
| Regional Development Criteria (Schedule 7 of the SEPP (State and Regional Development) 2011 | CIV exceeding \$30 million (\$103,058,422) |
| List of all relevant s4.15(1)(a) matters | <ul style="list-style-type: none"> • State Environmental Planning Policy (State and Regional Development) 2011 • Biodiversity Conservation Act 2016 • State Environmental Planning Policy No 55 – Remediation of Land • State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017 • Sydney Regional Environmental Plan No 20—Hawkesbury-Nepean River • The Hills Local Environmental Plan 2019 • Draft Environment SEPP • The Hills Development Control Plan 2012 Part B Section 7 – Industrial • The Hills Development Control Plan 2012 Part C Section 1 – Parking • The Hills Development Control Plan 2012 Part C Section 3 - Landscaping |
| List all documents submitted with this report for the Panel's consideration | <ul style="list-style-type: none"> • Clause 4.6 variation request • NRAR General Terms of Approval • Submissions |

| | |
|-----------------------------------|---|
| Summary of key submissions | <ul style="list-style-type: none"> • Building height • Privacy and overlooking • Acoustic impacts • Hours of operation • Traffic impacts |
| Report prepared by | James Gibbeson Senior Town Planner |
| Report date | 18 February 2021 |

Summary of s4.15 matters

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

Legislative clauses requiring consent authority satisfaction

Have relevant clauses in all applicable environmental planning instruments where the consent authority must be satisfied about a particular matter been listed, and relevant recommendations summarized, in the Executive Summary of the assessment report?
e.g. Clause 7 of SEPP 55 - Remediation of Land, Clause 4.6(4) of the relevant LEP **Yes**

Clause 4.6 Exceptions to development standards

If a written request for a contravention to a development standard (clause 4.6 of the LEP) has been received, has it been attached to the assessment report? **Yes**

Special Infrastructure Contributions

Does the DA require Special Infrastructure Contributions conditions (S7.24)? **Not**
Note: Certain DAs in the Western Sydney Growth Areas Special Contributions Area may require specific Special Infrastructure Contributions (SIC) conditions **Applicable**

Conditions

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

EXECUTIVE SUMMARY

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

- The application is made under the provisions of the Hills Local Environmental Plan 2019. The subject site, known as 24-26 Mile End Road, is zoned IN2 Light Industrial pursuant to the LEP. The proposal comprises a Floor Space Ratio (FSR) of 0.94:1 (gross floor area of 63,895.1m²) which complies with the maximum FSR standard of 1:1 under the LEP.
- The subject application is accompanied by a written request to vary the building height development standard pursuant to Clause 4.6 of the LEP. Clause 4.3 of the LEP prescribes a maximum height of 16 metres for the subject site. The development incorporates a maximum building height of 29.632 metres to the northern corner of data hall D, which is a variation of 13.632 metres or 85.2% to the development standard.
- The variation to the building height is considered reasonable as the exceedance in the building height can primarily be attributed to the significant slope and the presence of endangered ecological communities that constrain the site, limiting the overall building footprint. The height variation allows for a more compact design and will not increase the shadowing caused by a compliant scheme or increase the potential for overlooking due to its location within the bushland setting and its generous setbacks. It is considered that the applicant's request is well-founded and full compliance with the standard is unreasonable or unnecessary in this circumstance.
- The proposal has been prepared with regard to the Biodiversity Conservation Act 2016 (BCA). The proposal is deemed satisfactory subject to conditions of consent, including the provision of a Biodiversity Stewardship Agreement on the site and entry into the Biodiversity Offset Scheme. As a result, it is deemed that the proposed development satisfies the provisions of Part 7 of the Biodiversity Conservation Act 2016.
- The proposed development has been assessed against the requirements of The Hills Development Control Plan 2012 with a variation proposed to the hours of operation for the use as a data facility.
- The proposal is defined as 'Nominated Integrated Development' under the provisions of Section 4.46 of the Environmental Planning and Assessment Act 1979 as the proposal requires approval from the Department of Primary Industries – Natural Resource Access Regulator (NRAR) under the provisions of the Water Management Act 2000. The Department of Primary Industries - Water have provided their General Terms of Approval.
- The application was publicly exhibited and notified to surrounding properties for 31 days during the initial notification period. Further notification of the application occurred on two occasions with 9 submissions received objecting to the proposal and two submissions received supporting the proposal. The issues raised primarily relate to the height of the building, privacy and overlooking, acoustic impacts, 24 hour operation and traffic impacts. These matters are addressed in this report and it is considered that they do not warrant refusal of the application.

The Development Application is recommended for approval subject to conditions of consent.

BACKGROUND

The site is known as 24-26 Mile End Road, Rouse Hill (Lot 111 DP 1011305) and is located on the western side of Mile End Road, approximately 2.5km east of Windsor Road. It is

irregular in shape and has an area of approximately 6.38 hectares. The development site consists of two separate areas divided by a redundant public road owned by Council that was used in the past prior to realignment of Mile End Road.

The site adjoins Second Ponds Creek to the north and Rouse Hill Water Recycling Plant to the west. There are low density residential dwellings to the east of the site, on the opposing side of Mile End Road. The subject site is zoned IN2 Light Industrial, is currently undeveloped and is heavily vegetated.

On 18 February 2014 a Planning Proposal 5/2014/PLP was lodged seeking to rezone the site from IN2 Light Industrial to R2 Low Density Residential. On 22 September 2015 Council resolved that the Planning Proposal not proceed to Gateway Determination.

On 3 October 2018 a Planning Proposal 5/2019/PLP was lodged seeking to rezone a large area of the subject site from IN2 Light Industrial to R2 Low Density Residential and RE1 Public Recreation and retain a small area of land zoned IN2 Light Industrial. On 23 June 2020 Council resolved that the Planning Proposal not proceed to Gateway Determination.

Development Application 1057/2019/ZB was lodged on 21 December 2018 for a subdivision creating six community title light industrial lots and one community association lot. The proposal included the construction of a new public road, stormwater drainage infrastructure, utility servicing of each lot, earthworks and tree removal. The key issue relating to the proposed development was the serious and irreversible impact the development would have on the biodiversity significance of the site. Section 7.16 of the Biodiversity Conservation Act 2016 requires the consent authority to refuse to grant consent where a development will have a serious and irreversible impact. Based on the information provided throughout the assessment of the application did not demonstrate that it will not have a serious or irreversible impact on biodiversity values. As a result, the Development Application was refused by the Local Planning Panel on 19 August 2020.

A pre-lodgement meeting was held with the applicant on 4 October 2019 for the subject development. Issues raised in the meeting included; building height, visual impact, compliance with relevant EPIs, ecology impacts, acoustics, vehicular access, parking, stormwater and waste management. Specifically, the applicant was advised on facilitating development which minimises disturbance to the ecological communities across the site, retains significant bushland and provides an appropriately sized conservation area.

The subject Development Application was lodged with Council on 23 December 2019.

The Development Application was advertised in the local paper between 15 January 2020 and 14 February 2020 and notified to adjoining properties for 31 days. Three submissions were received during the initial notification period with an additional three submissions received thereafter, resulting in a total of 6 submissions received. The application as lodged presented a building platform, building height and bulk and scale consistent with plans provided at the pre-lodgement.

The application as lodged was for a data facility to be constructed over four stages to include 20 data halls with associated ancillary office facilities and a car park incorporating 64 spaces located on the lower ground floor. The four stages of development and associated works to the site incorporated the following:

- Stage 1 – Office and Data Hall A including six data halls, offices, lobby, amenities, car parking and loading facilities;
- Stage 2 – Data Hall B including five data halls;
- Stage 3 – Data Hall C including three data halls;
- Stage 4 – Data Hall D including six data halls;

The data facility is to operate 24 hours, 7 days a week with a maximum of 20 staff.

The development as originally proposed had a maximum building height of 22.4 metres, resulting in a breach of the maximum building height of 6.4 metres or 40%. A Clause 4.6 Variation to the building height development standard was submitted with the application. The building footprint and bulk and scale as originally proposed is shown below in figure 1 and 2.

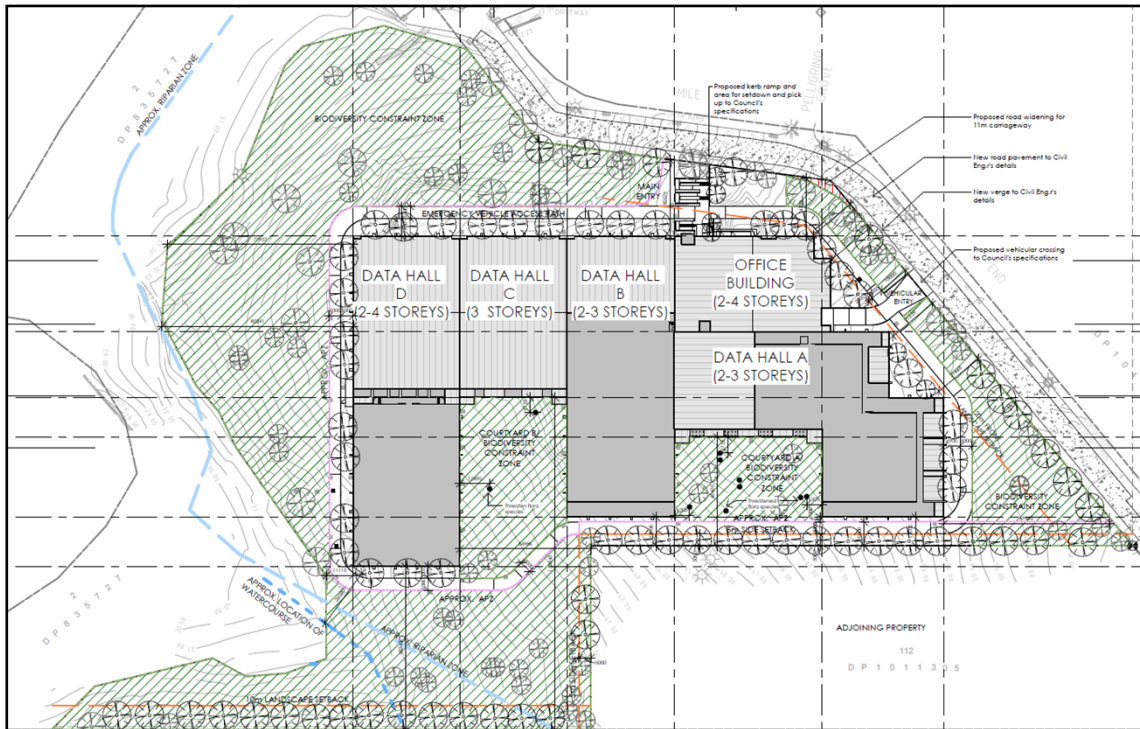


Figure 1 - Site Plan as Originally Proposed



Figure 2 - Perspectives as Originally Proposed

A request for additional information letter was sent to the Applicant on 15 April 2020 regarding a number of planning, environmental health, ecology, engineering, tree management and traffic issues with particular concern raised in regards to acoustics and the impact of the development on threatened entities located on the site. The proposal was considered to have serious and irreversible impacts on plant species *Persoonia hirsuta* (commonly known as Hairy Geebung) and as such, required the consent authority to refuse to grant consent under section 7.16 of the Biodiversity conservation Act 2016.

On 13 May 2020, the applicant requested an extension to submit the additional information requested in order to adequately re-design the development based on the issues raised by Council Staff. A further extension was granted for all information to be submitted by 24 June 2020.

Additional information was formally submitted between 3 August 2020 and 18 August 2020 to reflect the re-design of the development and address all previous concerns raised. The application as amended was re-notified and six submissions were received. Three of the submissions received were additional submissions from previous objectors of the proposal during the first notification period. As such, a total of nine submissions objecting to the proposal had been received from both notification periods.

The proposal as amended incorporated multiple changes to the building design to address the issues previously raised. The most significant amendments to the development included the increase to the building height (data hall D) as result of the partial deletion of Data Hall C in order to connect courtyard A and B to increase the area of the biodiversity constraint zone by reducing the overall building footprint.

The proposal was re-designed to avoid and minimise impacts on threatened species, and in particular, impacts on the threatened flora species present within the lot. The purpose of the amendment was to conserve all known occurrences of the plant *Pimelea curviflora* var. *curviflora* (commonly known as the Curved Rice-Flower) present on site, as well as 11 of the 12 known *Persoonia hirsuta* plant individuals, and provide a larger and more connected conservation area than the previous iteration. Amendment to the building platform ensured that the development would not have a serious and irreversible impact on biodiversity values as previously identified. The building footprint and bulk and scale as amended is shown below in figure 3 and 4.

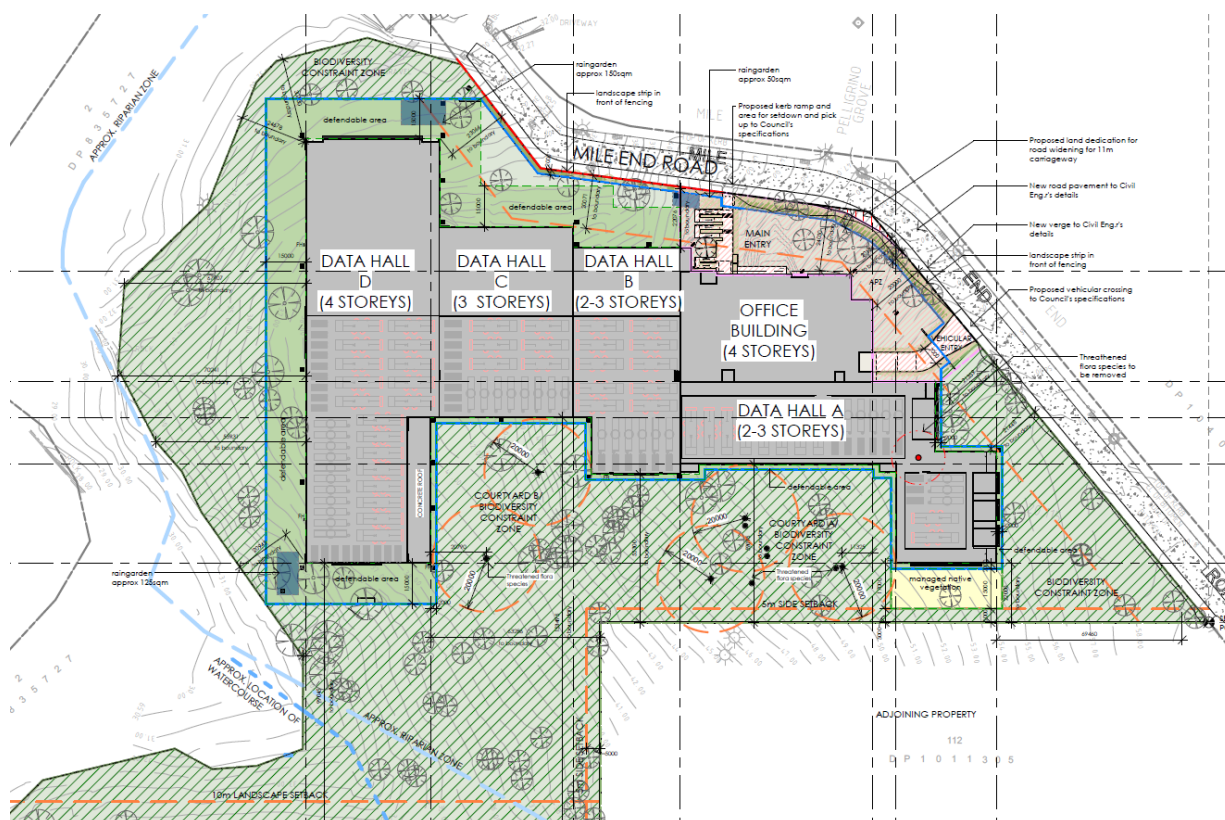


Figure 3 - Site Plan as Amended



Figure 4 - Perspectives as Amended

Further correspondence was sent to the applicant on 1 October 2020 requesting additional information be provided based on the amended material previously submitted. The information requested included planning, acoustic, ecological and landscaping matters which were not adequately addressed. In addition, amended plans and an amended clause 4.6 were requested as the plans did not accurately depict the building height as the mechanical plant was not included in the building height calculations by the applicant.

Additional information was formally submitted between 16 October 2020 and 11 November 2020 to address the items previously raised. Given that an amended clause 4.6 variation and further amendments to address acoustics were provided, the application was notified for an additional 14 days from 13 November 2020 to 27 November 2020.

During the notification period, two submissions objecting to the proposal and two submissions in support of the development were received. The two submissions objecting to the proposal were further submissions from residents who previously objected to the proposal during the two preceding notification periods. It is noted that one of the submissions received supporting the proposal during the last notification period was from a resident who objected to the proposal during the initial notification period. As such, a total of nine submissions objecting to the proposal had been received from all notification periods.

On 16 November 2020, the applicant was advised that further amendments to the proposal were required to address acoustic, ecology and landscaping issues on the site. The applicant was specifically advised that the rooftop generators may need to be fully enclosed to ensure that the appropriate noise level could be achieved. In addition, further updates and documentation were required to be submitted to supplement and amend the BDAR, Aborist Report and Landscape Plan.

The additional information was submitted between 30 November and 13 January 2021. As a result it was deemed that the information provided was satisfactory for the purpose of determining the application subject to the finalisation of some items through conditions of consent.

DETAILS AND SUBMISSIONS

| | |
|---------------------------|--|
| Owner: | Blanjo Investments Pty Ltd |
| Zoning: | IN2 Light Industrial |
| Area: | 67,885m ² |
| Existing Development: | Vacant Lot |
| Section 7.11 Contribution | Stage 1: \$1,837,158.74 Stage 2: \$804,492.19 Stage 3: \$927,718.83 Stage 4: \$2,641,182.95 |
| Exhibition: | 31 Days |
| Notice Adj Owners: | 1 st Notification Period: 31 days 2 nd Notification Period: 21 days 3 rd Notification Period: 14 days |
| Number Advised: | 32 |
| Submissions Received: | Submissions from nine properties |

PROPOSAL

The Development Application seeks approval for a data facility to be constructed over four stages to include 18 data halls with associated ancillary office facilities and a car park incorporating 63 spaces located on the lower ground floor. The four stages of development and associated works to the site consists of:

- Stage 1 – Office Building and Data Hall A including four data halls, offices, lobby, amenities, car parking and loading facilities with a total floor area of 17,178.4m²;
- Stage 2 – Data Hall B including three data halls and associated rooftop plan with a total floor area of 8,492.5m²;
- Stage 3 – Data Hall C including three data halls and associated roof top plan with a total floor area of 9,957.7m²;
- Stage 4 – Data Hall D including eight data halls and associated rooftop plant with a total floor area of 28,266.5m²;

The development has a total floor area of 63,895.1m² resulting in a Floor Space Ratio of 0.94:1 for the site.

Vehicular access to the site is proposed from a single access driveway from Mile End Road to the east, which services the ground floor loading bay, fuel storage area and car park containing 63 spaces. Pedestrian access to the building with a kerb ramp area for set-down and pick-ups is provided to the north of Mile End Road. Further additional works proposed for the development includes tree removal, landscaping works, stormwater works and the installation of metal palisade security fencing.

The data facility is to operate 24 hours, 7 days a week with a maximum of 20 staff.

The site contains a redundant public road that was used in the past prior to realignment of Mile End Road. Council no longer requires this road and it would need to be sold to the applicant for the development to proceed. In this regard a deferred commencement condition of consent has been recommended which requires the acquisition of the unformed component of Mile End Road the consolidation of the road into Lot 111 DP 1011305 prior to the issue of a full consent.

There is no signage proposed as part of the development application with a condition of consent imposed requiring any signage to be subject to a further development application.

ISSUES FOR CONSIDERATION

1. State Environmental Planning Policy (State and Regional Development) 2011

Clause 20 and Schedule 7 of SEPP (State and Regional Development) 2011 provides the following referral requirements to a Joint Regional Planning Panel:-

Development that has a capital investment value of more than \$30 million.

The proposed development has a capital investment value of \$103,058,422 thereby requiring referral to, and determination by, a Regional Planning Panel.

In accordance with this requirement the application was referred to, and listed with, the Sydney Central City Planning Panel for determination.

2. Biodiversity Conservation Act 2016

The Biodiversity Conservation Act 2016 (BC Act) establishes the requirements for the protection of biodiversity, outlines the requirements for the regulating a range of development activities on land and provides mechanisms for the management of impacts resulting from development activities. Part 7 of the BC Act sets out the requirements for biodiversity assessment and sets out significant impact threshold criteria that trigger entry into the Biodiversity Offset Scheme (BOS).

Development or an activity is likely to significantly affect threatened entities if:

1. The amount of native vegetation being cleared exceeds clearing thresholds; or
2. The development is "likely to significantly affect threatened species" using the test of significance in Section 7.3 of the BC Act; or
3. The development has any impact within an area mapped on the Biodiversity Values Map; or
4. The development is to be carried out in a declared Area of Outstanding Biodiversity Value.

The BOS must be applied to applications under Part 4 Environmental Planning and Assessment Act 1979 wherever the project is likely to have a 'significant impact' on threatened biodiversity based on the criteria outlined above.

The subject site contains a large area identified on the Biodiversity Values Map which is likely to be part of a larger remnant patch of the critically endangered ecological community Shale Sandstone Transition Forest. The site contains a number of threatened entities including, Shale Sandstone Transition Forest (Critically Endangered Ecological Community), *Persoonia hirsuta* (plant species commonly known as Hairy Geebung) and *Pimelea curviflora* var. *curviflora* (plant species commonly known as Curved Rice-Flower).

The application has been progressively modified to avoid and conserve habitats of these threatened entities, two of which are at risk of Serious and Irreversible impacts under the *Biodiversity Conservation Act 2016*.

Council's Ecology team has reviewed the BDAR and all relevant information in accordance with the BC Act 2016.

A Biodiversity Development Assessment Report (BDAR) was prepared and submitted with the proposal. The BDAR has been prepared to assess the impacts of the proposal on threatened species and their habitats in accordance with the Biodiversity Assessment Method (BAM) and to determine the biodiversity offset required for residual impacts under the BOS.

The findings of the BDAR in accordance with the BAM indicates that the proposal impacts on some areas of the threatened entities located on the site. The proposal would result in the following impacts:

- Removal of 3.41 ha of native vegetation and threatened species habitat, including 0.67 hectares of moderate condition and 0.03 ha of poor condition Shale Sandstone Transition Forest, all of which is listed as a critically endangered ecological community under the BC Act. This ecological community is a candidate for serious and irreversible impact (SAIL) entity according to the BAM.
- Removal of at least one *Persoonia hirsuta* individual within a species polygon of 0.42ha. *Persoonia hirsuta* is listed as an endangered species under the BC Act and is an SAIL entity.
- *Pimelea curviflora* var. *curviflora* is listed as an endangered species under the BC Act. All 55 recorded individuals would be protected within the proposed conservation area.
- A total of 3.41 ha of known habitat for the Dural Woodland Snail (*Pommerhelix duralensis*) is to be removed. The Dural Woodland Snail is listed as an endangered species under the BC Act.
- Potential indirect impacts to adjoining vegetation include edge effects, light spill, noise, shading and introduction of weeds and pathogens.

However, the proposal has been satisfactorily modified to reduce direct impacts and provide buffers to locations of threatened entities to support their survival into the future. Mitigation measures have been proposed including the provision of a Biodiversity Stewardship Site in the mapped "Conservation Area" which will provide a number of actions to mitigate risks that are unable to be accounted for by avoidance of impacts. The successful avoidance of a decline of these species requires active management of the site which a Biodiversity Stewardship Agreement will provide and has been imposed as a condition of consent.

The proposal includes the provision of a 3.38 ha conservation area, which would be protected in perpetuity through the establishment of a biodiversity stewardship agreement under the BAM. The conservation area would contain approximately 0.9 ha of Shale Sandstone Transition Forest which is more than half of the occurrence of this community within the lot, 11

of the 12 recorded *Persoonia hirsuta* individuals and the entire *Pimelea curviflora* var. *curviflora* population.

Section 8.4.1 of the BAM requires that “The proponent must identify measures to mitigate and manage impacts”. Specifically, section 8.4.3 states that “Measures for mitigating indirect impacts on native vegetation and habitat include, but are not limited to: providing for the ecological restoration, rehabilitation and/or ongoing maintenance of retained native vegetation habitat on, or adjacent to, the development or clearing site or land to be biodiversity certified.”

Section 8.4.4 of the BAM states that “To determine whether it is reasonable to apply a particular measure, the proponent should consider:

- a. Industry best practice and standards
- b. The proportion of the total cost of the proposal that is dedicated to biodiversity protection
- c. The risk that the measure could fail”

In this regard, the creation of the Biodiversity Stewardship Agreement will manage risks associated with the development to the threatened entities located on the site and ensure the avoidance of Serious and Irreversible Impacts to Shale Sandstone Transition Forest and *Persoonia hirsuta* and its habitat.

A SAIL assessment for *Persoonia hirsuta* has also been prepared in accordance with section 10.2.3 of the BAM and concluded that the proposal would result in a relatively minor impact on this candidate SAIL entity considering the quantum of impact on the species, with the removal/relocation of only one individual plant from the population of 12 that have been identified within the site. Further testing of the habitat for Phytophthora and supplementation of planting will be required under the consent to support its recovery and management (refer to condition no. 52).

The buffers provided for the *Persoonia hirsuta* are considered adequate to avoid the disturbance of soil within areas that contain the individuals recorded on the site. In addition, the shape of the building has been modified to remove the physical barrier between individual plants on the site. The conservation area is connected to native bushland on adjacent properties thus facilitating ecological functioning and increasing the chance of outcrossed pollination of the *Persoonia hirsuta* by bees. The one *Persoonia hirsuta* plant within the footprint of the development is to be relocated on the site, of which cuttings and seed will be attempted to conserve the genetic profile of this plant. As such, it is deemed that the proposal does not create a serious an irreversible impact on *Persoonia hirsuta*.

In addition, consideration of clause 7.13 of the BC Act is required. Specifically, clause 7.13 of the BCA states

(2) The consent authority, when determining in accordance with the Environmental Planning and Assessment Act 1979 any such application, is to take into consideration under that Act the likely impact of the proposed development on biodiversity values as assessed in the biodiversity development assessment report that relates to the application. The consent authority may (but is not required to) further consider under that Act the likely impact of the proposed development on biodiversity values.”

(3) If the consent authority decides to grant consent and the biodiversity offsets scheme applies to the proposed development, the conditions of the consent must require the applicant to retire biodiversity credits to offset the residual impact on biodiversity values of the number and class specified in the report (subject to subsection (4)). The residual impact is the impact after the measures that are required to be carried out by the terms or conditions of the consent to avoid or minimise the

impact on biodiversity values of the proposed development (being measures on which the report was based).

In regard to clause 7.13(2), the BDAR report submitted with the application has given consideration to the likely impact of the proposed development on biodiversity values. The likely impact on biodiversity values have been considered satisfactory subject to conditions of consent including the establishment of a Biodiversity Stewardship Agreement. As the Biodiversity Offset Scheme applies to the proposed development, a condition of consent has been imposed requiring the applicant to retire biodiversity credits to offset the residual impacts on biodiversity, satisfying the provisions of clause 7.13(3). The number and class of offsets to be retired is defined within the condition consent (refer to condition no.108).

As such, the proposal is deemed satisfactory subject to conditions of consent, including the provision of a Biodiversity Stewardship Agreement on the site and entry into the Biodiversity Offset Scheme. As a result, it is deemed that the proposed development satisfies the provisions of Part 7 of the Biodiversity Conservation Act 2016.

3. State Environmental Planning Policy No. 55 Remediation of Land

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 7 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 Stage 1 Preliminary Site Investigation Report has been undertaken by Geotest Services to determine whether historical land uses have the potential to contaminate the site and affect the viability of the proposed development. The investigation found that the resulting Areas of Environmental Concern (AEC) comprise historical land-holdings by moderate-high risk professions, historical site filling, surface asbestos impacts and the storage of various debris and wastes. Select AEC's were considered to be of moderate to high risk for potential contamination.

Council's Environment Health team has reviewed the application and documents provided and raised no objection from a contamination perspective subject to conditions of consent.

The conditions of consent have been provided to ensure that any contamination identified on site is removed from site to an authorised waste management facility. The applicant is required to undertake a Detailed Site Investigation (DSI) to assess the identified AEC's at the site. Should the findings of the DSI require the site to be remediated, a Remediation Act Plan to facilitate and guide the required remediation works will be required (refer to condition no. 92). A condition of consent has also been provided for validation of the site once contamination remediation works are completed.

Although the findings of the Stage 1 Preliminary Site Investigation Report indicate that some AEC's were considered to be of moderate to high risk for potential contamination on the site, it is deemed that the site can be made suitable for the proposed development subject to the imposition of the above conditions of consent.

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 55.

4. The Hills Local Environmental Plan 2019

a. Permissibility

The subject site is zoned IN2 Industrial pursuant to The Hills Local Environmental Plan 2019. The proposal is defined as 'high technology industry' as follows:

***high technology industry** means a building or place predominantly used to carry out an industrial activity that involves any of the following:*

- a) electronic or micro-electronic systems, goods or components,*
- b) information technology (such as computer software or hardware),*
- c) instrumentation or instruments of a scientific, industrial, technological, medical or similar nature,*
- d) biological, pharmaceutical, medical or paramedical systems, goods or components,*
- e) film, television or multi-media technologies, including any post production systems, goods or components,*
- f) telecommunications systems, goods or components,*
- g) sustainable energy technologies,*
- h) any other goods, systems or components intended for use in a science or technology related field,*

but does not include a building or place used to carry out an industrial activity that presents a hazard or potential hazard to the neighbourhood or that, because of the scale and nature of the processes involved, interferes with the amenity of the neighbourhood.

The use of the site as a processing centre is considered to fall within the definition of a high technology industry. The use of the site as a data facility is not considered to present a hazard or potential hazard to the neighbourhood as a result of the scale, amenity or nature of the processes involved. A high technology industry is permissible with consent in the IN2 Light Industrial Zone.

In view of the above, it is considered that the proposed development satisfies the provision for permissibility with respect to The Hills LEP 2019.

b. Zone Objectives

The site is zoned IN2 Light Industrial under the LEP. The objectives of the zone are:

- *To provide a wide range of light industrial, warehouse and related land uses.*
- *To encourage employment opportunities and to support the viability of centres.*
- *To minimise any adverse effect of industry on other land uses.*

- *To enable other land uses that provide facilities or services to meet the day to day needs of workers in the area.*
- *To support and protect industrial land for industrial uses.*
- *To provide temporary overnight accommodation for the working population and businesses in the area.*

The proposal is considered to be consistent with the stated objectives of the zone, in that the proposal is a type of light industry that will facilitate both direct employment opportunities and indirect employment opportunities through the technical services provided by a data facility. The data facility provides for a unique opportunity to provide a technical support service to other industrial uses within the area and is considered to be compatible with the variety of light industrial and residential uses in the locality.

The proposal will not interfere with the ability of the zone to enable other land uses or to provide temporary overnight accommodation for the local working population.

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

c. Development Standards

The following addresses the principal development standards of The Hills LEP 2019:

| CLAUSE | REQUIRED | PROVIDED | COMPLIES |
|---|--|---|--------------------------------|
| 4.3 Height | 16 metres | 29.632 metres (85.2% variation) | No – see comments below |
| 4.4 Floor Space Ratio | 1:1 (67,885m ²) | 0.94:1 (63,895m ²) | Yes |
| 4.6 Exceptions to development standards | Exceptions will be considered subject to appropriate assessment. | Variations proposed to the LEP are addressed below. | Yes |

d. Variation to Building Height

Clause 4.3 of The Hills LEP 2019 prescribes that the height of a building on any land is not to exceed the maximum height shown for the land on the Height of Buildings Map (Attachment 4). As such, the maximum building height for the subject site is 16m.

LEP 2019 defines building height as follows:

building height (or height of building) means:

- in relation to the height of a building in metres—the vertical distance from ground level (existing) to the highest point of the building, or*
- in relation to the RL of a building—the vertical distance from the Australian Height Datum to the highest point of the building,*

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

The maximum building height in this instance is the vertical distance from the existing ground level to the RL of the rooftop plant.

The Development Application is accompanied by a written request to vary the maximum building height pursuant to Clause 4.6 of The Hills Local Environmental Plan 2019. The development incorporates a maximum building height of 29.632 metres to the northern corner of data hall D, which is a variation of 13.632 metres or 85.2% to the development standard. The development incorporates various height exceedances across the built form ranging from 0.393m or 2.46% to 13.632m or 85.2% and shown by the Height Plan Diagram (see Attachment 15).

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 E2 Environmental Conservation, Zone E3 Environmental Management or Zone E4 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 6.1 or 6.2,*
 - (cb) *clause 7.12.*

The applicant has submitted a Clause 4.6 Variation (see Attachment 17) and is summarised as follows:

- The development proposal will provide a high technology industry that will provide employment opportunities with minimal disturbance to the amenity of the area. The height variation allows for a more compact design that minimises disturbance to the ecological communities across the site and retains significant bushland. Specifically, the revised Biodiversity Development Assessment Report notes the reduction in footprint, which conserves all known occurrences of *Pimelea curviflora* var *curviflora* present on site as well as 11 of the 12 known *Persoonia hirsuta* individuals, and provides a larger and more connected conservation area than the previous footprint.
- Compliance with the building height standard would result in a larger building footprint, spreading out the permitted floor space on the site. This would result in greater loss of bushland and a more significant impact on the natural environment and endangered species on the site. The more significant encroachments to the height limit occur at the far northern end of the site which faces bushland. This part of the building is located over 30 metres from Mile End Road and with the proposed retention of bushland in the north and new trees to be planted. The proposed height variation will not be visually dominant from the street frontages of the site or adjoining properties. This is due to the terraced design that reduces the bulk mass of the building and creates a varied skyline.
- The height variation occurs due to the steeply sloping topography of the site. The slope varies from 6-16%, falling from Mile End Road to the north and west towards Second Ponds Creek. A terraced building design has been utilised to account for the slope and minimise encroachments to the building height limit. It is noted that the site has rock formation which restricts the opportunity for basement construction.
- The development is consistent with the objectives of the building height development standard and the objectives for development within the IN2 zone on which the development is proposed to be carried out.

- The addition of the non-compliant height will not increase the shadowing caused by a compliant scheme due to its location within the bushland setting and its generous setbacks. Nor will the additional height proposed increase the potential for overlooking due to its setbacks and intended use.
- The proposal will provide direct employment opportunities during both construction and operations and indirect employment through the companies it will service and also through supply contracts for equipment and maintenance. The proposal would also attract the development of complementary businesses in the surrounding vicinity.
- The contravention to the standard is considered to be in the public interest and there would be no public benefit in not supporting the variation request given the benefits to the landscape character and the environment (particularly the ecological communities), that the design affords.

Comment:

The objectives of Clause 4.3 Height of Buildings of The Hills LEP 2012 are as follows:

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

The applicant's Clause 4.6 Variation request is well founded and the proposed variation results in a development that is consistent with the objectives of Clause 4.3 Height of Buildings and the IN2 Light Industrial zone objectives.

The bulk and scale of the proposed development is considered to be appropriate for the intended character of the area given the planning controls in place. The proposed variation to the building height standard has been reviewed in context with the site constraints, surrounding development, future streetscape and character of the area. It is considered that the scale of the building is suitably mitigated by its terraced design and through its integration with the surrounding landscape.

As a result, the non-compliance with building height does not result in any privacy, overlooking or overshadowing impacts to the public domain or adjoining properties. It is considered that the proposal has adequately demonstrated that the variation to the building height standard will not have a detrimental visual impact within the Rouse Hill Industrial Precinct.

Specifically in relation to recent judgments of the Land and Environment Court, for the reasons identified above it is considered that:

- 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 Buildings and the IN2 Light Industrial zone objectives; and
- Compliance with the standard is unnecessary or unreasonable in this instance.

In accordance with the Departments Circular PS 08-003 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.

In view of the above, a variation to the development standard for building height is considered to be acceptable in this instance.

5. Compliance with The Hills Development Control Plan 2012

The proposal has been assessed against the provisions of The Hills Development Control Plan 2012 and the following addresses the relevant development controls of the DCP:

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

The development complies with the relevant controls with the exception of the following:

| DEVELOPMENT STANDARD | DCP REQUIREMENTS | PROPOSED | COMPLIANCE |
|----------------------|--------------------|--|---|
| Clause 2.11(a) | Hours of Operation | Industrial Uses: 7.00am - 6.00pm Monday to Saturday with no work on Sunday. | No, however 24 Hour operation is proposed for the data centre – variation proposed on merit. |
| Clause 2.11(c) | | <p>Notwithstanding a) and b):</p> <ul style="list-style-type: none"> • Occupants of sites that are not adjoining or adjacent to a residential property may request that the site be considered as a “Low Noise Generating use”. • Low noise generating uses may be permitted extended days and hours (up to 24 hours) of operation beyond those specified in a) and b). • In order to be considered as a Low Noise Generating use the planning application submitted must be accompanied by a report from an acoustic consultant that demonstrates that the proposed use will not generate noise in excess of 5dB(A) above the background noise levels, where measured at any | No – low noise generating use, however the site is adjacent to residential properties. |

| DEVELOPMENT STANDARD | DCP REQUIREMENTS | PROPOSED | COMPLIANCE |
|----------------------|------------------|--|------------|
| | | boundary adjoining or adjacent to a residential property. This report must include all activities including any vehicle (especially heavy vehicle) movements to and from the site. | |

a. Hours of Operation

Clause 2.11(a) of The Hills DCP 2012 Part B Section 7 – Industrial restricts the hours of operation for all industrial uses to 7.00am-6.00pm Monday to Saturday, with the exception of bulk goods premises. Given that the proposed use is defined as a data facility, the hours of operation outlined above are applicable to the development.

Further provisions outlined within clause 2.11(c) allow for variation to the control to be considered on merit subject to the site not being adjacent to residential properties and submission of an Acoustic Statement / Report addressing the use as “low noise generating”. This would permit 24 hour operation.

The application proposes 24 hour operation, 7 days a week. Although the application was accompanied by an acoustic report which adequately demonstrated that the defined use was “low noise generating”, variation to the control is required as the proposed development is located adjacent to residential properties on Mile End Road.

The applicant submitted the following statement in support of the variation:

“The data centre would be utilised by one singular operator/ company. No sublease is proposed of the office areas. Operational details would be determined by future operator.

The proposed 24/7 hours operations are considered acceptable for the following reasons:

- Data Centres by nature must always be in operation as they store data on an ongoing basis. Staff must also be present to maintain the operations;*
- The use will generate minimal amounts of noise as the data halls are completely internal to the building and the staff will be in office and technical roles also within the building;*
- Only a maximum of 33 staff will be at the site at any one time. Given the size of the site, these number of staff are unlikely to generate any significant noise or impacts in the local area;*
- There will be very few if any truck deliveries beyond standard business hours; and,*
- An Acoustic Report has been prepared and is submitted with the DA which details noise mitigation measures.”*

Comment:

The objectives of clause 2.11 of The Hills DCP 2012 Part B Section 7 – Industrial ‘Development Controls for the Edwards Road Precinct’ are as follows:

- a. *To ensure that industrial developments operate in a manner compatible with adjoining land uses.*

Clause 2.11(c) of The Hills DCP Part B Section 7 – Industrial states that low noise generating uses may be permitted with extended days and hours (up to 24 hours) of operation as long as a report from an acoustic consultant that demonstrates that the proposed use will not generate noise in excess of 5dB(A) above the background noise levels, where measured at any boundary adjoining or adjacent to a residential property. The report must include all activities, including any vehicle (especially heavy vehicle) movements to and from the site.

To be considered as a low noise generating use the planning application must be accompanied by a report from an Acoustic Consultant that demonstrates that the proposed use will not generate noise in excess of 5dB(A) above the background noise levels, where measured at any boundary adjoining or adjacent to a residential property. The report must include all activities, including any vehicle (especially heavy vehicle) movements to and from the site.

An acoustic report prepared by Acoustic Logic confirmed that the operation of the premises at all times during any 24 hour period would comply with the project specific noise criteria of 5dB(A) above background. The acoustic report confirmed that additional noise attenuation measures could be installed around the plant and equipment to ensure that the project specific noise levels could be met.

Although the data facility is located adjacent to residential development, it is considered that the proposed use is a low noise generating use and will not generate noise in excess of 5dB(A) above background noise levels, where measured at any boundary adjoining or adjacent to a residential property. The proposal has been amended to ensure that the generators on the site are entirely enclosed in order to achieve the required background noise levels.

The proposal has been reviewed by Councils Environmental Health Officer who raised no objection to the proposal subject to conditions of consent.

It is considered that the variation to the DCP is supportable in this instance subject to conditions of consent addressing acoustic management.

6. Issues Raised in Submissions

The proposal was notified to adjoining property owners on three separate occasions. The first occasion related to the initial configuration of the proposal which incorporated a larger building footprint and a lower building height. The second notification was undertaken in response to additional information lodged by the applicant in response to issues raised by Council staff. The application was amended to reduce the overall building footprint and increase the overall building height. The third notification was in response to amended plans and the amended clause 4.6 which represented a more accurate depiction of the overall building height which was misrepresented on the previously submitted documentation.

In order to detail the concerns in relation to the specific amendments made to the plans the objectors table has been divided into two sections to specify the amendments made at that time by the applicant and any objections received.

(i) Original Notification Period

The Development Application as lodged was advertised in the local paper and notified to adjoining properties for 31 days. Three submissions were received during the initial notification

period with an additional three submissions thereafter, resulting in a total of 6 submissions received.

| ISSUE/OBJECTION | COMMENT | OUTCOME |
|---|--|-------------------------|
| Height, bulk and scale | | |
| <p>Concern was raised with the overall height of the building and the breaches to the building height development standard. Particular concern was raised with the four storey components positioned along Mile End Road.</p> | <p>The proposal as originally lodged incorporated a maximum building height of approximately 22.4m. The application has since been amended with an additional section and level added to Data Hall D and rooftop plan resulting in a building height of 29.632m.</p> <p>However, it is noted that the greatest breach to building height control to the Mile End Road frontage is 26.501m or 65.6%. The building height analysis shown in attachment 15 depicts the points of encroachment along the Mile End Road Frontage. The building is generally compliant with the building height development standard to the southern portion of the site fronting Mile End Road, with the non-compliant sections located to the northern section fronting Mile End Road due to the slope of the site.</p> <p>The four storey components of the building are considered satisfactory on merit as the building will not increase overshadowing caused by a compliant scheme or increase the potential for overlooking due to the considerable setbacks provided to Mile End Road.</p> <p>The subject application is accompanied by a written request to vary the building height development standard pursuant to Clause 4.6 of the LEP. For the reasons discussed within section 4(d) of this report, It is considered that the applicant's request is well-founded and full compliance with the development standard is unreasonable and unnecessary in this instance.</p> | <p>Issue addressed.</p> |
| Overlooking and Privacy Impacts | | |
| <p>Concern is raised from a privacy and overlooking</p> | <p>The nature of the data centre use requires offices to be provided</p> | <p>Issue addressed.</p> |

| ISSUE/OBJECTION | COMMENT | OUTCOME |
|--|---|-------------------------|
| <p>perspective with the following comments provided in a number of submissions:</p> <ul style="list-style-type: none"> • The four story high offices which are positioned to front Mile End Road present the opportunity for overlooking into the properties located along Mile End Road for all hours of the day. • Staff members will be present on site 24 hours a day presenting the opportunity for overlooking 24 hours a day, 7 days a week. • Examples of other data centres are located to ensure that the development is less obtrusive to residents. • The exceedance in the building height development standard creates additional privacy and overlooking impacts. • The office should be relocated to the rear of the development. | <p>within the development for the ongoing maintenance and operation of the facility. The location of the office provides the opportunity to utilise varying finishes and materials to break up the dominance of large walls along the streetscape and improve the presentation of the building along Mile End Road. The section of the building containing the offices is generally compliant with the building height standard with only a minor variation proposed for the top of the building which does not contain any windows or opportunity for overlooking.</p> <p>At the closest point, the offices fronting mile end road are located at least 30m from the boundary to any residential property, which provides for an appropriate separation distance in relation to overlooking and privacy. It is noted that the separation distance to the residential property boundaries is much greater in most instances and even greater to the dwelling line. It is also noted that the data centre and offices are orientated towards the front of the residential dwellings and do not overlook the rear private open space of the adjacent dwellings. Large trees have been provided within the front setback for the purpose of providing additional screening and reduce potential impacts.</p> <p>As such, it is considered that the impact of the development on overlooking and privacy is negligible and deemed satisfactory.</p> | |
| Acoustic impacts | | |
| <p>Concern is raised from an acoustic perspective with the following comments provided in a number of submissions:</p> <ul style="list-style-type: none"> • The use of generators for the site and the noise level | <p>The proposal has been amended to relocate the generators on the site and incorporate plant enclosures to reduce the noise impacts from the development. Based on the latest set of plans and Acoustic Report submitted,</p> | <p>Issue addressed.</p> |

| ISSUE/OBJECTION | COMMENT | OUTCOME |
|--|---|------------------|
| <p>that will be omitted from the generators will be excessive particularly given that the site is to operate 24/7.</p> <ul style="list-style-type: none"> Periodic testing of the generators will occur throughout the year and may occur at night and over the weekends. | <p>the development is considered to be a low noise generating use.</p> <p>To be considered as a low noise generating use the planning application must be accompanied by a report from an Acoustic Consultant that demonstrates that the proposed use will not generate noise in excess of 5dB(A) above the background noise levels, where measured at any boundary adjoining or adjacent to a residential property. The report must include all activities, including any vehicle (especially heavy vehicle) movements to and from the site.</p> <p>The latest acoustic report provided a noise level projection for the simultaneous operation of all of the generators, chillers, cooling towers, plant and equipment.</p> <p>The final acoustic report confirmed that the operation of the premises at all times during any 24 hour period would comply with the project specific noise criteria of 5dB(A) above background. The final acoustic report confirmed that additional noise attenuation measures could be installed around the plant and equipment to ensure that the project specific noise levels could be met.</p> <p>The development was referred to Councils Environmental Health for comment. The proposal was deemed to satisfy the criteria set out in Noise Policy for Industry with no objection raised to the proposal subject to conditions on consent. Conditions of consent are recommended that ensure that the required noise levels for the development are met (refer to condition nos. 16,31,81 and 88)</p> | |
| Other concerns | | |
| This site has previously been the subject of community | A Planning Proposal 5/2019/PLP was previously lodged seeking to | Issue addressed. |

| ISSUE/OBJECTION | COMMENT | OUTCOME |
|--|--|------------------|
| feedback regarding the preference for residential rezoning of the site. | rezone a large area of the subject site from IN2 Light Industrial to R2 Low Density Residential and RE1 Public Recreation and retain a small area of land zoned IN2 Light Industrial. On 23 June 2020 Council resolved that the Planning Proposal not proceed to Gateway Determination. The applicant has not lodged an appeal against this decision and is unable to do so due to the requirements outlined in Planning Circular PS 16-004 which requires a review to be requested within 42 days from the date of Council's decision. Council contacted the Department of Planning, Industry and Environment on 6 August 2020 who confirmed an appeal or request for review had not been received. | |
| The proposal will increase traffic creating a safety risk. | Council's Traffic section has reviewed the Traffic Impact Assessment. No objections to the proposal were raised. | Issue addressed. |
| Odour consideration has previously been quoted as a reason to pursue this parcel of land to be developed as Light Industrial due to the proximity of the site to the Rouse Hill Water Recycling Plant. The submission queried if the proposal had been referred to Sydney Water for comment. | The application was referred to Sydney Water who raised no objection to the proposal. | Issue addressed. |
| Concern has been raised with the impacts of the generators specifically relating to odour, air quality and increased fire risk. | The proposal was referred to Councils Environmental Health Officer for assessment against the relevant State and Local Policies. The proposal was deemed to be satisfactory in this regard. | Issue addressed. |
| The 24 hour operation of the data centre will result in obtrusive lighting from the office component of the development. | A condition of consent has been implemented to ensure any lighting on the site shall be designed so as not to cause a nuisance to other residences in the area or to motorists on nearby roads and to ensure no adverse impact on the amenity of the surrounding area by light overspill. All lighting shall comply with the <i>Australian Standard AS 4282:1997 Control of Obtrusive</i> | Issue addressed. |

| ISSUE/OBJECTION | COMMENT | OUTCOME |
|--|---|------------------|
| | <i>Effects of Outdoor Lighting.</i> (refer to condition no. 79) | |
| Concern was raised with deliveries to the site occurring at any time during the 24 hours operation of the data centre. | All deliveries to the data centre are to occur between 7am to 7pm. A condition of consent has been implemented to ensure all deliveries are to occur during this period (refer to condition no. 22). | Issue addressed. |
| Certain properties located along Mile End Road were not notified of the development. | <p>The Development Application was notified in accordance with The Hills Development Control Plan 2012. The DCP requires notification of adjoining properties. Council staff have notified beyond this.</p> <p>In addition, the proposal was advertised and exhibited in the local paper for 31 days with a sign also erected on the site.</p> | Issue addressed. |
| Concern was raised with potential security threats to immediate residential community. | <p>The proposal has given regards to the security of the data centre, with 3 metre high security fencing implemented to site. Further security measures for the site, such as the installation of CCTV may be undertaken without development approval.</p> <p>The proposal was also referred to NSW Police in relation to Crime Prevention Through Environmental Design (CPTED). No objection to the proposal was raised subject to security measures being implemented, which have been enforced through a condition of consent (condition no. 4).</p> | Issue addressed. |

(ii) Issues Raised to the Amended Proposal

The application as amended was notified for an additional 21 days, in which six submissions were received in total. However, three of the submissions received were additional submissions from previous objectors to the proposal during the first notification period.

| ISSUE/OBJECTION | COMMENT | OUTCOME |
|--|--|------------------|
| Height, bulk and scale | | |
| <p>Further concern is raised in relation to the building height with the following comments provided in a number of submissions:</p> <ul style="list-style-type: none">• The building height has been increased and further breaches the development standard by 10.501m or 66%.• The clause 4.6 does not reference the impact on residential properties.• Further gradient analysis should be provided to address the visual impact from the building to the adjoining residents.• The height diagrams and street analysis do not show the residential properties or their built form.• The development is inconsistent with other developments located along Mile End Road in regards to height. | <p>The proposal was amended to increase the building height of data hall D as a result of the re-design and re-configuration of the building platform. The amended design presented an encroachment of approximately 85%, however this was misrepresented on the plans and the clause 4.6 as the mechanical plant was not included in the building height calculations. This was requested to be addressed by the applicant with further amendments to the documentation provided.</p> <p>The applicant submitted additional plans and diagrams in the latest architectural set which provides a visual analysis of the proposed development and the adjoining residential dwellings along the Mile End Road streetscape.</p> <p>The subject application is accompanied by a written request to vary the building height development standard pursuant to Clause 4.6 of the LEP. For the reasons discussed within section 4(d) of this report, it is considered that the applicant's request is well-founded and full compliance with the development standard is unreasonable and unnecessary in this instance.</p> | Issue addressed. |
| Overlooking and Privacy Impacts | | |
| <p>Further concern is raised from a privacy and overlooking perspective with the following comments provided in a number of submissions:</p> <ul style="list-style-type: none">• The four story high offices which are positioned to front Mile End Road present the opportunity for overlooking into the | <p>Refer to discussion outlined in the previous submission table in section 6(i) of this report.</p> <p>As such, it is considered that the impact of the development on overlooking and privacy is negligible and deemed satisfactory.</p> | Issue addressed. |

| ISSUE/OBJECTION | COMMENT | OUTCOME |
|---|---|-------------------------|
| <p>properties located along Mile End Road for all hours of the day.</p> <ul style="list-style-type: none"> • The exceedance in the building height development standard creates additional privacy and overlooking impacts. • Examples of other data centres are located to ensure that the development is less obtrusive to residents. | | |
| Acoustic impacts | | |
| <p>Concern is raised from an acoustic perspective with the following comments provided in a number of submissions:</p> <ul style="list-style-type: none"> • The use of generators for the site and the noise level that will be omitted from the generators will be excessive particularly given that the site is to operate 24/7. • Periodic testing of the generators will occur throughout the year and may occur at night and over the weekends. • Issues relating to the acoustic report findings with particular reference to the day time criteria, sound power levels quoted and the method of assessment which does not take into account all generators operating at once. • The viability of the development to work from an acoustic point of view. • Additional acoustic enclosures would further increase the building height. | <p>Following the comments provided within the submissions, further information was requested with an amended acoustic report and acoustic design submitted.</p> <p>Refer to discussion outlined in the previous submission table in section 6(i) – Acoustic Impacts of this report.</p> | <p>Issue addressed.</p> |
| Traffic Impacts | | |
| <p>Concern is raised from a Traffic perspective with the following comments provided in a number of submissions:</p> | <p>Council's Traffic section has reviewed the Traffic Impact Assessment and all traffic considerations associated with the</p> | <p>Issue addressed.</p> |

| ISSUE/OBJECTION | COMMENT | OUTCOME |
|--|---|------------------|
| <ul style="list-style-type: none"> • The increased flow of traffic due to this enormous development will severely limit the ability of families to utilise outdoor spaces in a safe manner. • The proposal will increase traffic during construction and operation of the data centre. • Concern is raised with the location of the kerbside ramp set down and pick up area located on Mile End Road with particular regard to the proximity to residential driveways and the use of private driveways by delivery vehicles to turn around. | <p>site.</p> <p>No objections were raised in relation to the traffic generation or kerbside ramp set down and pick up area proposed to Mile End road.</p> | |
| Other concerns | | |
| This site has previously been the subject of community feedback regarding the preference for residential rezoning of the site. | Refer to discussion outlined in the previous submission table in section 6(i) – Acoustic Impacts of this report. | Issue addressed. |
| The development is inconsistent with other developments along Mile End Road in regards to setbacks. | The development has been assessed against the provisions of the Hills DCP Part B Section 7 – Industrial and complies with all relevant provisions relating to setbacks | Issue addressed. |
| The architectural plans provided only show overshadowing to 4pm. | Diagrams were provided depicting the shadow cast from the development between the hours of 8am to 4pm. The diagrams submitted indicate that there is to be no overshadowing impacts on the residents to Mile End Road from 8am to 3pm, which indicates that there is approximately 7 hours of solar access for adjoining properties during the winter solstice. | Issue addressed. |
| The employment opportunities from this proposal are limited due to the nature of a 24-hour data facility requiring an abundance of computers and other technology, rather than employees. The intended purpose of Light Industrial is to support employment growth. | While it is noted that the data centre is to operate on limited staff numbers in comparison to other light industrial uses, it is considered that it will facilitate both direct employment opportunities and indirect employment opportunities through the technical services provided by a data facility. | Issue addressed. |

| ISSUE/OBJECTION | COMMENT | OUTCOME |
|--|---|------------------|
| | Nonetheless, a data centre is identified as a high technology industry which is a permissible land use in the IN2 Light Industrial Zone. | |
| Concern was raised with the appropriateness of a Data Centre development and if it will be relevant in the future with improving technology. | <p>This is not a matter for consideration under the Environmental Planning and Assessment Act 1979.</p> <p>Nonetheless, a data centre is identified as a high technology industry which is a permissible land use in the IN2 Light Industrial Zone.</p> | Issue addressed. |
| Further concern has been raised with the impacts of the generators specifically relating to odour, air quality and increased fire risk. | Refer to discussion outlined in the previous submission table in section 6(i) of this report. | Issue addressed. |
| Certain properties located along Mile End Road were not notified of the development. | Refer to discussion outlined in the previous submission table in section 6(i) of this report. | Issue addressed. |
| Concern was raised with potential security threats to immediate residential community. | Refer to discussion outlined in the previous submission table in section 6(i) of this report. | Issue addressed. |

(iii) Issues Raised During Final Notification Period

The application as amended was notified for an additional 14 days, in which two submissions were received objecting to the proposal. Both submissions were additional submissions from previous objectors to the proposal received during the first and second notification period. The submissions related to issues that were previously raised and addressed within the submission tables in section 6(i) and 6(ii) above.

EXTERNAL REFERRALS

DEPARTMENT OF PRIMARY INDUSTRIES - NRAR

The proposal was lodged as Nominated Integrated Development under the provisions of the Environmental Planning & Assessment Act, 1979 as approval is required from the Department of Primary Industries – Natural Resources Access Regulator under the provisions of the Water Management Act, 2000. The Department of Primary Industries - Water have provided their General Terms of Approval (refer to Attachment 18).

NSW RURAL FIRE SERVICE

The application was referred to the NSW Rural Fire Service regarding bush fire protection for the proposal in accordance with section 4.14 of the *Environmental Planning and Assessment Act 1979*). No objection to the proposal was raised subject to conditions of consent (Condition No. 3)

NSW POLICE COMMENTS

The application was referred to the NSW Police in relation to Crime Prevention Through Environmental Design (CPTED). No objection to the proposal was raised subject to security measures being implemented, which have been enforced through a condition of consent (Condition No. 4).

INTERNAL REFERRALS

ECOLOGY COMMENTS

The subject site contains a large area identified on the Biodiversity Values Map which is likely to be part of a larger remnant patch of the critically endangered ecological community Shale Sandstone Transition Forest. The site contains a number of threatened entities including, Shale Sandstone Transition Forest (Critically Endangered Ecological Community), *Persoonia hirsuta* and *Pimelea curviflora* var. *curviflora*

The application for a data centre has been progressively modified to avoid and conserve habitats of these threatened entities, two of which are at risk of Serious and Irreversible impacts under the *Biodiversity Conservation Act 2016*).

A Biodiversity Development Assessment Report was prepared and submitted with the proposal. The proposal impacts on some areas of the threatened entities located on the site. However, the proposal has been satisfactorily modified to reduce direct impacts and provide buffers to locations of threatened entities to support their survival into the future. Mitigation measures have been proposed including the provision of a Biodiversity Stewardship site in the mapped "Conservation Area" on the site which will provide a number of actions to mitigate risks that are unable to be accounted for by avoidance of impacts. The successful avoidance of a decline of these species requires active management of the site which a Biodiversity Stewardship Agreement will provide.

Section 8.4.1 of the Biodiversity Assessment Method requires that "The proponent must identify measures to mitigate and manage impacts". Specifically, section 8.4.3 states that "Measures for mitigating indirect impacts on native vegetation and habitat include, but are not limited to:...j. providing for the ecological restoration, rehabilitation and/or ongoing maintenance of retained native vegetation habitat on, or adjacent to, the development or clearing site or land to be biodiversity certified."

Section 8.4.4 of the BAM states that "To determine whether it is reasonable to apply a particular measure, the proponent should consider:

- a. Industry best practice and standards
- b. The proportion of the total cost of the proposal that is dedicated to biodiversity protection
- c. The risk that the measure could fail"

In this regard, the creation of the Biodiversity Stewardship Agreement on the site is key to the management of risks associated with the development proposal to the threatened entities located on the site and the avoidance of Serious and Irreversible Impacts to Shale Sandstone Transition Forest and *Persoonia hirsuta* and its habitat.

The buffers provided for the *Persoonia hirsuta* are considered adequate to avoid the disturbance of soil within areas that contain the individuals recorded on the site. In addition, the shape of the building has been modified to remove the physical barrier between individual plants on the site. This maximises the habitat areas between the two clumps to support the exchange of genetic material in these locations. The canopy cover needs to be maintained in areas of habitat to protect the plants from extreme heat while over-crowding can also cause a

decline for the plants. The Biodiversity Stewardship Agreement will need to take these competing concerns into consideration for their management into the future.

The conservation area is connected to native bushland on adjacent properties thus facilitating ecological functioning and increasing the chance of outcrossed pollination of the *P. hirsuta* by bees.

Given the species *Persoonia hirsuta* is in general decline across its range, testing of the habitat for Phytophthora and supplementation of planting will be required under the consent to support its recovery and management given the increased risks associated with the proposal. There is one *P. hirsuta* plant within the footprint of the development of which cuttings, seed and translocation in situ on the site will be attempted to conserve the genetic profile of this plant.

SUBDIVISION ENGINEERING COMMENTS

Road Dedication

Map Sheet 6 of 6 within Part B Section 7 – Industrial of the DCP establishes two items in relation to the development of the subject site. The first is a note on the plan which states the following:

The unused portion of road reservation adjacent to the northern end of Mile End Road must be closed and developed in conjunction with the adjoining Lot (Pt 111 DP1011305).

This requirement has been included within Condition 1. Deferred Commencement which requires this area to be consolidated into Lot 111 DP1011305

Drainage

The proposal is not required to provide Onsite Detention in accordance with Drainage design for Second Ponds Creek as outlined with the *rouse Hill development Area Stormwater Trunk Drainage System Design Manual* Prepared by Sinclair Knight on 20th September 1991.

The application is providing onsite stormwater treatment to treat the stormwater run-off prior to drainage entering the downstream system through Second Ponds Creek

TRAFFIC MANAGEMENT COMMENTS

Existing Traffic Environment

- This application proposes to develop a Data Facility.
- A traffic impact statement has been prepared by Transport and Traffic Planning Associates.
- Mile End Road at the site frontage has 1 traffic lane in each direction with a footpath along the eastern side and just a 'shoulder' along the western side.
- Mile End Road is a short collector road route and connects with Withers road and Windsor Road. The posted speed limit is 50 km/hr. on Mile End Road.
- Withers Road is a collector road route linking between Rouse Hill and Kellyville. It has a posted speed limit of 60km/hr.
- AM peak traffic at signalized Withers Road/Mile End intersection is 1356 and in PM peak is 1526 vehicles.
- Windsor Road is a State Road and arterial route which provides the principal route between Black town and Windsor. Average Annual Daily Traffic on Windsor road south of Old Windsor Road is 39829 and Windsor Road north of Annangrove Road is 30862.
- The existing bus services in the vicinity of the site are provided by the bus routes operated by Hills Bus comprising Route 617 and 633 which run along Mile End Road and connect to Rouse Hill Railway Station.

Proposed Development - Traffic Generation

- Data Centres typically generate very minor levels of traffic due to the small number of staff involve. As the proposed development is not a fully commercialized office land use, the traffic generation of the proposed development is assessed on the basis of all staff driving and parking on-site and not by The RTA Guide to Traffic Generating Developments 2002.
- The proposed development will generate 20 number of peak hour vehicle movements.
- At present there is nothing built on the ground which generates vehicle trips. Once this new development is operational it will generate traffic which will have minimal effect on Mile End Road.

Cumulative Impact in Locality

| Traffic Movements | Environmental Capacity | Existing | Proposed Increase | % Increase |
|--|-------------------------------|-----------------|--------------------------|-------------------|
| Mile End Road Vehicle Movements AM Peak Hour | 330* | 388 | 20 | 5% |
| Vehicle Movements PM Peak Hour | | 509 | 20 | 4% |

*considering the Environmental capacity of similar road (Acres Road) based on 2005 Residential and traffic study by TAR technologies PtY Ltd and submitted to Baulkham Hills Shire Council

Traffic counts shown above for Mile End Road show that:

- The cumulative impact of the proposed development will result in a traffic increase of up to 5 percentage in AM peak and 4 percentage in PM Peak.
- The net increase in traffic expected to be generated by the proposed new development is relatively low in terms overall numbers both the existing volumes is low and the percentage increase is also low.
- The peak hour environmental capacity of 358 vehicle movements for Mile End Road will not be exceeded by a substantial margin.

Need for Traffic Improvements in the Locality

Traffic improvements are not needed.

Traffic egress/ingress to arterial/sub-arterial roads

Traffic egress/ingress is from Mile End Road. Mile End Road is located to the North of the Withers road within Rouse Hill.

Sight distance and other safety issues

Sight distance when entering or exiting the property is within acceptable limits as per the approach sight standards required under the Austroads Standards for vehicles traveling at 50km/h.

Pedestrian sight distance when entering or exiting the property is within acceptable limits of the requirements of AS2890.1-2002.

Recommendation

There are no objections to the proposal in terms of traffic impact.

HEALTH & ENVIRONMENT COMMENTS

The current proposal before Council is for a 24 hr Data Centre. The proposed data centre includes a large amount of high noise generating plant and equipment including;

- 44 generators with a sound power level per generator of 97dB(A);

- 42 chillers with a sound power level per chiller of 92dB(A); and
- 34 cooling towers with a sound power level per cooling tower of 91dB(A).

The Hills Shire Council Development Control Plan 2012 states in Part B – Section 7 – Industrial, for the site to be considered for extended hours of operation, the operation of the site must be a low noise generating use. To be considered as a low noise generating use the planning application must be accompanied by a report from an Acoustic Consultant that demonstrates that the proposed use will not generate noise in excess of 5dB(A) above the background noise levels, where measured at any boundary adjoining or adjacent to a residential property. The report must include all activities, including any vehicle (especially heavy vehicle) movements to and from the site.

After three additional information requests by Health and Environment, the acoustic consultant provided a noise level projection for the simultaneous operation of all of the generators, chillers, cooling towers, plant and equipment.

The final acoustic report confirmed that the operation of the premises at all times during any 24 hour period would comply with the project specific noise criteria of 5dB(A) above background. The final acoustic report confirmed that additional noise attenuation measures could be installed around the plant and equipment to ensure that the project specific noise levels could be met, therefore conditions from Health and Environment have been provided.

Recommended conditions will ensure that project specific noise levels are met.

Conditions of consent have been recommended to ensure that any contamination identified on site is removed from site to an authorised waste management facility. A condition of consent (refer Condition No. 119) has also been provided for validation of the site once contamination remediation works are completed.

CONCLUSION

The proposal has been assessed against Section 4.15 of the Environmental Planning and Assessment Act, 1979, State Environmental Planning Policy – State and Regional Development 2011, State Environmental Planning Policy No. 55 – Remediation of Land, Biodiversity Conservation Act 2016, The Hills Local Environmental Plan 2019 and The Hills Development Control Plan 2012 and is considered to be satisfactory. The proposed development will benefit the broader community and will result in an appropriate streetscape outcome for the locality and future character of the area.

The request to vary the Building Height development standard pursuant to Clause 4.6 of The Hills Local Environmental Plan 2019 (LEP) is considered satisfactory in this instance and full compliance with the development standard is unreasonable and unnecessary in this instance.

The proposal was advertised and notified to adjoining property owners and nine submissions were received. The matters have been addressed in the report but do not warrant the refusal of the Development Application.

IMPACTS:

Financial

This matter has no direct financial impact upon Council's adopted budget or forward estimates.

The Hills Future Community Strategic Plan

The proposed development is consistent with the planning principles, vision and objectives outlined within "Hills 2026 – Looking Towards the Future" as the proposed development provides for satisfactory urban growth without adverse environmental or social amenity

impacts and ensures a consistent built form is provided with respect to the streetscape and general locality.

RECOMMENDATION

The Development Application be approved for the reasons listed below and subject to the following conditions:

- The Clause 4.6 Variation request is considered to be well founded, and the proposed variation results in a development that is consistent with the relevant objectives, and compliance with the standard is unreasonable and unnecessary in this instance, and the proposal results in a better planning outcome as outlined in this report.
- The site is considered suitable for the development.
- The proposal adequately satisfies the relevant state and local planning provisions.
- The proposal will have no unacceptable impacts on the built or natural environments.
- The proposal is in the public interest.

DEFERRED COMMENCEMENT

A1. Pursuant to Section 4.16(3) of the Environmental Planning and Assessment Act 1979 deferred commencement consent is granted subject to:

1. The acquisition of unformed component of Mile End Drive located within Lot 111 DP1011305.
2. The consolidation of this area of road into Lot 111 DP1011305
3. The dedication free of cost to Council of area fronting Mile End Road to allow for Horizontal realignment of Mile End Road. Area to be generally in accordance with Plan Ref 18302_SUB by George Stojanovski

A2. The applicant must provide Council with written evidence demonstrating that the matters listed under Part A1 above have been satisfactorily addressed no later than four weeks before the notice of expiry date.

B. Upon compliance with the requirements of Part A1, a full consent will be issued subject to the following conditions:

GENERAL MATTERS - ALL STAGES

1. Development in Accordance with Submitted Plans

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

REFERENCED PLANS AND DOCUMENTS

| DRAWING NO. | DESCRIPTION | SHEET | REVISION | DATE |
|-------------|---------------------------------|---------|----------|------------|
| 30026 | Cover Sheet | A01-000 | D | 25/11/2020 |
| 30026 | Site Plan | A02-003 | D | 16/10/2020 |
| 30026 | Overall Lower Ground Floor Plan | A03-001 | C | 14/08/2020 |
| 30026 | Overall Ground Floor Plan | A03-002 | C | 14/08/2020 |
| 30026 | Overall Level 1 Floor Plan | A03-003 | C | 14/08/2020 |
| 30026 | Overall Level 2 Floor Plan | A03-004 | C | 14/08/2020 |

| | | | | |
|----------|------------------------------------|---------|---|------------|
| 30026 | Overall Level 3 Floor Plan | A03-005 | C | 14/08/2020 |
| 30026 | Overall Level 4 Floor Plan | A03-006 | C | 14/08/2020 |
| 30026 | Roof Plan | A03-007 | D | 16/10/2020 |
| 30026 | Staging Plan | A03-008 | B | 31/07/2020 |
| 30026 | Parking Plan | A04-001 | B | 31/07/2020 |
| 30026 | Data Hall A Floor Plan | A05-001 | B | 31/07/2020 |
| 30026 | Data Hall B Floor Plan | A05-002 | B | 31/07/2020 |
| 30026 | Data Hall B Level 1 & 2 Floor Plan | A05-003 | B | 31/07/2020 |
| 30026 | Data Hall C Floor Plan | A05-004 | B | 31/07/2020 |
| 30026 | Data Hall D Floor Plans | A05-005 | B | 31/07/2020 |
| 30026 | Data Hall D Level 1 & 2 Floor Plan | A05-006 | B | 31/07/2020 |
| 30026 | Office Ground & Level 1 Floor Plan | A05-007 | B | 31/07/2020 |
| 30026 | Office Level 2 Floor Plan | A05-008 | B | 31/07/2020 |
| 30026 | Office Level 3 & 4 Floor Plan | A05-009 | B | 31/07/2020 |
| 30026 | Rooftop Plant A Plan | A05-010 | D | 25/11/2020 |
| 30026 | Rooftop Plant B & C Plan | A05-011 | D | 25/11/2020 |
| 30026 | Rooftop Plant D | A05-012 | C | 25/11/2020 |
| 30026 | Fuel Storage Detail Plan | A05-013 | A | 31/07/2020 |
| 30026 | Sections A,B,C & D | A07-001 | D | 25/11/2020 |
| 30026 | Sections E,F,G & H | A07-002 | D | 25/11/2020 |
| 30026 | Driveway Sections | A08-001 | B | 31/07/2020 |
| 30026 | Elevations | A09-001 | D | 25/11/2020 |
| 30026 | Fencing Details | A09-002 | A | 31/07/2020 |
| 30026 | Fencing & Retaining Wall Details | A09-003 | B | 14/08/2020 |
| 30026 | External Finishes & Perspectives | A10-004 | D | 25/11/2020 |
| 30026 | External Finishes & Perspectives | A10-005 | D | 25/11/2020 |
| 20191031 | Overall Landscape Plan | LDA-01 | F | 22/12/2020 |
| 20191031 | Landscape Plan Inset 1 | LDA-02 | F | 22/12/2020 |
| 20191031 | Landscape Plan Inset 2 | LDA-03 | F | 22/12/2020 |
| 20191031 | Plant Schedule | LDA-04 | F | 22/12/2020 |

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

2. Compliance with Natural Resource Access Regulator (NRAR)

Compliance with the requirements of the Natural Resources Access Regulator (NRAR) attached as Appendix (A) to this consent and dated 2 March 2020.

3. Compliance with NSW Rural Fire Service Requirements

Compliance with the requirements of the NSW Rural Fire Service as outlined below:

Asset Protection Zones

Intent of measures: to minimise the risk of bush fire attack and provide protection for emergency services personnel, residents and others assisting firefighting activities.

1. From the start of building works, and in perpetuity to ensure ongoing protection from the impact of bush fires, the property around the building must be maintained as an inner protection area (IPA), in accordance with the requirements of Appendix 4 of Planning for Bush Fire Protection 2019, as follows:

- Northeast of Data Halls BC & D for a distance of 15 meters;
- Northwest and southwest of Data Hall D for a distance of 15 meters;
- Southeast of Data Hall D for a distance of 2 metres;
- Southwest of Data Hall B & C for a distance of 2 metres;
- All land up to the boundary to the northeast of Data Hall B and Office Building; and
- All land up to the boundary to the southeast of the Office Building.

When establishing and maintaining an IPA the following requirements apply:

- tree canopy cover should be less than 15% at maturity;
- trees at maturity should not touch or overhang the building;
- lower limbs should be removed up to a height of 2m above the ground;
- tree canopies should be separated by 2 to 5m;
- preference should be given to smooth barked and evergreen trees;
- large discontinuities or gaps in vegetation should be provided to slow down or break the progress of fire towards buildings;
- shrubs should not be located under trees;
- shrubs should not form more than 10% ground cover; and
- clumps of shrubs should be separated from exposed windows and doors by a distance of at least twice the height of the vegetation.
- grass should be kept mown (as a guide grass should be kept to no more than 100mm in height); and
- leaves and vegetation debris should be removed.

Construction Standards

Intent of measures: to minimise the risk of bush fire attack and provide protection for emergency services personnel, residents and others assisting firefighting activities.

2. All building works (inclusive of all roofing), excluding the proposed office building, must comply with Section 3 and Section 9 (BAL FZ) of Australian Standard AS3959-2018 Construction of buildings in bushfire-prone areas or the relevant BAL-FZ requirements of the NASH Standard - Steel Framed Construction in Bushfire Areas (incorporating amendment A - 2015). New construction must also comply with the construction requirements for BAL FZ in Section 7.5 of Planning for Bush Fire Protection 2019.

3. Construction of the proposed office building, excluding the roof, must comply with section 3 and section 7 (BAL 29) Australian Standard AS3959-2018 Construction of buildings in bush fire-prone areas or NASH Standard (1.7.14 updated) National Standard Steel Framed Construction in Bushfire Areas – 2014 as appropriate and Section 7.5 of Planning for Bush Fire Protection 2019.

The roof of the proposed office building must comply with Section 3 and Section 9 (BAL FZ) of Australian Standard AS3959-2018 Construction of buildings in bushfire-prone areas or the relevant BAL-FZ requirements of the NASH Standard - Steel Framed Construction in Bushfire

Areas (incorporating amendment A - 2015). New construction must also comply with the construction requirements for BAL FZ in Section 7.5 of Planning for Bush Fire Protection 2019.

4. Fire rated walls and/or doors must be provided between the proposed office building and the data centre.

Access Requirements

Intent of measures: to minimise the risk of bush fire attack and provide protection for emergency services personnel, residents and others assisting firefighting activities.

5. Pedestrian access around the proposed building(s) must be provided.

Water and Utility Services

The intent of measures is to minimise the risk of bush fire attack and provide protection for emergency services personnel, residents and others assisting fire fighting activities. To achieve this, the following conditions shall apply:

6. The provision of water, electricity and gas must comply the following in accordance with Table 7.4a of Planning for Bush Fire Protection 2019:

- reticulated water is to be provided to the development where available;
- all above-ground water service pipes external to the building are metal, including and up to any taps;
- where practicable, electrical transmission lines are underground;
- where overhead, electrical transmission lines are proposed as follows:
 - lines are installed with short pole spacing (30m), unless crossing gullies, gorges or riparian areas; and
 - no part of a tree is closer to a power line than the distance set out in accordance with the specifications in ISSC3 Guideline for Managing Vegetation Near Power Lines.
- reticulated or bottled gas is installed and maintained in accordance with AS/NZS 1596:2014 and the requirements of relevant authorities, and metal piping is used;
- all fixed gas cylinders are kept clear of all flammable materials to a distance of 10m and shielded on the hazard side;
- connections to and from gas cylinders are metal;
- polymer sheathed flexible gas supply - lines are not used; and
- above-ground gas service pipes are metal, including and up to any outlets.

4. Compliance with NSW Police Requirements

Compliance with the relevant Safer By Design requirements of NSW Police dated 31st March 2020 including the following:

- a) Lighting for all areas is required to meet minimum Australian Standards. Effective lighting contributes to safety by improving visibility, increasing the chance that offenders can be detected and decreasing fear. Special attention should be made to lighting the main walkways from the transit centre, to escalators/stairwells and to business and residential premises.
- b) Natural surveillance of the common areas is to be maintained.
- c) Landscape areas are to be maintained at all times, particularly the temporary landscape screen planting within the sleeve sites, in order to minimise concealment and entrapment opportunities.
- d) Appropriate signage must be in place so that the buildings are clearly identifiable for the business they belong to, and where the public/private areas are. The public spaces

in particular need signage to show who the owners/caretakers are for the area. These spaces should also be well maintained and have clear boundaries, so that only people who are allowed to use the site can.

- e) All areas are to be maintained at all times, including the rapid repair of vandalism and graffiti, the replacement of pedestrian lighting and general site cleanliness.
- f) Physical and symbolic barriers are to be used to make it clear where people are permitted to go or not go. The back of house/service areas and loading docks are identified as potential crime areas. The Police require that some form of barrier be placed which blocks access to these areas so that only authorised persons can gain access. This could be achieved by the erection of high security fencing and locked gates, or in the case of the loading docks an intercom system.
- g) CCTV is required to be installed to monitor the basement car park access/egress points and all communal areas of the precincts. The CCTV cameras installed are required to be able to zoom in on a person of interest without loss of focus.

5. External Finishes

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

6. Provision of Parking Spaces

The development is required to be provided with 63 off-street car parking spaces. These car parking spaces shall be available for off street parking at all times.

7. Separate application for Signs

A separate application is to be submitted to, and approved by, Council prior to the erection of any advertisements or advertising structures.

8. Protection of Public Infrastructure

Adequate protection must be provided prior to work commencing and maintained during building operations so that no damage is caused to public infrastructure as a result of the works. Public infrastructure includes the road pavement, kerb and gutter, concrete footpaths, drainage structures, utilities and landscaping fronting the site. The certifier is responsible for inspecting the public infrastructure for compliance with this condition before an Occupation Certificate or Subdivision Certificate is issued. Any damage must be made good in accordance with the requirements of Council and to the satisfaction of Council.

9. Vehicular Access and Parking

The formation, surfacing and drainage of all driveways, parking modules, circulation roadways and ramps are required, with their design and construction complying with:

- AS/ NZS 2890.1
- AS/ NZS 2890.6
- AS 2890.2
- DCP Part C Section 1 – Parking
- Council's Driveway Specifications

Where conflict exists the Australian Standard must be used.

The following must be provided:

- Plan A04-001 dated 31/07/2020 still not consistent with DA-0211 dated 28.07.2020 regarding vehicular crossing profile (1.952% vs 5.8%). A04-001 to be amended to ensure consistency
- All driveways and car parking areas must be prominently and permanently line marked, signposted and maintained to ensure entry and exit is in a forward direction at all times and that parking and traffic circulation is appropriately controlled.

- All driveways and car parking areas must be separated from landscaped areas by a low level concrete kerb or wall.
- All driveways and car parking areas must be concrete or bitumen. The design must consider the largest design service vehicle expected to enter the site. In rural areas, all driveways and car parking areas must provide for a formed all weather finish.
- All driveways and car parking areas must be graded, collected and drained by pits and pipes to a suitable point of legal discharge.

10. Vehicular Crossing Request

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

11. Minor Engineering Works

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

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

a) Driveway Requirements

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

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

The driveway must be a minimum of 6m wide for the first 6m into the site, measured from the boundary.

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

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

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

b) 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.

c) Service Conduits

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

A detailed design plan showing full construction details must be prepared by a hydraulic engineer. This plan must be included with the documentation approved as part of any Construction Certificate.

12. Road Opening Permit

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

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

13. Construction Certificate

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

14. Building Work to be in Accordance with BCA

All building work must be carried out in accordance with the provisions of the Building Code of Australia.

15. Litter Control

A sufficient number of litter bins must be provided on the premises for litter disposal.

16. Acoustic Requirements

The recommendations of the Acoustic Assessment and Report prepared by Acoustic Logic Pty Ltd, referenced as Lot 111, Mile End Road, Rouse Hill Noise Impact Assessment, dated 25th November 2020 and submitted as part of the Development Application are to be implemented as part of this approval. In particular:

- Rooftop Plant Areas

- All boundary walls of the plantroom should be of solid construction, or otherwise acoustically treated. Indicatively, this will require solid blockworks, Hebel or insulated stub walls. If airflow is required through these elevations, acoustic louvres could also be considered;
- Roof sheeting over plant area is to be a minimum 0.5mm sheet metal with insulated plasterboard ceiling. The underside is to be lined with 50mm thick Enviro spray, or other absorptive lining achieving minimum NRC of 0.9.;
- All gaps in constructions (including between the roof sheeting and walls) is to be acoustically sealed;
- To allow for ventilation if required, 600mm deep acoustic louvres with the following minimum insertion loss could also be installed in lieu of a solid wall;

| Hz | 63 | 125 | 250 | 500 | 1k | 2k | 4k | 8k |
|----------------|----|-----|-----|-----|----|----|----|----|
| Insertion Loss | 6 | 12 | 16 | 22 | 27 | 27 | 24 | 23 |

- All recommendations for the wall/ceiling construction, louvre extent and insertion loss, and any other considerations for the acoustic design of the rooftop plant areas should be reviewed during CC with consideration to the final plant selections and layouts; and
 - Any deliveries to the site which require trucks should be scheduled to occur during the daytime period only (7am – 6pm);
- ### **- Back-up Power Periodic Maintenance**
- All scheduled maintenance is to be undertaken during the daytime (7m – 6pm).
- ### **- Plant Selection and Noise Levels**

- It is recommended that all plant selection be acoustically reviewed during detailed design phase.
- All equipment is to be vibration isolated to achieve relevant amenity criteria in the NSW EPA Assessing Vibration: A Technical Guideline. Pending final plant selections this will likely include;
 - For cooling towers – 9mm static neoprene mounts
 - For Chillers – 25mm static deflection springs
 - For generators – 50mm static deflection springs.

17. Imported 'Waste Derived' Fill Material

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

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

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

18. Adherence to Waste Management Plan

All requirements of the Waste Management Plan submitted as part of the Development Application must be implemented except where contrary to other conditions of consent. The information submitted regarding construction and demolition wastes can change provided that the same or a greater level of reuse and recycling is achieved as detailed in the plan. Any material moved offsite is to be transported in accordance with the requirements of the Protection of the Environment Operations Act 1997 and only to a place that can lawfully be used as a waste facility. Receipts of all waste/recycling tipping must be kept onsite at all times and produced in a legible form to any authorised officer of the Council who asks to see them.

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

19. Waste and Recycling Collection Contract

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

20. Disposal of Surplus Excavated Material

The disposal of surplus excavated material, other than to a licenced waste facility, is not permitted without the previous written approval of Council prior to works commencing on site. Any unauthorized disposal of waste, which includes excavated material, is a breach of the Protection of the Environment Operations Act 1997 and subject to substantial penalties. Receipts of all waste/ recycling tipping must be kept onsite at all times and produced in a legible form to any authorised officer of the Council who asks to see them.

21. Property Numbering Industrial Developments

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

The property address for this development is: - 26 Mile End Road Rouse Hill

Approved unit numbering is as per plans submitted marked as **Offices**: DWG No. A05/008-010; Rev A; Dated 19/12/2019 and **Data Halls**: DWG No. A03/001-006; Rev A; Dated 19/12/2019 marked up within consent documentation; and as follows:

| Level | Data Halls | Offices |
|--------------|------------|---------|
| Lower Ground | LG01-02 | N/A |
| Ground | G01-G04 | Lobby |
| One | 101-104 | 105 |
| Two | 201-207 | 208 |
| Three | 301-303 | 304 |
| Four | N/A | 401 |

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

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

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

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

Mail Boxes

One Cluster mail box is to be located as shown on plans submitted marked as DWG No A03-003 Rev A marked up within consent documentation.

Cluster mail box is to be located within the site on the public footpath boundary at main entry within easy reach from a public road for the postal delivery officer. The number of mail boxes to be provided is to be equal to the number of units, plus one (1) for the proprietors of the development and be as per Australia Post size requirements..

Strata Developments

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

It is required that Lot numbers within the proposed strata plan all run sequentially within the same level, commencing from the lowest level upwards to the highest level within the development.

Please call 9843 0555 or email a copy of the final strata plan before it is registered to council@thehills.nsw.gov.au for the allocation of final Property and Unit numbering required to be included within the registered Strata Administration sheet.

22. Deliveries

All deliveries to and from the site are to occur between 7am and 7pm.

PRIOR TO THE ISSUE OF A CONSTRUCTION CERTIFICATE - ALL STAGES

23. Notice of Requirements

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

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

24. Water Sensitive Urban Design – Hawkesbury River Catchment Area

Water sensitive urban design elements, consisting of Bio-retention basins are to be located generally in accordance with the plans and information submitted with the application.

The stormwater concept plan prepared by BG&E Drawing DA-0201 and DA-0200 Revision C dated 28.07.2020 is for development application purposes only and is not to be used for construction. The detailed design must reflect the stormwater concept plan and the following necessary changes:

- a) DA-0200, DA-0201 and DA-0300 are to reflect proposed MUSIC model. Only area permitted to not be included in MUSIC model is area unaffected by the development (this does not include landscaped areas.) MUSIC model to be amended accordingly.

Detailed plans for the water sensitive urban design elements must be submitted for approval. The detailed plans must be suitable for construction, and include detailed and representative longitudinal and cross sections of the proposed infrastructure. The design must be accompanied, informed and supported by detailed water quality and quantity modelling. The modelling must demonstrate a reduction in annual average pollution export loads from the development site in line with the following environmental targets:

- 90% reduction in the annual average load of gross pollutants
- 85% reduction in the annual average load of total suspended solids
- 65% reduction in the annual average load of total phosphorous
- 45% reduction in the annual average load of total nitrogen

All model parameters and data outputs are to be provided.

The design and construction of the stormwater management system must be approved by either Council or an accredited certifier. A Compliance Certificate certifying the detailed design of the stormwater management system can be issued by Council. The following must be included with the documentation approved as part of any Construction Certificate:

- Design/ construction plans prepared by a hydraulic engineer.
- A completed OSD Drainage Design Summary Sheet.
- Drainage calculations and details, including those for all weirs, overland flow paths and diversion (catch) drains, catchment areas, times of concentration and estimated peak run-off volumes.
- A completed OSD Detailed Design Checklist.
- A maintenance schedule.

Staging of Construction of Bio-retention basins is permitted, however prior to release of a Construction Certificate for any stage it must be demonstrated that the developed area can effectively drain into a Bio-retention basin as shown in the plans referred to above.

25. Stormwater Pump/ Basement Car Park Requirements

The stormwater pump-out system must be designed and constructed in accordance with AS/ NZS 3500.3:2015 – Plumbing and Drainage – Stormwater drainage. The system must be connected to a junction pit before runoff is discharged to the street (or other point of legal discharge) along with the remaining site runoff, under gravity. Where Onsite Stormwater Detention is required, the system must be connected to that Onsite Stormwater Detention system. All plans, calculations, hydraulic details and manufacturer specifications for the pump must be submitted with certification from the designer confirming compliance with the above requirements.

26. Works on Adjoining Land

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

27. Stormwater Discharge Acceptance

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

28. Engineering Works

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

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

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

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

The concept engineering plan prepared by BG&E Revision C Dated 28.07.2020 is for development application purposes only and is not to be used for construction. The design and construction of the engineering works listed below must reflect the concept engineering plan and the conditions of consent.

a) Footpath Verge Formation

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

b) Stormwater Connection

Applicant to receive written confirmation from Sydney Water regarding proposed drainage connection to natural water course and drainage through land owned by Sydney Water. This approval must relate to plans proposed for approval under the Construction Certificate. This may require satisfaction of conditions imposed under the Controlled Activity Approval under the Water Management Act 2000

29. Security Bond Requirements

A security bond may be submitted in lieu of a cash bond. The security bond must:

- Be in favour of The Hills Shire Council;

- Be issued by a financial institution or other accredited underwriter approved by, and in a format acceptable to, Council (for example, a bank guarantee or unconditional insurance undertaking);
- Have no expiry date;
- Reference the development application, condition and matter to which it relates;
- Be equal to the amount required to be paid in accordance with the relevant condition;
- Be itemised, if a single security bond is used for multiple items.

Should Council need to uplift the security bond, notice in writing will be forwarded to the applicant 14 days prior.

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

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

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

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

- Sediment fencing.
- Barrier fencing and no-go zones.
- Stabilised access.
- Waste receptacles.
- Stockpile site/s.

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

An SWMP is required for this development.

31. Acoustic – Mechanical plant

Prior to the issue of any Construction Certificate a suitably qualified acoustic consultant is to provide advice on the final mechanical plant selection/s including, cooling towers, chillers and generators to ensure that the use of the site meets the noise targets as set out in the table below;

| Location for noise level compliance | Time period | Noise Level |
|---|----------------------------|--------------------|
| Northern Residences (R1 as identified in the Acoustic report) | Day (7:00am – 6:00pm) | 40dB(A)Leq (15min) |
| | Evening (6:00pm – 10:00pm) | 37dB(A)Leq (15min) |
| | Night (10:00pm – 7:00am) | 35dB(A)Leq (15min) |
| Location for noise level compliance | Time period | Noise Level |
| Southern Residences (R2 as | Day (7:00am – 6:00pm) | 42dB(A)Leq (15min) |
| | Evening (6:00pm – 10:00pm) | 35dB(A)Leq (15min) |

| | | |
|--|--------------------------|--------------------|
| identified in the Acoustic report) | Night (10:00pm – 7:00am) | 35dB(A)Leq (15min) |
| Location for noise level compliance | Time period | Noise Level |
| Commercial Premises | At all times | 63dB(A) leq(15min) |

Evidence of this is to be provided to Council's Manager – Environment and Health for review and if satisfactory, written support will be provided prior to any Construction Certificate being issued.

PRIOR TO WORK COMMENCING ON THE SITE - ALL STAGES

32. Tree Protection Fencing

Prior to any works commencing on site Tree Protection Fencing must be in place around trees or groups of trees nominated for retention.

In order of precedence the location of fencing shall be a) As per the approved Tree Protection Plan or at the direction of the project arborist or b) as per Tree Protection Zone (TPZ) calculated under AS4970 (2009) Protection of trees on development sites.

The erection of a minimum 1.8m chain-wire fence to delineate the TPZ is to stop the following occurring:

- Stockpiling of materials within TPZ;
- Placement of fill within TPZ;
- Parking of vehicles within the TPZ;
- Compaction of soil within the TPZ;
- Cement washout and other chemical or fuel contaminants within TPZ; and
- Damage to tree crown.

Where tree protection fencing cannot be installed, suitable trunk and branch protection is to be installed with the materials and positioning of protection to be specified by the project arborist.

33. Tree Protection Signage

Prior to any works commencing on site a Tree Protection Zone sign must be attached to the Tree Protection Fencing stating "Tree Protection Zone No Access" (The lettering size on the sign shall comply with AS1319). Access to this area can only be authorised by the project arborist or site manager.

34. Trenching within Tree Protection Zone

Any trenching for installation of drainage, sewerage, irrigation or any other services shall not occur within the Tree Protection Zone of trees identified for retention.

35. Separate WSUD Detailed Design Approval

No work is to commence until a detailed design for the Water Sensitive Urban Design components has been approved by either Council or an accredited certifier.

36. Erosion and Sediment Control/ Soil and Water Management

The approved ESCP or SWMP measures must be in place prior to works commencing and maintained during construction and until the site is stabilised to ensure their effectiveness. For major works, these measures must be maintained for a minimum period of six months following the completion of all works.

37. Management of Building Sites

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

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

38. Approved Temporary Closet

An approved temporary closet connected to the sewers of Sydney Water, or alternatively an approved chemical closet is to be provided on the land, prior to building operations being commenced.

39. Details and Signage - Principal Contractor and Principal Certifier Details

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

No later than two days before work commences, Council is to have received written details of the Principal Certifier in accordance with Clause 103 of the Environmental Planning and Assessment Regulations 2000.

Signage

A sign is to be erected in accordance with Clause 98A(2) of the Environmental Planning and Assessment Regulations 2000. The sign is to be erected in a prominent position and show –

- a) the name, address and phone number of the Principal Certifier for the work,
- b) the name and out of working hours contact phone number of the principal contractor/person responsible for the work.

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

40 . Project Ecologist

Prior to any works commencing, a Project Ecologist is to be appointed and the following details provided to Council's Manager – Environment and Health:

- Name:
- Qualification/s:
- Telephone number/s:
- Email:

If the Project Ecologist is replaced Council's Manager – Environment and Health is to be notified in writing of the reason for the change and the details of the new Project Ecologist within 7 days.

41. Bushland Protection Fencing

Prior to any works commencing on site temporary Bushland Protection Fencing must be in place at the following location:

- Along the boundary between the conservation area and the development

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

The temporary fence is to stop the following occurring:

- Stockpiling of materials within significant bushland.
- Placement of fill within significant bushland.
- Parking of vehicles within significant bushland.
- Compaction of soil within significant bushland.

- Cement washout and other chemical or fuel contaminants within significant bushland.
- Damage to threatened plants and their habitat

42. Engagement of a Project Arborist

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

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

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

43. Erosion and Sedimentation Controls

Erosion and sedimentation controls shall be in place prior to the commencement of site works and maintained throughout construction activities, until the site is landscaped and/or suitably revegetated. These requirements shall be in accordance with *Managing Urban Stormwater – Soils and Construction (Blue Book)* produced by the NSW Department of Housing.

This will include, but not be limited to a stabilised access point and appropriately locating stockpiles of topsoil, sand, aggregate or other material capable of being moved by water being 146. Site Water Management Plan

A Site Water Management Plan is to be prepared. The plan shall be in accordance with *"Managing Urban Stormwater - Soils and Construction" (Blue Book)* produced by the NSW Department of Housing. The plan is to be kept on site at all times and made available upon request.

44. Erosion & Sediment Control Plan Kept on Site

A copy of the Erosion and Sediment Control Plan must be kept on site at all times during construction and available to Council on request.

DURING CONSTRUCTION - ALL STAGES

45. Documentation On Site

A copy of the development consent and stamped plans together with the following documents shall be kept during construction.

- Arborist Report
- Waste Management Plan
- Erosion and Sedimentation Control Plan
- Traffic Control Plan

46. 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.

47. Working Hours

All work must be restricted to between the hours of 7:00am and 5:00pm, Monday to Saturday. No work can occur outside the hours specified above on Sundays or public holidays. The contractor must instruct sub-contractors regarding the hours of work.

Upon receipt of justified complaint/s in relation to local traffic impacts arising from roadworks being carried out on existing public roads those roadworks will be restricted to between the hours of 9:00am and 3:00pm, Monday to Friday or as otherwise directed by Council staff. Requests to carry out roadworks on existing public roads during the night in order to avoid

local traffic impacts will also be considered based on the circumstances of the site and must be approved in writing by Council's Manager – Subdivision and Development Certification.

48. Critical Stage Inspections and Inspections Nominated by the Principal Certifier

Section 6.6 of the Environmental Planning and Assessment Act 1979 requires critical stage inspections to be carried out for building work as prescribed by Clause 162A of the Environmental Planning and Assessment Regulation 2000. Prior to allowing building works to commence the Principal Certifier must give notice of these inspections pursuant to Clause 103A of the Environmental Planning and Assessment Regulation 2000.

An Occupation Certificate cannot be issued and the building may not be able to be used or occupied where any mandatory critical stage inspection or other inspection required by the Principal Certifier is not carried out. Inspections can only be carried out by the Principal Certifier unless agreed to by the Principal Certifier beforehand and subject to that person being a registered certifier.

49. Stockpiles

Stockpiles of topsoil, sand, aggregate or other material capable of being moved by water shall be stored clear of any drainage line, easement, natural watercourse, footpath, kerb or roadside.

50. Asbestos Removal

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

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

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

51. Dust Control

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

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

52. Construction Environmental Management Plan Implementation

Prior to any construction works commencing on site permanent fencing and signage is required to be installed and phytophthora testing undertaken in accordance with the approved Construction Environmental Management Plan within the conservation area. The results of the phytophthora testing will further inform the CEMP implementation during construction. The permanent fence must be of a height of 1.8m and be of a sturdy material equivalent to standard school fencing to the satisfaction of Council's Manager – Environment and Health.

A statement certifying such completion must be provided by the author of the CEMP or an equally or qualified and experienced person. This statement is to be provided to the satisfaction of Council's Manager – Environment and Health prior to construction works commencing.

The CEMP must be complied with during all construction works on the site.

53. Tree Removal and Fauna Protection

1. **Tree Removal:** During any tree removal, an experienced wildlife handler is to be present to re-locate any displaced fauna that may be disturbed during this activity. Any injured fauna is to be appropriately cared for and released on site when re-habilitated.
 - a. Prior to clearing habitat trees all non-habitat vegetation should be cleared first to allow appropriate space for the felling of habitat trees and retrieval of any fauna that may be present within habitat trees.
 - b. Trees with hollows shall be lopped in such a way that the risk of injury or mortality to fauna is minimised, such as top-down lopping, with lopped sections gently lowered to the ground, or by lowering whole trees to the ground with the “grab” attachment of a machine.
 - c. Any injured fauna is to be placed into the hands of a wildlife carer (please note only appropriately vaccinated personnel are to handle bats). Any fauna that is injured due to vegetation removal must be reported to Hills Shire Council within 24 hours.
2. **Salvage of habitat features:** where possible hollows should be sectional dismantled from felled hollow-bearing trees and attached to a retained tree in retained bushland that will not compromise the health and stability of the host tree. This is to be done by a qualified and experienced arborist, under the direction of the Project Ecologist.

54. Protection of Existing Vegetation

Vegetation not authorised for removal by this consent shall be protected during construction to ensure that natural vegetation and topography on the subject site is not unnecessarily disturbed.

Any excavated material not used in the construction of the subject works is to be removed from the site to a licensed facility and under no circumstances is to be deposited in bushland areas.

55. Biodiversity Mitigation Measures

The mitigation measures listed in Table 6-1 of the Biodiversity Development Assessment Report (GHD Revision 3 dated 13 January 2021) are to be implemented during construction.

56. Project Arborist

The Project Arborist must be on site to supervise any works in the vicinity of or within the Tree Protection Zone (TPZ) of any trees required to be retained on the site or any adjacent sites.

Supervision of the works shall be certified by the Project Arborist and a copy of such certification shall be submitted to the PCA within 14 days of completion of the works.

57. Rock Breaking Noise

Upon receipt of a justified complaint in relation to noise pollution emanating from rock breaking as part of the excavation and construction processes, rock breaking will be restricted to between the hours of 9am to 3pm, Monday to Friday.

Details of noise mitigation measures and likely duration of the activity will also be required to be submitted to Council's Manager – Environment and Health within seven (7) days of receiving notice from Council.

58. Construction Noise

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

59. Control of Early Morning Noise from Trucks

Trucks associated with the construction of the site that will be waiting to be loaded must not be brought to the site prior to 7am.

60. Control of Noise from Trucks

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

61. Management of Construction and/or Demolition Waste

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

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

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

PRIOR TO ISSUE OF AN OCCUPATION CERTIFICATE - ALL STAGES

62. Landscaping Prior to Issue of any Occupation Certificate

Landscaping of the site shall be undertaken prior to issue of an Occupation Certificate (each stage). Landscaping is to be implemented in stages alongside the staged development as follows:

- Construction Stage 1 – Install landscaping forward of Data Hall A and Office Building
- Construction Stage 2 – Install landscaping forward of Data Hall B
- Construction Stage 3 - Install landscaping forward of Data Hall C
- Construction Stage 4 - Install landscaping forward of, to the north west of, and south west of Data Hall D

Landscaping is to be maintained at all times during and after construction. Any damage, degradation, or plant losses within the landscaping incurred during construction of Stages 1-4 are to be resolved prior to issue of an Occupation Certificate. The Landscaping shall be either certified to be in accordance with the Amended Landscape Plan as required by this consent by an Accredited Landscape Architect or be to the satisfaction of Council's Manager Environment and Health. All landscaping is to be maintained at all times in accordance with THDCP Part C, Section 3 – Landscaping and the approved landscape plan.

63. Section 73 Certificate

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

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

64. Provision of Electricity Services

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

65. Provision of Telecommunications Services

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

66. Completion of Engineering Works

An Occupation Certificate must not be issued prior to the completion of all engineering works covered by this consent, in accordance with this consent, relevant to the stage of work being completed.

67. Property Condition Report – Public Assets

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

68. Pump System Certification

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

69. Stormwater Management Certification

The stormwater management system must be completed to the satisfaction of the Principal Certifier prior to the issuing of an Occupation Certificate. The following documentation is required to be submitted upon completion of the stormwater management system and prior to a final inspection:

- Works as executed plans prepared on a copy of the approved plans;
- For Onsite Stormwater Detention (OSD) systems, a certificate of hydraulic compliance (Form B.11) from a hydraulic engineer verifying that the constructed OSD system will function hydraulically;
- For OSD systems, a certificate of structural adequacy from a 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;
- Records of inspections; and
- An approved operations and maintenance plan.

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

No Occupation Certificate is to be approved for any stage unless it has been demonstrated the developed area drains to bio-retention basin as per the approved plans

70. Compliance with Natural Resources Access Regulator Requirements

A letter from the Natural Resources Access Regulator must be submitted confirming that all works associated with the Controlled Activity Authority have been completed to their satisfaction.

71. Performance/ Maintenance Security Bond

A performance/ maintenance bond of 5% of the total cost of the subdivision works is required to be submitted to Council. The bond will be held for a minimum defect liability period of six months from the certified date of completion of the subdivision works. The minimum bond amount is \$5,000.00. The bond is refundable upon written application to Council and is subject to a final inspection.

72. Biodiversity Compliance

Evidence that the following measures have been undertaken must be submitted to Council's Manager – Environment and Health for written approval:

- Biodiversity Mitigation Measures – Details prepared by the project ecologist demonstrating compliance that the CEMP was implemented prior to and during construction and the mitigation measures listed in Table 6-1 of the Biodiversity Development Assessment Report (GHD Rev 3 dated 13th January 2020) have been implemented.
- Tree Removal and Fauna Protection – Details prepared by the project ecologist demonstrating compliance with the Tree Removal and Fauna Protection condition of this consent.
- Native Plant Seed Collection – Details prepared by the project ecologist/ bush regeneration contractor demonstrating compliance with the seed collection condition of this consent.

73. Regulated Systems

To ensure that adequate provision is made for ventilation of the building all mechanical and/or natural ventilation systems shall be designed, constructed and installed in accordance with the provisions of:

- a) Australian/New Zealand Standard AS/NZS 1668.1:1998 – The use of ventilation and air conditioning in buildings – fire and smoke control in multi-compartment buildings;
- b) Australian Standard AS 1668.2 – 2002 - The use of ventilation and air conditioning in buildings – ventilation design for indoor air contaminant control;
- c) Australian/New Zealand Standard AS/NZS 3666.1:2011 – Air handling and water systems of buildings – Microbial control – Design, installation and commissioning;
- d) Australian/New Zealand Standard AS/NZS 3666.2:2011 – Air handling and water systems of buildings - Microbial Control - Operation and maintenance;
- e) Australian/New Zealand Standard AS/NZS 3666.2:2011 – Air handling and water systems of buildings - Microbial Control – Performance based maintenance of cooling water systems; and
- f) Public Health Regulation 2012.

The regulated system is to be registered with Council by submitting an Application for Registration of Regulated Water Cooling/Warm Water Systems, available on Council's website www.thehills.nsw.gov.au prior to commissioning.

74. Acoustic Compliance Report

The acoustic consultant shall progressively inspect the installation of the required noise suppressant components as recommended in report titled Lot 111, Mile End Road, Rouse Hill Noise Impact Assessment prepared by Acoustic Logic Pty Ltd dated 25th November 2020. Certification is to be provided.

75. Project Arborist – Certification of Supervision

Prior to the Issue of any Occupation certificate the project arborist must certify that all tree protection measure required by this consent and Australia Standard 4970:2009 Protection of Trees on Development sites have been implemented. This shall include a detailed summary of all works supervised and any remedial works undertaken or recommended for trees required for retention.

THE USE OF THE SITE - ALL STAGES

76. Hours of Operation and Staff Numbers

The hours of operation being restricted to the following: -

24 hours, 7 days a week

A maximum of seven (7) staff are permitted on the site between the hours of 7pm to 7am with a maximum of twenty (20) staff permitted from 7am-7pm. Any alteration to the above hours of operation will require the further approval of Council.

77. Offensive Noise

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

78. Noise to Surrounding Area

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

79. Lighting

Any lighting on the site shall be designed so as not to cause a nuisance to other residences in the area or to motorists on nearby roads and to ensure no adverse impact on the amenity of the surrounding area by light overspill. All lighting shall comply with the *Australian Standard AS 4282:1997 Control of Obtrusive Effects of Outdoor Lighting*.

80. Operation of Regulated Water Cooling/Warm Water Systems

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

81. Final Acoustic Report

Within three months from the issue of an Occupation Certificate, an acoustical compliance assessment is to be carried out by an appropriately qualified person, in accordance with the NSW EPA's - Industrial Noise Policy and submitted to Council's Manager - Environment and Health for consideration.

This report should include but not be limited to, details verifying that the noise control measures as recommended in the acoustic report submitted with the application are effective in attenuating noise to an acceptable noise level and that the activities does not give rise to "offensive noise" as defined under the *Protection of the Environment Operation Act 1997* and that the operational noise levels as detailed in the table below are being complied with at all times when the premises is operating.

| Location for noise level compliance | Time period | Noise Level |
|---|----------------------------|--------------------|
| Northern Residences (R1 as identified in the Acoustic report) | Day (7:00am – 6:00pm) | 40dB(A)Leq (15min) |
| | Evening (6:00pm – 10:00pm) | 37dB(A)Leq (15min) |
| | Night (10:00pm – 7:00am) | 35dB(A)Leq (15min) |
| Location for noise level compliance | Time period | Noise Level |
| Southern Residences (R2 as identified in the Acoustic report) | Day (7:00am – 6:00pm) | 42dB(A)Leq (15min) |
| | Evening (6:00pm – 10:00pm) | 35dB(A)Leq (15min) |
| | Night (10:00pm – 7:00am) | 35dB(A)Leq (15min) |
| Location for noise | Time period | Noise Level |

| | | |
|-------------------------|--------------|--------------------|
| level compliance | | |
| Commercial Premises | At all times | 63dB(A) leq(15min) |

82. Management of Area Subject to Biodiversity Stewardship Agreement (BSA)

Any area that is subject to a Biodiversity Stewardship Agreement (BSA) shall be managed in accordance with the approved BSA Management Plan in perpetuity by the property owner/s.

83. Hours of operation of the loading dock for waste collection, delivery / dispatch of goods

Delivery of goods, waste collection and loading dock operation shall be restricted to the following times;

Monday to Friday – 7.00am to 6.00pm

84. Offensive Noise - Acoustic Report

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

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

85. Waste and Recycling Management

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

86. Waste and Recycling Collection

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

87. External lighting

Any external lighting on the site shall be designed so as not to cause a nuisance to fauna utilising habitat within the conservation area. Street lighting and security lighting to be designed to direct light away from adjoining bushland areas and to limit the impacts of light spill on native fauna habitats. Lighting design must identify and adopt technologies that are least likely to adversely affect fauna use of habitat through impacts such as disruption of microbat foraging. This should include consideration of light colour and intensity, provision of light shields and other measures as appropriate to the position of lighting relative to off-site habitats.

88. Site Specific Operational Noise Levels

The operational noise levels as detailed in the table below are to be complied with at all times.

| Location for noise level compliance | Time period | Noise Level |
|--|--------------------|--------------------|
| | | |

| | | |
|---|----------------------------|--------------------|
| Northern Residences (R1 as identified in the Acoustic report) | Day (7:00am – 6:00pm) | 40dB(A)Leq (15min) |
| | Evening (6:00pm – 10:00pm) | 37dB(A)Leq (15min) |
| | Night (10:00pm – 7:00am) | 35dB(A)Leq (15min) |
| Location for noise level compliance | Time period | Noise Level |
| Southern Residences (R2 as identified in the Acoustic report) | Day (7:00am – 6:00pm) | 42dB(A)Leq (15min) |
| | Evening (6:00pm – 10:00pm) | 35dB(A)Leq (15min) |
| | Night (10:00pm – 7:00am) | 35dB(A)Leq (15min) |
| Location for noise level compliance | Time period | Noise Level |
| Commercial Premises | At all times | 63dB(A) leq(15min) |

GENERAL MATTERS – STAGE 1

89. Tree Removal

Tree removal must not occur prior to the issue of a Construction Certificate.

Approval is granted for the removal of trees identified for removal within the Tree Removal Plan prepared by ecological Australia dated 1/12/2020.

Within the Asset Protection Zone, all trees with a Diameter at Breast Height (1.4m) of less than 200mm may also be removed.

Should any further tree removal be required, an amended arborist report is to be submitted to the satisfaction of Councils Manager Environment and Health.

All Trees identified for retention in the tree removal plan and all those within the Biodiversity Constraints Zone, regardless of size, are to remain and are to be protected during all works.

Prior to tree removal occurring, all trees are to be identified and clearly marked on site for removal or retention by the Project Arborist in accordance with the above requirements.

90. Planting Requirements

All trees planted as part of the amended landscape plan required by this consent are to be minimum 75 litre pot size. All shrubs, grasses, and ground covers are to be planted in pot sizes, quantities and spacing/densities as nominated in the approved amended landscape plan.

91. Recycled Water – Rouse Hill/ Sydney Water

The subject site must be connected to Sydney Water's Rouse Hill Recycled Water Scheme, unless written evidence from Sydney Water is submitted advising that this service is not available.

92. Contamination Assessment & Site Remediation

The recommendations of the Site Assessment and Report prepared by Geotest Services Pty Ltd, referenced as P32450.1_R01, dated 26th September 2019 and submitted as part of the Development Application are to be implemented as part of this approval. In particular:

- Undertake a Detailed Site Investigation (DSI) to address identified AEC's at the site;

- Depending on the results the DSI, prepare a Remediation Action Plan (RAP) for this site to facilitate and guide the required remediation works;
- An appropriately licensed demolition and remediation contractor should be engaged for all demolition and remediation works at the Site, and any hazardous materials be identified prior to demolition – if present;
- Following the demolition and clean-up of the storage shed at the Site, the demolition work areas should be inspected and validated by an appropriately experienced consultant for both asbestos and chemical contamination
- Safe removal of the identified suspected asbestos materials in conjunction with the outcomes of the further assessment of these materials (ie. AS-B or AS-A) and disposal to a facility appropriately licenced by the EPA to accept asbestos wastes;
- A waste classification should be prepared for any soil materials being disposed off-site. The classification should be prepared with reference to the NSW EPA 2014 Waste Classification Guidelines Part 1.

93. Access and Loading for Waste Collection

Minimum vehicle access and loading facilities must be designed and provided on site in accordance with Australian Standard 2890.2:2018 for the standard 12.5m long Heavy Rigid Vehicle (minimum 4.5m clear vertical clearance). The following requirements must also be satisfied.

- All manoeuvring areas for waste collection vehicles must have a minimum clear vertical clearance of 4.5m. Any nearby areas where the clear headroom is less than 4.5m must have flexible striker bars and warning signs as per Australian Standard 2890.1 to warn waste collection contractors of the low headroom area.
- All manoeuvring and loading areas for waste collection vehicles must be prominently and permanently line marked, signposted and maintained to ensure entry and exit to the site is in a forward direction at all times and that loading and traffic circulation is appropriately controlled.
- Pedestrian paths around the areas designated for manoeuvring and loading of waste collection vehicles must be prominently and permanently line marked, signposted and maintained (where applicable) for safety purposes.
- The requirement for reversing on site must be limited to a single reverse entry into the designated waste service bay (typical three point turn).
- The designated waste service bay must allow additional space servicing of bins (wheeling bulk bins to the back of the waste collection vehicle for rear load collection).
- The loading area must have a sufficient level of lighting and have appropriate signage such as “waste collection loading zone”, “keep clear at all times” and “no parking at any time”.
- Access to restricted loading areas (i.e. via roller shutter doors, boom gates or similar) must be via scanning from the cab of heavy vehicles, remote access or alternative solution which ensures there is no requirement for waste collection contractors to exit the cab.

94. Construction of Waste Storage Area

The waste storage area must be designed and constructed in accordance with the following requirements. The area must provide minimum storage facility for 35 x 1100 litre mobile garbage bins.

- The waste storage area must be of adequate size to comfortably store and manoeuvre the total minimum required number of bins as specified above.
- The layout of the waste storage area must ensure that each bin is easily accessible and manoeuvrable in and out of the areas with no manual handling of other bins. All internal walkways must be at least 1.5m wide.
- The walls of the waste storage area must be constructed of brickwork.
- The floor of the waste storage area must be constructed of concrete with a smooth non-slip finish, graded and drained to sewer. The rooms must not contain ramps and must be roofed (if located external to the building).
- The waste storage area must have a waste servicing door, with a minimum clear floor width of 1.5m. The door must be located to allow the most direct access to the bins by collection contractors. Acceptable waste servicing doors are single or double swinging doors and roller doors (preferred).
- All doors of the waste storage area, when fully opened, must be flush with the outside wall(s) and must not block or obstruct car park aisles or footways. All doors must be able to be fixed in position when fully opened.
- The waste storage area must be adequately ventilated (mechanically if located within the building footprint). Vented waste storage areas should not be connected to the same ventilation system supplying air to the data halls and offices.
- The waste storage area must be provided with a hose tap (hot and cold mixer), connected to a water supply. If the tap is located inside the waste storage area, it is not to conflict with the space designated for the placement of bins.
- The waste storage area must be provided with internal lighting such as automatic sensor lights.
- The maximum grade acceptable for moving bins for collection purposes is 5%. Under no circumstance is this grade to be exceeded. It is to allow the safe and efficient servicing of bins.
- The waste storage area must have appropriate signage (NSW EPA approved designs can be found on the NSW EPA website), mounted in a visible location on internal walls and are to be permanently maintained by the Owners Corporation.
- Finishes and colours of the waste storage area are to complement the design of the development.

Example Bin Measurements (mm)

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

95. No Contaminated Materials To Be Buried On Site

During remediation of the contaminated material on site, all contaminated material is to be removed from site to an authorised waste management facility. No contaminated material is to remain on site. Confirmation of compliance with this condition is to be submitted as part of the validation report required to be undertaken after the remediation works are completed.

PRIOR TO ISSUE OF CONSTRUCTION CERTIFICATE – STAGE 1

96. Section 7.11 Contribution

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

Payments comprise of the following:-

| Development Category | Rate per add. m² of Floor Space: 20,021 | TOTAL S7.11 |
|-----------------------------|---|------------------------|
| Land | \$ 13.43 | \$ 268,821.72 |
| Capital | \$ 78.33 | \$ 1,568,337.03 |
| Total | \$ 91.76 | \$ 1,837,158.74 |

The contributions above are applicable at the time this consent was issued. Please be aware that Section 7.11 contributions are updated quarterly.

Prior to payment of the above contributions, the applicant is advised to contact Council's Development Contributions Officer on 9843 0268. Payment must be made by cheque or credit/debit card. Cash payments will not be accepted.

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

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

97. Security Bond – Road Pavement and Public Asset Protection

In accordance with Section 4.17(6) of the Environmental Planning and Assessment Act 1979, a security bond of \$571,896 is required to be submitted to Council to guarantee the protection of the road pavement and other public assets in the vicinity of the site during construction works. The above amount is calculated at the per square metre rate set by Council's Schedule of Fees and Charges, with the area calculated based on the road frontage of the subject site plus an additional 50m on either side (468m) multiplied by the width of the road (13m).

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

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

98. Security Bond – External Works

In accordance with Section 4.17(6) of the Environmental Planning and Assessment Act 1979, a security bond is required to be submitted to Council to guarantee the construction, completion and performance of all works external to the site. The bonded amount must be based on 150% of the tendered value of providing all such works. The bond amount must be confirmed with Council prior to payment. The tendered value of the work must be provided for checking so the bond amount can be confirmed.

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

The bond is refundable upon written application to Council and is subject to all work being completed to Council's satisfaction.

99. Engineering Works

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

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

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

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

The concept engineering plan prepared by BG&E Revision C Dated 28.07.2020 is for development application purposes only and is not to be used for construction. The design and construction of the engineering works listed below must reflect the concept engineering plan and the conditions of consent.

c) Partial Width Road Reconstruction

The partial width reconstruction of the existing roads listed below is required, including any necessary service adjustments and ancillary work required to make the construction effective:

| | |
|---------------|--|
| Road Name: | Formation: (Footpath/ Carriageway/ Footpath) (m) |
| Mile End Road | Road Type: Industrial 3.5 / 13 / 3.5 Pavement Design: 1 x 10 ⁷ (Design Guidelines Section 3.12) |

The design must incorporate a standard kerb return radius of 7.5m based on a 4m splay corner unless otherwise directed by Council.

Drainage catchment plan must be included for the existing drainage infrastructure. If existing infrastructure does not have suitable capacity for additional catchment, civil plans are to be amended to include separate drainage line along western side of Mile End Road

Where partial width reconstruction exists opposite, the completed road must comply with the overall requirements outlined in the table above. Where partial width reconstruction does not exist opposite, you will be responsible for the formation of the footpath verge, kerb and gutter and the reconstruction of 6m of road pavement. This new road pavement must transition into the existing road pavement opposite to provide for a total minimum carriageway width of 10m, which may require additional pavement reconstruction.

Any requirements relating to partial width road reconstruction from the relevant section of Council's DCP must also be complied with. All works must be carried out in accordance with the submitted traffic safety statement.

Where the existing road reserve width exceeds that required to be provided, the additional width is to be evenly distributed on either side of the road carriageway to

Except where a modified kerb treatment is required (such as for roadside bio-retention swales) roll kerb is to be used for all roads other than sub-arterial roads or roads fronting a park or creek corridor.

Except where a one-way cross fall is required (such as for roadside bio-retention swales) all roads are to have a two-way cross fall with a crown in the middle of the carriageway.

100. Construction Environmental Management Plan

A Construction Environmental Management Plan (CEMP) shall be developed and submitted prior to issue of Construction Certificate and to the satisfaction of Council's Manager – Environment and Health. The CEMP shall outline environmental management practices and procedures to be followed during construction of the development. The CEMP shall provide a comprehensive and complete action and implementation plan that ensures that the natural environment is not unacceptably impacted upon by the construction and ongoing use of the development. The CEMP shall include, but not necessarily be limited to:

- Measures to control construction extent;
- Measures to minimise the impact of construction on local flora and fauna;
- Measures to suppress dust emissions;

- Soil and sediment control measures;
- Weed and pathogen control measures;
- Phytophthora testing plan throughout the conservation area;
- Phytophthora protection measures setting out clearly who is responsible for each action;
- Details regarding appropriate signage along the length of the boundary of the subdivision including a map of locations, materials to ensure permanency and wording;
- Details of permanent fencing around the perimeter of the lot between the road and adjacent bushland including location, materials and erection methods to reduce impacts to adjacent trees and bushland; and
- A description of all measures proposed to mitigate and manage impacts on biodiversity including the biodiversity issue, measure to be implemented, timing of the measure and responsibility of the measure.

101. Restricted Development Area

A scaled survey plan delineating the Biodiversity Stewardship Site/ restricted development area (RDA) is to be prepared and submitted for written approval by Council's Manager – Environment and Health. The area within the RDA cannot be built upon in the future and must be managed in accordance with the NSW Biodiversity Conservation Trust approved Biodiversity Stewardship Site Management Plan.

102. Amended Landscape Plan

An amended Landscape Plan (to scale) for the landscaping of the site is to be prepared by a suitably qualified landscape architect or horticulturalist and submitted to the satisfaction of Council's Manager - Environment and Health.

The plan must contain:

- a) site boundaries and dimensions surveyed;
- b) north point, and scale (1:200 desirable);
- c) existing and proposed levels including existing contours extending to the buildings;
- d) all trees, grassed areas, landscape features and main structures on the site (buildings, car parking, driveways, walls, fences, paving, storage areas, etc);
- e) a schedule of proposed planting, including botanical names, common names, quantities, pot size, expected mature height and staking requirements; and
- f) trees to be retain and removed, in accordance with the conditions of this consent and any Amended Arborist Report if required;;
- g) retaining walls and landscape steps where required to allow for easy pedestrian access surrounding the building. Proposed and existing levels to the access path is to be provided to its full extent; and
- h) appropriate and achievable surfaces and materials surrounding the development; and
- i) landscape planting and tree retention within Asset Protection Zones (APZ) in accordance with the APZ conditions provided by the RFS in letter dated 02/09/20. In addition, the APZ is to preclude the use of any plantings including turf adjacent to the conservation area that will have a negative impact on the conservation of bushland in that area.

Note: A discussion with Council's Landscape Assessment Officer Prior to the preparation of the amended landscape plan is advised.

103. Biodiversity Stewardship Agreement

To mitigate the loss of biodiversity from the proposal a Biodiversity Stewardship Agreement is to be implemented over a portion of the site. At minimum, The Biodiversity Stewardship

Agreement is to be created over the area identified as “Conservation Area” in the Biodiversity Development Assessment Report prepared by GHD dated 13 January 2021 (Revision 3).

To demonstrate compliance with this condition; evidence of an agreement with the NSW Biodiversity Conservation Trust to create a Biodiversity Stewardship Site is to be provided to the satisfaction of Council’s Manager – Environment and Health.

The applicant must provide to the consent authority evidence sufficient to enable it to be satisfied of the above matters within two years from the date of this consent, or such further period as the consent authority may determine is appropriate upon application in writing being made.

104. Native Plant Seed Collection

Prior to clearance of the vegetation in the development area, the project ecologist or bush regeneration contractor shall collect all available seed from native species present for use in rehabilitation works associated with the Biodiversity Stewardship Agreement required by this consent.

105. Translocation of Threatened Species Plan

A Relocation Plan for the one *Persoonia hirsuta* plant located within the construction footprint is to be prepared in accordance with the Office of Environment and Heritage’s Translocation Operational Policy (2019), and is to be submitted to The Hills Shire Council’s Manager – Environment and Health for approval prior to issue of a Construction Certificate. The plan is to include information regarding the timing and methods for the collection of seed and cuttings from the plant to be relocated.

106. Biodiversity Credit Retirement

All biodiversity (species and ecosystem) credits generated by the Biodiversity Stewardship Agreement required by this consent must be retired by the proponent prior to a Construction Certificate being issued. The credits retired are to offset the loss of biodiversity from this development and cannot be used to offset any development not covered by this consent.

The proponent must make payment to the NSW Biodiversity Conservation Trust to the value of 100% of the Total Fund Deposit or other amount determined by the NSW Biodiversity Conservation Trust to be sufficient to enable the actions of the Management Plan, approved by the NSW Biodiversity Conservation Trust, to be fully implemented.

Evidence from the NSW Biodiversity Conservation Trust to demonstrate compliance with this condition is to be provided to Council’s Manager – Environment and Health for written approval.

107. Biodiversity Stewardship

Prior to the issue of a Construction Certificate The Total Fund Deposit for the Biodiversity Stewardship Site is to be paid in full to the NSW Biodiversity Conservation Trust so that active management of the site may begin.

Evidence from the NSW Biodiversity Conservation Trust to demonstrate compliance with this condition is to be provided to Council’s Manager – Environment and Health for written approval.

108. Biodiversity Offsetting Requirements

To offset the loss of biodiversity from the site. The development must purchase and retire the ecosystem and species credits listed in the table below. This obligation may also be satisfied by payment to the Biodiversity Conservation Fund of an amount equivalent to the class and number of ecosystem credits, as calculated by the Biodiversity Offsets Payment Calculator (The amount payable to discharge an offset obligation will be determined at the time of payment).

| Impacted plant community type | Number of ecosystem/species | Offset option | IBRA sub-region | Plant community |
|-------------------------------|-----------------------------|---------------|-----------------|-----------------|
|-------------------------------|-----------------------------|---------------|-----------------|-----------------|

| | credits | | | type(s) / species that can be used to offset the impacts from development |
|---|---------|------------------|--|--|
| PCT 1395-Cumberland shale - sandstone Ironbark forest | 33 | Like for like | Yengo, Cumberland, Hunter, Kerrabee, Pittwater, Wollemi and Wyong. or Any IBRA subregion that is within 100 kilometers of the outer edge of the impacted site. | Shale Sandstone Transition Forest in the Sydney Basin Bioregion This includes PCT's: 792, 1281, 1395 HBT – Yes |
| PCT 1081-Red Bloodwood - Grey Gum woodland on the edges of the Cumberland Plain, Sydney Basin Bioregion | 72 | Like for like | Yengo, Cumberland, Hunter, Kerrabee, Pittwater, Wollemi and Wyong. or Any IBRA subregion that is within 100 kilometers of the outer edge of the impacted site. | Sydney Hinterland Dry Sclerophyll Forests This includes PCT's: 612, 621, 624, 1080, 1081, 1086, 1159, 1246, 1255, 1327, 1328, 1614, 1622, 1628, 1631, 1634, 1640, 1664, 1666, 1667, 1789, 1790, 1912 HBT – Yes |
| | | Variation Option | IBRA Region: Sydney Basin, or Any IBRA subregion that is within 100 kilometers of the outer | Dry Sclerophyll Forests (Shrubby subformation) Tier 7 or higher HBT – Yes including artificial |

| | | | | |
|--|----|------------------|--|--|
| | | | edge of the impacted site. | |
| Persoonia hirsuta / Hairy Geebung | 22 | Like for like | Any in NSW | Persoonia hirsuta / Hairy Geebung |
| | | Variation Option | Yengo, Cumberland, Hunter, Kerrabee, Pittwater, Wollemi and Wyong. or Any IBRA subregion that is within 100 kilometers of the outer edge of the impacted site. | Any species with same or higher category of listing under Part 4 of the BC Act: Endangered of the Kingdom: Flora |
| Pimelea curviflora var. curviflora / Pimelea curviflora var. curviflora | 4 | Like for like | Any in NSW | Pimelea curviflora var. curviflora / Pimelea curviflora var. curviflora |
| | | Variation Option | Yengo, Cumberland, Hunter, Kerrabee, Pittwater, Wollemi and Wyong. or Any IBRA subregion that is within 100 kilometers of the outer edge of the impacted site. | Any species with same or higher category of listing under Part 4 of the BC Act: Vulnerable of the Kingdom: Flora |

| | | | | |
|--|-----|------------------|--|--|
| Pommerhelix duralensis / Dural Land Snail | 122 | Like for like | Any in NSW | Pommerhelix duralensis / Dural Land Snail |
| | | Variation Option | Yengo, Cumberland, Hunter, Kerrabee, Pittwater, Wollemi and Wyong. or Any IBRA subregion that is within 100 kilometers of the outer edge of the impacted site. | Any species with same or higher category of listing under Part 4 of the BC Act: Endangered of the Kingdom: Fauna |

A retirement certificate from the NSW Department of Planning, Industry & Environment to demonstrate compliance with this condition is to be provided to The Hills Shire Council's Manager – Environment and Health prior to issue of a Construction Certificate.

PRIOR TO ANY WORK COMMENCING ON SITE – STAGE 1

109. Property Condition Report – Public Assets

A property condition report must be prepared and submitted to Council recording the condition of all public assets in the direct vicinity of the development site. This includes, but is not limited to, the road fronting the site along with any access route used by heavy vehicles. If uncertainty exists with respect to the necessary scope of this report, it must be clarified with Council before works commence. The report must include:

- Planned construction access and delivery routes; and
- Dated photographic evidence of the condition of all public assets.

110. Traffic Control Plan

A Traffic Control Plan is required to be prepared and approved. The person preparing and approving the plan must have the relevant accreditation to do so. A copy of the approved plan must be submitted to Council before being implemented. Where amendments to the plan are made, they must be submitted to Council before being implemented.

A plan that includes full (detour) or partial (temporary traffic signals) width road closure requires separate specific approval from Council. Sufficient time should be allowed for this to occur.

111. Pavement Design

A pavement design based on Austroads (A Guide to the Structural Design of Road Pavements) and prepared by a geotechnical engineer must be submitted to Council for approval before the commencement of any pavement works.

The pavement design must be based on sampling and testing by a NATA accredited laboratory of the in-situ sub-grade material and existing pavement material. Details of the pavement design and all tests results, including design California Bearing Ratio values for the subgrade and design traffic loadings, are to be provided.

112. Notification of Asbestos Removal

Prior to commencement of any demolition and/or contamination remediation works involving asbestos containing materials, all adjoining neighbours and Council must be given a minimum five days written notification of the works.

113. Liquid Storage

All liquids on site are to be stored within bunded areas so as to prevent water pollution. Storage methods are to comply with Environmental Compliance Report – Liquid Chemical Storage, Handling and Spill Management Part B. Review of best Practice and Regulation dated 2005 by the Department of Environment and Conservation.

114. Bunding - Work Areas

All work areas where spillage is likely to occur shall be bunded. This is to be done by way of speed humps, grading the floor area or by any other appropriate means, to prevent contaminated water entering the stormwater system. The bunded area is then to be drained to a sump for collection and appropriate disposal of the liquid.

115. Translocation of Threatened Species

Prior to any other works occurring on the site, the one *Persoonia hirsuta* individual within the development footprint is to be relocated within the habitat on the site in the “conservation area” as approved by Council within the Relocation Plan. The completion of the relocation works are to be to the satisfaction of The Hills Shire Council’s Manager – Environment and Health prior to the start of construction activities.

116. Loading Bays – Fuel Delivery

All loading bays that are used for fuel delivery are to be covered and bunded. Bunding is to be done by way of speed humps, grading the floor area or by any other appropriate means, to prevent spillage of materials including fuel, during unloading / loading entering the stormwater system. The bunded loading bay is to be drained to a sump and then to the holding tank for collection/disposal.

PRIOR TO THE ISSUE OF OCCUPATION CERTIFICATE – STAGE 1

117. Completion of Engineering Works

An Occupation Certificate must not be issued prior to the completion of all engineering works covered by this consent, in accordance with this consent, relevant to the stage of work being completed.

Reconstruction of Mile End Road in accordance with the requirements of the consent must be completed prior to the issue of any Occupation Certificate for Stage 1.

118. Creation of Restrictions/ Positive Covenants

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

a) Restriction/ Positive Covenant – Water Sensitive Urban Design

The subject site must be burdened with a positive covenant that refers to the water sensitive urban design elements referred to earlier in this consent using the “water sensitive urban design elements” terms included in the standard recitals.

b) Positive Covenant – Stormwater Pump

The subject site must be burdened with a restriction and a positive using the “basement stormwater pump system” terms included in the standard recitals.

c) Restriction/Positive Covenant – Vegetation Management Plan

The lot must be burdened with a restriction and a positive covenant using the “Vegetation Management Plan/Restricted Development Area/Asset Protection Zone” terms included in the standard recitals.

d) Restriction/ Covenant – Biodiversity Stewardship Agreement

The lot must be burdened with a restriction and a positive covenant using the “Restricted Development Area” terms included in the standard recitals (amended to suit). The restriction/ positive covenant must make reference to the Biodiversity Stewardship Agreement and be appropriately worded to the satisfaction of Council’s Manager – Environment and Health.

e) Restriction/ Covenant – Asset Protection Zone/Landscaped Area

The lot must be burdened with a restriction and a positive covenant using the “asset protection zone/Landscaped Area” terms:

- The defined asset protection zone is to be managed into the future in accordance with NSW Rural Fire Service Asset Protection Zone requirements and the Council-approved Landscape plan which precludes the use of any plantings including turf adjacent to the conservation area that will have a negative impact on the conservation of bushland in that area.

The final wording of the above restrictions is to be to the satisfaction of Councils Manager and Environment and Health.

119. Validation report

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

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

120. Clearance Certificate

On completion of the asbestos removal works a Clearance Certificate in accordance with Clause 474 of the Work Health and Safety Regulation 2017 shall be provided to the Principal Certifier.

121. Emergency Response Management Plan

An Emergency Response Management Plan shall be prepared and submitted to Council’s satisfaction before the issue of the Occupation Certificate. The plan shall include the following:

- List of fuels and chemicals and maximum quantities to be stored at the site;
- Identification of potentially hazardous situations;
- Procedure for incident reporting;
- Details of spill stations and signage;
- Containment and clean-up facilities and procedures; and
- The roles of all staff in the Plan and details of staff training.

USE OF THE SITE – STAGE 1

122. Liquid Spill Clean-up Equipment

A sufficient supply of appropriate absorbent materials and/or other spill cleanup equipment shall be kept on site to cover any liquid spillage. Liquid spills shall be cleaned up using dry methods only. Any contaminated materials are to be disposed of appropriately.

PRIOR TO ISSUE OF CONSTRUCTION CERTIFICATE - STAGE 2

123. Section 7.11 Contribution

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

Payments comprise of the following:-

| Stage 2 | | |
|-----------------------------|---|----------------------|
| Development Category | Rate per add. m² of Floor Space: 8767.2 | TOTAL \$7.11 |
| Land | \$ 13.43 | \$ 117,717.08 |
| Capital | \$ 78.33 | \$ 686,775.11 |
| Total | \$ 91.76 | \$ 804,492.19 |

The contributions above are applicable at the time this consent was issued. Please be aware that Section 7.11 contributions are updated quarterly.

Prior to payment of the above contributions, the applicant is advised to contact Council's Development Contributions Officer on 9843 0268. Payment must be made by cheque or credit/debit card. Cash payments will not be accepted.

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

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

PRIOR TO ISSUE OF CONSTRUCTION CERTIFICATE – STAGE 3

124. Section 7.11 Contribution

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

Payments comprise of the following:-

| Stage 3 | | |
|-----------------------------|---|----------------------|
| Development Category | Rate per add. m² of Floor Space: 10,110.1 | TOTAL \$7.11 |
| Land | \$ 13.43 | \$ 135,748.19 |
| Capital | \$ 78.33 | \$ 791,970.64 |
| Total | \$ 91.76 | \$ 927,718.83 |

The contributions above are applicable at the time this consent was issued. Please be aware that Section 7.11 contributions are updated quarterly.

Prior to payment of the above contributions, the applicant is advised to contact Council's Development Contributions Officer on 9843 0268. Payment must be made by cheque or credit/debit card. Cash payments will not be accepted.

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

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

PRIOR TO ISSUE OF CONSTRUCTION CERTIFICATE - STAGE 4

125. Section 7.11 Contribution

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

Payments comprise of the following:-

| Stage 4 | | |
|-----------------------------|---|------------------------|
| Development Category | Rate per add. m² of Floor Space: 28,783.1 | TOTAL S7.11 |
| Land | \$ 13.43 | \$ 386,470.32 |
| Capital | \$ 78.33 | \$ 2,254,712.63 |
| Total | \$ 91.76 | \$ 2,641,182.95 |

The contributions above are applicable at the time this consent was issued. Please be aware that Section 7.11 contributions are updated quarterly.

Prior to payment of the above contributions, the applicant is advised to contact Council's Development Contributions Officer on 9843 0268. Payment must be made by cheque or credit/debit card. Cash payments will not be accepted.

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

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

ATTACHMENTS

1. Locality Plan
2. Aerial Map
3. LEP 2019 Zoning Map
4. LEP 2019 Height of Buildings Map
5. LEP 2019 FSR Map
6. Site Plan
7. Staging Plan
8. Floor Plans
9. Roof Plan
10. Elevations
11. Sections
12. Landscape Plans
13. Materials Schedule & Perspectives
14. Shadow Diagrams
15. Building Height Analysis
16. Streetscape Analysis
17. Clause 4.6 Variation
18. NRAR General Terms of Approval