

COUNCIL ASSESSMENT REPORT

Panel Reference	PPSSCC-90
DA Number	1302/2020/JP
LGA	The Hills Shire Council
Proposed Development	Commercial Development including Offices, Showroom, Food and Drink Premises and Basement Carpark.
Street Address	8 Solent Circuit Norwest
Applicant/Owner	EBH Investments Pty Ltd
Consultant/s	Calibre Consulting Chadwick Cheng Bates Smart Arcadia SCP Consulting Stantec JK Geotechnics JK Environments Naturally Trees McKenzie Group Morris Goding Access Consulting Renzo Tonin Cermak Peterka Petersen MRA Consulting Group DSA Consulting WT Partnership
Date of DA lodgement	8 April 2020
Number of Submissions	Nil
Recommendation	Refusal
Regional Development Criteria (Schedule 7 of the SEPP (State and Regional Development) 2011	CIV exceeding \$30 million (\$116,050,000)
List of all relevant s4.15(1)(a) matters	• State Environmental Planning Policy (State and Regional Development) 2011 • State Environmental Planning Policy Infrastructure 2007 • State Environmental Planning Policy No 55 — Remediation of Land • The Hills Local Environmental Plan 2019 • The Hills Development Control Plan 2012
List all documents submitted with this report for the Panel's consideration	• Plans • Council Report • Voluntary Planning Agreement • Traffic Report • Transport for NSW submissions
Report prepared by	Cynthia Dugan Principal Coordinator Development Assessment
Report date	4 December 2020

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
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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? <i>e.g. Clause 7 of SEPP 55 - Remediation of Land, Clause 4.6(4) of the relevant LEP</i>	Yes
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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?	Not Applicable
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Special Infrastructure Contributions

Does the DA require Special Infrastructure Contributions conditions (S7.24)? <i>Note: Certain DAs in the Western Sydney Growth Areas Special Contributions Area may require specific Special Infrastructure Contributions (SIC) conditions</i>	No
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Conditions

Have draft conditions been provided to the applicant for comment? <i>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</i>	No
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EXECUTIVE SUMMARY

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

- The application is not considered to be in the public interest as the development would result in the failure of an existing intersection at Solent Circuit and Inglewood Place and no provision has been made for improvement works to be undertaken. Whilst concept roundabout design options were submitted by the Applicant, inadequate arrangements have been made to make that road infrastructure available when it is required.
- The application has been assessed as satisfactory against the maximum height and Floor Space Ratio development standards under The Hills LEP 2019. The proposal comprises a maximum height of RL118.35 which complies with the maximum height standard of RL126 under the LEP. The proposal comprises a Floor Space Ratio (FSR) of 2.2:1 (gross floor area of 25,850m²) which complies with the maximum FSR standard of 2.2:1 under the LEP.
- The proposal does not satisfactorily address Clause 7.7 of the LEP with regard to Design Excellence. Subclause (f)(x) requires the development to address the impact on, and any proposed improvements to, the public domain. The application was referred to Council's Design Excellence Panel (DEP). The DEP noted that as the proposed roundabout at the intersection of Solent Circuit and Inglewood Place would require land acquisition, consequential impacts would occur to the design of the corner element of Building A. Whilst the Panel provided in principle support of the proposed 10m reduction to the required 20m setback for Building A at the south-eastern corner, this was subject to resolution of the roundabout design and safety of pedestrians and patrons around the retail corner. This has not been satisfactorily addressed.
- The proposal has been assessed against the requirements of The Hills DCP 2012 and variations have been identified with respect to front and side setbacks, loading bays and car parking. Whilst the majority of variations are supported, the unresolved issue of the roundabout design does not allow Council officers to be satisfied that the front setbacks would achieve the desired objectives of the control.

- The proposal was referred to Transport for NSW in accordance with Clause 104 of SEPP (Infrastructure). Transport for NSW has objected to the proposal and requested the Applicant provide SIDRA modelling for a number of nearby intersections as no funding had been allocated for any improvement works. Whilst it is considered that the request is not warranted for the intersection at Norwest Boulevard and Solent Circuit as Council is approaching completion of a full traffic analysis for the entire Norwest Business Park, the scope of works of the analysis does not include the intersection at Solent Circuit and Inglewood Place.
- The application was notified for 14 days and no submissions were received during the notification period.

The application is recommended for refusal.

BACKGROUND

A site specific planning proposal was submitted to Council on 11 January 2018 under 11/2018/PLP to increase the maximum FSR of the subject site by 120% (14,000m² gross floor area) from 1:1 to 2.2:1 and increase the maximum height from RL116 (approximately 8 storeys) to RL 126 (approximately 10 storeys). Council resolved to forward the Planning Proposal to the Department of Planning (now DPIE) for Gateway Determination. The Planning Proposal received Gateway Determination subject to amendments and public exhibition on 23 June 2018. Council completed amendments and forwarded the Plan to DPIE. The Plan was gazetted on 28 February 2020. The subject application was lodged on 8 April 2020, after the making of this plan.

As part of the Planning Proposal, a Voluntary Planning Agreement (VPA) was entered into by Council and EBH Investments Pty Ltd (the Applicant) in May 2019. Refer Attachment 12. The VPA sets out a monetary contribution of \$1.2 million to Council by the Developer, exempts the Developer from paying Section 7.11/7.12 contributions and stipulates that the Developer, at its cost, agrees to provide all road infrastructure required under the Development Consent.

It is noted that the acceptance of the VPA (and gazettal of the planning proposal) proceeds detailed precinct planning for the Norwest Precinct which is waiting on traffic modelling to be completed. Council has not yet prepared and adopted a Contributions Plan to levy new developments for a fair and reasonable contribution towards required local infrastructure upgrades within this precinct. In this regard, whilst the VPA has been entered into, it is prudent to highlight the history of the negotiations that have been undertaken to date.

A report for a revised Voluntary Planning Agreement offer at 8 Solent Circuit Norwest relating to Planning Proposal 11/2018/PLP was considered by Council at its meeting on 25 September 2018 (refer Attachment 13). The draft VPA being considered at the meeting offered to complete works and pay monetary contributions in accordance with the below table:

Works	\$ Contrib.	Details	Est. Value
✓		Roundabout at Solent Cct & Inglewood PI intersection	\$526,573
	✓	Norwest Bld, Solent Ct (west) & Reston Grange Signals	\$673,427
	x	Section 7.12 (formerly s94a) Contributions	\$0
Total			\$1.2 million

Prior to Council resolution at this meeting, the proponent requested to address Council and agreed to provide all road infrastructure identified in a future development approval by the RMS and/or Council at the Developer's expense. In this regard the Council resolved as follows:

1. *The draft Voluntary Planning Agreement (Attachment 1) be subject to a legal review at the cost of the Proponent, prior to public exhibition and subject to the following amendments:*
 - a. *Increase the total monetary contribution payable to \$1.2 million, subject to escalation based on increases in the Producer Price Index for NSW;*
 - b. *Delete all traffic improvements/upgrades from the Voluntary Planning Agreement;*
 - c. *The Developer agrees to provide all road infrastructure identified in a future development approval by the RMS and/or Council at the Developers' expense.*
 - d. *Amend Clause 30 (Costs) to state that "the Developer is to pay to the Council, the Council's costs associated with the negotiation, preparation, exhibition, legal review, execution and registration of this Agreement within 7 days of a written demand by the Council for such payment".*
2. *The draft Voluntary Planning Agreement be updated, as required, prior to exhibition to incorporate the recommendations of the legal review.*
3. *The draft Voluntary Planning Agreement be publically exhibited for a period of at least 28 days in accordance with the Environmental Planning and Assessment Act 1979.*

The Council officer's report considered at this meeting recommended the following:

Council decline the offer to enter into the revised Voluntary Planning agreement and continue further discussions with the Proponent to prepare a draft planning Agreement which, secures a fair and reasonable contribution from future development on the site towards infrastructure improvements within the Norwest Business Park.

The Council officer's report considered that the proponent's offer of \$1.2 million was "disproportionately low relative to the demand for new infrastructure generated by the uplift sought through the planning proposal and the likely costs to Council to provide new infrastructure to support development within the Norwest Precinct". It was also considered that the acceptance of the proponent's offer may "potentially result in a future funding shortfall within the Norwest Precinct and/or an unequitable situation whereby any future contributions plan for the Norwest Precinct re-distributes this shortfall in the form of increased contribution rates for all remaining commercial development".

In addition, the report notes the following:

"In the absence of a contributions plan and detailed analysis of the two key variables which underpin a contributions rate (the extent of development anticipated within the broader precinct and the cost of infrastructure required to support that development), it is necessary to rely on an alternative methodology to determine the apportioned demand for infrastructure generated by this development...it is anticipated that in order to fund the traffic infrastructure to support commercial development within the Norwest Precinct, Council will be required to collect contributions from individual developments at a rate of between 3% and 4.5% of the cost of development (not

dissimilar to the rate applied to commercial development within numerous other centres and CBDs within NSW). If applied to the subject planning proposal, this would equate to a contribution of between \$1.8 million and \$2.4 billion”.

The report indicates that the offer of \$1.2 million was 2% of the proponent's estimated cost of the development at the planning proposal stage (\$60 million). This was considered unreasonably low compared to the relative demand generated by the development considered with the planning proposal.

The subject application is substantially different to the concept plans proposed under the planning proposal and comprises a development cost of \$116.05 million. This is almost double the estimated cost at the planning proposal stage. In this regard, the monetary contribution of \$1.2 million accepted under the VPA is in fact only 1% of the development cost under the subject proposal. This is equivalent to the payment of Section 7.12 contributions (also levied at 1% of the development cost) under the existing contributions framework which was only intended to cater for development under the current planning controls. In contrast, the rate of 2% of the development costs under the subject development would equate to a monetary contribution of \$3.2 million. The recommended rate of 3% - 4.5% of the development costs required to fund infrastructure to support commercial development within the Norwest Precinct would equate to a contribution of between \$4.8 million and \$5.2 million for the subject development.

The subject application as lodged, did not include the construction of the roundabout or dedication of land required at Solent Circuit and Inglewood Place as part of the proposal. On 7 July 2020, the Applicant indicated that they would be prepared to *“provide a reasonable share of the costs for the construction of the new roundabout excluding the road widening that would be dedicated free of cost, through a third share arrangement and construct the roundabout to coincide with the occupation of Stage 2 of the development, subject to Council negotiating with Hillsong Church for road widening and an equal proportion of the construction costs being shared between the proponent, Hillsong Church and Century Estate 50”.*

On 7 August 2020, Council staff provided a response to the Applicant indicating that the offer to share the costs of the new roundabout at Solent Circuit and Inglewood Place was not supported as the new roundabout is necessary road infrastructure required to facilitate the development and the costs should be borne by the developer. The traffic report submitted with the application indicates that the intersection will fail upon completion of Stage 2. Reference was made to Clause 7 of the VPA which requires *“the Developer, at its cost, agrees to provide all road infrastructure required to be provided, and in accordance with, the Development Consent”.*

In response, on 15 September 2020, legal advice was provided by the Applicant indicating that an imposition of a condition requiring funding of the total cost of the roundabout and dedication of land is invalid and unlawful and if imposed, an appeal to the Land and Environmental Court to challenge its imposition was recommended.

On 2 November 2020, the Applicant wrote to Council requesting feedback on the roundabout options sent on 15 September 2020. Council staff have provided a written response to the Applicant noting that out of the three roundabout options prepared by the Applicant's Traffic Consultant, Option 1 was preferred. However, as this involves land acquisition from adjoining landowners, written confirmation from the adjoining land owner that they agree to the acquisition as per the roundabout plans is required to be provided. Until there is certainty to this arrangement and certainty that the roundabout can be delivered prior to completion of the development, the proposal cannot be supported in its current form.

DETAILS AND SUBMISSIONS

Owner:	EBH Investments Pty Ltd
Zoning:	B7 Business Park
Area:	11,750m ²
Existing Development:	Two storey commercial office and warehouse building with associated at-grade car parking
Section 7.11/7.12 Contribution	No, however a Planning Agreement has been entered into between Council and EBH Investments Pty Ltd dated May 2019. The planning agreement sets out a monetary contribution of \$1.2 million to Council, exempts the Developer from payment of Section 7.11/7.12 contributions and stipulates that the Developer, at its cost, agrees to provide all required road infrastructure under the Development Consent
Notice Adj Owners:	Yes, 14 days.
Number Advised:	60
Submissions Received:	Nil

PROPOSAL

The proposal is for a commercial development to be completed in two stages as follows:

Stage 1:

- Demolition of existing office and warehouse premises
- Removal of selected trees on site
- Basement excavation/shoring works
- Construction of an 8 storey commercial building (Building A) consisting of:
 - 10,432m² GFA of commercial office floor space
 - 802m² GFA of ground floor showroom, ancillary to commercial office use
 - 379m² GFA lower ground café
 - End of trip facilities and rooftop plant
- Provision of embellished entry plaza, above ground lawn and pedestrian through-site link
- Other landscaping works including temporary landscaping over the Stage 2 site area
- Provision of lower ground café consisting of 93m² GFA below lawn
- Partial construction of five levels of shared lower ground and basement car parking consisting of 479 car parking spaces, 179 bicycle spaces and 32 motorcycle spaces
- Provision of a two-way ingress and egress driveway off Solent Circuit
- Provision of loading area including waste and recycling areas for Building A via Solent Circuit driveway

Stage 2:

- Removal of selected trees on site
- Excavation/shoring works to accommodate the remainder of the basement
- Construction of an 7-8 storey commercial building (Building B) consisting of:
 - 13,546 m² GFA of commercial office floor space
 - 416m² GFA of ground floor showroom, ancillary to commercial office use
 - 139m² GFA Ground floor café
 - Rooftop plant
- Remainder of landscaping works

- Construction of remainder of the five-level shared lower ground and basement car parking consisting of 419 car parking spaces and 14 motorcycle spaces
- Stormwater treatment works
- Provision of a two-way ingress and egress access driveway off Inglewood Place
- Construction of pick-up/drop off area within the Inglewood Place setback area
- Provision of loading area for Building B via Inglewood Place driveway

A maximum height of RL 118.35 is proposed.

The proposed total gross floor area of 25,850m² which results in a floor space ratio of 2.2:1. A total of 898 car parking spaces (including 19 accessible and 44 tandem spaces) are provided. 46 motorcycle bays and 179 bicycle spaces are also included on the plans.

STRATEGIC PLANNING FRAMEWORK

a. Sydney Region Plan – A Metropolis of Three Cities

The Greater Sydney Region Plan, *A Metropolis of Three Cities* has been prepared by the NSW State Government to set a 40 year vision and established a 20 year plan to manage growth and change for Greater Sydney in the context of social, economic and environmental matters. The Plan sets a new strategy and actions to land use and transport patterns. The Plan seeks to integrate land use planning with transport and infrastructure corridors to facilitate a 30-minute city where houses, jobs, goods and services are co-located and supported by public transport (Objective 14). To achieve this, the Plan seeks to develop a network of 34 strategic centres, one of which is Norwest Business Park, which extends into the suburb of Bella Vista and incorporates the subject site. The Plan aims to ensure economic corridors are better connected and more competitive.

The Plan also advocates investment and business activity in centres, particularly strategic centres identified for delivering the 30-minute city. Strategic centres should facilitate high levels of private sector investment, co-location of a wide mix of land uses, include areas identified for commercial use, and where appropriate, commercial cores (Objective 22). Norwest Business Park is identified within the Plan as one of nine (9) commercial office precincts that are essential for growing jobs and productivity to enhance Sydney's global economic competitiveness.

The proposed development would provide additional jobs and a choice of modern office space close to where people live, in a location that has good access to services. The proposal will enhance the global competitiveness of Norwest Business Park.

The Plan identifies that the built form of development within business parks is critical to their ability to evolve into places with high amenity and vibrancy, while supporting the role of a specialised employment precinct. Subject to the resolution of the road infrastructure improvements required at the intersection of Solent Circuit and Inglewood Place, the proposal would be consistent with the aims of the Sydney Region Plan.

b. Central City District Plan

The plan requires integration of land use planning and transport to facilitate walkable 30-minute cities amongst the 34 strategic centres identified. Norwest, being within the Sydney Metro Northwest Rail Corridor should seek to facilitate growth and change that enables efficient access to jobs, services, residential opportunities and a wide range of other uses through reduced travel times (Planning Priority C9). The site would support the objectives of the B7 Business Park Zone and the role of the employment precinct.

In facilitating the 30-minute city, the Plan also encourages growth in investment, business opportunities and jobs in strategic centres. Norwest is identified as a strategic centre and an established commercial centre that has the opportunity to develop into a more diversified, specialised centre with higher employment densities supported by residential use (Planning Priority C10). Norwest (including the Castle Hill industrial area and business park land in Bella Vista) has a 2036 baseline target of providing 49,000 jobs. In support of the Greater Sydney Region Plan, the District Plan also emphasises the role that the built form of development in business parks has to play in creating places with high amenity and vibrancy, while maintaining their function as an employment precinct. The proposed development would result in the creation of more jobs and enhance economic and business opportunities within the business park along with supporting uses such as café/restaurants. Subject to the resolution of the road infrastructure improvements required at the intersection of Solent Circuit and Inglewood Place, the proposal would be consistent with the aims of the Central City District Plan.

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 \$116,050,000 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. 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.*

Comment:

A Stage 1 Environmental Site Assessment has been undertaken by JK Environments. The investigation found that the subsurface conditions including any heavy metals, TRH, BTEX, PAHs, OCPs and OPPs, PCB's and asbestos were all below the Site Assessment Criteria. The investigation concludes that the site can be made suitable for the proposed development subject to a complete detailed site investigation to address the data gaps which

would include additional soil sampling, groundwater sampling and waste classification assessment; and complete a hazardous building material assessment for the site structures.

In this regard, it is considered that if consent was granted to the application, conditions of development consent could be recommended to ensure that the site is suitable for the proposed development with regard to land contamination and the provisions of SEPP 55.

3. State Environmental Planning Policy (Infrastructure) 2007

This Policy aims to facilitate the delivery of infrastructure and identify matters to be considered in the assessment of development adjacent to particular types of infrastructure development. Specifically the SEPP contains provisions relating to development adjacent to a rail corridor, traffic generating development and development with access to a classified road.

Traffic generating development

Clause 104 'Traffic-generating development' of the SEPP states:-

(1) This clause applies to development specified in Column 1 of the Table to Schedule 3 that involves:

- (a) new premises of the relevant size or capacity, or*
- (b) an enlargement or extension of existing premises, being an alteration or addition of the relevant size or capacity.*

(2) In this clause, relevant size or capacity means:

- (a) in relation to development on a site that has direct vehicular or pedestrian access to any road—the size or capacity specified opposite that development in Column 2 of the Table to Schedule 3, or*
- (b) in relation to development on a site that has direct vehicular or pedestrian access to a classified road or to a road that connects to a classified road where the access (measured along the alignment of the connecting road) is within 90m of the connection—the size or capacity specified opposite that development in Column 3 of the Table to Schedule 3.*

(2A) A public authority, or a person acting on behalf of a public authority, must not carry out development to which this clause applies that this Policy provides may be carried out without consent unless the authority or person has:

- (a) given written notice of the intention to carry out the development to RMS in relation to the development, and*
- (b) taken into consideration any response to the notice that is received from RMS within 21 days after the notice is given.*

(3) Before determining a development application for development to which this clause applies, the consent authority must:

- (a) give written notice of the application to the RMS within 7 days after the application is made, and*
- (b) take into consideration:*

(i) any submission that the RMS provides in response to that notice within 21 days after the notice was given (unless, before the 21 days have passed, the RMS advises that it will not be making a submission), and

(ii) the accessibility of the site concerned, including:

(A) the efficiency of movement of people and freight to and from the site and the extent of multi-purpose trips, and

(B) the potential to minimise the need for travel by car and to maximise movement of freight in containers or bulk freight by rail, and

(iii) any potential traffic safety, road congestion or parking implications of the development.

(4) The consent authority must give the RMS a copy of the determination of the application within 7 days after the determination is made.

Comment:

The proposal is categorised as traffic generating development pursuant to Schedule 3 of the SEPP. The SEPP requires development to be referred to the Transport for NSW (previously Roads and Maritime Service) where a commercial premises results in a gross floor area of 10,000m². The proposed development results in a gross floor area of 25,850m².

The Development Application was referred to Transport for NSW for review. Transport for NSW have raised concerns regarding the impact of the proposed development on the State road network and does not support the proposal. Two letters have been received from Transport for NSW objecting to the proposal. Refer Attachment 14. The following concerns were raised:

- 1. It is noted from the traffic report that the intersection of Norwest Boulevard/Reston grange/Solent Circuit would operate at level of service 'F' in both AM and PM peak hours after the completion of the development. The report states that the intersection is planned to be upgraded to signalised intersection by Council and RMS. The traffic assessment has assumed that the planned upgrade would be completed by the time the proposed development is completed.*
- 2. It is further noted that the intersection of Solent Circuit/Inglewood place will operate at level of service 'E' and 'F' after the completion of the development. Traffic signals have been investigated as one of options to improve the performance of the intersection. TfNSW advise that the installation of new traffic signals requires consent from TfNSW under Section 87 of the Roads Act 1993 and is dependent on general warrants in accordance with TfNSW requirements for Traffic Signal Design – Section 2 Warrants.*
- 3. As there is no funding allocated for intersections upgrades at this stage, TfNSW does not support the proposed assumptions for planned intersections upgrades in the traffic report. The proponent should increase the extent of their traffic study to assess the impact of their development on nearby intersections and investigate the need/associated funding for upgrading or road improvement works (if required). They should establish a baseline level of performance for the impacted intersections, and demonstrate that their development does not reduce the performance if these intersections or undertake works to restore existing levels of intersection performance.*

4. *TfNSW requests the intersections should be modelled in SIDRA NETWORK for both existing and future year 2036 scenarios (with and without development) and submitted for further review. The cumulative traffic impact of the development with other developments in the area should be assessed.*
5. *Given the proximity of the site to the Norwest Metro Station, TfNSW requests Council to consider reduced number of car parking spaces within the site to encourage sustainable transport.*

Intersection of Norwest Boulevard/Solent Circuit/Reston Grange

Since November 2005, Council's Infrastructure and Transport Planning section have been developing a Traffic Masterplan for various intersection improvements within the Norwest Business Park including the intersection at Norwest Boulevard/Solent Circuit/Reston Grange. Discussions relating to the design and funding of these improvement works including upgrade works required at the intersection of Norwest Boulevard/Solent Circuit/Reston Grange have been held with the Network Planning Section in Transport for NSW (previously RTA) since the early stages of the master planning process. A Norwest Boulevard Corridor Investigation carried out for Transport RMS Network Sydney West Precinct Network Development was conducted in April 2017 which details road widening along Norwest Boulevard and intersection upgrades required at this intersection. In addition, the upgrade works to be carried out at this intersection have been referenced in letters from RMS for nearby Development Applications including DA 1170/2017/HA for a four storey commercial building at 2 Century Circuit, Baulkham Hills which was approved on 2 February 2018.

Further, Transport for NSW is aware that Council is approaching completion of a full traffic analysis for the entire Norwest Business Park, resulting from the ultimate development potential of the two rail station precincts at Norwest and at Bella Vista. This investigation is chaired by a Project Coordination Group that has membership of Transport for NSW, Department of Planning, Industry and Environment and Council staff. The scope of the station precinct analysis requires the Project Coordination Group to recommend an intersection treatment at Norwest Boulevard/ Solent Circuit/Reston Grange, and to determine a strategic estimate for the ultimate upgrade.

It is also noted that in recognition of the intersection upgrade required at Norwest Boulevard/Solent Circuit/Reston Grange, Council has included Contribution Item CP12BRT4 in the Balmoral Road Release Area Contributions Plan that provides partial funding for this intersection upgrade.

In this regard, the request for additional SIDRA modelling at this intersection in Transport for NSW's letter for the subject application is redundant as it is evident that the intersection is already approaching level of service F, strategic estimates for the upgrade works will be recommended by the Project Coordination Group and the works will be partially funded by CP12.

Intersection of Solent Circuit/Inglewood Place

The existing intersection at Solent Circuit and Inglewood Place currently operates at a Level of Service (LoS) B during the morning and evening peak periods. This intersection will operate at a LoS E during the morning peak and LoS F during the afternoon peak after the completion of Stage 2 of the development. The Applicant's submitted Traffic report concludes that the intersection will need to be upgraded to traffic signals or roundabout by the time Stage 2 of the development is completed.

Whilst Transport for NSW have indicated that traffic signals have been investigated as one of the options to improve the performance of the intersection, other options including a roundabout has been suggested by the Applicant. The Applicant provided three options for the roundabout design (refer Attachment 17). Notwithstanding, the roundabout designs either require significant land acquisition on the subject site or further land acquisition from adjoining properties. At this stage, negotiations between Council, the proponent and adjoining properties have not progressed. Transport NSW's request for the Applicant demonstrate that their *development does not reduce the performance if these intersections or undertake works to restore existing levels of intersection performance* has not yet been satisfactorily addressed. In this regard, the potential for traffic safety and road congestion of the development have not been satisfactorily addressed and does not satisfy Clause 104 (3) of SEPP (Infrastructure) 2007.

4. The Hills Local Environmental Plan 2019

a. Permissibility

The land is zoned B7 Business Park under Local Environmental Plan 2019. The proposal comprises uses defined as the following:

Office premises means a building or place used for the purpose of administrative, clerical, technical, professional or similar activities that do not include dealing with members of the public at the building or place on a direct and regular basis, except where such dealing is a minor activity (by appointment) that is ancillary to the main purpose for which the building or place is used.

Food and drink premises means premises that are used for the preparation and retail sale of food or drink (or both) for immediate consumption on or off the premises, and includes any of the following:

- (a) a restaurant or cafe,
- (b) take away food and drink premises,
- (c) a pub,
- (d) a small bar.

The proposal comprises office premises with ancillary showrooms and food and drink premises. It is noted that the showrooms are considered ancillary, and subservient to the dominant purpose of office premises. In this regard, the proposed uses are permitted within the B7 Business Park zone under the provisions of LEP 2019.

The subject proposal satisfies the provisions for permissibility with respect to LEP 2019.

b. Aims of Plan

The aims of the Plan are as follows:

- (a) to guide the orderly and sustainable development of The Hills, balancing its economic, environmental and social needs,
- (b) to provide strategic direction and urban and rural land use management for the benefit of the community,
- (c) to provide for the development of communities that are liveable, vibrant and safe and that have services and facilities that meet their needs,
- (d) to provide for balanced urban growth through efficient and safe transport infrastructure, a range of housing options, and a built environment that is compatible with the cultural and natural heritage of The Hills,
- (e) to preserve and protect the natural environment of The Hills and to identify environmentally significant land for the benefit of future generations,

(f) to contribute to the development of a modern local economy through the identification and management of land to promote employment opportunities and tourism.

The proposal is contrary to the aims of LEP 2019 as the development does not result in balanced urban growth as the provision for efficient and safe transport infrastructure required to accommodate the development has not been resolved.

c. Zone Objectives

The site is zoned B7 Business Park under The Hills LEP 2012. The objectives of the zone are:

- *To provide a range of office and light industrial uses.*
- *To encourage employment opportunities.*
- *To enable other land uses that provide facilities or services to meet the day to day needs of workers in the area.*
- *To make provision for high technology industries that use and develop advanced technologies, products and processes.*

The proposal is considered to be consistent with the stated objectives of the zone, in that the proposal will provide for a range of office uses that would encourage additional employment opportunities. The food and drink premises would provide services that meet the day to day needs of workers in the area.

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

d. Development Standards

The following addresses the principal development standards of the LEP:

CLAUSE	REQUIRED	PROVIDED	COMPLIES
4.3 Height	RL 126	RL 118.35	Yes
4.4 Floor Space Ratio	2.2:1 25,850m ²	2.2:1 25,850m ²	Yes
7.7 Design Excellence	Development consent must not be granted unless the development exhibits design excellence	Proposal referred to Council's Design Excellence Panel.	No, subclause (f) has not been adequately addressed. Refer to discussion below.

(i) Clause 7.7 Design Excellence

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

- (a) whether a high standard of architectural design, materials and detailing appropriate to the building type and location will be achieved,*

- (b) *whether the form, arrangement and external appearance of the development will improve the quality and amenity of the public domain,*
- (c) *whether the development detrimentally impacts on view corridors,*
- (d) *whether the development detrimentally impacts on any land protected by solar access controls established under a development control plan,*
- (e) *the requirements of any development control plan to the extent that it is relevant to the proposed development,*
- (f) *how the development addresses the following matters:*
 - (i) *the suitability of the land for development,*
 - (ii) *existing and proposed uses and use mix,*
 - (iii) *heritage issues and streetscape constraints,*
 - (iv) *the relationship of the development with other development (existing or proposed) on the same site or on neighbouring sites in terms of separation, setbacks, amenity and urban form,*
 - (v) *bulk, massing and modulation of buildings,*
 - (vi) *street frontage heights,*
 - (vii) *environmental impacts such as sustainable design, overshadowing, wind and reflectivity,*
 - (viii) *the achievement of the principles of ecologically sustainable development,*
 - (ix) *pedestrian, cycle, vehicular and service access, circulation and requirements,*
 - (x) *the impact on, and any proposed improvements to, the public domain,*
 - (xi) *the configuration and design of public access areas, recreation areas and communal open space on the site and whether that design incorporates exemplary and innovative treatments,*
- (g) *the findings of a panel of 3 or more persons that has been convened by the consent authority for the purposes of reviewing the design excellence of the development proposal.*

Comment:

The design excellence of the proposal was considered at two Design Excellence Panel meetings convened by Council and held on 13 November 2019 (prior to lodgment of the Development Application) and 10 June 2020. The meeting minutes of the Design Excellence Panel are included at Attachment 16. At the end of the last meeting, the Design Excellence Panel concluded that:

“The Panel is of the opinion that the application satisfies the requirements of the Design Excellence clause and exhibits Design Excellence. The Panel commends the design team for a well-conceived design that prioritises the pedestrian and worker experience; and contributes positively to the public domain and future character of the Norwest Business Park.

Subject to Council’s DA Officer being satisfied that the application has addressed the minor issues raised in this report, the project need not return to the panel for further consideration.”

The following recommendations were made by the Design Review Panel:

1. The Panel noted the impact of cold prevailing winter winds on pedestrian comfort at the ground plan may require mitigation and further investigation is recommended.
2. The Panel notes the roundabout has not been incorporated into the development design documentation and recommends this be resolved to Council and authority satisfaction given potential impacts on the site and the proposal. The Panel supports

the proposed reduction in 20m setback for Building A at the south-eastern corner, in principle, provided that the roundabout design and safety of pedestrians and patrons around the retail corner are both resolved.

3. The proposed roundabout at the intersection of Solent Circuit and Inglewood Drive may require land acquisition and consequential impacts upon the design of the corner element of the development. It is recommended further design and detail of the roundabout be progressed prior to the DA development to ensure the design intent is not compromised.
4. The Panel queried provision of open mezzanine terraces to Building A and not Building B noting that both buildings would potentially benefit from this breakout space provision.
5. The Panel sought clarification of the design intent of the stepped parapet planter profile over the car park entry from Solent Circuit.
6. All details for screening and placement of services are to be included in the DA documentation to Council Officer's satisfaction.

The Applicant provided the following response to the recommendations:

1. *Pedestrian comfort during winter winds at the ground plane of the Inglewood Lawn and pedestrian laneway has been catered for, as the proposed tree provision will assist in mitigating wind and provide more protection and comfort for pedestrians. Proposed trees above car parking are generally situated within the pedestrian laneway, which are small to medium sized trees with a mature size of 14m high x 5m wide and are provided with minimum soil depths of 800mm in the pedestrian laneway. The typical section for the pedestrian laneway shows 950mm and 992mm soil depths can be achieved. The other tree at the end of the southern end of the pedestrian pathway over basement car parking is a Zelkova Green Vase, which has been provided with a minimum 1200mm soil depth.*
2. *Following discussion, the applicant proposes similar circular concrete bollards (that were used to separate the Solent Circuit driveway and the pedestrian plaza) to be installed at the south-east corner. This can be conditioned as detailed to be provided prior to the issue of a Construction Certificate.*
3. *Calibre on behalf of the applicant has provided a separate letter addressed to Council regarding the roundabout and land acquisition of Hillsong required.*
4. *Additional terraces could be accommodated subject to future tenant requirements. Bates Smart confirmed the exact technical requirements of the mezzanine terraces can be further developed at CC stage to allow for drainage or other service requirements.*
5. *Bates Smart have confirmed that the stepped planter design intent is to reduce the perceived wall height against the plaza by introducing a secondary element setback from the edge of the masonry parapet. The element will contain the soil build-up and allow for plants to 'spill-over' the parapet edge. The planter wall will be irrigated, contain hard species and maintained by building management to ensure long-lasting growth.*

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

character of existing development and desired future character of the Norwest Business Park.

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

With regard to Clause 7.7(4)(c), the Applicant has adequately demonstrated that there would be negligible impacts to heritage view corridors to and from Bella Vista Farm Park as the height is well below the maximum height approved under the planning proposal.

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

With regard to Clause 7.7(4)(e), the proposed development has been assessed in detail and addressed in Section 5 below.

With regard to Clause 7.7(4)(f), subclause (x) requires the development to address the impact on, and any proposed improvements to, the public domain. An upgrade and provision of traffic improvements at the intersection of Solent Circuit and Inglewood Place has yet to be resolved. The uncertainty of future land acquisition and consequential impacts upon the design of the corner element of the development has not been satisfactorily addressed. Whilst further design and detail of the roundabout has progressed, the implementation of this necessary road infrastructure has not been resolved to ensure the design intent is not compromised.

With regard to Clause 7.7(4)(g), the findings of Council's Design Excellence Panel have been considered and the majority of concerns raised have been satisfactorily addressed with the exception of the provision of a roundabout which has the potential to impact on the site, surrounding road network and the proposed safety of pedestrians and patrons around the retail corner.

In this regard, the proposal does not satisfy the provisions under Clause 7.7 of LEP 2019.

5. Compliance with The Hills Development Control Plan 2012

The proposal has been against the relevant provisions of The Hills Development Control Plan 2012. The proposed development achieves compliance with the relevant requirements of DCP 2012 with the exception of the following:

DEVELOPMENT CONTROL	DCP REQUIREMENTS	PROPOSED DEVELOPMENT	COMPLIANCE
Part B Section 6 – Business Clause 2.5 Setbacks	Front Setbacks for Corner Lot: Minimum 20m with no parking forward of the building line to the primary road frontage 20m to the secondary road however parking is permitted to be provided forward of the building line (secondary	10m – Solent Circuit 7m – Inglewood Place	No. The variation occurs to the south eastern corner of Building A. This is further discussed below.

DEVELOPMENT CONTROL	DCP REQUIREMENTS	PROPOSED DEVELOPMENT	COMPLIANCE
	road frontage) to a minimum setback Building setbacks on corner lots are to be splayed to provide adequate sight lines at road intersections. Side/Rear Setbacks: Minimum 10m except in the case of car parking where a 5m setback applies provided the first 5m is landscaped to screen car parking.	5m - splay corner at Solent and Inglewood Western – 10m Northern – 5m	
Part B Section 6 – Business Clause 2.18 Loading Docks and Part C Section 1 – Parking	For offices (GFA), 1 loading bay is required for 1,860m², 1 for next 3,720m², 1 for next 3,720m² and 1 for each extra 9,250m². Therefore, 5 bays required for office GFA of 25,196m²	2 loading bays and 6 courier bays upon completion of Stage 2.	No, however considered to be commensurate with size of mixed use commercial development. Refer to discussion below.
Part C Section 1 - Parking	Stage 1 <u>Commercial premises</u> require 1 space per 25m². Commercial GFA 10,432m². 418 spaces required. <u>Ancillary Showroom</u> GFA 802m², no rate specified. Assessed on merit at 1 space per 40m² GFA. 20 spaces required. <u>Restaurant or café</u> within commercial office building requires 1 space per 25m². For 894m² GFA, 36 spaces required. Total required for Stage 1: 474 spaces Stage 2	Stage 1 LG/UB – 33 spaces B1 – 101 spaces B2 – 112 spaces B3 – 112 spaces B4 – 113 spaces Total spaces provided for Stage 1: 471 spaces Stage 2	No, shortfall of 163 car parking spaces for the development. This is further discussed below.

DEVELOPMENT CONTROL	DCP REQUIREMENTS	PROPOSED DEVELOPMENT	COMPLIANCE
	<u>Commercial</u> GFA 13,546m², 542 spaces required. <u>Ancillary Showroom</u> GFA 416m², no rate specified. Assessed on merit at 1 space per 40m² GFA. 10 spaces required. <u>Restaurant or café</u> within commercial office. For 139m² GFA, 6 spaces required. Total required for Stage 2: 558 spaces Total car spaces required for both stages: 1,032 spaces	LB/UG – 55 spaces B1 – 85 spaces B2 – 86 spaces B3 – 86 spaces B4 – 86 spaces Total spaces provided for Stage 2: 398 spaces Total car spaces provided for both stages: 869 spaces (not including tandem spaces)	

a. Setbacks

i) Front Setback

The DCP requires a 20m front setback to the primary road frontage and a 20m setback to the secondary road frontage. The subject proposal includes encroachments within the primary and secondary road frontages. Building A is setback 10m from Solent Circuit (primary frontage) and 7m from Inglewood Place (secondary frontage).

The Applicant has provided the following justification for the variation:

The site has two or more public road frontages including Solent Circuit and Inglewood Place. The Solent Circuit frontage has a variable setback of approximately 10m to more than 20m, with the setback being highly landscaped including deep soil planting. The corner of Building A which accommodates the double height balconies encroaches the 20m setback, with the glass of the building stopping short of 10m setback line, whilst the roof of the ground floor level is setback 9.705m from the boundary. The building line of upper ground lawn/internal car park entrance/café structure also encroaches the 20m setback, stopping short of the 10m setback line.

The variation to the setback control seeks to achieve a more open and welcoming frontage to Solent Circuit, and the creation of an activated and substantially landscaped plaza area with surrounding retail tenancies framing the plaza. Solent Circuit is now a highly attractive

streetscape, as shown in the perspective provided and therefore has achieved a better public outcome.

The Design Report had detailed the design strategy which explains the manipulation of the permissible building envelope, to create a through site link and frame a public space that engages with the street. A broad frontage to Solent Circuit as sought to be avoided and therefore a portion of the volume of Building A was redistributed between the 10 – 20m set back.

With respect to the elevated lawn and café underneath, it was created to provide a sense of enclosure to the plaza area. The plaza area is intended to be an area accommodating higher levels of activity, with the above ground plaza being a quieter environment. Inglewood Place generally has a setback frontage of 20m. A minor variation is proposed to this setback as a portion of the lower ground and ground floor (podium) of Building A protrudes the 20m setback line to a variable setback of 11.585m. The podium, with the upper levels setback, creates additional articulation of the building. When viewing the corner of Solent Circuit and Inglewood Place, the projecting podium generates a strong visual interest to the building and draws the eye to the corner of the building...it is also noted that the proposed development has provided two separate buildings instead of one large building footprint, allowing the facilitation of a well-designed and integrated public domain for a work environment that is people oriented. Therefore there is significant public benefit as a result of the site arrangement and massing of the proposed development that outweighs the setback variation to the road frontages.

Comment:

The relevant objective of Clause 2.5 Setbacks under Part B Section 6 Business is:

- *To provide an attractive streetscape and substantial areas for landscaping and screen planting.*
- *To ensure adequate sight distance is available for vehicles entering and leaving the site.*
- *To minimise overshadowing of adjoining properties.*
- *To protect privacy and amenity of any adjoining land uses.*
- *To provide a desirable and aesthetically pleasing working environment.*
- *To ensure endangered ecological communities are protected.*

Proposed Building A comprises a front setback of 10m from the existing property boundary. The Design Review Panel provided in principle support of the proposed reduction in front setbacks for Building A, provided that the roundabout design and safety of pedestrians and patrons around the retail corner were resolved. Notwithstanding, the roundabout design and safety has not been resolved. Further land acquisition will be required to facilitate an intersection upgrade at the corner of Solent Circuit and Inglewood Place. The Applicant has submitted three options of a roundabout design for this intersection (refer Attachment 17). Options 1 and 3 would result in land acquisition to facilitate a roundabout that would further reduce the front setback by 3m, resulting in a minimum front setback of 7m to the new property boundary for Building A.

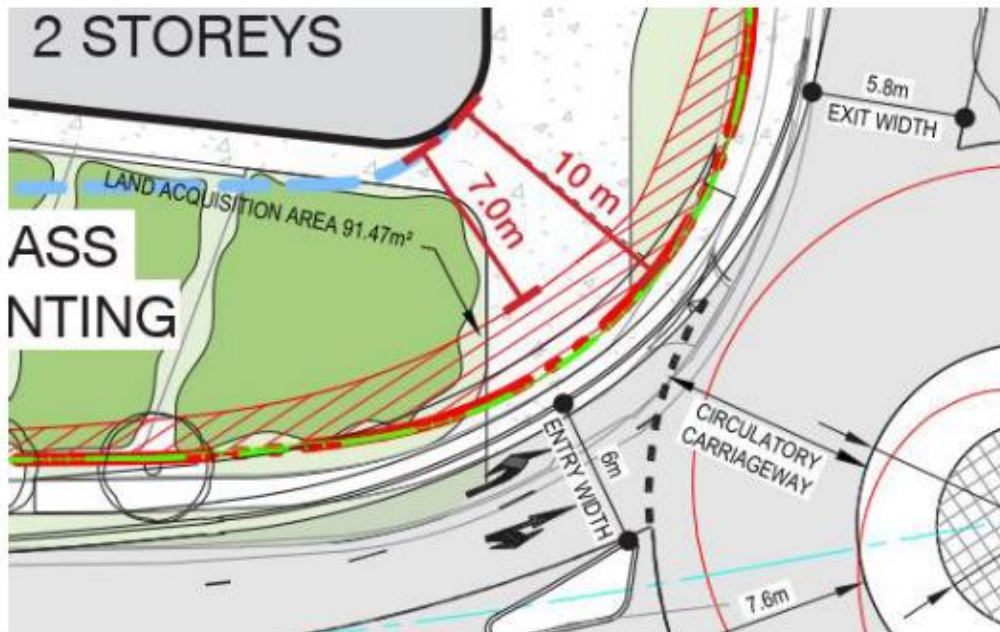


Figure 1: Front Setbacks to Building A for Option 1 and 3

Option 2 is for a larger roundabout and would require no further land acquisition on adjoining properties. However, this would result in further land acquisition on the subject site resulting in a further reduction of 6m to the front property boundary. A minimum front setback of 4m would be provided to the new boundary setback for Building A. Refer to Figure 2 below where the green line depicts the existing property boundary and the double black line indicates the new property boundary.

As the design of the roundabout has not been finalised and inadequate arrangements have been made to make that road infrastructure available at the completion of the development, an assessment on the design implications of the south eastern corner element of Building A within the streetscape cannot be made. It has not been demonstrated that the proposed development can achieve an attractive streetscape and substantial areas for landscaping and screen planting. In this regard, the proposal cannot be supported until the intersection upgrade works required to facilitate this development is resolved.

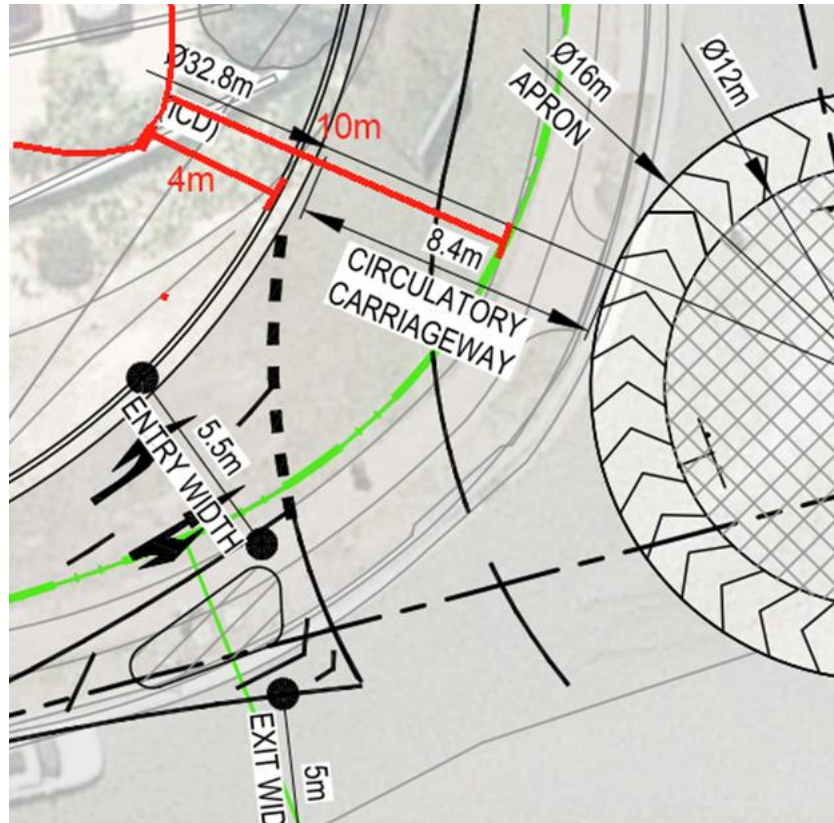


Figure 2: Front Setback to Building A for Option 2

ii) Side Setback

The DCP requires a minimum 10m side setback to adjoining industrial or business uses except in the case of car parking where a 5m setback applies provided the first 5m is landscaped to screen car parking. The subject proposal includes an upper ground lawn and car parking entrance structure which encroaches to the northern side setback by 5m.

The Applicant has provided the following justification for the variation:

A 5-10m setback is provided at the lower ground and ground floor level, with the upper ground lawn and internal car parking entrance structure contributing to the minor setback variation, providing the 5m setback to the property boundary with 10 Solent Circuit. Building B maintains a 10m setback. This side setback of 5-10m is fully landscaped with mature trees to provide appropriate screening from the adjoining development. The adjoining development at No. 10 Solent Circuit, will not be adversely impacted with respect to overshadowing and privacy from the minor setback variation, given that the car parking entrance structure is low lying, with the height of the structure not more than 1 storey above existing ground level.

Comment:

As above, the relevant objective of the Setbacks control is to *minimise overshadowing of adjoining properties, protect privacy and amenity of any adjoining land uses and provide a desirable and aesthetically pleasing work environment.*

Given the location of the site being on a corner lot, the variation to the northern side setback would not result in further overshadowing of adjoining properties. With respect to the privacy and amenity of adjoining land uses, the upper lawn area known as “the Vista” would be adequately screened by dense vegetation along the northern side setback. The submitted

landscape plans indicates that landscape screening including *eucalyptus scopria* and *eucalyptus saligna* trees which grow to a mature height of 10m and 30m respectively will be provided. This would ensure there is sufficient screening to protect the privacy and amenity of the adjoining commercial land use to the north at No. 10 Solent Circuit. In this regard, the variation to the side setback control is supported.

b. Loading and Delivery Requirements

The DCP requires that for offices, 1 loading bay is required for 1,860m² Gross Floor Area, 1 for the next 3,720m², 1 for next 3,720m² and 1 for each extra 9,250m². In accordance with this rate, 5 bays are required for office GFA of 25,196m². The proposal provides for 2 loading bays and 6 courier bays upon completion of Stage 2.

The Applicant has provided the following justification for the variation:

The development will provide eight service bays which comprise two loading docks which can both accommodate up to a Medium Rigid Vehicle (MRV) and six courier bays in the basement car park.

This is considered an adequate provision to serve the demands of the proposed development. As aforementioned, the development will predominantly be commercial/office spaces and the primary servicing requirements will be waste collection and small-scale deliveries (e.g. couriers). As such, five separate loading docks are considered to be excessive for a development of this size.

It is also expected that the largest vehicle, requiring access to the site, will be the refuse vehicle. The assessment undertaken by the Waste Management Report indicates that an MRV will be adequate to remove the estimated waste generated by the proposed development. As such, waste collection will be undertaken by a private contractor.

The showroom and small food/beverage premises are also not expected to require vehicles larger than an MRV to service its requirements.

Nevertheless, a loading dock management plan (LDMP) is recommended to be prepared, in due course, to manage the operation of the two loading docks and the courier bays.

Comment:

The relevant objectives of Clause 2.9 Loading and Delivery Requirements under Part C Section 1 Parking are:

- *To provide suitable access on-site for service vehicles, for the purpose of loading and/or delivery goods.*
- *To ensure that types of loading and delivery areas are suited to the needs of the development*
- *To ensure that adequate numbers of loading and delivery areas are allocated for appropriate types of service vehicles.*
- *To protect neighbourhood amenity and safety in the design and construction and operation of loading and service areas in accordance with Council's ESD objective 7.*

It is considered that the loading and delivery proposed with the development is sufficient for the mixed use development. The Applicant has indicated that a loading dock management plan could be prepared to manage the operation of the two loading docks and the courier bays. The Applicant has also provided swept paths that demonstrate that each of the loading bays proposed could accommodate a Medium Rigid Vehicle. In this regard,

sufficient and suitable on-site access for service vehicles has been provided for the purpose of loading and unloading goods.

In this regard, the variation to the number of loading bays is supported.

c. Car Parking

The DCP requires that commercial premises and restaurants/cafes within commercial office buildings be provided with 1 car space per 25m² GFA. Application of these rates results in a requirement of 1,012 car parking spaces for the proposed development. The proposal provides 869 car parking spaces (not including tandem spaces) which results in a shortfall of 163 spaces.

The Applicant has provided the following justification:

It is acknowledged that the proposed car parking provision does not meet the DCP requirements; however it is considered appropriate for the following reasons:

- The proximity of the site to the Norwest Metro Station is approximately 400m walking distance. This is well within the walking catchment for a rail station, typically 800m;*
- The recommended rate for commercial/office and food and beverage premises is 1 space per 40m² GF (Bella Vista Station Precinct Recommended Development Control Plan Amendments – The Hills);*
- Over the next few years, with the level of potential growth in commercial, retail and residential developments within the Norwest Business park and more particularly the Circa and Bella Vista Precincts following recent completion of Sydney Metro's Norwest line, the area will become considerably larger;*
- A parking rate of 1 space per 25m² GFA does not encourage a mode shift away from private vehicles. It is important to encourage more sustainable modes of transport to and from the site; and*
- A Green Travel Plan and Transport Access Guide can be prepared in due course to highlight the alternative travel mode options available to new employees, visitors and guests of the development, with the aim to achieve sustainable travel mode shifts.*

Comment:

The objective of Clause 2.1 General Parking Requirements under Part C Section 1 Parking is as follows:

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

The Applicant has indicated that 898 car parking spaces including 22 tandem spaces are provided however this figure is not reflected on the plans. The plans indicate 869 spaces (not including tandem spaces).

The DCP rate of 1 space per 25m² GFA applies to all commercial office and restaurant/cafes within commercial office buildings in the Hills Local Government Area. Whilst there is no DCP rate for showrooms, the uses are ancillary to commercial office spaces and a rate of 1 space per 40m² has been applied.

For Stage 1, the proposed commercial office, ancillary showroom and restaurant/cafe uses would require 474 spaces. The proposal includes 471 parking spaces which is a shortfall of 3 spaces. For Stage 2, the proposed commercial office, ancillary showroom and restaurant/café uses would require 558 spaces. The proposal includes 398 spaces for Stage 2 and 869 spaces for the entire development. At the completion of the development, there would be a shortfall of 163 spaces.

Notwithstanding, The DCP applies a rate of 1 space per 40m² GFA to commercial offices within the Centres of Castle Hill Major Centre, Baulkham Hills Town Centre and Rouse Hill Major Centre which is consistent with the rate recommended by RMS in their Guide for Traffic Generating Developments. The site is located within Norwest Business Park which has been identified as a strategic centre under the Sydney Region Plan. The subject development is located 500m from Norwest Station. It is considered that this recommended rate by RMS could be applied.

If the rate recommended by RMS was to be applied, 630 parking spaces would be required for the commercial office and showroom (25,196m² GFA). This, in addition to the 42 car parking spaces required for food and drink premises under the DCP, 672 parking spaces would be required for both stages.

A Project Coordination Group consisting of Transport for NSW, Department of Planning and Environment, Roads and Maritime Services and Council officers are currently seeking to undertake transport modelling for Norwest Business Park. This study will inform suitable parking rates for developments within Norwest Business Park. In the interim it is considered that in this instance, the rate proposed for the commercial component of 1 space per 30.5m² (between Council's existing DCP rate of 1 space per 25m² GFA and RMS' rate of 1 space per 40 GFA) is suitable for the mixed use development on the site.

The variation to car parking is supported as the proposal has demonstrated that sufficient parking is provided for the use of employees and visitors of the development and therefore meets the objectives of the control.

EXTERNAL REFERRALS:

TRANSPORT FOR NSW COMMENTS

The application was referred to the NSW Roads and Maritime Service as the proposal is for a commercial premises that results in a gross floor area over 10,000m² and is therefore categorised as traffic generating development pursuant to Schedule 3 of the SEPP (Infrastructure) 2007. Two letters raising objection to the proposal has been received by Transport for NSW. This is discussed in detail in Section 3 above.

NSW POLICE COMMENTS

The application was referred to the NSW Police. No objections were raised to the proposal.

ENDEAVOUR ENERGY COMMENTS

The application was referred to Endeavour Energy. No objections were raised to the proposal.

SYDNEY WATER COMMENTS

The application was referred to the Sydney Water due to the proximity to Sydney Water assets. No objections were raised to the proposal.

INTERNAL REFERRALS:

SUBDIVISION ENGINEERING COMMENTS

The application was referred to Council's Subdivision Engineering Section. No objections were raised to the proposal, subject to conditions of consent if consent was granted to the application.

TRAFFIC MANAGEMENT COMMENTS

The application was referred to Council's Traffic Section. Objections were raised to the proposal regarding insufficient traffic modelling being provided. Council's Traffic Section has provided the following comment:

*The following tables extracted from the Applicant's Traffic Assessment Report include three scenarios. Scenario 1 is the 2019 traffic volumes as surveyed by the Applicant. Scenario 2 is the 2019 existing traffic volumes as surveyed from the Applicant plus traffic from Stage 1 of the proposed development. Scenario 3 is the 2019 existing traffic volumes as surveyed from the Applicant plus traffic from Stage 1 and 2 of the proposed development. Given that the development application is for both Stages 1 and 2, Scenario 3 traffic impacts need to be addressed by the Applicant, and Scenario 2 has therefore not been included in the tables. The intersection of Solent Circuit and Inglewood Place has been **bolded** for clarity.*

1. In accordance with the SIDRA model provided by the applicant in the Traffic Assessment Report, under the Give Way control, the LOS at the intersection of Solent Circuit and Inglewood Place will be E and F during morning and afternoon peak for Scenario 3.

Location	Scenario 1		Scenario 3	
	Delay (s)	LoS	Delay (s)	LoS
Solent Cct and Fairway Dr	16	B	16.5	B
Solent Cct and Inglewood Pl	22.6	B	63.6	E
Norwest Blvde and Solent Cct	30.6	C	101.4	F

Table 1: Morning Peak

Location	Scenario 1		Scenario 3	
	Delay (s)	LoS	Delay (s)	LoS
Solent Cct and Fairway Dr	27.8	B	43.5	D
Solent Cct and Inglewood Pl	19	B	209.6	F
Norwest Blvde and Solent Cct	81.3	F	111.7	F

Table 2: Afternoon Peak

The applicant proposed two options (a roundabout or traffic signals) in order to improve the LOS at the intersection to an acceptable level. Based on the traffic report, a roundabout at the intersection of Solent Circuit and Inglewood Place would be a preferred option as the intersection of Norwest Boulevard and Solent Circuit will be signalised in the future and it is unlikely that TfNSW will approve another set of traffic signals only 150m away.

2. The SIDRA model for the proposed roundabout as provided by the Applicant is summarised in Table 3 over. From the comparison, it indicates that a roundabout at the intersection of Solent Circuit and Inglewood Place will improve the overall LOS from E to A and F to B during morning and afternoon peak hour respectively. Therefore without the roundabout the delays for users of the intersection become excessive.

	AM Peak Hour		PM Peak Hour	
	<i>Delay (s)</i>	<i>LoS</i>	<i>Delay (s)</i>	<i>LoS</i>
Scenario 3	63.6	E	209.6	F
Scenario 3 with a roundabout	13.5	A	14.6	B

Table 3: Single Lane Roundabout option for Scenario 3

3. *The applicant also claimed that the proposed development has limited impact on the intersection at Stage 1 as an access driveway will be provided on Solent Circuit and it will only contribute part of the traffic in Inglewood Place after the completion of Stage 2, which is referred to as Scenario 3 in the above table.*

A calculation of traffic generation was undertaken by Council found that based on the total Gross Floor Area (GFA) after the completion of Stage 2 of the proposed development and the total GFA of No.2 Solent Circuit, the proposed development will generate approximately 55% and 57% of the traffic in Inglewood Place during morning and afternoon peak hour respectively, if other developments along that road are discounted.

4. *Three roundabout options were prepared by the Applicant's Traffic Consultant. Option 1 showed a centrally located island of 16m diameter which required land acquisition on both the proposed site as well as substantial acquisition on the Hillsong Church site. This option would reduce the DCP setback to No. 8 Solent Cct up to a maximum of approximately 4m.*
5. *Option 2 showed a central island diameter of 16m which was offset so that land acquisition would be required on No. 2 Solent Circuit but with the majority of land acquisition on the proposed site. This option would have an even greater impact on the DCP setback.*
6. *Option 3 showed a reduced central island of 14m diameter, centrally located in the intersection, and which required land acquisition on the proposed site as well as the Hillsong Church site. It would also provide almost no deflection for southbound traffic on Solent Cct.*

If the Applicant pursues a roundabout option that requires land acquisition they would need to provide written confirmation from the owner of the affected site that they agree to the acquisition as per the roundabout plans shown, and provided evidence to Council that the acquisition arrangements are in place.

The applicant would need to provide independent certification from a registered civil engineer, with appropriate skills and experience that all roundabout designs comply with Austroads design requirements. The roundabout design would have to be endorsed by Council's Local Traffic Committee and approved by Council in accordance with its delegation from TfNSW.

Provided Option 1 complies with all of the above, it would be the Traffic Section's preferred option.

TREE MANAGEMENT COMMENTS

The application was referred to Council's Landscape Assessment Officer. No objections were raised to the proposal, subject to conditions of consent if consent was granted to the application.

HEALTH & ENVIRONMENTAL PROTECTION COMMENTS

The application was referred to Council's Environmental Health Officer. No objections were raised to the proposal, subject to conditions of consent if consent was granted to the application.

RESOURCE AND RECOVERY COMMENTS

The application was referred to Council's Resource and Recovery Section. No objections were raised to the proposal, subject to conditions of consent if consent was granted to the application.

FORWARD PLANNING COMMENTS

The application was referred to Council's Forward Planning Team for Section 7.12 and Land and Spatial Information comments. No objections were raised, subject to conditions.

CONCLUSION

The Development Application has been assessed under the relevant head of consideration under Section 4.15 of the Environmental Planning and Assessment Act, 1979, The Hills Local Environmental Plan 2019, State Environmental Planning Policy (Infrastructure) 2007, The Hills Development Control Plan 2012 and is considered unsatisfactory.

The proposal will result in a development that exceeds the traffic generation rates for the road network capacity for the Norwest Precinct at the intersection of Solent Circuit and Inglewood Place. An upgrade and provision of traffic improvements at this intersection has yet to be resolved. The uncertainty of future land acquisition for the upgrade required at this intersection and consequential impacts upon the design of the corner element of the development has not been satisfactorily addressed. Whilst concept roundabout design options were submitted by the Applicant, inadequate arrangements have been made to make that road infrastructure available when it is required.

The Development Application is recommended for refusal.

IMPACTS:

Financial

This matter may have a direct financial impact upon Council's adopted budget as refusal of this matter may result in Council having to defend a Class 1 Appeal in the NSW Land and Environment Court.

The Hills Future - Community Strategic Plan

The proposed development is inconsistent with the planning principles, vision and objectives outlined within "Hills 2026 – Looking Towards the Future" as the proposed development does not provide for balanced urban growth as the provision for efficient and safe transport infrastructure required to accommodate the development has not been resolved.

RECOMMENDATION

The Development Application be refused as follows:

1. The proposal is not in the public interest as the development would result in the failure of an existing intersection at Solent Circuit and Inglewood Place and no provision has been made for improvement works to be undertaken. Whilst concept roundabout design options were submitted by the Applicant, inadequate arrangements have been made to make that road infrastructure available when it is required.

(Section 4.15(1)(e) of the Environmental Planning and Assessment Act, 1979).

2. The proposal has not satisfactorily addressed the potential for traffic safety and road congestion of the traffic generating development and does not satisfy Clause 104 (3) of SEPP (Infrastructure) 2007.

(Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act, 1979).

3. The proposal is contrary to the aims of The Hills Local Environmental Plan 2019 as the development does not result in balanced urban growth as the provision for efficient and safe transport infrastructure required to accommodate the development has not been resolved.

(Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act, 1979).

4. The proposal is contrary to the provisions of The Hills Local Environmental Plan 2019 in regards to Clause 7.7 (4) Design Excellence. The proposal does not meet the provisions under as subclause (f)(x) which requires the development to address the impact on, and any proposed improvements to, the public domain.

(Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act, 1979).

5. The proposal does not provide the required front setbacks under The Hills DCP Part B Section 6 – Business and further land acquisition for the upgrade works required for the intersection at Solent Circuit/Inglewood Place would further reduce the front setbacks proposed.

(Section 4.15(1)(a)(iii) of the Environmental Planning and Assessment Act, 1979).

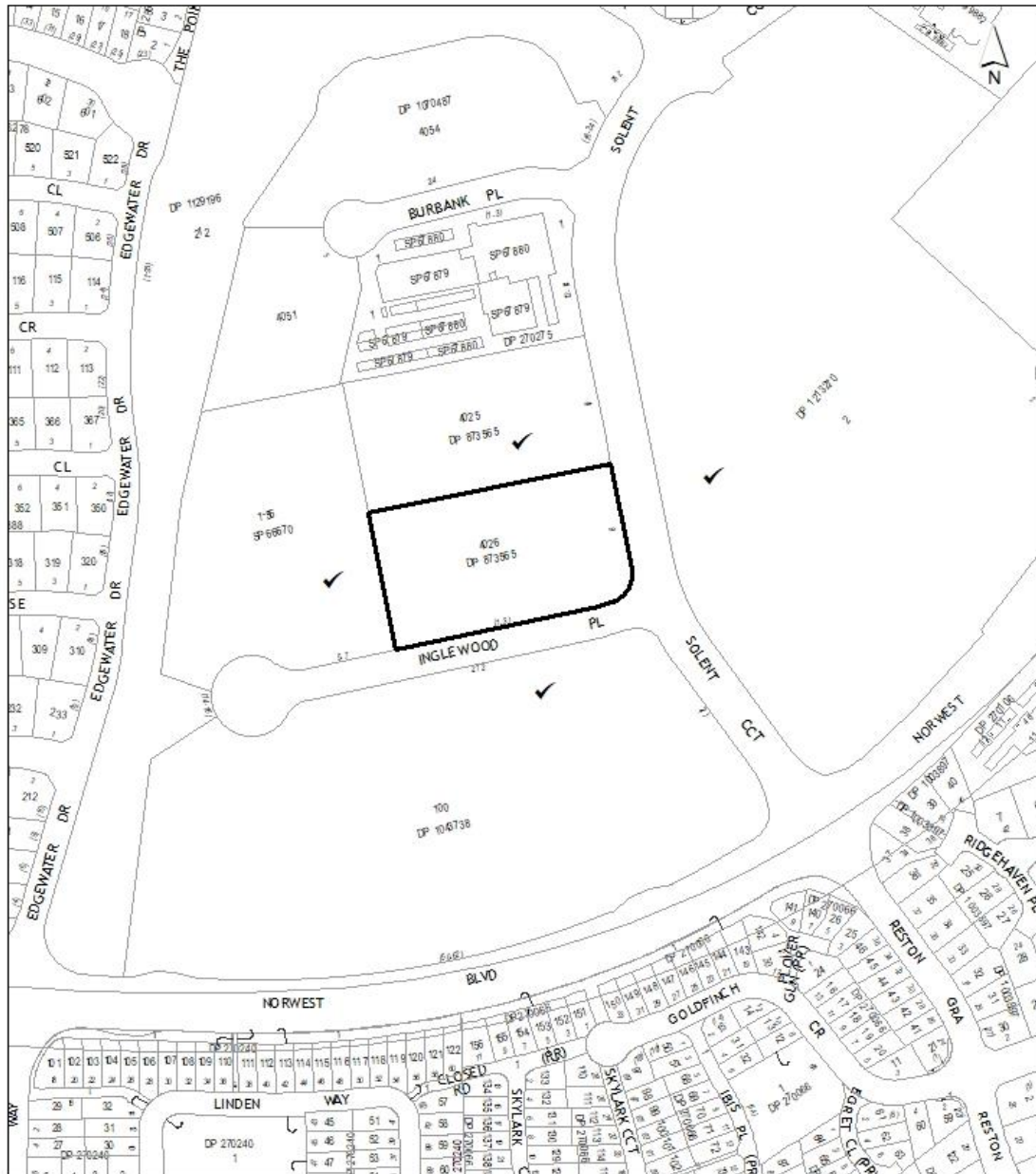
6. The proposal is not in the public interest as a result of its departure from the requirements under The Hills LEP 2019, SEPP (Infrastructure) 2007, The Hills DCP 2012 and submissions received from Transport for NSW.

(Section 4.15(1)(d) and (e) of the Environmental Planning and Assessment Act, 1979).

ATTACHMENTS

1. Locality Plan
2. Aerial Photograph
3. LEP Zoning Map
4. LEP Height of Buildings Map
5. LEP Floor Space Ratio Map
6. Site Plan
7. Staging Plan
8. Floor Plans
9. Elevations
10. Landscape Plans
11. Perspective
12. Voluntary Planning Agreement
13. Council Resolution and Report regarding Review of Voluntary Planning Agreement
14. Transport for NSW comments
15. Traffic Report
16. Design Excellence Panel Minutes
17. Applicant's proposed roundabout options at Solent Circuit/Inglewood Place

ATTACHMENT 1 – LOCALITY PLAN



- ☐ SUBJECT SITE
- ✓ PROPERTIES NOTIFIED

THE HILLS
Sydney's Garden Shire

THE HILLS SHIRE COUNCIL

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

ATTACHMENT 2 – AERIAL MAP



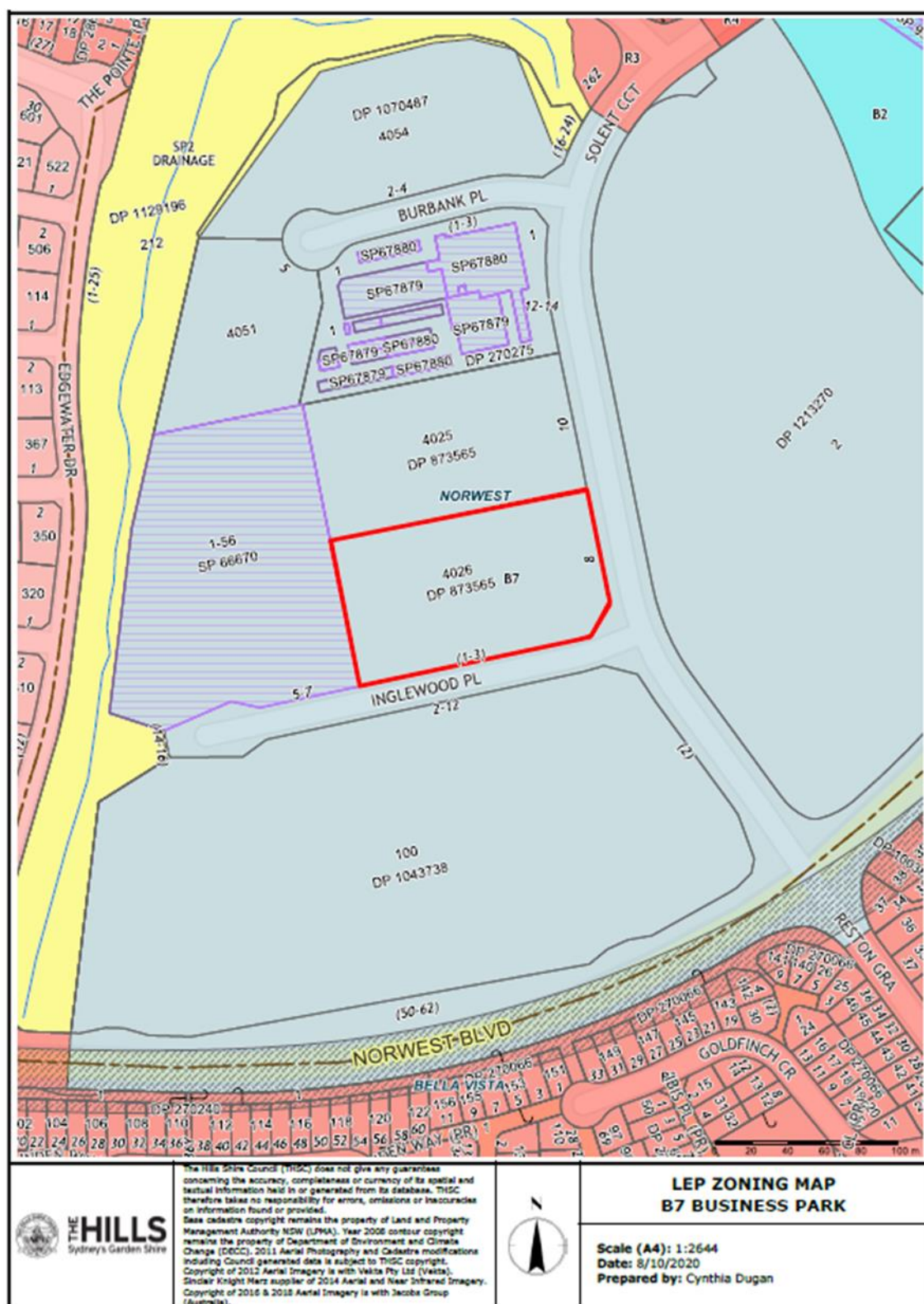
 SUBJECT SITE

THE HILLS
Sydney's Garden Shire

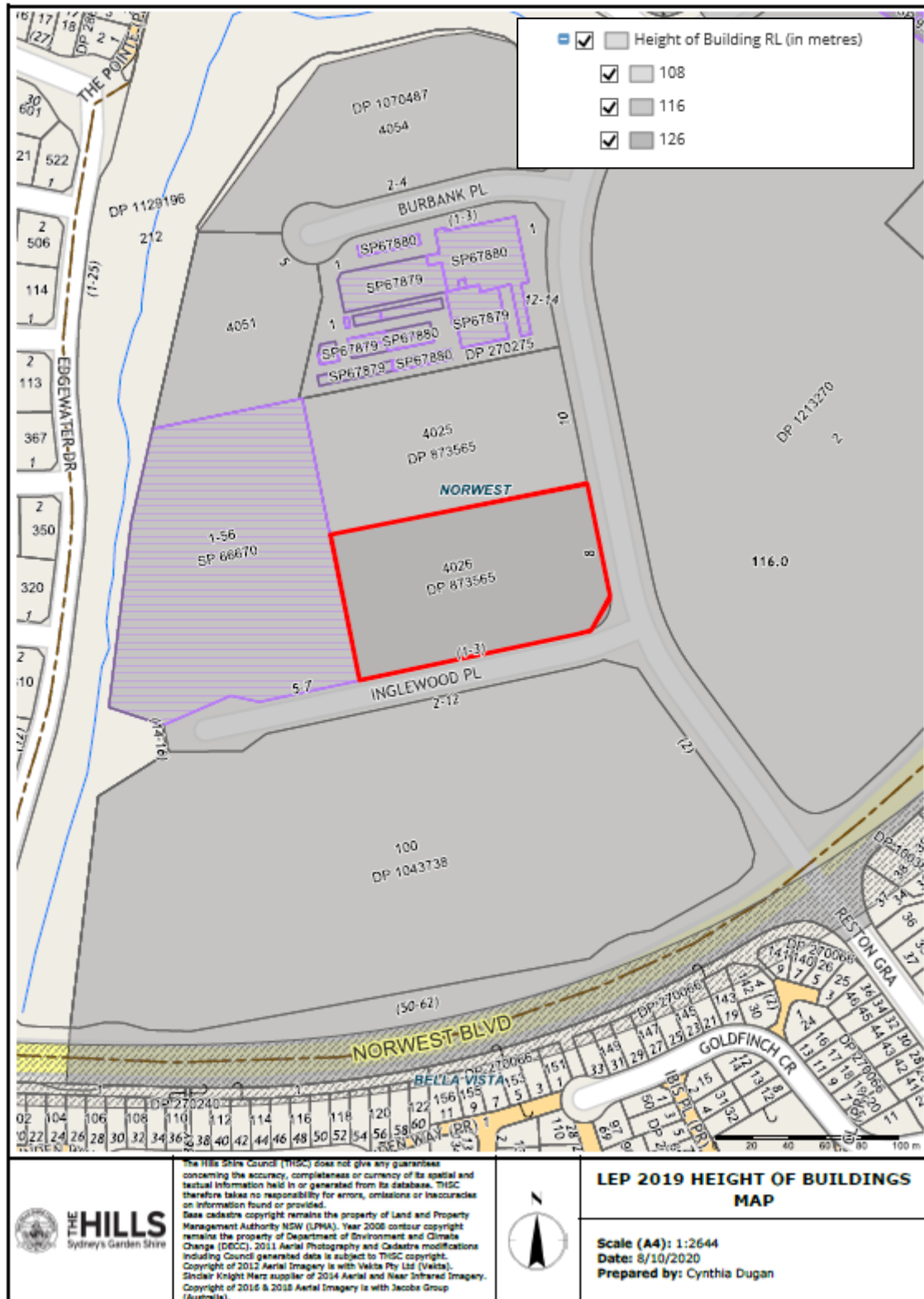
THE HILLS SHIRE COUNCIL

THE HILLS SHIRE COUNCIL DOES NOT GIVE ANY GUARANTEES CONCERNING THE ACCURACY, COMPLETENESS OR CURRENCY OF THE TEXTUAL INFORMATION HELD IN OR GENERATED FROM ITS DATABASE
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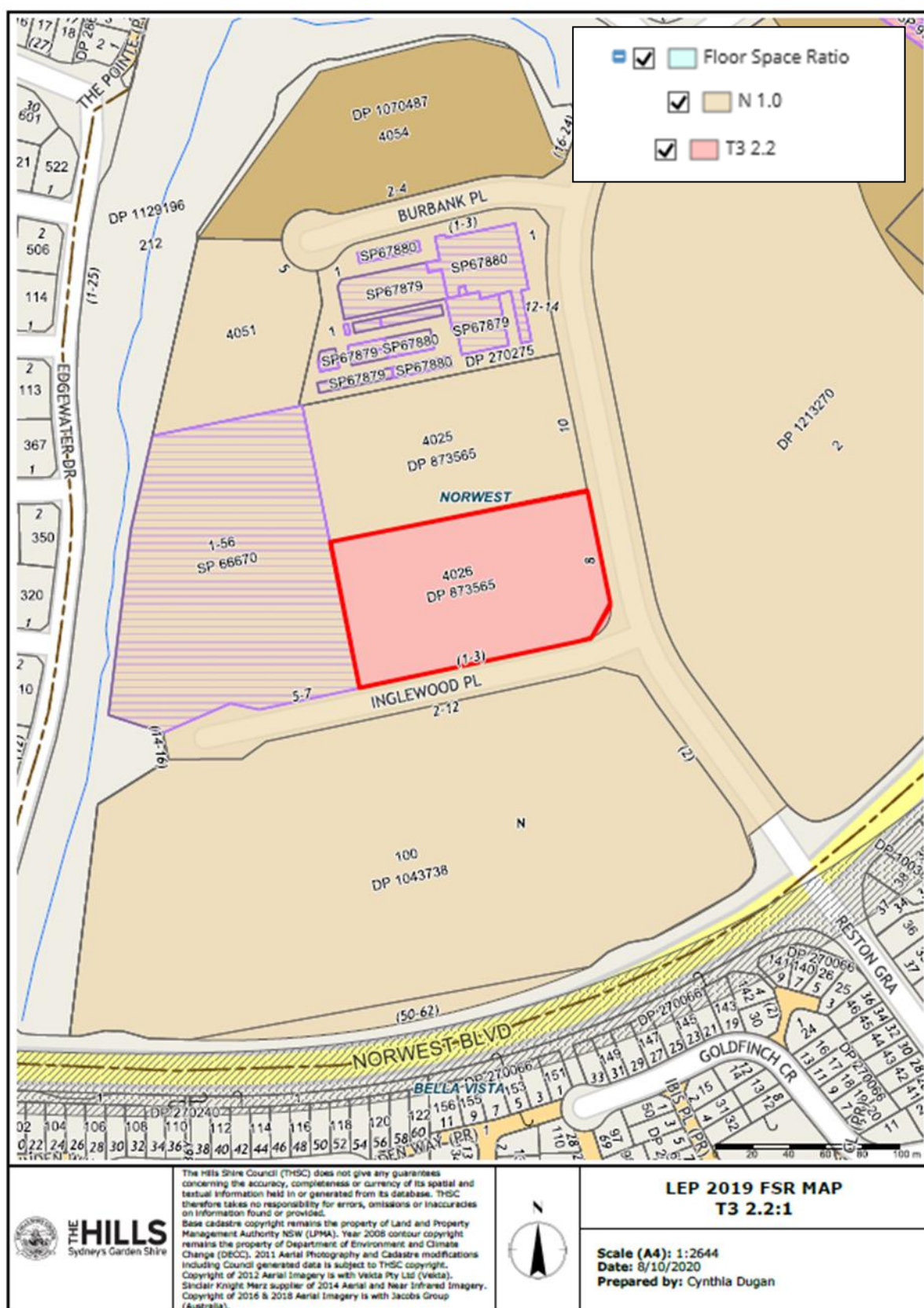
ATTACHMENT 3 – LEP 2019 ZONING MAP



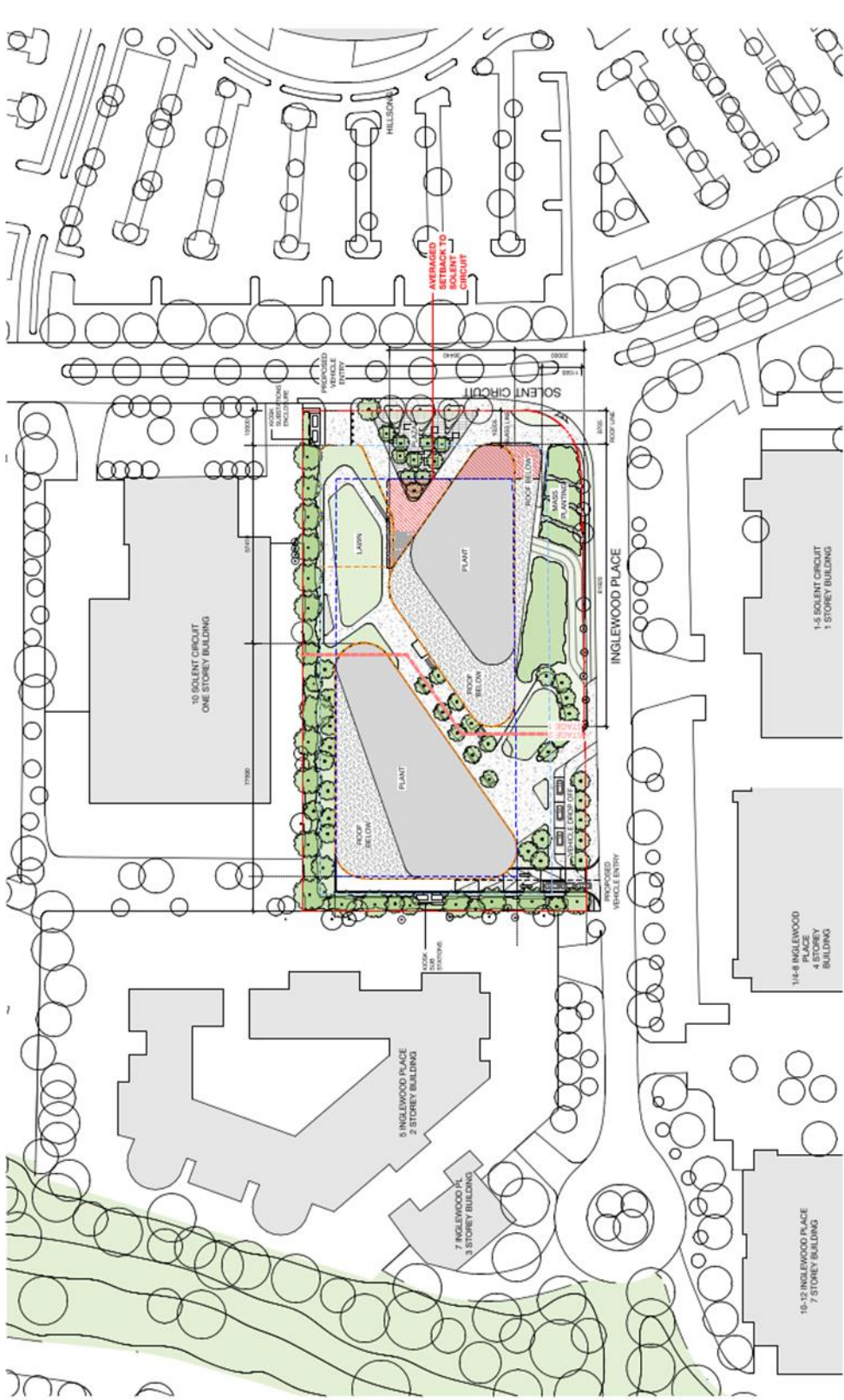
ATTACHMENT 4 – LEP 2019 HEIGHT OF BUILDINGS MAP



ATTACHMENT 5 – LEP 2019 FSR MAP



ATTACHMENT 6 – SITE PLAN



8 Solent Circuit
Norwest

Site Proposal Plan

DA.01.00 B

Site Coverage Extent

DCP Setbacks

STAGE	1	2	TOTAL
PARKING SPACES	478	419	898
GFA	11,749	14,101	25,850

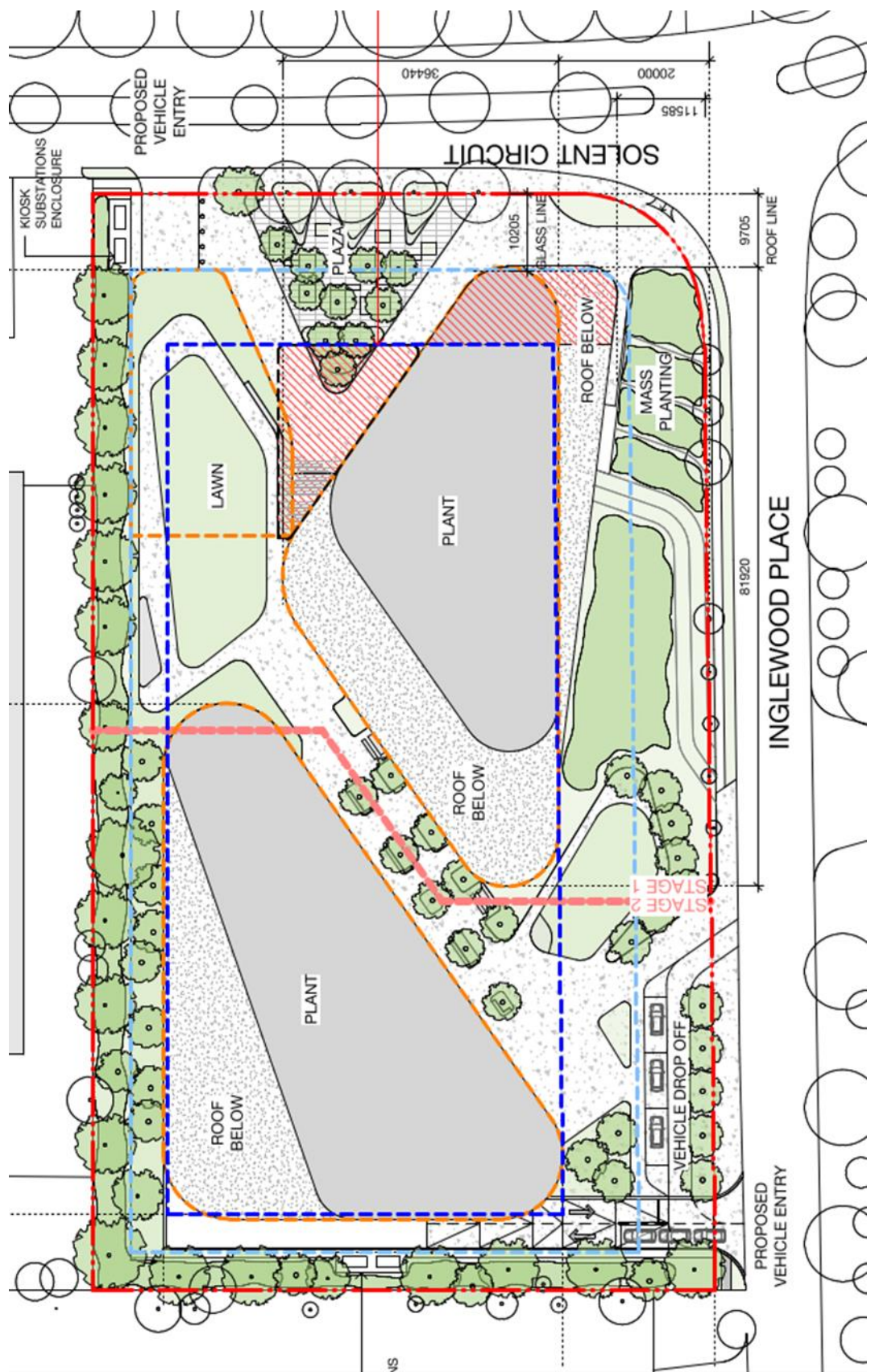
Site Area	11,750
Permissible site coverage (50%)	5,875
Current site coverage (43%)	5,048

EXISTING TREE TO BE RETAINED

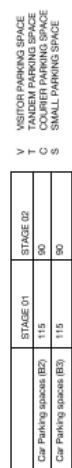
PROPOSED TREE, REFER LANDSCAPE PACKAGE

BATESSMART.

ATTACHMENT 7 – STAGING PLAN



BATESSMMART.



Basement 2
Stage 01

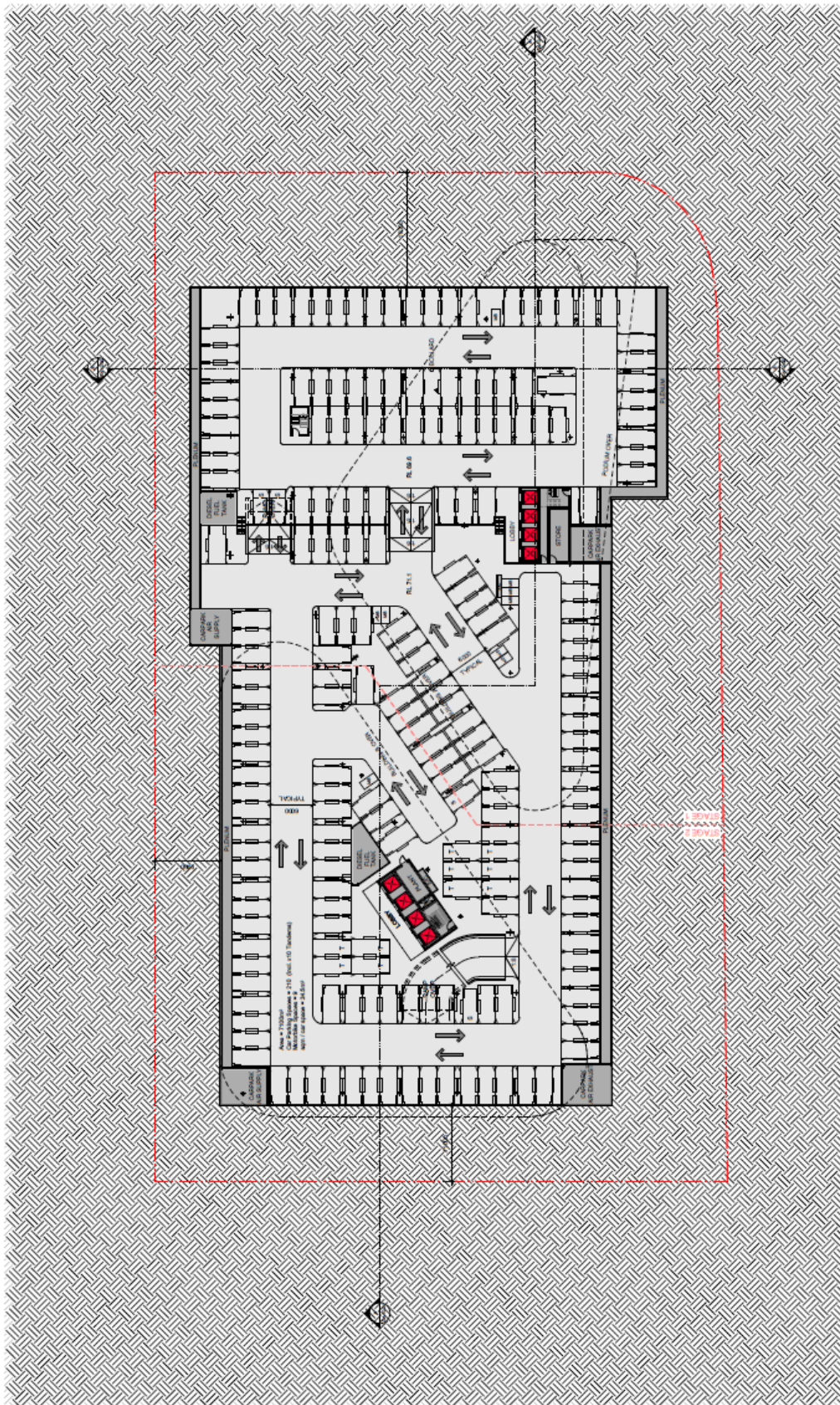
Grade	1 + 200	0.45
Station	29	Checked
		80
Report No.	615294	
Title	Development Application	
For	101 1000	
	Exclusion Code 00	
Map		
Drawn By	Reviewed	
DA.03.B2.S1 A		

Sydney 43 Brisbane Street
Burry Hills NSW 2211 Australia
T 02 8354 8180 P 02 8354 0100
email appliedcalculus@net.com.au
MQ www.appliedcalculus.net.com.au

Melbourne 1 Nicholson Street
Melbourne VIC 3000 Australia
T 03 8664 6200 P 03 8664 6300
email appliedcalculus@net.com.au
MQ www.appliedcalculus.net.com.au

Brisbane Street Pty Ltd ABN 79 084 888 400

BATESSMART.

[illegible]





8 Solent Circuit Northwest

Lower Ground / Upper Basement Plan

DA.03.00 C

PROPOSED SITE

EXISTING TREE TO BE RETAINED

PROPOSED TREE (REFER LANDSCAPE PACKAGE)

10M LANDSCAPE SETBACK

20M DCP BUILDING SETBACK

EXISTING BRICK FOOTPATH TO BE RETAINED/MATCHED

EXPOSED AGGREGATE CONCRETE FINISH, IN-SITU OR PAVING

V VISITOR PARKING SPACE

C COURIER PARKING SPACE

S SMALL PARKING SPACE

STAGE 01 STAGE 02

Car Parking spaces 31 96

STAGE 01 STAGE 02

31 96

LEGEND

EXISTING TREE TO BE RETAINED

PROPOSED TREE (REFER LANDSCAPE PACKAGE)

STAGE 01 STAGE 02

31 96

PROPOSED SITE

EXISTING TREE TO BE RETAINED

PROPOSED TREE (REFER LANDSCAPE PACKAGE)

10M LANDSCAPE SETBACK

20M DCP BUILDING SETBACK

EXISTING BRICK FOOTPATH TO BE RETAINED/MATCHED

EXPOSED AGGREGATE CONCRETE FINISH, IN-SITU OR PAVING

V VISITOR PARKING SPACE

C COURIER PARKING SPACE

S SMALL PARKING SPACE

STAGE 01 STAGE 02

31 96

STAGE 01 STAGE 02

31 96

PROPOSED SITE

EXISTING TREE TO BE RETAINED

PROPOSED TREE (REFER LANDSCAPE PACKAGE)

10M LANDSCAPE SETBACK

20M DCP BUILDING SETBACK

EXISTING BRICK FOOTPATH TO BE RETAINED/MATCHED

EXPOSED AGGREGATE CONCRETE FINISH, IN-SITU OR PAVING

V VISITOR PARKING SPACE

C COURIER PARKING SPACE

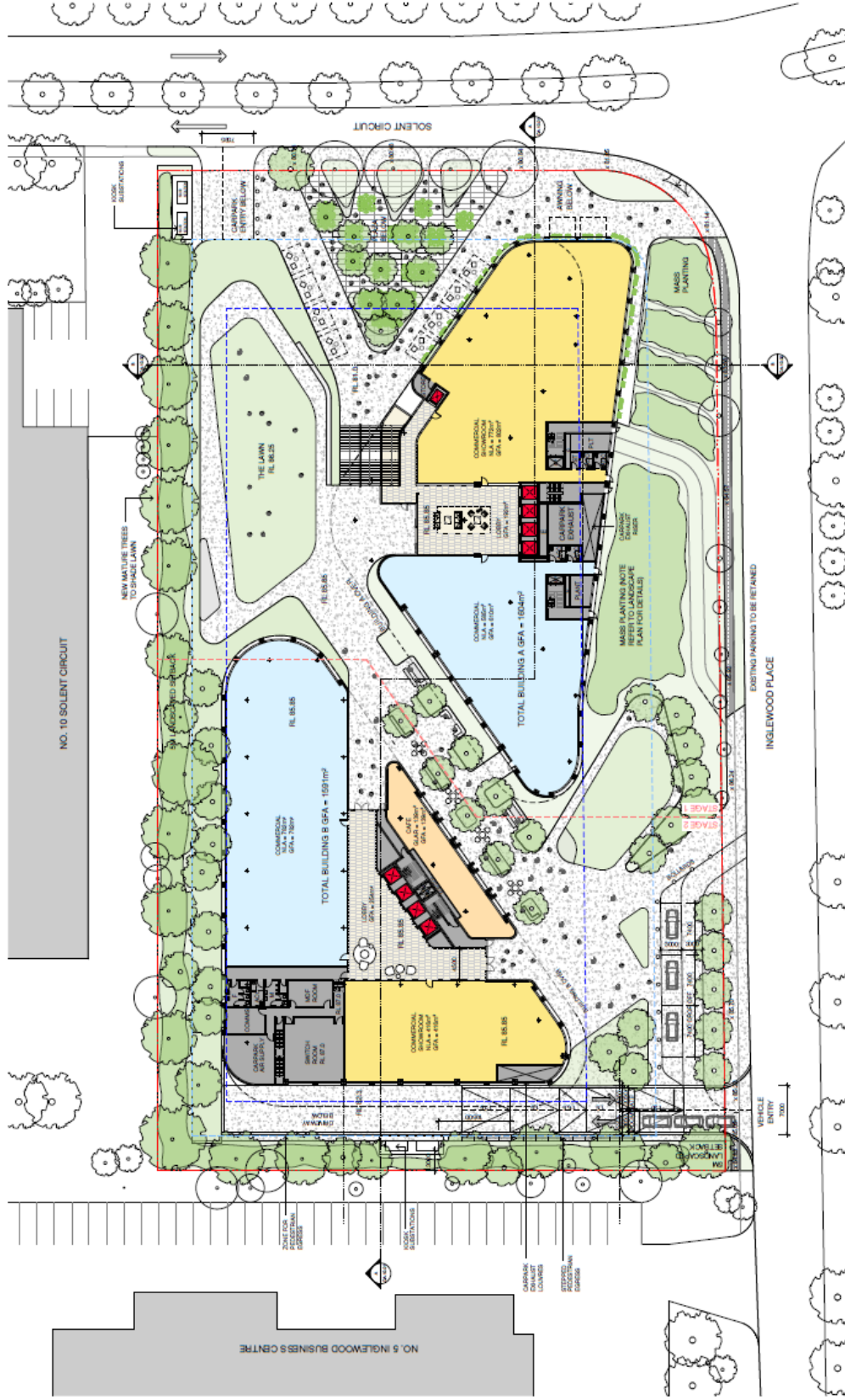
S SMALL PARKING SPACE

STAGE 01 STAGE 02

31 96

STAGE 01 STAGE 02

31 96



8 Solent Circuit Northwest

Ground Floor Plan

Scale: 1:1000

North Arrow

DATE: 15/03/2024

PROJECT: 8 Solent Circuit Northwest

CLIENT: BATESSMART

DESIGNER: BATESSMART

PROJECT NO: DA.03.01

REVISION: B

LEGEND

- PROPOSED SITE
- EXISTING TREE TO BE RETAINED
- PROPOSED TREE, SEEER LANDSCAPE PACKAGE
- 10M LANDSCAPE SETBACK
- 20M DCP BUILDING SETBACK
- EXISTING BRICK FOOTPATH TO BE RETAINED/MATCHED
- EXPOSED AGGREGATE
- CONCRETE FINISH, IN-SITU OR PAVING
- VISITOR PARKING SPACE
- COURIER PARKING SPACE
- SMALL PARKING SPACE

NOTES

1. ALL NEW PLANTING TO BE INSTALLED BY 15/03/2024.

2. ALL EXISTING TREES TO BE RETAINED AND MAINTAINED.

3. ALL NEW PLANTING TO BE INSTALLED BY 15/03/2024.

4. ALL EXISTING TREES TO BE RETAINED AND MAINTAINED.

5. ALL NEW PLANTING TO BE INSTALLED BY 15/03/2024.

6. ALL EXISTING TREES TO BE RETAINED AND MAINTAINED.

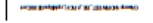
7. ALL NEW PLANTING TO BE INSTALLED BY 15/03/2024.

8. ALL EXISTING TREES TO BE RETAINED AND MAINTAINED.

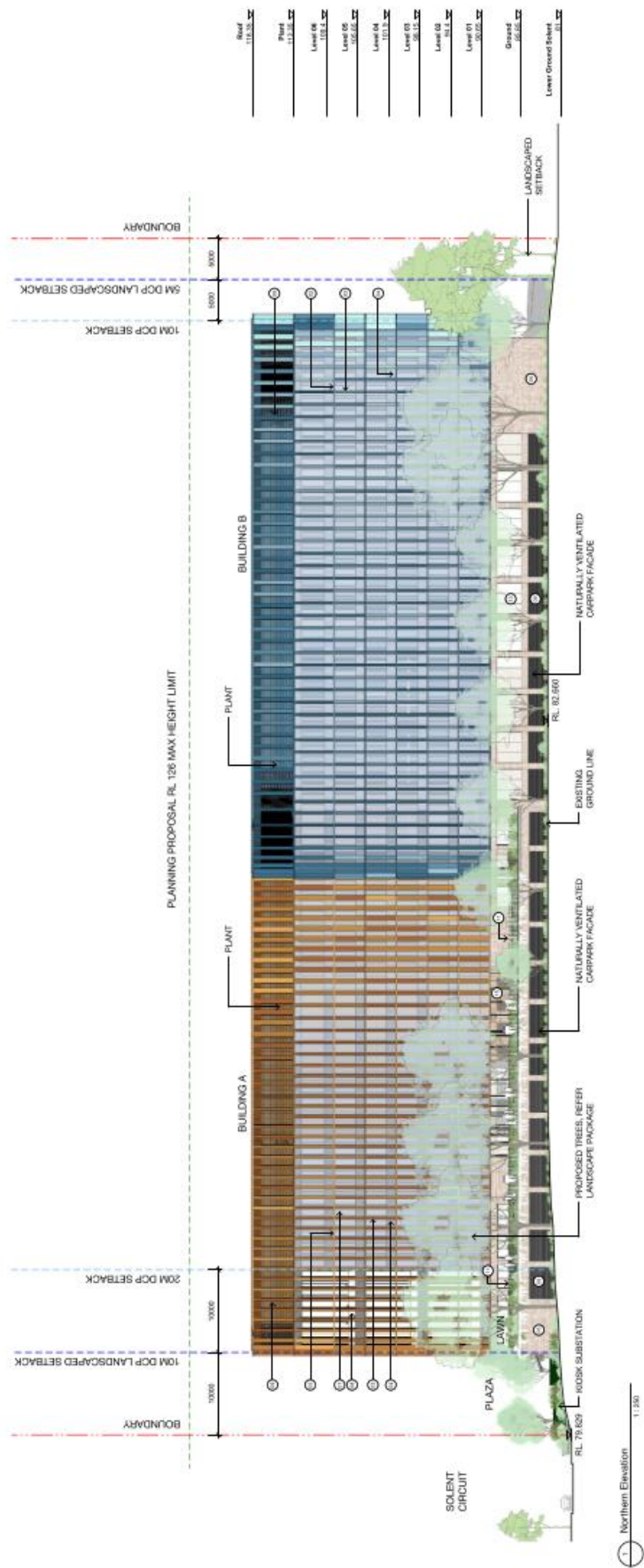
9. ALL NEW PLANTING TO BE INSTALLED BY 15/03/2024.

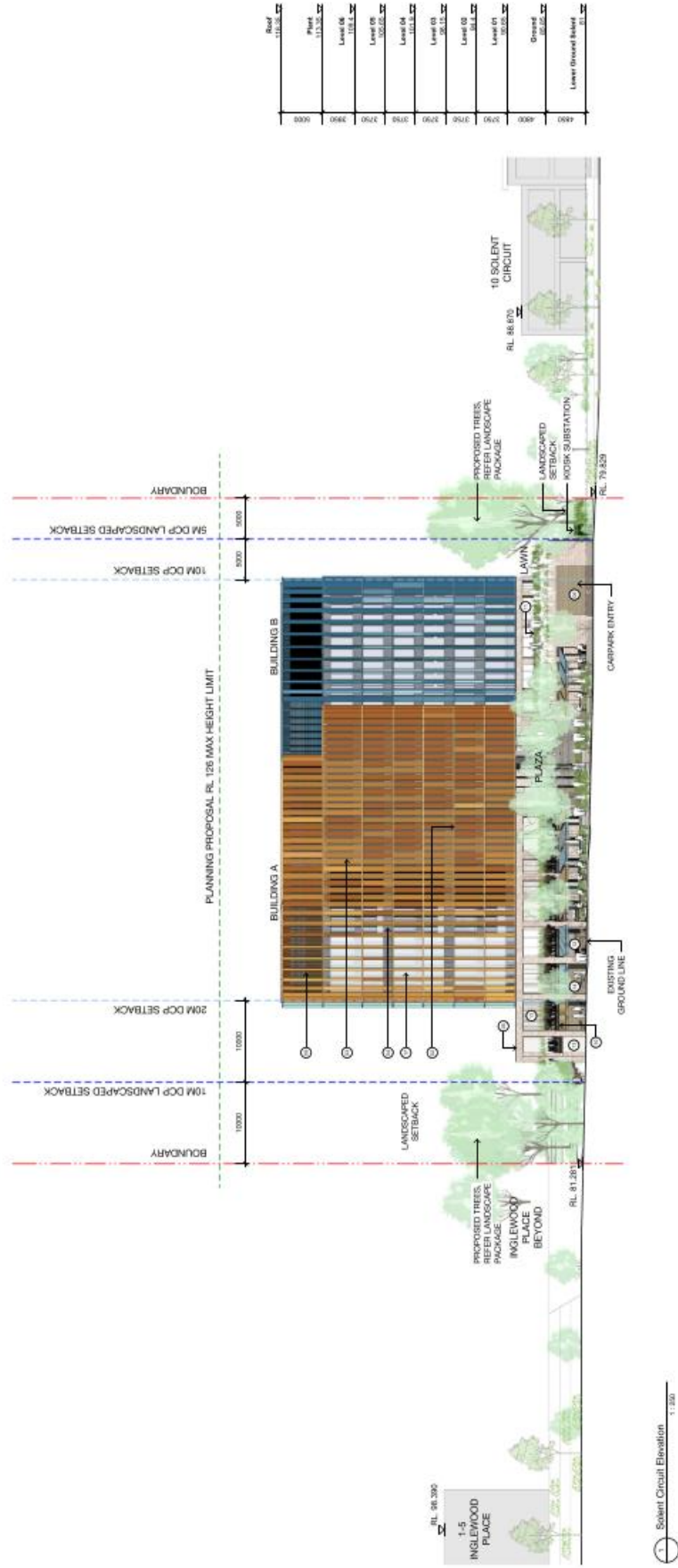
10. ALL EXISTING TREES TO BE RETAINED AND MAINTAINED.





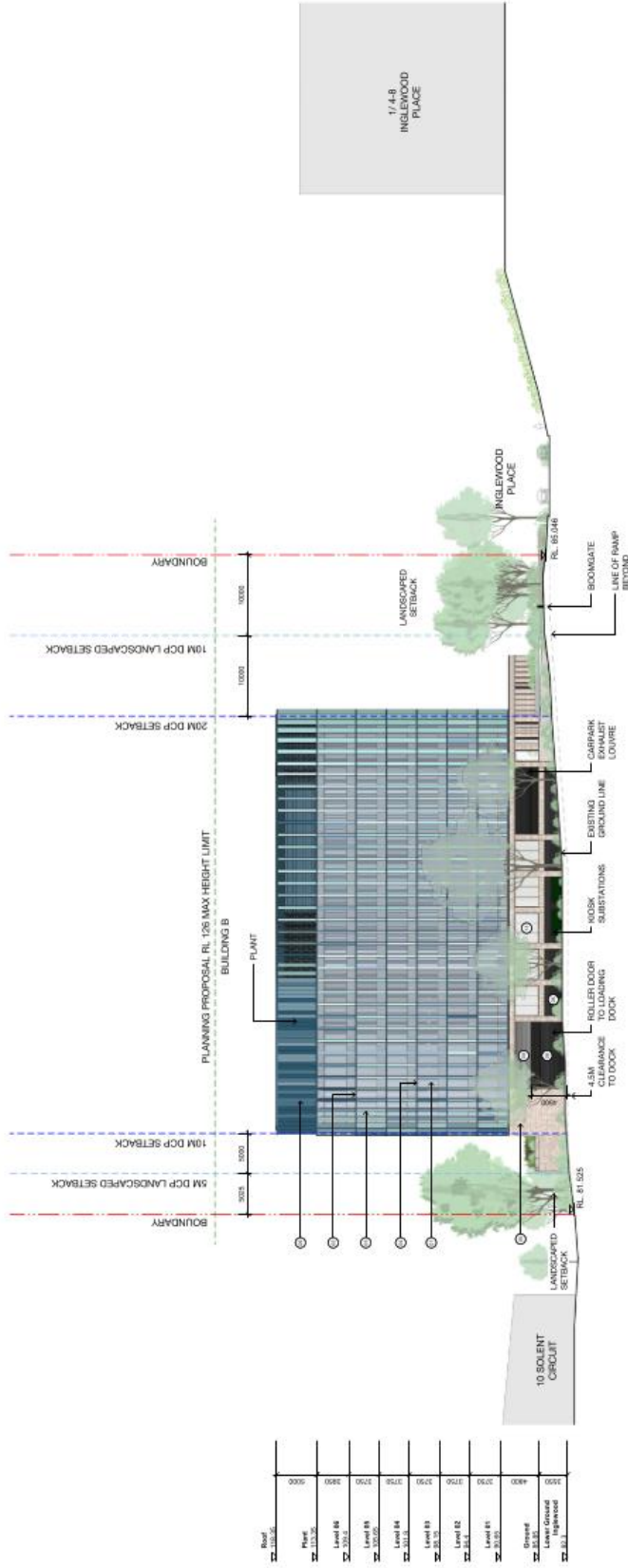






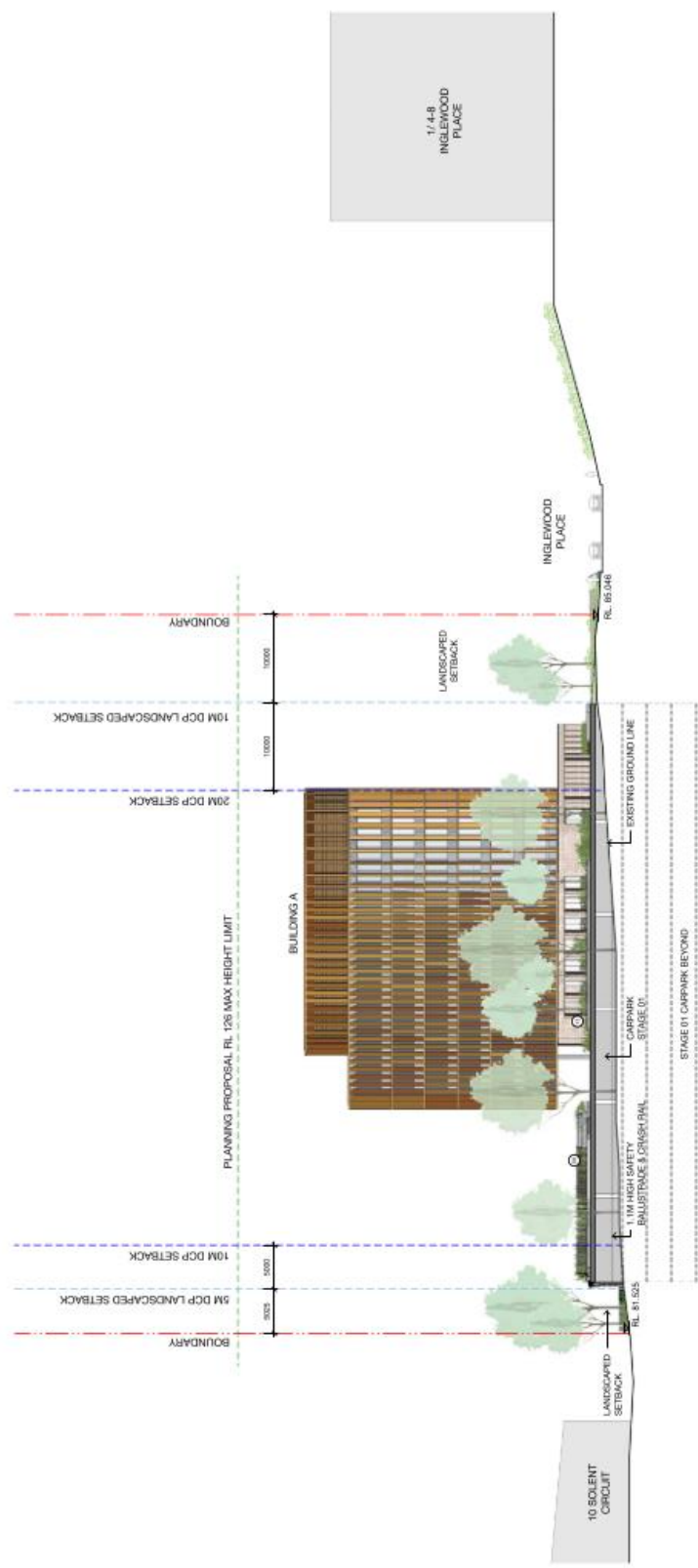
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Level 05	125.00
Level 04	124.00
Level 03	123.00
Level 02	122.00
Level 01	121.00
Ground	120.00
Level Ground Below	119.00

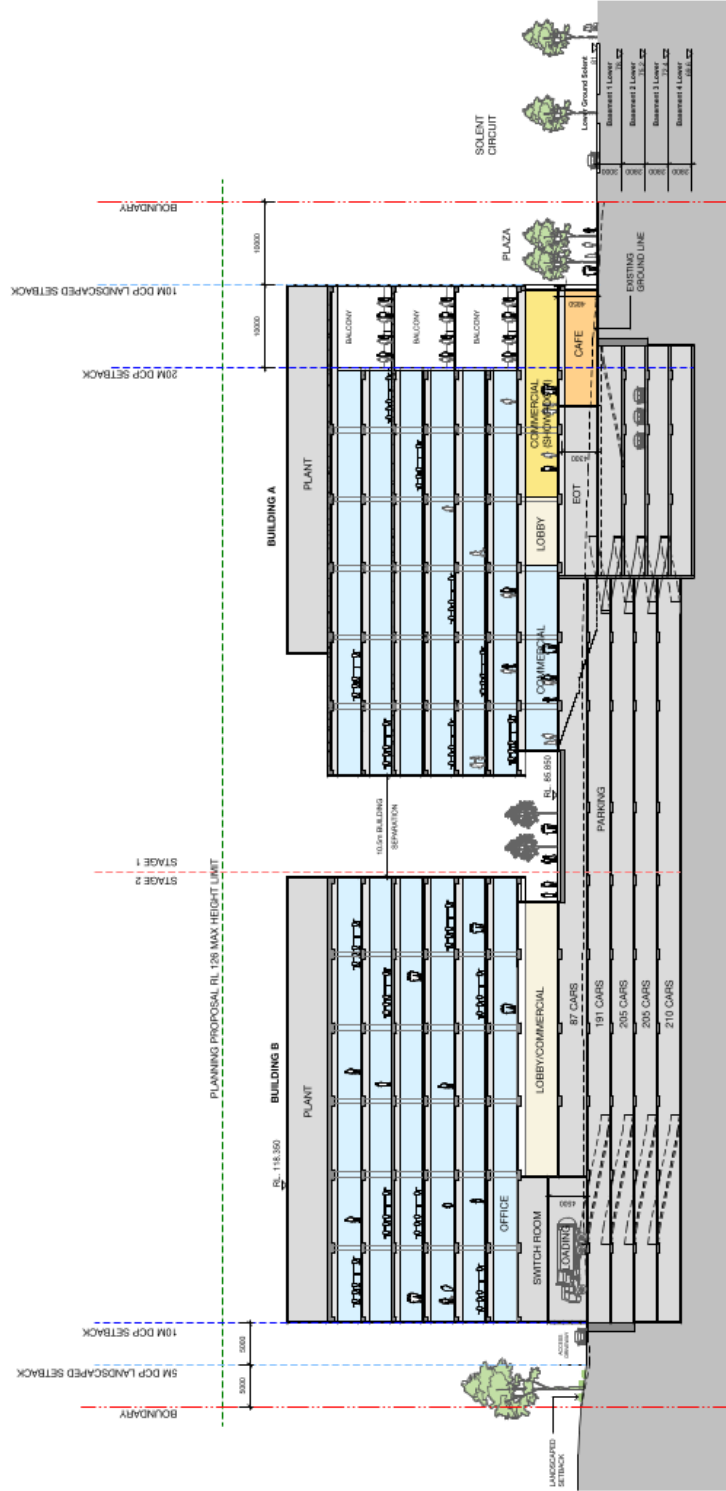
Solent Circuit Elevation
 1:250



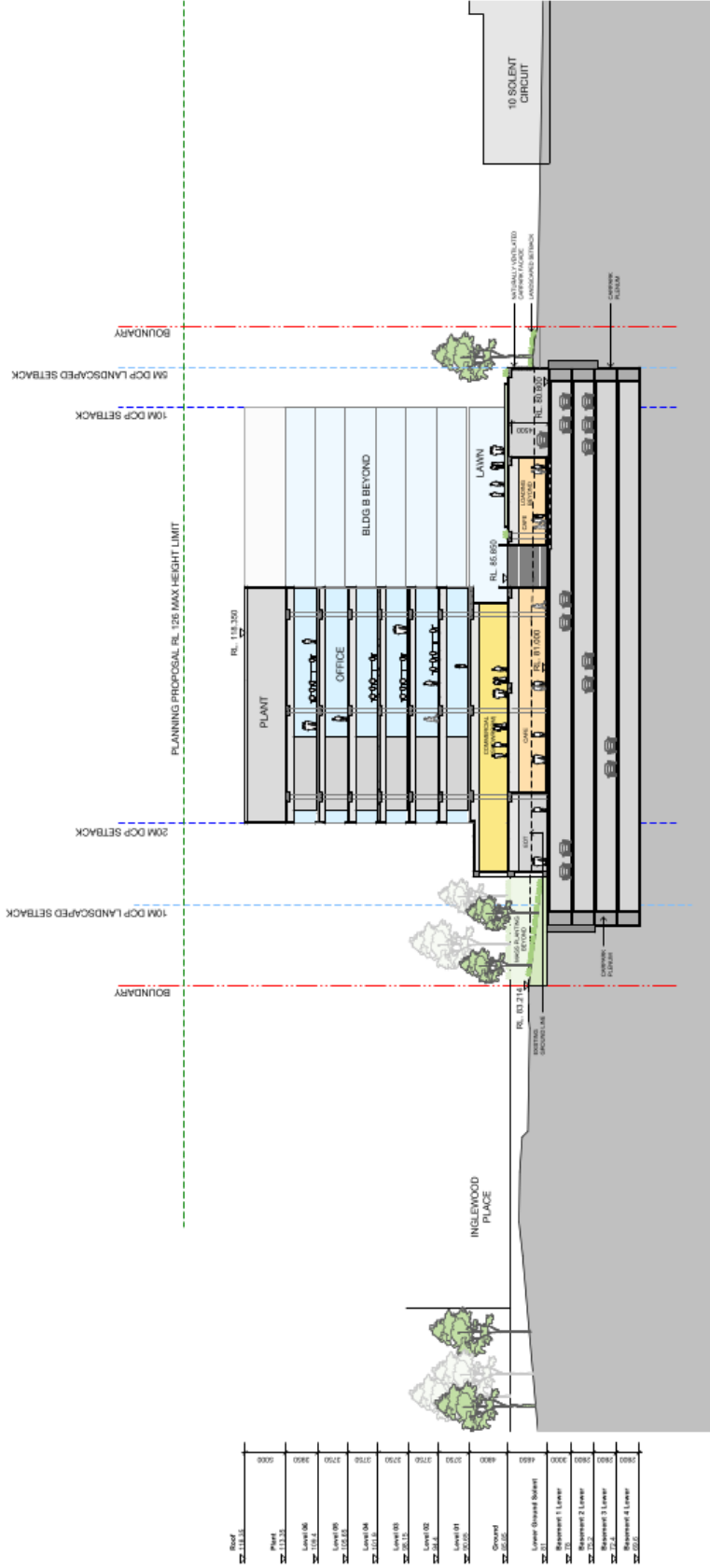
100.00	
Plant	5000
Level 86	3000
Level 89	3750
Level 88	3750
Level 87	3750
Level 86	3750
Level 85	3750
Level 84	3750
Level 83	3750
Level 82	3750
Level 81	3750
Ground	4000
Lower Ground	3500
Upper Ground	3500

Road	100.00
Plane	100.00
Level 48	100.00
Level 49	100.00
Level 50	100.00
Level 51	100.00
Level 52	100.00
Level 53	100.00
Level 54	100.00
Level 55	100.00
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Level 99	100.00
Level 100	100.00



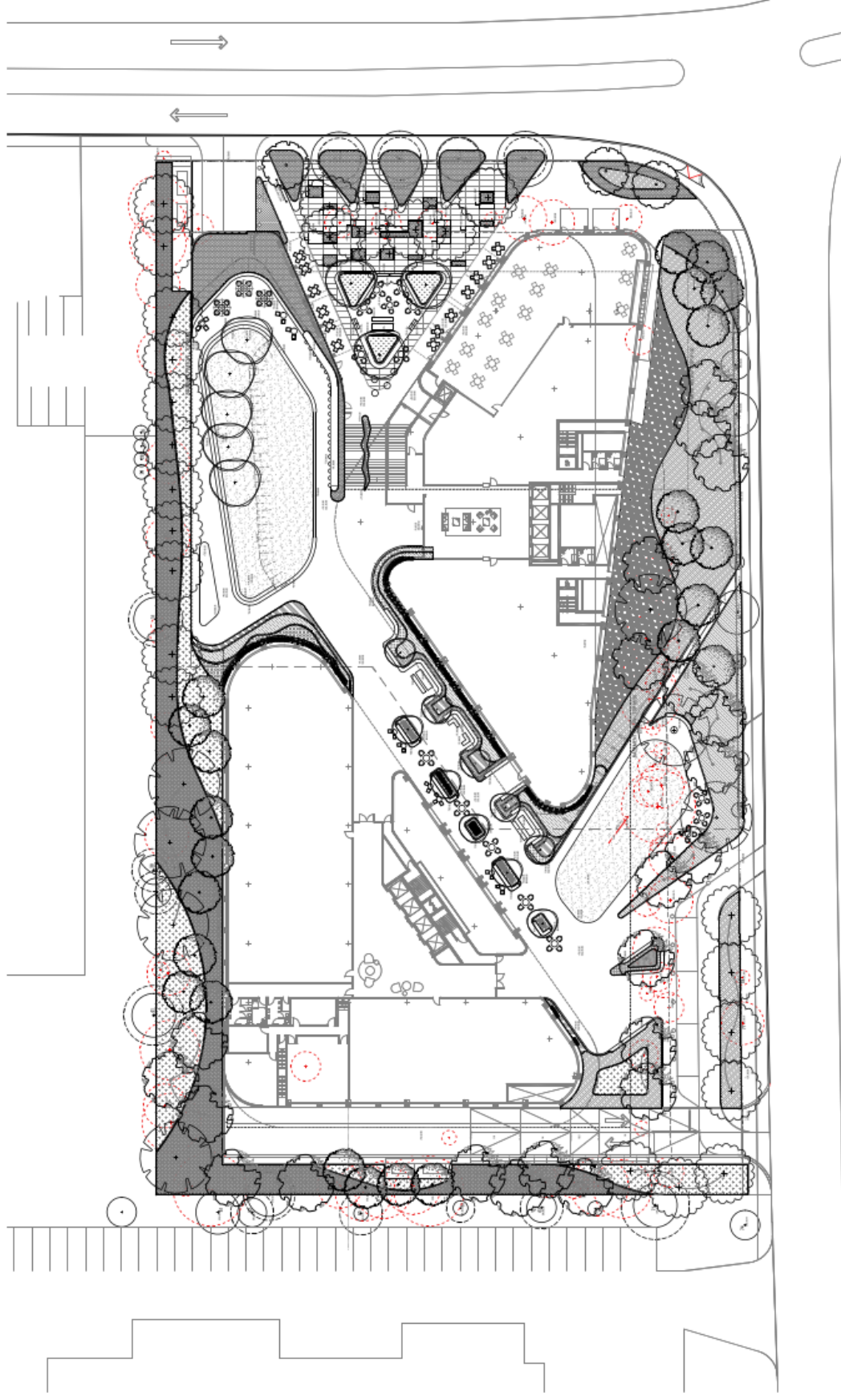


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Level 85	5000
Level 84	5000
Level 83	5000
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Level -99	5000
Level -100	5000



ATTACHMENT 10 – LANDSCAPE PLAN





ATTACHMENT 11 – PERSPECTIVES



8 Solent Circuit
Norwest

Solent Circuit Perspective

This perspective rendering is a conceptual illustration of the proposed development. It is not intended to represent a final design or construction. The rendering is provided for informational purposes only and should not be used for any other purpose.

Date	05/21
Sheet	201
Project	DA.23.01
Client	BATES SMART
Design	Development Application
Scale	1:100
Author	DA.23.01
Check	A

BATES SMART
Bates Smart Pty Ltd ABN 75 620 088 402



8 Solent Circuit
Norwest

Ingliswood Place Perspective

This perspective rendering is a conceptual illustration of the proposed development. It is not intended to represent a final design or construction. The rendering is provided for informational purposes only and should not be used for any other purpose.

Date	05/21
Sheet	201
Project	DA.23.02
Client	BATES SMART
Design	Development Application
Scale	1:100
Author	DA.23.02
Check	A

BATES SMART
Bates Smart Pty Ltd ABN 75 620 088 402



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8 Solent Circuit Norwest

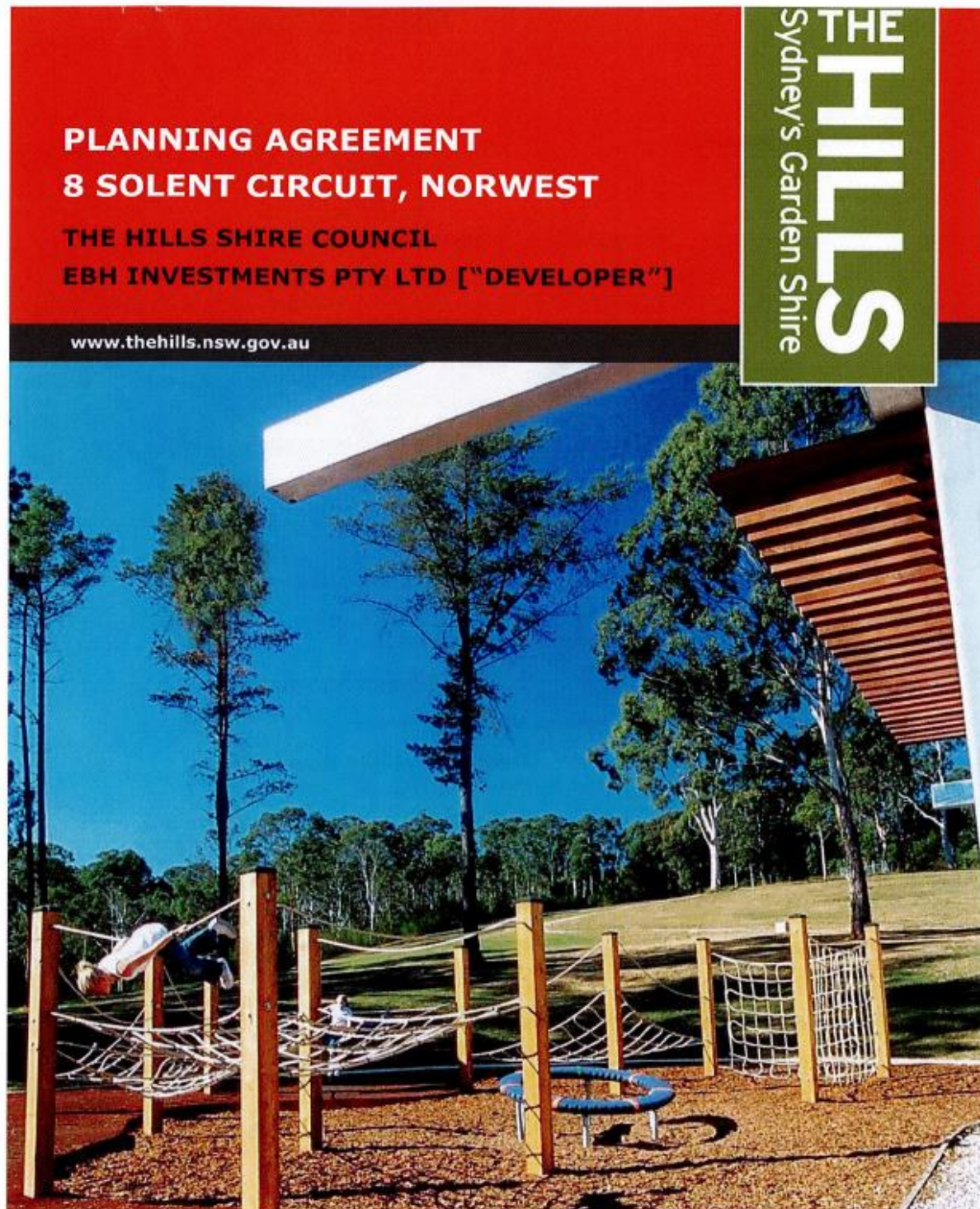
Solent / Inglewood Intersection
Perspective

This architectural rendering is a conceptual illustration of the proposed development. It is not a guarantee of the final design or construction. The rendering is provided for informational purposes only and should not be used for any other purpose. Bates Smart Pty Ltd. reserves the right to modify or update the rendering at any time without notice.

Drawn	DA
Check	DA
Scale	1:100
Project	8 Solent Circuit
Site	8 Solent Circuit
DA	DA.23.03
Sheet	A

Bates Smart Pty Ltd
100/100 Solent Circuit
Norwest NSW 2156
T: 02 9231 1234
E: info@bates-smart.com.au
W: www.bates-smart.com.au

BATESSMART



The Hills Shire Council

May 2019

3 Columbia Court, Norwest NSW 2153
PO Box 7064, Norwest BC 2153 Phone (02) 9843 0555

8604165_1

**Planning Agreement
Summary Sheet**

Council	Name	The Hills Shire Council
	Address	3 Columbia Court Norwest, NSW 2153
	Telephone	(02) 9843 0555
	Facsimile	(02) 9843 0258
	Email	council@thehills.nsw.gov.au
	Representative	Mr Michael Edgar – General Manager
Developer	Name	EBH Investments Pty Limited (ABN 44 619 483 573)
	Address	Level 3, 22 Brookhollow Ave Norwest, NSW 2153
	Telephone	02 8860 9292
	Email	mupton@edenbraehomes.com.au
	Representative	Michael Upton
Land	Lot 4026 in Deposited Plan 873565 known as 8 Solent Circuit, Norwest.	
Instrument Change	The amendment of The Hills Local Environmental Plan 2012, as it relates to the Land, to increase the maximum floor space ratio from 1:1 to 2:2:1 and increase the permissible maximum building height from RL116 metres (approximately 8 storeys) to RL126 metres (up to 10 storeys).	
Planning Proposal	Planning Proposal (11/2018/PLP).	
Monetary Contribution	See Schedule 1,	
Security Amount	Nil.	

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3.	Application of this document.....	4
4.	No restriction on Council's Powers.....	4
5.	Operation of this Agreement.....	5
6.	Monetary Contributions.....	5
7.	Road Infrastructure	6
8.	Application of s7.11 and s7.12 of the EPAA.....	6
9.	Modifications.....	6
10.	Termination.....	6
11.	Consequences.....	7
12.	Private Certifiers	7
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Planning Agreement

Dated

Parties

The Hills Shire Council ABN 25 034 494 656 of 3 Columbia Court, Norwest, NSW 2153
(Council)

EBH Investments Pty Limited ABN 44 619 483 573 of Level 3, 22 Brookhollow Avenue, Norwest, NSW 2153.

Background

- A. Council is the consent authority pursuant to the *Environmental Planning and Assessment Act 1979* (NSW) (**Act**) for the Proposed Development.
- B. The Developer is the registered proprietor of the Land.
- C. Through lodgement of the Planning Proposal, the Developer has made an application to the Council for the Instrument Change so as to enable an application to be made to the Council for Development Consent.
- D. The Developer acknowledges that if the Development Consent is granted and the Proposed Development carried out it is likely to increase the demand for the provision of infrastructure improvements in the Precinct and its vicinity.
- E. As a consequence of the matters set out above, the Developer has offered to provide the Development Contributions on, and subject to, the terms set out in this Agreement if the Instrument Change occurs.

Operative provisions

1. Defined meanings

Words used in this document and the rules of interpretation that apply are set out and explained in the definitions and interpretation clause at the back of this Agreement.

2. Planning agreement under the Act

The Parties agree that this document is a planning agreement within the meaning of **subdivision 2, Division 7** of the Act.

3. Application of this document

This document is made in respect of the Proposed Development and applies to the Land.

4. No restriction on Council's Powers

This Agreement or anything done under this Agreement:

- (a) is not to be taken as approval or consent by Council as a regulatory authority; and

- (b) does not in any way inhibit, deter or prejudice Council in the proper exercise of its functions, duties or powers,

pursuant to any legislation including the Act, the *Roads Act 1993* (NSW) and the *Local Government Act 1993* (NSW).

5. Operation of this Agreement

- 5.1 Subject to clause 5.2, this Agreement operates from the date it is executed by both parties.
- 5.2 The following clauses of this Agreement will only operate if and when Council grants the Development Consent: Clauses 6 and 7.

6. Monetary Contributions

6.1 Payment

The Developer must pay the Monetary Contribution as varied in accordance with clause 6.2 to Council by the time specified in Schedule 1. Payment of the Total Monetary Contribution may be made by cheque or electronic bank transfer to Council's nominated bank account.

6.2 Annual Increases

- (a) On 30 June each year ("the Review Date") each of the Monetary Contributions specified in Schedule 1 will be varied in accordance with the formula below.

$$\text{IMC} = \$600,000 \times \frac{B}{A}$$

Where:

IMC represents the Monetary Contribution to be paid by the Developer during the period of one year immediately following the relevant Review Date

B represents the Producer Price Index Number ("Number") for the June quarter in the year immediately preceding the date when the relevant Monetary Contribution specified in Schedule 1 is paid to the Council

A represents the Number for the June 2018 quarter

- (b) In the event that the Producer Price Index is discounted or abolished the Council may at its absolute discretion nominate another index to determine any inflationary impact upon the value of the Monetary Contributions since June 2018.
- (c) If the reference base for the Producer Price Index is changed, regard shall be had only in terms of the new reference base or to index numbers converted to the new reference base in accordance with an arithmetical conversion factor specified by the Australian Statistician.

6.3 Public Purpose

The Monetary Contribution is to be applied by Council towards the public purpose specified in Schedule 1.

7. Road Infrastructure

The Developer, at its cost, agrees to provide all road infrastructure required to be provided under, and in accordance with, the Development Consent.

8. Application of s7.11 and s7.12 of the EPAA

- 8.1 For the purpose of section 7.4(5) this document excludes the operation of sections 7.11 and section 7.12 to the Proposed Development except to the extent set out in clause 8.2 below.
- 8.2 Nothing in this document excludes the Council from imposing a condition of Development Consent with respect to the Proposed Development under s7.11 which requires the Developer to dedicate land within the Site for the purpose of road infrastructure.
- 8.3 Further to clause 8.2, the parties acknowledge and agree that nothing in this document prohibits the Council in any way from imposing a condition in a Development Consent in accordance with s4.17(1)(f) of the Act for the Proposed Development which requires the Developer, at its expense, to provide road infrastructure identified by the RMS or by Council.

9. Modifications

- 9.1 In the event that the Proposed Development is changed, modified or amended prior to completion of the development, and a further development or modification application is made for the development of the Land, then any Development Contribution made pursuant to this Agreement shall, to the extent that it is lawful:
 - (a) be taken into account as part of any development contribution for the purpose of any planning agreement relating to a later application in respect of the Land; and
 - (b) be taken into account in determining any development contribution under section 7.11 and s7.12 of the Act; and
 - (c) be taken into account in determining whether or not any planning agreement excludes the operation of section 7.11 and/or section 7.12 of the Act; and
 - (d) be taken into account for the purposes of section 7.11(6) of the Act; and
 - (e) be taken into account for the purposes of section 4.15 of the Act.

10. Termination

10.1 Development Consents

If Development Consent is granted by the Council with respect to the Development Application(s), this document terminates with respect to that particular Development Consent:

- (a) on the lapse of the Development Consent; or

- (b) on the formal surrender of the Development Consent; or
- (c) on the final determination by a Court of competent jurisdiction issuing a declaration that the Development Consent is invalid.

10.1 Bankruptcy & Insolvency

This Agreement will immediately terminate if:

- (a) Any company officer of the Developer becomes subject of bankruptcy proceedings or becomes a bankrupt.
- (b) The Developer becomes subject of external administration or insolvency proceedings.

11. Consequences

- 11.1 On the date of termination or rescission of this document, subject to the following sub-paragraphs each party releases each other from any obligation to perform any term, or any liability arising out of, this document after the date termination.
- 11.2 Any unapplied Monetary Contribution, bond or Bank Guarantee that has been provided to Council will be refunded to the Developer as soon as practicable after the date of termination.
- 11.3 Termination or rescission of this document does not release either party from any obligation or liability arising under this document before termination or rescission.

12. Private Certifiers

Where Council is not the certifying authority for any aspect of the Proposed Development the Developer must on the appointment of a private certifier provide a copy of this Agreement to the private certifier.

13. Notices

- 13.1 Any notice to or by a party under this document must be in writing and signed by the sender or, if a corporate party, an authorised officer of the sender.
- 13.2 Any notice may be served by delivery in person or by post or transmission by facsimile to the address or number of the recipient specified in the Summary Sheet or most recently notified by the recipient to the sender.
- 13.3 Any notice is effective for the purposes of this document upon delivery to the recipient or production to the sender of a facsimile transmittal confirmation report before 4.00pm local time on a day in the place in or to which the written notice is delivered or sent or otherwise at 9.00am on the next day following delivery or receipt.

14. Breach Notice and Rectification

- 14.1 If the Developer is, in the opinion of Council, in breach of a material obligation under this document, Council may provide written notice of the breach to the Developer and require rectification of that breach within a reasonable period of time (**Breach Notice**).

14.2 Unless there are compelling reasons to extend or abridge the period of time permitted for rectification, a reasonable period of time is taken to be twenty eight days from receipt of written notification of the breach.

14.3 If the breach is not rectified within the time specified in the Breach Notice, or otherwise agreed between the Parties, Council may rectify the breach as the agent of the Developer and at the risk of the Developer. The Developer must pay all reasonable costs incurred by the Council in remedying the breach.

15. Dispute resolution

15.1 Disputes

If there is any dispute, difference of opinion or failure to agree relating to or arising from this document that dispute must be referred for determination under this clause.

15.2 No legal proceedings

The Parties must not bring or maintain any action on any Dispute (except for urgent injunctive relief to keep a particular position) until it has been referred and determined as provided in this clause.

15.3 Notice of disputes (Dispute Notice)

A Party referring a Dispute for determination must do so by written notice to the other parties which must specify the nature of the Dispute and a nominated officer of the referring party with sufficient authority to determine the Dispute.

15.4 Negotiated resolution and selection of expert

(a) On service of the Dispute Notice the receiving Parties must refer the Dispute to an officer with sufficient authority to determine the Dispute. The nominated officers of each Party must meet at least once and use reasonable endeavours to resolve the Dispute by negotiation within seven days of service of the Dispute Notice. Any resolution must be recorded in writing and signed by each nominated officer. By agreement, the nominated officers may employ the services of a mediator to assist them in resolving the Dispute.

(b) If the nominated officers are unable to resolve the Dispute within seven days of service of the Dispute Notice they must endeavour within the following seven-day period to appoint an expert by agreement. That appointment must be recorded in writing and signed by each nominated officer.

(c) If the nominated officers do not record the appointment of an expert within that second seven day period, the expert must be appointed, at the request of any party, by the President for the time being (or if none, the senior elected member) of the Law Society of New South Wales.

15.5 Assistance to the Expert (the Expert)

(a) Once the Expert has been appointed (the Expert), the Parties must:

- (i) each use their best endeavours to make available to the Expert all information the Expert requires to settle or determine the Dispute; and
- (ii) ensure that their employees, agents or consultants are available to appear at any hearing or enquiry called by the Expert.

- (b) The Parties may give written submissions to the Expert but must provide copies to the other Parties at the same time.

15.6 Expert's decision

- (a) The decision of the Expert must:
 - (i) be in writing and give reasons; and
 - (ii) be made and delivered to the parties within one month from the date of submission of the dispute to the Expert or the date of completion of the last hearing or enquiry called by the Expert, if later.
- (b) The Expert may conduct the determination of the Dispute in any way it considers appropriate but the Expert may, at its discretion, have regard to the Australian Commercial Disputes Centre's guidelines for expert determination of disputes or such other guidelines as it considers appropriate.
- (c) The Expert's decision is final and binding on the parties.
- (d) The Expert must act as an expert and not as an arbitrator.

15.7 Expert's costs

- (a) The Expert must also determine how the expenses relating to the reference of the Dispute (including the Expert's remuneration) should be apportioned between the parties and in default of a decision by the Expert those expenses must be borne by the parties equally.
- (b) In determining the apportionment of costs the Expert may have regard to what the Expert, in its reasonable opinion, considers to be a lack of good faith or a failure to use reasonable endeavours by any party in assisting the Expert or resolving the dispute between the parties' nominated officers as required by this clause.

15.8 Continual performance

Each Party must continue to perform its obligations under this document while any dispute is being determined under this clause.

16. Registration of document on Title

16.1 Acknowledgement

The Developer acknowledges that Council requires registration of this document under section 7.6 of the Act on the Lands and on registration by the Registrar-General the document will be binding on and enforceable against the owners of the Lands from time to time as if each owner for the time being had entered into this document. The Developer must assume carriage of such registration, subject to the provisions of this Clause 16.

16.2 Consents to Registration

This document must be registered on the title of the Land as soon as practicable after it is made. Each Party must promptly execute any document and perform any action necessary to affect the registration of this document on the title of the Land.

16.3 Release from Registration

Council will within five (5) business days of receiving a written request from the Developer, release part of the Land from registration of this document where the Development Contributions have been made including completion of the Works and no other money is owing to Council under this document. The obligations of the Council are satisfied when Council provides the Developer with a signed Request in registrable form for the release of registration of this document.

16.4 Registration Expenses

The Developer must pay all expenses including registration fees, any stamp duty, legal costs and disbursements, for the registration of this document and the subsequent removal of registration, on an indemnity basis.

The Developer will be entitled to the benefit of any special or discounted rates charged to Council by its consultants and legal advisers and will be entitled to seek assessment of any legal costs, as a third party payer under s 350(2) of the *Legal Profession Act 2004* (NSW).

17. Costs

17.1 The Developer is to pay to the Council the Council's costs associated with the negotiation, preparation, exhibition, legal review, execution and registration of this Agreement within 7 days of a written demand by the Council for such payment.

17.2 Each Party must bear its own costs arising from or in connection with the entry into this Agreement.

18. GST

If any payment made by one party to any other party under or relating to this document constitutes consideration for a taxable supply for the purposes of GST or any similar tax, the amount to be paid for the supply will be increased so that the net amount retained by the supplier after payment of that GST is the same as if the supplier was not liable to pay GST in respect of that supply. This provision is subject to any other agreement regarding the payment of GST on specific supplies, and includes payments for supplies relating to the breach or termination of, and indemnities arising from, this document.

19. General

19.1 Assignment

- (a) A party must not transfer any right or liability under this document without the prior consent of each other party, except where this document provides otherwise.
- (b) In the event that the Developer enters into a contract for the sale of the Land the subject of the Development Consent, the Developer (as vendor) shall disclose to the purchaser the existence of this Agreement.

19.2 Governing law and jurisdiction

- (a) This document is governed by and construed under the law in the State of New South Wales.

- (b) Any legal action in relation to this document against any party or its property may be brought in any court of competent jurisdiction in the State of New South Wales.
- (c) Each party by execution of this document irrevocably, generally and unconditionally submits to the non-exclusive jurisdiction of any court specified in this provision in relation to both itself and its property.

19.3 Amendments

Any amendment to this document has no force or effect, unless effected by a document executed by the parties.

19.4 Third parties

This document confers rights only upon a person expressed to be a party, and not upon any other person.

19.5 Pre-contractual negotiation

This document:

- (a) expresses and incorporates the entire agreement between the parties in relation to its subject matter, and all the terms of that agreement; and
- (b) supersedes and excludes any prior or collateral negotiation, understanding, communication or agreement by or between the parties in relation to that subject matter or any term of that agreement.

19.6 Further assurance

Each party must execute any document and perform any action necessary to give full effect to this document, whether before or after performance of this document.

19.7 Continuing performance

- (a) The provisions of this document do not merge with any action performed or document executed by any party for the purposes of performance of this document.
- (b) Any representation in this document survives the execution of any document for the purposes of, and continues after, performance of this document.
- (c) Any indemnity agreed by any party under this document:
 - (i) constitutes a liability of that party separate and independent from any other liability of that party under this document or any other agreement; and
 - (ii) survives and continues after performance of this document.

19.8 Waivers

Any failure by any party to exercise any right under this document does not operate as a waiver and the single or partial exercise of any right by that party does not preclude any other or further exercise of that or any other right by that party.

19.9 Remedies

The rights of a party under this document are cumulative and not exclusive of any rights provided by law.

19.10 Counterparts

This document may be executed in any number of counterparts, all of which taken together are deemed to constitute one and the same document.

19.11 Party acting as trustee

If a party enters into this document as trustee of a trust, that party and its successors as trustee of the trust will be liable under this document in its own right and as trustee of the trust. Nothing releases the party from any liability in its personal capacity. The party warrants that at the date of this document:

- (a) all the powers and discretions conferred by the deed establishing the trust are capable of being validly exercised by the party as trustee and have not been varied or revoked and the trust is a valid and subsisting trust;
- (b) the party is the sole trustee of the trust and has full and unfettered power under the terms of the deed establishing the trust to enter into and be bound by this document on behalf of the trust and that this document is being executed and entered into as part of the due and proper administration of the trust and for the benefit of the beneficiaries of the trust;
- (c) no restriction on the party's right of indemnity out of or lien over the trust's assets exists or will be created or permitted to exist and that right will have priority over the right of the beneficiaries to the trust's assets.

19.12 Representations and warranties

The Parties represent and warrant that they have power to enter into this document and comply with their obligations under the document and that entry into this document will not result in the breach of any law.

19.13 Severability

If a clause or part of a clause of this document can be read in a way that makes it illegal, unenforceable or invalid, but can also be read in a way that makes it legal, enforceable and valid, it must be read in the latter way. If any clause or part of a clause is illegal, unenforceable or invalid, that clause or part is to be treated as removed from this document, but the rest of this document is not affected.

20. Definitions and interpretation

In this document unless the context otherwise requires:

Act means the *Environmental Planning and Assessment Act 1979* (NSW)

Bank Guarantee means a written guarantee without a time limit acceptable to Council issued by an Australian Bank.

Business Day means a day that is not a Saturday, Sunday, public holiday or bank holiday in New South Wales;

Construction Certificate has the same meaning as in the Act;

Development Application means the development application for the Development Consent.

Development Consent means a development consent for the Proposed Development.

Development Contributions means the Monetary Contribution.

Dispute Notice means written notice provided by a Party referring a dispute for determination, specifying the nature of the dispute and a nominated officer of the referring party with sufficient authority to determine the dispute.

Environment has the same meaning as set out in the Dictionary to the *Protection of the Environment Operations Act 1997* (NSW).

GST means any tax, levy, charge or impost implemented under the *A New Tax System (Goods and Services Tax) Act 1999* (Cth) (**GST Act**) or an Act of the Parliament of the Commonwealth of Australia substantially in the form of, or which has a similar effect to, the GST Act;

Monetary Contributions means the monetary development contribution required to be paid to the Council in accordance with this agreement and as specified in Schedule 1.

Occupation Certificate has the same meaning as in the Act;

Party means a party to this document, including their successors and assigns.

Precinct means:

- (a) upon the adoption of a Contributions Plan under the Act for the area within which the Land is located, the area to which that Plan applies and any area of land in the general vicinity of such area;
- (b) prior to the adoption of any Contributions Plan of the nature referred to in (a), the area known as the Norwest Business Park including all commercial, retail, business, residential, public and recreational areas thereof and any areas in the general vicinity of such area within which the Council proposes to provide public amenities and/or public services.

Producer Price Index means Producer Price Index Number 3101 – Road and bridge construction New South Wales published by the Australian Bureau of Statistics.

Proposed Development means the redevelopment of the Land, largely in accordance with the outcomes sought to be facilitated by the Planning Proposal.

Regulation means the *Environmental Planning and Assessment Regulation 2000* (NSW).

Security means a Bank Guarantee or bond in favour of the Council on terms satisfactory to the Council, or such other form of security as the Council may require in its absolute discretion.

Tower 1 means the first office building to be constructed as part of the Proposed Development to be undertaken.

Tower 2 means the second office building to be constructed as part of the Proposed Development to be undertaken.

20.2 Interpretation

In this document unless the context otherwise requires:

- (a) clause and subclause headings are for reference purposes only;
- (b) the singular includes the plural and vice versa;
- (c) words denoting any gender include all genders;
- (d) reference to a person includes any other entity recognised by law and vice versa;
- (e) where a word or phrase is defined its other grammatical forms have a corresponding meaning;
- (f) any reference to a party to this document includes its successors and permitted assigns;
- (g) any reference to a provision of an Act or Regulation is a reference to that provision as at the date of this document;
- (h) any reference to any agreement or document includes that agreement or document as amended at any time;
- (i) the use of the word **includes** or **including** is not to be taken as limiting the meaning of the words preceding it;
- (j) the expression **at any time** includes reference to past, present and future time and the performance of any action from time to time;
- (k) an agreement, representation or warranty on the part of two or more persons binds them jointly and severally;
- (l) an agreement, representation or warranty on the part of two or more persons is for the benefit of them jointly and severally;
- (m) reference to an exhibit, annexure, attachment or schedule is a reference to the corresponding exhibit, annexure, attachment or schedule in this document;
- (n) reference to a provision described, prefaced or qualified by the name, heading or caption of a clause, subclause, paragraph, schedule, item, annexure, exhibit or attachment in this document means a cross reference to that clause, subclause, paragraph, schedule, item, annexure, exhibit or attachment;
- (o) when a thing is required to be done or money required to be paid under this document on a day which is not a Business Day, the thing must be done and the money paid on the immediately following Business Day; and
- (p) reference to a statute includes all regulations and amendments to that statute and any statute passed in substitution for that statute or incorporating any of its provisions to the extent that they are incorporated.

Schedule 1 – Monetary Contributions

Public Purpose	Timing of Payment	Amount of payment
Public infrastructure improvements within the Precinct and in its vicinity.	Prior to the issue of a Construction Certificate in respect of Tower 1.	\$600,000.
Public infrastructure improvements within the Precinct and in its vicinity.	Prior to the issue of a Construction Certificate in respect of Tower 2.	\$600,000

Execution Page

Executed as an agreement

The common seal of **The Hills Shire Council** was affixed under a resolution passed by council on 9 APRIL 2019 in the presence of:




General Manager

MICHAEL EDWARDS
Print Name


Mayor

Michelle BYRNE
Print Name


Witness

NICHOLAS CARLTON
Print Name

Executed by the Developer in accordance with s127 of the *Corporations Act 2001* (Cth):


Secretary/Director
TODD SYMONS
Print name


Director
MICHAEL UPTON
Print name

ATTACHMENT 13 – COUNCIL RESOLUTION AND REPORT FOR REVIEW OF VOLUNTARY PLANNING AGREEMENT

MINUTES of the duly convened Ordinary Meeting of The Hills Shire Council held in the Council Chambers on 25 September 2018

4. The draft Voluntary Planning Agreement and the Draft Hills Development Control Plan Part D Section 19 – 55 Coonara Avenue as detailed in Attachments 4 and 5 be exhibited concurrently with the planning proposal.

Being a planning matter, the Mayor called for a division to record the votes on this matter

VOTING FOR THE MOTION

Clr R A Preston
Clr B L Collins OAM
Clr J Jackson
Clr E M Russo
Clr F P De Masi
Clr A N Haselden
Clr Dr P J Gangemi
Clr S P Uno

VOTING AGAINST THE MOTION

Mayor Dr M R Byrne
Clr R M Tracey
Clr M G Thomas
Clr A J Hay OAM
Clr R Jethi

10.08pm Councillor Tracey left the meeting and returned at 10.90pm during Item 6.

ITEM-6 REVISED VOLUNTARY PLANNING AGREEMENT OFFER - 8 SOLENT CIRCUIT, NORWEST (11/2018/PLP)

Proceedings in Brief

Todd Symons from Eden Brae Homes Investments (Applicant) addressed Council regarding this matter.

SUSPENSION OF STANDING ORDER'S

A MOTION WAS MOVED BY COUNCILLOR JETHI AND SECONDED BY COUNCILLOR DR GANGEMI THAT Standing Order's be suspended to allow Todd Symons from Eden Brae Homes Investments (Applicant) to readdress Council.

THE MOTION WAS PUT AND CARRIED.

553 RESOLUTION

Standing Order's be suspended to allow Todd Symons from Eden Brae Homes Investments (Applicant) to readdress Council.

At 10.22pm Standing Order's were suspended.

Proceedings in brief

Todd Symons from Eden Brae Homes Investments (Applicant) readdressed Council regarding this matter.

This is Page 9 of the Minutes of the Ordinary Meeting of The Hills Shire Council held on 25 September 2018

RESUMPTION OF STANDING ORDER'S

A MOTION WAS MOVED BY COUNCILLOR HAY OAM AND SECONDED BY COUNCILLOR COLINS OAM THAT Standing Orders be resumed.

THE MOTION WAS PUT AND CARRIED.

554 RESOLUTION

Standing order's be resumed.

At 10.31pm Standing Order's were resumed.

A MOTION WAS MOVED BY COUNCILLOR THOMAS AND SECONDED BY COUNCILLOR JETHI THAT

1. The draft Voluntary Planning Agreement (Attachment 1) be subject to a legal review at the cost of the Proponent, prior to public exhibition and subject to the following amendments:
 - a) Increase the total monetary contribution payable to \$1.2 million, subject to escalation based on increases in the Producer Price Index for NSW;
 - b) Delete all traffic improvements/upgrades from the Voluntary Planning Agreement;
 - c) The Developer agrees to provide all road infrastructure identified in a future development approval by the RMS and/or Council at the Developer's expense.
 - d) Amend Clause 30 (Costs) to state that *"the Developer is to pay to the Council, the Council's costs associated with the negotiation, preparation, exhibition, legal review, execution and registration of this Agreement within 7 days of a written demand by the Council for such payment"*.
2. The draft Voluntary Planning Agreement be updated, as required, prior to exhibition to incorporate the recommendations of the legal review.
3. The draft Voluntary Planning Agreement be publicly exhibited for a period of at least 28 days in accordance with the Environmental Planning and Assessment Act 1979.

THE MOTION WAS PUT AND CARRIED UNANIMOUSLY.

555 RESOLUTION

1. The draft Voluntary Planning Agreement (Attachment 1) be subject to a legal review at the cost of the Proponent, prior to public exhibition and subject to the following amendments:
 - a) Increase the total monetary contribution payable to \$1.2 million, subject to escalation based on increases in the Producer Price Index for NSW;
 - b) Delete all traffic improvements/upgrades from the Voluntary Planning Agreement;

ITEM-6	REVISED VOLUNTARY PLANNING AGREEMENT OFFER - 8 SOLENT CIRCUIT, NORWEST (11/2018/PLP)
THEME:	Shaping Growth.
OUTCOME:	5 Well planned and liveable neighbourhoods that meets growth targets and maintains amenity.
STRATEGY:	5.1 The Shire's natural and built environment is well managed through strategic land use and urban planning that reflects our values and aspirations.
MEETING DATE:	25 SEPTEMBER 2018 COUNCIL MEETING
GROUP:	SHIRE STRATEGY, TRANSFORMATION AND SOLUTIONS PRINCIPAL COORDINATOR FORWARD PLANNING
AUTHORS:	NICHOLAS CARLTON TOWN PLANNER JONATHAN TOLENTINO
RESPONSIBLE OFFICER:	MANAGER – FORWARD PLANNING STEWART SEALE

EXECUTIVE SUMMARY

This report recommends that Council decline to enter into the draft Voluntary Planning Agreement (VPA) offer submitted by the Proponent in association with the planning proposal for land at 8 Solent Circuit, Norwest (11/2018/PLP) and continue further negotiations with the Proponent.

The planning proposal would enable commercial development uplift and redevelopment of the site to accommodate two (2) 10 storey commercial office buildings, with six (6) levels of office space, three (3) levels of above-ground car parking, a café and lobby at ground level and basement car parking.

The proposal seeks to enable development uplift on the site, by increasing the maximum floor space ratio by 120%, from 1:1 to 2.2:1. While this proposed uplift is largely consistent with the applicable strategic planning framework, it precedes the completion of detailed precinct planning or infrastructure analysis, including the preparation of a contributions plan under which new development within the Precinct can make a fair and reasonable contribution towards required infrastructure upgrades.

In June 2018, the Proponent made a VPA offer to Council with a total contribution value of \$600,000 (comprising the construction of a new roundabout at the intersection of Solent Circuit and Inglewood Place as well as a monetary contribution of \$73,427). In August 2018, the Proponent submitted a revised VPA offer to Council with a total contribution value of \$1.2 million (comprising the construction of a new roundabout at the intersection of Solent Circuit

and Inglewood Place as well as a monetary contribution of \$673,427). The revised VPA offer currently before Council equates to a contribution of 2% of the cost of development.

In the absence of a contributions plan and detailed analysis of the two key variables which underpin a contribution rate (the extent of development anticipated within the broader precinct and the cost of infrastructure required to support that development), it is necessary to rely on an alternate methodology to determine the apportioned demand for infrastructure generated by this development.

As demonstrated within this report, it is anticipated that in order to fund the traffic infrastructure required to support commercial development within the Norwest Precinct, Council will be required to collect contributions from individual developments at a rate of between 3% and 4.5% of the cost of development (not dissimilar to the rate applied to commercial development within numerous other centres and CBDs within NSW). If applied to the subject planning proposal, this would equate to a contribution of between \$1.8 million and \$2.4 million.

This report concludes that the Proponent's offer of \$1.2 million (being 2% of the cost of development) is disproportionately low relative to the demand for new infrastructure generated by the uplift sought through the planning proposal and the likely costs to Council to provide new infrastructure to support development within the Norwest Precinct. Further, it is considered that acceptance of the Proponent's offer of \$1.2 million may potentially result in a future funding shortfall within the Norwest Precinct and/or an inequitable situation whereby any future contributions plan for the Norwest Precinct re-distributes this shortfall in the form of increased contribution rates for all remaining commercial development.

APPLICANT

Calibre Consulting Pty Ltd

OWNERS

Eden Brae Homes Pty Ltd

HISTORY

- | | |
|------------|--|
| 11/01/2018 | Planning proposal 11/2018/PLP to increase FSR to 2.2:1 and the maximum building height to RL126m lodged with Council. |
| 06/02/2018 | Planning proposal presented to Councillor Workshop. |
| 24/04/2018 | Council resolved at its Ordinary Meeting: <ol style="list-style-type: none">1. <i>Council forward the planning proposal to increase the maximum floor space ratio to 2.2:1 and increase the permissible maximum building height to RL126 metres at 8 Solent Circuit, Baulkham Hills (Lot 4026 DP 873565) to the Department of Planning and Environment for a Gateway Determination;</i>2. <i>Council proceed with discussions with the proponent to prepare a draft Voluntary Planning Agreement which secures a fair and reasonable contribution from future development on the site towards infrastructure improvements within the Norwest Business Park; and</i> |

-
3. *Following the preparation of the draft Voluntary Planning Agreement, and prior to any public exhibition of the planning proposal, a report on the draft Voluntary Planning Agreement be submitted to Council for consideration.*

20/06/2018	Original draft VPA offer submitted by the Proponent for consideration.
26/06/2018	Gateway Determination issued with delegation to Council as the local plan-making authority.
28/08/2018	Council resolved at its Ordinary Meeting: 1. <i>Council continue discussions with the proponent on a Voluntary Planning Agreement which secures a fair and reasonable contribution from future development on the site towards infrastructure improvements within the Norwest Business Park.</i> 2. <i>Following further negotiations with the applicant on the draft Voluntary Planning Agreement, a further report on the draft Voluntary Planning Agreement be submitted to Council by October 2018 for consideration.</i> 3. <i>In the interim the planning proposal proceed to exhibition for public comment.</i> At this meeting, the Proponent addressed Council and verbally suggested a revised VPA offer of \$1.2 million.
31/08/2018	The Proponent's revised VPA offer was formally submitted.
11/09/2018 – 12/10/2018	Public exhibition of the planning proposal in accordance with Item 3 of Council's resolution of 28 August 2018.

BACKGROUND

On 24 April 2018 Council resolved to forward a planning proposal for land at 8 Solent Circuit, Norwest to the Department of Planning and Environment for Gateway Determination. The proposal would facilitate redevelopment of the site to accommodate two (2) 10 storey commercial office buildings, with six (6) levels of office space, three (3) levels of above-ground car parking, a café and lobby at ground level and three (3) levels of basement car parking. The proposal seeks to increase the maximum floor space ratio applicable to the land from 1:1 to 2.2:1, facilitating a 120% increase in development potential on the site.



Figure 1
Location of subject site





Figure 2
Proposed Development Concepts

A copy of the report considered at Council's Ordinary Meeting on 25 April 2018 with respect to the planning proposal is provided as Attachment 2.

A Gateway Determination was received on 26 June 2018, which requires public exhibition of the planning proposal and delegates plan making power to Council. Public exhibition of the planning proposal commenced on 11 September 2018 and will conclude on 12 October 2018.

ORIGINAL DRAFT VOLUNTARY PLANNING AGREEMENT (JUNE 2018)

A draft VPA was submitted by the Proponent in June 2018, which required the Proponent to complete works and pay monetary contributions in accordance with Table 1 below.

Works	\$ Contrib.	Details	Est. Value
✓		Roundabout at Solent Ct & Inglewood Pl intersection	\$526,573
	✓	Traffic Improvements within the Norwest Precinct	\$73,427
	*	Exemption from Section 7.12 (formerly s94a) Contributions	\$0
Total			\$600,000

Table 1
Original Voluntary Planning Agreement Offer (June 2018)

The Proponent's original VPA offer essentially took the value of Section 7.12 monetary contributions that would already be payable for the development under the existing contributions framework and transferred this contribution to the VPA. The total contribution under the original VPA offer would be \$600,000.

As the existing contributions framework was only intended to cater for development under the current planning controls, the original VPA offer did not provide any additional public benefit in association with the uplift in development potential sought through the planning proposal (a 120% increase in floor space ratio from 1:1 to 2.2:1). Further, as the contribution under the original VPA offer was no greater than that which would already be payable under the applicable contributions framework, the need for a VPA was questionable.

The original report to Council (28 August 2018) provided options for Council's consideration, which included:

- not proceeding with the VPA or planning proposal;
- holding the planning proposal in abeyance to enable future VPA negotiations; or
- accepting the Proponent's offer subject to the removal of any exemption from Section 7.12 exemptions (resulting in a total contribution value of \$1.2 million).

The report concluded that the Proponent's offer of \$600,000 was not acceptable and did not conclude or recommend that an offer of \$1.2 million would be fair, reasonable or adequate (despite providing this as an option for Councillors to consider). Ultimately, the report recommended that Council not enter into the VPA.

The original VPA offer was considered at Council's Ordinary Meeting on 28 August 2018 and the Proponent addressed Council at this time, and offered to increase the VPA offer from \$600,000 to \$1.2 million. Council resolved that:

1. *Council continue discussions with the proponent on a Voluntary Planning Agreement which secures a fair and reasonable contribution from future development on the site towards infrastructure improvements within the Norwest Business Park.*
2. *Following further negotiations with the applicant on the draft Voluntary Planning Agreement, a further report on the draft Voluntary Planning Agreement be submitted to Council by October 2018 for consideration.*
3. *In the interim the planning proposal proceed to exhibition for public comment.*

REVISED VOLUNTARY PLANNING AGREEMENT OFFER (31 AUGUST 2018)

Following Council's consideration of the original VPA offer, the Proponent submitted a revised VPA offer on 31 August 2018, which requires the Proponent to complete works and pay monetary contributions in accordance with Table 2 below.

Works	\$ Contrib.	Details	Est. Value
✓		Roundabout at Solent Ct & Inglewood PI intersection	\$526,573
	✓	Norwest Bld, Solent Ct (west) & Reston Grange Signals	\$673,427
	✗	Section 7.12 (formerly s94a) Contributions	\$0
Total			\$1.2 million

Table 2
Revised Voluntary Planning Agreement Offer (31 August 2018)

The difference between the original VPA offer (June 2018) and the revised VPA offer (August 2018) is that the monetary contribution offered has been increased by \$600,000, increasing the total value of the contribution offered from \$600,000 (original offer) to \$1.2 million (revised offer). The revised VPA offer would still exempt the development from payment of Section 7.12 contributions (1% of the cost of development). The Proponent has advised that this equates to a levy of 2% of the cost of development (based on the Proponents estimated development cost of \$60 million).

It is noted that under the revised VPA offer submitted by the Proponent, Council would be required to bear its own costs associated with the negotiation, preparation, exhibition, legal review, execution and registration of the Agreement.

REVIEW OF REVISED PLANNING AGREEMENT OFFER

The following matters are provided for Council's consideration in assessing the appropriateness and adequacy of the revised VPA offer submitted by the Proponent on 31 August 2018:

Anticipated uplift within the Norwest Precinct

- There is approximately 47.9 hectares of land zoned B7 Business Park within the Norwest Precinct. Currently, LEP 2012 specifies a maximum floor space ratio of 1:1 for this land. At full development potential under current controls, there would be potential for approximately 480,000m² of commercial gross floor area on this land.
- The strategic planning framework for Norwest Precinct envisages significant uplift on this commercial land with potential for an average floor space ratio of 2:1. An average floor space ratio of 2:1 over this land would allow for 960,000m² of commercial gross floor area (being 480,000m² more than what could already be achieved under current controls).
- If a reasonable take-up rate of 75% is applied to these redevelopment opportunities, this land would potentially accommodate 720,000m² of commercial gross floor area in total.

Infrastructure required to support anticipated uplift within the Norwest Precinct

- The anticipated uplift within the Norwest Precinct (doubling of commercial floor space) would be realised through detailed precinct and infrastructure planning, culminating in amendments to the planning controls applicable to the land under LEP 2012 and adoption of a new Contributions Plan. A Contributions Plan determines the rate at which new development must be levied and is underpinned by a critical equation based on two key variables – the scale of development anticipated (contribution income) and the cost of infrastructure required to support that development (contribution expenditure).
- Detailed traffic modelling and infrastructure analysis has not yet been completed for the Norwest Precinct and as a result, the full extent and cost of infrastructure upgrades required to support the potential doubling of floor space within the Norwest Precinct is not known.
- However, preliminary estimates indicate that factoring in anticipated contributions from residential development adjoining the business park (primarily through Voluntary Planning Agreements), there is more than \$40-\$50 million of unfunded traffic infrastructure works within the Norwest Precinct which would be required to support the extent of commercial uplift anticipated. This includes signalisation of the intersections of:
 - Norwest Boulevard, Reston Grange and Solent Circuit (west) – approximately \$17 million with \$13.3 million currently unfunded;
 - Norwest Boulevard, Columbia Court and Brookhollow Avenue (east) – approximately \$15-\$20 million (entirely unfunded) based on similar costs on Norwest Boulevard (potential land acquisition not yet quantified); and

- Norwest Boulevard and Edgewater Drive – approximately \$15-\$20 million (entirely unfunded) based on similar costs on Norwest Boulevard (potential land acquisition not yet quantified).
- The provision of any contribution from the NSW Government (RMS) towards these works cannot be relied upon at this time given the exact volume of regional through-traffic movements along Norwest Boulevard or extent to which these cause demand for intersection improvements is currently unknown (although traffic modelling currently being undertaken may provide data on this).
- The requirements for further traffic improvements and upgrades beyond these items may become apparent through the detailed precinct planning process. Notwithstanding this, it is anticipated that contributions from future commercial development within the Norwest Precinct will be required to fund these intersection upgrades, at a minimum.
- Figure 3 below identifies the area of B7 zoned land within the Norwest Precinct which will likely be subject to commercial uplift in the future, along with the location of key unfunded traffic improvements which will be required to support this growth.

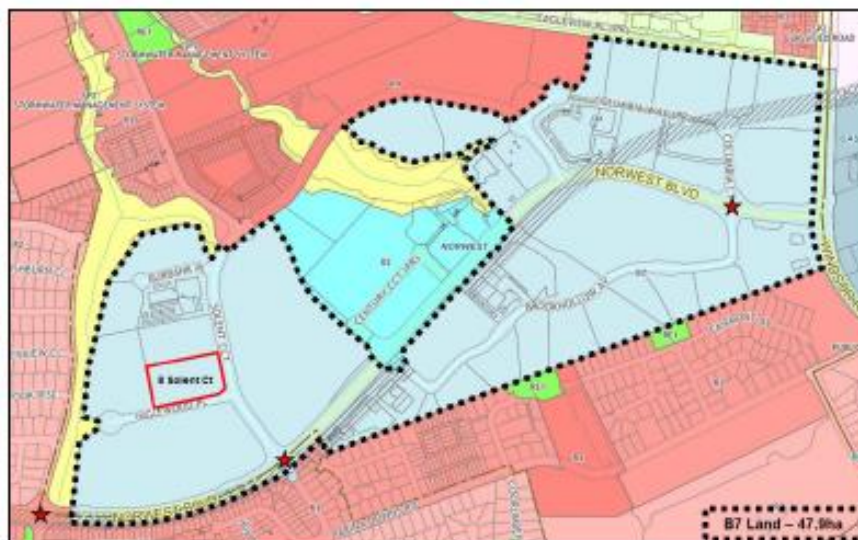


Figure 3

B7 Business Park zoned area within the Norwest Precinct likely to be subject to commercial uplift

Existing contributions framework within the Norwest Precinct

- The Hills Section 94A Contributions Plan currently applies to commercial land within the Norwest Precinct and requires payment of contributions valued at 1% of the cost of development. Critically, Section 7.12 (formerly Section 94a) contributions and the Hills Section 94A Contributions Plan are only intended to capture a small contribution from minor incremental redevelopment of land to the extent already permissible under the current planning controls.
- The Hills Section 94A Contributions Plan does *not* envisage the doubling of floor space potential within the Norwest Precinct, does *not* include the provision of more than \$50

million of new traffic infrastructure to accommodate this uplift and does *not* establish a contribution rate based on potential uplift anticipated or the infrastructure required to support that uplift. In short, it is anticipated that at the time of permitting uplift in commercial development outcomes within the Norwest Precinct, it will be necessary for Council to re-assess the contributions framework applicable to the Precinct.

- It is noted that the existing contributions framework within the remainder of the Business Park (including land along Lexington Drive within the Bella Vista Precinct) is similarly inadequate following the NSW Government rezoning of these areas and Council is in the process of preparing a new contributions plan to levy both residential and commercial development within the Bella Vista and Kellyville Precinct following the finalisation of the Department's and Landcom's Precinct Planning.

Funding infrastructure required to support anticipated uplift within the Norwest Precinct

- Two scenarios are discussed below in order to test the adequacy of a 1% levy within the Norwest Precinct:

Scenario 1 – 'best case'

- Assuming a construction cost of \$2,325/m² of gross floor area (based on the Proponent's estimated cost of development), the cost of development associated with 720,000m² of commercial gross floor area within the Norwest Precinct would be \$1.67 billion. If Council was to levy this development at a rate of 1%, this would result in contributions of approximately \$16.7 million.
- In order to collect sufficient contributions income to fund approximately \$50 million of traffic infrastructure, Council would instead need to levy this 720,000m² of commercial development at a rate of 3% (which would equate to approximately \$50.1 million).
- It is noted that this would represent a 'best case' scenario as it is highly unlikely that Council would be able to collect contributions from all 720,000m² of commercial development given a portion of this would comprise existing commercial gross floor area which remained unchanged and therefore would not attract any levy/contribution.

Scenario 2 – 'worst case'

- It may be more realistic to consider the contributions that could be collected only in association with the additional commercial gross floor area that would be permitted by an increase in the floor space ratio from 1:1 to 2:1, being an additional 480,000m² of commercial gross floor area. In this scenario, 480,000m² of commercial gross floor area would have a total development cost of \$1.1 billion. If levied at a rate of 1%, this would result in contributions of approximately \$11.2 million.
- In order to fund approximately \$50 million of traffic infrastructure, Council would instead need to collect contributions at a rate of 4.5% (which would equate to approximately \$49.5 million).
- It is noted that this would potentially represent a 'worst case' scenario as if redevelopment was to occur to enable an additional 480,000m² of commercial gross floor area, this would likely involve the demolition of some existing commercial

developments and in the instance, the reconstruction cost of the entire development (not just the new floor space) would be subject to the Section 7.12 levy.

- Having regard to Scenarios 1 and 2 above, it is evident that levying commercial development within the Norwest Precinct based on 1% of the cost of development would be insufficient to enable collection of adequate contributions to fund the infrastructure required to support anticipated commercial growth within the Norwest Precinct.
- Rather, to ensure that Council is able to fund the required traffic improvements, preliminary estimates indicate that it would necessary to capture contributions from individual developments at a rate of between 3% and 4.5% of the cost of development.
- For reference, there are a number of commercial centres and CBDs where commercial uplift has been accompanied by a NSW Government endorsed increase in the value of the Section 7.12 levy (as specified in the Environmental Planning and Assessment Regulation), including:
 - Liverpool City Centre, where commercial development is levied at 3%;
 - Wollongong City Centre, where commercial development is levied at 2%;
 - Gosford City Centre, where development is levied at 4%;
 - Parramatta City Centre, where development is levied at 3%;
 - Newcastle City Centre, where development is levied at 3%;
 - Burwood Town Centre, where development is levied at 4%; and
 - Chatswood CBD, where development is levied at 3%.
- The proponent has advised that they consider it onerous to levy at a rate comparable to that applicable within the Chatswood CBD and Parramatta City Centre (3%). However, it is important to note that the percentage levy is not simply applied based on the status of the centre, but rather is a reflection of the cost of infrastructure required to support development within that centre, apportioned across future development. It is prudent to note that a number of other centres (which are also lesser in scale and status than Chatswood and Parramatta) also levy commercial development at rates of 3% (Liverpool and Newcastle) and 4% (Gosford and Burwood).
- Having regard to the discussion above and the approach within a number of other similar centres and CBDs, it may be appropriate, subject to detailed precinct planning and detailed infrastructure analysis for the Norwest Precinct, to consider application of a Section 7.12 levy of between 3% and 4.5%.

Uplift sought through planning proposal for 8 Solent Circuit

- The planning proposal for land at 8 Solent Circuit seeks to increase the maximum permissible floor space ratio from 1:1 to 2.2:1. This would enable approximately 25,800m² of gross floor area, being approximately 120% more (14,000m² of gross floor area) than envisaged under the *current* planning controls and contributions framework.
- The uplift sought through the planning proposal is largely consistent with the strategic planning framework and justifiable on its merits. However, it is being sought in isolation and in advance of detailed precinct planning for the Norwest Precinct. When a similar scale of uplift is replicated across the remaining 46.7 hectares of commercial land within the Norwest Precinct (either through detailed precinct planning and/or site specific planning proposals), this growth will cumulatively create significant demand for new infrastructure.

- As the proposal precedes detailed precinct planning and associated update of the contributions framework applicable to the Norwest Precinct, a VPA is an appropriate mechanism to secure a fair and reasonable contribution from this individual development, proportionate to the demand created for new infrastructure as a result of the proposed uplift.

Assessment of revised VPA offer

- In the absence of a contributions plan and in the absence of detailed analysis of the two key variables which underpin a contribution rate (the extent of development anticipated within the broader precinct and the cost of infrastructure required to support that development), it is difficult at this time to definitively determine the exact value of a "fair and reasonable" contribution.
- Notwithstanding this, preliminary estimates (see Scenarios 1 and 2) indicate that in order to fund the traffic infrastructure required to support commercial development within the Norwest Precinct, Council will be required to collect contributions from individual developments at a rate of between 3% and 4.5% of the cost of development. This level of Section 7.12 levy is not dissimilar to that applied within a number of other commercial centres within NSW (as approved by the NSW Government).
- Accordingly, the Proponent's offer of \$1.2 million (being 2% of the cost of development) appears to be disproportionately low, relative to the demand for new infrastructure generated by the uplift sought through the planning proposal and the likely costs to Council to provide new infrastructure to support development within the Norwest Precinct.
- Acceptance of the Proponent's offer of \$1.2 million will potentially result in a future funding shortfall within the Norwest Precinct and/or an unequitable situation whereby any future contributions plan for the Norwest Precinct re-distributes this shortfall in the form of increased contribution rates for all remaining commercial development.
- In the absence of completing detailed precinct planning and infrastructure analysis (resulting in the preparation and adoption of a new contributions plan), it is considered that a 'fair and reasonable' contribution in association with this individual planning proposal would be no less than \$1.8 million, being 3% of the cost of development as advised by the Proponent.

OPTIONS

Option 1 – Accept revised VPA offer as submitted by the Proponent

1. The draft Voluntary Planning Agreement (Attachment 1) be subject to a legal review at the cost of the Proponent, prior to public exhibition.
2. The draft Voluntary Planning Agreement be updated, as required, prior to exhibition to incorporate the recommendations of the legal review.
3. The draft Voluntary Planning Agreement be publicly exhibited for a period of at least 28 days in accordance with the Environmental Planning and Assessment Act 1979.

Note: Should Council wish to accept the Proponent's VPA offer in its current form, there may be a number of minor amendments required prior to exhibition, as part of the legal review

process, including but not limited to the insertion of a suitable Location Plan in Schedule 2 of the VPA.

Option 2 – Accept revised VPA offer, subject to minor amendments

1. Seek agreement from the Proponent to amend the draft Voluntary Planning Agreement as follows:
 - a) Amend Clause 21 (Application of s7.11 and s7.12 of the EPAA) to require payment of the applicable Section 7.12 contributions in conjunction with any future development application for the development;
 - b) Amend Schedule 1 (Monetary Contributions) to reduce the monetary contribution payable under the draft Voluntary Planning Agreement by \$600,000;
 - c) Amend Clause 30 (Costs) of the draft Voluntary Planning Agreement to state that *"the Developer is to pay to the Council, the Council's costs associated with the negotiation, preparation, exhibition, legal review, execution and registration of this Agreement within 7 days of a written demand by the Council for such payment"*.
2. Following amendment of the draft Voluntary Planning Agreement, the draft Voluntary Planning Agreement be subject to a legal review at the cost of the Proponent, prior to public exhibition.
3. The draft Voluntary Planning Agreement be updated, as required, prior to exhibition to incorporate the recommendations of the legal review.
4. The draft Voluntary Planning Agreement be publicly exhibited concurrently with the associated planning proposal (11/2018/PLP) for a period of at least 28 days in accordance with the Environmental Planning and Assessment Act 1979.

Note: Should Council wish to accept the Proponent's VPA offer of contributions valued at \$1.2 million, it is recommended that rather than fixing the entire monetary contribution within the VPA, it would be prudent to amend the VPA to reduce the specified monetary contribution by \$600,000 and remove any exemption from Section 7.12.

This would ensure that the additional monetary contribution offered by the Proponent (\$600,000) would be calculated at the Development Application stage and would be more closely aligned to the actual cost of development at that time, rather than the preliminary estimate submitted as part of this planning proposal.

Option 3 – Decline revised VPA offer and continue further negotiations

1. Council decline to enter into the Proponent's revised Voluntary Planning Agreement offer and continue with further discussions with the Proponent to prepare a draft Voluntary Planning Agreement which, having regard to the assessment and discussion within this report, secures a fair and reasonable contribution from future development on the site towards infrastructure improvements within the Norwest Business Park.
2. Following the preparation of such a draft Voluntary Planning Agreement, a report on the draft Voluntary Planning Agreement be submitted to Council for consideration.

IMPACTS**Financial**

The outcome of this Voluntary Planning Agreement has potential implications for the funding and provision of required infrastructure in the Norwest Precinct in the future.

As detailed within this report, preliminary estimates indicate that in order to fund the traffic infrastructure required to support commercial development within the Norwest Precinct, Council will be required to collect contributions from individual commercial developments within the Norwest Precinct at a rate of between 3% and 4.5% of the cost of development. This would equate to an amount of no less than \$1.8 million from this particular development.

Furthermore, assuming the infrastructure costs are incurred in Year 5, based on a Net Present Value basis this proposal will need to contribute approximately \$1.8 million.

Accordingly, the Proponent's offer of \$1.2 million (being 2% of the cost of development) appears to be disproportionately low, relative to the demand for new infrastructure generated by the uplift sought through the planning proposal and the likely costs to Council to provide new infrastructure to support development within the Norwest Precinct.

Acceptance of the Proponent's offer of \$1.2 million may result in a funding shortfall within the Norwest Precinct in the future and/or an unequitable situation whereby any future contributions plan for the Norwest Precinct re-distributes this shortfall across all remaining commercial development sites in the form of increased contribution rates.

Strategic Plan - Hills Future

The planning proposal seeks to promote better usage of existing land, capitalise on the strategic location of the site and satisfy additional demand for commercial office space that the Shire's current and future employees residents will require. Notwithstanding this, given the unresolved issues relating to traffic within the Norwest Precinct, additional traffic movements generated by the development must be addressed to ensure the responsible planning or good management of the Shire's built environment.

RECOMMENDATION

1. Council decline to enter into the Proponent's revised Voluntary Planning Agreement offer and continue with further discussions with the Proponent to prepare a draft Voluntary Planning Agreement which, having regard to the assessment and discussion within this report, secures a fair and reasonable contribution from future development on the site towards infrastructure improvements within the Norwest Business Park.
2. Following the preparation of such a draft Voluntary Planning Agreement, a report on the draft Voluntary Planning Agreement be submitted to Council for consideration.

ATTACHMENTS

1. Revised Draft Voluntary Planning Agreement Offer – 31 August 2018 (26 pages)
2. Report on Planning Proposal – 24 April 2018 (24 pages)

ATTACHMENT 14 – TRANSPORT FOR NSW SUBMISSION



Transport
for NSW

13 March 2020

TfNSW Reference: SYD20/00210 (A31409595)

Council Reference: 10832/2020/JP

The General Manager
The Hills Shire Council
PO Box 7064
BAULKHAM HILLS NSW 2153

Attention: Cynthia Dugan

Dear Sir/Madam,

PROPOSED MIXED USE DEVELOPMENT INCLUDING ALTERATIONS AND ADDITIONS TO BELLA VISTA HOTEL – 13-19 LEXINGTON DRIVE, BELLA VISTA

Reference is made to the referral lodged on 14 February 2020, regarding the abovementioned application which was referred to Transport for NSW (TfNSW) for comment in accordance with Schedule 3 of the *State Environmental Planning Policy (Infrastructure) 2007*.

TfNSW has reviewed the submitted application and does not support the proposed development in the current form and provides the following comments to Council:

1. TfNSW requests the following intersections to be assessed and included in the traffic report in addition to the intersections modelled:
 - Old Windsor Road/Norwest Boulevard
 - Old Windsor Road/Celebration Drive
 - Lexington Drive/ Celebration Drive

All intersections should be modelled in SIDRA for both existing and future year 2036 scenarios.

2. It is noted from the traffic report that the intersection of Lexington Drive/Norwest Boulevard would operate at level of service 'F' in both AM and PM peak hours after the completion of the development. The report concludes that intersection upgrades are expected following '*planned study by Council and RMS*'.

As there is no funding allocated for intersections upgrades at this stage, TfNSW requests that the proponent should increase the extent of their traffic study to assess the impact of the development on nearby intersections and investigate the need/associated funding for upgrading or road improvement works (if required). They

Transport for NSW

27 Argyle Street, Parramatta NSW 2150 | Locked Bag 5085, Parramatta NSW 2124
P (02) 8849 2666 | W transport.nsw.gov.au | ABN 18 804 239 602

should establish a baseline level of performance for the impacted intersections, and demonstrate that their development does not reduce the performance of these intersections or undertake works to restore existing levels of intersection performance.

3. It is noted the Sydney Metro corridor protection reserves traverse the north-eastern corner of the site. The proponent is to consult with Sydney Metro regarding their proposed development and comply with their requirements.

TfNSW requests the abovementioned information for further assessment prior to the determination of the application. Upon receipt of the information, TfNSW will further review and provide response accordingly.

If you have any further questions, Ms Zhaleh Alamouti would be pleased to take your call on 8849 2331 or please email development.sydney@rms.nsw.gov.au. I hope this has been of assistance.

Yours sincerely



Malgy Coman
Senior Land Use Planner



Transport
for NSW

24 September 2020

TfNSW Reference: SYD20/00472/02 (A34210418)

Council Reference: 1302/2020/JP

The General Manager
The Hills Shire Council
PO Box 7064
BAULKHAM HILLS NSW 2153

Attention: Cynthia Dugan

Dear Sir/Madam,

**ADDITIONAL INFORMATION FOR PROPOSED COMMERCIAL DEVELOPMENT AT 8
SOLENT CIRCUIT, NORWEST**

Reference is made to Council's correspondence dated 17 September 2020, regarding the abovementioned application which was referred to Transport for NSW (TfNSW) for comment in accordance with Schedule 3 of the *State Environmental Planning Policy (Infrastructure) 2007*.

TfNSW has reviewed the submitted additional information provided by Stantec dated 29 May 2020 and Calibre dated 2 June 2020 and notes the information requested by the TfNSW in its letter dated 13 May 2020 has not been provided. TfNSW reiterates the previous requirements as comments under *State Environmental Planning Policy (Infrastructure) 2007* for Council's consideration in the determination of the application.

As no further information is received, Council as the consent authority for this development, is to determine if the concerns raised by TfNSW are satisfactorily addressed by the proponent. Should Council determine that additional information is required to address the concerns, TfNSW will be happy to review any additional information provided.

If you have any further questions, Ms Zhaleh Alamouti would be pleased to take your call on 8849 2331 or please email development.sydney@rms.nsw.gov.au. I hope this has been of assistance.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Pahee'.

Pahee Rathan
Senior Land Use Assessment Coordinator

Transport for NSW

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ATTACHMENT 15 – EXTRACTS FROM TRAFFIC REPORT

4.3.3 Future Operation of Critical Intersections

An analysis of the intersections likely to be impacted by the proposed development was carried out using SIDRA intersection modelling software. The results of this analysis are included in **Appendix F** and summarised in **Table 4-6 (AM Peak)** and

Table 4-7 (PM Peak).

Table 4-6: Summary of Sidra results for Critical Intersections (AM Peak)

	Scenario 1		Scenario 2		Scenario 3	
	Delay (s/veh)	LoS	Delay (s/veh)	LoS	Delay (s/veh)	LoS
Solent Circuit and Fairway Drive	16.0	B	20.0	B	16.5	B

	Scenario 1		Scenario 2		Scenario 3	
Solent Circuit and Inglewood Place	22.6	B	32.2	C	63.6	E
Norwest Boulevard, Reston Grange and Solent Circuit	30.6	C	47.1	B	101.4	F

Table 4-7: Summary of Sidra results for Critical Intersections (PM Peak)

	Scenario 1		Scenario 2		Scenario 3	
	Delay (s/veh)	LoS	Delay (s/veh)	LoS	Delay (s/veh)	LoS
Solent Circuit and Fairway Drive	27.8	B	42.0	C	43.5	D
Solent Circuit and Inglewood Place	19.0	B	24.6	B	209.6	F
Norwest Boulevard, Reston Grange and Solent Circuit	81.3	F	138.6	F	111.7	F

The results indicate that in the AM Peak, the Solent Circuit and Fairway Drive roundabout will continue to operate at a LoS B for scenarios 1 and 2. The operation of the intersection is anticipated to worsen to a LoS "D" in Scenario 3 during the afternoon peak.

The assessment also indicates that the intersection of Solent Circuit and Inglewood Place will operate at a LoS 'C' and 'B' during the AM and PM peaks respectively. This is considered acceptable and the Stage 1 development will not have a major impact on the operations of this intersection. However, its operation will deteriorate to a LoS 'E' and 'F' at the completion of the development (i.e. end of Stage 2).

The roundabout between Norwest Boulevard, Solent Circuit and Reston Grange is currently operating at a LoS C and F during the AM and PM peaks respectively and will deteriorate to a LoS F post-development.

As aforementioned, Council and RMS have already proposed to upgrade the intersection between Norwest Boulevard, Solent Circuit and Reston Grange to a signalised intersection, which will improve the performance of the intersection. The assessment indicates that an upgrade of the intersection between Solent Circuit and Inglewood Place would also be required by the time Stage 2 is completed. This is discussed in the following below.

5. Summary and Conclusions

Stantec has reviewed the traffic and parking matters of the proposed office and commercial development at 8 Solent Circuit Norwest. The proposed development consisting of commercial office spaces (23,978m² GFA), showroom (1,218m² GFA), small food and beverage premises (654m² GFA) and a multi-level car park accommodating 898 car parking spaces on-site.

Based on the above assessment, it is concluded that:

- The proposed car parking provision does not comply with Council's office requirement of 1 space per 25m² GFA; however, the proposed provision of 1 space per 28 m² GFA is considered adequate to serve the demand of the development. The proximity of Norwest Metro Station (within 400m walking distance) will provide an alternative mode of transport for the tenants and visitors, and will reduce the dependency on private vehicles;
- Servicing for the development can be accommodated on-site. The provision of two (2) loading docks, which can both accommodate vehicles up to a Medium Rigid Vehicle, and six (6) courier bays is considered adequate. Nevertheless, a loading dock management plan is recommended to be prepared in due course;
- The multi-level car park and loading docks comply with the relevant Australian Standards; and
- The intersection Solent Circuit and Inglewood Place will need to be upgraded to traffic signals or roundabout, by the time Stage 2 of the development is completed..

ATTACHMENT 16 – DESIGN EXCELLENCE PANEL MINUTES



MEETING MINUTES DESIGN EXCELLENCE PANEL

Date:	10/06/20	Time:	9.50 am
Location of Meeting:	Electronic video conference meeting via Skype for Business		
Panel Members:	Chairperson – Nicholas Carlton, Manager Forward Planning, THSC Panel Member – Tony Caro, Independent Design Expert Panel Member – David Reynolds, Group Manager THSC		
Councillors:	None Present		
Council Staff:	Cameron McKenzie, Paul Osborne, Cynthia Dugan, Marika Hahn		
Guests:	Peter Lee - Calibre - Planner Stuart Vaughan - Winten – Applicant Partner Michael Upton – Eden Brae Homes – Applicant Phillip Vivian - Bates Smart - Architect Zoe Phillips - Bates Smart - Designer Michael Barnett – Arcadia – Landscape Architects		

BUSINESS ITEM AND MEETING MINUTES

1. Welcome and Opening

The Hills Shire Council is committed to achieving design excellence in the built form environment and ensuring new high-density buildings are of a high quality design. The requirements for a development to achieve design excellence are found in Clause 7.7 'Design Excellence' of Local Environmental Plan 2019.

The Hills Shire Design Excellence Panel (The Panel), is an advisory Panel that provides an opportunity for applicants to receive expert design feedback on their developments and to provide comments to assist The Hills Shire Council in its consideration for development application.

The Panel provides recommendations on the following:

- any development which contains a building with a height of 25 metres or more; or
- any strategic planning matters for which design excellence is relevant.

The role of the Panel is to evaluate and critique design aspects of proposed development and provide recommendations on whether development exhibits "Design Excellence".

Note: The Design Excellence Panel does not determine or endorse applications. The Design Excellence Panel provides design advice to applicants and council officers.

2. Declaration of interest

"Nil"

3. Confirmation of previous minutes

Confirmed by email

4. Presentations

Item 4.1	9.50am – 10.50am
DA Number	DA 1302/2020/JP
Property Address	8 Solent Circuit, Norwest
Proposal	 Commercial Development comprising; offices, showrooms, restaurants and other retail uses over basement parking.
Applicant representative address to the Panel	Phillip Vivian - Architect , Director Bates Smart Michael Barnett –Landscape Architect, Arcadia Peter Lee, Calibre Planning Michael Upton – Applicant

BACKGROUND

On 13/11/19, the DA (1302/2020/JP) was presented to the Design Excellence Panel as a pre-DA (52-2020-PRE). All Panel members have previously undertaken a site visit.

DOCUMENTATION

The Design Excellence Panel reviewed the following drawings:

Site Survey, dated August 2019, by Chadwick Cheng consulting Surveyors

Architectural Plans, dated 31/03/20, by Bates Smart

DA Design Report, dated February 2020, by Bates Smart

DEP Presentation, viewed 10/06/20, by Bates Smart

Landscape Development Application, dated February 2020, by Arcadia

Arborist Report, dated 19 February 2022, by Naturally Trees

ESD Concept Brief, dated 20/02/20, by DSA Consulting

Statement of Environmental Effects, dated 31/03/20, by Calibre

Wind Assessment, dated February 2020, by CPP

PANEL COMMENTS

The applicant has previously attended the Design Excellence Panel with a pre-DA for the subject site. The Panel notes that the site planning remains largely the same as the concept previously presented, with amendments made subject to Design Excellence Panel comments clearly articulated. The Panel commends the design team for the clear documentation and concise presentation.

For clarity, the following minutes are based on the Panel's previous comments (*repeated below in italics*).

Response to Context

1. *The application presents an appropriate response to the immediate context and could offer a precedent for contemporary transit orientated development within a traditional business park setting.*

Comment: Pedestrian amenity has improved as the project has developed and the original design concepts have become more resolved.

Bulk, Scale and Massing

2. *The change in colour of the building fabric and provision of two separate building forms assists in mitigating the overall bulk and scale of the development which is considered appropriate.*

Comment: No further comment.

3. *The Panel noted the impact of cold prevailing winter winds on pedestrian comfort at the ground plane may require mitigation and further investigation is recommended.*

Comment: The architects stated that a desktop study undertaken by a wind consultant had resulted in the introduction of landscape mitigation within the passageway between the development blocks. The Panel cautioned that the impact of strong south-west winter winds should be anticipated, and notes that the proposed large trees are above carparking, which may inhibit their growth and effectiveness.

4. *The height complies with the endorsed Planning Proposal which is currently awaiting finalisation.*

Comment: The Panel notes this compliance and minimisation of the visual impact on views to and from Bella Vista Farm. It is also noted that the planning proposal applicable to this land has since been finalised.

Site Coverage/ Landscaped Open Space

5. *The applicant has stated that site coverage is 43%. The Panel recommends maximising deep soil planting wherever possible within the proposed landscaped areas.*

Comment: No further comment.

6. *The removal of above ground car parking allows for a formal building address and entry plaza incorporating public domain and landscaping treatments. The Panel noted more tall tree shade planting may be required in the plaza area due to the extreme summer heat.*

Comment: The Panel strongly supports the generous provision of high canopy trees in deep soil across the front plaza area, and additional shade tree plantings on the landscaped terrace above vehicular entry from Solent Circuit (soil depth to be minimum 1200mm and/or to Council planning officers satisfaction).

7. *Noting that the design is undergoing further development the Panel suggested the upper level open grassed area is likely to be too exposed in summer and would benefit from additional landscape and treatments incorporating shading (and windbreaks if required).*

Comment: Refer Item 6 above.

Setbacks

8. *The Panel considers that the justification for the setback variation is sound and acknowledges the merit of the setback variation (and "averaging" approach) and positive attributes that this facilitates, including an improved relationship to Solent Circuit.*

Comment: The Panel notes the roundabout has not been incorporated into the development design documentation and recommends this be resolved to Council and authority satisfaction given potential impacts on the site and the proposal. The Panel supports the proposed reduction in 20m setback for Building A at the south-east corner, in principle, provided that the roundabout design and safety of pedestrians and patrons around the retail corner are both resolved.

9. *It is noted that the plans depict well-setback basement parking areas to enable significant deep soil planting along the Solent Circuit frontage within the public plaza.*

Comment: No further comment

10. *The proposed roundabout at the intersection of Solent Circuit and Inglewood Drive may require land acquisition and consequential impacts upon the design of the corner element of the development. It is recommended further design and detail of the roundabout be progressed prior to the DA development to ensure the design intent is not compromised.*

Comment: This comment remains relevant as noted in item 8.

Internal Planning

11. *The Panel supports the layouts of the commercial floor plates, which appear to accommodate a range of tenancy sizes.*

Comment: No further comment

12. *The Panel questioned access to the end of trip facilities noting this should be direct and not conflict with other ground floor uses. This may be resolved through amending plans to show the path of access from the plaza area to these facilities.*

Comment: The Panel notes the design changes which provide direct access to end of trip facilities and supports the arrangement.

13. *The Panel accepts the provision of dual access to the basement car parking from both Inglewood Drive and Solent Circuit, noting that Inglewood Drive would be the preferred vehicular access and egress.*

Comment: No further comment

14. *The Panel queried provision of open mezzanine terraces to Building 'A' and not Building 'B' noting that both buildings would potentially benefit from this breakout space provision.*

Comment: The architects described potential provision of a mezzanine area to Building B. The Panel noted a need to provide services and drainage to allow for future adaptation.

Public Domain

15. *The Panel supports public domain design that fosters street activation and is prioritised towards pedestrians. The provision of an accessible public plaza provides an attractive setting for passive recreation and is commended.*

Comment: No further comment.

16. *The two storey podium treatment provides an appropriate base for the tower elements viewed from the Solent Circuit address and appears well resolved with the topography of the site.*

Comment: No further comment

Private Domain

17. *The open mezzanine "breakout spaces" present as being closed. The Panel noted that some consideration should be afforded to providing greater engagement with the street and plaza areas*

Comment: The architects confirmed that full height glazing to south-east facades is required to block prevailing winds, with northern facades to be open with glazed balustrades.

18. *For 'future-proofing', the Panel suggested that adaptive re-use opportunities of the basements be considered should car parking areas become redundant in the future.*

Comment: Not discussed but possible future uses are noted.

Sustainability and Environmental Amenity

19. *Sustainability and environmental amenity appear to have been well considered with the provision of a pedestrian orientated well-scaled public domain, the demonstrated attention and research into solar gain on the building facades and proposed mitigation strategies, and the provision of*

deep soil zones for substantial soft landscaping treatments with the ability to support high canopy trees.

Comment: The Panel commends the work of the design team and noted the public domain has improved as the design has developed.

20. The proposal also demonstrates social and economic sustainability in the provision of uses such as restaurants, retail facilities, a shaded plaza and an open-air exercise area. This will promote an activated, attractive and lively street interface with places for social interaction, which will impact positively upon public perception of the business park.

Comment: No further comment.

21. The intent to achieve a 5 star Green Star building rating is commended.

Comment: No further comment.

Architecture and Aesthetics

22. The Panel noted that this development provides opportunity to elevate the image and presence of Norwest Business Park and suggested the corner element street interface at Inglewood Drive could become more prominent if the facade was generously landscaped and opened up to optimise engagement with the public domain. Further consideration should be given to the relationship between the proposal and the public domain along the Inglewood Drive frontage.

Comment: The Panel sought clarification of the design intent for the stepped parapet planter profile over the car park entry from Solent Circuit.

23. The Panel supports the proposed tower 'coloration strategy' and its integration with façade shading. The brick treatment of the podium is an appropriate material choice for the public domain interface.

Comment: No further comment.

24. The Panel recommends that visible service provision including substations be carefully and substantially screened or integrated into the building fabric.

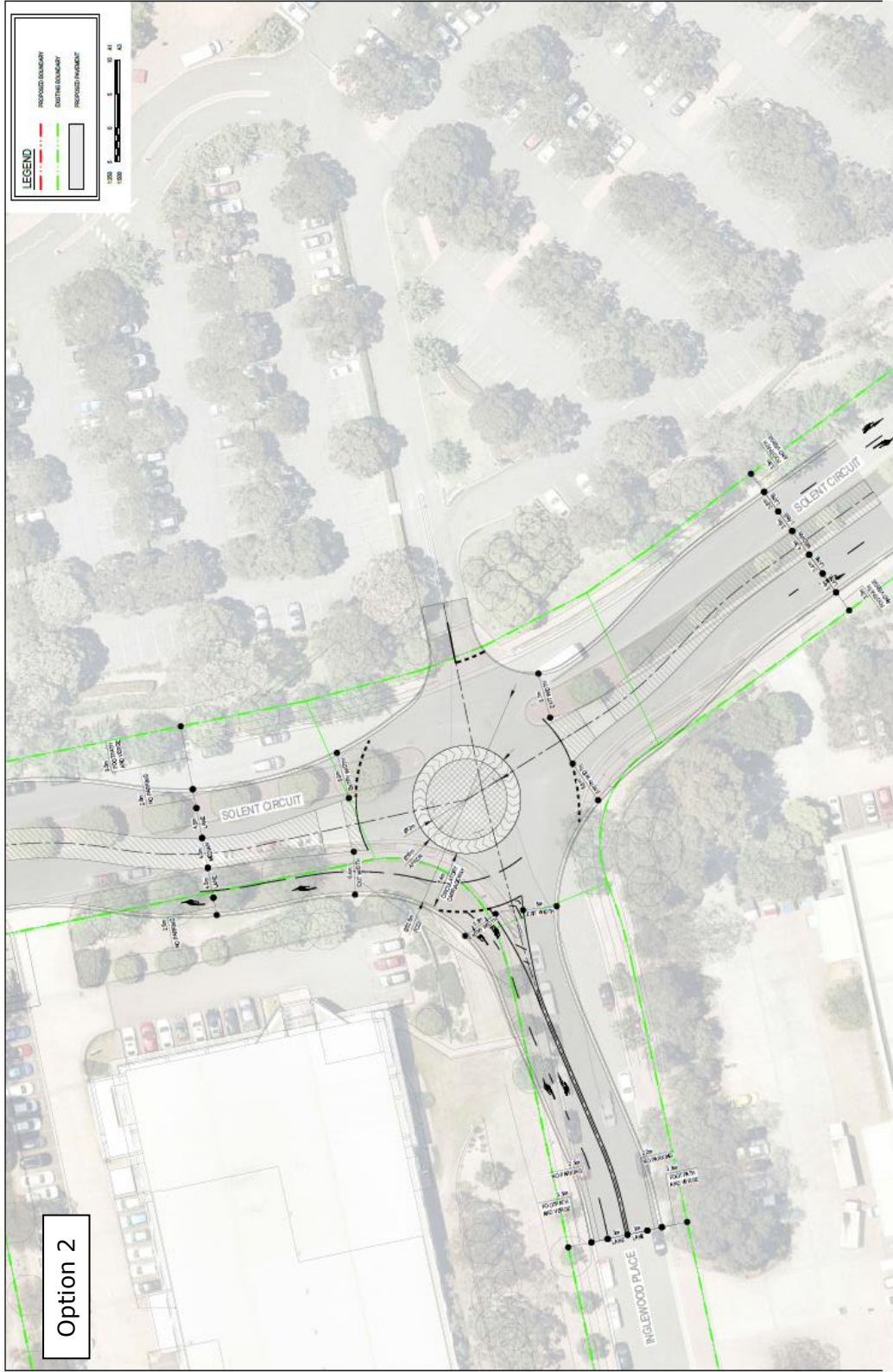
Comment: All details for screening and placement of services to be included in the DA documentation to council officer's satisfaction.

PANEL CONCLUSION

The Panel is of the opinion that the application satisfies the requirements of the Design Excellence clause and exhibits Design Excellence. The Panel commends the design team for a well-conceived design that prioritises the pedestrian and worker experience; and contributes positively to the public domain and future character of the Norwest Business Park.

Subject to Council's DA Officer being satisfied that the applicant has addressed the minor issues raised in this report, the project need not return to the panel for further consideration.

[illegible]



FOR INFORMATION

Stantec

44941

C-099-03

8

INGLESWOOD PLACE ROUNDABOUT

REQUESTED ALTERNATIVE LAYOUT A

PROJECT

TITLE

DATE	BY	CHKD	APPD
11/11/2020	JL	JL	JL
11/11/2020	JL	JL	JL
11/11/2020	JL	JL	JL
11/11/2020	JL	JL	JL

NO.	DESCRIPTION	DATE
1	11/11/2020	11/11/2020
2	11/11/2020	11/11/2020
3	11/11/2020	11/11/2020
4	11/11/2020	11/11/2020
5	11/11/2020	11/11/2020

