



DEVELOPMENT ASSESSMENT UNIT

Tuesday, 16 May 2023

TO STRIVE FOR BETTER THINGS

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**ITEM-1 MINUTES OF THE DEVELOPMENT ASSESSMENT
UNIT MEETING – 2 MAY 2023****PRESENT**

Cameron McKenzie	Group Manager – Development & Compliance (Chair)
Angelo Berios	Manager – Environment & Health
Craig Woods	Manager – Regulatory Services
Paul Osborne	Manager – Development Assessment
Megan Munari	Acting Manager – Forward Planning
Kristine McKenzie	Principal Coordinator – Development Assessment
Ben Hawkins	Manager – Subdivision & Development Certification

APOLOGIES

Nicholas Carlton Manager – Forward Planning

CIRCULATED ELECTRONICALLY**ITEM-1 CONFIRMATION OF MINUTES
RESOLUTION**

The Minutes of the Development Assessment Unit Meeting of Council held on 18 April 2023 be confirmed.

**ITEM-2 DA 800/2023/HA - HOME BUSINESS (BEAUTY SALON)
- LOT 220 DP 713142, 16 MOUNTAIN VIEW CRESCENT,
WEST PENNANT HILLS****DECISION**

The Application be Approved subject to conditions in accordance with the recommendation.

REASONS FOR THE DECISION

Section 4.15 (EP&A Act) – Satisfactory.
The Hills LEP 2019 – Satisfactory.
DCP 2012 Part B Section 2 – Residential – Satisfactory.
DCP 2012 Part C Section 1 – Parking – Satisfactory.

HOW COMMUNITY VIEWS WERE TAKEN INTO ACCOUNT IN MAKING THE DECISION

Notification letters were issued to 11 adjoining properties over 14 days. Six objections were received from five properties. The issues raised in the submissions were addressed in the report.

ITEM-3

DA 1533/2014/HA/D - SECTION 8.2 REVIEW OF DETERMINATION OF DA 1533/2014/HA/C (SECTION 4.55 (2) MODIFICATION TO AN APPROVED GAMES ROOM AND STUDIO AND A CARPORT) – LOT 9 DP 819618, NO. 5 WINDARRA PLACE CASTLE HILL

DECISION

The Section 8.2 Review of Determination Application be Refused in accordance with the recommendation.

REASONS FOR THE DECISION

Section 4.15 (EP&A Act) – Unsatisfactory.
Section 4.55 (EP&A Act) – Unsatisfactory.
The Hills LEP 2019 – Unsatisfactory.
DCP Part B Section 2 – Residential – Unsatisfactory.

HOW COMMUNITY VIEWS WERE TAKEN INTO ACCOUNT IN MAKING THE DECISION

Notification letters were issued to 4 adjoining properties over 14 days. No objections were received. Representation from the applicant was received and considered.

N.B. A further submission emailed by the applicant on 1 May 2023 was circulated and considered by Panel members.

END MINUTES

ITEM 2 **DA 747/2023/HA - DETACHED DUAL OCCUPANCY AND RETAINING WALLS – LOT 204 DP 1258511, NO. 8 TABLELANDS STREET, BOX HILL**

THEME: Valuing our Surroundings

OUTCOME: 9 Our natural surroundings are valued, maintained and enhanced and impacts are managed responsibly through education and regulatory action.

STRATEGY: 9.3 Manage new and existing development with a robust framework of policies, plans and processes that is in accordance with community needs and expectations.

MEETING DATE: 16 MAY 2023
DEVELOPMENT ASSESSMENT UNIT
SENIOR TOWN PLANNER

AUTHOR: SOPHIA BROWN
COI DECLARATION None declared

RESPONSIBLE OFFICER: PAUL OSBORNE
MANAGER – DEVELOPMENT ASSESSMENT
COI DECLARATION None declared

Applicant	Mr A B Wahabzadah
Exhibition / Notification	14 days
Number Advised	Six (6)
Number of Submissions	Three (3)
Zoning	R2 Low Density Residential
Site Area	700.2m ²
List of all relevant s4.15(1)(a) matters	Section 4.15 (EP&A Act) – Satisfactory. State Environmental Planning Policy (Resilience and Hazards) 2021 – Satisfactory. The Hills LEP 2019 – Satisfactory. SEPP (Central River City) 2021 – Satisfactory. SEPP BASIX – Satisfactory. Box Hill DCP 2018 – Satisfactory. Section 7.11 Contribution: \$51,697.86
Political Donation	None Disclosed
Reason for Referral to DAU	Submissions received.
Recommendation	Approval subject to conditions

EXECUTIVE SUMMARY

The Development Application is for the construction of a detached dual occupancy and retaining walls.

The subject site is located on land zoned R2 Low Density Residential.

The proposed development achieves compliance with the relevant provisions of the Box Hill Precincts Development Control Plan 2018.

The application was notified for 14 days and submissions from three (3) properties were received. The issues raised primarily relate to side setbacks, density, car parking and permissibility.

The application is recommended for approval subject to conditions.

BACKGROUND

The subject Development Application was lodged on 21 October 2022.

On 2 November 2022, a letter was sent to the applicant requesting additional information including public utility infrastructure letters from Sydney Water and Endeavour Energy, raingarden details, noise assessment, and cut and fill details. On 16 November 2022, an email was sent to the applicant requesting further engineering details.

On 18 January 2023, a letter was sent to the applicant requesting that the requested information be submitted within 14 days.

Additional information was received on 24 January 2023, however public utility infrastructure letters from Sydney Water and Endeavour Energy remained outstanding. An email was sent to the applicant on 1 February and 21 March 2023 outlining outstanding information.

Additional information was received on 6 March 2023.

PROPOSAL

The Development Application is for the construction of a detached dual occupancy and retaining walls.

On the ground floor, both dwellings include a lounge room, single garage, study, bathroom, meals room, kitchen, laundry, and family room.

On the first floor, both dwellings include four bedrooms including a master bedroom with walk-in-wardrobe and en-suite, study nook, sitting room, bathroom and front and rear balcony.

Retaining walls are proposed to the rear portion of the site with a maximum wall height of 500mm.

ISSUES FOR CONSIDERATION**1. Compliance with SEPP (Resilience and Hazards) 2021**

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. In accordance with Clause 4.6 of the SEPP, the consent authority must not grant 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.*

The subject site has a history of residential land use and is considered suitable for the proposed development without the need for further investigation or remediation.

2. Compliance with SEPP (Precincts – Central River City) 2021**(i) Permissibility**

The land is zoned R2 Low Density Residential under SEPP (Precincts – Central River City) 2021. The proposed development is defined in the SEPP (Precincts – Central River City) 2021 as a dual occupancy which is permitted with consent within the R2 Low Density zone.

The proposed development complies with the objectives of the SEPP (Precincts – Central River City) 2021 and the R2 zone and is therefore considered satisfactory with regards to SEPP (Precincts – Central River City) 2021.

(ii) Compliance with SEPP (Precincts – Central River City) 2021 – Zone Objectives

The site is zoned R2 Low Density Residential under SEPP (Precincts – Central River City) 2021.

The objectives of the zone are:

R2 Low Density Zone Objectives

- *To provide for the housing needs of the community within a low density residential environment.*
- *To enable other land uses that provide facilities or services to meet the day to day needs of residents.*
- *To allow people to carry out a reasonable range of activities from their homes, where such activities are not likely to adversely affect the living environment of neighbours.*
- *To support the well-being of the community, by enabling educational, recreational, community, religious and other activities where compatible with the amenity of a low density residential environment.*

The proposal is considered to be consistent with the stated objectives of the zone, in that the proposal will provide the housing needs of the community within a low density residential environment and will not adversely impact the environmental amenity of the locality.

(iii) SEPP (Precincts – Central River City) 2021 - Development Standards

The following addresses the principal development standards of SEPP (Precincts – Central River City) 2021 relevant to the subject proposal:

CLAUSE	REQUIRED	PROVIDED	COMPLIES
4.1A Allotment Size	Minimum 700m ² for dual occupancy developments	700.2m ²	Yes
4.3 Building Height	Maximum 9 metres	7.473 metres	Yes

The proposed development achieves compliance with the relevant development standards of SEPP (Precincts – Central River City) 2021.

(iv) SEPP (Precincts – Central River City) 2021 – Public Utility Infrastructure

Clause 6.1 of the SEPP states that the consent authority must not grant development consent to development on land to which this Precinct Plan applies unless it is satisfied that any public utility infrastructure that is essential for the proposed development is available or that adequate arrangements have been made to make sure that infrastructure is available when required.

In this clause, public utility infrastructure includes infrastructure for any of the following—

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

Sufficient information has been submitted demonstrating that the proposed works will satisfy Clause 6.1 of SEPP Precincts – Central River City 2021 and that any public utility infrastructure that is essential for the proposed development is available or that adequate arrangements have been made to make sure that infrastructure is available when required.

3. Compliance with Box Hill Precincts Development Control Plan 2018

The proposal has been assessed against the provisions of the Box Hill Precincts Development Control Plan 2018.

The proposed development achieves compliance with the relevant requirements of the DCP.

4. Issues Raised in Submissions

The proposal was notified for 14 days and three (3) submissions were received. The issues raised in the submissions are summarised below.

ISSUE/OBJECTION	COMMENT
The 1 metre side setbacks do not comply with the controls.	The detached dual occupancy development proposes 9 metre lot widths. Table 13 of the Box Hill Growth Centres Precinct Development Control

ISSUE/OBJECTION	COMMENT
	Plan 2018 requires a 900mm side setback to the boundary. The proposed 1 metre side setbacks to either side of the dual occupancy dwellings achieve compliance with Box Hill Growth Centres Precinct Development Control Plan 2018.
Objection to the proposed higher density and dual occupancy development in an area that are all dwellings.	The land is zoned R2 Low Density Residential under SEPP (Precincts – Central River City) 2021. Dual occupancy development is permitted with consent within the R2 Low Density zone.
Concern that occupants will park on the street because of the lack of parking space.	The development requires 2 car parking spaces per dwelling. One car parking space is provided within the single garage and one car parking space is provided on the driveway. The development achieves compliance with required car parking under Box Hill Growth Centres Precinct Development Control Plan 2018. Street parking is not restricted and is available for public use.
The area is for hobby farms not high rise developments.	The proposal is for a dual occupancy development that is permissible in the R2 Low Density zone. The development application does not seek approval for a “high rise” development.

5. Internal Referrals

The application was referred to following sections of Council:

- Forward Planning (Section 7.11 Contributions)
- Land Information Systems

No objection was raised to the proposal subject to recommended conditions of consent.

6. External Referrals

NSW Rural Fire Service

The application was referred to the NSW Rural Fire Service as the site is mapped as bushfire prone land.

No objection was raised to the proposal and no bushfire conditions are required.

CONCLUSION

The Development Application has been assessed against the relevant heads of consideration under Section 4.15 of the Environmental Planning and Assessment Act, 1979, State Environmental Planning Policy (Precincts – Central River City) 2021 and Box Hill Precincts Development Control Plan 2018 and is considered satisfactory.

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

Approval is recommended subject to conditions.

IMPACTS

Financial

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

The Hills Future Community Strategic Plan

The proposed development is consistent with the planning principles, vision and objectives outlined within "Hills 2026 – Looking Towards the Future" as the proposed development provides for satisfactory urban growth without adverse environmental or social amenity impacts and ensures a consistent built form is provided with respect to the streetscape and general locality.

RECOMMENDATION

The Development Application be approved subject to the following conditions of consent.

GENERAL MATTERS

1. Development in Accordance with Submitted Plans

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

REFERENCED PLANS AND DOCUMENTS

DRAWING NO.	DESCRIPTION	REVISION	DATE
22059-A1000	Site Plan	A	15/08/2022
22059-A1100	Ground Floor Plan	A	15/08/2022
22059-A1101	First Floor Plan	A	15/08/2022
22059-A1200	Roof Plan	A	15/08/2022
22059-A1300	South and West Elevation	A	15/08/2022
22059-A1301	North and East Elevation	A	15/08/2022
22059-A1300	South and East Elevation 2	A	15/08/2022
22059-A1301	North and West Elevation 2	A	15/08/2022
22059-A1400	Section	A	15/08/2022
22059-LP	Landscape Plan	A	15/08/2022
22059-SOF	Schedule of Finishes	A	15/08/2022
S1	Stormwater Plan	A	19/12/2022

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

2. Construction Certificate

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

3. Protection of Public Infrastructure

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

4. Vehicular Crossing Request

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

5. Rain Garden and Rainwater Reuse Tank

A rain garden and rainwater reuse tank is required to be constructed in accordance with the following documents and requirements:

- Council's Typical Rain Garden Plan and Details (Standard Drawing 44)
- Council's Rain Garden Installation Guide and Specifications

The area/ volume of the rain garden must comply with the restriction that appears on the title of the subject site.

6. External Finishes

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

7. Building Work to be in Accordance with BCA

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

8. Adherence to Waste Management Plan

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

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

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

9. Management of Construction and/or Demolition Waste

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

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

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

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

10. Commencement of Domestic Waste Service

A domestic waste service must be commenced with Council and its Contractor. The service must be arranged no earlier than two days prior to occupancy and no later than seven days after occupancy of the development. All requirements of Council's domestic waste management service must be complied with at all times. Contact Council's Resource Recovery Team on (02) 9843 0310 to commence a domestic waste service.

11. House Numbering

The responsibility for house/unit numbering is vested solely in Council in order to provide a consistent and accurate system of street numbering throughout the Shire.

Approved numbering for this development is: 8A – 8B Tablelands Street, Box Hill, NSW, 2765

As per Site Plan, Job number: 22059 – A1000; Date: 15.08.2022; Issue: A; marked up as 'Numbering Plan' by Council's Land Information Team and as follows:-

Proposed Dwelling 1: 8A Tablelands Street, Box Hill, NSW, 2765

Proposed Dwelling 2: 8B Tablelands Street, Box Hill, NSW, 2765

This addressing and by extension the development; may only be used in accordance with Council's Development Consent.

The use of the additional address is not granted or recognised by Authorities until Council have been contacted. At that time, Authorities will be advised that these house numbers are valid and to be recognised.

The street numbers as issued are to be displayed at the entrance to the property for mail delivery and service providers including emergency services.

The number of mailboxes to be provided is to be equal to the number of dwellings.

PRIOR TO THE ISSUE OF A CONSTRUCTION CERTIFICATE

12. Works in Existing Easement

All adjoining properties either benefited or burdened by the existing easement must be notified of the proposed works within the easement in writing, including commencement and completion dates, before a Construction Certificate or Subdivision Works Certificate is issued.

13. Security Bond – Road Pavement and Public Asset Protection

In accordance with Section 4.17(6) of the Environmental Planning and Assessment Act 1979, a security bond of \$10,000.00 is required to be submitted to Council to guarantee the protection of the road pavement and other public assets in the vicinity of the site during construction works. The above amount is calculated at the per square metre rate set by Council's Schedule of Fees and Charges, with the area calculated based on the road frontage of the subject site plus an additional 50m on either side multiplied by the width of the road. For low scale, low impact residential development a reduced amount based on a rate of \$5,000.00 per unit/ dwelling is instead used.

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

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

14. Engineering Works

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

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

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

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

The concept engineering plan prepared by MEARES CONSULTING, Job No. 11362, Revision A, dated 19.12.2022 is for development application purposes only and is not to be used for construction. The design and construction of the engineering works listed below must reflect the concept engineering plan and the conditions of consent.

a) Footpath Verge Formation

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

15. Rain Garden and Rainwater Reuse Tank

The Construction Certificate issued for this dwelling must include the rain garden and rainwater reuse tank conditioned earlier in this consent.

16. Erosion and Sediment Control

The detailed design must be accompanied by an Erosion and Sediment Control Plan (ESCP) prepared in accordance with the Blue Book and Council's Works Specification Developments.

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

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

An ESCP is required for this development.

17. Section 7.11 Contribution

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

Payments comprise of the following:-

	<i>Purpose: Subdivision</i>	<i>Purpose: Credit</i>	<i>No. of Dual Oc: 2</i>	<i>No. of Credits: 1</i>	<i>Total S7.11</i>
Open Space - Land	\$15,271.04	\$15,271.04	\$ 30,542.08	\$ 15,271.04	\$ 15,271.04
Open Space - Capital	\$9,283.72	\$9,283.72	\$ 18,567.44	\$ 9,283.72	\$ 9,283.72
Transport Facilities - Land	\$3,955.45	\$3,955.45	\$ 7,910.90	\$ 3,955.45	\$ 3,955.45
Transport Facilities - Capital	\$9,973.21	\$9,973.21	\$ 19,946.42	\$ 9,973.21	\$ 9,973.21
Administration	\$382.34	\$382.34	\$ 764.68	\$ 382.34	\$ 382.34
Water Management - Land (KCP)	\$6,074.81	\$6,074.81	\$ 12,149.63	\$ 6,074.81	\$ 6,074.81
Water Management - Capital (KCP)	\$6,757.28	\$6,757.28	\$ 13,514.56	\$ 6,757.28	\$ 6,757.28
Total	\$ 51,697.86	\$ 51,697.86	\$ 103,395.72	\$ 51,697.86	\$ 51,697.86

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

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

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

This condition has been imposed in accordance with Contributions Plan No 15.

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

PRIOR TO WORK COMMENCING ON THE SITE**18. Sydney Water Building Plan Approval**

A building plan approval must be obtained from Sydney Water Tap in™ to ensure that the approved development will not impact Sydney Water infrastructure.

A copy of the building plan approval and receipt from Sydney Water Tap in™ (if not already provided) must be submitted to the Principal Certifier upon request prior to works commencing.

Please refer to the website <http://www.sydneywater.com.au/tapin/index.htm>, Sydney Water Tap in™, or telephone 13 20 92.

19. Property Condition Report – Public Assets

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

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

20. Erosion and Sediment Control

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

21. Management of Building Sites

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

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

22. Consultation with Service Authorities

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

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

23. Approved Temporary Closet

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

24. Stabilised Access Point

A stabilised all weather access point is to be provided prior to commencement of site works, and maintained throughout construction activities until the site is stabilised. The controls shall be in accordance with the requirements with the details approved by Council and/or as directed by Council Officers. These requirements shall be in accordance with Managing Urban Stormwater – Soils and Construction produced by the NSW Department of Housing (Blue Book).

25. Details and Signage - Principal Contractor and Principal Certifier**Details**

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

Before work commences, details of the Principal Certifier, in accordance with Section 57 of the Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021, is to be lodged on the NSW Planning portal.

Signage

A sign is to be erected in accordance with Section 70 of the Environmental Planning and Assessment Regulation 2021. The sign is to be erected in a prominent position on the site before the commencement of the work, and show –

- a) the name, address and telephone number of the Principal Certifier,
- b) the name and a telephone number on which the principal contractor/person responsible for the work may be contacted outside working hours.

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

DURING CONSTRUCTION**26. Rain Garden – Construction Checklist Compliance**

During construction of the rain garden Council's Rain Garden Installation Guide and Specifications must be followed, a copy of which is available on Council's website.

The Construction Checklist (Appendix A) included with the installation guide/ specifications must be completed by the person constructing the rain garden and a copy submitted to Council.

27. Standard of Works

All work must be carried out in accordance with Council's Works Specification Subdivisions/ Developments and must include any necessary works required to make the construction effective. All works, including public utility relocation, must incur no cost to Council.

28. Hours of Work

Work on the project to be limited to the following hours: -

Monday to Saturday - 7.00am to 5.00pm;

No work to be carried out on Sunday or Public Holidays.

The builder/contractor shall be responsible to instruct and control sub-contractors regarding the hours of work.

29. Roof Water Drainage

Gutter and downpipes to be provided and connected to an approved drainage system upon installation of the roof covering.

30. Survey Report and Site Sketch

A survey report and site sketch signed and dated (including contact details) by the registered land surveyor may be requested by the Principal Certifier during construction. The survey shall confirm the location of the building/structure in relation to all boundaries and/or levels. As of September 2018 the validity of surveys has been restricted by legislation to 2 years after issue.

31. Compliance with BASIX Certificate

Under Section 75 of the Environmental Planning and Assessment Regulation 2021, it is a condition of this Development Consent that all commitments listed in BASIX Certificate No.

1338466M is to be complied with. Any subsequent version of this BASIX Certificate will supersede all previous versions of the certificate.

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

Section 6.6 of the Environmental Planning and Assessment Act 1979 requires critical stage inspections to be carried out for building work as prescribed by Section 61 of the Environmental Planning and Assessment (Development Certification and fire Safety) Regulation 2021. Prior to allowing building works to commence the Principal Certifier must give notice of these inspections pursuant to Section 58 of the Environmental Planning and Assessment (Development Certification and fire Safety) Regulation 2021.

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

33. Landscaping Works

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

34. Dust Control

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

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

PRIOR TO ISSUE OF AN OCCUPATION AND/OR SUBDIVISION CERTIFICATE

35. Completion of Engineering Works

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

36. Property Condition Report – Public Assets

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

37. Stormwater Management Certification

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

- A certificate of hydraulic compliance from a hydraulic/civil engineer verifying that the stormwater system has been completed satisfactory and in accordance with Council's Works Specification Subdivisions/ Developments.
- Records of inspections; and

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

38. Rain Garden and Rainwater Reuse Tank

An Occupation Certificate must not be issued prior to the completion of the rain garden and rainwater reuse tank required by this consent. A copy of the completed Construction Checklist (Appendix A) included with Council's Rain Garden Installation Guide and Specifications must be submitted to Council.

39. Section 73 Compliance Certificate

A Section 73 Compliance Certificate issued under the Sydney Water Act 1994 must be obtained from Sydney Water confirming satisfactory arrangements have been made for the provision of water and sewer services. Application must be made through an authorised Water Servicing Coordinator. The certificate must refer to this development consent and all of the lots created.

Sydney Water's guidelines provide for assumed concurrence for the strata subdivision of a development approved by an earlier consent covered by a compliance certificate.

The only other exception to this is for services other than potable water supply, in which case the requirements of Flow Systems/ Box Hill Water as a network operator under the Water Industry Competition Act 2006 would apply. A separate certificate of compliance would need to be issued for those works.

40. Retaining Walls

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

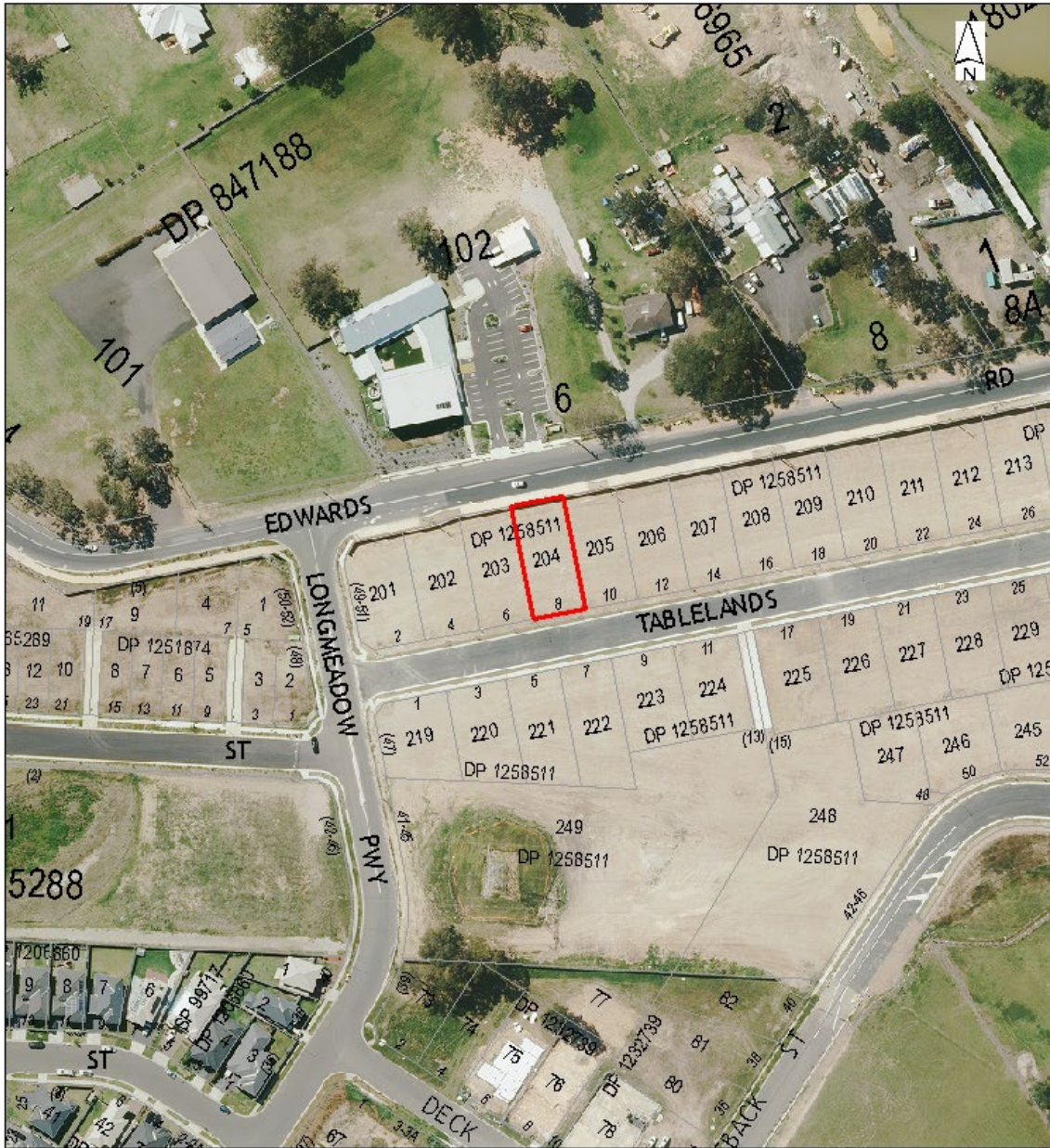
THE USE OF THE SITE**41. Maintenance of Landscaping Works**

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

ATTACHMENTS

1. Locality Plan
2. Aerial Photograph
3. Site Plan
4. Elevations
5. Shadow Diagrams

ATTACHMENT 2 – AERIAL MAP



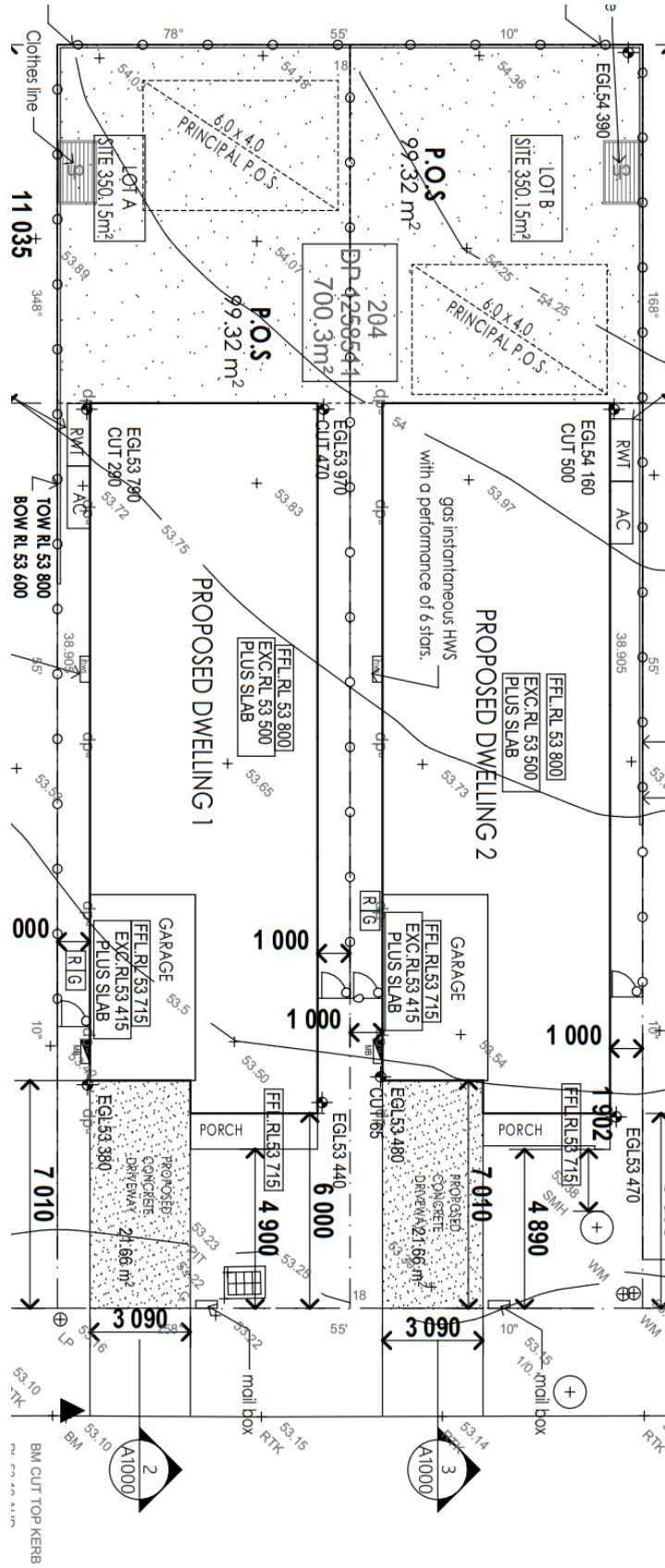
 SUBJECT SITE



THE HILLS SHIRE COUNCIL

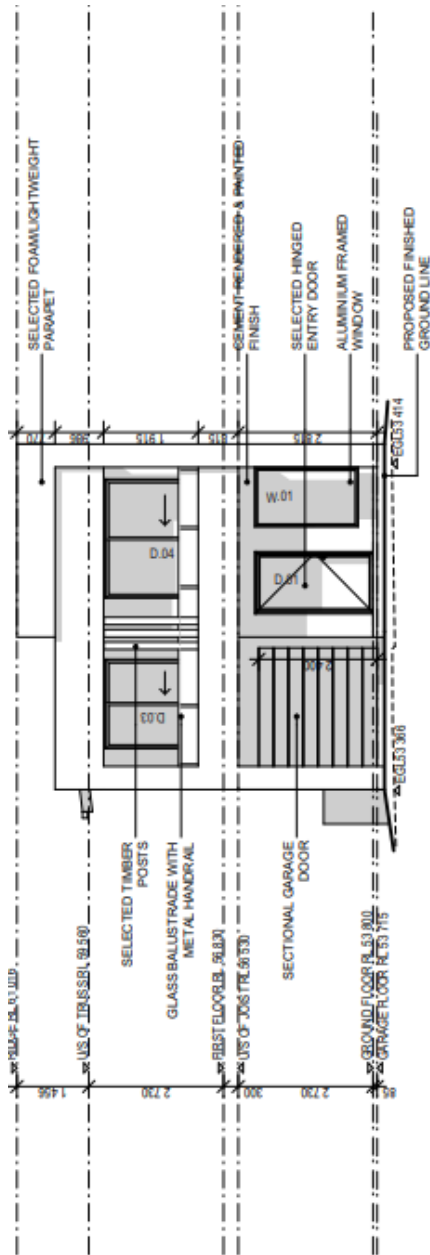
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ATTACHMENT 3 – SITE PLAN

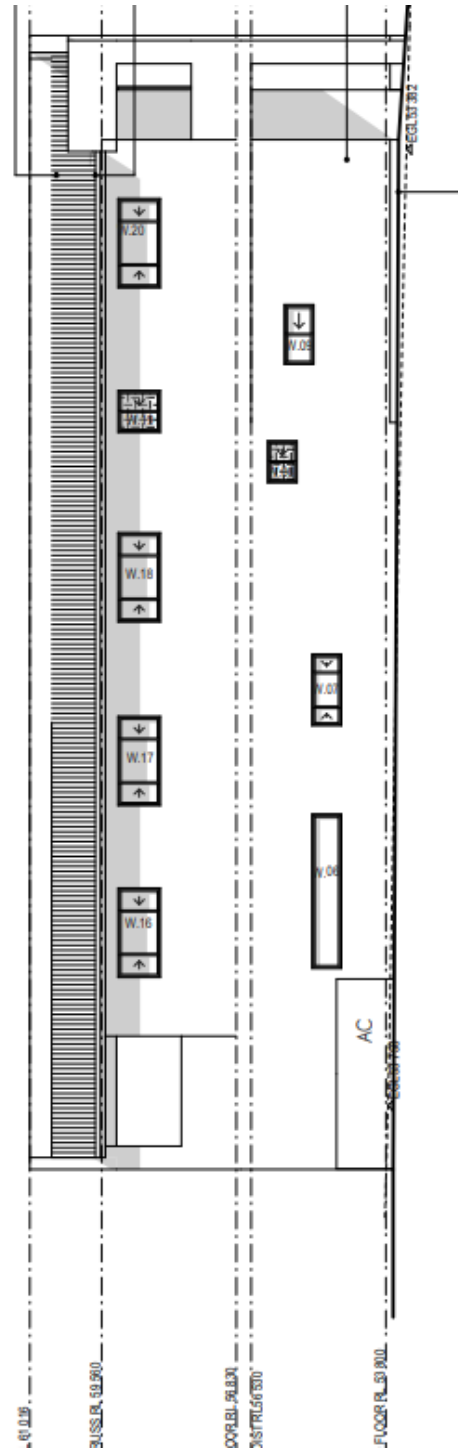


TABLELANDS STREET

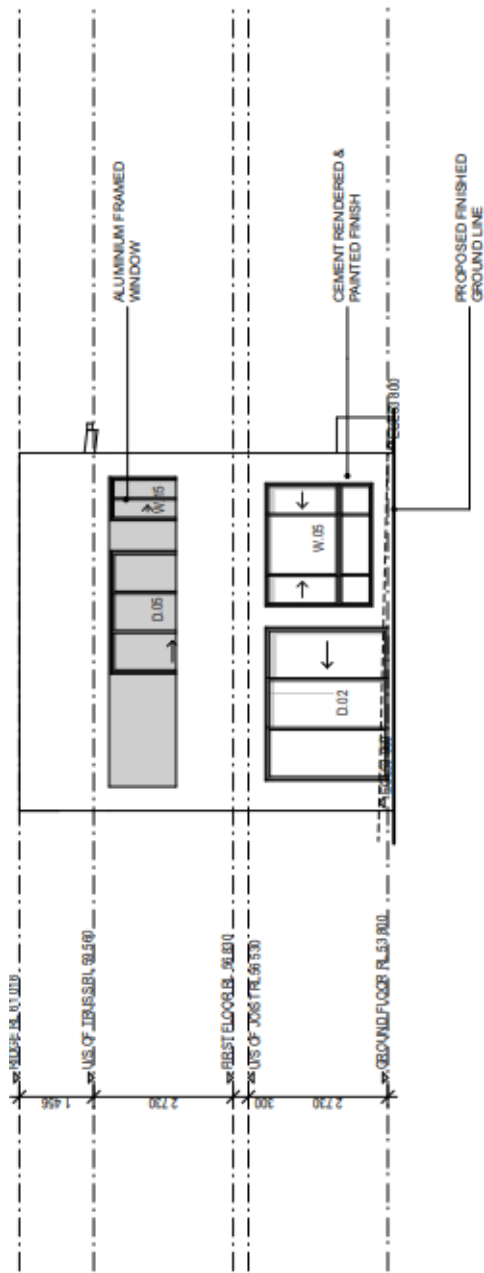
ATTACHMENT 4 – ELEVATIONS



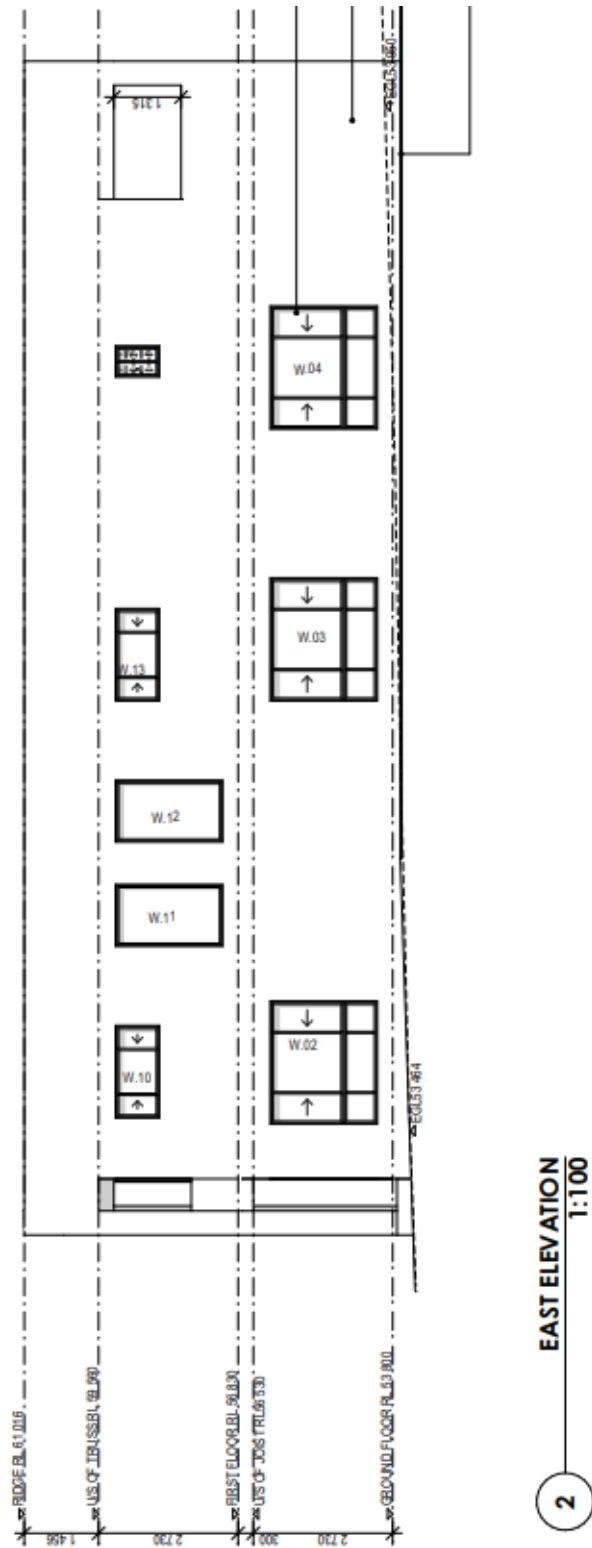
SOUTH ELEVATION
1:100



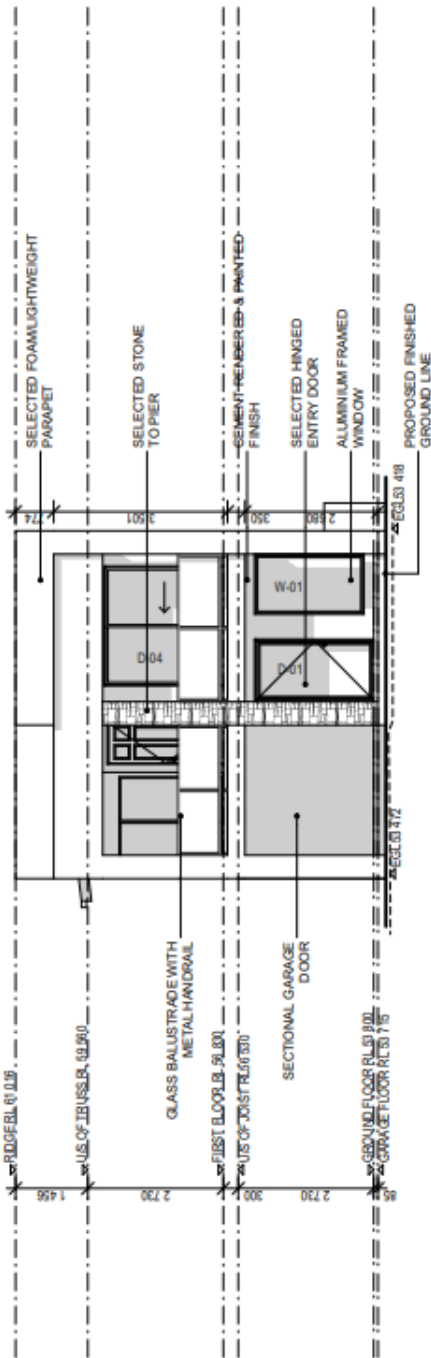
WEST ELEVATION
1:100



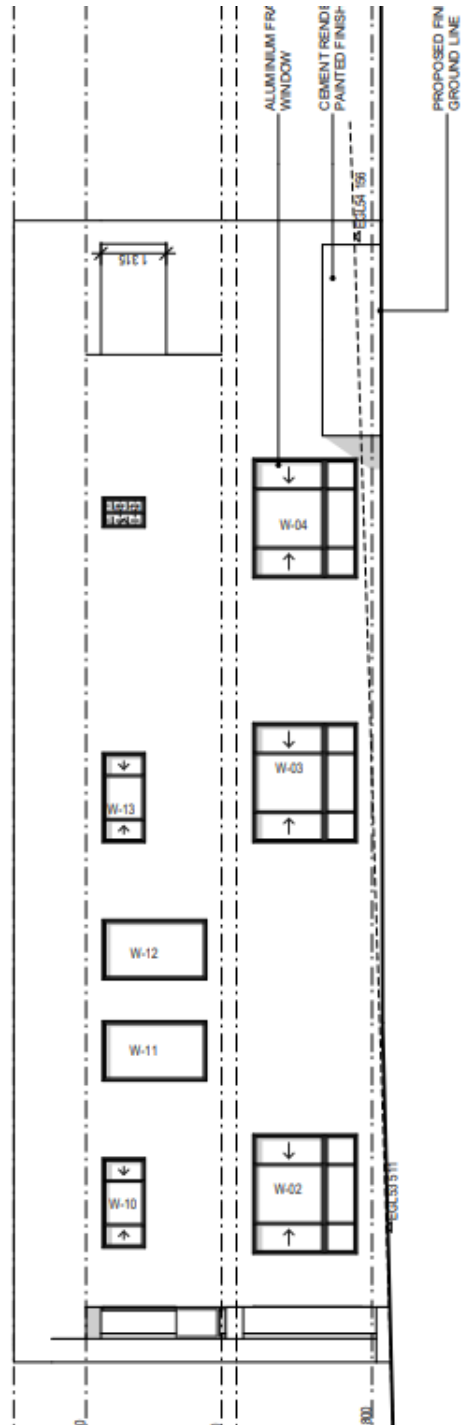
1 NORTH ELEVATION
1:100



2 EAST ELEVATION
1:100

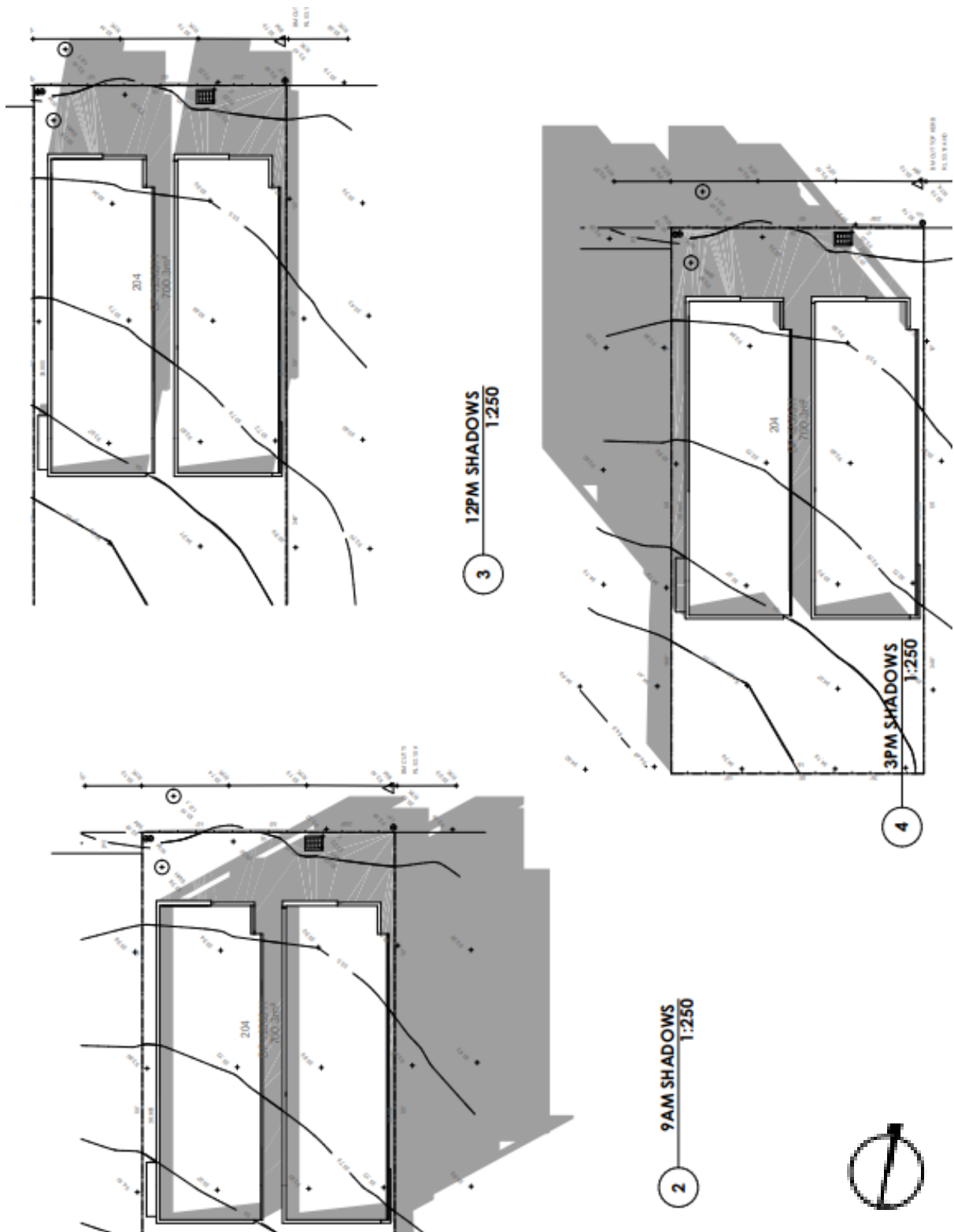


1 SOUTH ELEVATION 1:100



2 EAST ELEVATION 1:100

ATTACHMENT 5 – SHADOW DIAGRAM



EXECUTIVE SUMMARY

The Development Application seeks approval to increase the patron numbers from the current capacity of 590 patrons including staff to 800 patrons including staff. The increased patronage however is proposed to be restricted to Thursday, Friday and Saturday only from 6pm to close, with the remaining operating hours being subject to the current 590 capacity.

Pub developments within the local government area have been generally approved with a merit parking rate applied to determine parking requirements against patron numbers. This is in part due to the DCP rate for bars (1 space per 1.85m²) having been shown to be onerous and not reflective of the actual parking demand generated by a pub. A patron-to-parking ratio methodology has been considered reasonable over time, given the number of patrons are controlled by a condition of consent where a pub is approved. This report provides a table of car parking to patron rates for various pubs in the Shire.

Currently the Hillside Hotel operates with an on-site parking-to-patron ratio of 1 per 14.75 patrons which is a considerably lower parking-to-patron ratio than the other pubs. In seeking to increase numbers of people on the premises to 800 they are seeking a ratio near to 1 space per 20 patrons after 6pm on Thursday, Friday and Saturday nights.

A traffic and parking assessment report accompanied the Development Application. Several inspections have been undertaken by Council's Traffic and Regulatory staff for the hours in which the increased patron numbers are sought. The observation was that there were some spaces available but generally, those spaces were in the southern part of the carpark away from the Hillside Hotel and nearby businesses. Inspections undertaken between 8pm and 9pm on a Thursday night indicated that the carpark behind the Hotel was close to capacity but that many spaces were available at the southern end of the car park.

The Hillside Hotel is in a unique situation compared to other pubs in the local government area in its location not only close to a metro station, but also close to a very large public carpark. Having said that, the rate of parking for the hours where increased patron capacity is sought is considerably lower than for other pubs. The Hillside Hotel does contribute to the night-time economy and no doubt alternative modes of transport, including ride-share, reduce the reliance on car parking for patrons.

However, the hotel patrons do compete with the patrons of other night-time businesses and the public carpark is near capacity at least to around 8pm near the proximity of the pub. To balance the equitable use of the public carpark by other patrons of other businesses, the additional patron and staff capacity for the pub is supported but after 8pm Thursday, Friday and Saturday rather than from 6pm on those days.

The Development Application was also referred to the NSW Police for comment. The Police have advised acceptance of the increase in patron numbers is contingent on the premises no longer having a nightclub and that no objection is raised subject to the applicant providing a written confirmation that this is the case. A written confirmation was received from the applicant on 5 August 2022 in this regard advising that there is no nightclub accompanied by amended plans which removed any reference to a nightclub.

The Development Application is recommended for approval subject to conditions.

BACKGROUND

Development Consent No.1353/1999/HA for occupation of Shops 5 and 6 for purposes of a restaurant/ tavern with hoteliers' licence approved on 15 December 1998.

Approval to increase patron numbers to 300 (hotel) plus 112 (1st-floor restaurant) was granted on 20 December 2005 under DA 586/2006/HB.

On 24 December 2007, Development Consent No. 733/2008/HB for change of use of the upper level, redefinition of the licensed area to include the upper level, and redistribution of patron numbers (maximum 412) throughout the Hotel was granted.

On 11 August 2008, Development Application No. 1840/2008/HB was approved at the Ordinary Meeting of Council for the redevelopment of a hotel and reconstruction and relocation of a public laneway. Given part of the subject site was owned by Council at that time an independent peer review of the application and the assessment by Council staff was undertaken. The peer review has noted that the merits of any future increase in the number of patrons would need to consider any case put forward and would be based upon a detailed traffic and transport assessment, including information such as traffic counts, patron surveys and car parking surveys.

Development Application No. 1051/2011/HB for alterations and additions to the Hillside Hotel including amended hours of operation was approved at the Ordinary Meeting of Council on 28 June 2011. Condition 31 of the consent limited the patron numbers to a maximum of 412.

On 10 September 2013, Modification Consent No. 1051/2011/HB/C) was approved at the Ordinary Meeting of Council by amending Condition 31 which allowed a maximum of 590 persons (staff and patrons) subject to a trial period of one year.

The 590 patron capacity was formalised on an on-going basis via a further Modification Consent No. 1051/2011/HB/D granted by Council's Development Assessment Unit on 3 September 2014.

Development Consent No. 328/2015/HA was granted on 9 January 2015 for alterations and additions to the hotel to allow for minor works on the upper terrace area, including kitchen and bar area.

Development Consent No. 915/2020/HA was granted by the Local Planning Panel on 22 July 2020 for alterations and additions to the Hillside Hotel which included the relocation and reconstruction of public laneway, occupation of 3 commercial tenancies and associated signage subject to conditions including a condition restricting the maximum number of people in the building (patrons & staff) to 590

A Section 4.55 modification application was granted under Council staff delegation on 3 August 2021 which amended the lower, ground, first floor and roof plans of the approved extension to the hotel.

The subject Development Application was lodged on 18 November 2021. The application was notified for 14 days and received one (1) submission reiterating the same concerns raised in the previous submission to DA 915/2020/HA regarding the demolition of the Unknown Soldiers Lane.

A letter was sent to the applicant on 26 November 2021 requesting additional BCA/fire safety information including capacity of patrons for each storey. This request was followed up with the applicant on numerous occasions between February to August 2022.

On 5 August 2022, comments from the NSW Police were forwarded to the applicant advising acceptance of the increase in patron numbers in contingent on the premises no longer having a nightclub and that no objection is raised subject to applicant providing a written confirmation that this is the case. This was confirmed in writing by the applicant on the same day which was accompanied by amended plans which removed any reference to a nightclub.

Additional BCA/fire safety information was received on 10 August 2022.

On 7 October 2022, the applicant was requested to undertake a parking survey on Friday and Saturday (6pm-11pm) to ensure the Council car park will not be exceeding peak parking capacity during the proposed change of hours. The applicant responded on 20 October 2022 advising they do not consider that a parking survey is necessary as the information supplied with the DA demonstrates that the proposal does not result in an excessive demand for parking or conflict with the Tertiary Education Establishment (DA 1012/2021/HA) at 72–74 Cecil Avenue Castle Hill.

A letter was sent to the applicant on 7 December 2022 advising that Council staff will be undertaking a parking survey in the vicinity of the hotel premises and Council's car park.

PROPOSAL

The Development Application seeks approval to increase the patron numbers from the current capacity of 590 patrons including staff to 800 patrons including staff. The increased patronage is proposed to be restricted to Thursday, Friday and Saturday only from 6.00pm to closing time, with the remaining times reverting to the current 590 capacity

The increase in patrons from 590 to 800 was initially sought in DA 915/2020/HA, however that part of the application was withdrawn by the applicant during the assessment process in response to the concerns raised by the NSW Police.

DA 915/2020/HA was approved by the Local Planning Panel on 22 July 2020 for alterations and additions to the Hillside Hotel which included the relocation and reconstruction of public laneway, occupation of 3 commercial tenancies and associated signage subject to conditions including a condition restricting the maximum number of patrons including staff to 590 (Condition 51). The 590-patron capacity was approved by Council at its Ordinary Meeting on 10 September 2014 via DA 1051/2011/HB/C.

As the proposal to increase the number of patrons was lodged as a separate Development Application and not as a Section 4.55(2) modification application, determination of this matter is not captured by the Local Planning Direction signed by the Minister for Planning and Public Spaces dated 30 June 2020 on DAs and applications to modify development consents. It satisfies the criteria in Schedule 2 of the Local Planning Direction in terms of conflict of interest, contentious development (only one submission has been received), no departure from development standards and sensitivity of the development as the application is not for the purposes of new licenced premises.

ISSUES FOR CONSIDERATION

1. Compliance with LEP 2019 (Permissibility)

The land is zoned B4 Mixed Use under The Hills Local Environmental Plan 2019 (LEP 2019). Under LEP 2019 the existing use on the site 'The Hillside Hotel' is best defined as a pub, as follows:

pub means licensed premises under the Liquor Act 2007 the principal purpose of which is the retail sale of liquor for consumption on the premises, whether or not the premises include hotel or motel accommodation and whether or not food is sold or entertainment is provided on the premises."

Note: Pubs are a type of food and drink premises

Under the Liquor Act 2007 'hotel means the premises to which a hotel licence relates'.

A pub is a permissible use with consent in B4 Mixed Use Zone.

The proposal to increase the patron numbers for the hotel is consistent with the B4 zone objectives to provide a mix of uses in an accessible location and encourage leisure and entertainment facilities.

The proposed increase in patron numbers is not affected by any of the LEP provisions and therefore the proposal is considered satisfactory in this regard.

2. Compliance with The Hills Development Control Plan

The proposal has been assessed against the relevant provisions of The Hills Development Control Plan (THDCP) particularly:-

- Part B Section 6 – Business
- Part C Section 1 – Parking
- Part C Section 2 - Signage
- Part D Section 11 – Terminus Street Precinct
- Part C Section 4 - Heritage

The proposal does not involve any physical works and the proposed increase in patron numbers does not affect any of the DCP provisions under Part B Section 6 – Business, Part C Section 2 – Signage, Part D Section 11 - Terminus Street Precinct and Part C Section 4 – Heritage.

With regard to Part C Section 1 – Parking, the DCP requires that the '*Number of required parking spaces and associated conditions must be provided in accordance with Table 1. Any part spaces must be rounded up to the nearest whole number*'. The following non-compliance has been identified:

DEVELOPMENT STANDARD	DCP REQUIREMENTS	PROPOSED DEVELOPMENT	COMPLIANCE
Car Parking Provision	Hotel: 1 space per 1.85m ² of public bar / service area and 1 space per 2	40 parking spaces (being nil additional parking for increased employee and patron	No – The proposed increase in patron and staff numbers is not supported by

	<p>employees.</p> <p>Existing parking provision: 40 parking spaces (associated with 590 patrons)</p> <p>Note: The merit parking rate applied to the approved hotel is currently 14.75 patrons per parking space.</p>	<p>numbers being an additional 210 persons).</p> <p>The proposed revised patronage equates to a parking rate of 1 parking space per 20 persons per parking space when only patrons are considered in the calculation.</p> <p>If the existing merit rate of 14.75 patrons per parking space was applied, the proposed amended development would require an additional 15 parking spaces.</p>	<p>any increase in onsite parking to cater for the additional demand and intensity. While the existing restricted hotel patronage has the benefit of reliance on a public car park, any further increase in patron and employee numbers requires additional onsite parking as the public car park is for the collective use of the public attending all developments within the Terminus Street Precinct (not just the pub development).</p>
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The above table provides that for pubs and registered clubs parking is to be provided at the rate of *1 space per 1.85m² of service area in bar and lounge plus 1 space per 2 employees*. The Hotel currently has provision for forty (40) off-street parking spaces and it is not proposed to provide more parking spaces on site. It is noted that a variation was sought in DA 915/2020/HA in respect of the amount of on-site parking spaces for the hotel as the approved extension of 369m² and 5 additional staff technically required an additional parking provision of 202 parking spaces. The variation was assessed on merit adopting the patron to parking ratio methodology which is considered reasonable given the number of patrons is controlled by a condition of consent where a pub is approved. In DA 915/2020/HA, it was considered that the evidence and conclusions in the traffic and parking assessment submitted with the previous Development Application satisfied the intent of the Parking DCP controls despite the technical non-compliance and an acceptable level of on-site parking will be provided and will not cause adverse traffic impacts within the precinct.

To support the proposed increase in patronage numbers in this application, a Traffic and Parking Assessment Report has been provided as required by the DCP. The report has considered the proposed increase in patron numbers having regard to the limitation on the provision of on-site parking.

The Traffic and Parking Assessment Report has noted:

*“While the current Application also seeks to increase the maximum permitted patronage at the Hillside Pub from 590 to 800 patrons, it is different to the previous application because it makes provision to limit the **frequency and duration** of the increased patronage, as follows:*

Restricted Frequency of the Increased Maximum Permitted Patronage so that it would only apply on Thursday, Friday and Saturday Nights, and on public holidays and the nights

preceding public holidays. At all other times, the maximum permitted patronage would remain at 590 persons.

***The Duration of the Increased Maximum Permitted Patronage** would be limited to the period 6.00pm – closing time. At all other times, the maximum permitted patronage would remain at 590 persons.”*

The evidence and conclusions in the Traffic and Parking Assessment Impact Statement demonstrate the proposal satisfies the intent of the controls of this section of the Parking DCP, despite the technical non-compliance.

A variation is sought by the applicant in respect of the parking requirements specified by DCP 2012 Part C Section 1 - Parking, namely:

(a) Number of required parking spaces and associated conditions must be provided in accordance with Table 1. Any part spaces must be rounded up to the nearest whole number.

Table 1 provides that for pubs and registered clubs parking is to be provided at the rate of 1 space per 1.85m² of service area in bar and lounge plus 1 space per 2 employees.

The applicant has provided the following justification to Council's Parking DCP controls:

“In respect of the proposed variations to the Hills Development Control Plan 2012, Section 4.15 (3A) of the Environmental Planning Assessment Act, 1979, provides that:

If a development control plan contains provisions that relate to the development that is the subject of a development application, the consent authority:

(a) if those provisions set standards with respect to an aspect of the development and the development application complies with those standards—is not to require more onerous standards with respect to that aspect of the development, and

(b) if those provisions set standards with respect to an aspect of the development and the development application does not comply with those standards—is to be flexible in applying those provisions and allow reasonable alternative solutions that achieve the objects of those standards for dealing with that aspect of the development, and

(c) may consider those provisions only in connection with the assessment of that development application (emphasis added)

In undertaking the assessment of on-site carparking, the traffic report utilises the results of surveys of other pubs to estimate the patronage and parking demand potential of the Hillside Pub during the daytime and night time on weekdays and weekend days, as well as for the proposed increase in the maximum permitted patronage of the pub, enabling the assessment to be conducted in the context of the overall operation of the pub.

It is also well documented that the ride share industry has seen a significant increase in acceptance and popularity in recent years and is a proven alternative mode of transport that adds to the options available for patrons in lieu of driving to a licenced premises.

The Hillside Hotel is located within a major commercial district hub and it contributes to the night-time economy. There are numerous medium and high density unit buildings within the Castle Hill precinct that are located within walking distance to the CBD and management is aware of many such patrons that often frequent the hotel by walking.

The peak trading times of the pub are generally outside of the traditional commercial uses and therefore in the event that patrons chose to use public spaces it would not necessarily reduce the availability of on street parking for other users within Castle Hill.

It is considered that despite the nominated variation, the proposal is consistent with the overall aims of DCP 2012 and the intended outcomes of the Part C Section 1 of DCP 2012."

Council's Traffic Team has reviewed the submitted traffic and parking report and to verify the outcome of the survey, a parking survey was undertaken in the vicinity of the hotel premises and Council's car park. The following comments are provided:

"The traffic team has assessed the parking implications for the proposed expansion in patronage numbers of the Hillside Hotel. Video surveys were undertaken which showed about 40 spaces available between 6pm-7pm, that could be occupied by additional patrons from the expansion from the hotel. Given that the general demand of the carpark is likely to reduce further as the night goes on, this is expected to coincide with the increase in patron numbers at the hotel. Therefore the traffic team's view is that parking availability in the carpark is likely to accommodate the increase patronage resulting from an expansion of the hotel. Therefore the proposal is supported."

Comment:

Pub developments within the local government area have been generally approved with a merit parking rate applied to determine parking requirements against patron numbers. This is in part due to the DCP rate for bars (1 space per 1.85m²) having been shown to be onerous and not reflective of the actual parking demand generated by a pub. The patron to parking ratio methodology is considered reasonable given the number of patrons are controlled by a condition of consent where a pub is approved.

The following pub developments have been approved (or works to the pub developments approved) with the following car parking to patron rates:-

Pub	Patron to Parking Ratio
Castle Hill Tavern	1 per 3.5 patrons
Annangrove Hotel	1 per 3.3 patrons
Mullanes Norwest Hotel, 34-36 Brookhollow Avenue, Baulkham Hills	1 per 10.4 patrons (off-peak) 1 per 5.3 patrons (peak)
The Hop House, 1 Kenthurst Road, Dural	1 per 7.9 patrons (off-peak) 1 per 5 patrons (peak)
The Fiddler Hotel (existing)	1 per 3.84 patrons (gross shared parking pool)
The Bella Vista Hotel (existing)	1 per 3.5 patrons
Bella Vista Hotel	1 per 3.67 patrons
Australian Brewery (Annangrove Road)	1 space per 3.19 patrons

The previous Development Consent 1051/2011/HB for alterations and additions to the hotel which was amended via DA 1051/2011/HB/C resulted in an increase in patron numbers from 412 to 590 patrons. This application was approved by Council at its Ordinary Meeting on 10 September 2013 which set an on-site parking to patron ratio for the site of 1 parking space per 13.7 persons (which was then based on 43 off-street parking spaces).

The current Hillside Hotel operates with an on-site parking to patron ratio of 1 per 14.75 patrons. As demonstrated, this is a considerably lower parking to patron ratio than the other pub developments detailed above.

The Hillside Hotel is in a unique situation compared to other pubs in the local government area in its location not only close to a metro station, but also close to a very large public carpark. Having said that, the rate of parking for the hours where increased patron capacity is sought is considerably lower than for other pubs. The Hillside Hotel does contribute to the night-time economy and no doubt alternative modes of transport, including ride-share, reduce the reliance on car parking for patrons.

However, the hotel patrons do compete with the patrons of other night-time businesses and the public carpark is near capacity at least to around 8pm near the proximity of the pub. To balance the equitable use of the public carpark by other patrons of other businesses, the additional patron and staff capacity for the pub is supported but after 8pm Thursday, Friday and Saturday rather than from 6pm on those days.

3. Issues Raised in Submissions

The proposal was exhibited and notified for 14 days. One submission was received, and the issues raised in the submissions are summarised below.

ISSUE/OBJECTION	COMMENT
<p>It is the only memorial to soldiers left in Castle Hill. For older residents doing their shopping it was always an easier walk back to their car when loaded with shopping.</p> <p>I think you will find it is registered with the Australian War Memorial as a dedicated site if not the process is underway.</p> <p>It is also part of the Orange Blossom Pageant history as this was the place where all the floats and groups congregated to join the march to celebrate the Orange Blossom History.</p>	<p>The Unknown Soldiers Lane was subject of a land swap between Council and land owner and has been relocated within the area occupied by No's. 277A & B Old Northern Road which will function as a laneway. Settlement of the transfers took place on 27 March 2020.</p>
<p>We do not need more room for drunken patrons on the streets of Castle Hill particularly on a site of Heritage and War Memorial significance.</p>	<p>The Hillside Hotel operates under an adopted Plan of Management and this document will be updated accordingly to reflect the increase in patronage. It is recommended that an updated Plan of Management incorporating and/or referencing the Noise Management Plan (recommended by Council's Environmental Health Team) is to be submitted as a condition in any approval.</p>

4. Internal Referrals

The application was referred to following sections of Council:

- Traffic
- Fire Safety
- Environmental Health
- Development Monitoring Team

No objection is raised to the proposal subject to conditions. Relevant comments have also been provided below:

Fire Safety:

No objection is raised to the proposed increase in capacity to 800 persons with a limit on the first floor at any one time to not exceed 524 persons. A condition is recommended in this regard (see Condition No. 3).

Traffic:

The Traffic Team has assessed the parking implications for the proposed expansion in patronage numbers of the Hillside Hotel. Video surveys were undertaken which showed about 40 spaces available between 6pm-7pm, that could be occupied by additional patrons from the expansion from the hotel although most of these spaces are in the southern part of the carpark some way from the hotel. Given that the general demand of the carpark is likely to reduce further as the night goes on, this is expected to coincide with the increase in patron numbers at the hotel. Therefore the traffic team's view is that parking availability in the carpark is likely to accommodate the increase patronage resulting from an expansion of the hotel. Therefore the proposal is supported.

CONCLUSION

The Development Application has been assessed against the relevant heads of consideration under Section 4.15 of the Environmental Planning and Assessment Act, 1979, The Hills Local Environmental Plan 2019 and The Hills Development Control Plan 2012 and is considered satisfactory subject to a condition which requires that the additional capacity of the venue only occurs after 8pm on Thursday, Friday and Saturday. This is to allow equitable use of the car park by patrons of uses until the availability of parking improves later in the evening.

The proposed variation to Council's requirements in DCP 2012 Part C Section 1 – Parking has been addressed in the report and is supported having regard to the Traffic and Parking Assessment Report submitted with the application and verified by a parking survey undertaken by Council's Traffic Team.

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

Approval is recommended subject to conditions.

IMPACTS

Financial

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

The Hills Future Community Strategic Plan

The proposed development is consistent with the planning principles, vision and objectives outlined within “Hills 2026 – Looking Towards the Future” as the proposed development provides for satisfactory urban growth without adverse environmental or social amenity impacts and ensures a consistent built form is provided with respect to the streetscape and general locality.

RECOMMENDATION

The Development Application be approved subject to the following conditions:

GENERAL MATTERS**1. Updated Plan of Management**

An updated Plan of Management shall be submitted to Council’s Manager Development Assessment to reflect the increase in patronage and to incorporate and/or reference the Noise Management Plan required in Condition No. 2.

THE USE OF THE SITE**2. Noise Management Plan**

A Noise Management Plan shall be submitted to the satisfaction of Council’s Manager – Environment & Health. The noise management plan is to incorporate the following items;

- b) A clear commitment by the operator in minimising noise from the licenced venue;
- c) A complaint handling process detailing management of noise complaints.
- d) A process for managing maximum number of patrons in the terrace beer garden area.
- e) Actions taken by staff members in the event of excessive noise from patrons within the venue and car parking area.
- f) Any other item deemed relevant in minimising excessive noise from within the licenced venue.

3. Maximum Capacity Signage to be Displayed in the Premises

With effect from 26 January 2010, it is a Prescribed Condition under Clause 98D of the Environmental Planning and Assessment Regulation 2000 that Entertainment Venues, Function Centres, Pubs, Registered Clubs and Restaurant shall have a Maximum Capacity Signage on display. The following signage is ready for use and shall be displayed in a prominent position in the building:

Maximum Capacity of Venue

Pursuant to Development Consent No.803/2022/HA, the maximum number of patrons and staff that are permitted in the building is 800 persons, with a limit on the first floor at any one time to not exceed 524 persons.

Note:

1. The approved method to calculate that the authorised capacity is not exceeded is by the issue of numbered tickets to patrons upon admission, together with regular head counts at intervals during the hours of operation; or
2. The approved method to calculate that the authorized capacity is not exceeded is by a counting device accurately indicating numbers of patrons "IN" and "OUT" of the premises during high peak periods. These details are to be kept in a logbook and updated at the end of trading on each day. The logbook is to be available for inspection upon request by the Consent Authority or other licensing authorities.

The name, address and telephone number of the council area in which the building is located:

**The Hills Shire Council
3 Columbia Ct
NORWEST NSW 2153
Tel: 9843 0555**

The name and business telephone number of an owner or manager of the building (to be completed by owner or manager):

**Owner/Manager's Name:
Tel:
Mob:**

4. Offensive Noise

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

The use of the premises, building services, equipment, machinery and ancillary fittings shall not give rise to noise greater than 5dBLAeq 7am to 10pm and must be inaudible at the boundary of a residential premises 10pm to 7am

5. Offensive Noise - Acoustic Report

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

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

6. Maximum Staff and Patrons

The increased patronage to 800 persons (patrons and staff) is restricted within the building to Thursday, Friday and Saturday only from 8.00pm to closing time except on the first floor which is restricted to a maximum of 524 persons at any one time.

On remaining times, the number of patronage shall revert to 590 persons capacity (except on the first floor which is limited to 524 persons). See Condition No. 44 of Development Consent No. 915/2020/HA below for reference to remaining times:

Monday to Saturday: 7.00am to 3.00am (upper level 7.00am – 1.00am)

Sunday: 7.00am to 12 Midnight

Outdoor Terrace – 7.00am to 12.00 midnight – 7 days

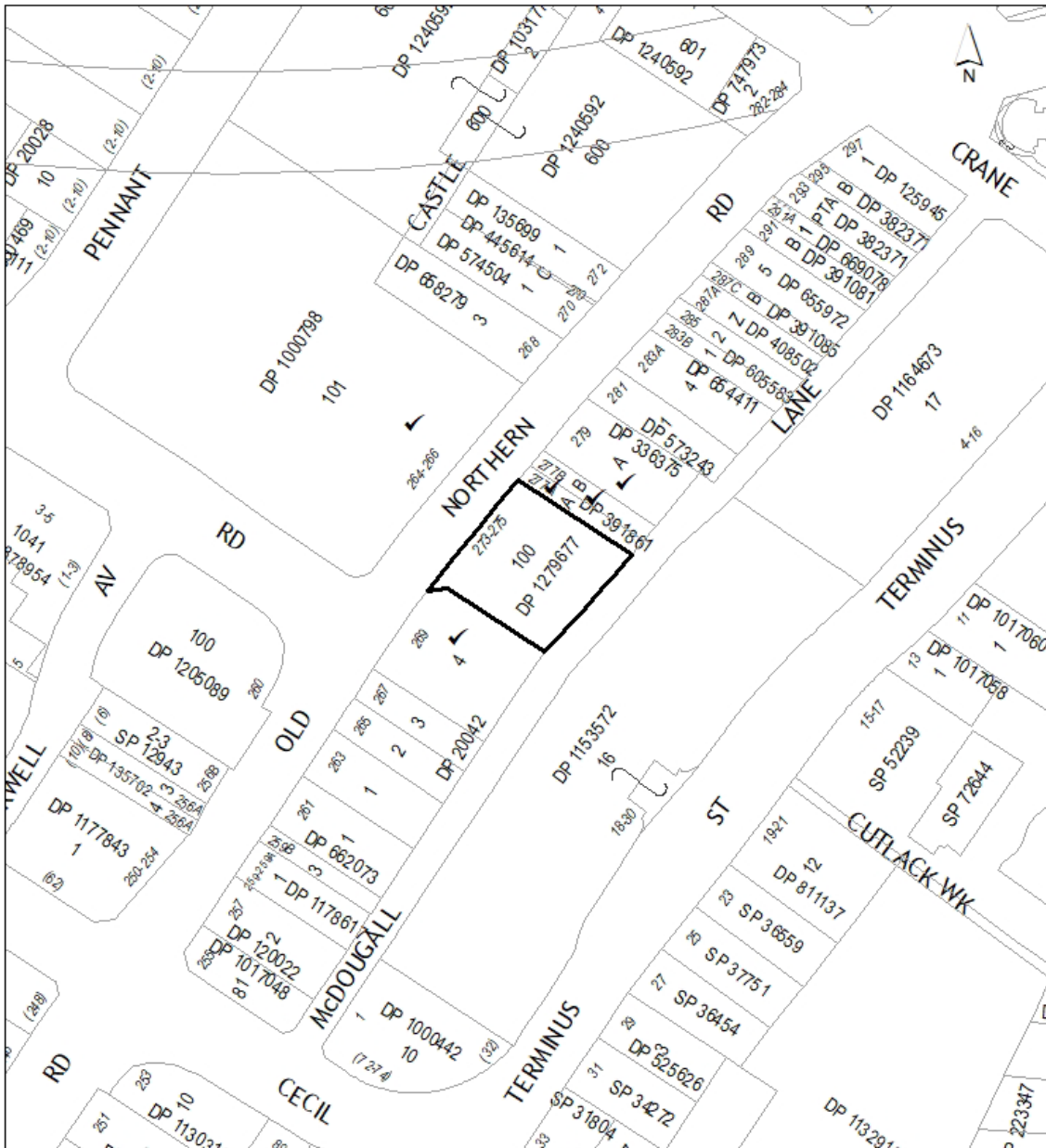
7. Provisions of Parking spaces

The development is required to be provided with 40 car parking spaces in the basement carpark. The spaces shall be available for off-street parking during operational hours.

ATTACHMENTS

1. Locality Plan
2. Aerial Photograph

ATTACHMENT 1 – LOCALITY PLAN



- SUBJECT SITE
- PROPERTIES NOTIFIED

ONE SUBMISSION RECEIVED FROM HILLS DISTRICT HISTORICAL SOCIETY




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ATTACHMENT 2 – AERIAL MAP



 SUBJECT SITE



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