



LOCAL PLANNING PANEL – The Hills Shire

Wednesday, 18 June 2025

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ITEM-1

DA 979/2016/HB/A – SECTION 4.55(2) MODIFICATION TO AN APPROVED RETAIL/COMMERCIAL BUILDING AND ASSOCIATED INFRASTRUCTURE WORKS – LOT 2 DP 839151 AND LOT 22 DP 540188, NOS. 486-494 OLD NORTHERN ROAD, DURAL

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: 18 JUNE 2025
LOCAL PLANNING PANEL

PRINCIPAL CO-ORDINATOR
ROBERT BUCKHAM

COI DECLARATION None declared

MANAGER DEVELOPMENT ASSESSMENT
RESPONSIBLE OFFICER: PAUL OSBORNE

COI DECLARATION None declared

Applicant	The Trustee for Dural SC Investment Trust (Revelop)
Consultants	
Town Planner:	Think Planners
Architect:	BN Group
Accessibility	Hontas Hatzi & Co
Landscape Architect:	Taylor Brammer
Arborist	Ecological
Acoustics:	Acoustic Logic
BCA:	Hontas Hatzi & Co
Contamination:	JK Environments
Ecology	Ecological
Engineering:	AT&L
Traffic:	McLaren
Geotechnical:	JK Geotechnics
Legal:	Thomson Geer
Notification	1 st Notification: 14 days 2 nd Notification: 14 days
Number Advised	1 st Notification: 263 2 nd Notification: 28 (objectors only)

Number of Submissions	1 st Notification: 28 2 nd Notification: 7
Zoning	E1 Local Centre R3 Medium Density Residential
Site Area	2 Hectares
List of all relevant s4.15(1)(a) matters	Section 4.15 (EP&A Act) – Satisfactory. Section 4.55 (EP&A Act) – Satisfactory. The Hills Local Environmental Plan 2019 – Satisfactory. State Environmental Planning Policy (Planning Systems) 2021 – Satisfactory. State Environmental Planning Policy (Resilience and Hazards) 2021 – Satisfactory. State Environmental Planning Policy (Biodiversity and Conservation) 2021 – Satisfactory. State Environmental Planning Policy (Transport and Infrastructure) 2021 – Satisfactory. The Hills Local Environmental Plan 2019 – Satisfactory. The Hills Development Control Plan 2012 – Satisfactory. Section 7.12 Contribution: \$203,240.48
Political Donation	None Disclosed
Reason for Referral to LPP	Section 4.55(2) Modification determined by the LPP and subject to 10 or more unique submissions by way of objection.
Recommendation	Approval subject to conditions

EXECUTIVE SUMMARY

Development Application DA 979/2016/HB was approved by the Local Planning Panel in October 2021. The application was for a two storey retail and commercial building over two levels of basement parking. The development comprised 4,006m² of gross floor area comprising a supermarket, 6 retail tenancies, 9 business/office tenancies and parking for 176 vehicles.

The approved development includes works to facilitate construction of a signalised intersection with Old Northern Road and Franlee Road including its western extension (Road 02), Roadworks associated with half width re-construction of Old Northern Road including a new bus stop area, construction of private roads for future multi dwelling housing on the site, and works on No. 486 Old Northern Road including private driveway and stormwater infrastructure. This modification does not seek to alter any elements of the original approval relating to No. 486 Old Northern Road.

The proposed Section 4.55(2) Modification Application 979/2016/HB/A includes;

- Introduction of an additional basement level and reconfiguration of the remaining basement levels – resulting in an overall increase to the car parking spaces from 176 vehicular parking spaces to 215 parking spaces.
- Revision to the retail tenancy arrangement on the ground floor with a minor increase to the overall retail tenancy from 7 tenancies to 8 tenancies, however the overall retail GFA has increased from 2,046m² to 2,878m²

- Revision to the commercial tenancy arrangement on the first floor with a reduction to the overall tenancy from 9 tenancies to 2 tenancies. The overall GFA has reduced from 1,960m² to 1,098m².
- Revised ground floor layout in-order to introduce a roofed plaza (as amended). The first floor is to also be scaled back with the commercial tenancies to be replaced with two food and drink premises with terrace that will allow for outdoor dining opportunities.
- Revision to the vehicular access arrangement for service vehicles with a loading area to facilitate articulated vehicles up to 20m in length accessed via the proposed roundabout from the approved new road to the west of the subject site rather than from a loading area that facilitate vehicles up to 15.5m in length accessed via the roundabout intersection of Allen Way / Stonelea Court.
- The modification proposes the supermarket (mini-major) to operate between 7am and 10pm and speciality retailers 7am to 7pm with the loading dock to operate from 6am to 11pm.

Variations to the Hills Development Control Plan were approved for the original development in relation to the width and shape of the central plaza area and the DCP requirement to enter into a Deed of Agreement with the RMS, now Transport for NSW, prior to consent being granted. The modified application also includes a variation to the width and shape of the central plaza area, however it remains generally consistent with the original approval in this regard. The Deed of Agreement has not changed and remains a deferred commencement matter. Transport for NSW have provided concurrence for the modified application.

A variation was also approved with respect to the provision of car parking. The DCP required 190 car parking spaces. The approved development provided for 176 car parking spaces. The modified proposal now provides for a compliant scheme where 215 parking spaces are required and are provided.

The proposal was notified to adjoining property owners on two occasions. Twenty-eight submissions were received to the first notification period and seven submissions from the second notification period. The issues raised primarily relate to matters associated with the planning proposals on the site, view loss, vehicle and pedestrian issues, economic impacts of more retail floor space and whether the development remains substantially the same. The issues are addressed in this report and do not warrant refusal of the application.

An associated application for the site 1048/2024/HA lodged on 14 February 2024 for an 'amending development application' relating to additional and amended parking areas, medical related uses, a supermarket, liquor shop and gym is also before the panel for consideration. It is anticipated that the works included in both applications will form a single development of the site under a related construction certificate. This application has received more than 10 submissions and as such is also to be determined by the Local Planning Panel.

Having regard to the issues raised and the amendments made to the application, it is recommended that the Modification Application be approved.

BACKGROUND

The site is immediately south of the existing Round Corner Town Centre located on the northern side of the Old Northern Road and Stonelea Court intersection.

The topography of the land slopes towards the western boundary of the site resulting in significant views over the Shire and surrounds to the Blue Mountains. The majority of vegetation on the site has been cleared, however there is a small concentration of Sydney Sandstone Gully Forest vegetation in the south western portion of the site, extending across the majority of the adjacent lots to the south and adjoining Dooral Dooral Creek.

The site was subject to two planning proposals that amended the Hills Local Environmental Plan 2012.

Amendment No. 15 of LEP 2012 (1/2013/PLP) was notified on the NSW legislation website on 11 July 2014 (Notification No. 440). The amendments rezoned the site from RU6 Transition to part B2 Local Centre and part R3 Medium Density Residential and provided for a floor space ratio standard of 0.75:1 be implemented over the land zoned B2. To support of the amendments to the LEP, a number of amendments were also made to The Hills Development Control Plan 2012 (Part B Section 6 – Business).

Amendment No. 51 of LEP 2012 (1/2016/PLP) was notified on the NSW legislation website on 23 March 2018 (Notification No. 108). The amendment provided for the alteration to Height of Building from 10m to 18m and Floor Space Ratio from 0.75:1 to 1.22:1. A new clause to cap the amount of commercial floor space on the site to a gross floor area of 6,900m² was also introduced.

The original application 979/2016/HB was lodged on 22 December 2015. Council staff had sought additional information and amendments on a number of occasions over the course of the assessment based on a number of interface and engineering issues raised by Transport for NSW relating to Old Northern Road and the internal local road design issues raised by Council staff. The original Development Application was approved by the Local Planning Panel on 20 October 2021.

The subject modification application was lodged on 19 October 2023 and notified on two occasions. Council staff held a Conciliation Conference for the subject Modification Application on 21 February 2024.

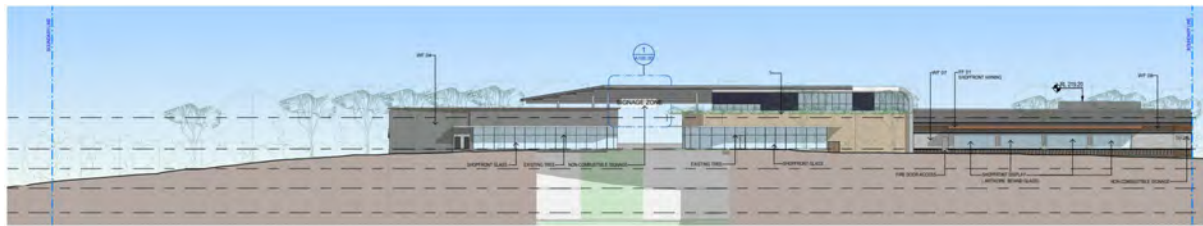
During the assessment of the application, changes were made at the request of Council staff and in response to comments made by residents at the conciliation conference in relation to the design of the central plaza area. Amendments were made that provided for an area less enclosed to allow for unimpeded public access and a view corridor through the development from Old Northern Road to the west similar to the original approval. The plaza remains covered by a glass roof to provide for some weather protection. This will be further embellished by a large terrace area proposed under the associated amending DA 1048/2024/HA. A comparison of the elevations is provided below which details the amendments to this component.

Modification Application as lodged (Old Northern Road)



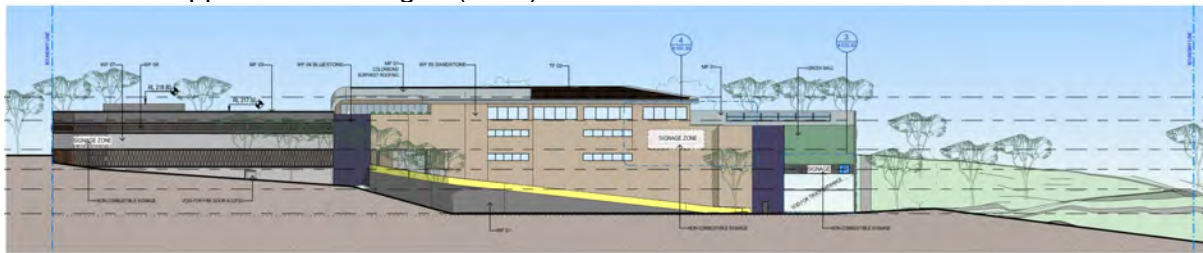
2 SOUTH-EAST ELEVATION
1:300

Amended Proposal (Old Northern Road)



2 SOUTH-EAST ELEVATION
1:300

Modification Application as lodged (Rear)



1 NORTH-WEST ELEVATION
1:300

Amended Proposal (Rear)



1 NORTH-WEST ELEVATION
1:300

The associated application for the site (1048/2024/HA) was lodged on 14 February 2024 for an 'amending development application' relating to additional and amended parking areas, medical related uses, a supermarket, liquor shop and gym is also before the panel for consideration. These amendments were considered beyond the scope of a modification application. It is anticipated that the works included in both applications will form a single development of the site under a related construction certificate. This application has received more than 10 submissions and as such is also to be determined by the Local Planning Panel. Primarily the same objectors have objected to this application also.

PROPOSAL

This Section 4.55(2) modification application seeks to amend an approved Retail/Commercial Building and Associated Infrastructure.

The subject modification includes;

- Introduction of an additional basement level and reconfiguration of the remaining basement levels – resulting in an overall increase to the car parking spaces from 176 vehicular parking spaces to 215 parking spaces.

- Revision to the retail tenancy arrangement on the ground floor with a minor increase to the overall retail tenancy from 7 tenancies to 8 tenancies, however the overall retail GFA has increased from 2,046m² to 2,878m²
- Revision to the commercial tenancy arrangement on the first floor with a reduction to the overall tenancy from 9 tenancies to 2 tenancies. The overall GFA has reduced from 1,960m² to 1,098m².
- Revised ground floor layout in-order to introduce a roofed plaza (as amended). The first floor is to also be scaled back with the commercial tenancies to be replaced with two food and drink premises with terrace that will allow for outdoor dining opportunities.
- Revision to the vehicular access arrangement for service vehicles with a loading area to facilitate articulated vehicles up to 20m in length accessed via the proposed roundabout from the approved new road to the west of the subject site rather than from a loading area that facilitate vehicles up to 15.5m in length accessed via the roundabout intersection of Allen Way / Stonelea Court.
- The modification proposes the supermarket (mini-major) to operate between 7am and 10pm and speciality retailers 7am to 7pm with the loading dock to operate from 6am to 11pm.

The Applicant states that:

The current 4.55(2) application aims to revise the approved design scheme in order to deliver a more compliant design scheme including adhering to height and parking requirements, noting no residential component is proposed as part of this development. The revision to the ground floor retail arrangements and to a lesser extent the first floor commercial arrangement has been undertaken to deliver a retail scheme that will be better suited to the future occupation of the site and the introduction of a central mall setting will promote better movement within the site and how it addresses and interacts with the public domain.

ISSUES FOR CONSIDERATION

1. Compliance with Section 4.55(2) of the Environmental Planning and Assessment Act, 1979

Under the provisions of Section 4.55(2) of the Environmental Planning and Assessment (EP&A) Act, 1979, a consent authority may, on application being made by the applicant or any other person entitled to act on a consent granted by the consent authority and subject to and in accordance with the regulations, modify the consent if:

- (a) *it is satisfied that the development to which the consent as modified relates is substantially the same development as the development for which consent was originally granted and before that consent as originally granted was modified (if at all), and*
- (b) *it has consulted with the relevant Minister, public authority or approval body (within the meaning of Division 4.8) in respect of a condition imposed as a requirement of a concurrence to the consent or in accordance with the general terms of an approval proposed to be granted by the approval body and that Minister, authority or body has not, within 21 days after being consulted, objected to the modification of that consent, and*
- (c) *it has notified the application in accordance with—*

- (i) *the regulations, if the regulations so require, or*
- (ii) *a development control plan, if the consent authority is a council that has made a development control plan that requires the notification or advertising of applications for modification of a development consent, and*
- (d) *it has considered any submissions made concerning the proposed modification within the period prescribed by the regulations or provided by the development control plan, as the case may be.*

Subsections (1) and (1A) do not apply to such a modification.

- (3) *In determining an application for modification of a consent under this section, the consent authority must take into consideration such of the matters referred to in section 4.15(1) as are of relevance to the development the subject of the application. The consent authority must also take into consideration the reasons given by the consent authority for the grant of the consent that is sought to be modified.*
- (4) *The modification of a development consent in accordance with this section is taken not to be the granting of development consent under this Part, but a reference in this or any other Act to a development consent includes a reference to a development consent as so modified.*

Comment:

The applicant has addressed Section 4.55(2) within the supporting Statement of Environmental Effects and has noted the following:

The development proposal can be appropriately defined as substantially the same development as the original consent, with the proposal continuing to deliver a mixed use building as approved via DA979/2016/HB. It is noted that the proposed amendment will have limited amenity impacts with potential impacts having been addressed via previous DAs, with the introduction of a central mall element will improve the overall function and layout of the approved mixed use development.

It is considered that the proposed modification will uphold the qualitative and quantitative aspects of the approved development in that the land use, the architectural design, physical massing, appearance and the landscape domain outcomes will remain.

In this regard, the development, as proposed to be modified, is substantially the same development as that originally approved in that it will:

- Not change the proposed use of land, comprising commercial uses;
- The essential parts of the approved development also all remain largely the same, including the land use, overall built form and scale, the impacts on surrounding development, traffic generation, public domain, and amenity;
- The built form of the development remains two storey over basement parking;
- The central plaza element is retained;
- The external design changes are driven by the reconfiguration of the internal layout and will utilise a comparable pallet of materials and finishes consistent with the original design; and
- The environmental impacts of the proposed modification are not intensified and are equivalent, when compared to the original approval.

The proposal was notified in accordance with Council's Development Control Plan. The issues raised in the submissions are addressed in this report.

Therefore, the proposal satisfies the provisions of Section 4.55(2) of the Environmental Planning and Assessment Act, 1979, and the overall development is considered substantially the same development to that originally approved.

2. State Environmental Planning Policy (Planning Systems) 2021

Part 2.4 and Schedule 6 of SEPP (Planning Systems) 2021 provides the following referral requirements to a Joint Regional Planning Panel:-

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

The original Development Application was lodged, the proposed development had a total development cost of \$19,024,500, below the then \$20 million dollar threshold and therefore was not required to be referred to, or determined by, a Regional Planning Panel.

The modified application has an amended development cost of \$20,324,800. This application is a 4.55(2) modification to a Local Planning Panel approved Development Application and as a result of the number of submissions received, the application is referred to the Local Planning Panel for determination.

3. Compliance with The Hills Local Environmental Plan 2019

(i) Permissibility

The site is zoned E1 Local Centre, R3 Medium Density Residential and RU6 Transition (No. 486 Old Northern Road) under The Hills Local Environmental Plan 2019 (Refer Attachment 3).

The built form is proposed on the E1 Local Centre zone is for purposes of shops and restaurant uses. Commercial premises, supermarket, and business premises. Each use is defined in the LEP as follows:

commercial premises means any of the following—

- (a) business premises,
- (b) office premises,
- (c) retail premises.

retail premises means a building or place used for the purpose of selling items by retail, or hiring or displaying items for the purpose of selling them or hiring them out, whether the items are goods or materials (or whether also sold by wholesale), and includes any of the following—

- (a), (b) (Repealed)
- (c) food and drink premises,
- (d) garden centres,
- (e) hardware and building supplies,
- (f) kiosks,
- (g) landscaping material supplies,
- (h) markets,
- (i) plant nurseries,
- (j) roadside stalls,
- (k) rural supplies,
- (l) shops,
- (m) specialised retail premises,
- (n) timber yards,
- (o) vehicle sales or hire premises,

but does not include farm gate premises, highway service centres, service stations, industrial retail outlets or restricted premises.

shop means premises that sell merchandise such as groceries, personal care products, clothing, music, homewares, stationery, electrical goods or the like or that hire any such merchandise, and includes a neighbourhood shop and neighbourhood supermarket, but does not include food and drink premises or restricted premises.

restaurant or cafe means a building or place the principal purpose of which is the preparation and serving, on a retail basis, of food and drink to people for consumption on the premises, whether or not liquor, take away meals and drinks or entertainment are also provided.

Although not specially proposed under this modification, the following uses are also permitted and could be undertaken as exempt or complying changes of use under the provision of State Environmental Planning Policy (Exempt and Complying Development Codes) 2008.

business premises means a building or place at or on which—

- (a) an occupation, profession or trade (other than an industry) is carried on for the provision of services directly to members of the public on a regular basis, or
- (b) a service is provided directly to members of the public on a regular basis, and includes a funeral home and, without limitation, premises such as banks, post offices, hairdressers, dry cleaners, travel agencies, internet access facilities, betting agencies and the like, but does not include an entertainment facility, home business, home occupation, home occupation (sex services), medical centre, restricted premises, sex services premises or veterinary hospital.

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.

The other works proposed under this application are primarily road works and ancillary drainage works. Roads are defined in the LEP as follows:

road means a public road or a private road within the meaning of the Roads Act 1993, and includes a classified road.

All proposed uses are permitted with consent within the relevant zones.

(ii) Development Standards

The following addresses the principal development standards of the LEP relevant to the subject proposal:

CLAUSE	REQUIRED	PROVIDED	COMPLIANCE
4.3 Height of buildings	14 metres and 18 metres	13.8 metres	Yes
4.4 Floor space ratio	1.22:1	0.62:1	Yes
7.12 Maximum commercial floor	Development consent must not be granted to development that	3,450m ² of commercial gross floor area.	Yes

space at 488–494 Old Northern Road, Dural	results in more than 6,900 square metres of the gross floor area of all buildings on the land to which this clause applies being used for the purpose of commercial premises.		
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4. Compliance with The Hills Development Control Plan 2012

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

- Part B Section 1 – Rural
- Part B Section 6 – Business
- Part C Section 1 – Parking
- Part C Section 3 – Landscaping

Site specific clauses for this site were incorporated into the DCP as part of the planning proposals. The proposed development achieves compliance with the relevant requirements of the development controls with the exception of the following:

DEVELOPMENT CONTROL	DCP REQUIREMENTS	PROPOSED DEVELOPMENT	COMPLIANCE
Part B Section 6 – Business – Clause 2.31.4 Public Domain and Views	(b) The centre point for the plaza shall be located approximately 120m from the south western boundary of the site. The plaza should be of a regular shape with a minimum width of 40 metres. Variations can be considered by Council if it can be demonstrated that there is a high standard of architectural design, civic amenity that the development satisfies the intent of this requirement and does not inhibit the key views to Mount Wilson, Mount Tomah and Mount Irvine from any point within the plaza.	The central plaza is located approximately 127m from the south western boundary with a width ranging from 12 metres to 36 metres. Views from the plaza are not inhibited by the development.	The central plaza does not comply with the DCP minimum width provisions however the DCP allows variation to this clause if views to Mount Wilson, Mount Tomah and Mount Irvine are maintained from within the plaza.

a) Public Domain and Views

The DCP requires that the centre point for the plaza shall be located approximately 127 metres from the south western boundary of the site. The plaza should be of a regular shape with a minimum width of 40 metres.

The original approval included a central plaza located approximately 112 metres from the south western boundary and in association with the indicative built form for Stage 3 at the time would provide for a plaza area with a width ranging from 13 metres to 36.2 metres. The proposal was considered to satisfy the objectives and intent of the clause and can be supported in this instance.

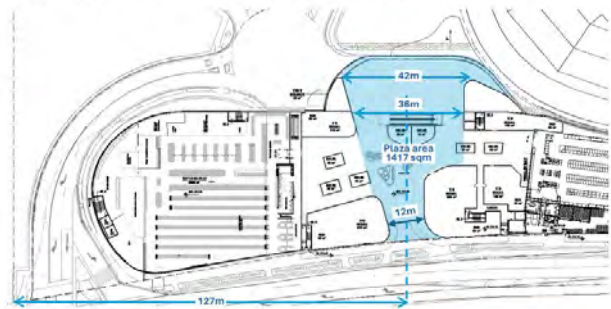
During the assessment of the application, changes were made at the request of Council staff in relation to the design of the central plaza area to provide an area less enclosed to allow for unimpeded public access similar to the original approval. The plaza remains partly covered by a glass roof to provide for some weather protection.

The modified proposal includes central plaza which is located approximately 120 metres from the south western boundary and would provide for a plaza area with a width ranging from 12 metres to 36 metres.

Approved DA 979/2016/HB



Proposed amendment to DA 979/2016/HB/A & 1048/2024/HA



Variations can be considered if it can be demonstrated that there is a high standard of architectural design, civic amenity that the development satisfies the intent of this requirement and does not inhibit the key views to Mount Wilson, Mount Tomah and Mount Irvine from any point within the plaza.

The relevant objectives of this clause of the DCP are:

- (i) *To enhance civic amenity and provide a gathering space for community activity and interaction.*
- (ii) *To maintain significant westerly views from the site and Old Northern Road.*

The applicant has provided the following justification for the variation.

The width of the view is comparable and actually wider being 36m vs the 31m approved. In addition the design intent of the scheme is to provide outstanding views from the plaza that are going to be appreciated more by users of the development as it is a view from a key component of the development rather than an external view through an outdoor space that would not be as readily viewed by people visiting the site.

To demonstrate this over the page there is a render of the approved development and the view corridor as designed and then the proposed development.

This shows that the quality of the view is improved given the amended design of the scheme and the internalisation of the plaza space makes it more useable and a central focus point of the development. This is detailed in the letter by BN Architecture.

Therefore the proposal satisfies the controls noting:

- *The amended view is wider and better appreciated than the approved view*
- *The design incorporates extensive glazing to maximise the view.*
- *The view location and view line is generally retained*
- *The proposal retains a civic plaza space that is now internalised to make it more useable and functional.*
- *Building structures are designed to enable views given the large extent of glazing.*

Comment:

The DCP allows for variations to these controls where it can be demonstrated that there is a high standard of architectural design, civic amenity that the development satisfies the intent of this requirement and does not inhibit the key views to Mount Wilson, Mount Tomah and Mount Irvine from any point within the plaza.



The design of the development provides for a publicly accessible plaza area that will allow for all views to be maintained from within the plaza and from parts of Old Northern Road. The plaza area is embellished with raised planting and turf areas, and provides for seating to provide for

public activation. It is likely that surrounding tenancies will include restaurants that will also seek to add to the activation of the plaza.

The proposal is considered to continue to satisfy the objectives and intent of the clause and can be supported.

5. Issues Raised in Submissions

The proposal was exhibited and notified for 14 days. In response, twenty-eight submissions were received to the first notification period and seven submissions from the second notification period. The issues raised in the submissions are summarised below.

ISSUE/OBJECTION	COMMENT
<p>The site has long been prized for its views to the Blue Mountains and the original proposal retained the views for the enjoyment of the public with an open plaza within the development. Could not a similar way be found to retain for the public the views we have long enjoyed?</p> <p>Council may recall that a similar view was retained opposite Oakhill College by imposing height restrictions on homes being built opposite and the view has now been retained for all to enjoy.</p> <p>Some of the best views in the district are going to be dominated by a solid wall backing a supermarket.</p>	<p>As identified in this report, the controls relating to view corridors from within the plaza are addressed and will provide for a publicly accessible space that will maintain the views to the west consistent with the original approval.</p>
<p>The prior approved application, after consultation with the local community, provided for a plaza at least 40 metres wide where relaxation and coffee and light snacks could be enjoyed. I cannot see a plaza on the set of drawings. Could you please confirm that an open air plaza for shoppers to enjoy is being proposed so that the much-loved view to the Mountains is retained.</p>	<p>The amended proposal provides for open plaza with a glass roof which is considered to meet the objectives and intent of the DCP requirement.</p>
<p>The facade of this proposal can only be described as brutalist with no redeeming features. It will be a blight on the village of Round Corner.</p> <p>The design is one of the worst I have seen. It lacks style and it looks more like a warehouse.</p> <p>The building doesn't seem to be in keeping with the semi-rural area of Dural.</p>	<p>The proposal is consistent with other development within the Dural local centre. The development provides for a mix of materials and finishes and will be landscaped to the various street frontages and through the new central plaza area.</p>

ISSUE/OBJECTION	COMMENT
<p>The modification proposes a significant increase in retail Gross Floor Area. Existing businesses in the area are struggling under the current commercial saturation with an overwhelming number of retail sector tenants continuing to request that rents not be increased. Establishing space for more unnecessary commercial/retail business premises will only add to their inability to cope creating greater adversity for all.</p>	<p>In relation to development of the site for retail purposes, an analysis was undertaken to support the planning proposal and found that Round Corner is well placed to respond to the demand for supermarket growth. In addition, development of the site for specialty retailing will address a strategic deficit of specialty shopping facilities within the northern sector of the Shire.</p> <p>A limitation was implemented in the LEP for this site that restricts development to 6,900m² of the gross floor area of all buildings for the purpose of commercial premises (retail/business/office). The proposal does not exceed this and provides 3,984m² of commercial floor area including back of house areas.</p>
<p>Due to the nature of the development significantly changing from commercial and retail to retail uses, the proposal is not consistent with the approved development. The increase of retail space of 751m² together with the additional kiosks of 240m² equates to a total of 991m² of additional retail floor area. This represents a significant 48% increase in retail floor area and is not in accordance with the existing approval.</p>	<p>The assessment of the original application was based on the site specific clause that consent must not be granted to development that results in more than 6,900 square metres of the gross floor area of all buildings on the land to which this clause applies being used for the purpose of commercial premises, being retail, business and office premises.</p> <p>Under the provisions the SEPP Exempt and Complying a change of use from retail to business or vice versa could be undertaken without development consent as exempt or complying development.</p>
<p>Round Corner is gridlocked morning and afternoon with school and commuter traffic.</p> <p>What are the road infrastructure plans to handle the increase in traffic?</p> <p>Another set of traffic lights at its entrance will slow traffic, already struggling on Old Northern Road.</p>	<p>As outlined in this report, the application was referred to Transport NSW for consideration. The works associated with this application will improve existing traffic conditions on Old Northern Road particularly at the intersection with the existing and proposed Franlee Road. The amended design will also facilitate additional and extended turning lanes at the intersections of Franlee Road, Stonelea Court and Kenthurst Road. The works also include an improved Bus Stop area for the centre.</p>
<p>The development does not provide adequate or safe pedestrian links to the existing retail in services in the Round Corner area.</p>	<p>Pedestrian access is provided via existing footpaths. It is acknowledged that pedestrians will be required to cross roads to connect between the existing centre and the development site and in some locations there are pedestrian refuge islands. Further upgrades in the locality such as formal pedestrian crossing will be subject to Local Traffic Committee consideration separately.</p>

ISSUE/OBJECTION	COMMENT
<p>A new Development Application should be submitted for the proposed amendments. It is a huge change from the approved DA, not just a modification.</p>	<p>The proposal satisfies the provisions of Section 4.55(2) of the Environmental Planning and Assessment Act, 1979, and the overall development is considered substantially the same development to that originally approved.</p> <p>It is considered that the proposed modification will uphold the qualitative and quantitative aspects of the approved development in that the land use, the architectural design, physical massing, appearance and the landscape domain outcomes will remain.</p>
<p>The modification is inconsistent with the site specific Hills DCP – Part B Section 6 that applies to the property.</p>	<p>The proposal has been assessed against the DCP and considered satisfactory.</p>
<p>Will services such as water, power and sewerage be capable of handling the extra pressure imposed by this development.</p>	<p>The approved application is subject to conditions relating to servicing arrangements with the relevant authorities.</p>
<p>At a time when the State Government is considering rezoning commercial areas for housing how sensible is it to plan build a totally unnecessary shopping complex when what the state needs housing.</p> <p>I object to any additional residential in the area that is not based on 5 acres properties. We do not need townhouses or medium/high rise properties.</p> <p>The area is more suited to townhouses as there is easy access to public transport to the city.</p>	<p>This part of the site (Stage 1) has not included residential dwellings and continues to provide no dwellings.</p> <p>It is noted that the Stage 3 foreshadows a multi-dwelling housing proposal.</p>
<p>Clarification of the changes to the drainage easement through 486 Old Northern Road, and the driveway access from the subject site.</p>	<p>The applicant has clarified through the submission of additional information that there are no changes to the drainage arrangements on No. 486 Old Northern Road.</p>
<p>The proposal removes the approved residential component, contrary to the mixed-use intent of the site under The Hills DCP 2012 (Part B, Section 6 – Business, site-specific controls for 488–494 Old Northern Road).</p>	<p>The associated amending DA 1048/2024/HA includes land that previously included a withdrawn DA for shop-top housing. This issue is not relevant to the application.</p>

6. Internal Referrals

The application was referred to following sections of Council:

- Engineering
- Environmental Health
- Resource Recovery
- Traffic
- Landscape
- Land Information Services
- Contributions

No objection was raised to the proposal (as amended) subject to conditions. Relevant comments have also provided below:

7. External Referrals

Transport for NSW

The application was referred to the Transport for NSW (TfNSW). Under the provisions of Transport and Infrastructure SEPP and the Roads Act, 1993 given the future works proposed would trigger concurrence as Old Northern Road is a classified road and is administered by TfNSW. The relevant provisions of the SEPP are addressed in Section 5 of this report. TfNSW provided the following comments which are provided at Attachment 12 and amended Condition No. 3.

CONCLUSION

The Development Application has been assessed against the relevant heads of consideration under Section 4.15 and 4.55 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.

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.

Strategic Plan – Hills Future

The proposed development is consistent with the planning principles, vision and objectives outlined within The Hills Future Community Strategic Plan. The proposed development facilitates responsible management of impacts to our natural surroundings and is consistent with the plans and processes in accordance with the community needs and expectations.

Local Strategic Planning Statement

The Hills Future 2036 Local Strategic Planning Statement was made on 6 March 2020. The proposed development has been considered against the outcomes planned within the Local Strategic Planning Statement and Implementation Plan. The development is considered satisfactory regarding The Hills Local Strategic Planning Statement.

RECOMMENDATION

The Modification Application be approved subject to the following conditions of consent:

Condition No. 1 be deleted and replaced as follows:

1. Development in Accordance with Submitted Plans

The development being carried out in accordance with the approved plans and details associated with development application 979/2016/HB and as further modified by the following plans approved with Consent No. 979/2016/HB/A, except where amended by other conditions of consent.

REFERENCED PLANS AND DOCUMENTS – 979/2016/HB/A

DRAWING NO.	DESCRIPTION	REVISION	DATE
A02.01	Site Plan	7	19/04/2024
A02.02	Lower Ground Level P3 Plan	9	19/04/2024
A02.03	Lower Ground Level P2 Plan	8	19/10/2023
A02.04	Lower Ground Level P1 Plan	8	19/04/2024
A02.05	Ground Floor Plan	9	10/2024
A02.06	Level 1 Floor Plan	8	10/2024
A02.07	Roof Plan	7	19/04/2024
A09.01	Elevations E1	6	19/04/2024
A09.02	Elevations E2	5	03/10/2023
A09.03	Elevations E3	2	19/04/2024
A09.04	Elevations E4	1	03/10/2023
A09.05	Material Board	5	03/10/2023
A11.01	Sections S1	5	03/10/2023
A11.02	Sections S2	5	03/10/2023
A110.01	Subdivision Plan	5	20/09/23
LA00 – LD01	Landscaping Package	-	-

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.

Condition No. 3 be deleted and replaced as follows:

3 Compliance with Transport for NSW Requirements

Compliance with the requirements of Transport for NSW as follows:

1. The proposed Traffic Control Signals (TCS) at the intersection of Old Northern Road / Franlee Road shall be designed to meet TfNSW requirements. The TCS plans shall be drawn by a suitably qualified person and endorsed by a suitably qualified practitioner.

The submitted design shall be in accordance with Austroads Guide to Road Design in association with relevant TfNSW supplements (available at

<https://www.transport.nsw.gov.au/>). The certified copies of the TCS design and civil design plans shall be submitted to TfNSW for consideration and approval prior to the release of a construction certificate and commencement of road works. Please send all documentation to development.sydney@transport.nsw.gov.au.

TfNSW fees for administration, plan checking, civil works inspections and project management shall be paid by the developer prior to the commencement of works.

The developer will be required to enter a Works Authorisation Deed (WAD) for the abovementioned works.

2. The proposed works civil works along Old Northern Road shall be designed to meet TfNSW requirements and endorsed by a suitably qualified practitioner. The design requirements shall be in accordance with Austroads and other Australian Codes of Practice. The certified copies of the civil design plans shall be submitted to TfNSW for consideration and approval prior to the release of the construction certificate by the Principal Certifying Authority and commencement of road works. Please send all documentation to development.sydney@transport.nsw.gov.au.

The developer is required to enter a Works Authorisation Deed (WAD) for the abovementioned works.

TfNSW fees for administration, plan checking, civil works inspections and project management shall be paid by the developer prior to the commencement of works.

3. Detailed design plans and hydraulic calculations of any changes to the stormwater drainage system are to be submitted to TfNSW for approval, prior to the commencement of any works.

Please send all documentation to development.sydney@transport.nsw.gov.au.

A plan checking fee will be payable, and a performance bond may be required before TfNSW approval is issued.

4. The developer is to submit design drawings and documents relating to the excavation of the site and support structures to TfNSW for assessment, in accordance with Technical Direction GTD2020/001.

The developer is to submit all documentation at least six (6) weeks prior to commencement of construction and is to meet the full cost of the assessment by TfNSW.

Please send all documentation to: development.sydney@transport.nsw.gov.au.

If it is necessary to excavate below the level of the base of the footings of the adjoining roadways, the person acting on the consent shall ensure that the owner/s of the roadway is/are given at least seven (7) day notice of the intention to excavate below the base of the footings. The notice is to include complete details of the work.

5. The Applicant shall be responsible for all public utility adjustment/relocation works, necessitated by the above work, and as required by the various public utility authorities and/or their agents.
6. A Construction Pedestrian Traffic Management Plan (CPTMP) detailing construction vehicle routes, number of trucks, hours of operation, access arrangements and traffic

control should be submitted to TfNSW for review and endorsement prior to the issue of a construction certificate.

Please send to development.ctmp.cjp@transport.nsw.gov.au.

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

Condition No. 4 be deleted and replaced as follows:

4. Tree Removal

Approval is granted for the removal of eighty-four (84) trees numbered 1-9, 13-18, 18B, 19, 20, 20A, 20B, 21, 25, 28-31, 31A, 33-39, 39B, 40-43, 42A, 44-52, 56, 56A, 60-62, 68, 69, 71-76, 78, 79B, 79-82, 100-110, 14A-D and 78B as located in Arboricultural Impact Assessment prepared by Ecological Australia Version V1 dated 2/08/23.

All other trees are to remain and are to be protected during all works.

Condition No. 5 be deleted and replaced as follows:

5. Planting Requirements

All trees planted as part of the approved landscape plan for the Streetscape and Plaza planting are to be minimum 200 litre pot size. All shrubs planted as part of the approved landscape plan are to be minimum 200mm pot size. Groundcovers are to be planted at 5/m².

All areas outside of the proposed development which are subject to future development applications are to be appropriately hydromulched with Sydney Turpentine Ironbark Forest planting. Trees planted as part of the Sydney Turpentine Forest Revegetation planting are to be minimum 75 litre pot size. All trees are to be dominant Sydney Turpentine Ironbark Forest trees species which include:

- *Eucalyptus pilularis* (Blackbutt)
- *Syncarpia glomulifera* (Turpentine)
- *Eucalyptus punctata* (Grey Gum)
- *Eucalyptus eugenoides* (Thin-leaved Stringybark)

For all planting on slab and planter boxes, the following minimum wall heights and soil depths are to be achieved:

- a) 1.2m for large trees, 1m for medium trees, or 800mm for small trees;
- b) 650mm for shrubs;
- c) 300-450mm for groundcover; and
- d) 200mm for turf.

Note: this is the soil depth alone and not the overall depth of the planter.

Condition No. 8 be deleted and replaced as follows:

8. Provision of Parking Spaces

The development is required to be provided with 215 off-street car parking spaces. These car parking spaces shall be available for off street parking at all times.

Condition No. 11 be deleted and replaced as follows:

11. Amended Subdivision Plan

The subdivision component of the development must be carried out in accordance with the final road reserve completed to the requirements of TfNSW and The Hills Shire Council.

The Architectural Plan prepared by BN Architecture Issue 5 Dated 20/09/2023 and associated subdivision prepared by Leffler Simes Architects is to be amended to be consistent with the final TfNSW approved civil engineering drawings for the construction of Old Northern Road upgrade works.

Condition No. 16 be deleted and replaced as follows:

16. Vehicular Access and Parking

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

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

Where conflict exists the Australian Standard must be used.

The following must be provided:

- Private Road 01 and the proposed alternative driveway access to 486 Old Northern Road must comply with the requirements of AS 2890.1. If compliance cannot be achieved due to site constraints, a bottom clearance swept path analysis for the largest vehicle anticipated to access the site must be provided to demonstrate safe and functional access.
- All driveways and car parking areas must be prominently and permanently line marked, signposted and maintained to ensure entry and exit is in a forward direction at all times and that parking and traffic circulation is appropriately controlled.
- All driveways and car parking areas must be separated from landscaped areas by a low level concrete kerb or wall.
- All driveways and car parking areas must be concrete or bitumen. The design must consider the largest design service vehicle expected to enter the site. In rural areas, all driveways and car parking areas must provide for a formed all weather finish.
- All driveways and car parking areas must be graded, collected and drained by pits and pipes to a suitable point of legal discharge.

Condition No. 25 be deleted and replaced as follows:

25. Acoustic Requirements

The recommendations of the Noise Impact Assessment prepared by Acoustic Logic (Project ID 20221515.1), dated 22/06/2023 and submitted with this development application are to be implemented as part of this approval.

Condition No. 28 be deleted and replaced as follows:

28. Property Numbering

The responsibility for property numbering is vested solely in Council.

The property address for Stage 1 of this development is: - 494 Old Northern Road Dural.

Approved unit numbering is as per approved Numbering Plans Proposed Ground Floor and Proposed Level 1 Floor Plan and as follows:

Level

Ground	G01 – G15
One	101 – 102

These addresses shall be used for all correspondence, legal property transactions and shown on the final registered Deposited Plan/Strata Plan lodged with Land Registry Services NSW. Under no circumstances can unit numbering be repeated or skipped throughout the development regardless of the building name or number.

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

External directional signage is to be erected on site to ensure all numbering signage throughout the complex is clear to assist emergency service providers locate a destination easily & quickly.

Mailboxes

Australia Post requires cluster mailboxes to be perpendicular to the footpath or road and within easy reach for the postal delivery officer. For tenant's useability and convenience, they are to be located close to relevant entry points.

One Cluster mailbox is to be located as per approved Numbering Plans. Cluster mailboxes are to be located within the site on the public footpath boundary within easy reach from a public road for the postal delivery officer.

The number of mailboxes to be provided is to be equal to the number of units etc. plus one (1) for the proprietors of the development and be as per Australia Post size requirements. The proprietors additional mailbox is to be located within the cluster located at **494 Old Northern Road, Dural, NSW, 2158**.

Strata Developments

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

It is required that Lot numbers within the proposed strata plan are not duplicated and all run sequentially within the same level, commencing from the lowest level upwards to the highest level within the development.

Please call 9843 0555 or email a copy of the final strata plan before it is registered at Land Registry Services NSW to council@thehills.nsw.gov.au for the approval of final Property and Unit numbering with corresponding Lot Numbers now required to be included within the registered Strata Administration sheet.

Under no circumstances is the Strata Plan to be lodged with Land Registry Services NSW before Council has approved all final addressing.

Condition 37B to be added:

37B. Approval from Local Traffic Committee

The roundabout at the intersection of proposed private road and Road 2 shall be design and constructed generally in according with the civil plan prepared by prepared by AT & L Revision E Dated 27/02/2025. The design of the roundabout including the linemarking and pedestrian access will require a separate approval from council's the Local Traffic Committee. The approval from council's the Local Traffic Committee shall be reflected on the subdivision works plans and prior to the issue of the Subdivision works certificate and/or the S138 permit under the roads act, whichever is the earliest.

Condition No. 40 be deleted and replaced as follows:

40. Onsite Stormwater Detention – Hawkesbury River Catchment Area (Rural)

Onsite Stormwater Detention (OSD) is required in accordance with Council's adopted policy for the rural portion of the Hawkesbury River catchment area, the Upper Parramatta River Catchment Trust OSD Handbook, with amended parameters to ensure the pre-development and post development discharge rates are the same for all storms up to and including the 1 in 100-year design storm event.

The set of stormwater concept plans prepared by AT & L Revision E Dated 27/02/2025 is for development application purposes only and is not to be used for construction. The detailed design must reflect the stormwater concept plan and incorporate the following aspects:

- a) The two OSD tanks are to be designed to control the runoff generated by the entire site, and the discharge from the OSD shall be limited to the predevelopment flowrate of equivalent storm events.
- b) The combined Onsite Stormwater Detention (OSD) tank volume must be a minimum of 901 cubic metres, as approved under the original development consent. Any deviation from this approved volume must be supported by a detailed hydraulic analysis using the DRAINS software, accompanied by all relevant calculations and modelling outputs to justify the any changes. The submitted DRAINS model does not satisfy this requirement.
- c) Detailed DRAINS Module (electronic copy) must be submitted and Drains Module must consider the following.
 - i. Apply a climate change factor of 1.2 to rainfall intensities to address future rainfall variability in line with Council policy
 - ii. Accurately reflect the complete pit and pipe network shown on the stormwater management plan, including pipe sizes, invert levels, lengths, gradients, and pit types/names.
 - iii. Clearly show hydraulic grade lines (HGL) and energy grade lines (EGL) for all pipe runs.
 - iv. Show pipe surcharge and freeboard compliance, with annotation of any sections that may exceed capacity under 1 in 10-year or 1 in 100-year storm events.
 - v. Model both minor (1 in 10-year) and major (1 in 100-year) storm events with a minimum analysis period of 72 hours.
 - vi. Include pre-development and post-development scenarios for comparative analysis to demonstrate compliance with OSD design targets.
 - vii. Include all proposed OSD systems, with detailed stage-storage-discharge data and orifice configuration for each proposed tank

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

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

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

All model parameters and data outputs are to be provided along with the electronic copy of the MUSIC module, MUSIC module shall include

- a) All impervious and pervious catchments, delineated correctly with area and land use type.
- b) Provide treatment node sizing calculations, including detention systems, stormwater cartridges aligned with MUSIC Guidelines.

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

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

Condition No. 45 be deleted and replaced as follows:

45. 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 set of concept engineering plan prepared by AT & L Revision E Dated 27/02/2025 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.

Detailed construction drawings are to be consistent with the final TfNSW approved drawings issued for construction. In particular, the amendments are to be focussed in the vicinity of the proposed intersection of Old Northern Road and the new road.

The extent of new road reserve (road 02) and road profiles are to be compatible to traffic signals and the slip lane approved by the TfNSW.

a) TfNSW Approval

Submissions of a copy of the approved construction engineering drawings for the Old Northern Road upgrade works issued by the Transport of NSW.

b) Full Width Road Construction

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

Road Name:	Formation: (Footpath/ Carriageway/ Footpath) (m)
New public road (Road 02)	Road Type: Local Various road width At section 1: (To be consistent with the final intersection design approved by the TfNSW) At section 1: 1m/ 9.5m/ 3.5m (Total width 14m) At section 1: 3.5m/ 9.5m/ 3.5m (Total width 16.5m) Pavement Design: Design Guidelines Section 3.12
Private Driveway 01	Road Type: Access Road 2m/ 6m/ 2m (Total width 10m) Pavement Design: Design Guidelines Section 3.12

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

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

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

c) Cul-de-sac

A cul-de-sac turning head must be provided at the end of all roads that will be extended into adjoining properties if/ when they are developed. The cul-de-sac must have a diameter of 19m measured from the edge pavement.

A cul-de-sac head is required at the termination of proposed private road 01.

d) Access Handle Driveway Construction

A 5m wide (minimum) reinforced concrete driveway over the shared access handle of proposed development lot facilitating with an alternative access to the adjoining property to the south 486 Old Northern Road is required in accordance with the above documents and Council's driveway specifications. (Refer to condition 16 for design details)

e) Signage and Line Marking Requirements/ Plan

A signage and line marking plan must be submitted with the detailed design. This plan needs to address street name signs and posts, regulatory signs and posts (such as no parking or give

way signs), directional signs and posts (such as chevron signs), speed limit signs and posts and line marking, where required.

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

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

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

f) Footpath Verge Formation

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

g) Concrete Footpath

A 1.5m wide concrete footpath, including access ramps at all intersections, must be provided on one side of Road 02 in accordance with the concept plan.

h) Gutter Crossings

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

i) Disused Layback/ Driveway Removal

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

j) Service Conduits

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

k) Earthworks/ Site Regrading

Earthworks and retaining walls are limited to those locations and heights shown on the concept engineering plan prepared by AT&L.

Multiple retaining walls associated with the earth works are subject geotechnical certification issued in accordance with the review report prepared by JKGeotechnics Reference: 35003SDrpt dated & April 2022.

Retaining walls between lots must be located on the high side lot that is being retained, save the need for easements for support on the low side lot adjacent.

l) Stormwater Drainage – Pipe Extension (TfNSW)

New kerb inlet pits must be provided across Old Northern Road frontage to the TfNSW requirements, and street drainage extended to the drainage network proposed on the road 02 forms part of the development.

m) Stormwater Drainage – Creek Outlets

Piped stormwater outlets/ connections to a natural watercourse must comply with the requirements of Council, the Natural Resources Access Regulator (even where the receiving waterbody is not a natural watercourse) and Sydney Water, in the case of stormwater management land.

n) Inter-allotment Stormwater Drainage

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

Where Onsite Stormwater Detention is required, a minimum level difference of 800mm measured between the surface level and the invert of the outlet pipe must be provided.

o) Lawful Point of Discharge

Piped inter-allotment stormwater drainage catering for the entire area the subject site must be provided over the downstream property within the drainage easement created over the Lot 22 DP 540188 under the deferred commencement consent, so that all collected stormwater is piped to an approved constructed public drainage system. A grated surface inlet pit must be provided in the lowest corner of the subject site.

The design and construction of this stormwater drainage work must be provided for in accordance with Council's Design Guidelines Subdivisions/ Developments and Works Specifications Subdivisions/ Developments.

This stormwater drainage work shall be provided under a separate construction approval from Council beforehand, under Section 68 of the Local Government Act 1993.

Once the stormwater drainage work is complete a works as executed plan must be prepared in accordance with Council's Design Guidelines Subdivisions/ Developments and submitted to

Council's Construction Engineer for written approval. The works as executed plans must be prepared by a civil engineer or registered surveyor.

A letter from a registered surveyor must be provided with the works as executed plan certifying that all pipes and drainage structures are located within the proposed easement to drain water.

Condition No. 48 be deleted and replaced as follows:

48. Detailed Geotechnical Report/ Design and Peer Review Requirements

The site must be stabilised for its proposed use in accordance with the following peer reviewed geotechnical reporting, plans and details as outlined in the Peer Review letter provided by Assetgeo dated 19 February 2018 and subsequent report prepared by JK Geotechnics 35003SDrpt dated 7 April 2022.

A further geotechnical report is required to be submitted in conjunction with a detailed design for the proposed stabilisation works addressing all construction matters associated with the stabilisation works. This revised report and detailed design must be peer reviewed by Council's geotechnical review panel. The cost of this review and any subsequent amendments to the report and design must be borne by the applicant.

Any recommendations relating to the design, construction and reporting, including post construction, arising from the report and peer review must be implemented as part of the proposed works. During construction, all works must be carried out under strict geotechnical control under the supervision of a certified and practising geotechnical engineer.

Condition No. 50 be deleted and replaced as follows:

50. Section 7.12 Contribution

Pursuant to section 80A (1) of the Environmental Planning and Assessment Act 1979, and The Hills Section 7.12 Contributions Plan, a contribution of **\$203,240.48** shall be paid to Council. This amount is to be adjusted at the time of the actual payment in accordance with the provisions of the Hills Section 7.12 Contributions Plan.

The contribution is to be paid prior to the issue of the Construction Certificate or Complying Development Certificate.

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

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

Condition No. 51 be deleted and replaced as follows:

51. Acoustic Requirements

The recommendations of the Acoustic Assessment and Report prepared by Acoustic Logic Pty Ltd, referenced as 20221515.1/2206A/R1/RF, dated 22 June 2023 and submitted as part of the modification Development Application are to be implemented as part of this approval. In particular:

1. Rooftop plant area is to have a sound power level not exceeding the following noise levels:
 - 7am to 6pm – 86 dB(A)
 - 6pm to 10pm – 83dB(A)
 - 10pm – 7am – 73 dB(A)
2. Truck movements in the loading dock are to be restricted as follows:
 - 6am to 7am and 10pm to 11pm: 1 Movement per 15-minute period,
 - 7am to 6pm: 5 movements per 15-minute period,
 - 6pm to 10pm: 2 movements per 15-minute period.

Condition 52A to be added:

52A. Approval from Local Traffic Committee

The roundabout at the intersection of proposed public Road 02 and private road 01 shall be design and constructed generally in according with the civil plan prepared by AT & L Revision E Dated 27/02/2025. The design of the roundabout including the line marking and pedestrian access will require a separate approval from council's the Local Traffic Committee. The approval from council's Local Traffic Committee shall be reflected on the subdivision works

plans and prior to the issue of the Subdivision works certificate and/or the S138 permit under the roads act, whichever is the earliest.

Condition 52B to be added:

52B. Landscape Plan

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

The plan must contain:

- site boundaries and dimensions surveyed;
- north point, and scale (1:200 desirable);
- existing and proposed levels;
- all trees, grassed areas, landscape features and main structures on the site (buildings, car parking, driveways, walls, fences, paving, storage areas, elements contributing to the significance of a heritage item etc);
- a schedule of proposed planting, including botanical names, common names, quantities, pot size, expected mature height and staking requirements;
- detailed planting plans indicating species locations on plan and in the planting schedule including name, size and quantities. Planting is to be shown as individual symbols for an assessment on species suitability and assist in determining appropriate spacings. Specify the proposed turf type noting that the use of Kikuyu is prohibited;
- locations of any stormwater pits and OSDs;
- public art in accordance with Box Hill Growth Centre Precinct 3.4 SIGNAGE, STREET FURNITURE, LIGHTING AND PUBLIC ART which is to be integrated within the design of public spaces. These are to serve a dual role as play equipment, informal seating, or a landmark;
- planting within the roundabout in accordance with Box Hill Growth Centre Precinct 3.4 (5);
- areas to the north and north west of the site to be appropriately hydromulched with Sydney Turpentine Ironbark Forest planting;
- further landscaping to the front entrance for a greater interface with the public domain and;
- internal areas to have further landscaping and planters which include additional areas of seating and lawn.

Condition No. 90 be deleted and replaced as follows:

90. Constriction Noise and Vibration

Compliance with the Construction Noise and Vibration Management Plan – Part 4, of the Acoustic Assessment prepared by Koikas Acoustics Pty Ltd, (Ref: 2822R20151113mfc-488-494OldNorthernRdDuralstg1v2) dated Friday, 13th November 2015 is to be complied with.

Condition No. 116 be deleted and replaced as follows:

116. Acoustic Compliance Report

The acoustic consultant shall provide certification confirming required noise mitigation as recommended in the Acoustic impact assessment prepared by Acoustic Logic (Project ID: 20221515.1) dated 22 June 2023 have been implemented.

Condition No. 119 be deleted and replaced as follows:

119. Hours of Operation

The hours of operation being restricted to the following: -

- Supermarket (mini-major) 7am and 10pm - Monday to Sunday;
- Speciality Retailers 7am to 7pm - Monday to Sunday; and
- Centre 7am to 7pm - Monday to Sunday

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

Condition No. 123 be deleted and replaced as follows:

123. Hours of operation for waste collection, delivery / dispatch of goods

The operation of the docks for the delivery of goods and the collection of waste shall be restricted to the following times;

- Monday to Saturday – 6.00am to 11.00pm
- Sunday and public holidays – 7.00am – 8.00pm

Condition No. 125 be deleted and replaced as follows:

125. Offensive Noise

So as to minimise the noise to surrounding areas, the following measures are to be put in place;



- Rooftop plant area is to have a sound power level not exceeding the following noise levels:
 - 7am to 6pm – 86dB(A)
 - 6pm to 10pm – 83dB(A)
 - 10pm – 7am – 73dB(A)
- Truck movements in the loading dock are to be restricted as follows:
 - 6am to 7am and 10pm to 11pm: 1 Movement per 15-minute period,
 - 7am to 6pm: 5 movements per 15-minute period,
 - 6pm to 10pm: 2 movements per 15-minute period.
- No delivery trucks or semi-trailers are permitted to wait for access within the loading dock drive prior to the dock operating hours commencing.
- No truck access to the dock is permitted outside of the permitted operating hours.

ATTACHMENTS

1. Locality Plan
2. Aerial Photograph
3. LEP Zoning Map
4. LEP Height Map
5. Proposed Site Plan
6. Proposed Floor Plans
7. Proposed Elevations
8. Proposed Sections
9. Comparison Plan
10. Development Consent 979/206/HB
11. Approved Plans
12. Transport for NSW Correspondence

ATTACHMENT 1 – LOCALITY PLAN



- | | | | |
|---|---|---|---|
|  | SUBJECT SITE |  | SUBMISSIONS RECEIVED
SECOND NOTIFICATION PERIOD |
|  | PROPERTIES NOTIFIED |  | SIX SUBMISSIONS RECEIVED
496-500 OLD NORTHERN ROAD |
|  | SUBMISSIONS RECEIVED
FIRST NOTIFICATION PERIOD | | SEVEN SUBMISSIONS RECEIVED
OUTSIDE SCOPE OF MAP |

ATTACHMENT 2 – AERIAL PHOTOGRAPH



SUBJECT SITE

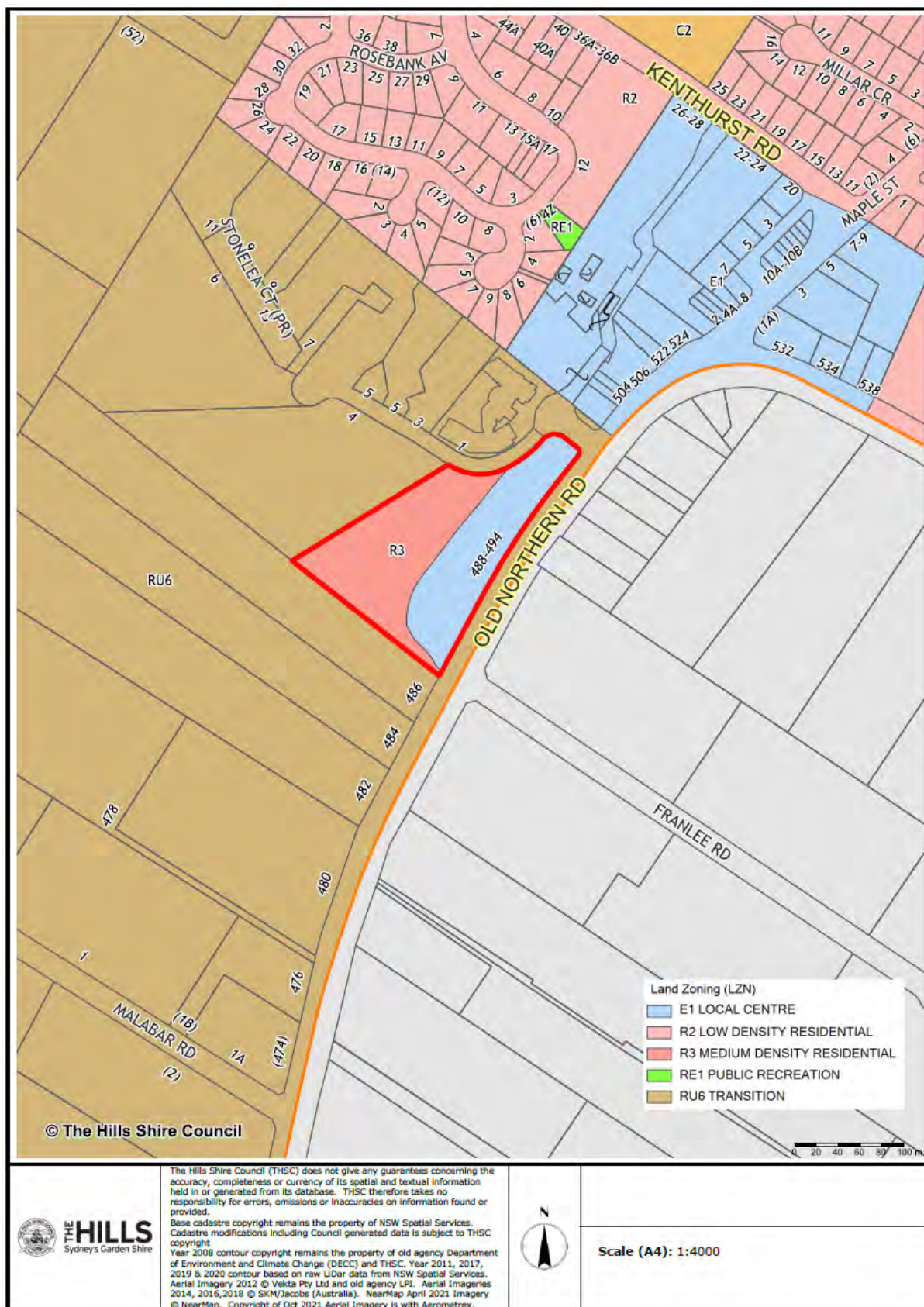


THE HILLS SHIRE COUNCIL

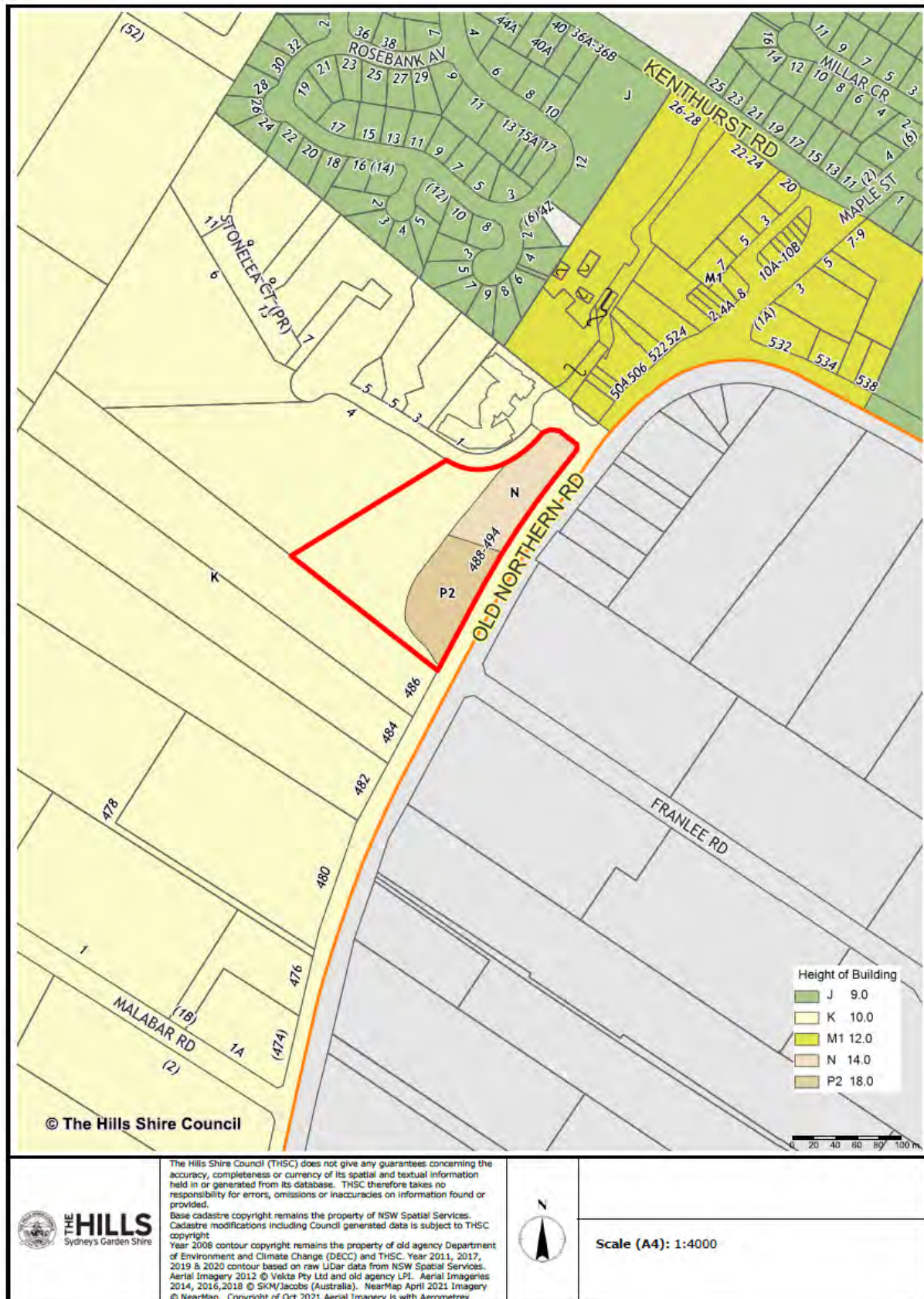
THE HILLS SHIRE COUNCIL DOES NOT GIVE ANY GUARANTEES CONCERNING THE ACCURACY, COMPLETENESS OR CURRENCY OF THE TEXTUAL INFORMATION HELD IN OR GENERATED FROM ITS DATABASE

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

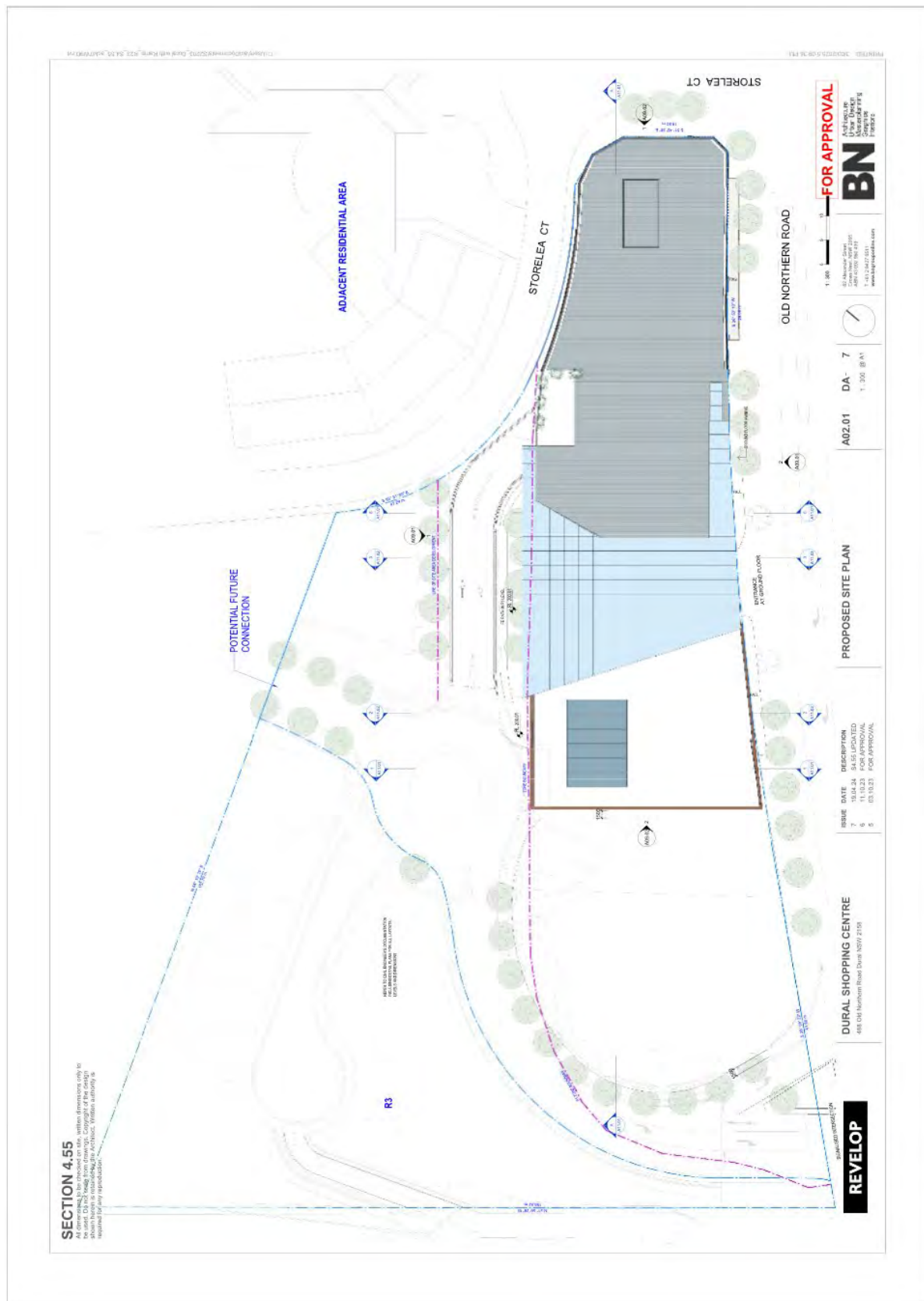
ATTACHMENT 3 – LEP 2019 ZONING MAP



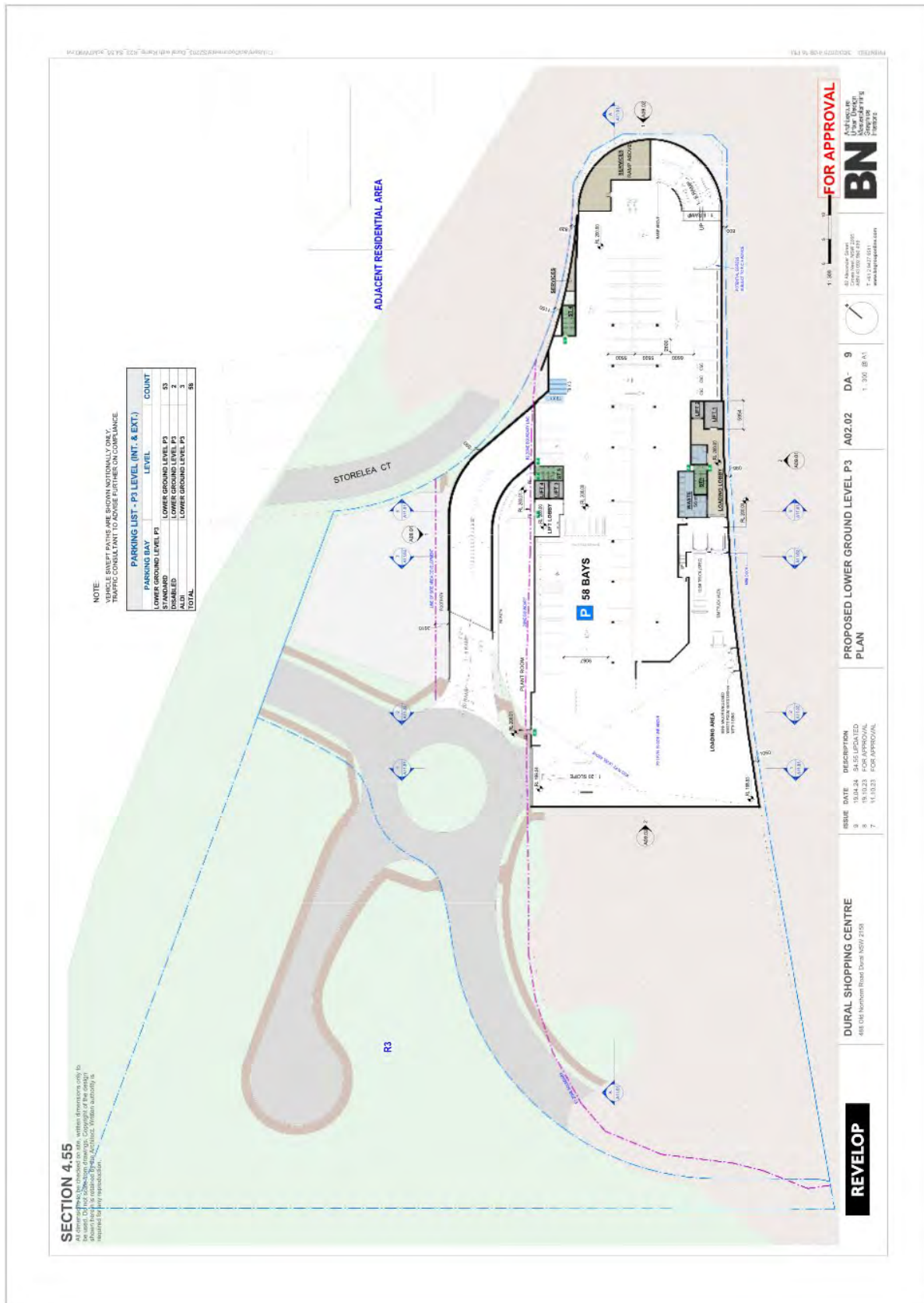
ATTACHMENT 4 – LEP 2019 HEIGHT OF BUILDINGS MAP



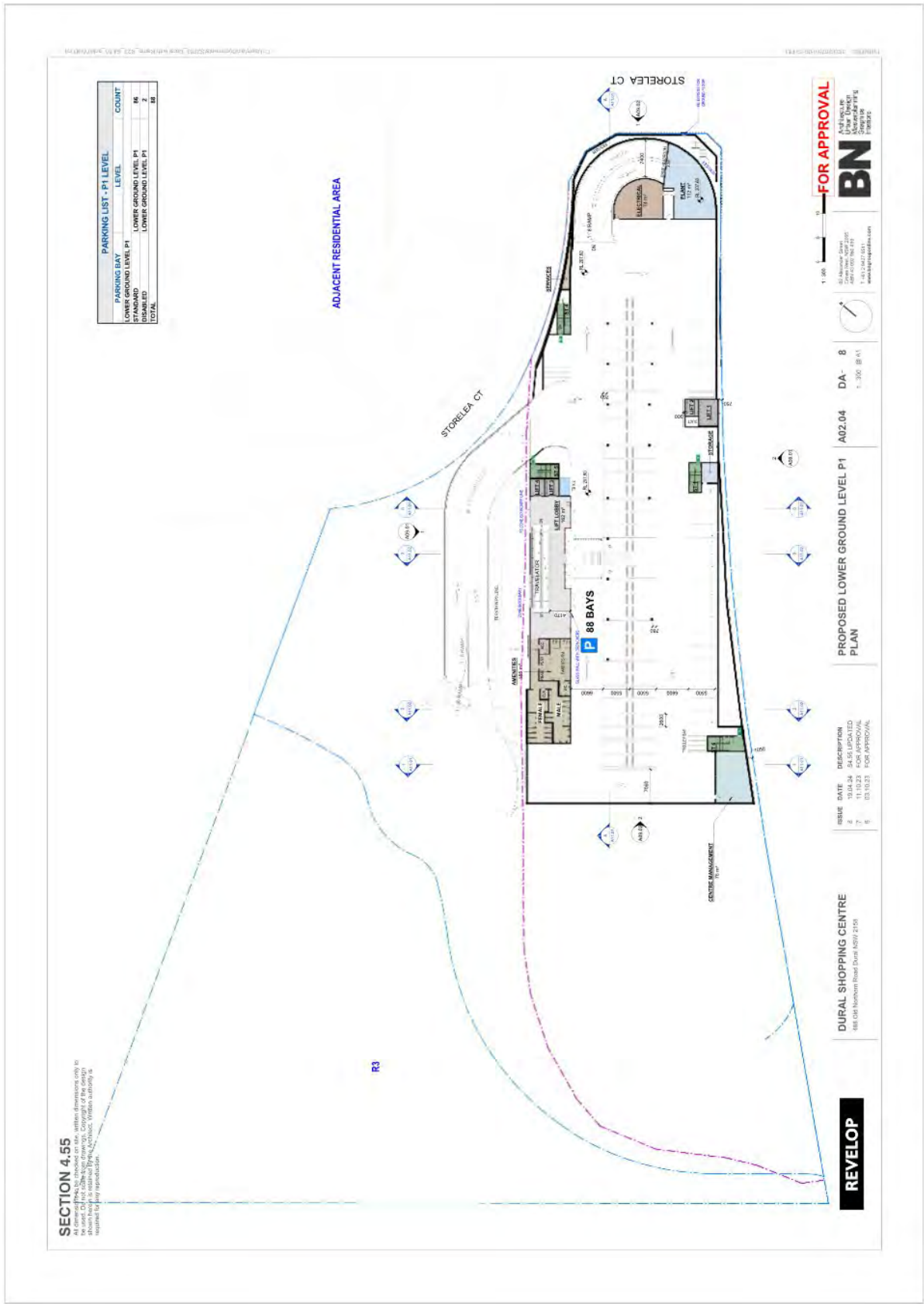
ATTACHMENT 5 – SITE PLAN

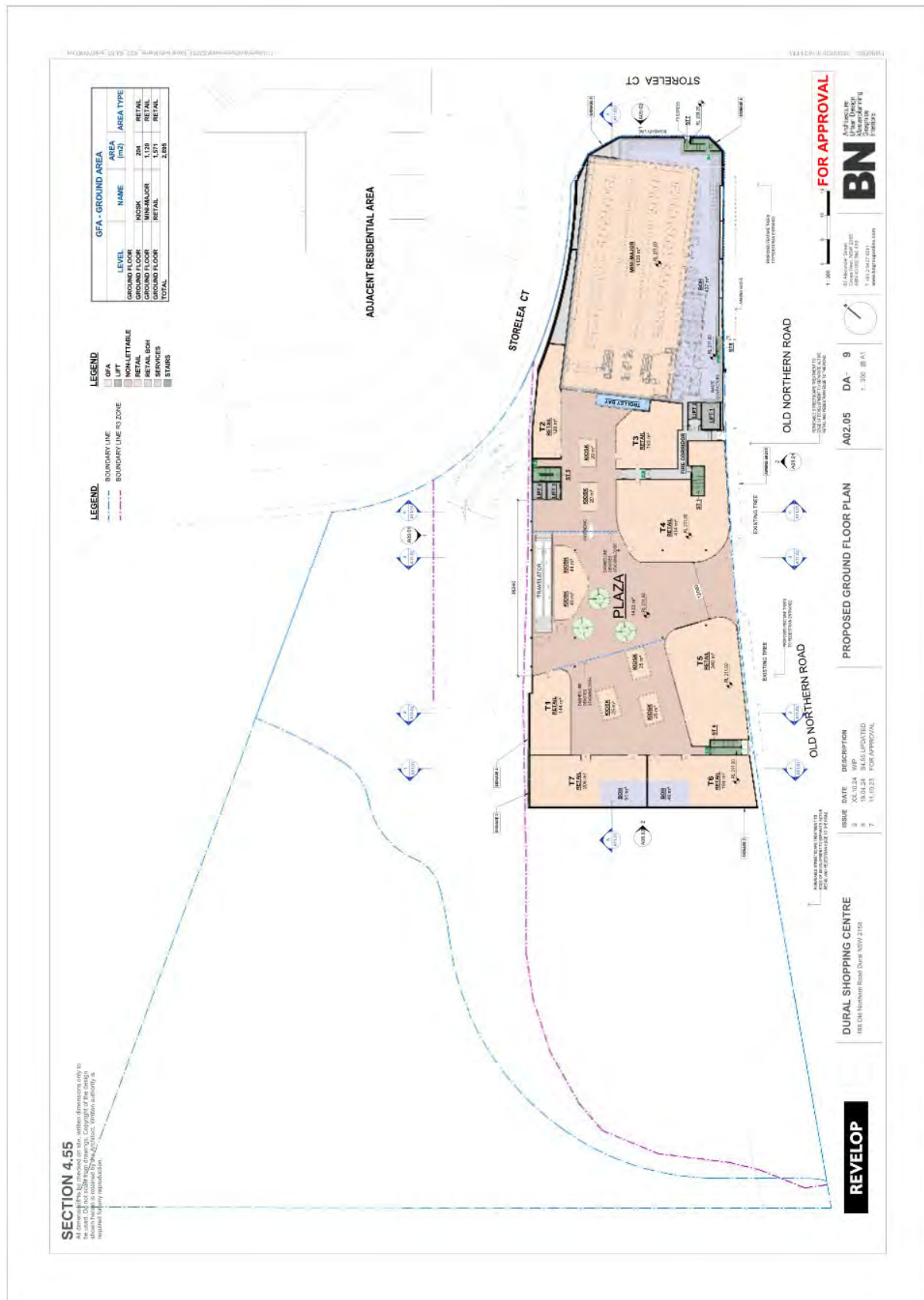


ATTACHMENT 6 – FLOOR PLANS

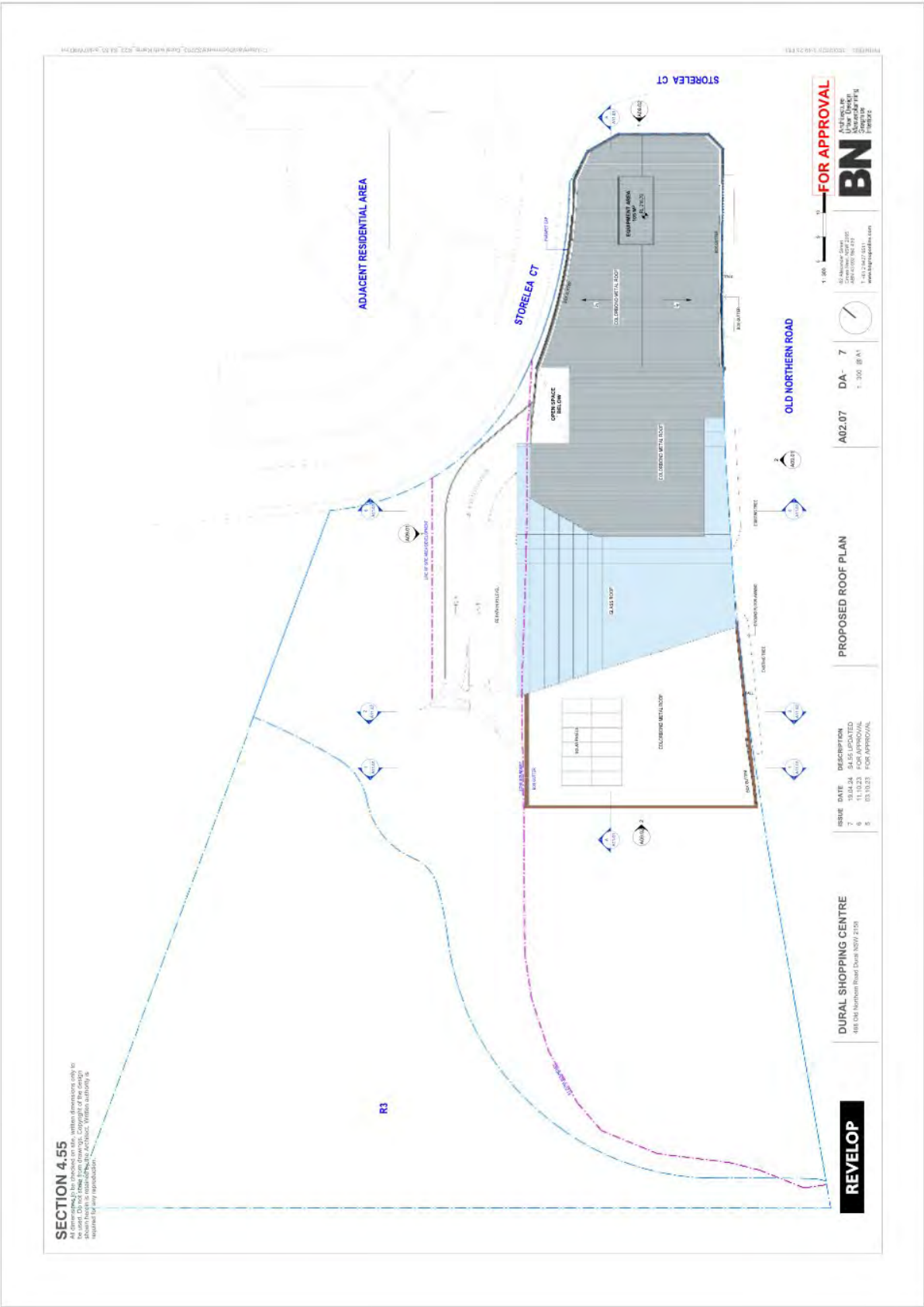












ATTACHMENT 7 – ELEVATIONS







SECTION 4.55

These drawings are for information only and are not to be used for construction. They are not scale drawings. Copyright of the design shown herein is retained by the Architect. Written authority is required for any reproduction.

1 SOUTH-EAST ELEVATION - PART 1
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2 SOUTH-EAST ELEVATION - PART 2
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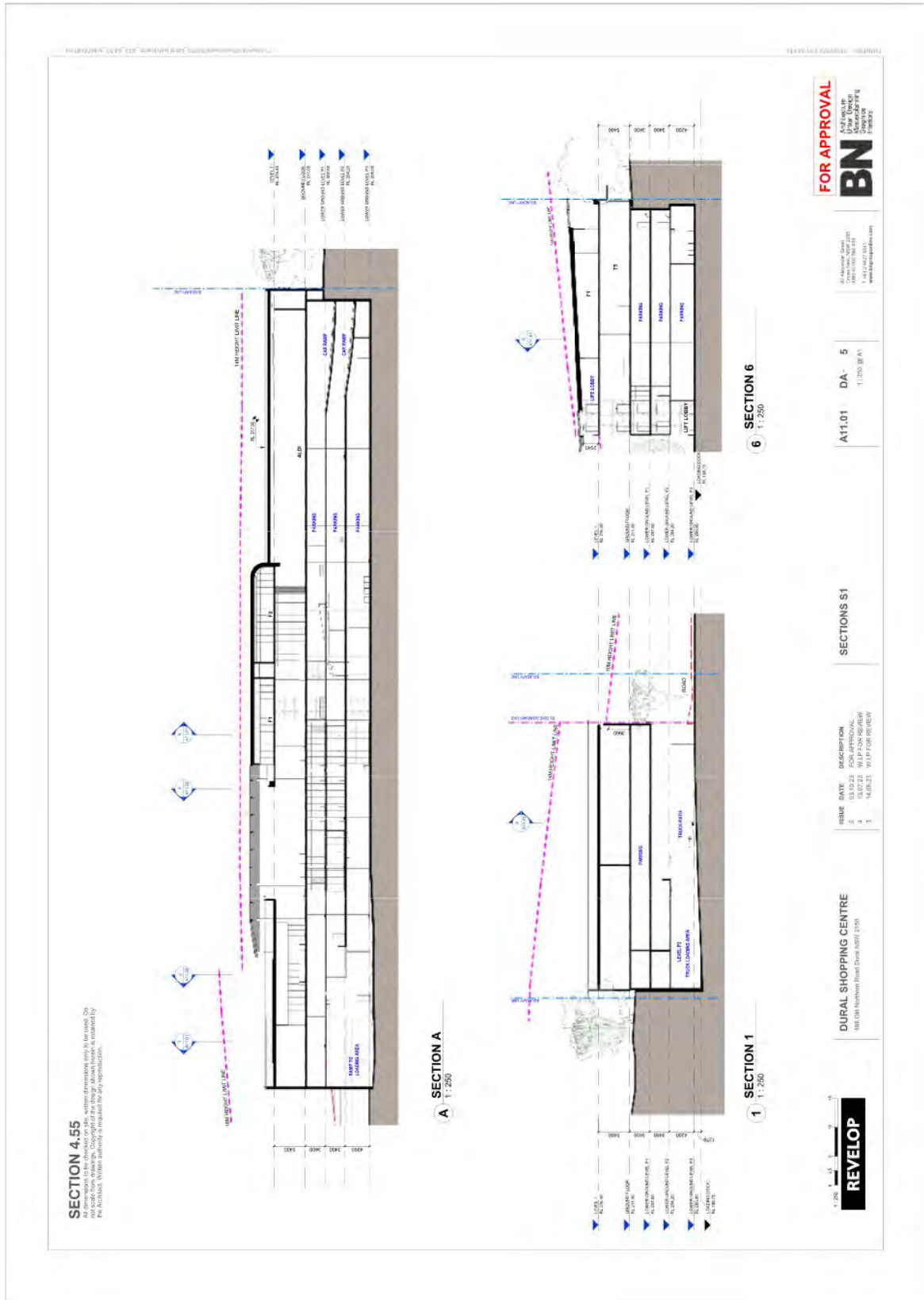
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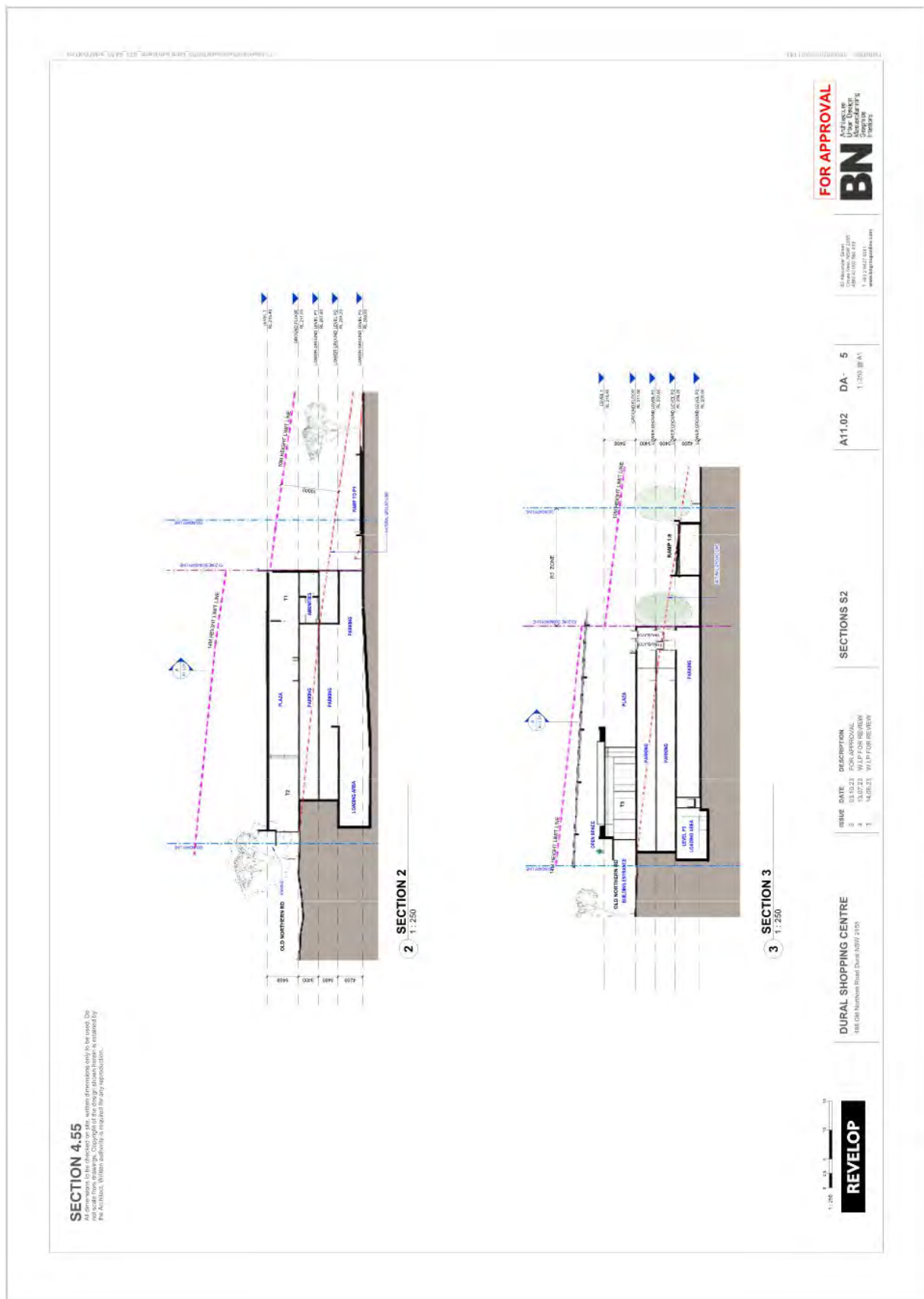
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ATTACHMENT 8 – SECTIONS





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ATTACHMENT 10 – DEVELOPMENT CONSENT 979/2016/HB



THE HILLS
Sydney's Garden Shire

THE HILLS SHIRE COUNCIL
3 Columbia Court, Norwest NSW 2153
PO Box 7064, Norwest 2153
ABN 25 034 494 656 | DX 9966 Norwest

02 November 2021

Australian United Securities Pty Ltd
PO Box 6844
NORWEST NSW 2153

Ref No.:979/2016/HB
Local Planning Panel: 20 October 2021

Dear Sir/Madam

ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979
NOTICE TO APPLICANT OF DETERMINATION OF A DEVELOPMENT APPLICATION

Pursuant to Section 4.18(1) of the Environmental Planning and Assessment Act, 1979, notice is hereby given of the determination by the Local Planning Panel of the Development Application referred to herein.

The Application has been determined by the granting of Consent subject to the conditions referred to in this Notice.

The conditions of the Consent referred to herein are deemed necessary by the Local Planning Panel, pursuant to Part 4, Division 4.3, Section 4.17 of the Environmental Planning and Assessment Act, 1979.

Lapsing of Consent

This consent will lapse unless work is physically commenced within five years from the determination date in accordance with Section 4.53 of the Environmental Planning and Assessment Act 1979 except as amended by the COVID-19 Legislation Amendment (Emergency Measures – Miscellaneous) Act 2020 which commenced on 25 March 2020 and made a number of amendments to the Environmental Planning and Assessment Act 1979 in response to COVID-19 during the "prescribed period" defined by Section 10.17 of the Environmental Planning and Assessment Act 1979.

Right of Review

Division 8.2 of the Environmental Planning and Assessment Act 1979 allows an applicant the right to review a determination subject to such a request being made within six months of the determination date except as amended by the COVID-19 Legislation Amendment (Emergency Measures – Miscellaneous) Act 2020. Division 8.2 does not

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permit a review of determination in respect of designated development or Crown development (referred to in Division 4.6).

Right of Appeal

Division 8.3 of the Environmental Planning and Assessment Act 1979 allows an applicant who is dissatisfied with the determination of an application by the consent authority the right to appeal to the NSW Land and Environment Court within six months after receipt of this determination except as amended by the COVID-19 Legislation Amendment (Emergency Measures – Miscellaneous) Act 2020.

APPLICANT	Australian United Securities Pty Ltd
OWNER:	Australian United Securities Pty Ltd and Mudita Pty Ltd
PROPERTY:	Lot 2 DP 839151, Lot 22 DP 540188 486, 488-494 Old Northern Road, Dural
DEVELOPMENT:	Construction of a Retail/Commercial Building , and associated Infrastructure Works
ENDORSED DATE OF CONSENT:	20 October 2021

CONDITIONS OF CONSENT**DEFERRED COMMENCEMENT**

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

Inter allotment Drainage Easement and Access

- A. Pursuant to Section 4.16(3) of the Environmental Planning and Assessment Act 1979 deferred commencement consent is granted subject to:
1. The registration of a 3m wide easement to drain water over the downstream property, Lot 22 DP 540188 (486 Old Northern Road DURAL NSW 2158). This easement relates to creation of a lawful point of discharge for the development.
 2. The registration of a right of access over the full width of the road carriageway (including the cul-de-sac turning head) of the private road and associated replacement driveway leading to No. 486 Old Northern Road (Lot 22 DP 540188) in favour of No. 486 and burdening 488-494 Old Northern Road (Lot 2 DP 839151) generally as shown on the approved Architectural Plans Job No 3735 Site Plan Overall DA100 Revision 19 Date 06 April 2021. The final easement extent/ location must be approved by Council before being registered.
- B. The applicant must provide Council with written evidence demonstrating that the matters listed under Condition A1 and A2 above have been satisfactorily addressed no later than four weeks before the notice of expiry date.
- C. Upon compliance with the requirements of Conditions A and B above, an operational consent will be issued subject to the following conditions:

GENERAL MATTERS**1. Development in Accordance with Submitted Plans (as amended)**

The development being carried out in accordance with the approved plans and details submitted to Council, as amended in red, stamped and returned with this consent.

The amendments in red include: -

- Retaining works along southern boundary are to be consistent with the detail shown on Plans prepared by Diversi, Project No. 19059, Drawing DA1001 and Drawing DA1002 Revision P5 dated 08/09/2020.
- Amendments to Landscape Plan Planting Schedule and Planter Box Heights

REFERENCED PLANS AND DOCUMENTS

JOB NO	DESCRIPTION	SHEET	REVISION	DATE
3735	Site Plan Overall	DA100	19	06/04/2021
3735	Carpark P2 – Stage 1	DA102	13	23/06/2020
3735	Carpark P1 – Stage 1	DA103	13	23/06/2020
3735	Stage 1 – Ground Floor	DA104	11	20/03/2019
3735	Stage 1 – Level 1	DA105	8	20/03/2019
3735	Stage 1 – Roof Plan	DA106	7	20/03/2019
3735	Stage 1 - Elevations	DA107	8	20/03/2019
3735	Stage 1 – Building Sections	DA108	4	20/03/2019
20180138	General Arrangement and Staging Plan	DA100	5	24/02/2021
20180138	Detail Plan – Stage 1 Works	DA101	5	24/02/2021
20180138	Detail Plan – Stage 1 Works	DA102	5	24/02/2021
20180138	Detail Plan – Stage 1 Works	DA103	2	24/02/2021
20180138	Planting Plan	DA122	5	24/02/2021
20180138	Typical Sections	DA200	2	18/03/218
20180138	Stage 1 Interim Landscape Sections	DA201	1	24/02/2021
20180138	Typical Details	DA500	2	11/12/2020
20180138	Planting Schedule	-	-	February 2021
20180138	Materials Schedule	-	-	February 2021

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

2. External Finishes

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

3. Compliance with Transport for NSW Requirements

Compliance with the requirements of Transport for NSW as follows:

1. TfNSW has previously vested a strip of land as road along the Old Northern Road frontage of the subject property, as shown by grey colour on the attached Aerial-“X”.

Therefore, all buildings and structures (other than pedestrian footpath awnings), together with any improvements integral to the future use of the site are to be wholly within the freehold property (unlimited in height or depth), along the Old Northern Road boundary.

2. The proposed works on Old Northern Road and Traffic Control Signal (TCS) at the intersection of Old Northern Road/Franlee Road/Site Access (Road 2) shall be designed to meet TfNSW requirements. The plans shall be drawn by a suitably qualified person and endorsed by a suitably qualified practitioner.

The submitted design shall be in accordance with Austroads Guide to Road Design in association with relevant TfNSW supplements (available on www.rms.nsw.gov.au). The certified copies of the TCS design and civil design

plans shall be submitted to TfNSW for consideration and approval prior to the release of a Construction Certificate and commencement of road works. Please send all documentation to development.sydney@rms.nsw.gov.au.

TfNSW fees for administration, plan checking, civil works inspections and project management shall be paid by the developer prior to the commencement of works.

The developer will be required to enter into a Works Authorisation Deed (WAD) for the abovementioned works.

3. The proposed works may require further amendments and modelling to comply with TfNSW requirements which includes but will not be limited to:
 - if a shared path is proposed to be provided on the western side of Old Northern Road, north and south of "Road 2" (development access road), the slip lane should be signalised (via a pelican crossing) to provide connectivity for cyclists
 - On the west approach (from Road 2), the through pavement arrow and left turn pavement arrow should not be provided
 - On the north approach, a C1 line marking is to be provided to delineate the through lane from the dedicated right turn lane
4. The proponent is required to dedicate land as public road for the maintenance of the Traffic Control Signals and associated infrastructure, further details will be included as part of the WAD process.
5. The developer is to consult with any affected property owners as a result of the proposed works and obtain written approval from the property owners prior to DA determination.
6. The developer is to submit design drawings and documents relating to the excavation of the site and support structures to TfNSW for assessment, in accordance with Technical Direction GTD2012/001.

The developer is to submit all documentation at least six (6) weeks prior to commencement of construction and is to meet the full cost of the assessment by TfNSW. Please send all documentation to development.sydney@rms.nsw.gov.au

If it is necessary to excavate below the level of the base of the footings of the adjoining roadways, the person acting on the consent shall ensure that the owner/s of the roadway is/are given at least seven (7) day notice of the intention to excavate below the base of the footings. The notice is to include complete details of the work.

7. Detailed design plans and hydraulic calculations of any changes to the TfNSW stormwater drainage system are to be submitted to TfNSW for approval, prior to the commencement of any works. Please send all documentation to development.sydney@rms.nsw.gov.au

A plan checking fee will be payable and a performance bond may be required before TfNSW approval is issued.

8. The developer shall be responsible for all public utility adjustment/relocation works, necessitated by the above work and as required by the various public utility authorities and/or their agents. Written approval and approved utility adjustment/relocation plans are needed from any affected utility authority.
9. A Construction Traffic Management Plan (CTMP) detailing construction vehicle routes, number of trucks, hours of operation, access arrangements and traffic

control should be submitted to Council and TfNSW for approval prior to the issue of a Construction Certificate.

10. A Road Occupancy Licence (ROL) should be obtained from Transport Management Centre (TMC) for any works that may impact on traffic flows on Old Northern Road during construction activities. A ROL can be obtained through <https://myrta.com/oplinc2/pages/security/oplincLogin.jsf>
11. All demolition and construction vehicles are to be contained wholly within the site and vehicles must enter the site before stopping. A construction zone will not be permitted on Old Northern Road.
12. All vehicles are to enter and exit the site in a forward direction. Provision for vehicles to turn around must be provided within the property boundary.

4. Tree Removal

Approval is granted for the removal of sixty-four (64) trees numbered 1-6, 15-18, 18B, 19, 20, 20A, 20B, 21, 25, 28, 29, 31, 31A, 33-39, 39B, 40-42, 42A, 44-47, 49-52, 56, 56A, 62, 68, 69, 71-76, 79B, 79-82, 100-103, and 105-107 as located in Arboricultural Impact Assessment prepared by Eco Logical dated 25/02/21 and any other trees or vegetation located within the Impact Area highlighted orange in Figure 5 (page 17) within the report.

All other trees are to remain and are to be protected during all works.

5. Planting Requirements

All trees planted as part of the approved landscape plan for the Streetscape and Plaza planting are to be minimum 200 litre pot size. All shrubs planted as part of the approved landscape plan are to be minimum 200mm pot size. Groundcovers are to be planted at 5/m².

All trees planted as part of the approved landscape plan for the Sydney Turpentine Forest Revegetation planting are to be minimum 75 litre pot size. All eighteen (18) trees with this area labelled ER (*Elaeocarpus reticulatus*), BS (*Banksia serrata*), and ES (*Eucalyptus saligna*) are to be substituted for the following dominant Sydney Turpentine Ironbark Forest trees species:

- *Eucalyptus pilularis* (Blackbutt)
- *Syncarpia glomulifera* (Turpentine)
- *Eucalyptus punctata*, Grey Gum
- *Eucalyptus eugenoides* (Thin-leaved Stringybark)

For all planting on slab and planter boxes, the following minimum wall heights and soil depths are to be achieved:

- 1.2m for large trees, 1m for medium trees, or 800mm for small trees;
- 650mm for shrubs;
- 300-450mm for groundcover; and
- 200mm for turf.

Note: this is the soil depth alone and not the overall depth of the planter.

6. Protection of Existing Trees and Native Vegetation

No additional native vegetation (trees and understorey) is to be removed for the creation of an Asset Protection Zone or otherwise without prior consent of Council.

7. Irrigation

An automatic watering system to be installed as a minimum to all common areas and raised planter boxes. Details including backflow prevention device, location of irrigation

lines and sprinklers, and control details are to be communicated to Council or Private Certifier prior to issue of the construction certificate.

8. Provision of Parking Spaces

The development is required to be provided with 176 off-street car parking spaces. These car parking spaces shall be available for off street parking at all times.

9. Separate Development Application for Occupations

A separate development application is required for the occupation of the approved tenancies unless allowed by the provisions of State Environmental Planning Policy (Exempt and Complying Development Codes) 2008. Where a Development Application is required, the application should specifically address the following:

- Proposed use and its Permissibility
- Hours of Operation
- Delivery Details
- Staff Numbers
- Signage, and
- Parking Provision

10. Separate application for signs

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

11. Amended Subdivision Plan

The subdivision component of the development must be carried out in accordance with the final road reserve completed to the requirements of TfNSW and The Hills Shire Council.

The Overall Site Plan Drawing DA100 Revision 19 dated 06/04/2021 illustrating the Stage 1 works and associated subdivision prepared by Leffler Simes Architects is to be amended to be consistent with the final TfNSW approved civil engineering drawings for the construction of Old Northern Road upgrade works.

12. Separate Application for Strata Subdivision

The strata title subdivision of the development is not included. A separate development application or complying development certificate application is required.

13. 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.

14. Structures Adjacent to Piped Drainage Easements

Buildings and structures, including footings and brick fences, adjacent to existing or proposed drainage easements must be located wholly outside the easement. A design must be provided by a structural engineer certifying that the structure will not impart a load on the pipe in the easement.

15. Requirements for Council Drainage Easements

No works are permitted within existing or proposed public drainage easements unless approved by Council. Where works are permitted, the following requirements must be adhered to:

- Provision for overland flow and access for earthmoving equipment must be maintained.

- The existing ground levels must not be altered. No overland flow is to be diverted out of the easement.
- No fill, stockpiles, building materials or sheds can be placed within the easement.
- Open style fencing must be used. New or replacement fencing must be approved by Council.

16. Vehicular Access and Parking

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

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

Where conflict exists the Australian Standard must be used.

The following must be provided:

- The driveway crossing from Stonlea Court must be designed to the Heavy Duty standards.
- All driveways and car parking areas must be prominently and permanently line marked, signposted and maintained to ensure entry and exit is in a forward direction at all times and that parking and traffic circulation is appropriately controlled.
- All driveways and car parking areas must be separated from landscaped areas by a low level concrete kerb or wall.
- All driveways and car parking areas must be concrete or bitumen. The design must consider the largest design service vehicle expected to enter the site. In rural areas, all driveways and car parking areas must provide for a formed all weather finish.
- All driveways and car parking areas must be graded, collected and drained by pits and pipes to a suitable point of legal discharge.

17. 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.

18. Excavation/ Anchoring Near Boundaries

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

- Written owner's consent for works on adjoining land must be obtained.
- For works adjacent to a road, anchoring that extends into the footpath verge is not permitted, except where expressly approved otherwise by Council, or Transport for NSW in the case of a classified road.
- Where anchoring within public land is permitted, a bond must be submitted to ensure their removal once works are complete. The value of this bond must relate to the cost of their removal and must be confirmed by Council in writing before payment.
- All anchors must be temporary. Once works are complete, all loads must be removed from the anchors.

- A plan must be prepared, along with all accompanying structural detail and certification, identifying the location and number of anchors proposed.
- The anchors must be located clear of existing and proposed services.

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

19. Security Bond Requirements

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

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

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

20. Subdivision Certificate Preliminary Review

Prior to the submission of a Subdivision Certificate application a draft copy of the final plan, administration sheet and Section 88B instrument (where included) must be submitted in order to establish that all conditions have been complied with.

Street addresses for the lots within this subdivision will be allocated as part of this preliminary check process, for inclusion on the administration sheet.

21. Proposed Street Naming

A written application for street naming must be submitted to Council for approval, along with the applicable fee as per Council's Schedule of Fees and Charges. The street names proposed must comply with requirements of the NSW Geographical Names Board and Council.

The application must nominate three suggested names per street, in order of preference, and the source of the names proposed.

22. Street Trees

Street trees must be provided for the section of new public road and Old Northern Road within or fronting the development site spaced between 7m and 10m apart. For corner lots, except with separately approved, there should be one tree on the primary frontage and two trees on the secondary frontage. The location of street trees must be considerate of driveways, services, drainage pits and sight lines at intersections. The species and size of street trees must comply with the requirements of Council. This includes a street tree masterplan where one exists (check Council's website for details). A street tree planting plan demonstrating compliance with the above must be submitted for written approval before any street trees are planted.

The establishment of street tree planting is included in the maintenance bond required to be paid. Alternatively, street trees can be planted by Council subject to payment of the applicable fee as per Council's Schedule of Fees and Charges.

23. Process for Council Endorsement of Legal Documentation

Where an encumbrance on the title of the property is required to be released or amended and Council is listed as the benefiting authority, the relevant release or amendment documentation must be submitted along with payment of the applicable fee as per Council's Schedule of Fees and Charges. Sufficient time should be allowed for the preparation of a report and the execution of the documents by Council.

24. Road Opening Permit

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

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

25. Acoustic Requirements

The recommendations of the Acoustic Assessment prepared by Koikas Acoustics Pty Ltd, (ref: 2822R20181121mfc-488-494OldNorthernRdDuralstg1v3.docx), dated Wednesday, 21st November 2018 and submitted with this development application are to be implemented as part of this approval.

26. Control of early morning noise from trucks

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

27. Control of Noise from Trucks

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

28. Property Numbering

The responsibility for property numbering is vested solely in Council.

The property address for Stage 1 of this development is: - 494 Old Northern Road Dural.

Unit Numbering applied to Stage 1:

Ground Floor

Unit G01	shown as Shop 1 on submitted plan DA104A
Unit G02	shown as Shop 2 on submitted plan DA104A
Unit G03	shown as Shop 3 on submitted plan DA104A
Unit G04	shown as Shop 4 on submitted plan DA104A
Unit G05	shown as Shop 5 on submitted plan DA104A
Unit G06	shown as Shop 6 on submitted plan DA104A
Unit G07	shown as Supermarket on submitted plan DA104A

First Floor

Unit 102	shown as Commercial Unit 1 on submitted plan DA105A
Unit 103	shown as Commercial Unit 2 on submitted plan DA105A
Unit 104	shown as Commercial Unit 3 on submitted plan DA105A
Unit 105	shown as Commercial Unit 4 on submitted plan DA105A
Unit 106	shown as Commercial Unit 5 on submitted plan DA105A
Unit 107	shown as Commercial Unit 6 on submitted plan DA105A
Unit 108	shown as Commercial Unit 7 on submitted plan DA105A
Unit 109	shown as Commercial Unit 8 on submitted plan DA105A
Unit 101	shown as Commercial Unit 9 on submitted plan DA105A

These numbers, unless otherwise approved by Council in writing, are to be displayed clearly on all door entrances. Any changes to the layout/configuration must be referred to Council's Land Information Section for numbering approval.

29. Ventilation for Basement Carpark

The basement car park is to be provided with ventilation in accordance with Australian / New Zealand Standard AS/NZS 1668.2 2012.

The exhaust from the basement carpark shall be positioned so as to not cause a nuisance due to odour or noise to an occupier of any residential premises.

30. 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.

31. Disposal of Surplus Excavated Material

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

32. Construction of Waste Storage Area(s)

All commercial and retail waste storage areas must be designed and constructed in accordance with the following requirements. The areas must provide minimum storage facility for the required number of bins to service the site.

- The waste storage areas must be of adequate size to comfortably store and manoeuvre the required number of bins required to service the site.
- The layout of the waste storage areas must ensure that each bin is easily accessible and manoeuvrable in and out of the areas with no manual handling of other bins. All internal walkways must be at least 1.5m wide.
- The walls of the waste storage areas must be constructed of brickwork.
- The floor of the waste storage areas must be constructed of concrete with a smooth non-slip finish, graded and drained to sewer. The rooms must not contain ramps and must be roofed (if located external to the building).
- The waste storage areas must have a waste servicing door, with a minimum clear floor width of 1.5m. The door must be located to allow the most direct access to the bins by collection contractors. Acceptable waste servicing doors are single or double swinging doors and roller doors (preferred).
- The waste storage areas must have a staff access door, which allows wheelchair access for adaptable sites. Suitable staff access doors are single or double swinging doors. The staff access door can double up as the waste servicing door provided the clear floor width is at least 1.5m and not a roller door.
- All doors of the waste storage areas, when fully opened, must be flush with the outside wall(s) and must not block or obstruct car park aisles or footways. All doors must be able to be fixed in position when fully opened.

- The waste storage areas must be adequately ventilated (mechanically if located within the building footprint). Vented waste storage areas should not be connected to the same ventilation system supplying air to the commercial and retail spaces.
- The waste storage areas must be provided with a hose tap (hot and cold mixer), connected to a water supply. If the tap is located inside the waste storage areas, it is not to conflict with the space designated for the placement of bins.
- The waste storage areas must be provided with internal lighting such as automatic sensor lights.
- The maximum grade acceptable for moving bins for collection purposes is 5%. Under no circumstance is this grade to be exceeded. It is to allow the safe and efficient servicing of bins.
- The waste storage areas must have appropriate waste and recycling signage (EPA approved designs can be found on the NSW EPA website), mounted in a visible location on internal walls and are to be permanently maintained by the site owner(s).
- Finishes and colours of the waste storage areas are to complement the design of the development.

Example Bin Measurements (mm)

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

33. Access and Loading for Waste Collection

Minimum vehicle access and loading facilities must be designed and provided on site in accordance with Australian Standard 2890.2-2002 for the standard 12.5m long Heavy Rigid Vehicle (minimum 4.5m clear vertical clearance). The following requirements must also be satisfied.

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

34. Waste and Recycling Collection Contract

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

35. 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.

36. 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.

37. Bushfire Requirements

At the commencement of building works and in perpetuity the entire property shall be managed in accordance with the Bushfire Report prepared by Ecological Australia dated 9 December 2015

37A. Contamination Assessment and Site Remediation

The recommendations of the Preliminary Site Assessment prepared by SLR Pty Ltd referenced as Report Number 610.12633_R1, and dated 10 May 2013 and the Preliminary Waste Classification Screening report prepared by Environmental Investigation Services referenced as E29043KHlet-WC and dated 18 February 2016 and submitted as part of the Development Application are to be implemented as part of this approval. A Remedial Action Plan shall be prepared prior to remediation and the Remedial Action Plan shall be submitted with or incorporated with the Validation Report for the site. There is to be no disposal of contaminated soil, soil for which the contamination status is unknown or waste materials on land or under roads either private roads or roads that will become public land under the control of Council.

PRIOR TO THE ISSUE OF A CONSTRUCTION CERTIFICATE**38. Deed of Agreement – Transport for NSW**

The applicant shall provide evidence that a Deed of Agreement has been entered into with the Transport for NSW for the provision of traffic signals at the Old Northern Road and Franlee Road intersection.

39. Notice of Requirements

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

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

40. Onsite Stormwater Detention – Hawkesbury River Catchment Area

Onsite Stormwater Detention (OSD) is required in accordance with Council's adopted policy for the rural portion of the Hawkesbury River catchment area, the Upper Parramatta River Catchment Trust OSD Handbook, with amended parameters to ensure the pre-development and post development discharge rates are the same for all storms up to and including the 1 in 100 year design storm event.

The set of stormwater concept plans form part of Stage 1 works prepared by SCP Engineers and Development Consultants, Stage 1 – Site Layout – Sheet 4 Drawing 3136 C2.04 Revision K dated 11/05/2021 is for development application purposes only and is not to be used for construction. The detailed design must reflect the stormwater concept plan and incorporate the following aspects:

- a) The OSD tank is to be designed to control the runoff generated by the entire site, and the discharge from the OSD shall be limited through a maximum orifice size of diameter 275mm diameter.
- b) To ensure the OSD tank is below the finished ground levels, the OSD tank must be lowered and expanded, and/or terraced with multiple chambers and outlets due to the steepness of the area.
- c) The tank structure to be located a minimum of 0.5 metres from the boundary of No. 486 Old Northern Road, Dural.
- d) The detailed design must be supported by a revised DRAINS model confirming the design objective.

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

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

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

All model parameters and data outputs are to be provided.

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

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

41. Stormwater Pump/ Basement Car Park Requirements

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

42. 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.

43. Works on Adjoining Land

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

44. Security Bond – External Works

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

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

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

45. 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 set of concept engineering plan prepared by SCP Engineers and Development Consultants 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.

Detailed construction drawings are to be amended to be consistent with the final TfNSW approved drawings issued for construction. In particular, the amendments are to be focussed in the vicinity of the proposed intersection of Old Northern Road and the new road.

The amendment to the extent of new road reserve (road 02) and road profiles are to be compatible to traffic signals and the slip lane approved by the TfNSW.

a) TfNSW Approval

Submissions of a copy of the approved construction engineering drawings for the Old Northern Road upgrade works issued by the Transport of NSW.

b) Full Width Road Construction

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

Road Name:	Formation: (Footpath/ Carriageway/ Footpath) (m)
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New public road (Road 02)	Road Type: Local Various road width At section 1: (To be consistent with the final intersection design approved by the TfNSW) At section 2: 1m/ 9.5m/ 3.5m (Total width 14m) At section 3: 3.5m/ 9.5m/ 3.5m (Total width 16.5m) Pavement Design: Design Guidelines Section 3.12
Private Driveway 01	Road Type: Access Road 2m/ 6m/ 2m (Total width 8m) Pavement Design: Design Guidelines Section 3.12

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

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

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

c) Cul-de-sac

A cul-de-sac turning head must be provided at the end of all roads that will be extended into adjoining properties if/ when they are developed. The cul-de-sac must have a diameter of 19m measured from the edge pavement.

A cul-de-sac head is required at the termination of proposed private road 01.

d) Access Handle Driveway Construction

A 5m wide (minimum) reinforced concrete driveway over the shared access handle of proposed development lot facilitating with an alternative access to the adjoining property to the south 486 Old Northern Road is required in accordance with the above documents and Council's driveway specifications.

e) Signage and Line Marking Requirements/ Plan

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

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

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

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

f) Footpath Verge Formation

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

g) Concrete Footpath

A 1.5m wide concrete footpath, including access ramps at all intersections, must be provided on one side of Road 02 in accordance with the concept plan.

h) Gutter Crossings

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

i) Disused Layback/ Driveway Removal

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

j) Service Conduits

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

k) Earthworks/ Site Regrading

Earthworks and retaining walls are limited to those locations and heights shown on the concept engineering plan prepared by SCP Engineers and Development Consultants as amended by Condition No.1.

Multiple retaining walls associated with the earth works are subject geotechnical certification issued in accordance with Peer Review letter provided by Assetgeo dated 19 February 2018.

Retaining walls between lots must be located on the high side lot that is being retained, save the need for easements for support on the low side lot adjacent.

l) Stormwater Drainage – Pipe Extension (TfNSW)

New kerb inlet pits must be provided across Old Northern Road frontage to the TfNSW requirements, and street drainage extended to the drainage network proposed on the road 02 forms part of the development.

m) Stormwater Drainage – Creek Outlets

Piped stormwater outlets/ connections to a natural watercourse must comply with the requirements of Council, the Natural Resources Access Regulator (even where the receiving waterbody is not a natural watercourse) and Sydney Water, in the case of stormwater management land.

n) Inter-allotment Stormwater Drainage

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

Where Onsite Stormwater Detention is required, a minimum level difference of 800mm measured between the surface level and the invert of the outlet pipe must be provided.

o) Lawful Point of Discharge

Piped inter-allotment stormwater drainage catering for the entire area the subject site must be provided over the downstream property within the drainage easement created over the Lot 22 DP 540188 under the deferred commencement consent, so that all collected stormwater is piped to an approved constructed public drainage system. A grated surface inlet pit must be provided in the lowest corner of the subject site.

The design and construction of this stormwater drainage work must be provided for in accordance with Council's Design Guidelines Subdivisions/ Developments and Works Specifications Subdivisions/ Developments.

This stormwater drainage work shall be provided under a separate construction approval from Council beforehand, under Section 68 of the Local Government Act 1993.

Once the stormwater drainage work is complete a works as executed plan must be prepared in accordance with Council's Design Guidelines Subdivisions/ Developments and submitted to Council's Construction Engineer for written approval. The works as executed plans must be prepared by a civil engineer or registered surveyor.

A letter from a registered surveyor must be provided with the works as executed plan certifying that all pipes and drainage structures are located within the proposed easement to drain water.

46. Construction Management Plan – Major Subdivision Works

Prior to the issuing of a Subdivision Works Certificate a Construction Management Plan must be submitted to Council's Manager – Subdivision and Development Certification for approval. The Construction Management Plan must specifically address each of the following matters:

- Construction traffic (internal).
- Traffic control (external). This needs to consider road closures and delivery routes with respect to the surrounding road network as separately conditioned.
- Public asset protection.
- Dust management as separately conditioned.
- Sediment and erosion control as separately conditioned.
- Stockpiles.
- Noise; outside of standard work hours for float deliveries will need to have written Transport for NSW approval and Council and affected neighbours must be notified in writing.
- Working hours; including plant warming up and/ or noise above conversation levels before the nominated starting time.
- Tree/ vegetation protection.
- Fauna protection, recovery and relocation (including fauna habitat)

47. Security Bond Requirements

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

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

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

48. Detailed Geotechnical Report/ Design and Peer Review Requirements

The site must be stabilised for its proposed use in accordance with the following peer reviewed geotechnical reporting, plans and details as outlined in the Peer Review letter provided by Assetgeo dated 19 February 2018.

A further geotechnical report is required to be submitted in conjunction with a detailed design for the proposed stabilisation works addressing all construction matters associated with the stabilisation works. This revised report and detailed design must be peer reviewed by Council's geotechnical review panel. The cost of this review and any subsequent amendments to the report and design must be borne by the applicant.

Any recommendations relating to the design, construction and reporting, including post construction, arising from the report and peer review must be implemented as part of the proposed works. During construction, all works must be carried out under strict geotechnical control under the supervision of a certified and practising geotechnical engineer.

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

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

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

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

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

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

An SWMP is required for this development.

50. Section 7.12 Contribution

Pursuant to section 80A (1) of the Environmental Planning and Assessment Act 1979, and The Hills Section 7.12 Contributions Plan, a contribution of **\$190,245.00** shall be paid to Council. This amount is to be adjusted at the time of the actual payment in accordance with the provisions of the Hills Section 7.12 Contributions Plan.

The contribution is to be paid prior to the issue of the Construction Certificate or Complying Development Certificate.

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

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

51. Acoustic Certification prior to Construction Certificate

Certification by a suitably qualified acoustic consultant is to be provided to the Principal Certifying Authority confirming that selected building materials and equipment such as mechanical plant comply with the BCA and the recommendations within the Acoustic Assessment (ref: 2822R20151113mfc488-494OldNorthernRdDuralStg1v2) prepared by Koikas Acoustics Pty Ltd dated 13 November 2015. In particular;

Building Materials

- 0.42mm metal deck roof followed by a layer of 100mm thick 14kg/m³ insulation batts fitted tightly between the ceiling joists, and one layer of 13mm thick plasterboard screw fixed beneath the ceiling joists for the ceiling/roof system,
- External walls to be a minimum of 150mm concrete infilled, and
- Minimum 10.38mm laminated glass glazing for all commercial/retail/office tenancies.

Mechanical Plant

- Absorptive materials must be applied to the walls and ceilings within the Aldi plant room (minimum 40% of internal area of upper section of walls),
- Acoustic louvers along the western boundary of the Aldi plant room are required as per Table 11 of the Acoustic Assessment stated above,
- Car park supply/ Exhaust Air Fan to incorporate at minimum 4 metres of 50mm fibreglass duct lining material to the outlet side of the extraction fan duct-work for supply and exhaust air fan respectively. Alternatively, install a silencer with insertion loss similar to supply fan – NAP Silentflo Silencer E38/90 and exhaust fan – NAP Silentflo Silencer E38/120, and
- Outdoor AC Unit selection to consider a "night mode" operation that can reduce sound power level ≥ 13 dB for each unit.

Loading Dock

- Installation of the Fantech Sound Bar Louvers SBL1 or louvers with the same (if not better) insertion loss value, to the west façade of the loading dock area,
- Absorptive materials such as insulation batts are to be installed onto the internal walls and ceiling of the loading dock area. The insulation batts are to be held by a layer of perforated metal panel with 40% open cells or alternatively spray-on foam insulation be applied to the ceiling and walls of the loading dock, and
- All mechanical parts such as roller door and motor must be vibration isolated from the ceiling and wall system by selecting appropriate spring mounts.

52. Shopping Trolley Management

A geospatial fenced trolley containment system is required to be installed within the proposed and existing centre. All new trolleys are to be fitted with a wheel lock that is enabled before leaving a geospatial area (no access to public land). Details are to be submitted to the PCA prior to issue of the Construction Certificate.

PRIOR TO WORK COMMENCING ON THE SITE

53. Tree Protection Fencing

Prior to any works commencing on site Tree Protection Fencing must be in place around trees or groups of trees nominated for retention. In order of precedence the location of fencing shall be a) As per Tree Protection Plan as per Arborist report for project or b) Tree Protection Zone (TPZ) as calculated under AS4970 (2009) Protection of trees on development sites c) A minimum of 3m radius from trunk.

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

- Stockpiling of materials within TPZ;
- Placement of fill within TPZ;

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

The temporary relocation of any Tree Protection Fencing must only be undertaken under the supervision of the Project Arborist.

54. Tree Protection Signage

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

55. Mulching within Tree Protection Zone

Prior to any works commencing on site all areas within the Tree Protection Zone are to be mulched with composted leaf mulch to a depth of 100mm.

56. Trenching within Tree Protection Zone

Any trenching for installation of drainage, sewerage, irrigation or any other services shall not occur within the Tree Protection Zone of trees identified for retention without prior notification to Council (72 hours notice) or under supervision of a project arborist.

If supervision by a project arborist is selected, certification of supervision must be provided to the Certifying Authority within 14 days of completion of trenching works.

57. Project Ecologist

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

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

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

58. Engagement of a Project Arborist

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

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

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

59. Tree Removal & Fauna Protection

1. **Implementation of Tree Protection Measures:** Within one week prior to any removal of vegetation the Project Arborist is to:
 - Clearly identify the trees approved for removal with spray paint.
 - Confirm that tree protection measures and bushland protection fencing have been correctly installed.

A statement from the Project Arborist shall be submitted to The Hills Shire Council's Manager – Environment & Health confirming that the trees have been clearly identified and tree protection measures have been installed.

2. **Pre-clearance survey:** Within one week prior to any removal of vegetation a pre-clearance survey is required to be undertaken by a qualified ecologist to:
 - o Identify number and flag using high visibility tape hollow-bearing trees and other habitat features such as nests or hollow logs. .
 - o **Dural Land Snail.** Any live individuals or shells are to be placed in adjacent habitat within the property of 386 Old Northern Road in suitable habitat. Evidence of survey effort, findings and locations of any found and relocated live individuals/ shells will be documented and supported by using photos and GPS coordinates.

The results of the pre-clearance survey prepared by the Project Ecologist shall be submitted to The Hills Shire Council's Manager – Environment & Health. The report should include details such as size and location of the habitat features and any proposed additional measures required to mitigate the risk to fauna during clearing operations

3. **Notify Council:** The Environment & Health Team must be provided with at least 2 working days' notice prior to the commencement of clearing vegetation and must be provided with site access during clearing operations.

60. 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.

61. 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.

62. Erosion and Sediment Control/ Soil and Water Management

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

63. Dust Management Plan – Major Subdivision Works

A site specific dust management plan must be developed to proactively address the issue of dust during construction. This plan must be submitted to Council's Manager – Subdivision and Development Certification for written approval before works commence. The plan must address/ include the following matters, where relevant:

- Water carts must be used to regularly wet down exposed areas. The number of water carts required on site (at all times, and with additional carts available on demand) must be nominated and justified.
- Additives that can be mixed with the water to aid dust suppression.
- A dust cloth must be installed along the perimeter of the site.

- Where required, a sprinkler/ misting system along the perimeter of the site.
- Dust control at source, such as machine mounted sprinklers, ground mounted water cannons where material is being excavated, loaded and placed and measures to ensure loads are covered.
- Speed control on haul routes.
- Stockpile management such as location, orientation, volume and height to minimise impacts on neighbouring properties. Covering of stockpiles with tarpaulins or vegetation should also be considered where warranted by the duration of the stockpile. Stockpiles expected to be in place for longer than 14 days are considered non-temporary.
- Interim seeding and/ or hydro-mulching of exposed areas as work progresses.
- Final topsoil placement and planting or seeding exposed areas as soon as possible.
- Jute matting of the core riparian zone within any creeks/ riparian corridors.
- Weather forecast systems to predict adverse weather conditions and allow for early action for dust management and to avoid dust generating activities when weather conditions are unfavourable.
- Education of all site personnel on reducing dust.
- Community engagement plan and complaints management system demonstrating how dust complaints will be received, recorded, resolved and responded to.
- How the dust management controls will be monitored, reviewed and revised on a regular basis to ensure their ongoing effectiveness.

64. Traffic Control Plan

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

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

65. Property Condition Report – Private Assets

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

66. Service Authority Consultation – Subdivision Works

Before subdivision works commence documentary evidence must be submitted confirming that satisfactory arrangements have been made for:

- The provision of electrical services for the non-residue lots created by the subdivision. This includes the undergrounding of existing overhead services, except where a specific written exemption has been granted by Council.
- The provision of water and sewerage facilities.
- The provision of telecommunication services for the non-residue lots created by the subdivision, typically requiring the installation of pits and pipes complying with the standard specifications of NBN Co current at the time of installation. This includes the undergrounding of existing overhead services, except where a specific written exemption has been granted by Council. The Telecommunications Act 1978 (Cth) specifies where the deployment of optical fibre and the installation of fibre-ready facilities is required.

67. Transport for NSW Design Approval

The design and construction of the relevant works Old Northern Road frontage and the intersection must be approved by Transport for NSW before any works commence on that road. A copy of the Transport for NSW stamped approved construction plans must be submitted to Council.

68. Pavement Design

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

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

69. Erection of Signage – Supervision of Subdivision Works

In accordance with the Environmental Planning and Assessment Regulations 2000, a sign is to be erected in a prominent position displaying the following information:

- The name, address and telephone number of the Principal Certifier (Council);
- The name and telephone number (including after hours) of the person responsible for carrying out the works;
- That unauthorised entry to the work site is prohibited.

This signage must be maintained while the subdivision work is being carried out and must be removed upon completion.

As per the Environmental Planning and Assessment Act 1979, only Council can issue a Subdivision Certificate which means only Council can be appointed as the Principal Certifier for subdivision works.

70. Contractors Details – Subdivision Works

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

71. Construction Noise and Vibration Plan

A copy of the Construction Noise and Vibration Management Plan, within the Acoustic Assessment prepared by Koikas Acoustics Pty Ltd, (Ref: 2822R20151113mfc-488-494OldNorthernRdDuralstg1v2) dated Friday, 13th November 2015 is to be kept on site during construction and made available upon request by Council staff.

72. Construction Waste Management Plan Required

Prior to the commencement of works, a Waste Management Plan for the construction and/ or demolition phases of the development must be submitted to and approved by the Principal Certifying Authority. The plan should be prepared in accordance with The Hills Development Control Plan 2012 Appendix A. The plan must comply with the waste minimisation requirements in the relevant Development Control Plan. All requirements of the approved plan must be implemented during the construction and/ or demolition phases of the development.

73. Details and Signage – Principal Contractor and Principal Certifier

Details

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

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

Signage

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

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

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

74. 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.

75. 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.

76. Dilapidation Survey

Prior to work commencing a practicing professional structural engineer shall carry out a dilapidation survey of the adjoining dwellings and submit a copy of the survey both to Council and the property owner.

DURING CONSTRUCTION

77. 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.

78. Critical Stage Inspections – Subdivision Works

The subdivision works must be inspected by Council in accordance with the schedule included in Council's Works Specification Subdivisions/ Developments. A minimum of 24 hour's notice is required for inspections. No works are to commence until the first inspection has been carried out.

79. Subdivision Earthworks – Lot Topsoil

Where earthworks are not shown on the engineering drawings, the topsoil within lots must not be disturbed. Where earthworks are shown, a 150mm deep layer of topsoil must be provided, suitably compacted and stabilised in accordance with Council's Works Specification Subdivisions/ Developments.

80. Working Hours

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

Upon receipt of justified complaint/s in relation to local traffic impacts arising from roadworks being carried out on existing public roads those roadworks will be restricted to between the hours of 9:00am and 3:00pm, Monday to Friday or as otherwise directed by Council staff. Requests to carry out roadworks on existing public roads during the night in order to avoid local traffic impacts will also be considered based on the circumstances of the site and must be approved in writing by Council's Manager – Subdivision and Development Certification.

81. Rock Breaking Noise

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

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

82. 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.

83. Tree Removal & Fauna Protection

During any removal of trees containing hollows, an experienced and qualified fauna ecologist is to be present to re-locate any displaced fauna that may be disturbed during this activity. Any injured fauna is to be appropriately cared for and released on site when re-habilitated.

Trees containing hollows shall be lopped in such a way that the risk of injury or mortality to fauna is minimised, such as top-down lopping, with lopped sections gently lowered to the ground, or by lowering whole trees to the ground with the "grab" attachment of a machine.

Any injured fauna is to be placed into the hands of a wildlife carer (please note only appropriately vaccinated personnel are to handle bats). Any fauna that is injured due to vegetation removal must be reported to The Hills Shire Council within 24 hours.

84. Protection of Existing Vegetation

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

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

85. Project Arborist

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

The Project Arborist must certify that the Tree Protection Fencing is in accordance with AS4970 – 2009 Protection of Trees on Development Sites and the Tree Protection Fencing condition of this consent.

The temporary relocation of any Tree Protection Fencing must only be undertaken under the supervision of the Project Arborist.

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

86. Aboriginal Archaeological Sites or Relics

If, during activities involving earthworks and soil disturbance, any evidence of an Aboriginal archaeological site or relic is found, all works on the site are to cease and the Office of Environment and Heritage must be notified immediately.

87. European Sites or Relics

If, during the earthworks, any evidence of a European archaeological site or relic is found, all works on the site are to cease and the Office of Environment and Heritage be contacted immediately. All relics are to be retained in situ unless otherwise directed by the Office of Environment and Heritage.

88. Contamination – Soil waste disposal

The recommendations of the Site Assessment and Report prepared by Environmental Investigation Services Pty Ltd, referenced as E29043KHlet-WC, dated 18 February 2016 and submitted as part of the Development Application are to be implemented as part of this approval. In particular:

- For soil that has been identified as not VENM to be scraped back to a depth of approximately 0.4m.
- Additional testing to confirm underlying soils are classified as VENM prior to disposal is to occur. Findings are to be provided to the Principal Certifying Authority and any recommendations are to be implemented.

89. Contamination

Ground conditions are to be monitored and should evidence such as, but not limited to, imported fill and/or inappropriate waste disposal indicate the likely presence of contamination on site, works are to cease, Council's Manager- Environment and Health is to be notified and a site contamination investigation is to be carried out in accordance with *State Environmental Planning Policy 55 – Remediation of Land*.

The report is to be submitted to Council's Manager – Environment and Health for review prior to works recommencing on site.

90. Constriction Noise and Vibration

Compliance with the Construction Noise and Vibration Management Plan – Part 4, of the Acoustic Assessment prepared by Koikas Acoustics Pty Ltd, (Ref: 2822R20151113mfc-488-494OldNorthernRdDuralstg1v2) dated Friday, 13th November 2015 is to be complied with.

91. Acoustic compliance

The acoustic consultant is to progressively inspect the installation of the required noise suppressant components in compliance with the relevant certification that was provided prior to the issuing of the construction certificate.

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

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

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

PRIOR TO ISSUE OF AN OCCUPATION CERTIFICATE**93. Section 73 Certificate**

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

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

94. Provision of Electricity Services

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

95. Provision of Telecommunications Services

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

96. Landscaping Prior to Issue of any Occupation Certificate

Landscaping of the site shall be carried out prior to issue of an Occupation Certificate. The Landscaping shall be either certified to be in accordance with the approved plan by an Accredited Landscape Architect or be to the satisfaction of Council's Manager Environment and Health. All landscaping is to be maintained at all times in accordance with THDCP Part C, Section 3 – Landscaping and the approved landscape plan.

97. 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.

98. 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.

99. Public Road/ Road Widening Dedication

An Occupation Certificate must not be issued until the proposed public roads/ road widening have been dedicated in accordance with the undertaking submitted relating to dedication of new road 02 and the Old Northern Road widening.

100. Pump System Certification

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

101. Stormwater Management Certification – Lawful Point of Discharge

Once the stormwater drainage work is complete within the drainage easement created over the adjoining property to the south (486 Old Northern Road) the following documentation is required to be submitted prior to a final inspection:

- Works as executed plans prepared on a copy of the approved plans;
- A letter from a registered surveyor must be provided with the works as executed plan certifying that all pipes and drainage structures are located within the proposed easement to drain water.

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

102. Stormwater Management Certification – Site Drainage

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

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

- For OSD systems, a certificate of structural adequacy from a structural engineer verifying that the structures associated with the constructed OSD system are structurally adequate and capable of withstanding all loads likely to be imposed on them during their lifetime;
- Records of inspections; and
- An approved operations and maintenance plan.

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

103. Completion of Subdivision Works/ Satisfactory Final Inspection

A Subdivision Certificate cannot be issued prior to the completion of all subdivision works covered by this consent. A satisfactory final inspection by Council's Construction Engineer is required.

104. Compliance with Transport for NSW Requirements

A letter from Transport for NSW must be submitted confirming that all relevant works have been completed in accordance with their requirements.

105. Subdivision Works – Submission Requirements

Once the subdivision works are complete the following documentation (where relevant/ required) must be prepared in accordance with Council's Design Guidelines Subdivisions/ Developments and submitted to Council's Construction Engineer for written approval:

- Works as Executed Plans
- Stormwater Drainage CCTV Recording
- Pavement Density Results
- Street Name/ Regulatory Signage Plan
- Pavement Certification
- Public Asset Creation Summary
- Concrete Core Test Results
- Site Fill Results
- Structural Certification

The works as executed plan must be prepared by a civil engineer or registered surveyor. A copy of the approved detailed design must underlay the works as executed plan so clearly show any differences between the design and constructed works. The notation/ terminology used must be clear and consistent too. For bonded/ outstanding work the works as executed plan must reflect the actual work completed. Depending on the nature and scope of the bonded/ outstanding work a further works as executed plan may be required later, when that work is completed.

All piped stormwater drainage systems and ancillary structures which will become public assets must be inspected by CCTV. A copy of the actual recording must be submitted electronically for checking.

A template public asset creation summary is available on Council's website and must be used.

106. Performance/ Maintenance Security Bond

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

107. Confirmation of Pipe Locations

A letter from a registered surveyor must be provided with the works as executed plans certifying that all pipes and drainage structures are located within the proposed drainage easements.

108. Strata Certificate Application

When submitted, the Strata Certificate application must include:

- One copy of the final plan.
- The original administration sheet and Section 88B instrument.
- All certificates and supplementary information required by this consent.
- An AutoCAD copy of final plan (GDA2020/ MGA Zone 56).

Should the Strata Certificate be issued by a certifier other than Council a copy of the Strata Certificate, along with all supporting documentation relied upon as part of the same, must be submitted to Council.

109. Property Condition Report – Private Assets

Before a Subdivision Certificate is issued, an updated dilapidation report must be prepared and submitted to Council. The updated report must identify any damage to adjoining properties and the means of rectification for the approval of Council.

110. Final Plan and Section 88B Instrument

The final plan and Section 88B Instrument must provide for the following. Council's standard recitals must be used.

a) Dedication – New Road

The dedication of the proposed public roads must be included on the final plan in accordance with the undertaking submitted relating to dedication of proposed new Road 02.

b) Dedication – Road Widening

The dedication of the proposed road widening must be included on the final plan in accordance with the undertaking submitted relating to dedication of Old Northern Road to the requirements of TfNSW.

c) Easement – Batter/ Support

An easement for batter/ support must be provided within the development lot and adjoining properties adjacent to Road 02, Private Road and Old Northern Road widening using the "easement for batter/ support of public road" terms included in the standard recitals.

d) Easement – Public Stormwater Drainage

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

e) Easement – Private Stormwater Drainage

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

f) Easement – Temporary Public Stormwater Drainage/ Outlet

Temporary drainage easements, minimum 5m wide and 30m long, must be created over all temporary outlets within the property or on adjoining land using the "temporary public stormwater outlet" terms included in the standard recitals.

g) Easement – Right of Access/ Easement for Services

A right of access/ easement for services must be created over the private road 01 to facilitate the access to the property 486 Old Northern Road.

h) Positive Covenant – Maintenance/ Repair of Shared Driveway

A positive covenant must be placed on the title of proposed private road 01 to ensure the maintenance/ repair of the shared driveway using the "maintenance/ repair of shared access" terms included in the standard recitals.

i) Restriction – Rainwater Tanks

The development lot must be burdened with a restriction using the "rainwater tanks" terms included in the standard recitals.

j) Restriction/ Covenant – Onsite Stormwater Detention

The development lot must be burdened with a restriction and a positive covenant using the "onsite stormwater detention systems" terms included in the standard recitals.

k) Restriction/ Covenant – Water Sensitive Urban Design

The development lot must be burdened with a restriction and a positive covenant that refers to the WSUD elements referred to earlier in this consent using the "water sensitive urban design elements" terms included in the standard recitals.

l) Restriction/ Covenant – Geotechnical Constraints

The development lot must be burdened with a restriction and a positive covenant using the "geotechnical constraints" terms included in the standard recitals. Where a restricted development area is included as part of the landslide risk recommendations, this must appear on the plan.

Note: geotechnical constraints caused by bulk earth works.

111. Subdivision Certificate Application

When submitted, the Subdivision Certificate application must include:

- One copy of the final plan.
- The original administration sheet and Section 88B instrument.
- All certificates and supplementary information required by this consent.
- An AutoCAD copy of final plan (GDA2020/ MGA Zone 56).

112. Site/ Lot Classification Report – Vacant Residential Lots

A site/ lot classification report prepared by a geotechnical engineer must be prepared and submitted following the completion of all subdivision works confirming that all residential lots are compliant with AS 2870 and are suitable for development. The report must be accompanied by a table which summarises the classification of all lots created as part of the subdivision.

113. Removal/ Amendment of Existing Easements

The existing easement INSERT must be removed/ amended. Where Council is listed as the benefiting authority, the relevant release or amendment documentation must be submitted along with payment of the applicable fee as per Council's Schedule of Fees and Charges.

114. Contamination Validation report

A validation report shall be submitted to the Council Manager – Environment and Health. The validation report must include the following:

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

115. Biodiversity compliance

Evidence that the following measures have been undertaken shall be submitted to The Hills Shire Council's Manager – Environment & Health:

1. **Tree Removal & Fauna Protection** – Details prepared by the project ecologist demonstrating compliance with the Tree Removal and Fauna Protection condition/s of this consent.

116. Acoustic Compliance Report

The acoustic consultant shall provide certification confirming required noise suppressant components as recommended in the Acoustic Assessment prepared by Koikas Acoustics Pty Ltd, (Ref: 2822R20151113mfc-488-494OldNorthernRdDuralstg1v2) dated Friday, 13th November 2015 have been implemented.

117. Final Dilapidation Survey

On completion of the excavation, the structural engineer shall carry out a further dilapidation survey at the properties referred to in condition 76 above if required and submit a copy of the survey both to the Principal Certifier and the property owner.

THE USE OF THE SITE

118. Shopping Trolley Management

A Shopping Trolley Management Plan shall be implemented to ensure the effective management of shopping trolley collection. The supermarket retailer shall:-

- Install a geospatial fenced trolley containment plan. All new trolleys are to be fitted with a wheel lock that is enabled before leaving a geospatial area (no access to public land). Details are to be submitted and approved by Council's Manager Development Assessment.
- Provide to The Hills Shire Council a list of contacts for the store;
- Ensure that all trolleys are easily identifiable by Council staff;
- Ensure that trolley collection services are sufficiently resourced to enable collection within agreed timeframes and at all times, including after hours;
- Ensure that trolleys reported as posing risk or nuisance are collected immediately on notification;

119. Hours of Operation

The hours of operation being restricted to the following: -

- 7.00 am to 7.00 pm Monday to Saturday; and
- 9.00 am to 6.00 pm on a Sunday or a public holiday

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

120. Waste and Recycling Management

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

121. Waste and Recycling Collection

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

122. Lighting

Any lighting on the site shall be designed so as not to cause a nuisance to other residences in the area or to motorists on nearby roads and to ensure no adverse impact

on the amenity of the surrounding area by light overspill. All lighting shall comply with the *Australian Standard AS 4282:1997 Control of Obtrusive Effects of Outdoor Lighting*.

123. Hours of operation for waste collection, delivery / dispatch of goods

The operation of the docks for the delivery of goods and the collection of waste shall be restricted to the following times;

Monday to Saturday – 7.00am to 8.00pm

Sunday and public holidays – 8.00am – 8.00pm

124. 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.

125. Offensive Noise

So as to minimise the noise to surrounding areas, the following measures are to be put in place;

- Outdoor condenser units are restricted to operate between 7:00am and 10:00pm only.
- Maximum of 1 semi-trailer is allowed to enter/leave the loading dock area in one 15 minute period.
- Maximum of 2 delivery trucks are allowed to enter/leave the loading dock area in one 15 minute period.
- No delivery trucks or semi-trailers are permitted to wait for access within the loading dock drive prior to the dock operating hours commencing.
- No truck access to the dock is permitted outside of the permitted operating hours.

**ATTACHMENT: DEVELOPMENT ADVISORY NOTES
STATEMENT OF REASONS**

Pursuant to Section 4.17 of the Environmental Planning and Assessment Act 1979, the reasons for the conditions imposed on this application are as follows:-

1. To facilitate the orderly implementation of the objectives of the Environmental Planning and Assessment Act, 1979 and the aims and objectives of Council's planning instrument.
2. To ensure that the local amenity is maintained and is not adversely affected and that adequate safeguards are incorporated into the development.
3. To ensure the development does not hinder the proper and orderly development of the subject land and its surrounds.
4. To ensure the relevant matters for consideration under Section 4.15 of the Environmental Planning and Assessment Act 1979 are maintained.

Should you require any further information please contact Robert Buckham on 9843 0267.

Yours faithfully



Paul Osborne

MANAGER-DEVELOPMENT ASSESSMENT

DEVELOPMENT ADVISORY NOTES

A. COMPLIANCE WITH BUILDING CODE OF AUSTRALIA AND INSURANCE REQUIREMENTS UNDER HOME BUILDING ACT 1989

(refer to Clause 98 of Environmental Planning & Assessment Regulation 2000)

- (1) For the purposes of section 4.17 (11) of the Environmental planning and Assessment Act, 1979 the following conditions are prescribed in relation to a development consent for development that involves any building work:
 - (a) that the work must be carried out in accordance with the requirements of the Building Code of Australia,
 - (b) in the case of residential building work for which the Home Building Act 1989 requires there to be a contract of insurance in force in accordance with Part 6 of that Act, that such a contract of insurance is in force before any building work authorised to be carried out by the consent commences.
- (2) This clause does not apply:
 - (a) to the extent to which an exemption is in force under clause 187 or 188, subject to the terms of any condition or requirement referred to in clause 187 (6) or 188 (4), or
 - (b) to the erection of a temporary building.
- (3) In this clause, a reference to the Building Code of Australia is a reference to that Code as in force on the date the application for the relevant construction certificate is made.

B. NOTIFICATION OF HOME BUILDING ACT 1989 REQUIREMENTS

(refer to Clause 98B Notification of Home Building Act 1989 requirements)

- (1) For the purposes of section 4.17 (11) of the Environmental planning and Assessment Act, 1979 the requirements of this clause are prescribed as conditions of a development consent for development that involves any residential building work within the meaning of the *Home Building Act 1989*.
- (2) Residential building work within the meaning of the *Home Building Act 1989* must not be carried out unless the principal certifying authority for the development to which the work relates (not being the council) has given the council written notice of the following information:
 - (a) in the case of work for which a principal contractor is required to be appointed:
 - (i) the name and licence number of the principal contractor, and
 - (ii) the name of the insurer by which the work is insured under Part 6 of that Act,
 - (b) in the case of work to be done by an owner-builder:
 - (i) the name of the owner-builder, and
 - (ii) if the owner-builder is required to hold an owner-builder permit under that Act, the number of the owner-builder permit.
- (3) If arrangements for doing the residential building work are changed while the work is in progress so that the information notified under subclause (2) becomes out of date, further work must not be carried out unless the principal certifying authority for the development to which the work relates (not being the council) has given the council written notice of the updated information.
- (4) This clause does not apply in relation to Crown building work that is certified, in accordance with section 6.285 of the Act, to comply with the technical provisions of the State's building laws.

C. EXCAVATIONS AND BACKFILLING

- (1) All excavations and backfilling associated with the erection or demolition of a building must be executed safely and in accordance with appropriate professional standards.

- (2) All excavations associated with the erection or demolition of a building must be properly guarded and protected to prevent them from being dangerous to life or property.

D. RETAINING WALLS AND DRAINAGE

If the soil conditions require it:

- (1) Retaining walls associated with the erection or demolition of a building or other approved methods of preventing movement of the soil must be provided as indicated on the plans, and
- (2) adequate provision must be made for drainage.
- (3) A separate Development Application and Construction Certificate Application are required for the retaining walls that are not indicated on the approved plans where such works cannot be carried out under the State Environmental Planning Policy (Exempt and Complying Development Codes) 2008. Structural Engineer's details are required to be submitted to Council as part of the application if the amount to be retained is over 1 m in height.

E. SUPPORT FOR NEIGHBOURING STRUCTURES AND SHORING AND ADEQUACY OF ADJOINING PROPERTY

- (1) If an excavation associated with the erection or demolition of a building extends below the level of the base of the footings and encroaches on the zones of influence of the footings of a building or retaining structure on an adjoining property (including any structure or work within a road or rail corridor), the person having the benefit of the development consent must at the persons own expense:
 - (a) seek advice from a professional structural engineer, and
 - (b) preserve and protect the building, work or retaining structure from damage, and
 - (c) if necessary, must underpin and support the building or retaining structure in an approved manner, and
 - (d) must, at least 7 days before excavating below the level of the base of the footings of a building or retaining structure on an adjoining property, give notice of intention to do so and furnish particulars of the excavation to the owner of the adjoining property.
- (2) The owner of the adjoining property is not liable for any part of the cost of work carried out for the purposes of this clause, whether carried out on the allotment of land being excavated or on the adjoining property.
- (3) In this clause, **adjoining property** includes a public road and any other public place.
- (4) The condition referred to above does not apply if the person having the benefit of the development consent owns the adjoining land or the owner of the adjoining land has given consent in writing to that condition not applying.

F. PROTECTION OF PUBLIC SPACES

- (1) If the work involved in the erection or demolition of a building:
 - (a) is likely to cause pedestrian or vehicular traffic in a public place to be obstructed or rendered inconvenient, or
 - (b) involves the enclosure of a public place, a hoarding or fence must be erected between the work site and the public place.
- (2) If necessary, a covered walkway is to be erected, sufficient to prevent any substance from, or in connection with, the work falling into the public place.
- (3) The work site must be kept lit between sunset and sunrise if it is likely to be hazardous to persons in the public place.
- (4) Any such hoarding, fence or covered walkway is to be removed when the work has been completed.
- (5) An application shall be lodged and approval is given by Council prior to the erection of any hoarding, fence, covered walkway or site shed on top of the covered walkway.

G. SIGNS TO BE ERECTED ON BUILDING AND DEMOLITION SITES

- (1) For the purposes of section 4.17 (11) of the Act, the requirements of sub clause (2) are prescribed as conditions of a development consent for development that involves any building work, subdivision work or demolition work.
- (2) A sign must be erected in a prominent position on any site on which building work, subdivision work or demolition work is being carried out:
 - (a) showing the name, address and telephone number of the principal certifying authority for the work, and
 - (b) showing the name of the principal contractor (if any) for any building work and a telephone number on which that person may be contacted outside working hours, and
 - (c) stating that unauthorised entry to the work site is prohibited.
- (3) Any such sign is to be maintained while the building work, subdivision work or demolition work is being carried out, but must be removed when the work has been completed.
- (4) This clause does not apply in relation to building work, subdivision work or demolition work that is carried out inside an existing building that does not affect the external walls of the building.
- (5) This clause does not apply in relation to Crown building work that is certified, in accordance with section 6.28 of the Act, to comply with the technical provisions of the State's building laws.

Note. Principal certifying authorities and principal contractors must also ensure that signs required by this clause are erected and maintained (see clause 227A which currently imposes a maximum penalty of \$1,100).

H. TOILET FACILITIES

- (1) Toilet facilities are to be provided, at or in the vicinity of the work site on which work involved in the erection or demolition of a building is being carried out, at the rate of one toilet for every 20 persons or part of 20 persons employed at the site.
- (2) Each toilet provided:
 - (a) must be a standard flushing toilet, and
 - (b) must be connected:
 - (i) to a public sewer, or
 - (ii) if connection to a public sewer is not practicable, to an accredited sewage management facility approved by the council, or
 - (iii) if connection to a public sewer or an accredited sewage management facility is not practicable, to some other sewage management facility approved by the council.
- (3) The provision of toilet facilities in accordance with this clause must be completed before any other work is commenced.

I. DRIVEWAYS, FOOTPATHS ROAD AND OTHER PAVEMENT WORKS IN THE FOOTPATH VERGE

- (1) The provision and maintenance of a vehicular access driveway from the property boundary to the kerb and gutter or the edge of road seal is the responsibility of the property owner. However, any work undertaken by private owners within the public road area or footpath verge requires written approval from Council. Where new or replacement driveways and gutter crossings are proposed, the submission of an application for gutter and footpath crossings, accompanied by the current applicable fee as prescribed in Council's Schedule of Fees and Charges, must be submitted to Council.

This process is necessary to ensure the work complies with Australian Standards and Council policies and that all road users, including pedestrians and cyclists are protected both during and after construction. Work in the road reservation without Council approval may be removed if deemed to be a public liability or safety risk.

A copy of the "Footpath Crossing Application" form and Council's specifications relating such works be obtained from Council's website at www.thehills.nsw.gov.au or from Council's Customer Service Centre.

- (2) The removal of all disused driveways and gutter crossings and their replacement with full kerb and gutter together with the restoration and turfing of the adjacent footpath verge area is required.
- (3) Council must be notified in the event of any existing damage to road, pavement, footpaving, kerbing and guttering and street trees prior to the commencement of the work. This notification should include photographic evidence of the existing damage. If Council does not receive notification it will be assumed that no damage existed prior to the work commencing.

Adequate protection must be provided for Council road pavement footpaving, kerbing and guttering and existing street trees prior to commencing and during building operations.

Upon completion of the work, any damage to road pavement, footpaving, kerbing and guttering and street trees not previously reported in accordance with (3) above shall be reported to Council and the cost of repair paid for in full prior to final certification of the works. A cost can be obtained from the Restorations Coordinator (ph. 9843 0234).

DRIVEWAY LOCATIONS & LEVELS

Owners and/or applicants are responsible to ensure that proper connection with the roadway can be made whilst maintaining safe levels across the footpath verge and along the driveway. Driveways must also be located a minimum of 6m from kerb returns and splayed corners and are sufficiently clear of street trees, service utility infrastructure such as power poles and drainage structures such as kerb inlet pits. Council's Engineer can be contacted on 9843 0374 to assist with these matters. Driveway gradients must conform to Council's specifications which can be obtained from Council's website at www.thehills.nsw.gov.au or from Council's Customer Service Centre. The level of the garage floor is to be checked prior to pouring of concrete to ensure compliance with Council's requirements.

ROAD OPENINGS

Obtain a Road Opening Permit and pay relevant service restoration fees and charges prior to excavations within the road reserve. The Road Opening permit must be kept on site at all times while work is being carried out in the Road Reserve and must be produced upon request from a Council Officer. If the Permit is not able to be produced to the Council Officer the Works in the public way may be stopped.

Upon completion of excavation works in the public way Council's Restoration Coordinator (ph. 9843 0234) must be advised and the full cost of the final restoration paid prior to final certification. of those works

J. STREET NUMBER

A street number is to be prominently displayed in a conspicuous position on completion of the building.

K. HOUSEHOLD SERVICES

The householder is required to notify Council upon occupancy that the garbage service, which is mandatory, is to be commenced and pay the necessary charges upon receipt of an account.

- (1) No encroachment by any building or structure for private use will be permitted on a public reserve.
- (2) Soil and building materials are not to be deposited on any road, footpath or public reserve.
- (3) Building refuse or materials shall not be burnt on site.
- (4) No vehicular traffic or any drainage work is permitted on any public reserve without the prior approval of Council.

- (5) Council consent is required before the removal of any tree, except those approved by this consent, or that is exempt under the Tree & Bushland Management Provision.
- (6) Applicants are advised to consult with Telstra and Australia Post regarding the installation of telephone conduits and letter boxes respectively.
- (7) Unimpeded access must be available to the utilities supply authorities, during and after building, to the utilities metering equipment.
- (8) 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 receipt from Sydney Water Tap in must be submitted to the Principal Certifying Authority upon request prior to works commencing.
Please refer to the web site <http://www.sydneywater.com.au/tapin/index.htm>- Sydney Water Tap in, or telephone 13 20 92.
- (9) Persons with land holdings in areas of the Shire where no water reticulation system is available are to provide an adequate wholesome water supply and are encouraged to provide additional water storage for use during fire fighting operations, for fire fighting purposes. Further information regarding the provision of water storage for fire fighting purposes is available from the Rural Fire Service District Office on 9654 1244
- (10) Roof water connection across footways shall be a 100mm diameter, sewer grade UPVC pipe(s). Connection to kerb shall be made with a rectangular, hot dip galvanised, mild steel weephole shaped to suit the kerb profile and with a capacity equal to a 100mm pipe. The pipe shall be connected to the weephole with a UPVC profile adaptor.

L. DIAL BEFORE YOU DIG

Underground assets may exist in the area that is subject to your application. In the interests of health and safety and in order to protect damage to third party assets please contact *Dial before You Dig* at www.1100.com.au or telephone on 1100 before excavating or erecting structures (This is the law in NSW).
If alterations are required to the configuration, size, form or design of the development upon contacting the Dial before You Dig Service, an amendment to the development consent (or a new development application) may be necessary. *Individuals* owe asset owners a duty of care that must be observed when working in the vicinity of plant or assets.

It is the individual's responsibility to anticipate and request the nominal location of plant or assets on the relevant property via contacting the Dial before you dig service in advance of any construction or planning activities.

Telecommunications Act 1997 (Commonwealth)

Telstra (*and its authorised contractors*) are the only companies that are permitted to conduct works on Telstra's network and assets. Any person interfering with a facility or installation owned by Telstra is committing an offence under the Criminal Code Act 1995 (Cth) and is liable for prosecution. Furthermore, damage to Telstra's Infrastructure may result in interruption to the provision of essential services and significant costs. If you are aware of any works or proposed works which may affect or impact on Telstra's assets in any way, you are required to contact : Telstra's Network Integrity Team on Phone Number 18008 10443.

M. CONNECTION OF STORMWATER DRAINS

All roof stormwater drains connected to Council's kerb must comply with the levels advised at the street alignment, must cross the footpath at 90° to the kerb line and be connected to existing holes provided in the kerb. Any alternative arrangements must be approved by Council's engineer and must comply with Council's Standard Drawing SD.13 (Roofwater Outlet Connection) a copy of which can be obtained from Council's website at www.thehills.nsw.gov.au.

N. THE PRESERVATION OF TREES AND OTHER VEGETATION

The State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017 states that a person must not clear vegetation prescribed by councils Development Control Plan or that exceeds the Biodiversity Offset Scheme threshold except in accordance with a development consent or permit granted by the Council or an approval from the Native Vegetation Panel.

O. INSURANCE REQUIREMENTS

In the case of residential building work for which the Home Building Act 1989 requires there to be a contract of insurance in force in accordance with Part 6 of that Act, such a contract must be in force.

THIS APPROVAL IN NO WAY VARIES COVENANTS, IF ANY, ATTACHING TO THE LAND NOR SHALL PREJUDICE ANY ACTION THAT MAY BE TAKEN BY ANY INTERESTED PARTY IN THIS REGARD.

**PUBLIC NOTIFICATION OF THE DETERMINATION PURSUANT TO ITEM 20(2) (c)
AND (d) OF SCHEDULE 1 OF THE ENVIRONMENTAL PLANNING & ASSESSMENT
ACT, 1979**

DECISION:

APPROVAL

DATE OF THE DECISION:

20/10/2021

REASONS FOR THE DECISION:

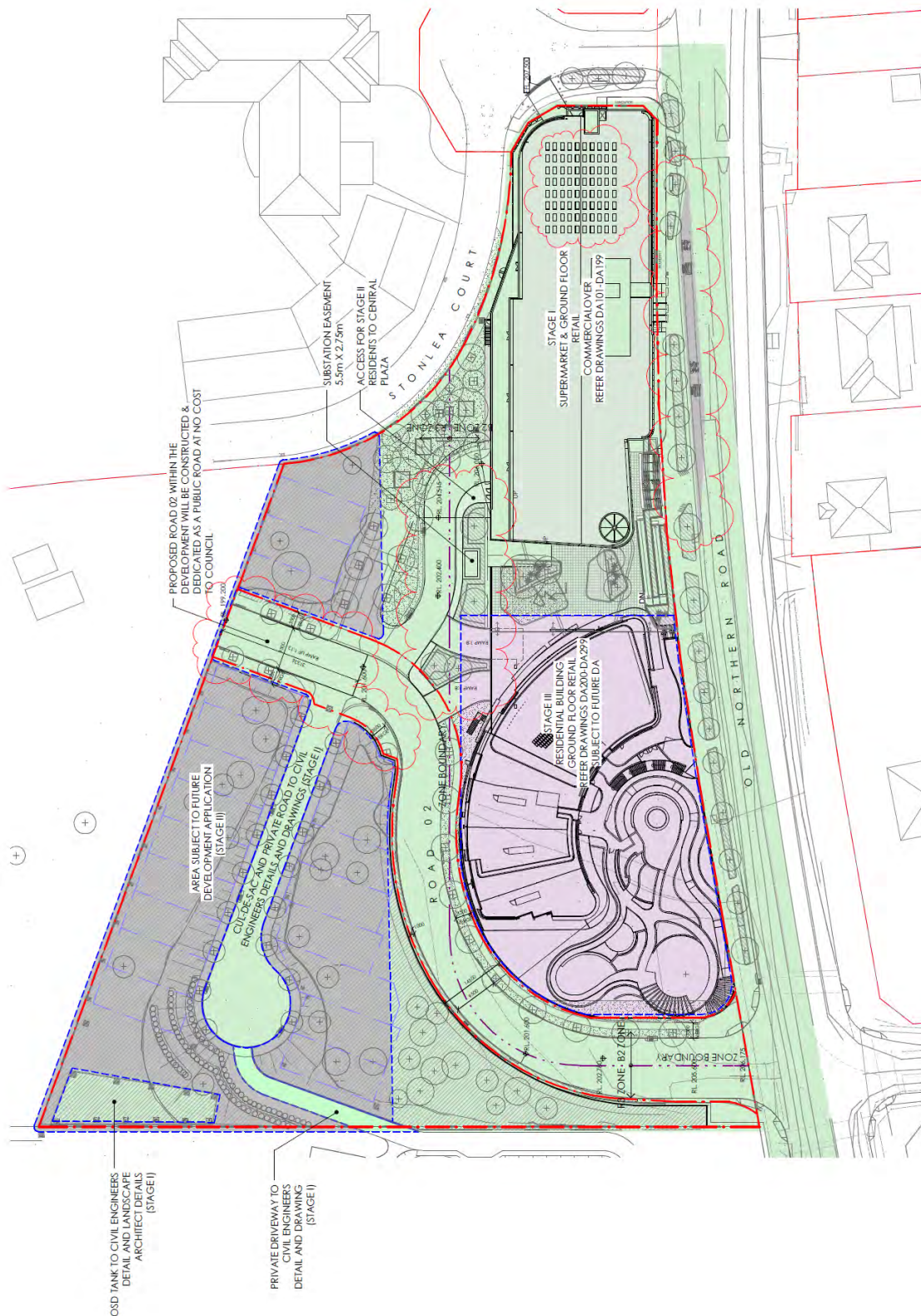
The Panel generally agrees with the Council Officer's report.

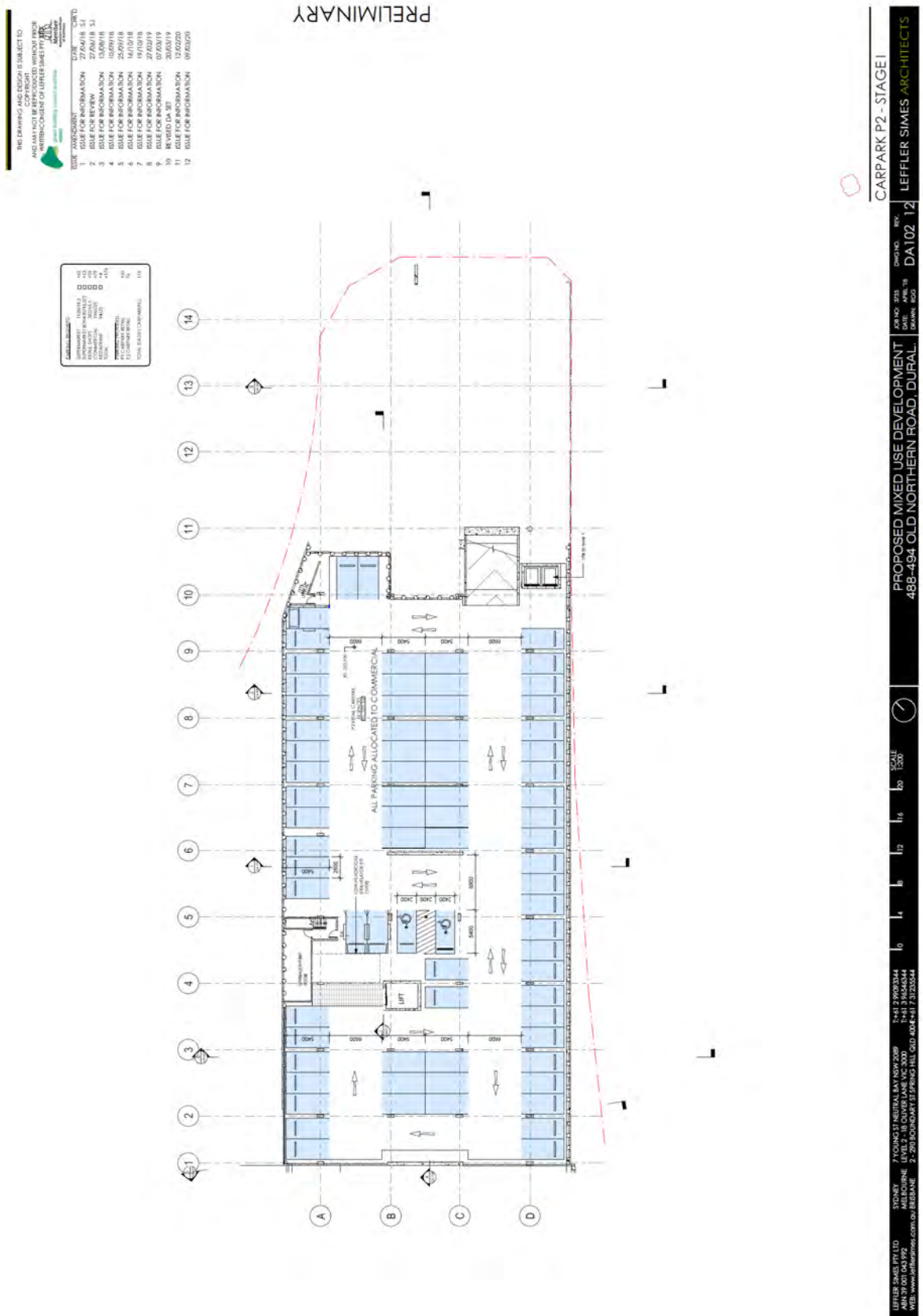
The Panel has amended the conditions in response to the late submission from the objector at 486 Old Northern Road and for clarity.

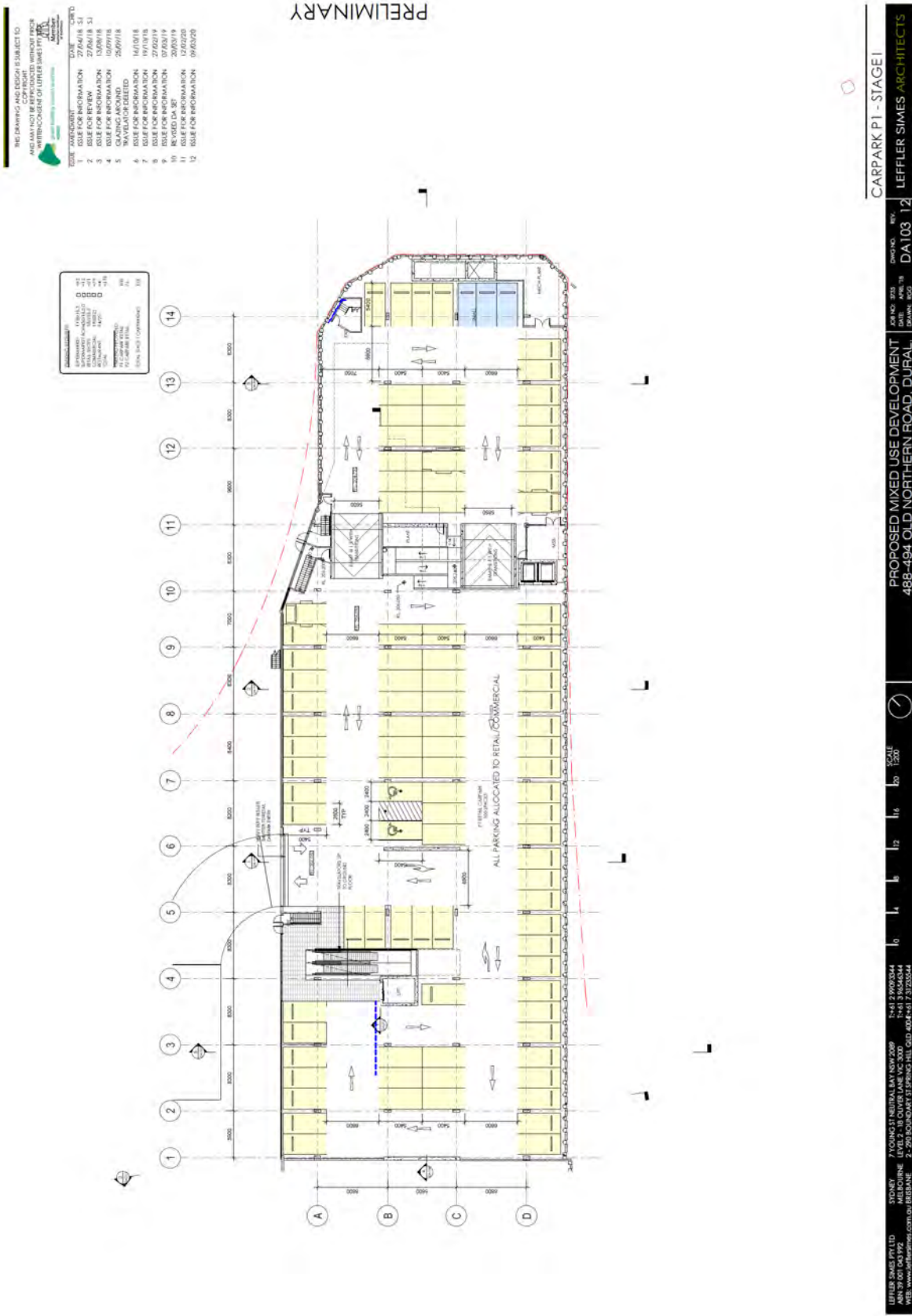
**HOW COMMUNITY VIEWS WERE TAKEN INTO ACCOUNT IN MAKING THE
DECISION:**

The development application was notified to 263 properties for 14 days on three occasions and 13 submissions were received. In addition an oral submission and a late written submission was received from the owner of 486 Old Northern Road. The written submissions (apart from the late submission) were summarised and dealt with in the Council Officer's report. The Panel has taken into account these submissions in coming to its determination.

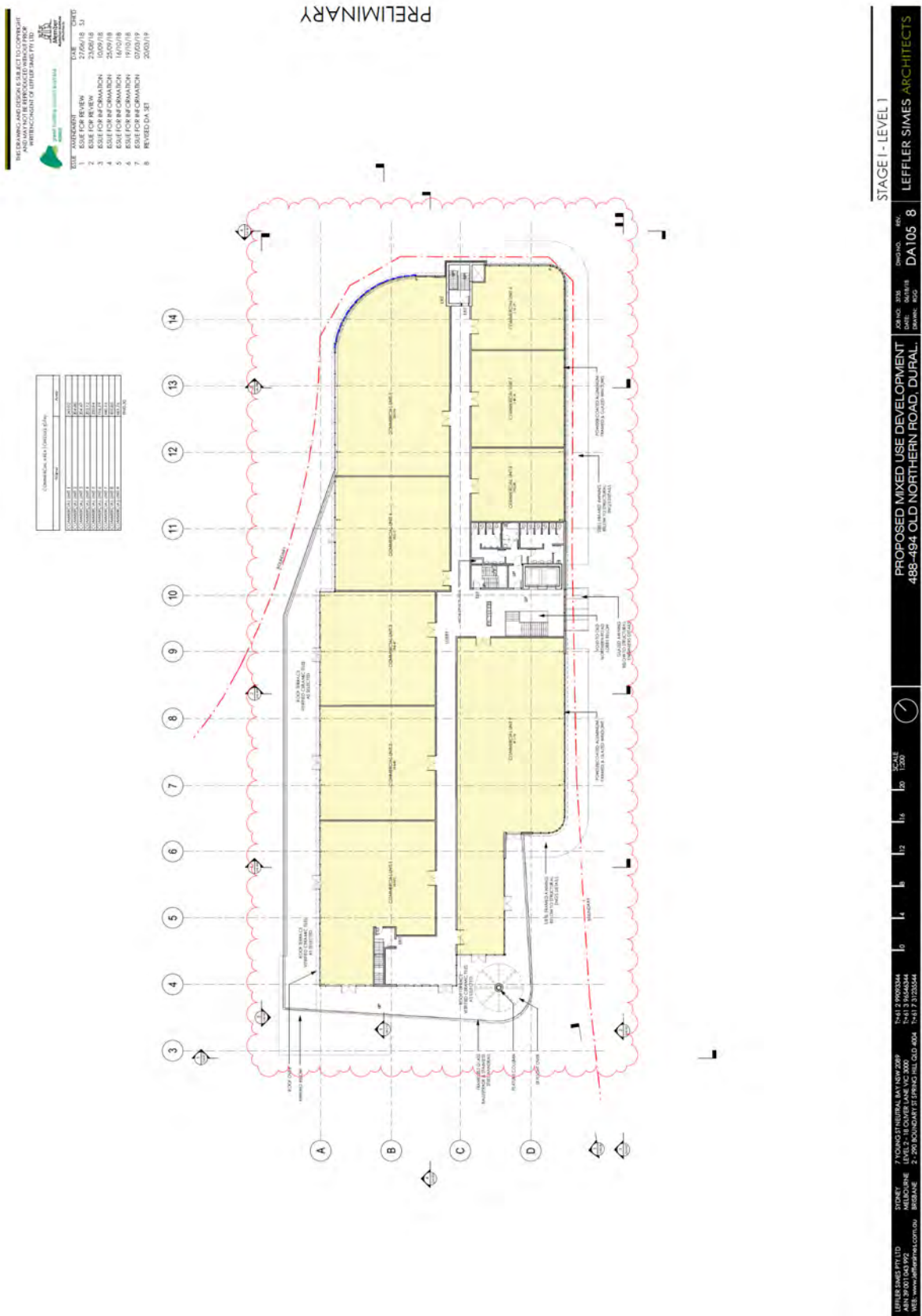
ATTACHMENT 11 – APPROVED PLANS 979/2016/HB

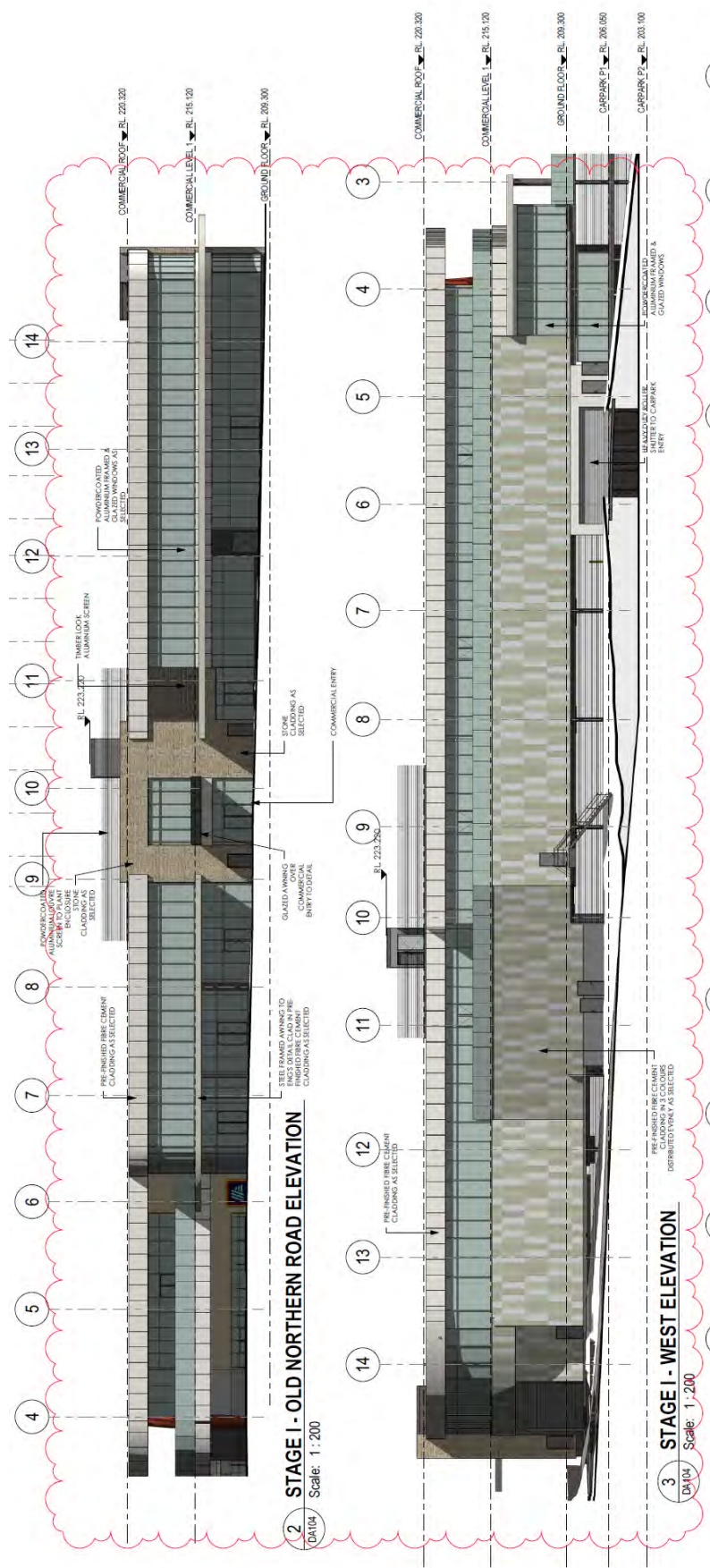


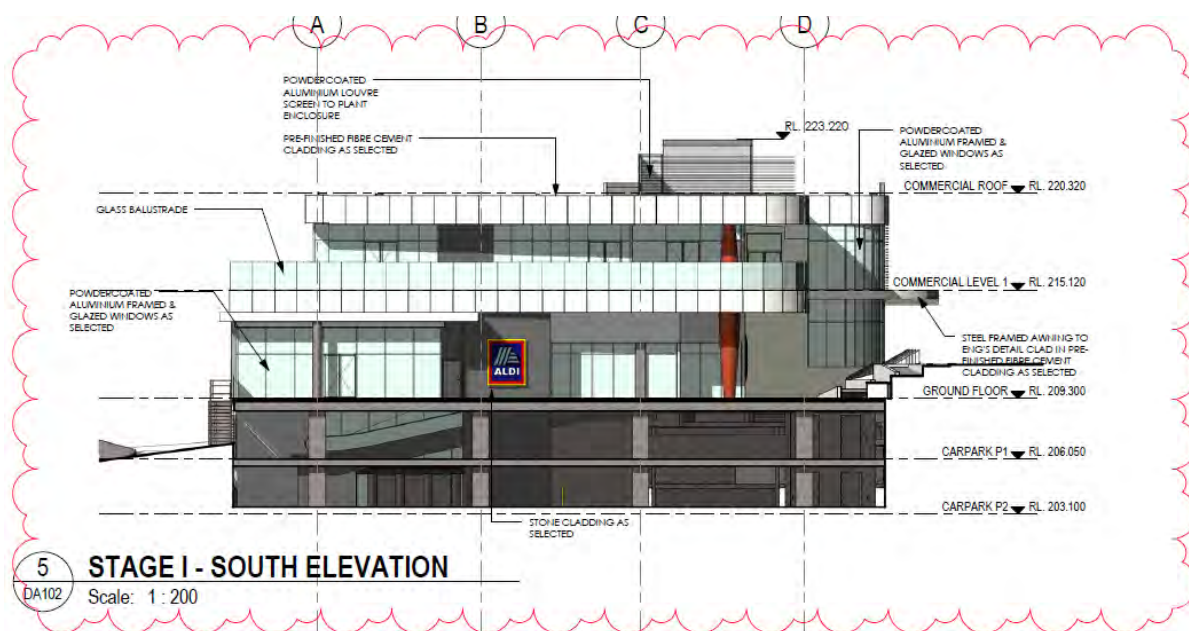
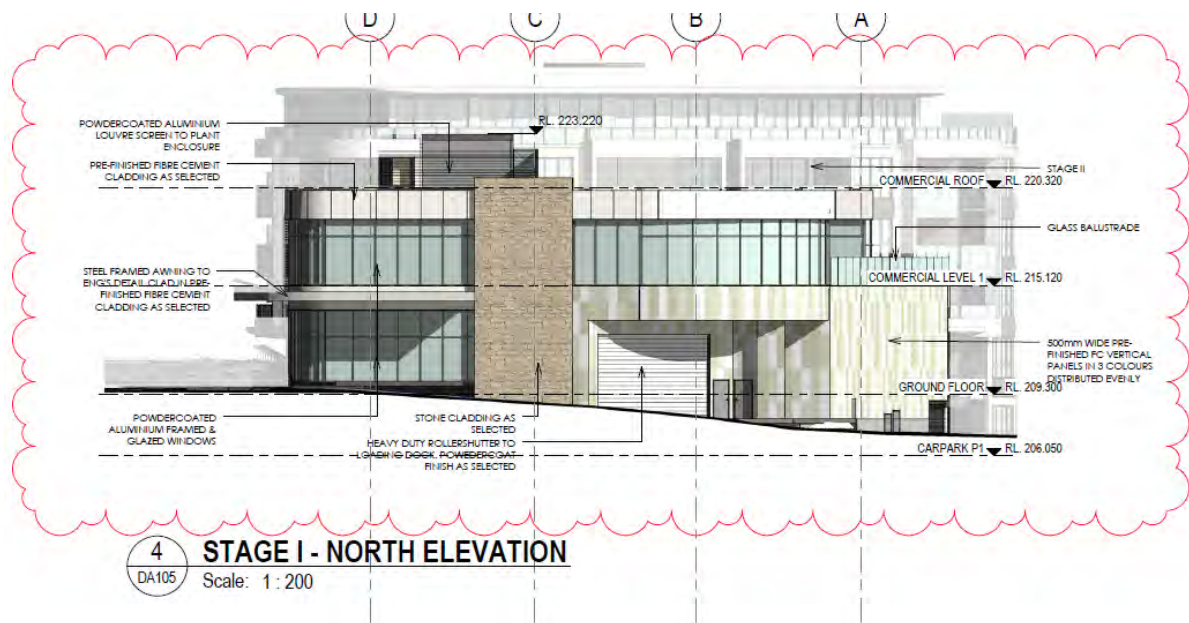
















ATTACHMENT 12 – TRANSPORT FOR NSW CORRESPONDENCE

Transport for NSW

23 September 2024

TfNSW Reference: SYD24/01116/02
Council Reference: 979/2016/HB/A (CNR-61704)

Mr Michael Edgar
General Manager
The Hills Shire Council
PO Box 7064
Baulkham Hills NSW 2153



**SUPPLEMENTARY TRAFFIC ADVICE FOR RETAIL AND COMMERCIAL DEVELOPMENT
488 OLD NORTHERN ROAD, DURAL**

Dear Mr. Edgar,

Reference is made to the Council's correspondence provided by the proponent on 27 September 2024 regarding the abovementioned modification (**Mod**), which was referred to Transport for NSW (**TfNSW**) for comment in accordance with clause 2.122 of the *State Environmental Planning Policy (Transport and Infrastructure 2021)* approval under section 87 of the *Roads Act, 1993* and concurrence in accordance with section 138 of the *Roads Act, 1993*.

TfNSW has reviewed the Mod and would provide approval and concurrence to the proposed traffic control signals and associated civil works on Old Northern Road under sections 87 and 138 of the *Roads Act 1993*, subject to the relevant Consent approval and the following requirements being included in any Development Consent issued:

1. The proposed Traffic Control Signals (TCS) at the intersection of Old Northern Road / Franlee Road shall be designed to meet TfNSW requirements. The TCS plans shall be drawn by a suitably qualified person and endorsed by a suitably qualified practitioner.

The submitted design shall be in accordance with Austroads Guide to Road Design in association with relevant TfNSW supplements (available at <https://www.transport.nsw.gov.au/>). The certified copies of the TCS design and civil design plans shall be submitted to TfNSW for consideration and approval prior to the release of a construction certificate and commencement of road works. Please send all documentation to development.sydney@transport.nsw.gov.au.

TfNSW fees for administration, plan checking, civil works inspections and project management shall be paid by the developer prior to the commencement of works.

The developer will be required to enter a Works Authorisation Deed (WAD) for the abovementioned works.

2. The proposed works civil works along Old Northern Road shall be designed to meet TfNSW requirements and endorsed by a suitably qualified practitioner. The design requirements shall be in accordance with Austroads and other Australian Codes of Practice. The certified copies of the civil design plans shall be submitted to TfNSW for consideration and approval prior to the release of the construction certificate by the Principal Certifying Authority and commencement of road works. Please send all documentation to development.sydney@transport.nsw.gov.au.

The developer is required to enter a Works Authorisation Deed (WAD) for the abovementioned works.

TfNSW fees for administration, plan checking, civil works inspections and project management shall be paid by the developer prior to the commencement of works.

3. Detailed design plans and hydraulic calculations of any changes to the stormwater drainage system are to be submitted to TfNSW for approval, prior to the commencement of any works. Please send all documentation to development.sydney@transport.nsw.gov.au.

A plan checking fee will be payable, and a performance bond may be required before TfNSW approval is issued.

4. The developer is to submit design drawings and documents relating to the excavation of the site and support structures to TfNSW for assessment, in accordance with Technical Direction GTD2020/001.

The developer is to submit all documentation at least six (6) weeks prior to commencement of construction and is to meet the full cost of the assessment by TfNSW. Please send all documentation to development.sydney@transport.nsw.gov.au.

OFFICIAL

4 Parramatta Square, 12 Darcy Street, Parramatta NSW 2150
PO Box 973 Parramatta CBD NSW 2124

[W transport.nsw.gov.au](http://www.transport.nsw.gov.au)

If it is necessary to excavate below the level of the base of the footings of the adjoining roadways, the person acting on the consent shall ensure that the owner/s of the roadway is/are given at least seven (7) day notice of the intention to excavate below the base of the footings. The notice is to include complete details of the work.

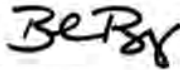
5. The Applicant shall be responsible for all public utility adjustment/relocation works, necessitated by the above work, and as required by the various public utility authorities and/or their agents.
6. A Construction Pedestrian Traffic Management Plan (CPTMP) detailing construction vehicle routes, number of trucks, hours of operation, access arrangements and traffic control should be submitted to TfNSW for review and endorsement prior to the issue of a construction certificate.

Please send to development.ctmp.cjp@transport.nsw.gov.au.

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

For any relevant queries, please contact Brett Morrison, Development Assessment Officer, via development.sydney@transport.nsw.gov.au.

Yours sincerely,



Brendan Pegg
Senior Manager Land Use Assessment Central and Western
Planning and Programs, Greater Sydney Division

OFFICIAL

4 Parramatta Square, 12 Darcy Street, Parramatta NSW 2150
PO Box 973 Parramatta CBD NSW 2124

www.transport.nsw.gov.au

2

ITEM - 2

**DA 1048/2024/HA – AMENDING DEVELOPMENT
APPLICATION IN RELATION TO THE APPROVED
CONSTRUCTION OF A RETAIL AND COMMERCIAL
DEVELOPMENT UNDER DEVELOPMENT APPLICATION
979/2016/HB – LOT 2 DP 839151 – 488-494 OLD
NORTHERN ROAD, DURAL**

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:

18 JUNE 2025

LOCAL PLANNING PANEL

AUTHOR:

PRINCIPAL CO-ORDINATOR

ROBERT BUCKHAM

RESPONSIBLE OFFICER:

COI DECLARATION None declared

MANAGER DEVELOPMENT ASSESSMENT

PAUL OSBORNE

COI DECLARATION None declared

Applicant	The Trustee for Dural SC Investment Trust
Consultants	
Town Planner:	Think Planners
Architect:	BN Group
Accessibility	Hontas Hatzi & Co
Landscape Architect:	Taylor Brammer
Arborist	Ecological
Acoustics:	Acoustic Logic
BCA:	Hontas Hatzi & Co
Contamination:	JK Environments
Ecology	Ecological
Engineering:	AT&L
Traffic:	McLaren
Geotechnical:	JK Geotechnics
Notification	1 st Notification: 14 days 2 nd Notification: 14 days
Number Advised	1 st Notification: 263 2 nd Notification: 15 (objectors only)
Number of Submissions	1 st Notification: 15 2 nd Notification: 3

Zoning	
Site Area	
List of all relevant s4.15(1)(a) matters	<p>Section 4.15 (EP&A Act) – Satisfactory.</p> <p>The Hills LEP 2019 – Satisfactory.</p> <p>State Environmental Planning Policy (Planning Systems) 2021 – Satisfactory.</p> <p>State Environmental Planning Policy (Resilience and Hazards) 2021 – Satisfactory.</p> <p>State Environmental Planning Policy (Biodiversity and Conservation) 2021 – Satisfactory.</p> <p>State Environmental Planning Policy (Transport and Infrastructure) 2021 – Satisfactory.</p> <p>The Hills Development Control Plan 2012 – Satisfactory.</p> <p>Section 7.12 Contribution: \$166,300.00</p> <p>Housing and Productivity Contribution: \$277,427.26</p>
Political Donation	None Disclosed
Reason for Referral to LPP	The development is subject to 10 or more unique submissions by way of objection.
Recommendation	Approval subject to conditions

EXECUTIVE SUMMARY

The subject Development Application seeks to amend an approved development application, DA 979/2016/HB that is subject to a current modification for a commercial building over basement parking. The approved development is comprised 4,006m² of gross floor area comprising a supermarket, 6 retail tenancies, 9 commercial tenancies and parking for 176 vehicles. The original development application was approved by the Local Planning Panel in October 2021.

An associated modification application (979/2016/HB/A) was lodged on 19 October 2023 and also before the panel for consideration. It is anticipated that the works included in both applications will form a single development of the site under a related construction certificate. The works proposed under this application cannot proceed unless modification application 979/2016/HB/A is approved. This application has received more than 10 submissions and as such is also to be determined by the Local Planning Panel.

The amending DA seeks to amend and add to the approved development subject to the 4.55(2) modification. These works include:

- Provision of a full line supermarket, being 3,000m², with associated loading and BOH area.
- Provision of a liquor shop, being 1,050m² with associated loading and BOH area in the lower ground floor.
- Introduction of an additional parking area for the R3 portion of the site, being P3 and P4;
- Introduction of a medical related uses elements to the R3 portion of the site;
- Reconfiguration of the parking areas to P2 and provision of a gym at the P2 level;
- Reconfiguration of the parking areas to P1 and provision of a health services precinct at the P1 level in the R3 area; and
- Introduction of TN1-TN4 tenancies to the north-west at the ground floor in the R3 portion of the site; and

- Removal of the foreshadowed residential component on the south-western portion of the site.

The proposal was notified to adjoining property owners on two occasions. Fifteen submissions were received to the first notification period and three submissions from the second notification period. The issues raised primarily relate to view loss, vehicle and pedestrian issues and economic impacts. The issues are addressed in this report and do not warrant refusal of the application.

Following an assessment of the relevant planning controls and potential impacts of the development as outlined in this report, the amending development application is recommended for approval subject to conditions.

BACKGROUND

The site is immediately south of the existing Round Corner Town Centre located on the northern side of the Old Northern Road and Stonelea Court intersection.

The topography of the land slopes towards the western boundary of the site resulting in significant views over the Shire and surrounds to the Blue Mountains. The majority of vegetation on the site has been cleared, however there is a small concentration of Sydney Sandstone Gully Forest vegetation in the south western portion of the site, extending across the majority of the adjacent lots to the south and adjoining Dooral Dooral Creek.

The site was subject to two planning proposals that amended the Hills Local Environmental Plan 2012.

Amendment No. 15 of LEP 2012 (1/2013/PLP) was notified on the NSW legislation website on 11 July 2014 (Notification No. 440). The amendments rezoned the site from RU6 Transition to part B2 Local Centre and part R3 Medium Density Residential and provided for a floor space ratio standard of 0.75:1 be implemented over the land zoned B2. To support of the amendments to the LEP, a number of amendments were also made to The Hills Development Control Plan 2012 (Part B Section 6 – Business).

Amendment No. 51 of LEP 2012 (1/2016/PLP) was notified on the NSW legislation website on 23 March 2018 (Notification No. 108). The amendment provided for the alteration to Height of Building from 10m to 18m and Floor Space Ratio from 0.75:1 to 1.22:1. A new clause to cap the amount of commercial floor space on the site to a gross floor area of 6,900m² was also introduced.

The original application 979/2016/HB was lodged on 22 December 2015. Council staff had sought additional information and amendments on a number of occasions over the course of the assessment based on a number of interface and engineering issues raised by Transport for NSW relating to Old Northern Road and the internal local road design issues raised by Council staff. The original Development Application was approved by the Local Planning Panel on 20 October 2021.

Modification application 979/2016/HB/A was lodged on 19 October 2023 and notified on two occasions. Council staff held a Conciliation Conference for the Modification Application on 21 February 2024.

The subject application 1018/2024/HA was lodged on 14 February 2024.

During the assessment of the applications, changes were made at the request of Council staff and in response to comments made by residents at the conciliation conference in relation to the design of the central plaza area. Amendments were made that provided for an area less enclosed to allow for unimpeded public access and a view corridor through the development from Old Northern Road to the west similar to the original approval. The plaza remains covered by a glass roof to provide for some weather protection. This is further embellished by a large terrace area proposed under this application (Refer Attachment 6).

PROPOSAL

The development proposal can be summarised as the amending development application of an approved development application, DA 979/2016/HB for a two storey retail and commercial building over two levels of basement parking.

The amending DA seeks to amend and add to the approved development and includes:

- Provision of a full line supermarket, being 3,000m², with associated loading and BOH area.
- Provision of a liquor shop, being 1,050m² with associated loading and BOH area in the lower ground floor.
- Introduction of an additional parking area for the R3 portion of the site, being P3 and P4;
- Introduction of a medical related uses elements to the R3 portion of the site;
- Reconfiguration of the parking areas to P2 and provision of a gym at the P2 level;
- Reconfiguration of the parking areas to P1 and provision of a health services precinct at the P1 level in the R3 area; and
- Introduction of TN1-TN4 tenancies to the north-west at the ground floor in the R3 portion of the site; and
- Removal of the foreshadowed residential component on the south-western portion of the site.

New Medical Component and Additional Parking for Medical Component

- Introduce an additional parking area for the R3 portion of the site, being P3 and P4.
- P3 is at grade and contains 15 spaces.
- P4 is in a new basement and contains 32 spaces.
- Provision of medical related use in the R3 portion of the site including:
 - 455m² medical centre with associated amenities and storage and toilets at the lower ground floor level P3.
 - 375m² health services at lower ground level P1.
 - 208m² medical tenancy at lower ground level P2.
 - TN1-TN4 being health service facilities at the ground floor ranging in size from 73m² to 170m² . o Associated green roof on top of TN1 – TN4.

Supermarket and Liquor Store

- Provide a full line supermarket at the ground floor, being 3,000m², with associated loading, direct to boot, and BOH area located at proposed lower ground level P3.
- Provide a liquor shop, being 1,050m² with associated loading and BOH area in the lower ground floor P3.
- Consequent changes to the parking areas.

Gymnasium

- 585m² gymnasium at lower ground level P2.

Changes to Parking

- Reconfigure the parking areas to P2
- Reconfigure the parking areas to P1

Operational Elements

- The hours of operation of the centre is seeking to be between 7am to 7pm with the supermarket to operate between 7am and 10pm with the loading dock to operate from 6am to 11pm. The gym offering is proposed to operate 24/7. The medical offering is proposed to operate 7am to 10pm Monday to Sunday.

Signage

- No signage is proposed as part of this application.

ISSUES FOR CONSIDERATION

1. State Environmental Planning Policy (Planning Systems) 2021

Part 2.4 and Schedule 6 of SEPP (Planning Systems) 2021 provides the following referral requirements to a Joint Regional Planning Panel:-

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

The amending Development Application has a development cost of \$16,630,000, below the then \$30 million dollar threshold and therefore is not required to be referred to, or determined by, a Regional Planning Panel.

2. State Environmental Planning Policy (Transport and Infrastructure) 2021

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

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

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

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

Clause 2.119 of this SEPP outlines the considerations for development with frontage to classified road. The site has frontage to Old Northern Road, which is a classified road. Whilst the site has frontage to a classified road, the proposal is not anticipated to significantly or adversely impact on the operation of the classified road.

TfNSW requested changes be made to access arrangements to the site from Old Northern Road via the new western extension of Franlee Road and Old Northern Road widening. The

applicant made subsequent changes to meet TfNSW requirements. After several design revisions, TfNSW provided recommended conditions to Council which form part of the recommended conditions of consent at the end of this report (Refer Condition No. 3).

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

3. State Environmental Planning Policy (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.

Clause 4.6 of the SEPP states:-

- 1) *A consent authority must not consent to the carrying out of any development on land unless:*
 - (a) *it has considered whether the land is contaminated, and*
 - (b) *if the land is contaminated, it is satisfied that the land is suitable in its contaminated state (or will be suitable, after remediation) for the purpose for which the development is proposed to be carried out, and*
 - (c) *if the land requires remediation to be made suitable for the purpose for which the development is proposed to be carried out, it is satisfied that the land will be remediated before the land is used for that purpose.*

Comment:

A Stage 2 Site Investigation was carried out over the site in accordance with the relevant guidelines. A report was prepared and submitted with the application which concluded that the site is suitable for the proposed development and commercial land use.

The report was reviewed by Council's Environmental Health Team and was considered satisfactory subject to conditions with regard to the provisions of the SEPP.

4. State Environmental Planning Policy (Biodiversity and Conservation) 2021

Chapter 2 (Vegetation in non-rural areas) aims to:

1. *Protect the biodiversity value of trees and other vegetation in non-rural areas of the State, and*
2. *Preserve the amenity of non-rural areas of the State through the preservation of trees and other vegetation.*

Pursuant to section 2.6(1) a person must not clear vegetation in a non-rural area of the State to which Part 3 applies without the authority conferred by a permit granted by the council under that Part.

With the original DA submitted prior to the enactment of the Biodiversity Conservation Act 2016 (BC Act), a Flora and Fauna Assessment report was prepared (ELA 2021) for the proposal. The removal and retention of vegetation has been addressed, noting that with minor change to the building footprint, the removal of additional trees have been addressed via an Arboricultural Impact Assessment which accompanies this application.

The development is consistent with SEPP (Biodiversity and Conservation) 2021 with respect to vegetation. The proposed development will manage stormwater on the site and is therefore also acceptable with respect to impacts on the Hawkesbury-Nepean Catchment.

5. State Environmental Planning Policy (Sustainable Buildings) 2022

Chapter 3 of the SEPP contains controls for the Standards for non-residential development. As the proposal is erection of a new building that has a capital investment value of >\$5 million an assessment is necessary. An embodied energy report was submitted and has been reviewed and is considered satisfactory in terms of the relevant provisions in the SEPP.

6. Compliance with The Hills Local Environmental Plan 2019

(i) Permissibility

The site is zoned E1 Local Centre, R3 Medium Density Residential under The Hills Local Environmental Plan 2019 (Refer Attachment 3).

The built form is proposed on the E1 Local Centre zone and is for purposes of shops and restaurant uses and recreational uses. Development in the R3 Medium Density Residential includes health care related uses that are permitted under the provisions State Environmental Planning Policy (Transport and Infrastructure) 2021 as this is addressed elsewhere in the report. Each use is defined in the LEP as follows:

commercial premises means any of the following—

- (a) business premises,
- (b) office premises,
- (c) retail premises.

retail premises means a building or place used for the purpose of selling items by retail, or hiring or displaying items for the purpose of selling them or hiring them out, whether the items are goods or materials (or whether also sold by wholesale), and includes any of the following—

- (a), (b) (Repealed)
- (c) food and drink premises,
- (d) garden centres,
- (e) hardware and building supplies,
- (f) kiosks,
- (g) landscaping material supplies,
- (h) markets,
- (i) plant nurseries,
- (j) roadside stalls,
- (k) rural supplies,
- (l) shops,
- (m) specialised retail premises,
- (n) timber yards,
- (o) vehicle sales or hire premises,

but does not include farm gate premises, highway service centres, service stations, industrial retail outlets or restricted premises.

shop means premises that sell merchandise such as groceries, personal care products, clothing, music, homewares, stationery, electrical goods or the like or that hire any such

merchandise, and includes a neighbourhood shop and neighbourhood supermarket, but does not include food and drink premises or restricted premises.

recreation facility (indoor) means a building or place used predominantly for indoor recreation, whether or not operated for the purposes of gain, including a squash court, indoor swimming pool, gymnasium, table tennis centre, health studio, bowling alley, ice rink or any other building or place of a like character used for indoor recreation, but does not include an entertainment facility, a recreation facility (major) or a registered club.

All proposed uses are permitted with consent within the relevant zones.

(ii) Development Standards

The following addresses the principal development standards of the LEP relevant to the subject proposal:

CLAUSE	REQUIRED	PROVIDED	COMPLIANCE
4.3 Height of buildings	14 metres and 18 metres	13.8 and 18 metres	Yes
4.4 Floor space ratio	1.22:1	1.08:1	Yes
7.12 Maximum commercial floor space at 488–494 Old Northern Road, Dural	Development consent must not be granted to development that results in more than 6,900 square metres of the gross floor area of all buildings on the land to which this clause applies being used for the purpose of commercial premises.	Based on the group term commercial premises, which encompasses retail, business premises, and office premises, the proposal has a total of 6,803m ²	Yes

(iii) Other LEP Provisions

The proposal has been considered against the relevant provision of the LEP. Specific regard has been given to Clauses:

- 5.9 Preservation of trees or vegetation; and
- 7.2 Earthworks

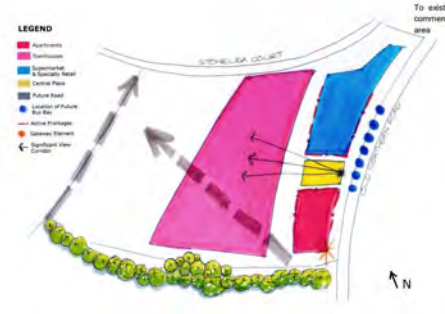
The proposal has been considered against these provisions and satisfies each of the standards and objectives relating to each of the clauses.

7. Compliance with The Hills Development Control Plan 2012

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

- Part B Section 1 – Rural
- Part B Section 6 – Business
- Part C Section 1 – Parking
- Part C Section 3 – Landscaping

Site specific clauses for this site were incorporated into the DCP as part of the planning proposals. The proposed development achieves compliance with the relevant requirements of the development controls. The following provisions have been addressed in this report given the objections raised claim the proposal does not comply with the provisions:

DEVELOPMENT CONTROL	DCP REQUIREMENTS	PROPOSED DEVELOPMENT	COMPLIANCE
Part B Section 6 – Business – Clause 2.31.3 (c) Function and Uses	(c) Mixed use development incorporating higher density residential uses is encouraged on the southern portion of the B2 Local Centre zoned land.	Residential development is not provided.	As detailed in the provision of the DCP, residential development is encouraged not required. The uses proposed are permissible in the E1 Local Centre Zone.
Part B Section 6 – Business – Clause 2.31.3 (d) Function and Uses	(d) Active frontages are required at ground level in accordance with Figure B. Active frontages are defined as one or a combination of the following: <ul style="list-style-type: none"> Entrance to retail; Shop front; Café or restaurant if accompanied by an entry from the street; Glazed entryway; Street entryway.  <p>Figure B – Key principles for development</p>	Activation is provided to a portion of the Old Northern frontage at Ground level	Shopfronts, and entryways are provided along Old Northern Road where levels permit activation at street level.

a) Function and Uses

The DCP encourages higher density residential uses is encouraged on the southern portion of the B2 (E1) Local Centre zoned land. Residential development is not required and as such the applicant has considered not to propose residential development at this time. In terms of activation, elements of the frontage and plaza area are activated along Old Northern Road however some portions of the building do not provide for tradition glazed shop fronts.

The relevant objectives of this clause of the DCP are:

- (i) *To provide a strong sense of arrival into Round Corner Town Centre.*
- (ii) *To develop and promote a vibrant, integrated and mixed use Town Centre that provides a broad range of retail and commercial uses to service the needs of the community.*
- (iii) *To ensure that the development is active and inviting and emphasises the pedestrian where practical and possible.*

The applicant has provided the following justification in relation to the provisions.

- *No residential land use is proposed as part of this amending DA owing to the desire to provide a suitable quantum of commercial space for the development which is considered appropriate given the zoning and compliance with the GFA cap; and*
- *The development will continue to activate its frontages*

Comment:

It is noted that the relevant clause and objectives of the DCP do not require for residential development to be provided on the site. In this regard despite the DCP figure identifying areas of residential development, this is not a requirement. Given the site is zoned E1 Local Centre the uses proposed are permitted and considered satisfactory. As outlined in this report the LEP includes a site specific clause that consent must not be granted to development that results in more than 6,900 square metres of the gross floor area of all buildings on the land to which this clause applies being used for the purpose of commercial premises, being retail, business and office premises. The proposal does not exceed this requirement.

In terms of activation, it is considered that sufficient elements of the frontage and plaza area are activated considering the site topography. The proposal is considered to continue to satisfy the objectives and intent of the clause and can be supported.

8. Issues Raised in Submissions

The proposal was exhibited and notified for 14 days. Fifteen submissions were received to the first notification period and three submissions from the second notification period. The issues raised in the submissions are summarised below. It is noted that some submissions have been lodged for both the subject application and modification application 979/2016/HB/A.

ISSUE/OBJECTION	COMMENT
<p>The site has long been prized for its views to the Blue Mountains and the original proposal retained the views for the enjoyment of the public with an open plaza within the development. Could not a similar way be found to retain for the public the views we have long enjoyed?</p> <p>Council may recall that a similar view was retained opposite Oakhill College by imposing height restrictions on homes being built opposite and the view has now been retained for all to enjoy.</p>	<p>As identified in this report, the controls relating to view corridors from within the plaza are satisfied and will provide for a publicly accessible space that will maintain the views to the west consistent with the original approval.</p>

ISSUE/OBJECTION	COMMENT
Some of the best views in the district are going to be dominated by a solid wall backing a supermarket.	
The proposal represents a significant commercial expansion, introducing new uses (e.g. supermarket, liquor store, gym, kiosks) without adequate supporting documentation.	As outlined in this report the LEP includes a site specific clause that consent must not be granted to development that results in more than 6,900 square metres of the gross floor area of all buildings on the land to which this clause applies being used for the purpose of commercial premises, being retail, business and office premises. The proposal does not exceed this requirement.
Why change land that is zoned for low-medium density housing to commercial usage when there is a housing crisis?	The application does not involve changes to zoning and the site remains zoned Local Centre and Medium Density Residential. The uses proposed are permitted in the zone.
I note that the proponent intends to withdraw the medium density housing from the proposal. This was probably one of the best features of the development and might assist with the greatly needed housing supply in the area. If the medium density housing were to proceed I suggest that 50 % of the housing should be classified as affordable housing.	<p>The applicant is not required to provide for residential development on the site.</p> <p>It is noted that the Stage 3 foreshadows a multi-dwelling housing proposal.</p>
We object to the huge space devoted to signage for the building. We believe the signage should be provided as part of the architect's vision for the proposal.	The subject application despite showing signage zones on the plans does not propose signage. Signage will be subject to a further application. A Condition is recommended in this regard.
The prior approved application, after consultation with the local community, provided for a plaza at least 40 metres wide where relaxation and coffee and light snacks could be enjoyed. I cannot see a plaza on the set of drawings. Could you please confirm that an open air plaza for shoppers to enjoy is being proposed so that the much-loved view to the Mountains is retained.	The amended proposal provides for open plaza with a glass roof which is considered to meet the objectives and intent of the DCP requirement.
<p>The facade of this proposal can only be described as brutalist with no redeeming features. It will be a blight on the village of Round Corner.</p> <p>The design is one of the worst I have seen. It lacks style and it looks more like a warehouse.</p>	The proposal is consistent with other development within the Dural local centre. The development provides for a mix of materials and finishes and will be landscaped to the various street frontages and through the new central plaza area.

ISSUE/OBJECTION	COMMENT
The building doesn't seem to be in keeping with the semi-rural area of Dural.	
The modification proposes a significant increase in retail Gross Floor Area. Existing businesses in the area are struggling under the current commercial saturation with an overwhelming number of retail sector tenants continuing to request that rents not be increased. Establishing space for more unnecessary commercial/retail business premises will only add to their inability to cope creating greater adversity for all.	<p>In relation to development of the site for retail purposes, an analysis was undertaken to support the planning proposal and found that Round Corner is well placed to respond to the demand for supermarket growth. In addition, development of the site for specialty retailing will address a strategic deficit of specialty shopping facilities within the northern sector of the Shire.</p> <p>A limitation was implemented in the LEP for this site that restricts development to 6,900m² of the gross floor area of all buildings for the purpose of commercial premises (retail/business/office). The proposal does not exceed this and provides 6,803m² of commercial floor area.</p>
Due to the nature of the development significantly changing from commercial and retail to retail uses, the proposal is not consistent with the approved development. The increase of retail space of 751m ² together with the additional kiosks of 240m ² equates to a total of 991m ² of additional retail floor area. This represents a significant 48% increase in retail floor area and is not in accordance with the existing approval.	<p>The assessment of the original application was based on the site specific clause that consent must not be granted to development that results in more than 6,900 square metres of the gross floor area of all buildings on the land to which this clause applies being used for the purpose of commercial premises, being retail, business and office premises.</p> <p>Under the provisions the SEPP Exempt and Complying a change of use from retail to business or vice versa could be undertaken without development consent as exempt or complying development.</p>
<p>Round Corner is gridlocked morning and afternoon with school and commuter traffic.</p> <p>What are the road infrastructure plans to handle the increase in traffic?</p> <p>Another set of traffic lights at its entrance will slow traffic, already struggling on Old Northern Road.</p>	As outlined in this report, the application was referred to Transport NSW for consideration. The works associated with this application will improve existing traffic conditions on Old Northern Road particularly at the intersection with the existing and proposed Franlee Road. The amended design will also facilitate additional and extended turning lanes at the intersections of Franlee Road, Stonelea Court and Kenthurst Road. The works also include an improved Bus Stop area for the centre.
The development does not provide adequate or safe pedestrian links to the existing retail in services in the Round Corner area.	Pedestrian access is provided via existing footpaths. It is acknowledged that pedestrians will be required to cross roads to connect between the existing centre and the development site and in some locations there are pedestrian refuge islands. Further upgrades in the locality such as

ISSUE/OBJECTION	COMMENT
	formal pedestrian crossing will be subject to Local Traffic Committee consideration separately.
The modification is inconsistent with the site specific Hills DCP – Part B Section 6 that applies to the property.	The proposal has been assessed against the DCP and considered satisfactory.
Will services such as water, power and sewerage be capable of handling the extra pressure imposed by this development.	The approved application is subject to conditions relating to servicing arrangements with the relevant authorities.
Clarification of the changes to the drainage easement through 486 Old Northern Road, and the driveway access from the subject site.	The applicant has clarified through the submission of additional information that there are no changes to the drainage arrangements on No. 486 Old Northern Road.

9. Internal Referrals

The application was referred to following sections of Council:

- Engineering
- Landscape
- Environmental Health
- Resource Recovery
- Traffic
- Land Information
- Contributions

No objection was raised to the proposal (as amended) subject to conditions. Relevant comments have also provided below:

10. External Referrals

The application was referred to the Transport for NSW (TfNSW). Under the provisions of Transport and Infrastructure SEPP and the Roads Act, 1993 given the future works proposed would trigger concurrence as Old Northern Road is a classified road and is administered by TfNSW. The relevant provisions of the SEPP are addressed in Section 2 of this report. TfNSW provided the following comments which are provided at Attachment 7 and amended Condition No. 3.

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.

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.

Strategic Plan – Hills Future

The proposed development is consistent with the planning principles, vision and objectives outlined within The Hills Future Community Strategic Plan. The proposed development facilitates responsible management of impacts to our natural surroundings and is consistent with the plans and processes in accordance with the community needs and expectations.

Local Strategic Planning Statement

The Hills Future 2036 Local Strategic Planning Statement was made on 6 March 2020. The proposed development has been considered against the outcomes planned within the Local Strategic Planning Statement and Implementation Plan. The development is considered satisfactory regarding The Hills Local Strategic Planning Statement.

RECOMMENDATION

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

ALL DEVELOPMENT TYPES**GENERAL CONDITIONS**

1.	Approved Plans and Supporting Documentation			
	Development must be carried out in accordance with the following approved plans and documents, except where the conditions of this consent expressly require otherwise.			
	Plan number	Plan title	Revision	Date of plan
	A02.01	Site Plan	2	13/02/2025
	A02.02	Lower Ground Level P3 Plan	2	13/02/2025
	A02.03	Lower Ground Level P2 Plan	2	13/02/2025
	A02.04	Lower Ground Level P1 Plan	2	13/02/2025
	A02.05	Ground Floor Plan	3	13/02/2025
	A02.06	Level 1 Floor Plan	3	13/02/2025
	A02.07	Roof Plan	2	13/02/2025
	A02.08	Lower Ground Level P4 Plan	2	13/02/2025
	A09.01	Elevations E1	2	13/02/2025
	A09.02	Elevations E2	2	13/02/2025
	A09.03	Elevations E3	2	13/02/2025
	A09.04	Elevations E4	2	13/02/2025
	A09.05	Material Board	2	13/02/2025
	A11.01	Sections S1	2	13/02/2025
	A11.02	Sections S2	2	13/02/2025
	A11.03	Sections S3	2	13/02/2025
	LA00-LD02	Landscape Package	A	25/01/2024

	LA16A	Tree Retention and Removal Plan	P2	17/04/2025													
Numbering Plans																	
	Plan number	Revision number	Plan title	Drawn by	Date of plan												
	A02.02	1	Proposed Lower Ground Level P3 Plan	BN Architecture Urban Design Masterplanning Graphics Interiors	24.01.24												
	A02.03		Proposed Lower Ground Level P2 Plan														
	A02.04		Proposed Lower Ground Level P1 Plan														
	A02.05		Proposed Ground Floor Plan														
	A02.06		Proposed Level 1 Floor Plan														
<table><tr><th colspan="4">Approved documents</th></tr><tr><td>Document title</td><td>Version number</td><td>Prepared by</td><td>Date of document</td></tr><tr><td>Bushfire Report</td><td>488Old-02</td><td>Bushfire Consultancy Australia</td><td>22 November 2023</td></tr></table>						Approved documents				Document title	Version number	Prepared by	Date of document	Bushfire Report	488Old-02	Bushfire Consultancy Australia	22 November 2023
Approved documents																	
Document title	Version number	Prepared by	Date of document														
Bushfire Report	488Old-02	Bushfire Consultancy Australia	22 November 2023														
In the event of any inconsistency with the approved plans and a condition of this consent, the condition prevails.																	
Condition reason: To ensure all parties are aware of the approved plans and supporting documentation that applies to the development.																	

2.	Requirements of Development Consent 979/2016/HB
	All requirements of Development Consent 979/2016/HB and any subsequent modifications apply to the subject site except where a condition of consent under where this Amending Development Application applies.
	Condition reason: To ensure compliance with the legislative requirements.

3.	Compliance with Transport for NSW Requirements
	Compliance with Transport for NSW Requirements as follows:
	<u>Roads Act approval for TCS and civil works on Old Northern Road</u> Prior to the issuing of any construction certificate for building structures on the subject site, an Application shall be made to TfNSW under section 87 (4) of the Roads Act 1993 for the Traffic Control Signals (TCS) at the intersection of Old Northern Road/ Franlee Road/Development access road.
	The proposed TCS shall be designed to meet TfNSW requirements, including Double Diamond Operation, and shall be drawn by a suitably qualified person and endorsed by a suitably qualified practitioner.

	<p>The submitted design shall be in accordance with Austroads Guide to Road Design in association with relevant TfNSW supplements. The certified copies of the TCS design and civil design plans shall be submitted to TfNSW for consideration and approval prior to the release of a Construction Certificate and commencement of road works. Please send all documentation to development.sydney@transport.nsw.gov.au.</p> <p>TfNSW fees for administration, plan checking, civil works inspections and project management shall be paid by the developer prior to the commencement of works. The developer will be required to enter a Works Authorisation Deed (WAD) for the abovementioned works. The proponent is required to dedicate land as public road for the maintenance of the Traffic Control Signals and associated infrastructure, further details will be included as part of the WAD process.</p> <p><u>Construction Pedestrian and Traffic Management</u> Prior to the issue of any construction certificate or any preparatory, demolition or excavation works whichever is the earlier, the applicant shall prepare a Construction Pedestrian and Traffic Management Plan (CPTMP) in consultation with TfNSW.</p> <p>Condition reason: To ensure compliance with relevant service provider's requirements.</p>
4.	<p>Separate Consent for Signs</p> <p>Separate development consent is required for the erection of any signage structures.</p> <p>Condition reason: To ensure approval is sought for signage.</p>
5.	<p>Provision of Parking Spaces</p> <p>Before the issue of an occupation certificate, the development is required to be provided with 478 off-street car parking spaces. These car parking spaces shall be available for off street parking at all times.</p> <p>Condition reason: To ensure compliance with parking requirements.</p>
6.	<p>Construction Certificate</p> <p>Before building works commence for the approved development, it is necessary to obtain a construction certificate. A construction certificate may be issued by Council or a Registered Certifier. Plans submitted with the construction certificate are to be amended to incorporate the conditions of the development consent.</p> <p>Condition reason: To ensure appropriate safeguarding measures are in place prior to the commencement of any building work, demolition or excavation, and to ensure compliance with the legislative requirements.</p>
7.	<p>Building Work to be in Accordance with BCA</p> <p>During building work, all building work must be carried out in accordance with the provisions of the Building Code of Australia as referenced by Section 69 of the Environmental Planning and Assessment Regulation 2021.</p> <p>Condition reason: To ensure compliance with the legislative requirements.</p>
8.	<p>Ventilation for basement carpark</p> <p>The basement car park is to be provided with ventilation in accordance with Australian / New Zealand Standard AS/NZS 1668.2 2012.</p> <p>The exhaust from the basement carpark shall be positioned so as to not cause a nuisance due to odour or noise to an occupier of any residential premises.</p> <p>Condition reason: To ensure the amenity of the area</p>

9.	<p>Property Numbering and Cluster Mailboxes for Commercial Developments</p> <p>The overall property address for this development is: - 488 Old Northern Road, Dural, NSW, 2158</p> <p>Approved unit numbering is as per approved Numbering Plans in Condition 1 and as follows:</p> <p>Level</p> <p>Basement 3 B301 – B302</p> <p>Basement 2 B201 – B202</p> <p>Basement 1 B101 – B102</p> <p>Ground G01 – G18</p> <p>One 101 – 102</p> <p>These addresses shall be used for all correspondence, legal property transactions and shown on the final registered Deposited Plan/Strata Plan lodged with Land Registry Services NSW. Under no circumstances can unit numbering be repeated or skipped throughout the development regardless of the building name or number.</p> <p>Approved numbers, unless otherwise approved by Council in writing, are to be displayed clearly on all door entrances including stairwells, lift and lobbies.</p> <p>External directional signage is to be erected on site to ensure all numbering signage throughout the complex is clear to assist emergency service providers locate a destination easily & quickly.</p> <p><u>Mailboxes</u></p> <p>Australia Post requires cluster mailboxes to be perpendicular to the footpath or road and within easy reach for the postal delivery officer. For resident's useability and convenience, they are to be located close to relevant entry points.</p> <p>Suggested locations as provided on plans DWG No A02.05; Issue 1; Dated 24.01.24 are to be approved by Australia Post for mail delivery. Plans are to be provided to Gregory Dimmock at the Seven Hills Delivery Centre via email Gregory.dimmock@auspost.com.au or phone 02 9674 4027. Australia Post approval is required to be provided to Council.</p> <p>One Cluster mail box is to be located as per approved Numbering Plans. Cluster mailboxes are to be located within the site on the public footpath boundary within easy reach from a public road for the postal delivery officer.</p> <p>The number of mailboxes to be provided is to be equal to the number of units plus one (1) for the proprietors of the development and be as per Australia Post size requirements. The proprietors additional mail box is to be located within the cluster located at 488 Old Northern Road, Dural.</p> <p><u>Strata Developments</u></p> <p>All approved developments that require subdivision under a Strata Plan, must submit a copy of the final strata plan to Council's Land Information Section <u>before it is registered</u> for the approval and allocation of final property and unit numbering. <u>This applies regardless of whether the PCA is Council or not.</u></p> <p>It is required that Lot numbers within the proposed strata plan are not duplicated and all run sequentially within the same level, commencing from the lowest level upwards to the highest level within the development.</p> <p>Please call 9843 0555 or email a copy of the final strata plan <u>before it is registered</u> at Land Registry Services NSW to council@thehills.nsw.gov.au for the approval of final Property and Unit</p>
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	numbering with corresponding Lot Numbers now required to be included within the registered Strata Administration sheet.
	<u>Under no circumstances is the Strata Plan to be lodged with Land Registry Services NSW before Council has approved all final addressing.</u>
	Condition reason: To ensure consistent addressing as per Australian Standard AS/NZS 4819 Rural and Urban Addressing, Council and Geographical Names Board guidelines. Final development can be located in the event of an emergency and for mail delivery.

10.	Tree Removal
	Approval is granted for the removal of sixteen (16) numbered 08C, 10-12, 22, 22A, 22B, 23, 64-67, 70, 78A, 77 and 80A as detailed in the Arboricultural Impact Assessment prepared by Ecological Version V2 dated 29/11/23.
	All other trees are to remain and are to be protected during all works. Suitable replacement trees are to be planted upon completion of construction.
	Condition reason: To provide details of trees approved for removal.

BEFORE WORK COMMENCES

11.	Erosion and Sediment Controls in Place
	Before site work commences, the certifying authority must be satisfied the erosion and sediment controls in the erosion and sediment control plan are in place. These controls must remain in place until any bare earth has been restabilised in accordance with the NSW Department of Housing manual 'Managing Urban Stormwater: Soils and Construction Certificate' (the Blue Book) (as amended from time to time).
	Condition reason: To ensure sediment laden runoff and site debris do not impact local stormwater systems and waterways.

12.	Waste Management Plan requirements
	Before site work commences, a waste management plan for the development must be prepared and provided to the principal certifying authority. The plan must be prepared
	3. in accordance with
	<ul style="list-style-type: none"> the Environment Protection Authority's Waste Classification Guidelines as in force from time to time, and a development control plan that provides for waste management that applies to the land on which the work or the clearing of vegetation is carried out, and
	4. include the following information—
	<ul style="list-style-type: none"> e) the contact details of the person removing waste, f) an estimate of the type and quantity of waste, g) whether waste is expected to be reused, recycled or sent to landfill, h) the address of the disposal location for waste.
	A copy of the waste management plan must be kept on-site at all times while work approved under the development consent is being carried out.
	Condition reason: To ensure resource recovery is promoted and local amenity protected during construction

13.	Engagement of a Project Arborist
	Before site works commence, a Project Arborist (minimum AQF Level 5) is to be appointed and the following details provided to The Hills Shire Council's Manager – Environment & Health:

	<ul style="list-style-type: none"> • Name: • Qualification/s: • Telephone number/s: • Email: <p>If the Project Arborist is replaced, Council is to be notified in writing of the reason for the change and the details of the new Project Arborist provided within 7 days.</p>
	Condition reason: To protect vegetation.

DURING WORKS

14.	Dust Control <p>During site works, dust suppression techniques must be used to minimise nuisance to surrounding properties. In the absence of any alternative measures, the following measures must be taken to control the emission of dust:</p> <ul style="list-style-type: none"> • Dust screens must be erected around the perimeter of the site and be kept in good repair for the duration of the demolition and construction work; • 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.
	Condition reason: To prevent the movement of dust outside the boundaries of the development.

15.	Waste Management <p>While site work is being carried out:</p> <ul style="list-style-type: none"> • all waste management must be undertaken in accordance with the waste management plan, and • upon disposal of waste, records of the disposal must be compiled and provided to the principal certifying authority, detailing the following: <ul style="list-style-type: none"> a) The contact details of the person(s) who removed the waste; b) The waste carrier vehicle registration; c) The date and time of waste collection; d) A description of the waste (type of waste and estimated quantity) and whether the waste is to be reused, recycled or go to landfill; e) The address of the disposal location(s) where the waste was taken; f) The corresponding tip docket/receipt from the site(s) to which the waste is transferred, noting date and time of delivery, description (type and quantity) of waste. • If waste has been removed from the site under an EPA Resource Recovery Order or Exemption, records in relation to that Order or Exemption must be maintained and provided to the principal certifier and council.
	Condition reason: To require records to be provided, during site work, documenting the lawful disposal of waste.

ON COMPLETION OF WORKS

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

BEFORE ISSUE OF OCCUPATION/SUBDIVISION CERTIFICATE

17.	Irrigation
	Before the issue of an occupation certificate, an automatic watering system is to be installed as a minimum to all common areas and planters. Details including backflow prevention device, location of irrigation lines and sprinklers, and control details are to be communicated to Council or Private Certifier.
	Condition reason: To ensure irrigation is provided.

OCCUPATION AND ONGOING USE

18.	Operational Noise Management
	During the use of the site, the Operational Management Plan prepared by Acoustic Logic referenced as 20221515.1/0610A/R0/RF dated 6/10/2023 is to be complied with.
	Condition reason: To protect the local amenity.

BUILDING WORK**GENERAL CONDITIONS**

19.	Trenching within Tree Protection Zone
	Whilst site works are being carried out, any trenching for installation of retaining walls, drainage, sewerage, irrigation or any other services shall not occur within the Tree Protection Zone of trees identified for retention without prior notification to the Certifier or Council (where a certifier is not required) or under supervision of a project arborist. If supervision by a project arborist is selected, certification of supervision must be provided to (the Certifier or Council (where a certifier is not required) within 14 days of completion of trenching works.
	Condition reason: To protect trees during the carrying out of site work.

20.	Approved Subdivision and Engineering Activities
	Before the issue of any construction certificate for building works, Subdivision Works Certificate for the infrastructure works including public and private roads, road widening, Stormwater Management activities, Earth Works and services requested under the parent development application DA 979/2016/HB and subsequent modification/s must be obtained and provided to the Principal Certifier.
	Condition reason: To ensure the construction plans are consistent with the approved DA plans.

21.	Protection of Public Infrastructure
	During works, Council must be notified of any damage to public infrastructure caused by the development. Adequate protection must be provided prior to work commencing and maintained during building operations. Any damage caused must be made good, to the satisfaction of Council, before an Occupation Certificate can be issued. Public infrastructure includes the road

	pavement, kerb and gutter, concrete footpaths, drainage structures, utilities and landscaping fronting the site.
	Condition reason: To document any damaged to public infrastructure during construction and subsequently any damage is to be made good prior to Occupation Certificate.

22.	Excavation/ Anchoring Near Boundaries <p>Before the issue of a construction certificate, a suitably qualified Structural engineer must review Excavation/Anchoring Near Boundaries design and provide written certification on the approved plans to satisfy the certifier that:</p> <ul style="list-style-type: none"> • Earthworks near the property boundary must be carried out in a way so as to not cause an impact on adjoining public or private assets. Where anchoring is proposed to sustain excavation near the property boundary, the following requirements apply: <ul style="list-style-type: none"> • Written owner's consent for works on adjoining land must be obtained. • For works adjacent to a road, anchoring that extends into the footpath verge is not permitted, except where expressly approved otherwise by Council, or the RMS in the case of a classified road. • Where anchoring within public land is permitted, a bond must be submitted to ensure their removal once works are complete. The value of this bond must relate to the cost of their removal and must be confirmed by Council in writing before payment. • All anchors must be temporary. Once works are complete, all loads must be removed from the anchors. • A plan must be prepared, along with all accompanying structural detail and certification, identifying the location and number of anchors proposed. • The anchors must be located clear of existing and proposed services. <p>Details demonstrating compliance with the requirements above must be submitted to the Certifier and included as part of any Construction Certificate been issued.</p> <p>Condition reason: To protect the road/private properties from the excavation and anchoring works.</p>
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23.	Acoustic Requirements <p>The recommendations of the following Acoustic Assessment reports submitted with this development application are to be implemented as part of this approval.</p> <p>Acoustic Logic, (ref: 20221515.1), dated 12/1/2023</p> <p>Condition reason: To protect the amenity of the area.</p>
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BEFORE THE ISSUE OF A CONSTRUCTION CERTIFICATE

24.	Section 7.12 Contribution <p>Before the issuing of a Construction Certificate, a contribution of \$166,300.00 must be paid to Council. This amount may be adjusted at the time of payment.</p> <p>The contributions levy has been calculated in accordance with the table below:</p> <table border="1"> <tr> <th>Proposed cost of the development</th><th>Maximum percentage of the levy</th></tr> </table>	Proposed cost of the development	Maximum percentage of the levy
Proposed cost of the development	Maximum percentage of the levy		

Up to \$100,000	Nil
\$100,001 - \$200,000	0.5 %
More than \$200,000	1%

Prior to payment, it is advised to phone or email Council to confirm the amount. Payments will be accepted via Debit or Credit Card. Cash payments will not be accepted. This condition has been imposed in accordance with Section 7.12 of the Environmental Planning and Assessment Act 1979 and The Hills Section 7.12 Contributions Plan.

Condition reason: To contribute towards public infrastructure for the area.

25.	<p>Housing and Productivity Contribution - Development Consents</p> <p>The housing and productivity contribution (HPC) set out in the table below, but as adjusted in accordance with part b), is required to be made:</p> <table> <tr> <th>Housing and productivity contribution</th><th>Amount</th></tr> <tr> <td>Housing and productivity contribution (base component)</td><td>\$277,427.26</td></tr> <tr> <td>Transport project component</td><td>N/A</td></tr> <tr> <td>Total housing and productivity contribution</td><td>\$277,427.26</td></tr> </table> <p>The amount payable at the time of payment is the amount shown in part a) as the total housing and productivity contribution adjusted by multiplying it by:</p> <p><u>highest PPI number</u> <u>consent PPI number</u> where:</p> <p><i>highest PPI number</i> is the highest PPI number for a quarter following the June quarter 2023 and up to and including the 2nd last quarter before the quarter in which the payment is made, and</p> <p><i>consent PPI number</i> is the PPI number last used to adjust HPC rates when consent was granted, and</p> <p><i>June quarter 2023 and PPI</i> have the meanings given in clause 22 (4) of the <i>Environmental Planning and Assessment (Housing and Productivity Contribution) Order 2023</i>.</p> <p>If the amount adjusted in accordance with this condition is less than the amount at the time consent is granted, the higher amount must be paid instead.</p> <p>The HPC must be paid before the issue first construction certificate in relation to the development, or before the commencement of any work authorised by this consent (if no construction certificate is required). However, if development is any of the kinds set out in the table below, the total housing and productivity contribution must be paid as set out in the table:</p> <table> <tr> <th>Development</th><th>Time by which HPC must be paid</th></tr> <tr> <td>Development consisting only of residential subdivision within the meaning of the HPC Order</td><td>Before the issue of the first subdivision certificate</td></tr> <tr> <td>High-density residential development within the meaning of the HPC Order for which no construction certificate is required</td><td>Before the issue of the first strata certificate</td></tr> <tr> <td>Development that consists only of residential strata subdivision (within the meaning of the HPC Order) or only of residential strata subdivision and a change of use of an existing building</td><td>Before the issue of the first strata certificate</td></tr> <tr> <td>Manufactured home estate for which no construction certificate is required</td><td>Before the installation of the first manufactured home</td></tr> </table> <p>In the Table, <i>HPC Order</i> means the <i>Environmental Planning and Assessment (Housing and</i></p>	Housing and productivity contribution	Amount	Housing and productivity contribution (base component)	\$277,427.26	Transport project component	N/A	Total housing and productivity contribution	\$277,427.26	Development	Time by which HPC must be paid	Development consisting only of residential subdivision within the meaning of the HPC Order	Before the issue of the first subdivision certificate	High-density residential development within the meaning of the HPC Order for which no construction certificate is required	Before the issue of the first strata certificate	Development that consists only of residential strata subdivision (within the meaning of the HPC Order) or only of residential strata subdivision and a change of use of an existing building	Before the issue of the first strata certificate	Manufactured home estate for which no construction certificate is required	Before the installation of the first manufactured home
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Manufactured home estate for which no construction certificate is required	Before the installation of the first manufactured home																		

	<p><i>Productivity Contribution</i>) Order 2023.</p> <p>The HPC must be paid using the NSW planning portal (https://pp.planningportal.nsw.gov.au/).</p> <p>If the Minister administering the <i>Environmental Planning and Assessment Act 1979</i> agrees, the HPC (apart from any transport project component) may be made, instead of as a monetary contribution, in the following ways:</p> <p>the dedication or provision of land for the purpose of regional infrastructure in the region in which the development will be carried out,</p> <p>the carrying out of works for the purpose of regional infrastructure in the region in which the HPC development will be carried out.</p> <p>If the HPC is made partly as a monetary contribution, the amount of the part payable is the amount of the part adjusted in accordance with part b) at the time of payment.</p> <p>Despite part a), a housing and productivity contribution is not required to be made to the extent that a planning agreement excludes the application of Subdivision 4 of Division 7.1 of the <i>Environmental Planning and Assessment Act 1979</i> to the development, or the <i>Environmental Planning and Assessment (Housing and Productivity Contribution) Order 2023</i> exempts the development from the contribution. The amount of the contribution may also be reduced under the order, including if payment is made before 1 July 2025.</p> <p>Condition reason: To ensure the required monetary contribution has been paid.</p>
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26.	<p>Acoustic Requirements</p> <p>Before the issue of a construction certificate, detailed plans and specifications are to be submitted to the certifier that demonstrate that the recommendations of the following Acoustic Assessment Reports;</p> <ul style="list-style-type: none"> Acoustic Logic, (ref: 20221515.1/1201A/R0/RF), dated 12/1/2023 <p>In particular:</p> <p><u>Mechanical Plant</u></p> <ul style="list-style-type: none"> The roof top plant area must not exceed the following noise levels: <ul style="list-style-type: none"> 7am to 6pm – 86 db(A) 6pm to 10pm – 83dB(A) 10pm to 7am – 73 dB(A) <p><u>Loading Dock</u></p> <ul style="list-style-type: none"> Truck movements are to be restricted as follows: <ul style="list-style-type: none"> 6am to 7am & 10pm to 11pm: 1 movement per 15 minute period 7am – 6pm: 4 movements per 15 min period 6pm – 10pm: 2 movements per 15 minute period <p>Condition reason: To protect the acoustic amenity of the local area and of the development.</p>
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27.	<p>Landscape Plan</p> <p>Before the issue of a construction certificate, a Landscape Plan for the site is to be prepared by a suitably qualified landscape architect or horticulturalist and provided to Council's Manager - Environment and Health for approval. The plan must contain:</p> <ul style="list-style-type: none"> site boundaries and dimensions surveyed; north point, and scale (1:200 desirable);
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	<ul style="list-style-type: none"> existing and proposed levels; all trees, grassed areas, landscape features and main structures on the site (buildings, car parking, driveways, walls, fences, paving, storage areas, elements contributing to the significance of a heritage item etc); a schedule of proposed planting, including botanical names, common names, quantities, pot size, expected mature height and staking requirements; and detailed planting plans indicating species locations on plan and in the planting schedule including name, size and quantities. Planting is to be shown as individual symbols for an assessment on species suitability and assist in determining appropriate spacings. Specify the proposed turf type noting that the use of Kikuyu is prohibited; locations of any stormwater pits and OSDs; public art in accordance with Box Hill Growth Centre Precinct 3.4 SIGNAGE, STREET FURNITURE, LIGHTING AND PUBLIC ART which is to be integrated within the design of public spaces. These are to serve a dual role as play equipment, informal seating, or a landmark; hydromulching of areas not part of the development to the west of the site with Sydney Turpentine Ironbark Forest planting; further landscaping to all street frontages for a greater interface with the public domain; additional landscaping to areas within the P3 external car park which are not identified as parking lots and driveways; a minimum 2m wide landscaping strip to the driveway adjacent the medical and health services to provide a vegetated buffer between the newly proposed services and the driveway and; internal areas to have further landscaping and in-built planters
	Condition reason: To ensure amenity.

BEFORE WORK COMMENCES

28.	Public Infrastructure Inventory Report Before works commencing on site the Principal Contractor must get a public infrastructure inventory report prepared and submitted to Council recording the condition of all public assets in the direct vicinity of the development site. This includes, but is not limited to, the road fronting the site along with any access route used by heavy vehicles. If uncertainty exists with respect to the necessary scope of this report, it must be clarified with Council before works commence. The report must include: <ul style="list-style-type: none"> Planned construction access and delivery routes; and Dated photographic evidence of the condition of all public assets.
	Condition reason: To document the condition of public infrastructure prior to works commencing.

29.	NSW Roads and Maritime Services Design Approval
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	<p>Before the works commence on site a person with the relevant accreditation must complete and approve/sign a Traffic Control relevant to the site. A copy of the approved plan must be submitted to Council before being implemented.</p> <p>A plan that includes full (detour) or partial (temporary traffic signals) width road closure requires separate specific approval from Council. Sufficient time should be allowed for this to occur.</p> <p>Condition reason: To ensure internal works appropriately tie into levels/approvals for adjacent regionally significant works</p>
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30.	<p>Tree Protection Fencing</p> <p>Before any work begins on the site, Tree Protection Fencing must be in place around trees or groups of trees nominated for retention. At a minimum a 1.8m high chain-wire fence is to be erected to the full extents of the TPZ and is to be in place prior to works commencing to restrict the following occurring:</p> <ul style="list-style-type: none"> • Stockpiling of materials within TPZ; • Placement of fill within TPZ; • Parking of vehicles within the TPZ; • Compaction of soil within the TPZ; • Cement washout and other chemical or fuel contaminants within TPZ; and • Damage to tree crown. <p>The location of tree protection fencing can only be altered by the Project Arborist. The temporary relocation or removal of tree protection fencing to undertake works within the TPZs of trees to be retained is strictly to be undertaken under supervision of the Project Arborist.</p> <p>Condition reason: To protect trees during the carrying out of site work.</p>
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31.	<p>Tree Protection Signage</p> <p>Before any work begins on the site, a Tree Protection Zone sign must be attached to the tree protection fencing stating "Tree Protection Zone No Access" (The lettering size on the sign shall comply with AS1319). Access to this area can only be authorised by the project arborist or site manager.</p> <p>Condition reason: To protect trees during the carrying out of site work.</p>
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32.	<p>Mulching within Tree Protection Zone</p> <p>Before any work begins on the site, all areas within the Tree Protection Zone are to be mulched with composted leaf mulch to a depth of 100mm.</p> <p>Condition reason: To protect trees during the carrying out of site work.</p>
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DURING BUILDING WORKS

33.	<p>Control of early morning noise from trucks</p> <p>During works, trucks associated with the construction at the site that will be waiting to be loaded must not arrive at the site before 7am.</p> <p>Condition reason: To protect the acoustic amenity of the local area and of the development.</p>
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34.	<p>Control of Noise from Trucks</p> <p>During works, the number of trucks waiting in adjacent streets to enter the site for the removal of fill shall not exceed 1 Trucks waiting shall not obstruct driveways and shall have their motors off if expected to wait more than 5 minutes.</p> <p>Condition reason: To protect the acoustic amenity of the local area and of the development.</p>
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35.	Construction Noise
	During building work, the emission of noise from the construction of the development shall comply with the <i>Interim Construction Noise Guideline published by the Department of Environment and Climate Change (July 2009)</i> .
	Condition reason: To protect residential amenity
36.	Rock Breaking Noise
	During building work and upon receipt of a justified complaint in relation to noise pollution caused by rock breaking. Rock breaking will only occur between the hours of 9am to 3pm, Monday to Friday. No rock breaking is to occur Saturday – Sunday and on public holidays. Details of noise mitigation measures and likely duration of the activity must be submitted to Council's Manager – Environment and Health within seven (7) days of receiving notice from Council.
	Condition reason: To minimise noise impacts on neighbouring properties
37.	Contamination
	While site work is being carried out, any new information that has the potential to alter previous conclusions about site contamination shall be immediately notified to the principal certifier and Council's Manager – Environment and Health.
	Condition reason: To protect workers, the site users and the environment.
38.	Retention of Trees
	While works are being carried out, only trees specifically identified for removal on the approved plans may be removed. All other trees (including neighbouring trees and street trees) are to be retained with remedial work to be carried out in accordance with the AS4970- 2009 Protection of Trees on Development Sites and Arboricultural Impact Assessment prepared by Ecological Version V2 dated 29/11/23.
	Condition reason: To ensure retained trees are adequately protected during works.
39.	Project Arborist
	During site works, the Project Arborist must be on site to supervise any works within the Tree Protection Zone (TPZ) of trees to be retained. Supervision of the works shall be certified by the Project Arborist and a copy of such certification shall be submitted to the Principle Certifying Authority within 14 days of completion of the works.
	Condition reason: To protect trees during carrying out of site work.

BEFORE ISSUE OF OCCUPATION CERTIFICATE/SUBDIVISION CERTIFICATE

40.	Public Infrastructure Inventory Report - Post Construction
	Before the release of an Occupation Certificate an updated public infrastructure inventory report must be prepared and submitted to Council. The updated report must identify any damage to public assets and the means of rectification for the approval of Council.
	Condition reason: To ensure protection and where required suitable remediation of public assets

41.	<p>Registration of Subdivision</p> <p>Before the issue of an Occupation Certificate the registration of the subdivision approval issued to create the public road and development lots pursuant to the DA 979/2016/JP/A must occur. The Final Plan and 88B Instrument must be compliant to the same approval.</p> <p>Condition reason: To ensure that the requirements of the parent development approved for the main subdivision works and engineering works have been completed and the subdivision registered before an Occupation Certificate is issued.</p>
42.	<p>Acoustic - Compliance Report</p> <p>Before the issue of a Certificate, the acoustic consultant shall inspect and certify that the required noise attenuation components as recommended in the following acoustic report;</p> <ul style="list-style-type: none"> • Acoustic Logic, (ref: 20221515.1/1201A/R0/RF), dated 12/1/2023 <p>Written certification (including photographs of all attenuation measures) is to be provided to the Principal Certifier for their review and a copy of the report provided to Council's Manager – Environment and Health.</p> <p>Condition reason: To protect the amenity of the locate area</p>
43.	<p>Planting Requirements</p> <p>Before the issue of an occupation certificate, the Landscaping shall be certified to be in accordance with the approved plans by the private certifier. All trees planted as part of the approved landscape plan are to be minimum 75 litre pot size. All shrubs planted as part of the approved landscape plan are to be minimum 200mm pot size. Groundcovers are to be planted at 5/m2. Any species that need substituting requires confirmation from Council.</p> <p>All areas outside of the proposed development (to the west of the site) are to be appropriately hydromulched with Sydney Turpentine Ironbark Forest planting. Trees planted as part of the Sydney Turpentine Forest Revegetation planting are to be minimum 75 litre pot size. All trees are to be dominant Sydney Turpentine Ironbark Forest trees species which include:</p> <ul style="list-style-type: none"> • Eucalyptus pilularis (Blackbutt) • Syncarpia glomulifera (Turpentine) • Eucalyptus punctata (Grey Gum) • Eucalyptus eugenoides (Thin-leaved Stringybark) <p>For all planting on slab and planter boxes, the following minimum wall heights and soil depths are to be achieved:</p> <ul style="list-style-type: none"> • 1.2m for large trees, 1m for medium trees, or 800mm for small trees; • 650mm for shrubs; • 300-450mm for groundcover; and • 200mm for turf. <p>Note: this is the soil depth alone and not the overall depth of the planter.</p> <p>Condition reason: To ensure the approved landscaping works have been completed in accordance with the approved landscaping plan(s).</p>
44.	<p>Completion of Landscape and Tree Works</p> <p>Before the issue of an occupation certificate, the principal certifier must be satisfied all landscape and tree-works have been completed in accordance with approved plans and documents and any relevant conditions of this consent.</p> <p>Condition reason: To ensure the approved landscaping works have been completed in accordance with the approved landscaping plan(s).</p>

OCCUPATION AND ONGOING USE

45.	Offensive Noise
	During occupation and ongoing 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 <i>Protection of the Environment Operation Act 1997</i> .
	Condition reason: To protect the amenity of the local area
46.	Lighting
	During the occupation and ongoing use, any lighting on the site shall be designed so as not to cause a nuisance to other residences in the area or to motorists on nearby roads and to ensure no adverse impact on the amenity of the surrounding area by light overspill. All lighting shall comply with the Australian Standard AS/NZS 4282:2023 Control of Obtrusive Effects of Outdoor Lighting.
	Condition reason: To protect the amenity of the area.
47.	Operating Hours
	During ongoing use of the premises, the hours of operation Monday to Sunday are restricted to:
	<ul style="list-style-type: none"> • General Centre Hours (Specialty Retail) - 7am to 7pm • Supermarket and Mini Major - 7am to 10pm • Loading Dock - 6am to 11pm. • Gym – 24 hour operation. • Medical Uses - 7am - 10pm • Liquor Store – 9am to 10pm
48.	Waste and Recycling Collection Contract
	During the occupation and use, a private waste contract is to be in place with a licensed contractor for the removal and lawful disposal of all waste generated on site. Written evidence of a valid and current collection and disposal contract must be held on site at all times and produced in a legible form to an authorised officer of Council who asks to see it.
	Condition reason: To ensure a private waste contractor is engaged with by commercial premises to lawfully remove all waste generated onsite.
49.	Waste and Recycling Management
	During the occupation and use, all garbage and recyclable materials must be separated into dedicated waste collection containers and stored in a designated waste storage area(s), which must include provision for the storage of all waste generated on the premises between collections. Arrangements must be in place in all areas of the development for the separation of recyclable materials from garbage. All waste storage areas must be screened from view from any adjoining residential property or public places. Waste storage areas(s) must be kept clean and tidy, bins must be washed regularly, and contaminants must be removed from bins prior to any collection.
	Condition reason: To ensure responsibility is placed upon the site's occupier or resident to management all waste generated on the site without it affected local amenity of neighbouring properties.
50.	Landscaping

	The landscaping shall be in accordance with the approved plan and shall be maintained at all times in accordance with THDCP 2012 Part C Section 3 – Landscaping and the approved landscape plan.
	Condition reason: To ensure the approved landscaping works have been completed in accordance with the approved landscaping plans.

SUBDIVISION WORK

GENERAL CONDITIONS

51.	Security Bond Requirements A security bond may be submitted in lieu of a cash bond. The security bond must: <ul style="list-style-type: none"> a) Be in favour of The Hills Shire Council; b) Be issued by a financial institution or other accredited underwriter approved by, and in a format acceptable to, Council (for example, a bank guarantee or unconditional insurance undertaking); c) Have no expiry date; d) Reference the development application, condition and matter to which it relates; e) Be equal to the amount required to be paid in accordance with the relevant condition; f) Be itemised if a single security bond is used for multiple items. Should Council need to uplift the security bond, notice in writing will be forwarded to the applicant 14 days prior.
	Condition reason: For information purposes only.
52.	Subdivision Works Approval Before any works are carried out, a Subdivision Works Certificate must be obtained and a principal Certifier appointed. The plans and accompanying information submitted with the Subdivision Works Certificate must comply with the conditions included with this consent. As per the Environmental Planning and Assessment Act 1979, only Council can issue a Subdivision Certificate which means only Council can be appointed as the Principal Certifier for subdivision works.
	Condition reason: To ensure the applicant is aware of the need to obtain a Subdivision Works Certificate for any subdivision works.
53.	Road Opening Permit Should the subdivision/ development necessitate the installation or upgrading of utility services or any other works on Council land beyond the immediate road frontage of the development site and these works are not covered by a Construction Certificate issued by Council under this consent then a separate road opening permit must be applied for and the works inspected by Council's Maintenance Services team. The contractor is responsible for instructing sub-contractors or service authority providers of this requirement. Contact Council's Construction Engineer if it is unclear whether a separate road opening permit is required.
	Condition reason: To protect the roads.

DURING WORKS

54.	Standard of Works
	All work must be carried out in accordance with Council's Works Specification Subdivisions/ Developments and must include any necessary works required to make the construction effective. All works, including public utility relocation, must incur no cost to Council.
	Condition reason: To ensure all works are carried out in accordance with Council's Works Specification Subdivisions/ Developments.

BEFORE ISSUE OF SUBDIVISION CERTIFICATE/OCCUPATION CERTIFICATE

55.	Completion of Subdivision Works
	Before the release of a Subdivision Certificate creating a public road reserve and development lots approved under the parent DA 979/2016/HB and subsequent modification/s, the Principal Certifier must ensure completion of all subdivision works covered by the same consent, and all the documentation including drawings and certifications have been provided.
	Condition reason: To ensure all subdivision works required with the development are completed prior to release of subdivision certificate

56.	Section 73 Compliance Certificate
	Before the release of a Subdivision Certificate being issued a Section 73 Compliance Certificate issued under the Sydney Water Act 1994 must be obtained from Sydney Water confirming satisfactory arrangements have been made for the provision of water and sewer services. Application must be made through an authorised Water Servicing Coordinator. The certificate must refer to this development consent and all of the lots created. This Certificate must be submitted to the Principal Certifier 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.
	Condition reason: To ensure appropriate water and/ or sewer facilities are provided when covered by land under the Sydney Water Act 1994

57.	Provision of Electrical Services
	Before the release of a Subdivision Certificate a notification of arrangement certificate confirming satisfactory arrangements have been made for the provision of electrical services must be submitted to the Principal Certifier. This must include the under-grounding of the existing electrical services fronting the site and removal of all redundant poles and cables, unless otherwise approved by Council in writing. The certificate must refer to this development consent and all of the lots created.
	Condition reason: To ensure lots created are appropriately serviced by a relevant electrical services provider

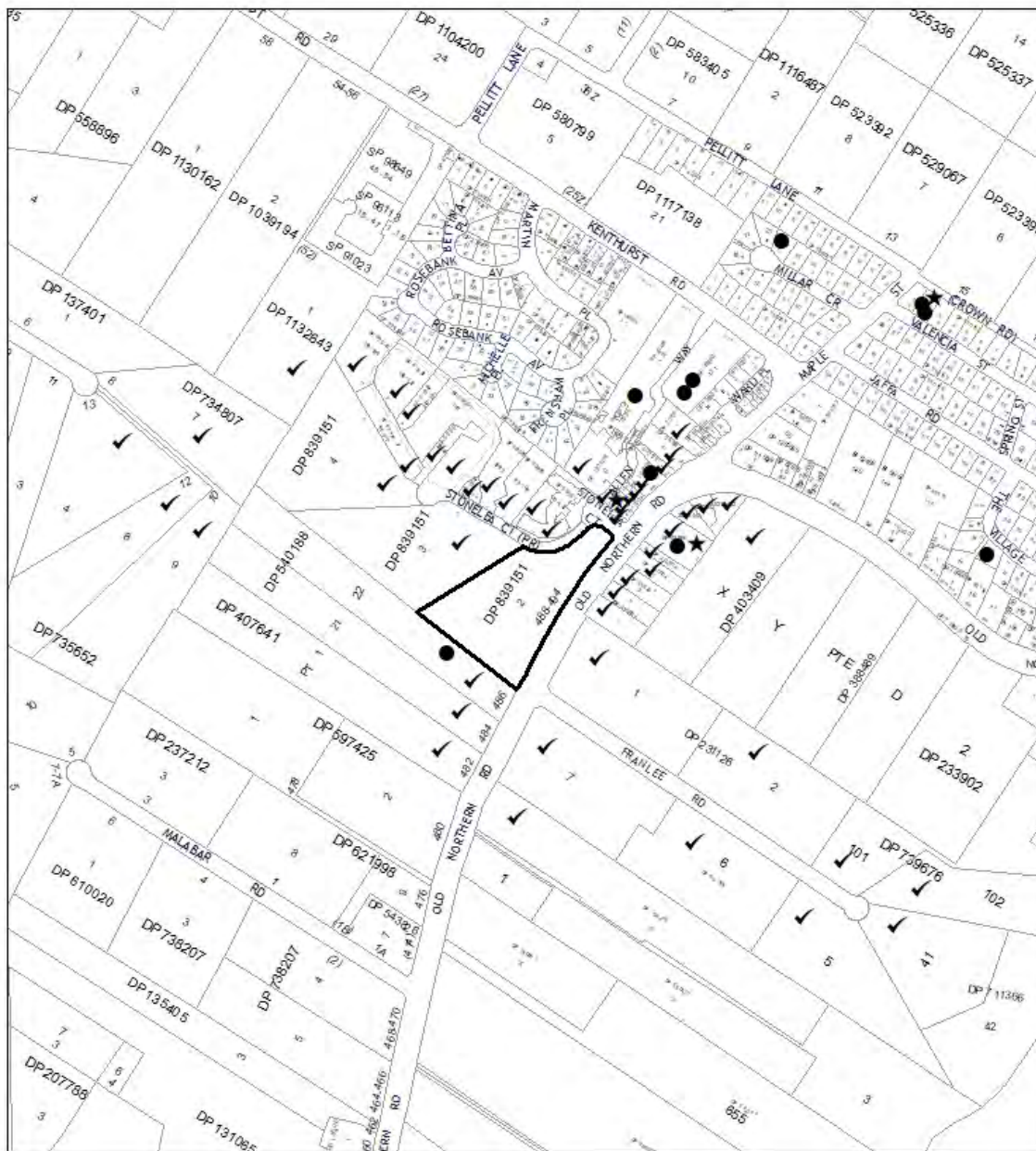
58.	Provision of Telecommunication Services
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	<p>Before the release of a Subdivision Certificate for a fibre-ready facility, written certification from a qualified installer must be submitted to the Principal Certifier confirming that the telecommunications infrastructure has been installed in accordance with the following requirements:</p> <ul style="list-style-type: none">a) The Telecommunications Act 19978 (Cth).b) The standard specifications of NBN Co current at the time of installation.c) All telecommunications infrastructure must be undergrounded. <p>The Telecommunications Act 19978 (Cth) specifies where the deployment of optical fibre and the installation of fibre-ready facilities is required. In all other cases (non-fibre ready facilities), either an agreement advice or network infrastructure letter must be issued by Telstra confirming satisfactory arrangements have been made for the provision of telecommunication services. This includes the undergrounding of existing overhead services, except where a specific written exemption has been granted by Council. A copy of the works as executed (WAE) plans for the telecommunications infrastructure must also be submitted.</p> <p>Condition reason: To ensure lots created are appropriately serviced by a relevant telecommunication services provider</p>
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ATTACHMENTS

1. Locality Plan
2. Aerial Photograph
3. LEP 2019 Zoning Map
4. LEP 2019 Height of Buildings Map
5. Proposed Plans
6. Photomontage
7. Transport for NSW Correspondence.


ATTACHMENT 1 – LOCALITY PLAN



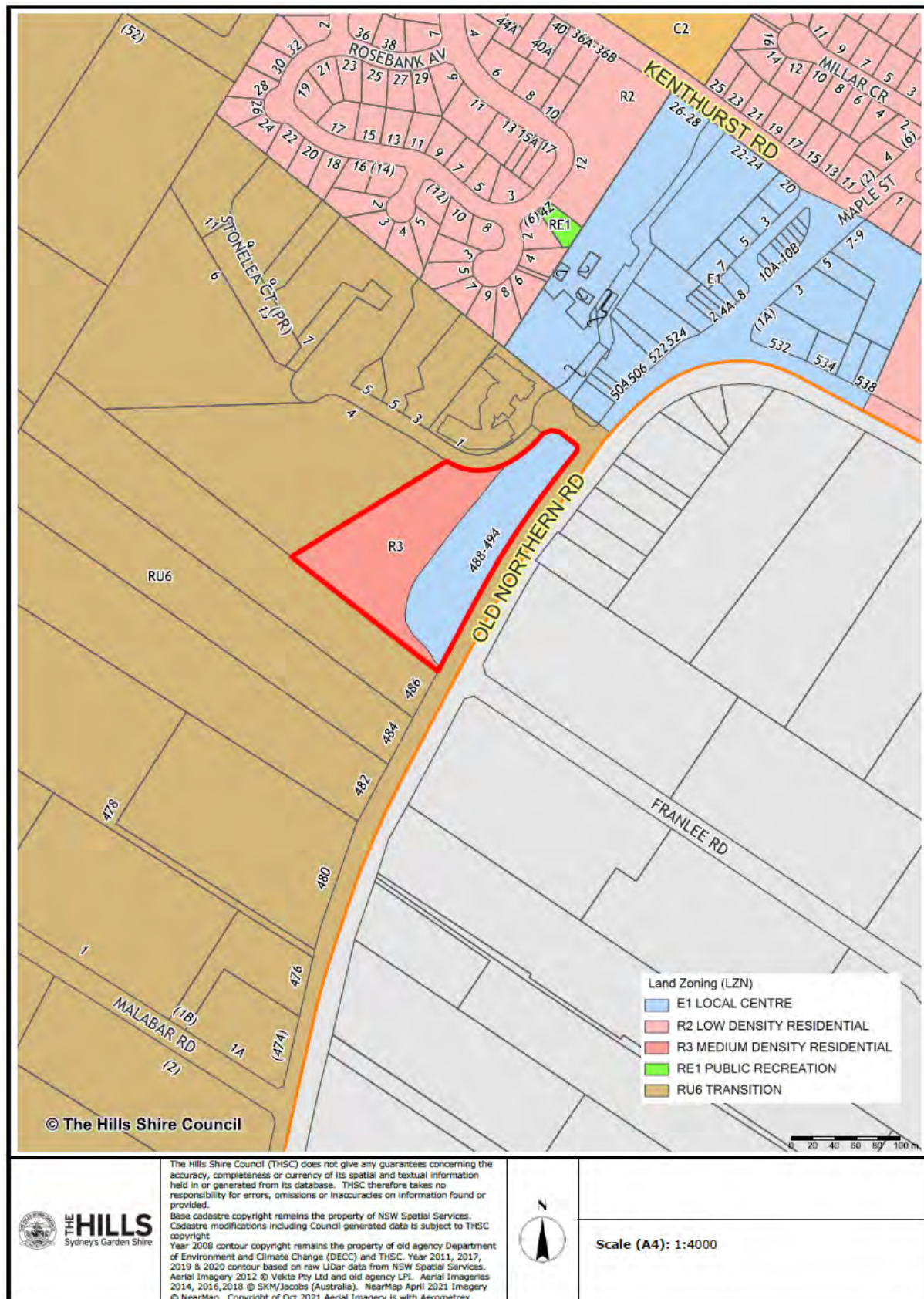
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| ✓ | PROPERTIES NOTIFIED | | |
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FIRST NOTIFICATION PERIOD | | SIX SUBMISSIONS RECEIVED
OUTSIDE SCOPE OF MAP |

ATTACHMENT 2 – AERIAL PHOTOGRAPH

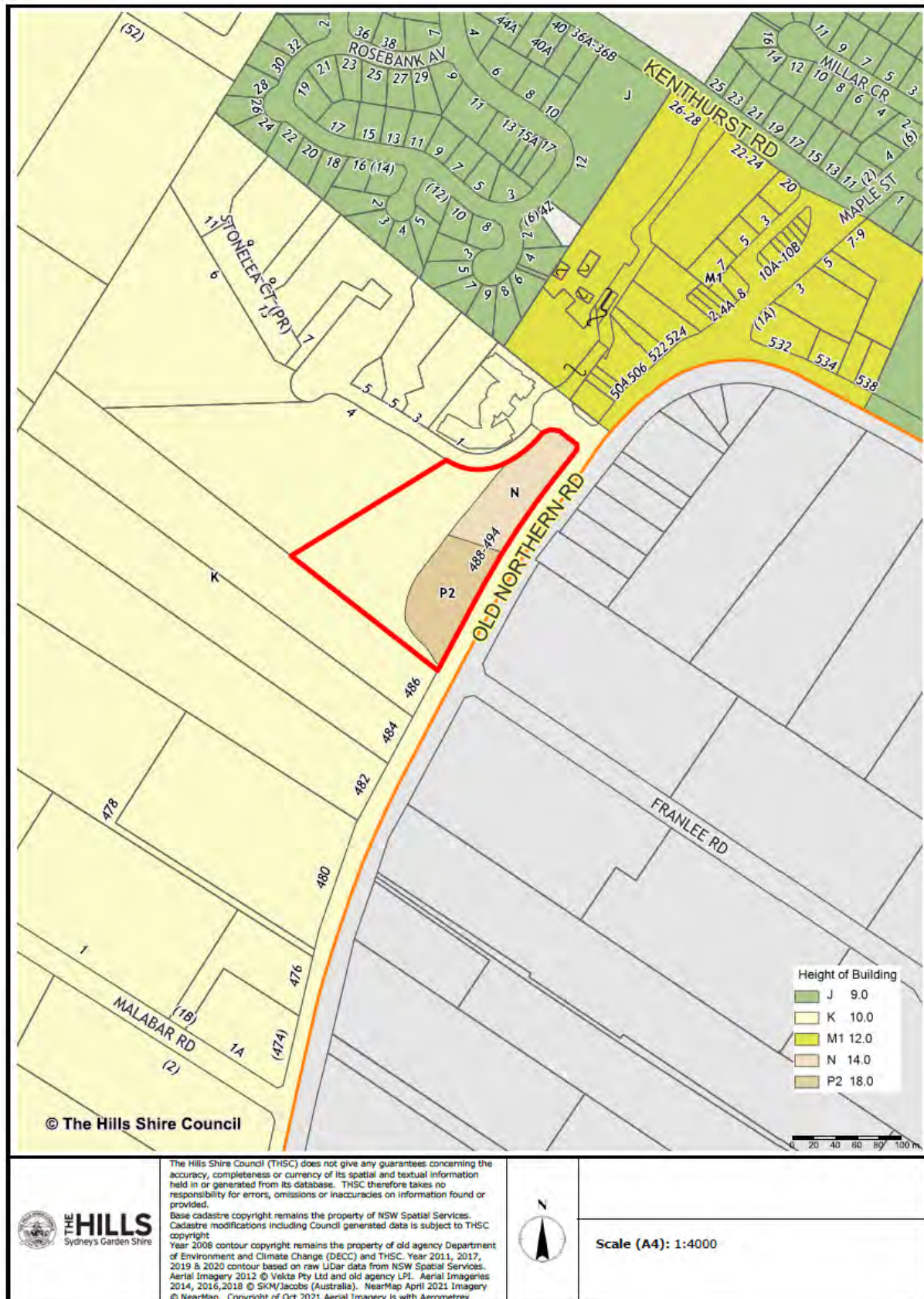


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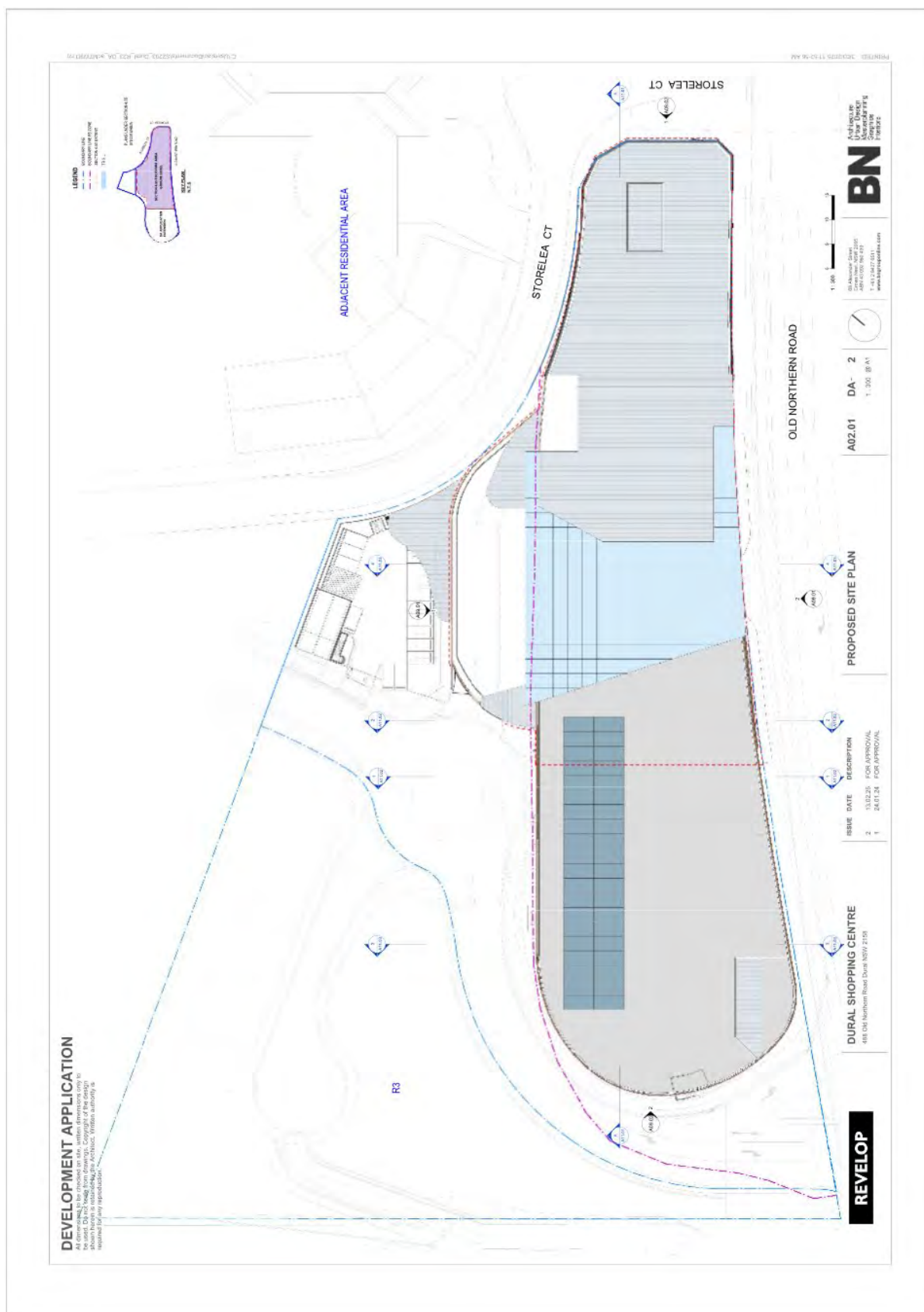
ATTACHMENT 3 – LEP 2019 ZONING MAP



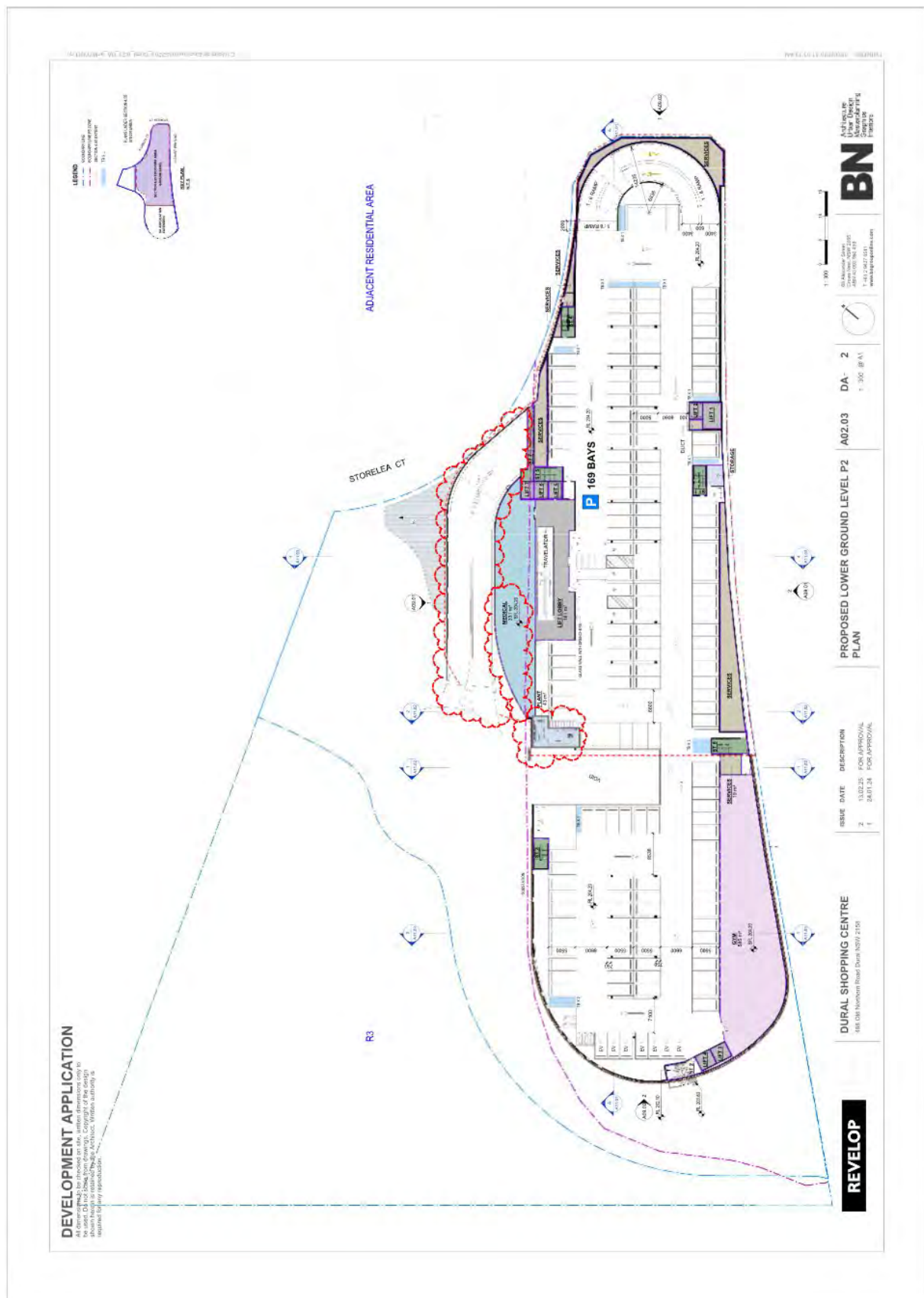
ATTACHMENT 4 – LEP 2019 HEIGHT OF BUILDINGS MAP



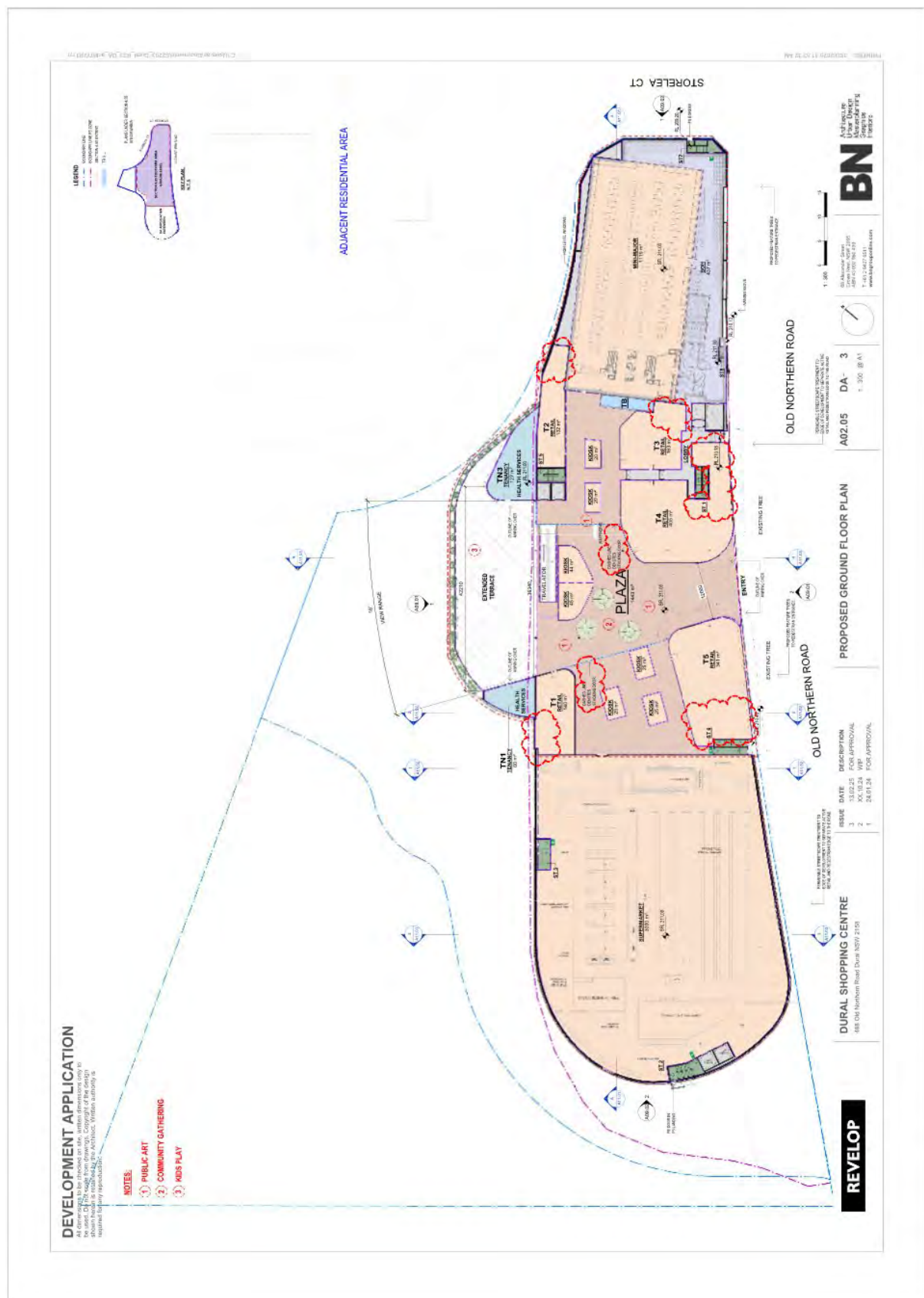
ATTACHMENT 5 – PROPOSED PLANS

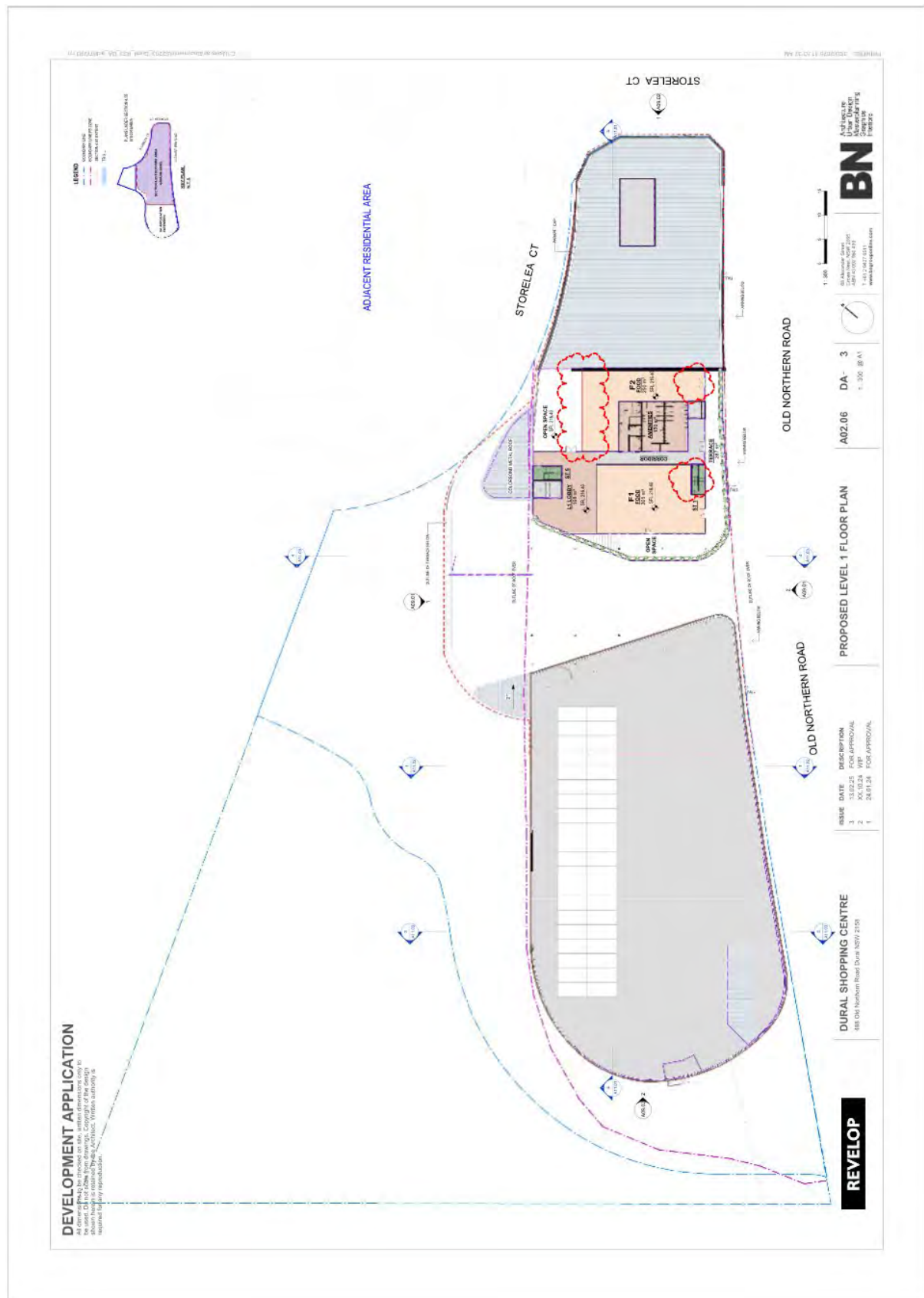




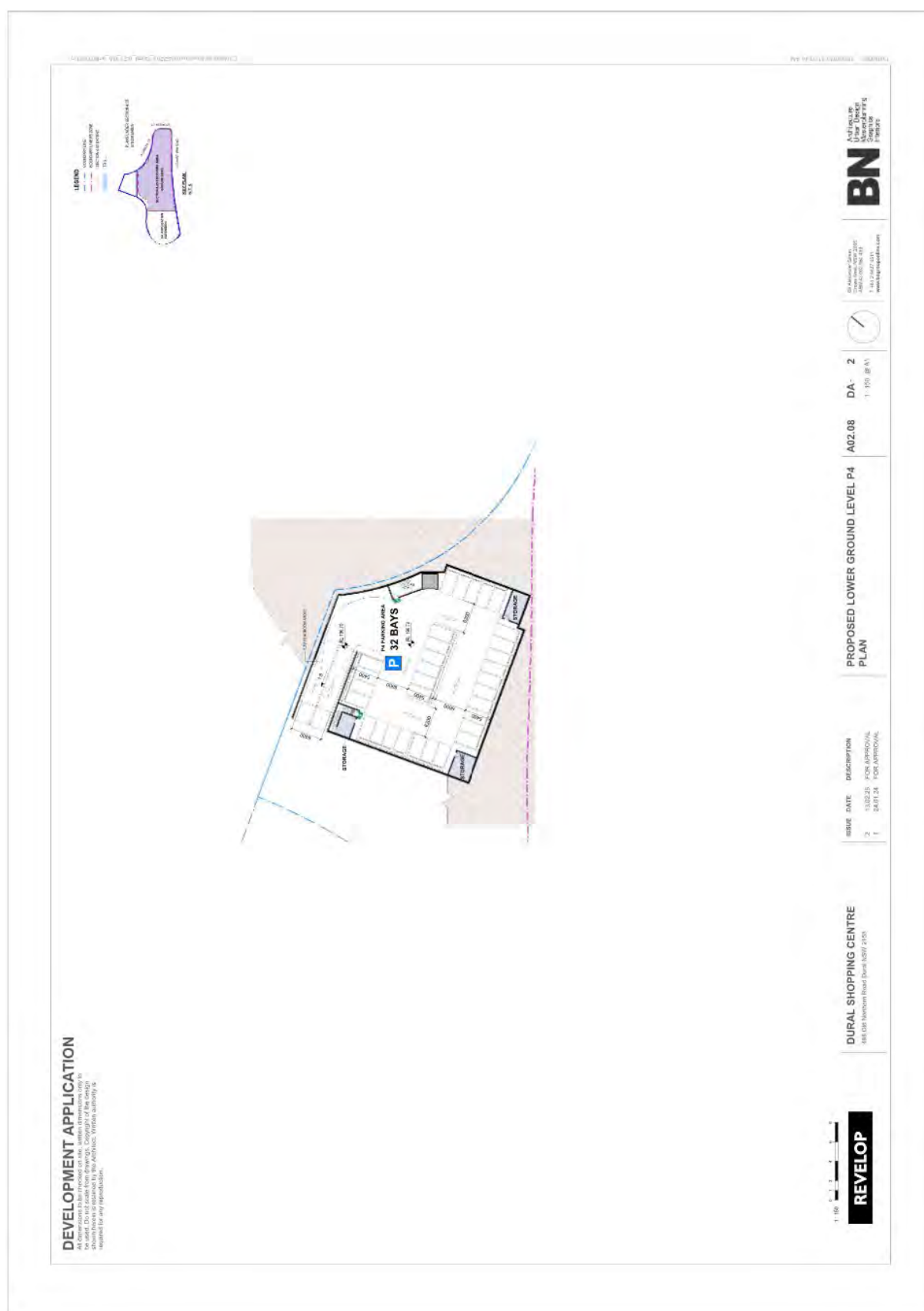


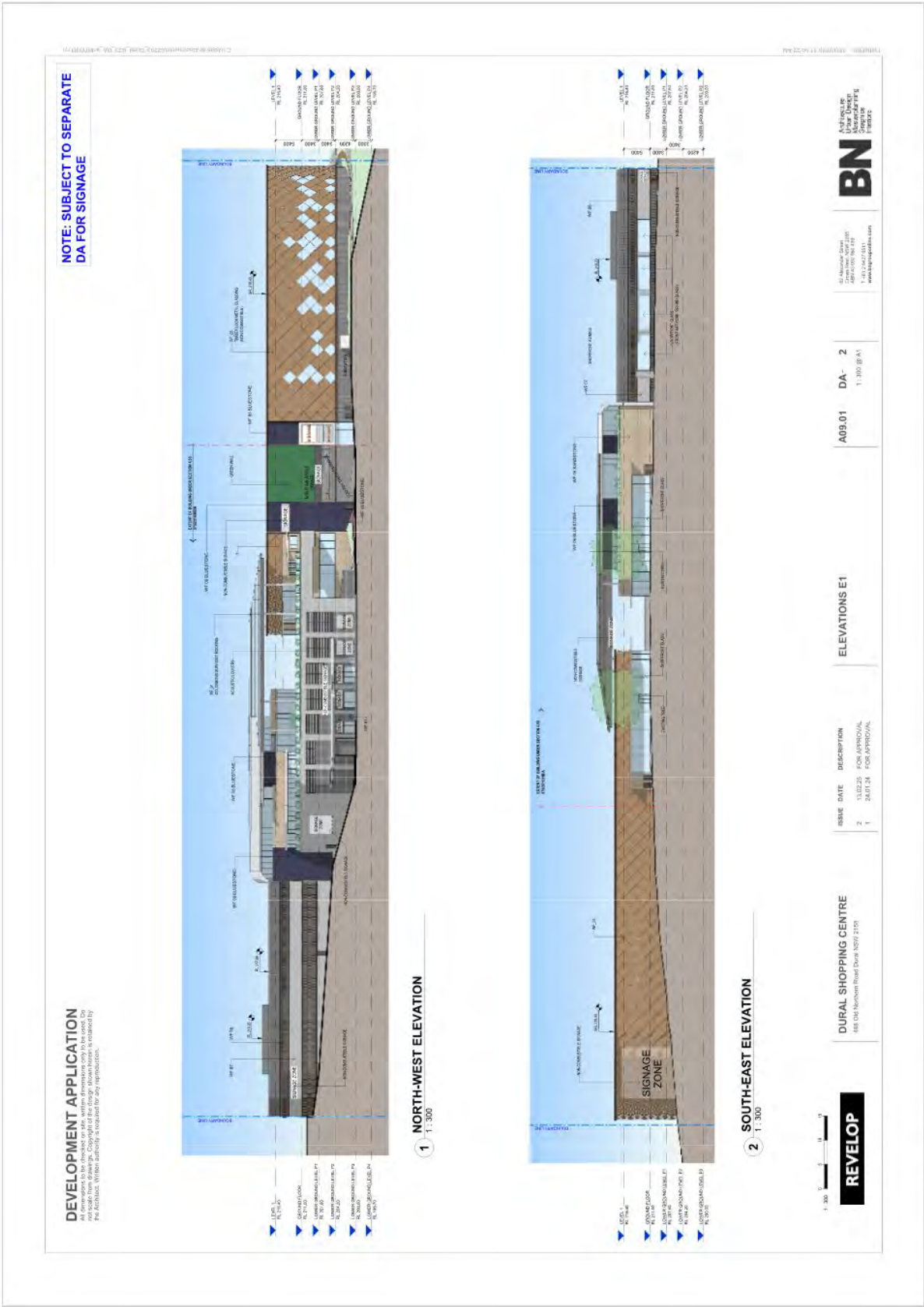


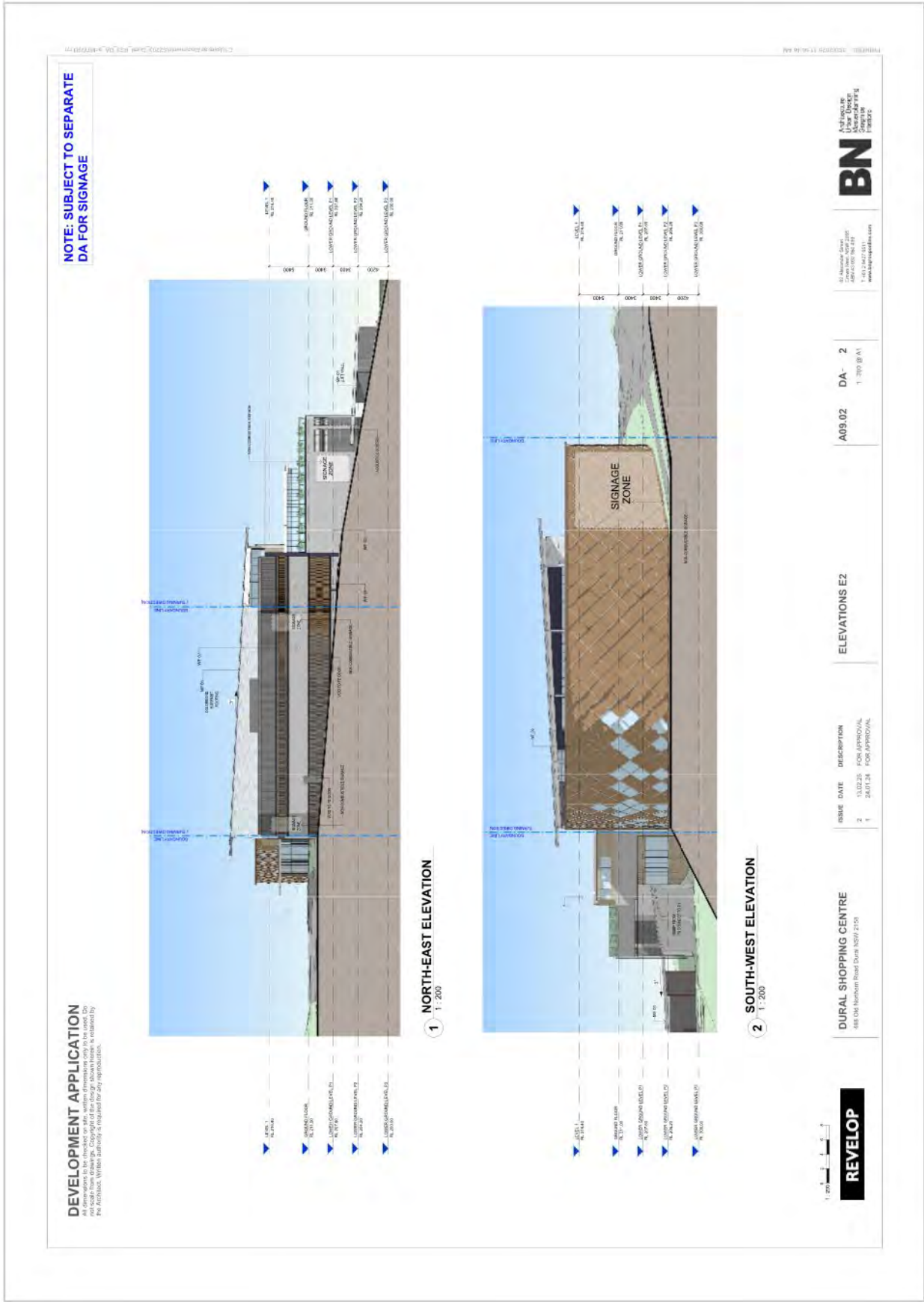












DEVELOPMENT APPLICATION

All dimensions to be checked or refer section dimensions only to be used. Do not scale drawings. All dimensions are given in metres unless otherwise stated by the Architect. Written authority is required for any reproduction.

NOTE: SUBJECT TO SEPARATE DA FOR SIGNAGE

1 NORTH-WEST ELEVATION - PART 1
1 : 200

2 NORTH-WEST ELEVATION - PART 2
1 : 200

DURAL SHOPPING CENTRE
488 Old Northern Road, Dural NSW 2158

REVISION	DATE	DESCRIPTION
2	13.02.25	FOR APPROVAL
1	24.07.24	FOR APPROVAL

ELEVATIONS E3

A09.03 DA - 2
1 : 250 @ A1

BN Architects Group Pty Ltd
Level 10, 100 George Street, Sydney NSW 2000
T +61 2 9427 1001
www.bnarchitectsgroup.com.au

DEVELOPMENT APPLICATION

Any use of the drawings for purposes other than those intended by the author is at the user's risk. The author accepts no liability for any errors or omissions. The user agrees to indemnify the author for any claims, damages, costs and expenses incurred by the author in connection with the use of the drawings.

NOTE: SUBJECT TO SEPARATE DA FOR SIGNAGE

1 SOUTH-EAST ELEVATION - PART 1
1:200

EXTENT OF BUILDING UNDER SECTION 4.5.5
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2 SOUTH-EAST ELEVATION - PART 2
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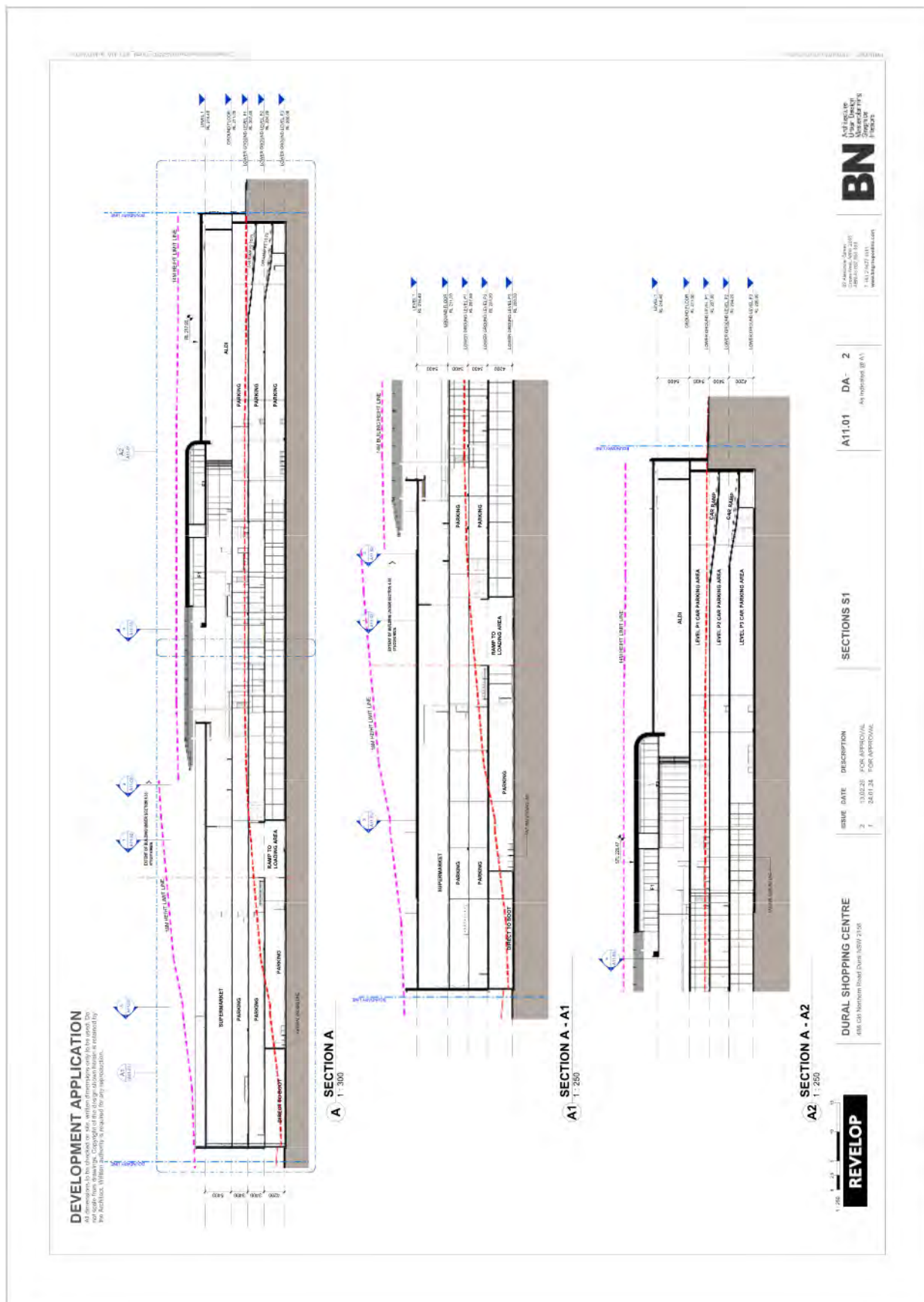
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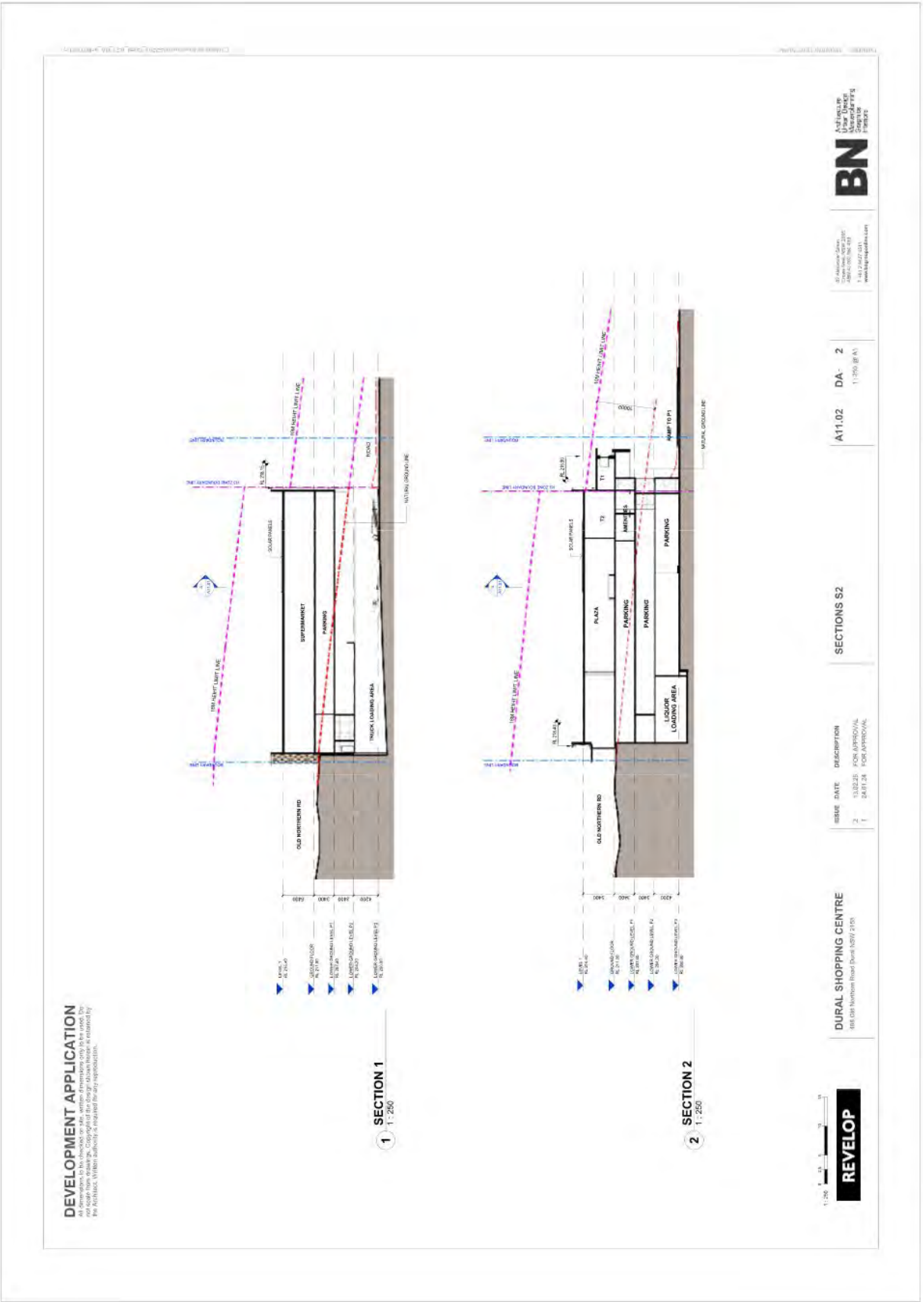
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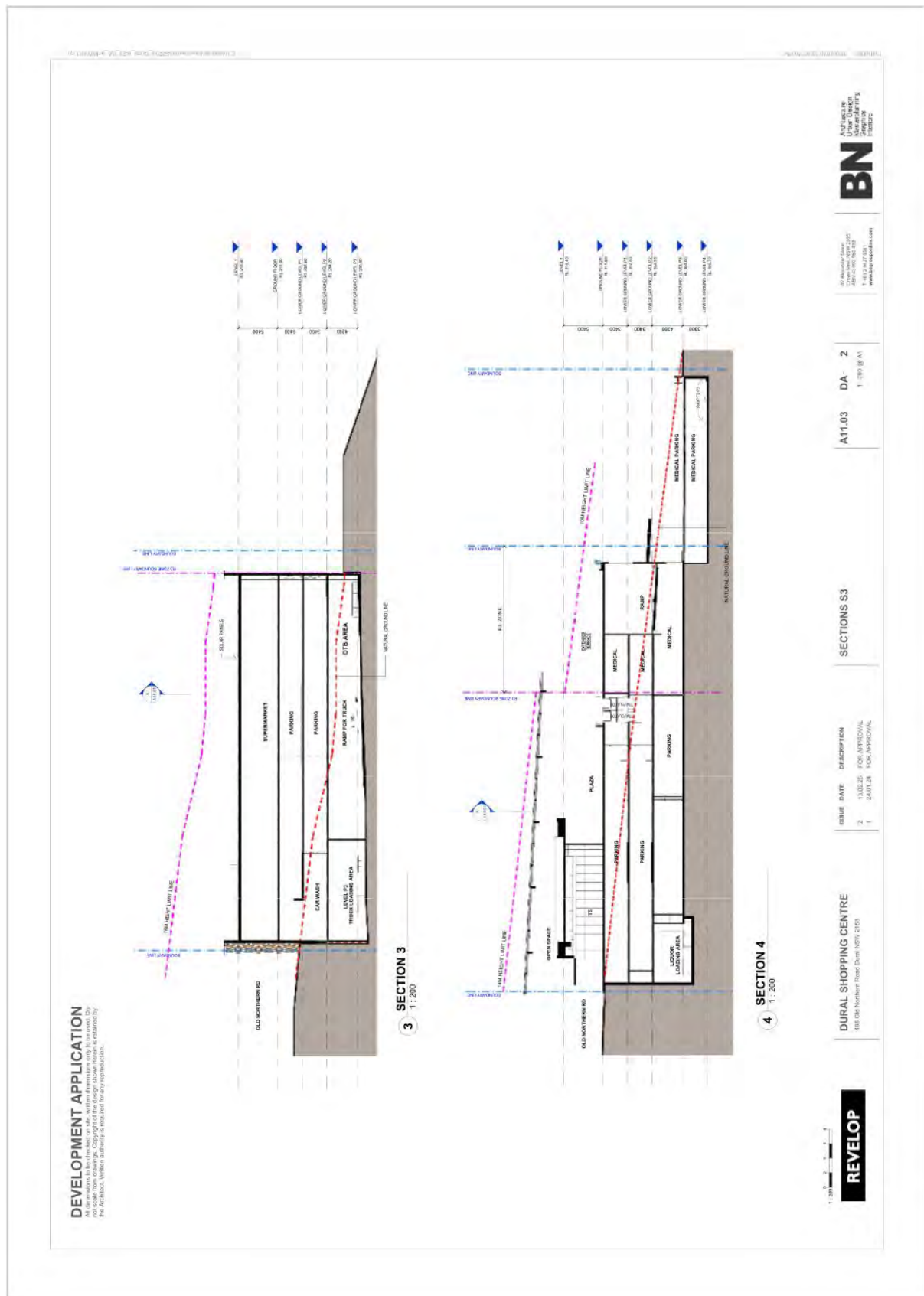
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DEVELOPMENT APPLICATION

Development application for the proposed construction of a new 1000sqm Dural Shopping Centre at 408 Old Northern Road, Dural NSW 2158. The application is for a change of use from residential to commercial. The development is located on a 1.2ha site. The proposed development is a single storey building with a flat roof. The development is proposed to be constructed on a 1.2ha site. The development is proposed to be constructed on a 1.2ha site. The development is proposed to be constructed on a 1.2ha site.

WF 01 DARK MATT BRICKS

WF 02 VARIATION OF LIGHT MATT BRICK

WF 03 TIMBER LOOK METAL CLADDING (NON-COMBUSTIBLE) (INDICATIVE REPRESENTATION IMAGE)

WF 04 DARK VERTICAL CLADDING

WF 05 SANDSTONE LOOK BLOCK

WF 06 BLUESTONE LOOK BLOCK

WF 07 TIMBER LOOK FASCIA TO AWNINGS

WF 08 PRESTO FACADE TILE SYSTEM

WF 09 DARK CAPPING TO PARAPET AND WALL BANDS

WF 10 DARK MATT GLAZING FRAMING

WF 01 DARK MATT BRICKS

WF 02 VARIATION OF LIGHT MATT BRICK

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WF 07 TIMBER LOOK FASCIA TO AWNINGS

WF 08 PRESTO FACADE TILE SYSTEM

WF 09 DARK CAPPING TO PARAPET AND WALL BANDS

WF 10 DARK MATT GLAZING FRAMING

DURAL SHOPPING CENTRE
408 Old Northern Road Dural NSW 2158

REVELOP

MATERIAL BOARD

DA - 2
1:200 @ A1

BN
Bentley & Neill
Architects
408 Old Northern Road
Dural NSW 2158
02 9610 1000
www.bentleyandneill.com.au

ATTACHMENT 6 – PHOTOMONTAGE



ATTACHMENT 7 – TRANSPORT FOR NSW CORRESPONDENCE

Transport for NSW

24 March 2025

TfNSW Reference: SYD24/00425/08
Council Reference: 1048/2024/HA (CNR-66055)

Mr Michael Edgar
General Manager
The Hills Shire Council
PO Box 7064
Baulkham Hills NSW 2153

**CONSTRUCT ADDITIONAL PARKING AREA, MEDICAL, RETAIL, GYM & REMOVAL OF THE RESIDENTIAL COMPONENT
488 OLD NORTHERN ROAD, DURAL**

Dear Edgar,

Reference is made to the Council's correspondence on 5 March 2025 regarding the abovementioned Development Application (DA), which was referred to Transport for NSW (TfNSW) for review and comment on the updated civil and design plans. TfNSW advises that:

- In accordance with the Planning Proposal, the Applicant required to construct traffic control signals (TCS) and associated road widening works in Old Northern Road and Franlee Road which requires TfNSW separate approval under section 87 (4) and section 138 of the *Roads Act 1993*.

As advised previously in TfNSW correspondence on 7 February 2025, the TCS layout (specifically in relation to the geometric layout) is to be designed to support a Double Diamond Operation (DDO). TfNSW have reviewed the proposed TCS plan and notes that split approach phasing for the intersection has been proposed.

TfNSW is unable to provide 'agreement-in-principle' with the current concept plan as a DDO instead of a split approach phasing is required to support future development and traffic growth in the Franlee Road area.

As the TCS and associated civil works require separate TfNSW approval under the *Roads Act, 1993* and the Applicant is required to enter a Works Authorisation Deed (WAD) with TfNSW that will involve providing a DDO, TfNSW would provide concurrence under section 138 of the *Roads Act, 1993* for the proposed civil works on the Old Northern Road, subject to the relevant Consent Authority approval and the following requirements included in any determination issued:

Roads Act approval for TCS and civil works on Old Northern Road

- Prior to the issuing of any construction certificate for building structures on the subject site, an Application shall be made to TfNSW under section 87 (4) of the *Roads Act 1993* for the Traffic Control Signals (TCS) at the intersection of Old Northern Road/ Franlee Road/Development access road.

The proposed TCS shall be designed to meet TfNSW requirements, including Double Diamond Operation, and shall be drawn by a suitably qualified person and endorsed by a suitably qualified practitioner.

The submitted design shall be in accordance with Austroads Guide to Road Design in association with relevant TfNSW supplements. The certified copies of the TCS design and civil design plans shall be submitted to TfNSW for consideration and approval prior to the release of a Construction Certificate and commencement of road works. Please send all documentation to development.sydney@transport.nsw.gov.au.

TfNSW fees for administration, plan checking, civil works inspections and project management shall be paid by the developer prior to the commencement of works.

The developer will be required to enter a Works Authorisation Deed (WAD) for the abovementioned works.

The proponent is required to dedicate land as public road for the maintenance of the Traffic Control Signals and associated infrastructure, further details will be included as part of the WAD process.

Construction Pedestrian and Traffic Management

- Prior to the issue of any construction certificate or any preparatory, demolition or excavation works whichever is the earlier, the applicant shall prepare a Construction Pedestrian and Traffic Management Plan (CPTMP) in consultation with TfNSW.

OFFICIAL

4 Parramatta Square, 12 Darcy Street, Parramatta NSW 2150
PO Box 973 Parramatta CBD NSW 2124

W transport.nsw.gov.au

In addition to the above, for the Applicant's consideration and Council's information, TfNSW provides design review comments in **TAB A** in relation the 20% concept design submitted that will need to be addressed prior to seeking formal separate approval under section 87 of the *Roads Act, 1993*.

For more information regarding the above matter, please contact Brett Morrison, Development Assessment Officer, via development.sydney@transport.nsw.gov.au.

Yours sincerely,



Brendan Pegg
Senior Manager Land Use Assessment Central and Western
Transport Planning, Planning Integration and Passenger Division

OFFICIAL

4 Parramatta Square, 12 Darcy Street, Parramatta NSW 2150
PO Box 973 Parramatta CBD NSW 2124

[W transport.nsw.gov.au](http://www.transport.nsw.gov.au)

2

TAB A – TfNSW design comments to be addressed

TfNSW provide the following design review comments on the 20% concept plan submitted that will need to be addressed by the Applicant and for Council's information:

- Easement for drainage at Ch 9180 not shown, please indicate the easement on the plans.
- Provide status of Road 2. If this is not a public road then an easement or perpetual protection for drainage discharge from the road reserve required. Undertakings not listed on title are not acceptable as they expire with change of ownership.
- TfNSW will not accept the ownership or maintenance of any assets within the road reserve that is required to support the development. TfNSW note that retaining walls are shown within road reserve and are of a height that would require Council to be the asset owner. Please provide details regarding the maintenance/asset agreement between the Applicant and Council.
- Provide landowners consent for the proposed retaining wall on the eastern side at Franlee Road that is to be moved onto private property not owned by the Applicant. As indicated above comment, Council will need to accept asset and maintenance responsibility for this wall.
- Barrier on retaining wall in "Typical Section F" should be assessed in accordance with Austroads Guide to Road Design Part 6 and AS 5100.1
- The bus bays should have the same crossfall as the road and delete the SO gutter crossing. This is to assist boarding passengers and deployment of bus wheelchair ramps; buses should lean towards the bus stop / footpath and avoid bumping across a dish drain for entry.

OFFICIAL

4 Parramatta Square, 12 Darcy Street, Parramatta NSW 2150
PO Box 973 Parramatta CBD NSW 2124

W transport.nsw.gov.au

3

ITEM - 3

**DA 1121/2023/HA – RESIDENTIAL FLAT BUILDING
DEVELOPMENT CONTAINING 108 UNITS ON PROPOSED
LOT 39 IN A SUBDIVISION OF LOTS 69A AND 70 DP
11104 PURSUANT TO DEVELOPMENT APPLICATION
763/2023/ZA - 23-25 MASON ROAD, 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:

18 JUNE 2024

LOCAL PLANNING PANEL

AUTHOR:

SENIOR TOWN PLANNER
AMANDA HAWKINS

RESPONSIBLE OFFICER:

COI DECLARATION None declared

MANAGER – DEVELOPMENT ASSESSMENT
PAUL OSBORNE

COI DECLARATION None declared

Applicant	Doroch Architects Pty Ltd
Consultant	Architect: Doroch Architects Landscape Architect: A Total Concept Civil Engineering: Sky Engineers and Project Management BASIX: SLR Consulting Quantity Surveyors: Archi-QS Pty Ltd Traffic and Parking Assessment: Varga traffic Planning Pty Ltd Arborist / Tree Report: Monaco Designs Pty Ltd Waste Management: BRP Consulting Access Report: Vista Access Architects BCA Report: 360 Certification (Mosman Certifiers Pty Ltd) Acoustic Report: Acoustic Logic
Notification	14 days
Number Advised	8
Number of Submissions	Nil
Zoning	R4 High Density Residential
Site Area	5,455m ²
List of all relevant s4.15(1)(a) matters	Section 4.15 (EP&A Act) – Satisfactory. State Environmental Planning Policy 65 – Design Quality of Residential Apartment Development – Satisfactory. SEPP (Precincts – Central River City) 2021 – Variation, see report.

	State Environmental Planning Policy (Resilience and Hazards) 2021 – Satisfactory State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004 – Satisfactory State Environmental Planning Policy (Biodiversity and Conservation) 2021 – Satisfactory Box Hill Growth Centre Precincts Development Control Plan 2018 – Variation, see report. Section 7.11 Contribution: \$4,856.814.28
Political Donation	None Disclosed
Reason for Referral to LPP	Sensitive development – Development to which SEPP (Housing) 2021, Chapter 4 (Design of residential apartment) applies and is 4 or more storeys in height - Item 4(b) in Schedule 2 of the Local Planning Panels Direction – Development Applications and Applications to Modify Development Consents dated 6 March 2024
Recommendation	Deferred Commencement approval subject to conditions

EXECUTIVE SUMMARY

The proposal is for the construction of a six-storey Residential Flat Building containing 108 apartment units with basement parking containing 163 spaces. Vehicular access to the development is provided from a new local road (Tucana Road) along the southern boundary of Proposed Lot 39.

The development is proposed to be constructed on Proposed Lot 39 of Subdivision Development Application 763/2023/ZA which is currently under assessment (see Attachment No. 5 – Proposed Plan of Subdivision). The subdivision application includes 36 residential lots, three residue lots, construction and dedication of two new roads (Tucana and Aries Way), one new half road (Aurora Street), dam dewatering and onsite stormwater detention (OSD). Deferred commencement is recommended to ensure the approval of the preceding subdivision development application occurs as it creates the lot upon which the development is proposed. The onsite stormwater detention system included in the Subdivision Development Application (see Attachment No. 6) will remain in place to manage stormwater until construction of the regional basin is completed. A condition of consent is recommended that the registration of the preceding subdivision must occur prior to a Construction Certificate being issued (see Condition No. 45) to ensure that adequate stormwater infrastructure is in place before construction begins. A title restriction is also recommended (see Condition No. 95).

The proposed development is permissible in the R4 High Density Zone and has been assessed against the relevant provisions of State Environmental Planning Policy (Resilience and Hazards) 2021, State Environmental Planning Policy (BASIX) 2004, State Environmental Planning Policy (Precincts – Central River City) 2021, State Environmental Planning Policy (Biodiversity and Conservation) 2021, SEPP 65 – Design Quality of Residential Apartment Development (as the DA was lodged prior to 14 December 2023) and the Box Hill Growth Centres Precinct Development Control Plan 2018.

The application is accompanied by a request to vary the Clause 4.3 Height of Buildings development standard pursuant to Clause 4.6 of State Environmental Planning Policy (Precincts – Central River City) 2021. The proposal seeks consent for a maximum building height of 23.05 metres (for the fire stairs and unit 506), which represents a 9.7% variation. The applicant has submitted sufficient information to demonstrate that compliance with the development standard is unreasonable and unnecessary in this instance, and that there are sufficient environmental

planning grounds that warrant contravention of the standard. The accompanying Clause 4.6 request to vary a development standard is considered to be well-founded and the variation to building height acceptable as the impacts of the development including overshadowing and visual impact can be managed and mitigated within the site.

The proposal has also been assessed against the provisions of the Box Hill Growth Centre Precincts Development Control Plan 2018 and satisfies the controls with the exception of site cover/ landscaped area, rear setback and separation between the buildings. The variations are considered acceptable as the non-compliances will not result in adverse amenity impacts either within the site or to the adjoining properties.

The application was notified from 19 January 2023 to 9 February 2023, and no submissions were received.

Approval is recommended subject to conditions, including a Deferred Commencement condition to ensure the approval of the preceding subdivision development application occurs as it creates the lot upon which the development is proposed.

BACKGROUND

On 24 August 2022, the demolition of all existing structures on both sites was approved under Development Consent 222/2023/LA.

Subdivision Development Application 763/2023/ZA was lodged on 27 October 2022. The application is currently under assessment.

On 13 January 2023, the subject Development Application was lodged for a Residential Flat Building containing 108 units with basement parking. The application was notified from 17 January 2023 to 7 February 2023, with no submissions received.

On 2 February 2023, a letter was sent to the applicant requesting additional information and amendments relating to orderly development, site servicing, building height, detail on the plans, landscaping, property numbering.

Additional information and amended plans were submitted on 6 March 2023.

A further request for information was made on 21 March 2023 with regard to waste management. An amended ground floor plan and waste management documentation were submitted in response on 12 April 2023.

A further request for information was made on 10 August 2023 with regard to unit typology, car parking and vehicle movements, the proposed easement for drainage, stormwater management and landscaping.

Additional information and amended plans were submitted on 2 November 2023.

On 15 February 2024, the applicant sent an email advising that they were no longer proceeding with the purchase of the subject site and that further instructions will be given by the owners with regard to the DA.

In June 2024, the applicant of the DA was changed from UPG Pty Ltd to the current applicant.

An extension of time was granted to allow the new applicant time to review the history of the DA and either obtain consent to utilise the existing plans and documentation from their respective authors or draft new plans and documents.

On 26 June 2024, consent was provided by the authors of several reports for the new applicant to continue using them for this DA. However, no consent for the use of the architectural, landscape or civil plans was submitted.

On 27 June 2024, a letter was sent to the applicant requesting additional information and amendments with regard to car parking and vehicle movements, the proposed easement for drainage and stormwater management design submitted by the previous applicant. A letter was received in response from the civil consultant on 9 August 2024.

On 27 August 2024, a partial set of architectural plans, amended landscape plans, civil plans and associated reports were submitted.

A letter was sent to the applicant on 16 October 2024 requesting additional information and amendments relating to planning matters, engineering matters and landscaping. A full set of architectural plans and an updated cost of development were included in the request.

A partial response was received on 18 November 2024. A complete, consolidated, response was submitted on 3 December 2024. Included was an updated Quantity Surveyors Report which amended the cost of the development from \$27,792,485 to \$49,659,385. Correspondence was received from the Department of Planning, Housing and Infrastructure on 16 December 2024 in this regard advising that the estimated development cost of a proposal at the time of lodgement was what determines whether or not an application should go to the Sydney Central City Planning Panel and that any fluctuations after that time do not change the determining authority.

A letter was sent to the applicant on 19 February 2025 with regard to stormwater management and landscaping.

Amended plans were submitted on 21 March 2025.

PROPOSAL

The Development Application seeks consent for the construction of a six storey residential flat building development containing 108 units and basement car parking.

The overall development includes:

- 7 x 1 bedroom units
- 36 x 2 bedroom units
- 63 x 3 bedroom units
- 2 x 4 bedroom units

A total of 163 car parking spaces are proposed for the development, including:

- 79 spaces on Basement 2
- 62 spaces on Basement 1; and
- 22 spaces at ground level (partial basement)

Vehicular access to the development is provided from a new local road (Tucana Road) along the southern boundary of Proposed Lot 39.

The development is proposed to be constructed on Proposed Lot 39 of Subdivision Development Application 763/2023/ZA which is currently under assessment. The subdivision

application includes 36 residential lots and three residue lots, construction and dedication of two new roads (Tucana and Aries Way), one new half road (Aurora Street), dam dewatering and onsite stormwater detention. The onsite stormwater detention system will remain in place to manage stormwater until construction of the regional basin is completed.

ISSUES FOR CONSIDERATION

1. State Environmental Planning Policy (Planning Systems) 2021

Part 2.4 and Schedule 6 of SEPP (Planning Systems) 2021 provides the following referral requirements to a Joint Regional Planning Panel:-

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

When the Development Application was lodged, the proposed development had a total development cost of \$27,792,485 and therefore was not required to be referred to, or determined by, a Regional Planning Panel.

When the applicant changed in June 2024, an amended Quantity Surveyors Report was submitted, increasing the total development cost to \$49,659,385.

Correspondence was received from the Department of Planning, Housing and Infrastructure on 16 December 2024 advising that the estimated development cost of a proposal at the time of lodgement was what determines whether or not an application should go to the Sydney Central City Planning Panel and that any fluctuations after that time do not change the determining authority.

As a result, the application was not referred to the Sydney Central City Planning Panel for determination.

2. State Environmental Planning Policy (Precincts - Central River City) 2021

a. Permissibility

The land is zoned R4 High Density Residential under State Environmental Planning Policy (Precincts – Central River City) 2021. The proposed development is defined as a residential flat building.

“residential flat building means a building containing 3 or more dwellings, but does not include an attached dwelling, a manor home or multi dwelling housing.”

Residential flat buildings are permitted in the R4 High Density Residential zone.

In view of the above, the proposed development satisfies the provisions for permissibility with respect to the SEPP.

b. Zone Objectives

The site is zoned R4 High Density Residential under the SEPP. The objectives of the R4 zone are:

- *To provide for the housing needs of the community within a high density residential environment.*
- *To provide a variety of housing types within a high density residential environment.*

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

The proposed development is consistent with the objectives of the R4 High Density Residential zone as it provides a range of unit types (1, 2, 3 and 4 bedroom dwellings) to meet the housing needs of the community, within an environment that is envisaged to be characterised by high density residential dwellings such as residential flat buildings.

In view of the above, it is considered that the development application satisfies the R4 High Density Residential zone objectives under SEPP (Precincts) 2021.

c. Development Standards

The following table addresses the principal development standards of the SEPP.

Residential Flat Building

CLAUSE	REQUIRED	PROVIDED	COMPLIES
4.1A Minimum lot sizes for development	Residential Flat buildings – 1,000m ²	Parent Lots: 24,910m ² Proposed Lot 39: 5,455m ²	Yes
4.1B Residential Density	Minimum residential density – 30 dwellings per hectare	198 dwellings per hectare	Yes
4.3 Height of buildings	21 metres	23.05m 9.7%	No, refer to discussion below.
4.4 Floor space ratio	2:1	GFA: 11,676m ² Lot size: 6,366m ² . (including half road construction) Proposed FSR: 1.84:1	Yes

d. Clause 6.1 Public Utility Infrastructure

Clause 6.1 states that development consent must not be granted unless Council is satisfied that any public utility infrastructure (water, electricity and sewage) that is essential for the proposed development is available or that adequate arrangements have been made to make that infrastructure available when required.

The applicant was requested to submit evidence that the proposed development could be serviced appropriately by Sydney Water and Endeavour Energy in order to satisfy Clause 6.1 Public Utility Infrastructure of the SEPP.

The applicant engaged the services of a Level 3 ASP who provided written confirmation of the approximate electrical load required to supply the development and advice that a new padmount substation would be provided in a location that serviced this proposed lot as well as No. 25 Mason Road.

The applicant also engaged the services of an accredited water service coordinator who provided written confirmation that the site has no direct frontage to a water main and that a

water main extension will be required either along Mason Road, or via adjoining land as it is developed. The letter also stated that Sydney Water has issued a Potable Water Scheme plan for this area and that any proposed development on this site will require a Section 73 application to be made.

Therefore, sufficient information has been provided to demonstrate compliance with Clause 6.1 – Public Utility Infrastructure of the SEPP. Conditions of consent will be imposed requiring that service utility infrastructure is suitably arranged prior to the release of a Construction Certificate.

e. Variation to Building Height

Clause 4.6 Exceptions to Development Standards states:

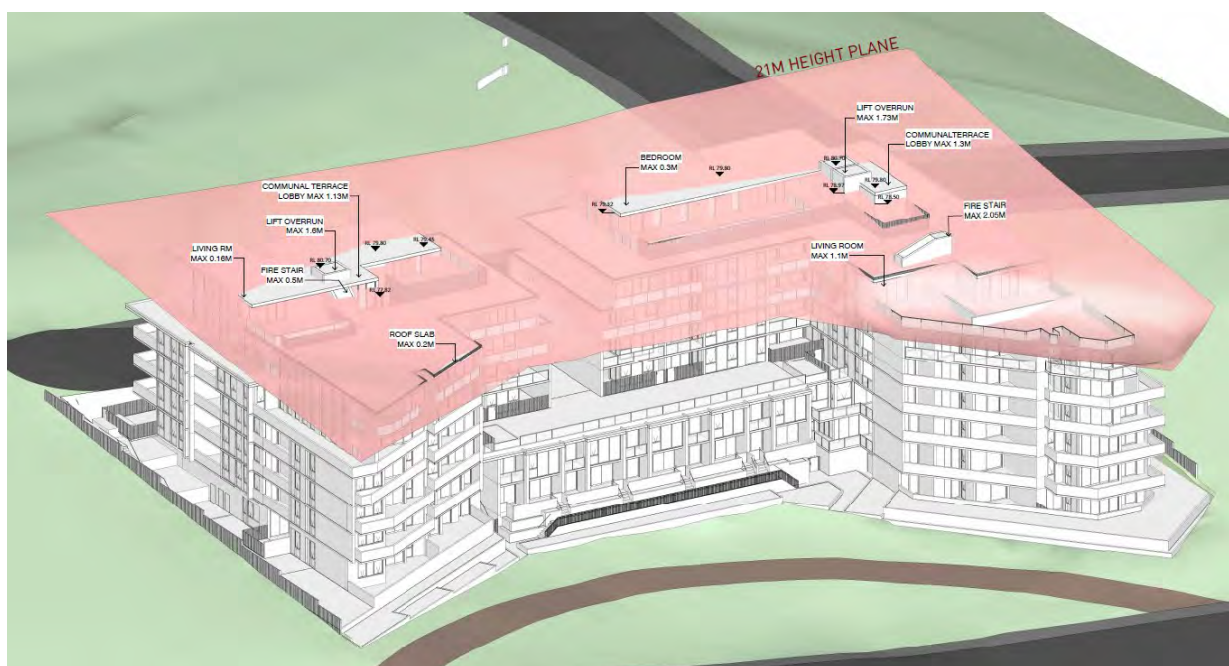
- (1) *The objectives of this section are as follows—*
 - (a) *to provide an appropriate degree of flexibility in applying certain development standards to particular development,*
 - (b) *to achieve better outcomes for and from development by allowing flexibility in particular circumstances.*
- (2)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

Note—
The [Environmental Planning and Assessment Regulation 2021](#) requires the development application to be accompanied by a document setting out the grounds on which the applicant seeks to demonstrate the matters in paragraphs (a) and (b).
- (4) *The consent authority must keep a record of its assessment carried out under subsection (3).*
- (5) *(Repealed)*
- (6) *Development consent must not be granted under this section for a subdivision of land in Zone E2 Environmental Conservation if—*
 - (a) *the subdivision will result in 2 or more lots of less than the minimum area specified for such lots by a development standard, or*
 - (b) *the subdivision will result in at least one lot that is less than 90% of the minimum area specified for such a lot by a development standard.*
- (7) *(Repealed)*
- (8) *This section does not allow development consent to be granted for development that would contravene any of the following—*
 - a) *a development standard for complying development,*

- b) a development standard that arises, under the regulations under the Act, in connection with a commitment set out in a BASIX certificate for a building to which [State Environmental Planning Policy \(Building Sustainability Index: BASIX\) 2004](#) applies or for the land on which such a building is situated,
- c) section 5.4.

Clause 4.3 – Height of buildings of Appendix 11 – The Hills Growth Centre Precinct Plan prescribes a maximum height of 21 metres for the land zoned R4 High Density Residential on which the residential flat building is proposed.

The residential flat building proposes a maximum height of 23.05 metres to the fire stairs resulting in a maximum variation of 9.7% as illustrated in the Building Height Plane diagram below:



Building Height Plane – Residential Flat Building

The applicant has submitted a detailed justification pursuant to Clause 4.6 – Exceptions to development standards and is summarised as follows:

- The height breaches are limited to relatively minor parts of the buildings, predominately recessed into the building away from the peripheries which are not highly perceptible when viewed from the public and or private domain interfaces.
- The height non-compliances are in part, are a result of the topography of the site. Despite the minor height breaches, the proposed building has been designed in a manner that responds to the sites varying topography.
- The non-compliances do not create any significant or unreasonable amenity impact on any adjoining properties. In this regard, the additional overshadowing, privacy or view impacts associated with the breach would not be significantly different when compared to that of a height compliant scheme.
- Elements of the height breach provide for access to communal areas which are deemed are positive planning outcome given that it will result in an enhancement of resident amenity.
- The proposed development achieves the Objects in Section 1.3 of the EP&A Act. Specifically, the proposed development promotes good design and amenity of the built

environment through a well-considered design which is responsive to its setting and context (1.3)(g).

- There is no planning purpose to be served by limiting the height strictly to the maximum height allowable given the site constraints and absence of unreasonable levels of amenity related impacts.

Comment:

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

- a) to establish the maximum height of buildings on land within the Box Hill Precinct or Box Hill Industrial Precinct,*
- b) to minimise visual impact and protect the amenity of adjoining development and land in terms of solar access to buildings and open space,*
- c) to facilitate higher density development in and around commercial centres and major transport routes.*

The objectives of Clause 4.6 Exceptions to Development Standards are as follows:

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

The objectives of the R4 High Density Residential zone are as follows:

- *To provide for the housing needs of the community within a high density residential environment.*
- *To provide a variety of housing types within a high density residential environment.*
- *To enable other land uses that provide facilities or services to meet the day to day needs of residents.*

The proposed variation to the height standards has been reviewed with regard to the objectives of the applicable standards and of the R4 High Density Residential zone, the suitability of the development in its context and the impact of its bulk and scale on the surrounding land.

As shown on the building height plane diagram, the extent of the proposed building height variation is confined to minor rooftop elements, and the majority of the proposed development including all internal habitable floor space and the rooftop itself is under the 21 metre height limit. The development provides for a 6 storey residential flat building which is in accordance with the scale of the development envisaged by the planning controls.

Similar variations were approved on the following nearby and adjoining lots:

- No. 29 Mason Road (Development Consent No. 79/2017/JP) where the lift overrun, roof and parapet exceeded the maximum building height by 1.86 metres (8.9%), 400mm and 600mm respectively; and
- Lot 100 DP 1304344 (LEC Judgement 2018/33097) where the north east corner of the building exceeded the maximum building height by 1.8 metres (8.6%).

With regard to the objectives of Clause 4.3, the visual impact of the proposed maximum 2.05m height non-compliance is considered minimal and acceptable within the context of the site. The fire stairs are necessary to allow occupants to safely exit the building in the case of an emergency. It is considered that the proposal responds appropriately to the topography of the site and the development incorporates a variety of finishes/colours and will result in an appropriate urban outcome. The proposed variation does not result in any adverse amenity impacts such as loss of privacy or solar access, and will not result in a detrimental impact on

the streetscape. The development, as proposed, will be compatible with the built form on adjoining land, and the future Mason Road streetscape.

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

- The applicant's request is well founded;
- The proposed variation results in a development that is consistent with the objectives of Clause 4.3 Height of Buildings and the objectives of the R4 High Density Residential zone;
- Compliance with the standard is unnecessary or unreasonable in this instance; and
- There are sufficient environmental planning grounds to justify contravening the standard.

Accordingly, the proposed height is considered satisfactory and can be supported in this instance.

3. State Environmental Planning Policy (SEPP) No. 65 – Design Quality of Residential Apartment Development and Apartment Design Guidelines

Note:

SEPP 65 has been repealed since this application was lodged and a new Chapter 4 inserted into the Housing SEPP, entitled 'Design of Residential Apartment Development'. However, the new chapter does not apply to Developments applications lodged prior to 14 December 2023. As a result, the application has been reviewed against the provisions of SEPP 65 and the Apartment Design Guidelines.

A Design Verification Statement prepared by PTW (Simon Parsons, Registered Architect No. 6098) with regard to the provisions of SEPP 65 was submitted with the application.

The proposed residential flat building has been assessed against the provisions of the Apartment Design Guidelines (ADG) as outlined below:

Clause	Design Criteria	Compliance
Part 3 - Siting the development		
3D - Communal open space	25% of the site With 50% of the area achieving a minimum of 50% direct sunlight for 2 hours midwinter.	Yes, 1,722m ² (27%) 50% = 861m ² Communal open space is provided on Basement 1, Ground Level, Level 1, Level 2 (terrace) as well as two areas totalling 569m ² on Level 6.
3E - Deep Soil Zone	7% of site area. On some sites it may be possible to provide a larger deep soil zone, being 10% for sites with an area of 650-1500m ² and 15% for sites greater than 1500m ² .	Yes, 1029m ² (16%)
3F - Separation	Minimum separation distances from buildings to the side and rear boundaries are as follows:	<u>Side Boundaries</u> (East & West):

Building height	Habitable rooms and balconies	Non-habitable rooms
up to 12m (4 storeys)	6m	3m
up to 25m (5-8 storeys)	9m	4.5m
over 25m (9+ storeys)	12m	6m

Non-Habitable Rooms:

a space of a specialised nature not occupied frequently or for extended periods, including a bathroom, laundry, water closet, pantry, walk-in wardrobe, corridor, hallway, lobby, photographic darkroom or clothes-drying room, as defined by the BCA.

Basement 1 Units (West side only): 6m

Ground Floor:

6m to wall

3m to 4 x balconies

Level 1:

6m to wall

3m to 1 x balcony

Levels 2-4:

6m

Levels 5 & 6:

9m

Rear Boundary (North):

Basement 1 Units:

6m to wall

4.5m to 2 x balconies

Ground Floor:

6m to walls

4.5m to 7 x balconies

Level 1:

6m to wall

4.5m to 2 x balconies

Level 2:

6m to wall

4.5m to 1 x balcony

Levels 3 & 4:

6m

Level 5:

2 units less than 9m

6m to all balconies

Level 6:

6m to COS

Units and balconies comply.

Note:

The rear setback of Level 5 is only set back 6m from the rear boundary however the setback complies with Table 19 of the DCP as detailed below.

		Note: the setback controls in the DCP take precedence where there is an inconsistency.
3F – Separation between buildings on the same site	Separation distance between buildings on the same site should combine required building separations depending on the type of room (see figure 3F.2)	<p>The development presents as two buildings from Level 2 and above.</p> <p><u>Up to Level 4</u> 6m to blank walls</p> <p>Note: Highlight windows are proposed to protect privacy between the buildings and from the communal terrace on that level 2. This effectively renders these walls blank for the purposes of this component of the assessment.</p> <p><u>Levels 5 & 6</u> 6m originally provided.</p> <p>Amended to 9m+ with blank walls proposed (no windows).</p>
3J – Carparking	<p>Carparking to be provided based on proximity to public transport in metropolitan Sydney.</p> <p>For sites</p> <ul style="list-style-type: none"> • within 800m of a railway station or light rail stop, or • on land zoned, and sites within 400 metres of land zoned, B3 Commercial Core, B4 Mixed Use or equivalent in a nominated regional centre <p>the parking is required to be in accordance with the RMS Guide to Traffic Generating Development which is:</p> <p>Metropolitan Sub-Regional Centres:</p> <p>0.6 spaces per 1 bedroom unit. 0.9 spaces per 2 bedroom unit. 1.4 spaces per 3 bedroom unit. 1 space per 5 units (visitor parking).</p>	<p>The parking requirement for this development is:</p> <p>7x 1BR = 4.2 spaces 36x 2BR = 32.4 spaces 63x 3BR = 88.2 spaces 2x 4BR = 2.8 spaces</p> <p>108 units = 21.6 Visitor spaces</p> <p>Total: 149.2 spaces required</p> <p>163 car spaces are provided including 22 visitor spaces.</p>
Part 4 - Designing the Building		

4A - Solar and daylight access	Living and private open spaces of at least 70% of apartments are to receive a minimum of 2 hours direct sunlight between 9am and 3pm midwinter.	Yes – 84%												
	A maximum of 15% of apartments in a building receive no direct sunlight between 9 am and 3 pm at mid-winter.	Yes – 14%												
4B - Natural ventilation	At least 60% of units are to be naturally cross ventilated in the first 9 storeys of a building. For buildings at 10 storeys or greater, the building is only deemed to be cross ventilated if the balconies cannot be fully enclosed.	Yes, 62%												
	Overall depth of a cross-over or cross-through apartment does not exceed 18m, measured glass line to glass line.	Yes												
4C - Ceiling heights	<div>Minimum ceiling heights are:</div> <table><tr><th colspan="2">Minimum ceiling height for apartment and mixed use buildings</th></tr><tr><td>Habitable rooms</td><td>2.7m</td></tr><tr><td>Non-habitable</td><td>2.4m</td></tr><tr><td>For 2 storey apartments</td><td>2.7m for main living area floor 2.4m for second floor, where its area does not exceed 50% of the apartment area</td></tr><tr><td>Attic spaces</td><td>1.8m at edge of room with a 30 degree minimum ceiling slope</td></tr><tr><td>If located in mixed used areas</td><td>3.3m for ground and first floor to promote future flexibility of use</td></tr></table>	Minimum ceiling height for apartment and mixed use buildings		Habitable rooms	2.7m	Non-habitable	2.4m	For 2 storey apartments	2.7m for main living area floor 2.4m for second floor, where its area does not exceed 50% of the apartment area	Attic spaces	1.8m at edge of room with a 30 degree minimum ceiling slope	If located in mixed used areas	3.3m for ground and first floor to promote future flexibility of use	2.7m provided
Minimum ceiling height for apartment and mixed use buildings														
Habitable rooms	2.7m													
Non-habitable	2.4m													
For 2 storey apartments	2.7m for main living area floor 2.4m for second floor, where its area does not exceed 50% of the apartment area													
Attic spaces	1.8m at edge of room with a 30 degree minimum ceiling slope													
If located in mixed used areas	3.3m for ground and first floor to promote future flexibility of use													
4d Apartment size	<p>Apartments are required to have the following internal size:</p> <p>Studio – 35m² 1 bedroom – 50m² 2 bedroom – 70m² 3 bedroom – 90m²</p> <p>The minimum internal areas include only one bathroom. Additional bathrooms increase the minimum internal areas by 5m² each.</p> <p>A fourth bedroom and further additional bedrooms increase the minimum internal area by 12m² each.</p>	<p><u>Basement Level:</u> Both units exceed.</p> <p><u>Ground Floor:</u> All exceed.</p> <p><u>Level 1, 2, 3, 4, 5 & 6</u> All exceed.</p> <p>Both exceed</p>												
	Every habitable room must have a window in an external wall with a total minimum area of not less than 10% of the floor area of the room.	Yes												

4D Apartment layout	-	Habitable rooms are limited to a maximum depth of 2.5 x the ceiling height. In open plan layouts the maximum habitable room depth is 8m from a window.	2.7m x 2.5 = 6.75m permitted Satisfactory
		Master bedrooms have a minimum area of 10m ² and other bedrooms 9m ² (excluding wardrobe space)	Yes
		Bedrooms have a minimum dimension of 3m (excluding wardrobe space)	Yes
		Living rooms or combined living/dining rooms have a minimum width of: • 3.6m for studio and 1 bedroom apartments • 4m for 2 and 3 bedroom apartments	Yes
		The width of cross-over or cross-through apartments are at least 4m internally to avoid deep narrow apartment layouts.	Yes
4E - Balcony area		The primary balcony is to be: Studio – 4m ² with no minimum depth 1 bedroom – 8m ² with a minimum depth of 2m 2 bedroom – 10m ² with a minimum depth of 2m 3 bedroom – 12m ² with a minimum depth of 2.4m For units at ground or podium levels, a private open space area of 15m ² with a minimum depth of 3m is required.	<u>Levels 1 and above:</u> All units comply. <u>Basement & Ground Level:</u> All exceed 15m ² & 3m depth
4F Common circulation and Spaces	-	The maximum number of apartments off a circulation core on a single level is eight. Where design criteria 1 is not achieved, no more than 12 apartments should be provided off a circulation core on a single level	No however no more than 12 apartments are provided off a circulation core as detailed in the design guidance. <u>Building A:</u> 9 on levels 1 & 5 11 on Level 4 12 on Levels 2 & 3
		For buildings of 10 storeys and over, the maximum number of apartments sharing a single lift is 40.	N/A
4G - Storage		Storage is to be provided as follows: Studio – 4m ³ 1 bedroom – 6m ³	Storage is provided both within units and in the

	2 bedroom – 8m ³ 3+ bedrooms – 10m ³ At least 50% of the required storage is to be located within the apartment.	basement behind car spaces. Yes
4K Apartment mix	- A variety of apartment types is to be provided and is to include flexible apartment configurations to support diverse household types and stages of life.	Yes, as detailed in report

a. 3F – Separation to Site Boundaries

Section 3F of the Apartment Design Guideline states that:

Visual privacy allows residents within an apartment development and on adjacent properties to use their private spaces without being overlooked. It balances the need for views and outlook with the need for privacy. In higher density developments it also assists to increase overall amenity.

The objective of this section is:

to ensure adequate building separation distances are shared equitably between neighbouring sites, to achieve reasonable levels of external and internal visual privacy

Design Criteria 1 requires the following separation from buildings to the side boundaries:

Building Height	Habitable Rooms & Balconies	Non-habitable Rooms
Up to 12m (4 storeys)	6m	3m
Up to 25m (5-8 storeys)	9m	4.5m

The side setback to the walls of the development complies on every level on both sides however as detailed in the table above, the setback to 4 balconies on the Ground Floor and 1 balcony on Level 1 are set back 3m which is less than the 6m required.

The rear setback to the walls of the development complies up to Level 4 however the setback to 12 balconies on these levels is less than the 6m requirement.

Level 6 provides a compliant rear setback however two apartments on Level 5 are set back less than the 9m required and all balconies on this level are set back 6m which is less than the 9 required.

It is noted however that Clause 5.4(3) of the Box Hill Growth Centre Precincts Development Control Plan 2018 states that the primary controls for residential flat buildings takes precedence over the ADG where there is any inconsistency.

As a result, the objective and intent of the Apartment Design Guideline in this instance is considered to be satisfied.

b. Design Quality Principles

The Development Application has also been assessed against the relevant design quality principles contained within the SEPP 65 as follows:

(i) Context and Neighbourhood Character

The immediate locality is currently characterised by large rural land holdings with single dwellings and medium and high density residential development under varying stages of construction. Similar developments have been approved on the southern side of Mason Road, including a residential flat building and town houses at No. 29 Mason Road and Nos. 17-21 Mason Road, and a residential flat building at No. 13 Mason Road. Residential flat buildings and town houses are also proposed on adjoining land at Nos. 23 and 23A and 25 Mason Road. Other approvals have been granted in the vicinity for small lot housing and the wider area is gradually evolving and developing, consistent with the vision for the Box Hill Precinct envisaged under the SEPP (Precincts) 2021. Mason Road will be one of the major sub-arterial roads in the Precinct, leading to the commercial and retail centre of Box Hill. Residential flat buildings along the main roads will contribute to a lively town centre and patronage on the planned bus network.

The proposal therefore provides a satisfactory response to Principle 1: Context and Neighbourhood Character of SEPP 65.

(ii) Built Form and Scale

The height of the development is acceptable in terms of solar access and residential amenity impacts. The height of the development is consistent with the desired future scale and character of the area. Minor breaches of the building height, being up to 2.05 metres to the fire stair do not add any perceptible bulk and scale to the overall development. The proposed floor space ratio is well below the maximum allowable 2:1, proposing 1.84:1. The design of the development is complementary to the residential flat buildings approved at No.'s 17-21 and 29 Mason Road.

The built form addresses both Tucana Street and Mason Road, and the habitable floors are stepped in response to the slope of the site, thereby ensuring all units are provided with satisfactory amenity and outlook. The design of the building incorporates a variety of materials, colours, articulation and landscape elements which assist in breaking up the bulk of the building and contribute to the streetscape.

Generous side setbacks and a landscaped setting provide adequate separation and a pleasing interface with adjoining approved and future development.

The proposal therefore provides a satisfactory response to Principle 2: Built form and scale of SEPP 65.

(iii) Density

The proposal provides an appropriate built form outcome which achieves the minimum density requirements of 30 dwellings per hectare required under the SEPP (Precincts) 2021. The proposed density is 198 dwellings per hectare which is generally consistent with other similar proposed developments within the area. The proposed density is suitable given the site's zoning and proximity to public transport and a future town centre.

The proposal therefore provides a satisfactory response to Principle 3: Density of SEPP 65.

(iv) Sustainability

The architectural plans are accompanied by a BASIX certificate, and the proposed development meets the requirements for residential amenity including solar access and ventilation.

The proposal therefore provides a satisfactory response to Principle 4: Sustainability of SEPP 65.

(v) Landscape

The landscape plan indicates that all open spaces in addition to the roof top common open space will be appropriately landscaped and embellished. Landscaped areas will optimise usability and enjoyment of common areas, providing opportunities for social interaction. The proposed landscaping integrates with the overall appearance of the development and terraced gardens are provided in response to changes in levels. Tree planting in deep soil zones and on the street frontages will contribute to the landscaped setting of the development and the streetscape.

The proposal therefore provides a satisfactory response to Principle 5: Landscape of SEPP 65.

(vi) Amenity

The key elements of the building design incorporate satisfactory access/circulation, apartment layouts, ceiling heights, private open space, energy efficiency, adaptability and diversity, safety, security and site facilities.

The proposal therefore provides a satisfactory response to Principle 6: Amenity of SEPP 65.

(vii) Safety

The development has been designed with safety and security concerns in mind. The ground level common open spaces are within direct view of occupants to allow passive surveillance. Common areas are designed to provide for recreation and interaction, and are accessible to all residents. Private spaces are clearly defined with fencing and landscaping. The basement car parks have been appropriately designed and appropriate conditions of consent can be imposed to further assist in the promotion of safety and security.

The proposal therefore provides a satisfactory response to Principle 7: Safety of SEPP 65.

(viii) Housing Diversity and Social Interaction

The location of this development provides dwellings within a Precinct that will provide future residents with a range of support services in the nearby local centre. The Hills Development Control Plan 2012 Part B Section 5 – Residential Flat Buildings provides development standards in relation to unit mix. Although these controls do not apply to the site, it is noted the development complies with the apartment mix controls which states that no more than 25% of the dwelling yield is to comprise of one bedroom apartments and no less than 10% of the development is to comprise of three bedroom units. The application includes 7 x 1 bed (6.5%), 36 x 2 bedroom (33.3%) and 63 x 3 bedroom units (58%) which is considered to be an appropriate mix for the development.

The proposal therefore provides a satisfactory response to Principle 8: Housing Diversity and Social Interaction of SEPP 65.

(ix) Aesthetics

An appropriate composition of building elements, material textures and colours has been used.

The proposal therefore provides a satisfactory response to Principle 9: Aesthetics of SEPP 65.

The proposal is considered satisfactory with respect to compliance with SEPP 65 and the Apartment Design Guide.

4. State Environmental Planning Policy (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.

Clause 4.6 of the SEPP states:-

- 1) *A consent authority must not consent to the carrying out of any development on land unless:*
 - (d) *it has considered whether the land is contaminated, and*
 - (e) *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*
 - (f) *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 Preliminary Site Investigation Report was undertaken by Geotesta Pty Ltd. The investigation found that the site has a low risk of soil contamination and is therefore suitable for the proposed development subject to the recommendation that a data gap assessment of subsurface soils below the dwelling be performed after demolition of the existing dwelling and sheds on the site.

The report was reviewed by Council's Environmental Health Team and was considered satisfactory subject to conditions with regard to the provisions of the SEPP.

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

The application has been assessed against the requirements of State Environmental Planning Policy (Building Sustainability Index – BASIX) 2004. This Policy provides State-wide planning controls to promote and guide the achievement of energy efficiency and ecological sustainability in all new development.

The applicant has addressed this requirement through the preparation of a BASIX certificate. The certificates confirm the proposed residential flat building will meet the NSW government's requirements for sustainability.

6. State Environmental Planning Policy (Biodiversity and Conservation) 2021

Chapter 2 (Vegetation in non-rural areas) aims to:

3. *Protect the biodiversity value of trees and other vegetation in non-rural areas of the State, and*
4. *Preserve the amenity of non-rural areas of the State through the preservation of trees and other vegetation.*

Pursuant to section 2.6(1) a person must not clear vegetation in a non-rural area of the State to which Part 3 applies without the authority conferred by a permit granted by the council under that Part. No trees are proposed for removal to facilitate the proposed development.

The development is consistent with SEPP (Biodiversity and Conservation) 2021 with respect to vegetation. The proposed development will manage stormwater on the site and is therefore also acceptable with respect to impacts on the Hawkesbury-Nepean Catchment.

7. Box Hill Growth Centres Development Control Plan

The Box Hill Growth Centres Precincts Development Control Plan (Box Hill DCP) applies to the subject site. Specifically, Part 3 of the DCP addresses land development and subdivision, Part 4 establishes the objectives and controls that guide residential development and Part 5 provides specific controls for residential flat buildings.

a. Part 5.4 – Controls for residential flat buildings

The relevant objectives of Section 5.4 – Controls for residential flat buildings, manor home and shop top housing are:

- a. *To establish a high quality residential environment where all dwellings have a good level of amenity.*
- b. *To encourage a variety of housing forms within residential areas.*
- c. *To ensure the provision of housing that will, in its adaptable features, meet the access and mobility needs of any occupant.*

The development controls within Clause 5.4 of the DCP for residential flat building developments are addressed below:

Clause 5.4 – Controls

1. In density areas of 20dw/Ha and 25dw/Ha, manor homes may only be located on corner lots.

Comment:

N/A

2. Residential flat buildings are to:
 - be located on sites with a minimum street frontage of 30m;
 - have direct frontage to an area of the public domain (including streets and public parks); and
 - not adversely impact upon the existing or future amenity of any adjoining land upon which residential development is permitted with respect to overshadowing impact, privacy impact or visual impact.

Comment:

Complies

3. All residential flat buildings are to be consistent with:
 - the guidelines and principles outlined in *SEPP No. 65 – Design Quality of Residential Apartment Development*; and
 - the primary controls set out in **Table 19**, which take precedence over the above where there is any inconsistency.

Comment:

See the table below for an assessment of the primary controls set out in table 19.

4. In all residential flat building developments containing 10 dwellings or more, a minimum of 10% of all apartments are to be designed to be capable of adaptation for access by people with all levels of mobility. Dwellings must be designed in accordance with the

Australian *Adaptable Housing Standard* (AS 4299-1995), which includes 'pre-adaptation' design details to ensure visitability is achieved.

Comment:

11 adaptable units are proposed (10%)

5. Where possible, adaptable dwellings are to be located on the ground floor. Dwellings located above the ground level of a building may only be provided as adaptable dwellings where lift access is available within the building. The lift access must provide access from the basement to allow access for people with disabilities.

Comment:

Lift access is provided.

6. The development application must be accompanied by certification from an accredited Access Consultant confirming that the adaptable dwellings are capable of being modified, when required by the occupant, to comply with the *Australian Adaptable Housing Standard* (AS 4299-1995).

Comment:

An Access Report was submitted as required.

7. Car parking and garages allocated to adaptable dwellings must comply with the requirements of Australian Standards for disabled parking spaces.

Comment:

Satisfactory

8. A landscape plan is to be submitted with every application for residential flat buildings.

Comment:

Submitted

Table 19 - Key Controls for Residential Flat Buildings

	CONTROL	PROPOSED	COMPLIANCE
Site Coverage (maximum)	50%	3,043m ² / 55.8%	No, see below for discussion.
Landscaped Area (minimum)	30%	1,408.6m ² 25.8%	No, see below for discussion.
Communal Open Space	15%	1,722m ² 31%	Yes
Principal Private Open Space (PPOS)	Minimum 10m ² per dwelling with minimum dimension of 2.5m	All units shown as exceeding 10m ² and 2.5m	Yes
Front Setback (minimum)	6m	6m to building façade.	Yes
	Balconies and other may articulation	4.5m to terraces and	

	encroach into the setback to a maximum of 4.5m from the boundary for the first 3 storeys, and for a maximum of 50% of the façade length.	articulation elements 6m to façade and balconies from Level 4 and up	
Corner lots secondary street setback (minimum)	6m	N/A	N/A
Side Setback (minimum)	Up to 3 storeys: 3m Above 3 storeys: 6m	3m to some terraces/balconies on both sides on Ground Floor & Level 1. 6m to building façade on both sides from Level 2 to 4. 9m from Level 5 and up.	Yes
Rear Setback (minimum)	6m	<u>Basement level:</u> 6m to Units B01 and B02 4.5m to their terraces <u>Ground Level & Level 1:</u> 6m to building façade 4.5m to some terraces/ balconies <u>Level 2:</u> 6m to building façade 4.5m to balcony of Unit 216 only	No, the setback proposed to the terraces at basement level and balconies on levels 1 and 2 are less than 6m. See below for discussion.

		<u>Level 3, 4, 5 & 6:</u> 6m	
Zero lot line	Not permitted	N/A	N/A
Habitable room/balcony separation distance (minimum) for buildings 3 storeys and above	12m	<p>The buildings separate from Level 2 up.</p> <p>A 6m separation is provided for levels 2-4 and a 9m separation for level 5.</p> <p>Level 6 complies.</p>	No, see below for discussion.
Car parking spaces	<p>1 space per dwelling,</p> <p>plus 0.5 spaces per 3 or more bedroom dwelling.</p> <p>1 visitor car parking space per 5 apartments</p> <p>May be in a 'stack parking' configuration.</p> <p>Car parking spaces to be located below ground or behind building line</p> <p>Bicycle parking spaces: 1 per 3 dwellings</p>	<p>43 spaces required for the 43 x 1 & 2 BR units.</p> <p>97.5 spaces required for the 65 x 3 & 4 bedroom units.</p> <p>21.6 required.</p> <p>Total of 162.1 spaces required.</p> <p>163 spaces proposed.</p> <p>Noted.</p> <p>All spaces are located below ground level.</p> <p>36 required.</p> <p>36 provided on Ground Floor Level.</p>	Yes

Site Coverage / Landscaped Area

Table 19 of the Box Hill Growth Centres DCP states that the maximum site coverage permitted for residential flat buildings is 50% of the site area. This table also stipulates a minimum of 30% of the site is to be landscaped.

The proposed development has a site cover of 55.8% (3,043m²) and a landscaped area of 25.8% (1,408.6m²).

The applicant has submitted the following as justification:

The total site coverage for the proposed development is 3043m² which translates to 55.8% excluding the land dedication and 47.8% including the land dedication. Whilst the development does not numerically comply with the site cover control, the objectives of site coverage are met as the proposal consists of ample landscape buffer zones, and the public verge provides both open space and separation to Mason Road.

Comment:

Part 5.4 of the DCP contains the following objectives for residential flat buildings:

- a. To establish a high-quality residential environment where all dwellings have a good level of amenity.
- b. To encourage a variety of housing forms within residential areas.
- c. To ensure the provision of housing that will, in its adaptable features, meet the access and mobility needs of any occupant.

Despite the non-compliances, the proposed development is considered to achieve a good quality high density residential outcome whilst providing good amenity for residents of the development and is therefore consistent with the objectives of this clause of the DCP.

Overall, the proposed design and articulation provided for the development is considered appropriate and compatible with the emerging character of the area.

As detailed in the table above, the building setbacks proposed to all sides comply with the DCP with the only exception being some lower level terraces and balconies. The apartments are provided with good sized balconies and terraces as well as multiple common open space areas to maximise amenity for residents within the site.

Good quality landscaping is proposed throughout the site at ground level as shown in Attachment 13 with additional landscaped areas proposed on Levels 2 and Level 6. These areas, whilst unable to be included in the calculation to determine compliance with the DCP, increase amenity by providing additional recreational areas for residents that include views and shaded seating. It should be noted also that if these additional areas were able to be included in the calculation, 2,039.1m² or 37.4% of the site is landscaped which would comply with the DCP.

As a result, the variations to site cover and landscaped area are not considered to result in any adverse amenity impacts and the variations proposed are supportable in this instance.

Rear Setback

Table 19 of the Box Hill Growth Centres DCP requires a minimum 6 metre rear setback.

As detailed in the table above, the development complies with this control with the exception of the terraces for basement level units B01 and B03, the terraces / balconies on the ground level

and level 1 and the balcony of Unit 216 on Level 2. The setback proposed for all of the above areas of non-compliance is 4.5 metres.

The applicant has submitted the following as justification:

The proposal consists of a shortfall to balconies B01, B02, G04, TH01, TH02, TH03, Th04, TH05, G08, 107, 111 and 216 achieving between 4.5 and 5.5m setbacks where 6m is required. The encroachments are balcony "articulation zone" encroachments only and do not provide any adverse impacts to privacy. Adequate landscape screening is provided to further minimise the impact of the terrace encroachments and thus the encroachments are considered acceptable.

Comment:

Part 5.4 of the DCP contains the following objectives for residential flat buildings:

- a. *To establish a high-quality residential environment where all dwellings have a good level of amenity.*
- b. *To encourage a variety of housing forms within residential areas.*
- c. *To ensure the provision of housing that will, in its adaptable features, meet the access and mobility needs of any occupant.*

The areas of non-compliance with the setback controls within the DCP are limited to terraces and balconies, are considered minor in nature that are not considered to result in any significant adverse impact on adjoining properties. These terrace and balcony areas also add to the architectural diversity of the building.

It is also noted that the rear elevation of the building faces the trapezoid shaped area to the north of Proposed Lot 39 which remains part of the road reserve and therefore the non-compliance is not considered to result in any adverse impacts to adjoining properties.

Overall, the proposed external design and articulation provided for the development is considered to achieve a good quality high density residential outcome that is appropriate and compatible with the emerging character of the area. The proposed setbacks are considered satisfactory, and the areas of non-compliance are not considered to result in any significant amenity impacts such as privacy or overshadowing. The variation is supportable in this instance.

Building Separation

Table 19 of the Box Hill Growth Centres DCP requires a 12 metre habitable room/balcony separation distance (minimum) for buildings 3 storeys and above.

The proposed development presents as one building up to Level 2, at which point, the building separates.

A 6m separation is provided for levels 2-4 and a 9m separation for level 5. Level 6 complies.

The applicant has submitted the following as justification:

The split in the building is designed with solid walls to apartment rooms and balconies thus making them non- habitable. As per ADG requirements 2F, the separation is deemed compliant.

Comment:

Part 5.4 of the DCP contains the following objectives for residential flat buildings:

- a. *To establish a high-quality residential environment where all dwellings have a good level of amenity.*
- b. *To encourage a variety of housing forms within residential areas.*

- c. To ensure the provision of housing that will, in its adaptable features, meet the access and mobility needs of any occupant.*

The ADG provides detailed guidance around separation distances between buildings on the same site that takes into account whether the walls are blank and also whether they are to habitable or non-habitable rooms. It acknowledges a balance is required between the need for views and outlook with the need for privacy. In higher density developments it also assists to increase overall amenity.

Non-habitable rooms are detailed in the ADG as being a space of a specialised nature not occupied frequently or for extended periods, including a bathroom, laundry, water closet, pantry, walk-in wardrobe, corridor, hallway, lobby, photographic darkroom or clothes-drying room, as defined by the BCA.

In the proposed development, the following separation is proposed:

- Levels 2 to 4 – 6 metre separation between blank walls with no windows
- Level 5 – 9 metre separation between blank walls with no windows
- Level 6 – 12 metres provided.

While it is acknowledged that the separation provided between levels 2 to 5 is less than 12 metres, the non-compliance is not considered to adversely impact the amenity or privacy of occupants of the apartments as blank walls are proposed with no windows and solid walls are proposed on all balconies as well.

As a result, the proposal is considered to be adequately designed to minimise adverse impacts to occupants of the apartments whilst maximising the amenity of the subject site. The variation proposed is supportable in this instance.

b. Clause 5.4.1 Site Servicing

Controls for Residential Flat Buildings and Multi Dwelling Housing

1. Garbage, mail box structures, service meters and the like are to be integrated with the overall design of the buildings and/or landscaping. Garbage storage areas are not permitted at the front of the development.

Comment:

Satisfactory. A waste collection room is provided within the development on Level 1.

2. Provide communal or individual laundries to every dwelling and at least one external clothes drying area per building. Laundries are not permitted in front setbacks and must be appropriately screened from view if located in the side setback.

Comment:

Each apartment is provided with an internal laundry.

3. Loading facilities must be at the rear of each development.

Comment:

Provided as required.

4. Service access is permitted from rear lanes, side streets or right of ways.

Comment:

N/A

c. Clause 5.5 Adaptable Housing

The controls for adaptable housing in this clause are:

1. 10% of all apartments, multi dwelling housing and Residential Flat Buildings are to be designed to be capable of adaptation for disabled or elderly residents. Dwellings must be designed in accordance with the Australian Adaptable Housing Standard (AS 4299-1995).

Comment:

Yes, 11 apartments within the development (Units 209, 306, 309, 314, 320, 408, 413, 418, 511, 416 and G01) are adaptable.

2. Where possible, adaptable dwellings are to be located on the ground floor, for ease of access. Dwellings located above the ground level of a building may only be provided as adaptable dwellings where lift access is available within the building. The lift access must provide access from the basement to allow access for people with disabilities.

Comment:

Lift access is provided as required to adaptable units not at ground level.

3. The development application must be accompanied by certification from an accredited Access Consultant confirming that the adaptable dwellings are capable of being modified, when required by the occupant, to comply with the Australian Adaptable Housing Standard (AS 4299-1995).

Comment:

Access Report prepared by Vista Access Architects Pty Ltd.

4. Car parking and garages allocated to adaptable dwellings must comply with the requirements of the relevant Australian Standard for disabled parking spaces.

Comment:

Satisfactory.

8. Internal Referrals

The application was referred to following sections of Council:

- Engineering
- Environmental Health
- Resource Recovery
- Landscape Management
- Property Numbering
- Development Contributions

No objection was raised to the proposal subject to conditions.

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 (Resilience and Hazards) 2021, State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004, State Environmental Planning Policy (Biodiversity and Conservation) 2021, State Environmental Planning Policy (Precincts – Central River City) 2021, SEPP 65 – Design Quality of Residential Apartment Development, the Apartment Design Guideline and The Box Hill Growth Centres Development Control Plan 2018 and is considered satisfactory.

The application is accompanied by a request to vary the Clause 4.3 Height of Buildings development standard pursuant to Clause 4.6 of State Environmental Planning Policy (Precincts – Central River City) 2021. The Clause 4.6 request to vary a development standard is considered to be well-founded and the variation to building height acceptable as the impacts of the development including overshadowing and visual impact can be managed and mitigated within the site.

The proposal has also been assessed against the provisions of the Box Hill Growth Centre Precincts Development Control Plan 2018 and satisfies the controls with the exception of site cover/ landscaped area, rear setback and separation between the buildings. The variations are considered acceptable as the non-compliances will not result in adverse amenity impacts either within the site or to the adjoining properties.

Deferred commencement approval is recommended subject to conditions.

IMPACTS

Financial

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

Strategic Plan – Hills Future

The proposed development is consistent with the planning principles, vision and objectives outlined within The Hills Future Community Strategic Plan. The proposed development facilitates responsible management of impacts to our natural surroundings and is consistent with the plans and processes in accordance with the community needs and expectations.

Local Strategic Planning Statement

The Hills Future 2036 Local Strategic Planning Statement was made on 6 March 2020. The proposed development has been considered against the outcomes planned within the Local Strategic Planning Statement and Implementation Plan. Planning Priority 6 'Plan for new housing to support Greater Sydney's growing population' is relevant to the development. Planning Priority 6 outlines housing targets for Council including the provision of an additional 38,500 dwellings by 2036. The proposed development would provide an additional dwelling/s and contribute to meeting Council's housing targets. Therefore, the development is considered satisfactory regarding The Hills Local Strategic Planning Statement.

RECOMMENDATION

Deferred commencement approval is recommended subject to conditions:

DEFERRED COMMENCEMENT

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

1. The approval of the preceding subdivision Development Application No. 763/2023/ZA.

- B. The applicant must provide Council with written evidence demonstrating that the matters listed under Part A1 above have been satisfactorily addressed no later than 12 months before the notice of expiry date.
- C. Upon compliance with the requirements of Part A1, a full consent will be issued subject to the following conditions:

GENERAL MATTERS

1. Development in Accordance with Submitted Plans (as amended)

The development being carried out in accordance with the approved plans and details submitted to Council, as amended in blue, stamped and returned with this consent.

The amendment in blue relates to the tree protection fencing on the Proposed Street Tree Planting Plan (L/02).

REFERENCED PLANS AND DOCUMENTS

DRAWING NO.	DESCRIPTION	REVISION	DATE
DA-A110010	Cover Sheet	02	17/02/2025
DA-A110020	Development Information	02	17/02/2025
DA-A120010	Location Plan	02	17/02/2025
DA-A120030	Site Plan	02	17/02/2025
DA-A120040	Demolition Plan	02	17/02/2025
DA-B1B0910	Basement 2 Plan	02	17/02/2025
DA-B1B1010	Basement 1 Plan	02	17/02/2025
DA-B1GRD10	Ground Floor Plan	02	17/02/2025
DA-B1L0110	Level 01 Plan	02	17/02/2025
DA-B1L0210	Level 02 Plan	02	17/02/2025
DA-B1L0310	Level 03 Plan	02	17/02/2025
DA-B1L0410	Level 04 Plan	02	17/02/2025
DA-B1L0510	Level 05 Plan	02	17/02/2025
DA-B1L0610	Level 06 Plan	02	17/02/2025
DA-B1L0710	Roof Plan	02	17/02/2025
DA-C010010	North and South Elevation	02	17/02/2025
DA-C020010	East and West Elevation	02	17/02/2025
DA-C910010	Materials and Finishes	02	17/02/2025
DA-D110010	Sections 1 and 2	02	17/02/2025
DA-D120010	Sections 3 and 4	02	17/02/2025
DA-C520010	Perspective 1	02	17/02/2025
DA-C520010	Perspective 2	02	17/02/2025
DA-Q110010	GFA Plan	02	17/02/2025

DA-Q310010	Solar Compliance Diagrams	02	17/02/2025
DA-Q410010	Cross Ventilation Diagrams	02	17/02/2025
DA-Q510010	Adaptable Unit Diagrams	02	17/02/2025
DA-Q520010	Silver Units Diagrams	02	17/02/2025
DA-Q610010	Coverage / Deep Soil Diagrams	02	17/02/2025
DA-Q710010	Communal Open Space Diagrams	02	17/02/2025
DA-Q810010	Height Plan Diagram	02	17/02/2025
DA-Q910010	Storage Schedule	02	17/02/2025
DA-Y210010	Apartment Schedule	02	17/02/2025
DA-Z2LB110	Car Space Dimension Detail	02	17/02/2025
L/00	Landscape Cover Sheet	F	20/03/2025
L/01	Proposed Tree Removal Plan	F	20/03/2025
L/02	Proposed Street Tree Planting Plan	F	20/03/2025
L/03	Proposed Street Tree Planting Details	F	20/03/2025
L/04	Proposed Landscape Layout Plan - GF	F	20/03/2025
L/05	Proposed Landscape Layout Plan – L2	F	20/03/2025
L/06	Proposed Landscape Layout Plan – L6	F	20/03/2025
L/07	Proposed Landscape Planting Plan – GF	F	20/03/2025
L/08	Proposed Landscape Planting Plan – L2	F	20/03/2025
L/09	Proposed Landscape Planting Plan – L6	F	20/03/2025
L/10	Landscaped Area Calculations Plan	F	20/03/2025
L/11	Proposed Concept Images	F	20/03/2025
L/13	Landscape Details	F	20/03/2025
L/14	Landscape Specification	F	20/03/2025
-	Approved Numbering Plans (9 Pages)	-	-

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

2. External Finishes

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

3. Tree Removal

Approval is granted for the removal of ten (10) trees numbered 12-13 and 20-27 as indicated in the Proposed Tree Removal Plan prepared by A Total Concept No. F dated 20/3/25.

All other trees are to remain and are to be protected during all works. Suitable replacement trees are to be planted upon completion of construction.

4. Planting Requirements

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

5. Provision of Parking Spaces

The development is required to be provided with 163 off-street car parking spaces. These car parking spaces shall be available for off street parking at all times.

6. Protection of Public Infrastructure

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

7. 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.

8. 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.

9. Acoustic Requirements

The recommendations of the DA Acoustic Assessment for – Mason Road, Box Hill prepared by Acoustic Logic referenced as 20221485.1/1212A/R0/PF revision 0, dated 12 December 2022 and submitted as part of the Development Application are to be implemented as part of this consent. In particular: Section 5.3 Complying constructions.

10. Retention of Trees

All trees not specifically identified on the approved plans for removal are to be retained with remedial work to be carried out in accordance with the AS4970- 2009 Protection of Trees on Development Sites.

11. Provision of Kitchen Waste Storage Cupboard

Waste storage facility must be provided in each unit/dwelling to enable source separation of recyclable material from residual garbage. Each unit/dwelling must have a waste storage cupboard provided in the kitchen with at least 2 removable indoor bins with a minimum capacity of 15 litres each. The bins provided should allow convenient transportation of waste from the kitchen to the main household bins or waste disposal point. The Principal Certifying Authority must visually confirm in person, or receive photographic evidence validating this requirement, prior to the issue of any Occupation Certificate.

12. Tree Removal on Public Land

Approval is granted for the removal of nine (9) street trees numbered 5-10, 14 and 17-18 as shown on Proposed Tree Removal Plan prepared by A Total Concept No. F dated 20/3/25

located on the Council nature strip that will be impacted by works associated with the development.

All tree works must be undertaken by the owner/applicant at their cost. Prior to any works commencing on site, the owner/applicant must provide the following details to The Hills Shire Council's Manager – Environment & Health:

- Time and date of when the tree works will occur;
- Full details of the contractor who will be undertaking tree works (Minimum AQF level 3 Arborist);
- Current copy of the contractors Public Liability Insurance (Minimum \$10,000,000).

Note: The owner/applicant is to keep a photographic record pre and post tree removal works of the tree and surrounding Council infrastructure (e.g. concrete footpath, kerb & gutter) and provide these to Council upon request. The grass verge must be reinstated with any holes filled to existing natural ground level.

13. Access and Loading for Waste Collection

Minimum vehicle access and loading facilities must be designed and provided on site in accordance with Australian Standard 2890.2 for the standard 8.8m long Medium Rigid Vehicle (minimum 3.5m clear vertical clearance exception). The following requirements must also be satisfied.

- All manoeuvring areas for waste collection vehicles must have a minimum clear vertical clearance of 3.5m. Any nearby areas where the clear headroom is less than 3.5m must have flexible striker bars and warning signs as per Australian Standard 2890.1 to warn waste collection contractors of the low headroom area.
- All manoeuvring and loading areas for waste collection vehicles must be prominently and permanently line marked, signposted and maintained to ensure entry and exit to the site is in a forward direction at all times and that loading and traffic circulation is appropriately controlled.
- Pedestrian paths around the areas designated for manoeuvring and loading of waste collection vehicles must be prominently and permanently line marked, signposted and maintained (where applicable) for safety purposes.
- The requirement for reversing on site must be limited to a single reverse entry into the designated waste service bay (typical three point turn).
- The designated waste service bay must allow additional space servicing of bins (wheeling bulk bins to the back of the waste collection vehicle for rear load collection).
- The loading area must have a sufficient level of lighting and have appropriate signage such as "waste collection loading zone", "keep clear at all times" and "no parking at any time".
- Access to restricted loading areas (i.e. via roller shutter doors, boom gates or similar) must be via scanning from the cab of medium rigid vehicles, remote access or alternative solution which ensures there is no requirement for waste collection contractors to exit the cab. Copies of scan cards or remotes must be provided to Council upon the commencement of waste services.

14. Communal Composting Areas

An area shall be incorporated in the landscape design of the development for communal composting. Whilst the operation of such a facility will depend upon the attitudes of occupants and their Owners Corporation, the potential to compost should exist.

15. 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.

16. Disposal of Surplus Excavated Material

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

17. 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.

18. Strata Certificate Preliminary Review

Prior to the submission of a Strata Certificate application a draft copy of the final plan, administration sheet and Section 88B instrument (where included) must be submitted in order to establish that all conditions have been complied with.

Street addresses for the lots within this subdivision will be allocated as part of this preliminary check process, for inclusion on the administration sheet.

19. Construction of Waste Storage Area(s)

The waste storage area(s) must be designed and constructed in accordance with the following requirements. The area(s) must provide minimum storage facility for 12 x 1100 litre sized garbage bins, 12 x 1100 litre sized recycling bins and 7 x 240 litre sized food organics bins.

- i) The waste storage area(s) must be of adequate size to comfortably store and manoeuvre the total minimum required number of bins as specified above.
- j) The layout of the waste storage area(s) must ensure that each bin is easily accessible and manoeuvrable in and out of the areas with no manual handling of other bins. All internal walkways must be at least 1.5m wide.
- k) The walls of the waste storage area(s) must be constructed of brickwork.

- l) The floor of the waste storage area(s) must be constructed of concrete with a smooth non-slip finish, graded and drained to sewer. The rooms must not contain ramps and must be roofed (if located external to the building).
- m) The waste storage area(s) must have a waste servicing door, with a minimum clear floor width of 1.5m. The door must be located to allow the most direct access to the bins by collection contractors. Acceptable waste servicing doors are single or double swinging doors and roller doors (preferred).
- n) The waste storage area(s) must have a resident access door, which allows wheelchair access for adaptable sites. Suitable resident access doors are single or double swinging doors. The resident access door must be separate to the waste servicing door. If a loading dock is proposed in the development the resident access door must be located to ensure that residents do not have access to the loading dock to gain access to the waste storage area(s).
- o) All doors of the waste storage area(s), when fully opened, must be flush with the outside wall(s) and must not block or obstruct car park aisles or footways. All doors must be able to be fixed in position when fully opened.
- p) The waste storage area(s) must be adequately ventilated (mechanically if located within the building footprint). Vented waste storage areas should not be connected to the same ventilation system supplying air to the units.
- q) The waste storage area(s) must be provided with a hose tap (hot and cold mixer), connected to a water supply. If the tap is located inside the waste storage area(s), it is not to conflict with the space designated for the placement of bins.
- r) The waste storage area(s) must be provided with internal lighting such as automatic sensor lights.
- s) The maximum grade acceptable for moving bins for collection purposes is 5%. Under no circumstance is this grade to be exceeded. It is to allow the safe and efficient servicing of bins.
- t) The waste storage area(s) must have appropriate signage (Council approved designs) mounted in a visible location on internal walls and are to be permanently maintained by Owners corporation.
- u) Finishes and colours of the waste storage area(s) are to complement the design of the development.

Example Bin Measurements (mm)

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

20. Property Numbering and Cluster Mail Boxes for Residential Flat Buildings

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

The overall property address for this development is: - 5 - 7 Tucana Street, Box Hill, NSW, 2765

Property and Unit Numbering is approved by Council's Land Information Team as per 'Numbering Plans' identifying unit numbers within consent documentation; and as follows:

Level	7 Tucana Street	5 Tucana Street	Approved Plan
Lower Ground	LG01 – LG02		DWG DA-B1B1010 REV B

Ground	G01 – G11	G12 - G14	DWG DA-B1GRD10 REV B
Level 1	101 – 109	110 - 115	DWG DA-B1L0110 REV B
Level 2	201 – 212	213 - 220	DWG DA-B1L0210 REV B
Level 3	301 – 312	313 - 320	DWG DA-B1L0310 REV B
Level 4	401 – 411	412 - 418	DWG DA-B1L0410 REV B
Level 5	501 – 509	510 - 516	DWG DA-B1L0510 REV B
Level 6	601	602 - 603	DWG DA-B1L0610 REV B

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

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

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

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

Mailboxes

Australia Post requires cluster mailboxes within a foyer to be as close to the footpath or road as possible.

Parking for Postal officer motorcycle/walk buggy is to be provided in a safe location that is viewable from foyer mailboxes to ensure the security of mail located on the vehicle. An intercom or doorbell is to be provided for each unit for the delivery of parcels.

Locations as provided on plans DWG DA-B1L0110 REV B Dated 28/02/2023 are to be approved by Australia Post for mail delivery. Plans are to be provided to Gregory Dimmock at the Seven Hills Delivery Centre via email Gregory.dimmock@auspost.com.au or phone 02 9674 4027. Australia Post approval is required to be provided to Council.

The number of mailboxes to be provided is to be equal to the number of flats/units/townhouses etc. plus one (1) for the proprietors of the development and be as per Australia Post size requirements. The proprietors additional mail box is to be located within the cluster located at 7 Tucana Street, Box Hill.

Strata Developments

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

It is required that Lot numbers within the proposed strata plan are not duplicated and all run sequentially within the same level, commencing from the lowest level upwards to the highest level within the development.

Please call 9843 0555 or email a copy of the final strata plan *before it is registered* at Land Registry Services NSW to council@thehills.nsw.gov.au for the approval of final Property and Unit numbering with corresponding Lot Numbers now required to be included within the registered Strata Administration sheet.

Under no circumstances is the Strata Plan to be lodged with Land Registry Services NSW before Council has approved all final addressing.

21. Provision of Bulky Goods Storage Area

A separate room or caged area for unwanted bulky goods must be provided that opens directly onto the designated waste service bay. The area must be designed and constructed in accordance with the following requirements.

- The area must have a minimum floor area of 4m² per 50 apartments. Floor space must be rounded up to the nearest 50 apartments for best operational outcome
- The floor of the area must be constructed of concrete with a smooth non-slip finish.
- The area must have a suitable resident access door, with a minimum clear floor width of 2m (to allow access for large items). Suitable resident access doors are single or double swinging doors.
- The resident access door, when fully open, must be flush with the outside wall and must not block or obstruct car park aisles or footways. The door must be able to be fixed in position when fully opened.
- The area must be provided with lighting, such as automatic sensor lights.

22. Irrigation

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

23. Recycled Water – Box Hill/ Private

The subject site must be connected to the privately operated reticulated recycled water scheme; to offset the lack of rainwater or stormwater reuse in the development.

24. Road Opening Permit

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

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

25. Separate Application for Strata Subdivision

The strata title subdivision of the development is not included. A separate development application or complying development certificate application is required.

26. Structures Adjacent to Piped Drainage Easements

Buildings and structures, including footings and brick fences, adjacent to existing or proposed drainage easements must be located wholly outside the easement. A design must be provided by a structural engineer certifying that the structure will not impart a load on the pipe in the easement.

27. Requirements for Council Drainage Easements

No works are permitted within existing or proposed public drainage easements unless approved by Council. Where works are permitted, the following requirements must be adhered to:

- Provision for overland flow and access for earthmoving equipment must be maintained.
- The existing ground levels must not be altered. No overland flow is to be diverted out of the easement.
- No fill, stockpiles, building materials or sheds can be placed within the easement.
- Open style fencing must be used. New or replacement fencing must be approved by Council.

28. Vehicular Access and Parking

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

- g) AS/ NZS 2890.1
- h) AS/ NZS 2890.6
- i) AS 2890.2
- j) DCP Part C Section 1 – Parking
- k) Council's Driveway Specifications

Where conflict exists the Australian Standard must be used.

The following must be provided:

- l) All driveways and car parking areas must be prominently and permanently line marked, signposted and maintained to ensure entry and exit is in a forward direction at all times and that parking and traffic circulation is appropriately controlled.
- m) All driveways and car parking areas must be separated from landscaped areas by a low level concrete kerb or wall.
- n) All driveways and car parking areas must be concrete or bitumen. The design must consider the largest design service vehicle expected to enter the site. In rural areas, all driveways and car parking areas must provide for a formed all weather finish.
- o) All driveways and car parking areas must be graded, collected and drained by pits and pipes to a suitable point of legal discharge.

29. 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.

30. Minor Engineering Works

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

Works within an existing or proposed public road or works within an existing or proposed public reserve can only be approved, inspected and certified by Council. The application form for a minor engineering works(section 138 works) approval is available on Council's website and the application and inspection fees payable are included in Council's Schedule of Fees and Charges.

- **Driveway Requirements**

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

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

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

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

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

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

- **Footpath Verge Formation**

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

31. Excavation/ Anchoring Near Boundaries

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

- Written owner's consent for works on adjoining land must be obtained.
- For works adjacent to a road, anchoring that extends into the footpath verge is not permitted, except where expressly approved otherwise by Council, or Transport for NSW in the case of a classified road.
- Where anchoring within public land is permitted, a bond must be submitted to ensure their removal once works are complete. The value of this bond must relate to the cost of their removal and must be confirmed by Council in writing before payment.
- All anchors must be temporary. Once works are complete, all loads must be removed from the anchors.
- A plan must be prepared, along with all accompanying structural detail and certification, identifying the location and number of anchors proposed.
- The anchors must be located clear of existing and proposed services.

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

32. Security Bond Requirements

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

- Be in favour of The Hills Shire Council;
- Be issued by a financial institution or other accredited underwriter approved by, and in a format acceptable to, Council (for example, a bank guarantee or unconditional insurance undertaking);
- Have no expiry date;

- Reference the development application, condition and matter to which it relates;
- Be equal to the amount required to be paid in accordance with the relevant condition;
- Be itemised, if a single security bond is used for multiple items.

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

PRIOR TO THE ISSUE OF A CONSTRUCTION CERTIFICATE

33. Special Infrastructure Contribution – Growth Centres

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

Information about the special infrastructure contribution can be found on the Department of Planning and Environment website:

<http://www.planning.nsw.gov.au/>

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

34. Notice of Requirements

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

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

35. 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: 1 bedroom unit</i>	<i>Purpose: 2 bedroom unit</i>	<i>Purpose: 3 bedroom unit</i>	<i>Purpose: 4 bedroom unit</i>	<i>Purpose: Credit</i>
Open Space - Land	\$ 9,370.88	\$ 9,922.11	\$ 13,780.71	\$ 17,088.07	\$18,741.76
Open Space - Capital	\$ 4,913.83	\$ 5,202.88	\$ 7,226.22	\$ 8,960.51	\$9,827.65
Transport Facilities - Land	\$ 4,497.95	\$ 4,762.54	\$ 6,614.64	\$ 8,202.15	\$8,995.90
Transport Facilities - Capital	\$ 8,739.50	\$ 9,253.59	\$ 12,852.21	\$ 15,936.73	\$17,479.00
Administration	\$ 257.19	\$ 272.32	\$ 378.22	\$ 468.99	\$514.38
Water Management - Land (KCP)	\$ 3,870.13	\$ 4,097.79	\$ 5,691.37	\$ 7,057.30	\$7,740.27
Water Management - Capital (KCP)	\$ 3,188.43	\$ 3,375.98	\$ 4,688.86	\$ 5,814.19	\$6,376.86
Total	\$ 34,837.91	\$ 36,887.20	\$ 51,232.22	\$ 63,527.95	\$ 69,675.82

<i>No. of 1 Bedroom Units: 7</i>	<i>No. of 2 Bedroom Units: 36</i>	<i>No. of 3 Bedroom Units: 63</i>	<i>No. of 4 Bedroom Units: 2</i>	<i>Sum of Units</i>	<i>No. of Credits: 1</i>	<i>Total \$7.11</i>
\$ 65,596.16	\$ 357,195.88	\$ 868,184.44	\$ 34,176.15	\$ 1,325,152.63	\$ 18,741.76	\$ 1,306,410.87
\$ 34,396.79	\$ 187,303.54	\$ 455,251.65	\$ 17,921.02	\$ 694,873.00	\$ 9,827.65	\$ 685,045.34
\$ 31,485.66	\$ 171,451.35	\$ 416,722.03	\$ 16,404.30	\$ 636,063.34	\$ 8,995.90	\$ 627,067.44
\$ 61,176.50	\$ 333,129.16	\$ 809,688.94	\$ 31,873.47	\$ 1,235,868.06	\$ 17,479.00	\$ 1,218,389.06
\$ 1,800.32	\$ 9,803.41	\$ 23,827.74	\$ 937.98	\$ 36,369.46	\$ 514.38	\$ 35,855.08
\$ 27,090.94	\$ 147,520.39	\$ 358,556.51	\$ 14,114.61	\$ 547,282.45	\$ 7,740.27	\$ 539,542.18
\$ 22,318.99	\$ 121,535.35	\$ 295,398.43	\$ 11,628.38	\$ 450,881.16	\$ 6,376.86	\$ 444,504.31
\$ 243,865.36	\$ 1,327,939.09	\$ 3,227,629.74	\$ 127,055.90	\$ 4,926,490.10	\$ 69,675.82	\$ 4,856,814.28

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.

36. Internal Pavement Structural Design Certification

Prior to a Construction Certificate being issued, a Certified Practising Engineer (CPEng) must submit a letter to Council confirming the structural adequacy of the internal pavement design. The pavement design must be adequate to withstand the loads imposed by a loaded 8.8m long medium rigid vehicle from the boundary to the waste collection point including any manoeuvring areas.

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

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

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

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

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

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

An ESCP is required for this development.

38. Integrated Stormwater Drainage – Management (Box Hill)

Stormwater management for the development is to be provided in the form of underground Onsite Detention (OSD) tanks and Water Sensitive Urban Design (WSUD) measures, including rainwater tanks, Ocean Guard, and P-Sorb stormwater filters, as shown in the concept plan prepared by SKY Engineering. This system has been designed to accommodate both the upstream catchment constructed under the parent subdivision DA 763/2023/ZA and the subject site, which includes Tucana Way, lots 30 to 38 and part of lot 29.

The underground OSD system and all associated stormwater infrastructure must be constructed and fully operational prior to the commencement of any building works on the site.

Note: If the underground OSD tanks and associated stormwater infrastructure have already been constructed under the parent subdivision approval, OSD and associated infrastructures only required to be maintained under this application.

Generally, the purpose of the temporary stormwater management measures is to ensure there is no impact downstream between the pre-development and post development conditions, both with respect to the volume and quality of runoff, for a range of storm events. The cost of removing these temporary stormwater management measures and all associated re-work to pits and pipes must be determined at the detailed design stage, with a bond for 150% of the cost of these works submitted to ensure this occurs when the permanent basin/ rain garden planned basin is constructed and runoff from the subject site is/ can be connected to the same via the development of the intermediary properties downstream. The bond amount must be confirmed with Council prior to payment

Before the issue of a construction certificate, a suitably qualified civil engineer must prepare Integrated Stormwater management plan and provide written certification on the approved plans to satisfy the certifier that:

- The detailed design must reflect the approved concept plan.

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

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

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

All model parameters and data outputs are to be provided.

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

- Design/ construction plans prepared by an accredited OSD designer.
- A completed OSD Detailed Design Checklist.
- A maintenance schedule.

39. Stormwater Pump/ Basement Car Park Requirements

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

40. 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.

41. Works on Adjoining Land

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

42. Security Bond – Road Pavement and Public Asset Protection

The applicant must provide a security bond of \$217,800.00 is required to be submitted to the 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 rate of \$132.00 per square meter based on the road frontage of the subject site plus an additional 50m on either side (150m) multiplied by the width of the road (11m). A single bond payment with the amount specified above shall be lodged with Council, partial bond payments will not be accepted.

The square meter rate is based on The Hills Shire Council Fees & Charges 2024-2025 which is applicable at the time this consent was issued. Upon lodgment of the bond the amount will be updated to reflect the current schedule of fees and charges that are available on The Hills Shire Council Website.

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.

This requirement shall be reflected on the Construction Certificate plans and supporting documentation. The bond must be lodged with Council before the issue of a construction certificate or a subdivision work certificate, whichever precedes first/earlier. .

43. 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 SKY Engineering Revision E Dated 13.05.2025 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. Before the issue of a construction certificate or a subdivision work certificate, whichever precedes first/earlier, a suitably qualified civil engineer must review the Engineering design associated with this development and provide written certification on the approved plans to satisfy the certifier that:

- **Service Conduits**

Service conduits for the proposed development to be laid in strict accordance with the relevant service authority's requirements are required. Services must be shown on the engineering drawings.

- **Earthworks/ Site Regrading**

Earthworks and retaining walls are limited to those locations and heights shown on the concept engineering plan prepared by SKY Engineering Revision E Dated 13.05.2025, Where earthworks are not shown on the approved plan the topsoil within the site must not be disturbed.

- **Stormwater Easements**

A stormwater easement must be created over the stormwater pipe located along the eastern and southern boundaries of the proposed development, which conveys stormwater from the upstream catchments.

Note: If the easement has already been created under the parent subdivision, it is only required to be maintained as part of this development.

44. Registration of Subdivision

The registration of the preceding subdivision approved by Development Consent 763/2023/ZA by the applicant must occur, prior to a Construction Certificate being issued.

45. Groundwater Requirements and Management

Prior to the issue of the construction certificate by the registered Certifier, the Applicant is to undertake the following to the satisfaction of DPE Water and the Natural Resources Access Regulator:

- demonstrate adequate groundwater entitlements can be obtained for the project's operational water take
- ensure sufficient water entitlement is held in a water access licence/s (WAL) to account for the maximum predicted take for each water source prior to take occurring
- develop a Ground Water Management Plan for the construction phase
- develop a dewatering reporting schedule covering duration of construction
- develop a proposed operational phase (after building completion) monitoring and reporting schedule

The design compliance certificate shall be prepared by suitably accredited qualified Geotechnical Engineer certifying that the requirements above have been satisfied. These requirements shall be reflected on the Construction Certificate and supporting documentation prior to the issue of the Construction certificate by the Registered Certifier.

PRIOR TO WORK COMMENCING ON THE SITE

46. 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.

47. Tree Protection Fencing

Prior to any works commencing on site (including demolition) Tree Protection Fencing must be in place around trees or groups of trees nominated for retention. The location of fencing shall be as per the Proposed Street Tree Planting Plan prepared by A Total Concept No. F dated 20/03/25.

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

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

The location of tree protection fencing can only be altered by the Project Arborist. The temporary relocation or removal of tree protection fencing to undertake works within the TPZs of trees to be retained is strictly to be undertaken under supervision of the Project Arborist.

48. Tree Protection Signage

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

49. Mulching within Tree Protection Zone

Prior to any works commencing on site all areas within the Tree Protection Zone are to be mulched with composted leaf mulch to a depth of 100mm.

50. Trenching within Tree Protection Zone

Any trenching or excavations for the installation of retaining walls, OSD, drainage, sewerage, irrigation or any other services shall not occur within the Tree Protection Zone of trees identified for retention without prior notification to Council (72 hours notice) or under supervision of a project arborist.

If supervision by a project arborist is selected, certification of supervision must be provided to the Certifying Authority within 14 days of completion of trenching works.

51. 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.

52. 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.

53. 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.

54. 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).

55. 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 –

- the name, address and telephone number of the Principal Certifier,
- 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.

56. Engagement of a Project Arborist

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

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

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

57. Site Water Management Plan

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

The plan is to include a plan of management for the treatment and discharge of water accumulated in open excavations. Water containing suspended solids greater than 50 mg/L shall not be discharged to the stormwater system.

58. Demolition Works and Asbestos Management

The demolition of any structure is to be carried out in accordance with the Work Health and Safety Act 2011. All vehicles transporting demolition materials offsite are to have covered loads and are not to track any soil or waste materials on the road. Should demolition works obstruct or inconvenience pedestrian or vehicular traffic on adjoining public road or reserve, a separate application is to be made to Council to enclose the public place with a hoard or fence. All demolition works involving the removal and disposal of asbestos must only be undertaken by a licenced asbestos removalist who is licenced to carry out the work. Asbestos removal must be carried out in accordance with the SafeWork NSW, Environment Protection Authority and Office of Environment and Heritage requirements. Asbestos to be disposed of must only be transported to waste facilities licenced to accept asbestos. No asbestos products are to be reused on the site.

59. Discontinuation of Domestic Waste Services

Council provides a domestic waste service to the property subject to this Development Application. This service must be cancelled prior to demolition of the existing dwelling or where the site ceases to be occupied during works, whichever comes first. You will continue to be charged where this is not done. No bins provided as part of the domestic waste service are to remain on site for use by construction workers, unless previous written approval is obtained from Council. To satisfy this condition, the Principal Certifying Authority must contact Council on (02) 9843 0310 at the required time mentioned above to arrange for the service to be discontinued and for any bins to be removed from the property by Council.

60. Construction and/or Demolition Waste Management Plan Required

Prior to the commencement of works, a Waste Management Plan for the construction and/ or demolition phases of the development must be submitted to and approved by the Principal Certifying Authority. The plan should be prepared in accordance with The Hills Development Control Plan 2012 Appendix A. The plan must comply with the waste minimisation requirements in the relevant Development Control Plan. All requirements of the approved plan must be implemented during the construction and/ or demolition phases of the development.

61. Traffic Control Plan

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

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

62. Erection of Signage – Supervision of Work

In accordance with the Environmental Planning and Assessment Regulations 2000, a sign is to be erected in a prominent position displaying the following information:

-) The name, address and telephone number of the Principal Certifier (Council);
- a) The name and telephone number (including after hours) of the person responsible for carrying out the works;
- b) That unauthorised entry to the work site is prohibited.

This signage must be maintained while the subdivision work is being carried out and must be removed upon completion.

As per the Environmental Planning and Assessment Act 1979, only Council can issue a Subdivision Certificate which means only Council can be appointed as the Principal Certifier for subdivision works.

63. Erosion and Sediment Control/ Soil and Water Management

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

64. 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.

65. Dust Management Plan

A site specific dust management plan must be developed to proactively address the issue of dust during construction. This plan must be submitted to Council's Manager – Subdivision and Development Certification for written approval before works commence. The plan must address/ include the following matters, where relevant:

- a) Water carts must be used to regularly wet down exposed areas. The number of water carts required on site (at all times, and with additional carts available on demand) must be nominated and justified.
- b) Additives that can be mixed with the water to aid dust suppression.
- c) A dust cloth must be installed along the perimeter of the site.
- d) Where required, a sprinkler/ misting system along the perimeter of the site.
- e) Dust control at source, such as machine mounted sprinklers, ground mounted water cannons where material is being excavated, loaded and placed and measures to ensure loads are covered.
- a) Speed control on haul routes.
- b) Stockpile management such as location, orientation, volume and height to minimise impacts on neighbouring properties. Covering of stockpiles with tarpaulins or vegetation should also be considered where warranted by the duration of the stockpile. Stockpiles expected to be in place for longer than 14 days are considered non-temporary.
- c) Interim seeding and/ or hydro-mulching of exposed areas as work progresses.
- d) Final topsoil placement and planting or seeding exposed areas as soon as possible.
- e) Jute matting of the core riparian zone within any creeks/ riparian corridors.
- f) Weather forecast systems to predict adverse weather conditions and allow for early action for dust management and to avoid dust generating activities when weather conditions are unfavourable.
- g) Education of all site personnel on reducing dust.
- h) Community engagement plan and complaints management system demonstrating how dust complaints will be received, recorded, resolved and responded to.
- i) How the dust management controls will be monitored, reviewed and revised on a regular basis to ensure their ongoing effectiveness.

66. Separate OSD Detailed Design Approval

No work is to commence until a detailed design for the Onsite Stormwater Detention system has been approved by either Council or an accredited certifier.

DURING CONSTRUCTION**67. 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.

68. 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.

69. 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. 1360225M_03 is to be complied with. Any subsequent version of this BASIX Certificate will supersede all previous versions of the certificate.

70. 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.

71. Stockpiles

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

72. 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:

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

73. Project Arborist

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

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

74. Rock Breaking Noise

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

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

75. Construction Noise

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

76. Contamination

Ground conditions are to be monitored and should evidence such as, but not limited to, imported fill and/or inappropriate waste disposal indicate the likely presence of contamination on site, works are to cease, Council's Manager- Environment and Health is to be notified and a site contamination investigation is to be carried out in accordance with the *State Environmental Planning Policy (Resilience and Hazards) 2021*.

The report is to be submitted to Council's Manager – Environment and Health for review prior to works recommencing on site.

77. 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.

78. Working Hours

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

Upon receipt of justified complaint/s in relation to local traffic impacts arising from roadworks being carried out on existing public roads those roadworks will be restricted to between the hours of 9:00am and 3:00pm, Monday to Friday or as otherwise directed by Council staff. Requests to carry out roadworks on existing public roads during the night in order to avoid local traffic impacts will also be considered based on the circumstances of the site and must be approved in writing by Council's Manager – Subdivision and Development Certification.

PRIOR TO ISSUE OF AN OCCUPATION CERTIFICATE

79. Landscaping Prior to Issue of any Occupation Certificate

The landscaping of the site shall be carried out in accordance with the relevant "Planting Requirements" Condition of the subject Development Consent prior to issue of an Occupation Certificate. The Landscaping shall be either certified to be in accordance with the approved plans by an Accredited Landscape Architect or be to the satisfaction of Council's Manager Environment and Health. All landscaping is to be maintained at all times in accordance with THDCP Part C, Section 3 – Landscaping and the approved landscape plan.

80. Acoustic Compliance Report

The acoustic consultant shall progressively inspect the installation of the required noise suppressant components as recommended in DA Acoustic Assessment for – Mason Road, Box Hill prepared by Acoustic Logic referenced as 20221485.1/1212A/R0/PF revision 0 and dated 12 December 2022. Written certification detailing the outcome of the inspection/s is to be provided to the certifying authority.

81. Internal Pavement Construction

Prior to any Occupation Certificate being issued, a Certified Practicing Engineer (CPEng) must submit a letter to Council confirming that the internal pavement has been constructed in accordance to the approved plans, and is suitable for use by a 8.8m long medium rigid vehicle when fully laden.

82. Final Inspection of Waste Storage Area(s)

Prior to any Occupation Certificate being issued, a final inspection of the waste storage area(s) and associated management facilities must be undertaken by Council's Resource Recovery

Project Officer. This is to ensure compliance with Council's design specifications and that necessary arrangements are in place for domestic waste collection by Council and its Domestic Waste Collection Contractor. The time for the inspection should be arranged at least 48 hours prior to any suggested appointment time.

83. Provision of Signage for Waste Storage Areas

Prior to any Occupation Certificate being issued, a complete full set of English and traditional Chinese waste education signage (garbage, recycling and no dumping) must be installed in a visible location on every internal wall of all waste storage areas. The signage must meet the minimum specifications below and must be designed in accordance with Council's approved artwork. Waste signage artwork can be downloaded from Council's website; www.thehills.nsw.gov.au.

- a) Flat size: 330mm wide x 440mm high
- b) Finished size: 330mm wide x 440mm high. Round corners, portrait
- c) Material: Aluminium / polyethylene composite sheet 3.0mm, white (alupanel)
- d) Colours: Printed 4 colour process one side, UV ink
- e) Finishing: Over laminated gloss clear. Profile cut with radius corners and holes.

84. Domestic Waste Collection Risk Assessment

Prior to any Occupation Certificate being issued, a risk assessment must be undertaken on site by Council's Coordinator Resource Recovery. The time for the assessment must be arranged when clear unobstructed circulation in and out of the site is available for Council's Domestic Waste Contractor to perform a mock collection run at the site.

85. Installation of Master Key System to Waste Collection Room

Before the issue of an Occupation Certificate, the site project manager must organise with Council's locksmith to install a lockbox fitted with Council's Waste Management Master Key System 'P3520' on an accessible external wall of the waste holding room. The lockbox must store the site-specific keys that open the waste holding room so that Council's Waste Collection Contractor can access the room for ongoing waste collection. The lockbox fitted with Council's Master Key System is to be installed through Council's locksmith at the cost of the developer. Please contact Council's Resource Recovery Project Officer to organise the installation.

86. Confirmation of Pipe Locations

A letter from a registered surveyor must be provided with the works as executed plans certifying that all pipes and drainage structures are located within the proposed drainage easements.

87. 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.

88. Provision of Electrical Services

Submission of a notification of arrangement certificate confirming satisfactory arrangements have been made for the provision of electrical services. This must include the under-grounding of the existing electrical services fronting the site and removal of all redundant poles and cables, unless otherwise approved by Council in writing. The certificate must refer to this development consent and all of the lots created.

89. Provision of Telecommunication Services

The developer (whether or not a constitutional corporation) is to provide evidence satisfactory to the Certifying Authority that arrangements have been made for:

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

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

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

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

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

A copy of the works as executed (WAE) plans for the telecommunications infrastructure must also be submitted.

90. Strata Certificate Application

When submitted, the Strata Certificate application must include:

- i. One copy of the final plan.
- ii. The original administration sheet and Section 88B instrument.
- iii. All certificates and supplementary information required by this consent.
- iv. An AutoCAD copy of final plan (GDA2020/ MGA Zone 56).

Should the Strata Certificate be issued by a certifier other than Council a copy of the Strata Certificate, along with all supporting documentation relied upon as part of the same, must be submitted to Council.

91. Building Services

A letter from a registered surveyor must be submitted certifying that all facilities servicing the existing/ partially constructed buildings are located wholly within their respective lot or are otherwise contained within a suitable easement.

92. Creation of Restrictions/ Positive Covenants

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

a) Restriction/ Positive Covenant – Onsite Stormwater Detention

The subject site must be burdened with a restriction and a positive covenant using the "onsite stormwater detention systems" terms included in the standard recitals.

b) Restriction/ Positive Covenant – Water Sensitive Urban Design

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

c) Positive Covenant – Stormwater Pump

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

d) Positive Covenant – Onsite Waste Collection

The subject site must be burdened with a positive covenant relating to onsite waste collection using the “onsite waste collection” terms included in the standard recitals.

93. 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.

94. 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.

95. Pump System Certification

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

96. Stormwater Management Certification

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

- Works as executed plans prepared on a copy of the approved plans;
- For Onsite Stormwater Detention (OSD) systems, a certificate of hydraulic compliance (Form B.11) from a hydraulic engineer verifying that the constructed OSD system will function hydraulically;
- For OSD systems, a certificate of structural adequacy from a structural engineer verifying that the structures associated with the constructed OSD system are structurally adequate and capable of withstanding all loads likely to be imposed on them during their lifetime;
- Records of inspections; and
- An approved operations and maintenance plan.

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

97. Groundwater Requirements and Management

Prior to the issue of the Occupation Certificate, the consent holder must submit a compliance certificate prepared by suitably accredited qualified Geotechnical Engineer certifying that the Groundwater and Management condition within this consent has been satisfied. The compliance certificate shall also certify that the DPE Water and the Natural Resources Access Regulator requirements have been satisfied.

These requirements shall be reflected on the Occupation Certificate and supporting documentation prior to the issue of the Occupation certificate by the Registered Certifier.

THE USE OF THE SITE

98. Lighting

Any lighting on the site shall be designed so as not to cause a nuisance to other residences in the area or to motorists on nearby roads and to ensure no adverse impact on the amenity of the

surrounding area by light overspill. All lighting shall comply with the *Australian Standard AS 4282:1997 Control of Obtrusive Effects of Outdoor Lighting*.

99. Waste and Recycling Management

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

100. Acoustic – Project Specific

The following project specific criterion is to be met at the boundary of the development for all mechanical services (eg. waste room & carpark exhausts) as detailed in DA Acoustic Assessment for – Mason Road, Box Hill prepared by Acoustic Logic referenced as 20221485.1/1212A/R0/PF revision 0 and dated 12 December 2022:

- 43dB(A) (LAeq 15min) during the day (7am – 6pm);
- 43dB(A) (LAeq 15min) during the evening (6pm – 10pm); and
- 38dB(A) (LAeq 15 min) during the night (10pm – 7am).

ATTACHMENTS

1. Locality Plan
2. Aerial Photograph
3. SEPP Zoning Map
4. SEPP Height of Buildings Map
5. Proposed Plan of Subdivision (DA No. 763/2023/ZA)
6. Engineering Plan for Subdivision DA 763/2023/ZA
7. Site Plan
8. Building Height Plane
9. Floor Plans
10. Elevations
11. Sections
12. Shadow Diagrams
13. Landscape Plan
14. Perspectives
15. Clause 4.6 Variation Request

DP 11104

SUBJECT SITE

PROPERTIES NOTIFIED

THE HILLS SHIRE COUNCIL

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ATTACHMENT 2 – AERIAL MAP



SUBJECT SITE

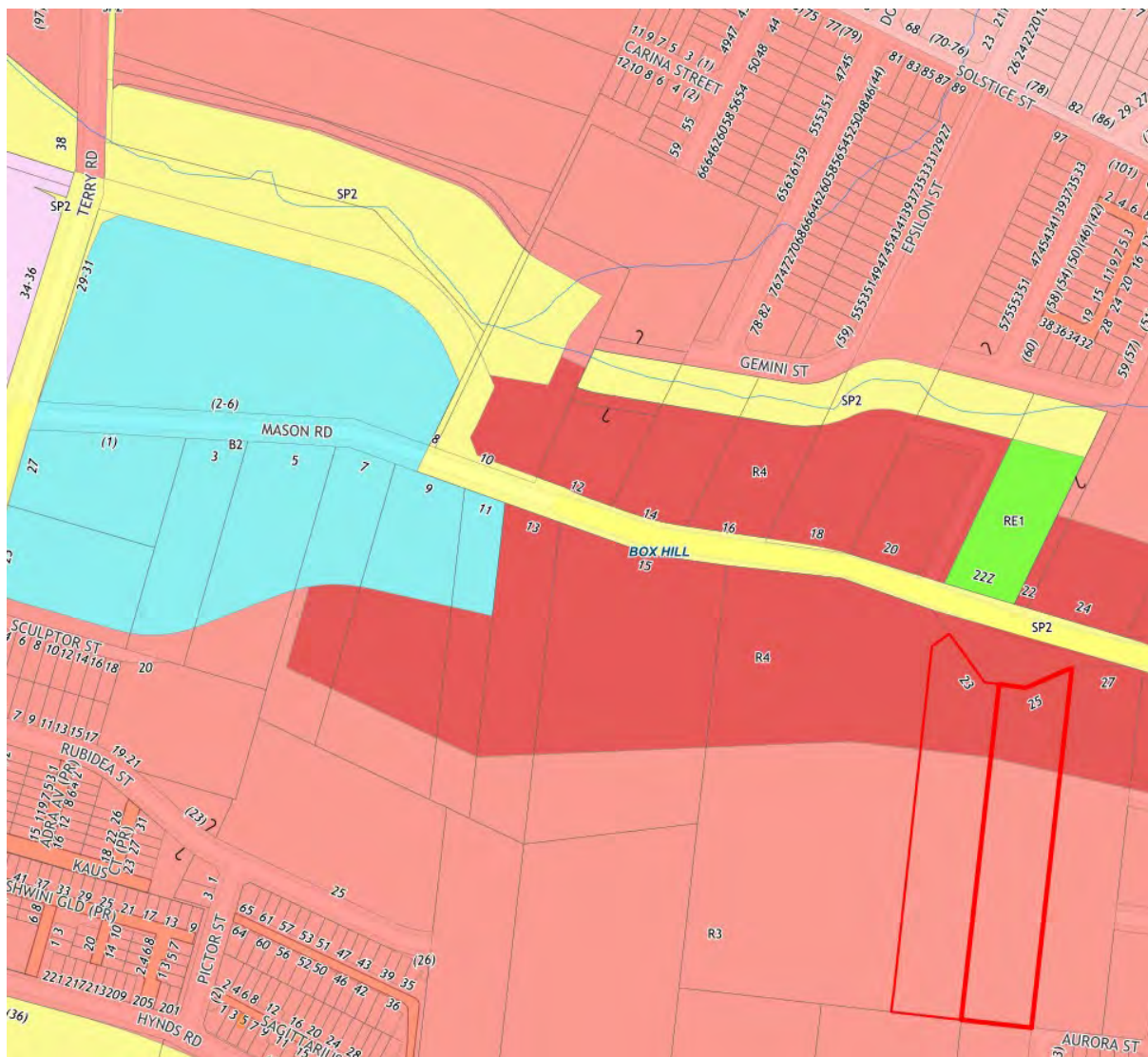
THE HILLS
Sydney's Garden Shire

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ATTACHMENT 3 – SEPP ZONING MAP



Land Zoning (LZN)	
B2	Local Centre
B6	Enterprise Corridor
B7	Business Park
E2	Environmental Conservation
IN2	Light Industrial
R1	General Residential
R2	Low Density Residential
R3	Medium Density Residential
R4	High Density Residential
RE1	Public Recreation
RE2	Private Recreation
SP2	Infrastructure

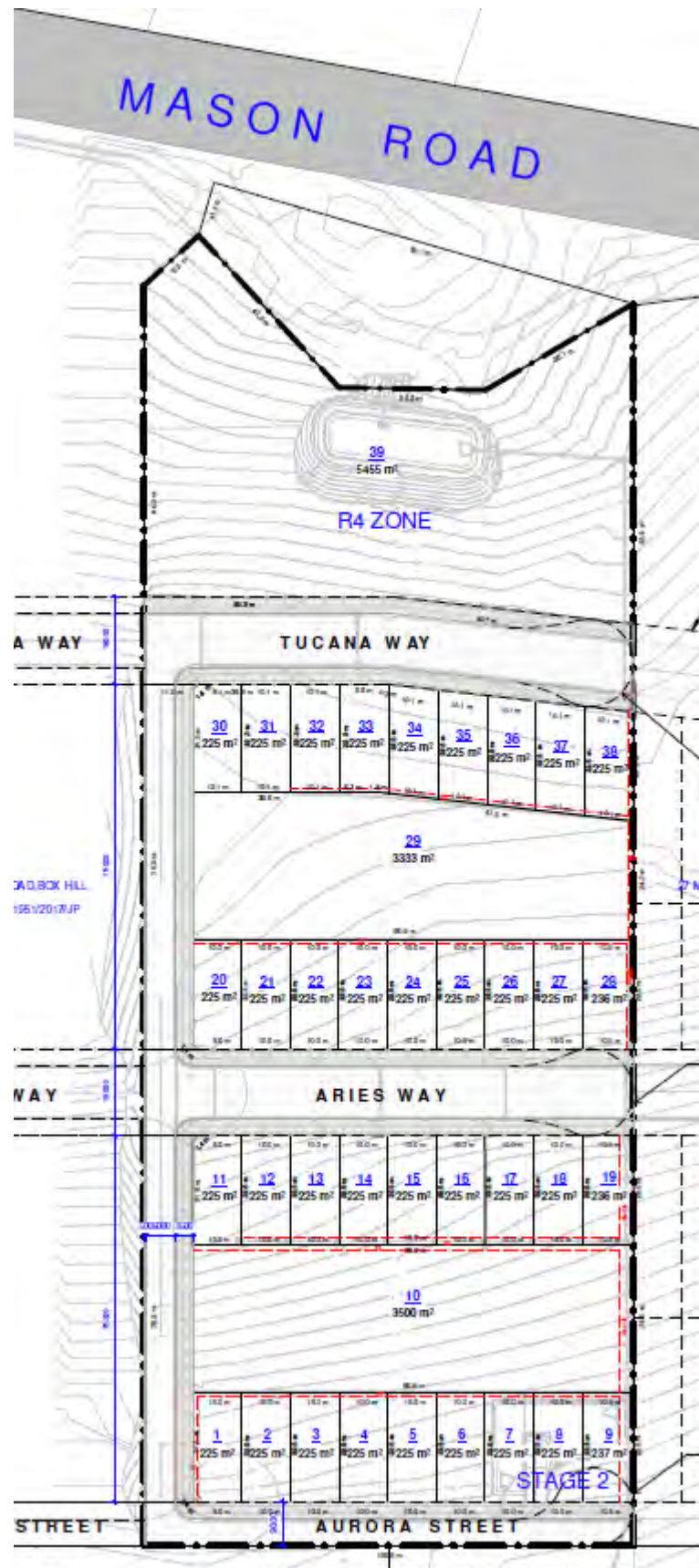
ATTACHMENT 4 – SEPP HEIGHT OF BUILDINGS MAP



Height of Buildings (HOB)

- I 8.5
- K 10
- N 14
- O 16
- P 18
- R 21
- S 24

ATTACHMENT 5 – PROPOSED PLAN OF SUBDIVISION (DA No. 763/2023/ZA)

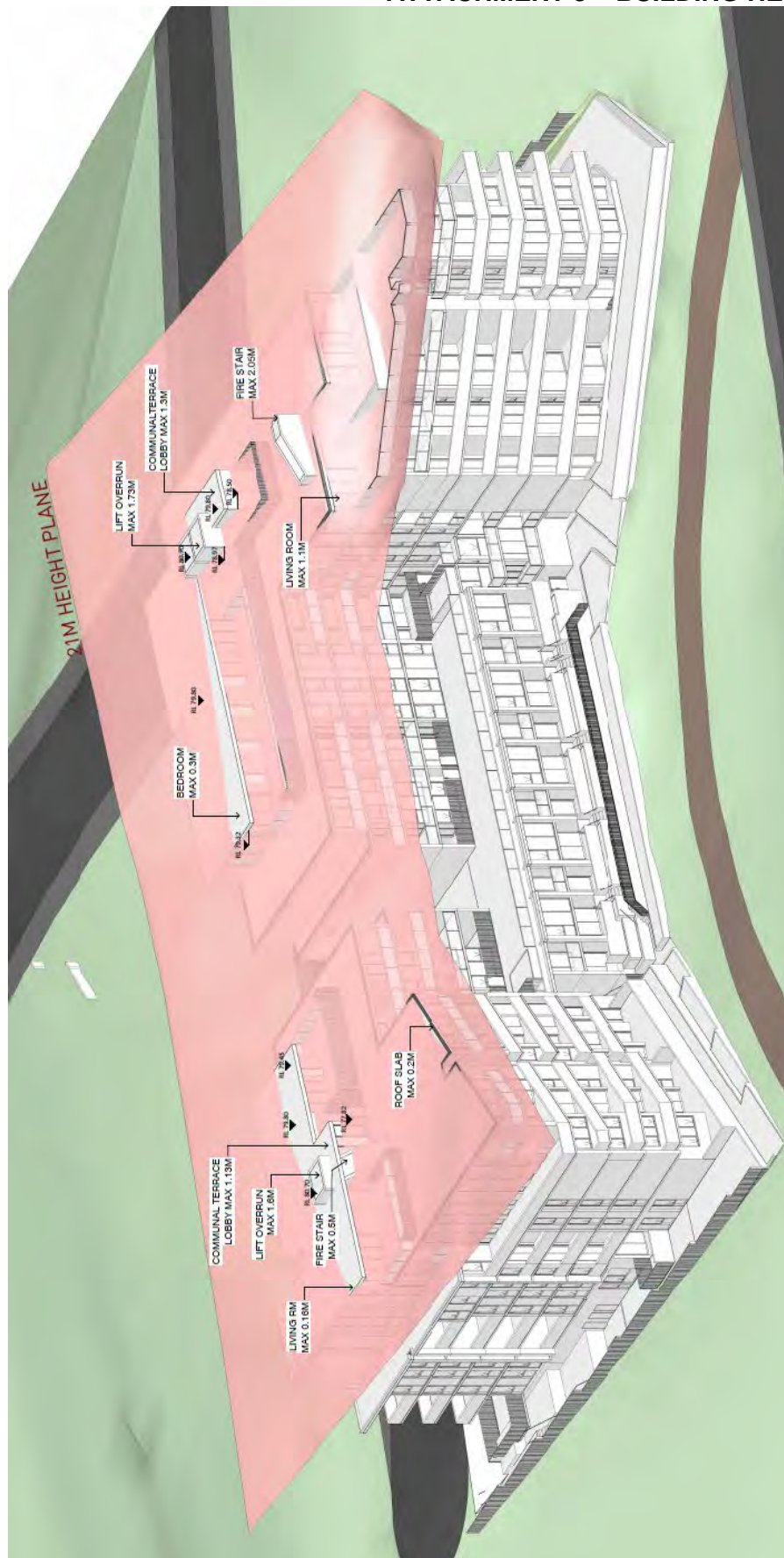


[illegible]

ATTACHMENT 7 – SITE PLAN



ATTACHMENT 8 – BUILDING HEIGHT PLANE



ATTACHMENT 9 – FLOOR PLANS





Basement 1



Ground Floor



Level 1



Level 2





Level 4



Level 5

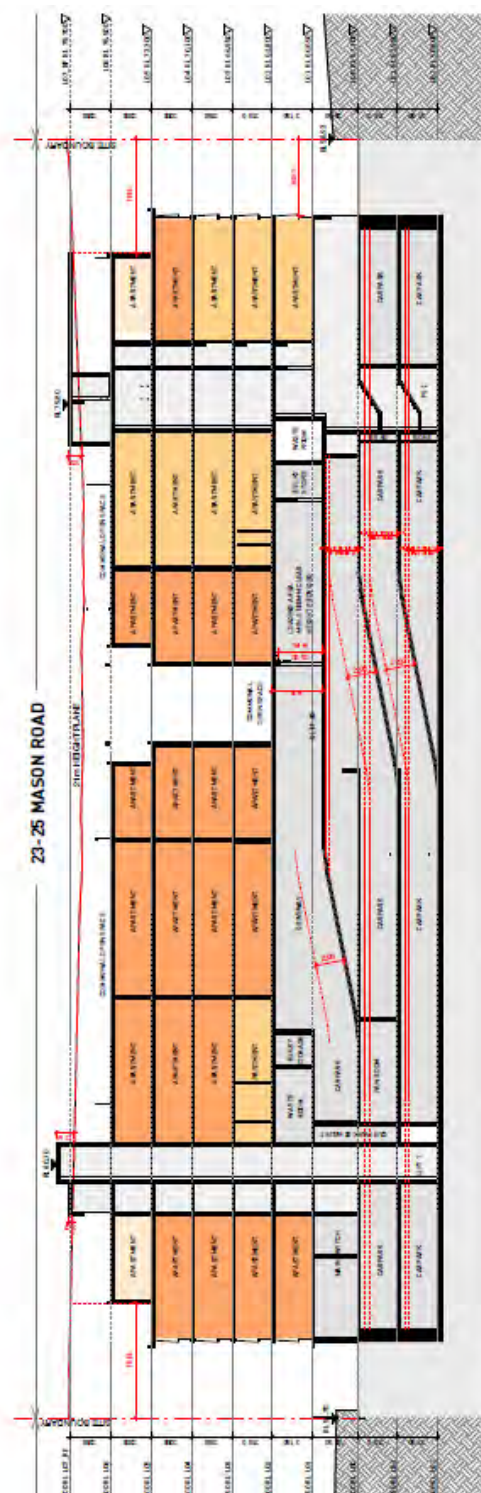
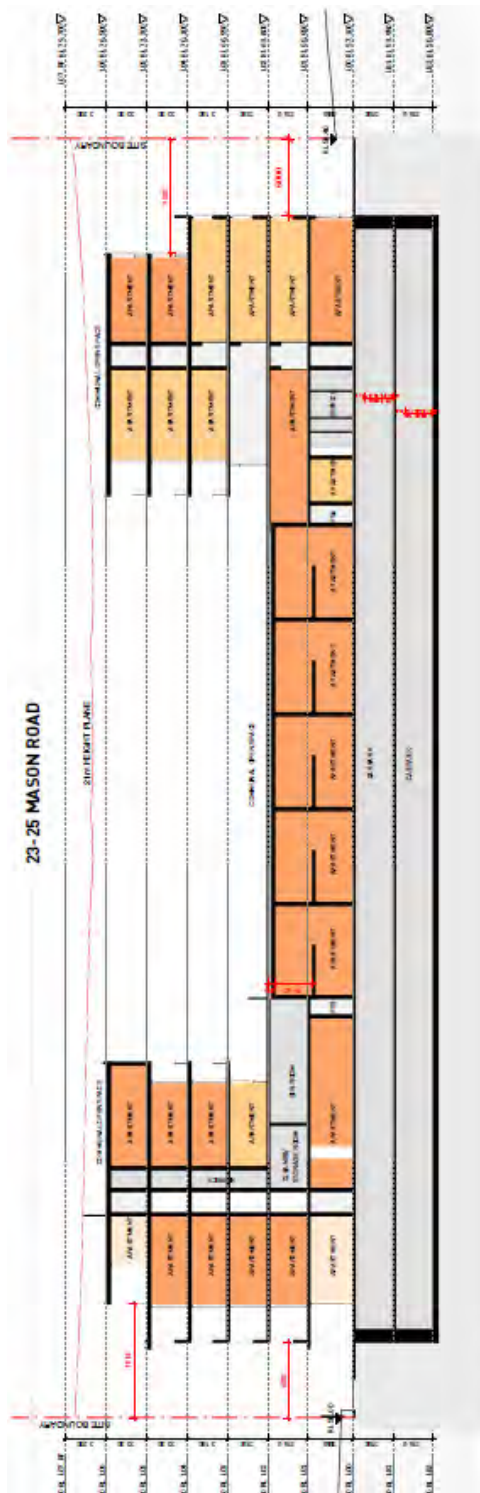


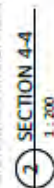
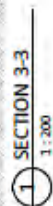
ATTACHMENT 10 – ELEVATIONS



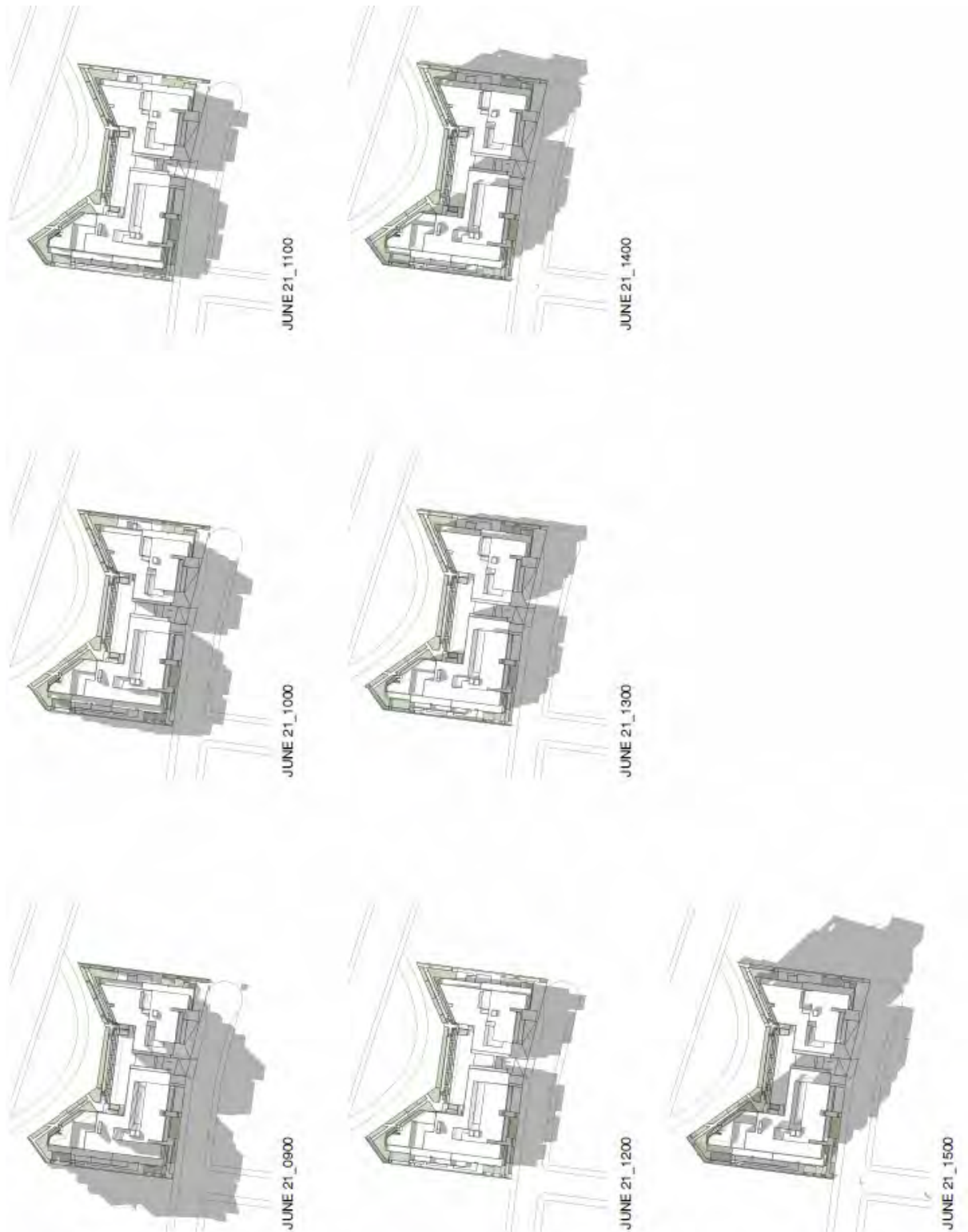


ATTACHMENT 11 – SECTIONS

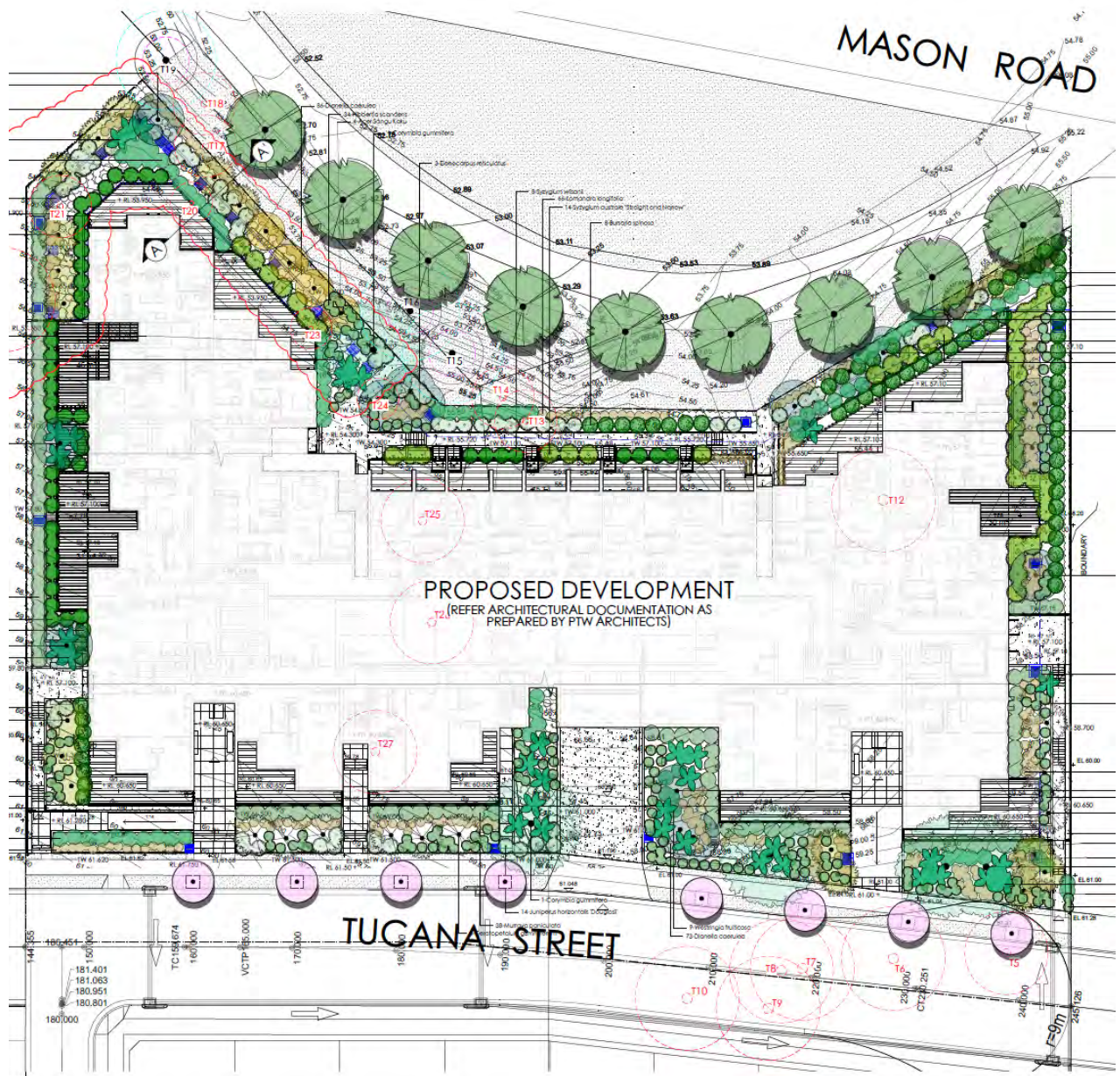




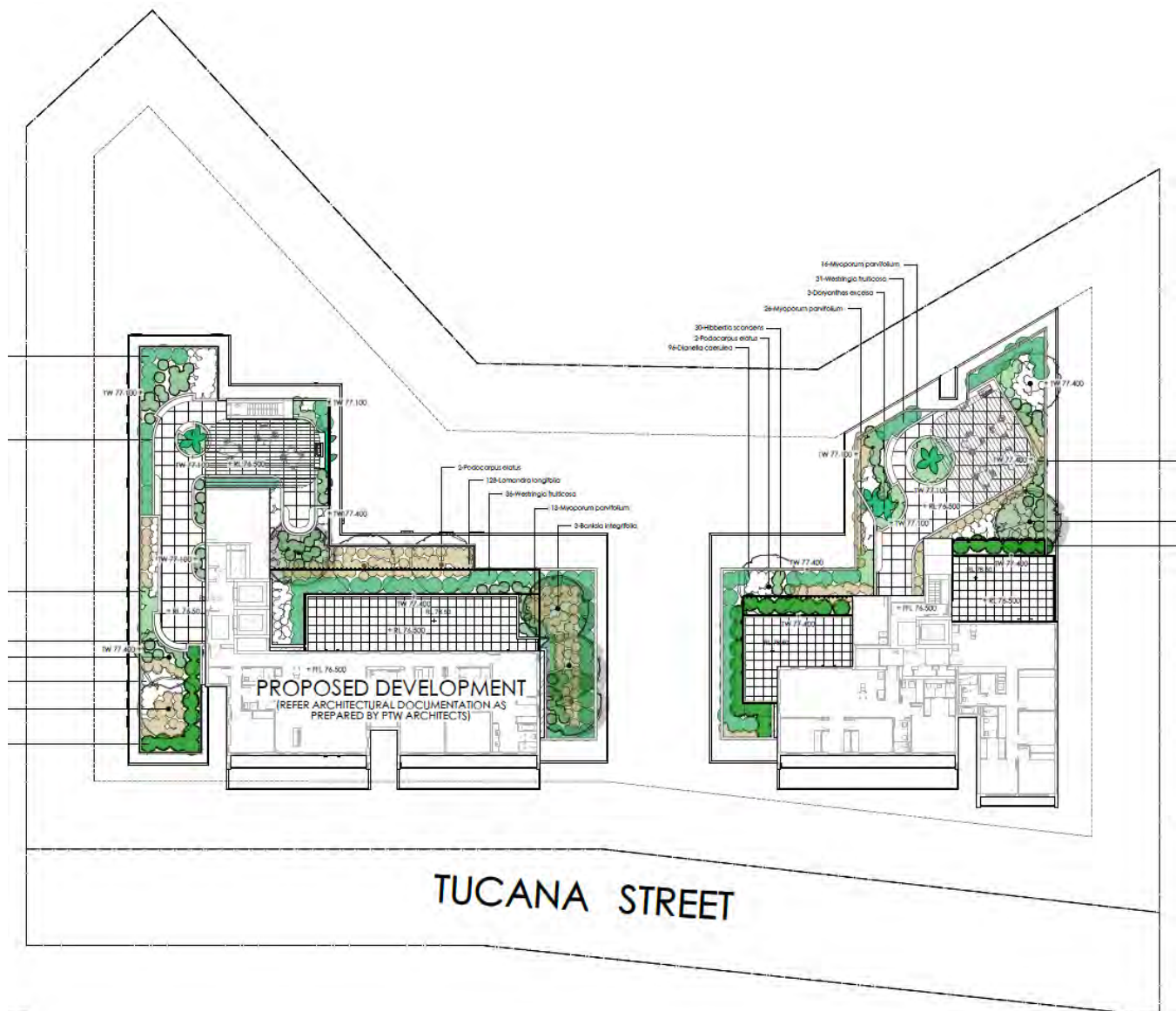
ATTACHMENT 12 – SHADOW DIAGRAMS



ATTACHMENT 13 – LANDSCAPE PLAN



Ground Floor



Level 6

ATTACHMENT 14 – PERSPECTIVES





ATTACHMENT 15 – CLAUSE 4.6 VARIATION REQUEST



Clause 4.6 Variation Request

Clause 4.3 - State Environmental Planning
Policy (Precincts – Central River City) 2021

23-25 Mason Road, Box Hill

November 2024



1



Clause 4.6 Variation Request
23-25 Mason Road, Box Hill

1. INTRODUCTION

This Clause 4.6 Exceptions to Development Standards request has been prepared BMA Urban on behalf of Doroch Architects. It is submitted in support of a Development Application that seeks consent for the construction of 108 apartments with basement car parking, drainage landscaping and rooftop Communal Open Space.

This request seeks approval to vary the height of buildings development standard in clause 4.3 of the State Environmental Planning Policy (Precincts—Central River City) 2021 (Appendix 10) - The Hills Growth Centre Precinct. Clause 4.3 prescribes a numerical building height limit of 21m over the subject site. The proposed building height departs from this standard as demonstrated in **Part 2** of this variation request.

Clause 4.6 of the State Environmental Planning Policy (Precincts—Central River City) 2021 (Appendix 10) - The Hills Growth Centre Precinct enables consent for development to be granted even though it contravenes a development standard. The clause aims to provide an appropriate degree of flexibility in applying certain development standards and to achieve better outcomes for and from development.

As the following request demonstrates, flexibility may be afforded by Clause 4.6 because compliance with the height of buildings development standard is unreasonable or unnecessary in the circumstances of the case and there are sufficient environmental planning grounds to justify contravening the standard.

The following sections of the report provide an assessment of the request to vary the development standard relating to **"height of buildings"** in accordance with Clause 4.6 of the State Environmental Planning Policy (Precincts—Central River City) 2021 (Appendix 10) - The Hills Growth Centre Precinct.

Consideration has been given to the following matters within this assessment:

- *Guide to varying Development Standards*, prepared by the Department of Planning and Environment dated November 2023.
- Relevant planning principles and judgments issued by the Land and Environment Court. The *Initial Action Pty Ltd v Woollahra Municipal Council* [2018] NSWLEC 118 court judgment is the most relevant of recent case law.

Chief Justice Preston of the Land and Environment Court confirmed in the above judgment:

The consent authority must, primarily, be satisfied the applicant's written request adequately addresses the 'unreasonable or unnecessary' and 'sufficient environmental planning grounds' tests:

"that the applicant's written request ... has adequately addressed the matters required to be demonstrated by cl 4.6(3). These matters are twofold: first, that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case ... and, secondly, that there are sufficient environmental planning grounds to justify contravening the development standard ..." [15]



Clause 4.6 Variation Request
23-25 Mason Road, Box Hill

On the 'Five Part Test' established under *Wehbe v Pittwater Council* [2007] NSWLEC 827:

"The five ways are not exhaustive of the ways in which an applicant might demonstrate that compliance with a development standard is unreasonable or unnecessary; they are merely the most commonly invoked ways. An applicant does not need to establish all of the ways. It may be sufficient to establish only one way..." [22]

That in establishing 'sufficient environmental planning grounds' the focus must be on the contravention and not the development as a whole:

"The environmental planning grounds advanced in the written request must justify the contravention of the development standard, not simply promote the benefits of carrying out the development as a whole" [26]

That clause 4.6 does not directly or indirectly establish a test that the non-compliant development should have a neutral or beneficial effect relative to a compliant development:

"Clause 4.6 does not directly or indirectly establish this test. The requirement in cl 4.6(3)(b) is that there are sufficient environmental planning grounds to justify contravening the development standard, not that the development that contravenes the development standard will have a better environmental planning outcome than a development that complies with the development standard."

[88]

This clause 4.6 variation has specifically responded to the matters outlined above and demonstrates that the request meets the relevant tests with regard to recent case law.

In accordance with the requirements of the State Environmental Planning Policy (Precincts—Central River City) 2021 (Appendix 10) - The Hills Growth Centre Precinct, this Clause 4.6 variation request:

- identifies the development standard to be varied (**Part 2**);
- identifies the variation sought (**Part 2**);
- summarises relevant case law (**Part 3**);
- establishes that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case (**Part 4**);
- demonstrates there are sufficient environmental planning grounds to justify the contravention (**Part 4**); and
- provides a conclusion summarising the preceding parts (**Part 5**).

This Clause 4.6 Exceptions to Development Standards request should be read in conjunction with the architectural plans prepared by Doroch Architects.



2. VARIATION OF HEIGHT OF BUILDINGS STANDARD

2.1 DEVELOPMENT STANDARD

Clause 4.3(2) of the State Environmental Planning Policy (Precincts—Central River City) 2021 (Appendix 10) - The Hills Growth Centre Precinct sets out the maximum building height for development as shown on the Height of Buildings Map. The site is subject to a maximum building height of 21 metres, as illustrated in Figure 1 below.

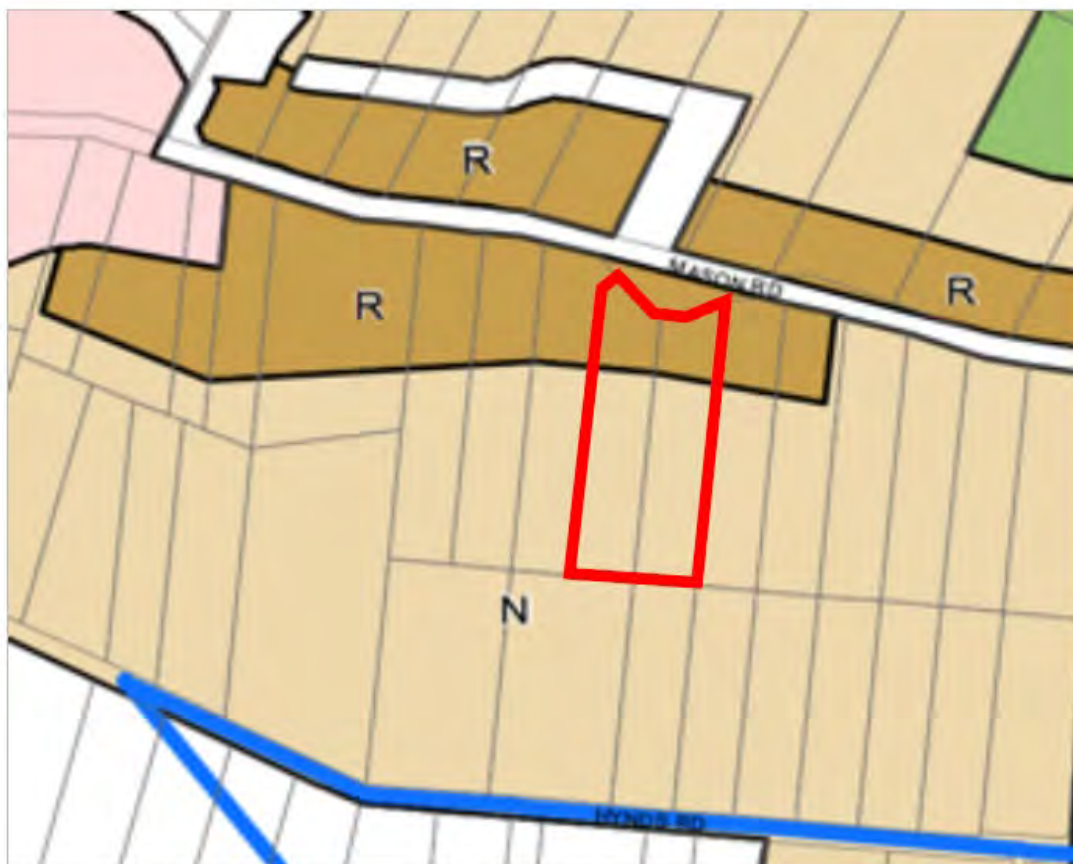


Figure 1: Height of Buildings Map
(Source: NSW Planning Portal Spatial viewer)

Clause 4.3(1) of State Environmental Planning Policy (Precincts—Central River City) 2021 (Appendix 10) - The Hills Growth Centre Precinct sets out the objectives for building height, as follows:

- (a) to establish the maximum height of buildings,
- (b) to minimise visual impact and protect the amenity of adjoining development and land in terms of solar access to buildings and open space,
- (c) to facilitate higher density development in and around commercial centres and major transport routes.



Clause 4.6 Variation Request
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2.2 VARIATION TO HEIGHT OF BUILDINGS STANDARD

The variations to the height relate primarily to the proposed lift overrun which is shown in the height plane diagrams below in Figure 3 & 4. The "ARF" are considered exempt from discussion in the height exceedance for reasons demonstrated in the sketches that form part of the application; the ARF relate to upturn edges to roof slabs which give scale to the façade – the extent ranges from 300mm to 600mm. The proposed lift overruns in both the east and west wings of the project arise through the provision of equitable access to communal open space areas on the roof of the complex. The point exceedance of these lifts are as follows:-

- Lift Overrun 1 including corridor and shaft – 1730mm
- Lift Overrun 2 including shaft – 1500mm and
- Lift Overrun 3 including corridor and shaft – 1600mm

The proposal seeks to vary the maximum 21m building height standard applicable to the subject site by minimum of 500mm (2.38% through to 9.76% (2050mm) as outlined above.

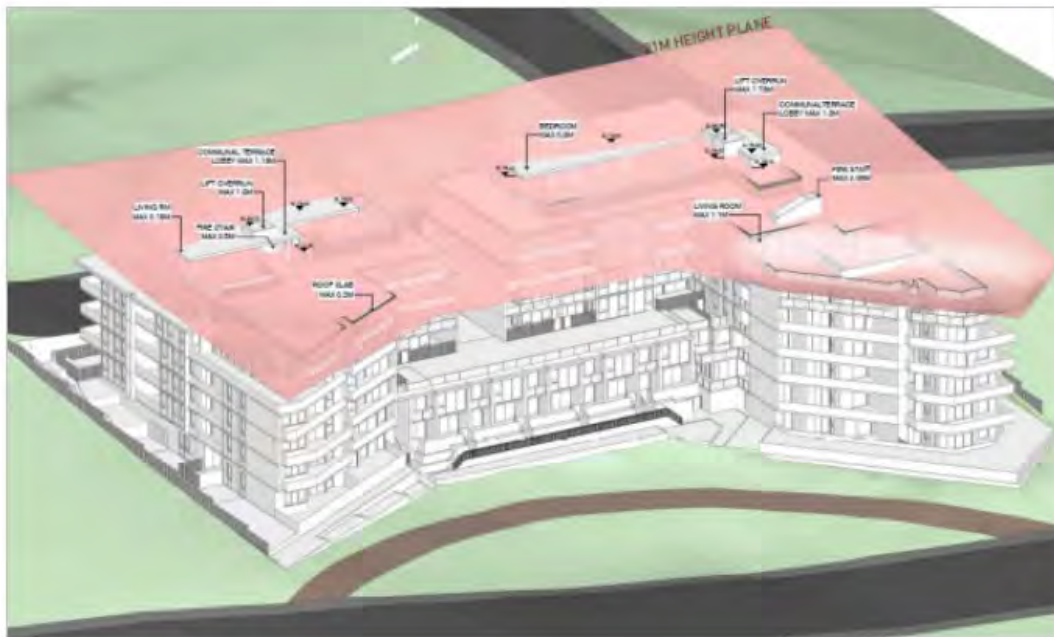


Figure 2: Height breach 3D diagram
Source: Doroch Architects



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23-25 Mason Road, Box Hill

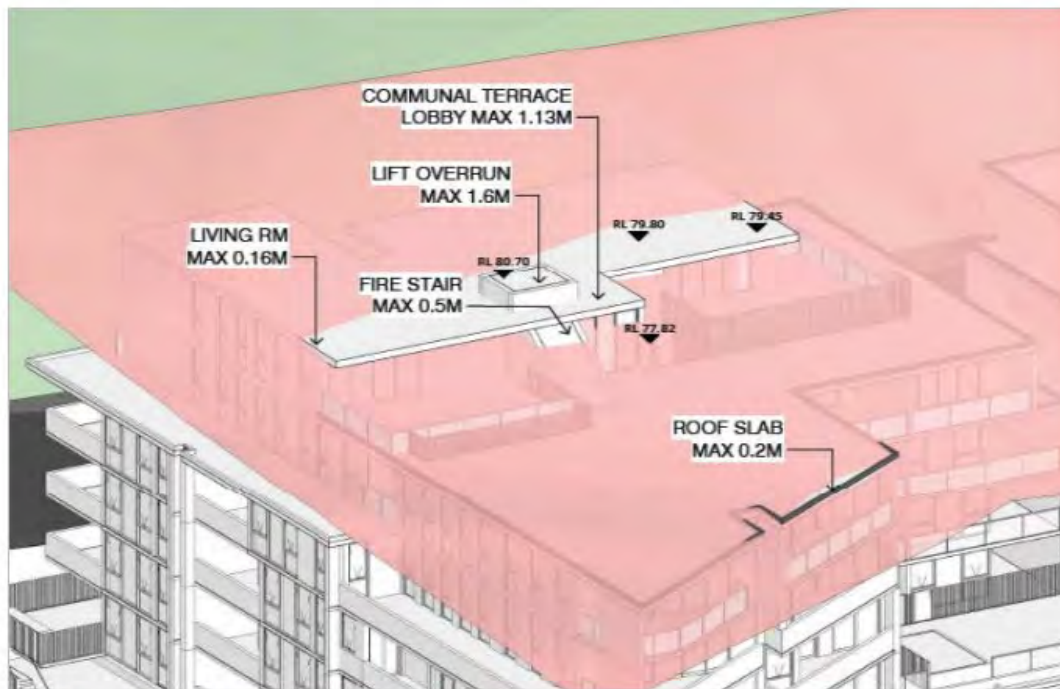


Figure 3: Height breach – Rooftop Communal Space – East Wing
Source: Doroch Architects

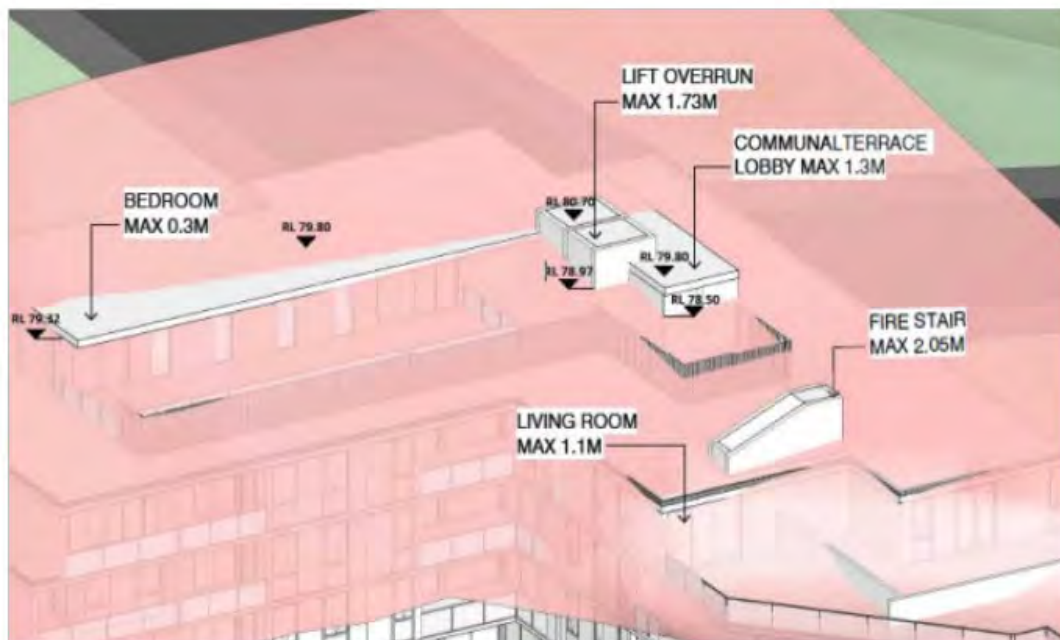


Figure 4: Height breach – Rooftop Communal Space – West Wing
Source: Doroch Architects



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3. RELEVANT ASSESSMENT FRAMEWORK

Clause 4.6 of the State Environmental Planning Policy (Precincts—Central River City) 2021 (Appendix 10) - The Hills Growth Centre Precinct includes provisions that allow for exceptions to development standards in certain circumstances. The objectives of clause 4.6 of State Environmental Planning Policy (Precincts—Central River City) 2021 (Appendix 10) - The Hills Growth Centre Precinct are:

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

Clause 4.6 provides flexibility in the application of planning provisions by allowing the consent authority to approve a DA that does not comply with certain development standards, where it can be shown that flexibility in the particular circumstances of the case would achieve better outcomes for and from the development.

In determining whether to grant consent for development that contravenes a development standard, clause 4.6(3) requires that the consent authority consider a written request from the applicant that seeks to justify the contravention of the development by demonstrating:

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

Clause 4.6(4) requires the consent authority to keep a record of its assessment under subclause (3).

This clause 4.6 request demonstrates that compliance with the height of building prescribed for the site in Clause 4.3 of State Environmental Planning Policy (Precincts—Central River City) 2021 (Appendix 10) - The Hills Growth Centre Precinct is unreasonable, and there are sufficient environmental planning grounds to justify the requested variation and that the approval of the variation is consistent with the development standard.

In accordance with clause 4.6(3), the applicant requests that the building height standard be varied.



4. ASSESSMENT OF THE CLAUSE 4.6 VARIATION

The following sections of this report provide a comprehensive assessment of the request to vary the development standard relating to height of buildings, in accordance with clause 4.3 of State Environmental Planning Policy (Precincts—Central River City) 2021 (Appendix 10) - The Hills Growth Centre Precinct.

Detailed consideration has been given to the following matters within this assessment:

- *Guide to varying Development Standards*, prepared by the Department of Planning & Environment dated November 2023; and
- Relevant planning principles and judgements issued by the NSW Land and Environment Court.

The following sections of this report provide detailed responses to the key questions required to be addressed within the above documents and clause 4.6 of State Environmental Planning Policy (Precincts—Central River City) 2021 (Appendix 10) - The Hills Growth Centre Precinct.

4.1 ABILITY TO VARY THE STANDARD

The height of buildings standard as prescribed in Clause 4.3 of State Environmental Planning Policy (Precincts—Central River City) 2021 (Appendix 10) - The Hills Growth Centre Precinct is a development standard capable of being varied under clause 4.6(2) of the provision. The proposed variation is not excluded from the operation of clause 4.6(2) of State Environmental Planning Policy (Precincts—Central River City) 2021 (Appendix 10) - The Hills Growth Centre Precinct, as it does not comprise any of the matters listed within clause 4.6(6) or clause 4.6(8) of the provision.

4.2 CONSIDERATION

4.2.1 Clause 4.6(3)(a) – Is Compliance with the Development Standard Unreasonable or Unnecessary in the Circumstances of the Case?

Historically, the most common way to establish a development standard was unreasonable or unnecessary was by satisfying the first method set out in *Wehbe v Pittwater Council* [2007] NSWLEC 827. This method requires that the objectives of the standard are achieved despite the non-compliance with the standard.

This was recently reaffirmed by the Chief Judge in *Initial Action Pty Ltd v Woollahra Municipal Council* [2018] NSWLEC 118 at [16]-[17]. Similarly, in *Randwick City Council v Micaul Holdings Pty Ltd* [2016] NSWLEC 7 at [34] the Chief Judge held that “establishing that the development would not cause environmental harm and is consistent with the objectives of the development standards is an established means of demonstrating that compliance with the development standard is unreasonable or unnecessary”.



Clause 4.6 Variation Request
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This Request addresses the first method outlined in *Wehbe v Pittwater Council* [2007] NSWLEC 827. This method alone is sufficient to satisfy the 'unreasonable or unnecessary' requirement.

■ ***The objectives of the standard are achieved notwithstanding non-compliance with the standard*** (the first method in *Wehbe v Pittwater Council* [2007] NSWLEC 827 [42]-[43]).

The specific objectives of the height of buildings development standard, as specified in clause 4.3(1) of State Environmental Planning Policy (Precincts—Central River City) 2021 (Appendix 10) - The Hills Growth Centre Precinct, are detailed in the table below. An assessment of the consistency of the proposed development with each of the objectives is also provided.

Objectives	Assessment
(a) to establish the maximum height of buildings,	<p>The proposal has been designed in response to the natural landform, characteristics of the land and relationship with neighbouring development both current and evolving and seeks to introduce a development scale that despite the numerical height breach, will identify as visually commensurate with development zone and more generally, the transformation into a precinct of commercial, mixed-use and mixed residential densities.</p> <p>Having regard to the contextual character both current and evolving and the anticipated building heights/scales across neighbouring properties once land is redeveloped to reflect the allowable prescribed heights and densities, the building height breach will not hinder the continual achievement of broader positive contextual outcomes, and therefore, the proposal continues to align with this objective despite the height variation.</p> <p>More generally, the siting and nature of the breaching elements including their scale and aspect, enable the proposed building to visually integrate with that of setting both current and future serving as an affirmation of the objective and not that of a building that abandons height controls.</p> <p>Overall, the proposed development remains entirely consistent and compatible with the existing and desired future character of the area despite the height non-compliance.</p>



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<p><i>b) to minimise visual impact and protect the amenity of adjoining development and land in terms of solar access to buildings and open space,</i></p>	<p>Having regard to the siting and scale of the height breaching elements, predominately recessed away from the building edges, the height breach will not represent a stepping outside of a compliant building envelope and in this regard, will not give rise to an adverse level of visual impact. In relation to solar access, the height breaching elements are sited in a manner that will not in themselves result in a perceptible increase to solar impact to adjoining development which has been demonstrated in the solar access analysis prepared by Doroch Architects accompanying this submission.</p>
<p><i>c) to facilitate higher density development in and around commercial centres and major transport routes.</i></p>	<p>The density proposed as part of this development is representative of the site opportunities and future development in the locality. The size, configuration and mix of the apartments associated with the development provides an appropriate response to the market demand of future occupants.</p> <p>This proposal provides a good mix of housing product and one that could be regarded as being affordable and will largely "target" the first home buyer market as well as "downsizers". Noteworthy, the density proposed as part of the development is considered sustainable within the existing availability of infrastructure, commercial and retail precincts, public transport, recreational and community facilities, and environmental qualities of the site.</p> <p>The height breaching elements relevant to this application in no way hinder the continual achievement of this objective.</p>

4.2.2 Clause 4.6(3)(b) – Are there Sufficient Environmental Planning Grounds to Justify Contravening the Development Standard?

Clause 4.6(3)(b) of State Environmental Planning Policy (Precincts—Central River City) 2021 (Appendix 10) – The Hills Growth Centre Precinct requires the consent authority to be satisfied that the applicant's written request has adequately addressed that clause, by demonstrating:

"that there are sufficient environmental planning grounds to justify contravening the development standard."



The environmental planning grounds relied upon in the written request under Clause 4.6 must be sufficient to justify contravening the development standard. The focus is on the aspect of the development that contravenes the development standard, not the development as a whole. Therefore, the environmental planning grounds advanced in the written request must justify the contravention of the development standard and not simply promote the benefits of carrying out the development, as summarised in *Initial Action Pty Ltd v Woollahra Municipal Council* [2018] (NSWLEC 118).

There is an absence of environmental harm arising from the contravention of the development standard and positive planning benefits arising from the proposed development, as outlined in detail above. These include:

- The height breaches (excluding ARF) are limited to relatively minor parts of the buildings, predominately recessed into the building away from the peripheries which are not highly perceptible when viewed from the public and or private domain interfaces.
- The height non-compliances are in part, are a result of the topography of the site. Despite the minor height breaches, the proposed building has been designed in a manner that responds to the sites varying topography.
- The non-compliances do not create any significant or unreasonable amenity impact on any adjoining properties. In this regard, the additional overshadowing, privacy or view impacts associated with the breach would not be significantly different when compared to that of a height compliant scheme.
- Elements of the height breach provide for access to communal areas which are deemed are positive planning outcome given that it will result in an enhancement of resident amenity.
- The proposed development achieves the Objects in Section 1.3 of the EP&A Act. Specifically, the proposed development promotes good design and amenity of the built environment through a well-considered design which is responsive to its setting and context (1.3)(g).
- There is no planning purpose to be served by limiting the height strictly to the maximum height allowable given the site constraints and absence of unreasonable levels of amenity related impacts.

Based on the above, it has been demonstrated that there are sufficient environmental planning grounds to justify the proposed non-compliance with the height of buildings standard in this instance.

The Objects of the Environmental Planning & Assessment Act 1979 ('EP&A Act') under Section 1.3 of that Act are also relevant to whether grounds exist to warrant a variation. While this does not necessarily require that the proposed development should be consistent with the objects of the Act, nevertheless, in the table below we consider whether the proposed development is consistent with each object.

The objects of the EP&A Act and how this proposal responds to each of the objects are detailed as follows:



Clause 4.6 Variation Request
23-25 Mason Road, Box Hill

Object	Comment
<i>To promote the social and economic welfare of the community and a better environment by the proper management, development and conservation of the State's natural and other resources</i>	This object is not relevant to this development.
<i>To facilitate ecologically sustainable development by integrating relevant economic, environmental and social considerations in decision-making about environmental planning and assessment</i>	The proposal will facilitate an ecologically sustainable development given that no negative impact on environmental and social considerations will arise. This in turn will serve to offer the ongoing sustainment of the economic health of the area.
<i>To promote the orderly and economic use and development of land</i>	The proposed development will promote the orderly and economic use of the land by way of providing a land use typology and intensity, consistent with that envisaged by Council.
<i>To promote the delivery and maintenance of affordable housing</i>	This object is not relevant to this development.
<i>To protect the environment, including the conservation of threatened and other species of native animals and plants, ecological communities and their habitats</i>	Given the nature and character of the urban setting the proposed development is located within, no impact on threatened species or ecological communities is likely to result.
<i>To promote the sustainable management of built and cultural heritage (including Aboriginal cultural heritage)</i>	This object is not relevant to this development
<i>To promote good design and amenity of the built environment</i>	The proposed development promotes good design in that it serves to provide a built form and massing arrangement that serves to positively influence the future amenity of the building occupants while adopting an architectural form and language, with an overall silhouette, height and land use intensity compatible with both the established and emerging development and housing typology.
<i>To promote the proper construction and maintenance of buildings, including the protection of the health and safety of their occupants</i>	The proposed development will comply with all relevant BCA codes and will promote the health and safety of occupants.
<i>To promote the sharing of the responsibility for environmental planning and assessment between the different levels of government in the State</i>	This object is not relevant to this development
<i>To provide increased opportunity for community participation in environmental planning and assessment</i>	This proposed development has been publicly notified in accordance with Council's Community Engagement Strategy/DCP.



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Based on the above, the consent authority can be satisfied that the proposed development remains consistent with the Objects of the Act despite the height non-compliance.

4.2.3 Clause 4.6(4) – The consent authority must keep a record of its assessment carried out under subclause (3).

Cumberland Council has a current Clause 4.6 register. Any record of this development and its address of subclause (3) will be required to be uploaded on this register.



5. CONCLUSION

For the reasons set out in this written request, strict compliance with the height of buildings development standard contained within clause 4.3 of State Environmental Planning Policy (Precincts—Central River City) 2021 (Appendix 10) - The Hills Growth Centre Precinct is unreasonable in the circumstances of the case. Further, there are sufficient environmental planning grounds to justify the proposed variation and it is in the public interest to do so.

It is reasonable and appropriate to vary the height of buildings development standard to the extent proposed, for the reasons detailed within this submission and as summarised below:

- Compliance with the height of buildings development standard is unreasonable and unnecessary in the circumstances of the proposed development.
- The proposal, notwithstanding the non-compliance, is consistent with the objectives of the height of buildings standard.
- There are sufficient environmental planning grounds to justify the contravention.
- There is an absence of any environmental impacts arising from the proposed variation.
- The proposed non-compliance with the height of buildings standard will not result in any matter of significance for State or regional environmental planning

For the reasons outlined above, the clause 4.6 request is well-founded. The development standard is unnecessary and unreasonable in the circumstances, and there are sufficient environmental planning grounds that warrant contravention of the standard. In the circumstances of this case, flexibility in the application of the height of buildings development standard should be applied.