Joint Regional Planning Panel

Thursday, 20 October 2016
<table>
<thead>
<tr>
<th>ITEM</th>
<th>SUBJECT</th>
<th>PAGE</th>
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<tbody>
<tr>
<td>ITEM-2</td>
<td>DA 1395/2016/JP – DEMOLITION OF EXISTING STRUCTURES AND CONSTRUCTION OF A MIXED USE DEVELOPMENT CONTAINING 247 RESIDENTIAL UNITS, GROUND FLOOR RETAIL, THREE (3) LEVELS OF COMMERCIAL OFFICES AND FIVE (5) LEVELS OF PARKING PROVIDING 646 CAR PARKING SPACES – LOT 5074 DP 1003042, 11-13 SOLENT CIRCUIT, BAULKHAM HILLS AND LOT 102 DP 1065520</td>
<td>61</td>
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<tr>
<td>ITEM-1</td>
<td>JRPP REPORT - DA 913/2016/JP (Sydney West)</td>
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<tr>
<td>JRPP No</td>
<td>2015SYW213</td>
<td></td>
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<tr>
<td>DA Number</td>
<td>913/2016/JP</td>
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<tr>
<td>Local Government Area</td>
<td>THE HILLS SHIRE COUNCIL</td>
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<tr>
<td>Proposed Development</td>
<td>RESIDENTIAL FLAT BUILDING DEVELOPMENT</td>
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<tr>
<td>Street Address</td>
<td>LOTS 101 – 103 DP 1195876, NO. 2B AND LOT 103 HECTOR COURT AND LOT 102 AFFLECK CIRCUIT, KELLYVILLE</td>
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<tr>
<td>Applicant</td>
<td>DAVID KREPP</td>
<td></td>
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<tr>
<td>Number of Submissions</td>
<td>First Notification: 34 submissions and a petition signed by an additional 30 persons. Second Notification: Nine</td>
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<tr>
<td>Regional Development Criteria (Schedule 4A of the Act)</td>
<td>CIV EXCEEDING $20 MILLION</td>
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</tbody>
</table>
| List of All Relevant s79C(1)(a) Matters | • LEP 2012  
• DCP Part B Section 5 – Residential Flat Buildings  
• DCP Part D Section 7 – Balmoral Road release Area  
• SEPP 65 - Design Quality of Residential Flat Development  
• SEPP 32 – Urban Consolidation of Land  
• SEPP (State and Regional Development) 2011  
• SEPP Building Sustainability Index BASIX 2004  
• SEPP 55 - Remediation of Land  
• SREP 20 – Hawkesbury Nepean River |
<p>| Does the DA require Special Infrastructure Contributions conditions (s94EF)? | Yes, however the proposal is recommended for refusal. |
| List all documents submitted with this report for the panel’s consideration | All submissions |</p>
<table>
<thead>
<tr>
<th>Recommendation</th>
<th>Refusal</th>
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| Report by      | Principal Executive Planner  
Kristine McKenzie |
| Report date    | 20 October 2016 |

**Summary of S.79C matters**

Have all recommendations in relation to relevant s79C matters been summarised in the Executive Summary of the assessment report?

Yes

**Legislative clauses requiring consent authority satisfaction**

Have relevant clauses in all applicable environmental planning instruments where the consent authority must be satisfied about a particular matter been listed, and relevant recommendations summarised, in the Executive Summary of the assessment report?

Yes

**Clause 4.6 Exceptions to development standards**

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

No, the applicant withdrew a Clause 4.6 variation request.

**Conditions**

Have draft conditions been provided to the applicant for comment?

No

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**EXECUTIVE SUMMARY**

The Development Application is for an apartment building development containing 86 apartments. The development comprises three x five storey buildings containing 21 x 1 bedroom units, 58 x 2 bedroom units and 7 x 3 bedroom units. The site is a corner lot and has frontage to Hector Court, Affleck Circuit and the future extension of Severn Vale Drive. Two/three levels of basement parking are provided which contain parking for 186 vehicles comprising 151 resident spaces and 35 visitor spaces.

The site is zoned R4 High Density Residential under Local Environmental Plan (LEP) 2012 and apartment buildings are a permissible use in the zone. The site has a 16 metre height limit under LEP 2012. The proposal has a maximum height of 16.4 metres which is a variation of 2.5%. The applicant submitted a Clause 4.6 variation request with the original plans at the time of lodgement of the Development Application however when the applicant submitted the revised plans the Clause 4.6 variation request was withdrawn on the basis that the applicant has sought to rely on Clause 5.6 of LEP 2012 which relates to architectural roof features. The proposed lift over-runs are not considered to be an architectural roof feature and therefore a Clause 4.6 variation is required. The proposal also exceeds the DCP height control which limits apartment development to four storey. The proposal has height of five storeys.

The proposal also exceeds the DCP density requirement which is limited to a range of 150-175 persons per hectare. The proposed density is 288.21 persons per hectare. The proposed density is considered unsatisfactory because it is not responsive to the surrounding low density development.
The application also includes a number of other variations to Council’s DCP in relation to setbacks, Unit layout and design, urban design guidelines, unit layout and design, open space and storage which are considered unsupportable in conjunction with the density proposed. The development proposal results in a development that is considered to have limited regard for the existing character of the locality, results in an unacceptable built form and is an over-development of the site. In addition, the applicant has not demonstrated that engineering, drainage and waste management can be adequately addressed within the proposed design.

The proposal does not adequately address a number of matters under Section 79C of the Environmental Planning and Assessment Act in relation to the above. The proposal is however satisfactory in relation to SEPP 55 - Remediation of Land.

The proposal was notified on two occasions. During the first notification period, 34 submissions and a petition signed by an additional 30 persons were received, and during the second notification period nine submissions were received. The issues raised in the submissions relate to traffic, height, density, overdevelopment, bulk and scale, streetscape and amenity impacts.

The application is recommended for refusal as it is an overdevelopment of the site which would result in a greater number of units and persons on site than anticipated under local planning controls and which is excessive and out of context with existing and future character.

In the absence of the JRPP process, this matter would be determined by the Development Assessment Unit.

**BACKGROUND**

**MANDATORY REQUIREMENTS**

<table>
<thead>
<tr>
<th>Owner:</th>
<th>Hector Court Pty Ltd and Fabcot Pty Ltd</th>
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</thead>
<tbody>
<tr>
<td>Zoning:</td>
<td>R4 High Density Residential</td>
</tr>
<tr>
<td>Area:</td>
<td>5829m²</td>
</tr>
<tr>
<td>Existing Development:</td>
<td>Dwelling and Ancillary Buildings</td>
</tr>
<tr>
<td>1. LEP 2012 - Unsatisfactory.</td>
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<tr>
<td>2. DCP Part B Section 5 - Residential Flat Buildings - Unsatisfactory.</td>
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<tr>
<td>3. SEPP 65 Design Quality of Residential Flat Buildings - Unsatisfactory.</td>
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<td>4. SEPP Building Sustainability Index BASIX 2004 - Satisfactory</td>
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<tr>
<td>5. Section 79C (EP&amp;A Act) - Unsatisfactory.</td>
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<td>6. Section 94 Contribution - Currently $2,304,145.47</td>
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</tbody>
</table>

**SUBMISSIONS**

**REASON FOR REFERRAL TO JRPP**

| 1. Exhibition:         | Yes, 14 days. | 1. CIV exceeding $20 Million |
| 2. Notice Adj Owners:  | Yes, 14 days. |                            |
| 3. Number Advised:     | 29           |                            |
| 4. Submissions Received: | First Notification: 34 submissions and a petition signed by an additional 30 persons. Second Notification: Nine |
HISTORY

25/03/2014 Development Application 587/2014/ZE approved by the Development Assessment Unit for an integrated housing development comprising 12 dwellings and associated Torrens Title subdivision of the dwellings and a facilitating subdivision to create Lots 101 – 103. The proposed integrated housing development was proposed on Lot 102.

10/12/2015 Subject Development Application lodged.

14/12/2015 Email sent to the applicant requesting owner’s consent from Fabcot Pty Ltd (owner of Lot 103) given that Lot 103 is used to gain vehicle access to the site.

19/02/2016 Letter sent to the applicant raising concern that the proposal is an overdevelopment of the site given the number of variations proposed to the DCP requirements, especially in regard to height and density and advising that the proposal in its current form is unlikely to be supported.

The letter also requested the submission of owner’s consent, reduction in height of the proposal in order to comply with the 16m LEP height limit, DCP compliance, relationship, context and interface to adjoining land, drainage and engineering matters, waste management, acoustic impact, landscaping and street/unit numbering.

24/02/2016 Conciliation Conference held.

03/03/2016 Meeting held with the applicant and Council staff to discuss the issues raised at the Conciliation Conference and the matters raised in the letter to the applicant dated 19 February 2016. The applicant was advised that the proposal is required to be amended to comply with height and density controls.

08/04/2016 Meeting held with the applicant and Council staff to discuss the proposal. The applicant tabled three options for discussion. These options were reviewed by Council staff.

14/04/2016 Email sent to the applicant regarding the three options. The applicant was advised that the proposal was required to be amended to comply with the DCP density requirement, LEP height limit, DCP height limit and DCP unit mix requirement. On the basis of compliance with these matters, the applicant was advised that consideration could be given to a reduced rear setback (adjoining the B2 Local Centre zoned land) and unit sizes which are compliant with the ADG.

29/06/2016 Additional information submitted in response to the request for additional/revised information dated 19 February 2016. This included the reduction in units from 87 to 86 units.

12/07/2017 Amended/revised information notified to adjoining property owners and those who made a submission to the original information.
PROPOSAL

The proposal is for the demolition of the existing dwelling and structures and the construction of a residential flat building development containing 86 apartments. The development comprises three x five storey buildings containing 21 x 1 bedroom units, 58 x 2 bedroom units and 7 x 3 bedroom units.

The site is a corner lot and has frontage to Hector Court, Affleck Circuit and the future extension of Severn Vale Drive. Two/three levels of basement parking are provided which contain parking for 186 vehicles, comprising 151 resident spaces and 35 visitor spaces. The vehicle access to the site is from a future extension of Severn Vale Drive which will be a public road. Should approval have been recommended, the extension of Severn Vale Drive would have been required to be constructed as part of the consent.

The proposed external materials include face brick and rendered walls.

CONCILIATION CONFERENCE

During the first notification period 34 submissions and a petition signed by an additional 30 persons were received. As a result, a Conciliation Conference was held on 24 February 2014.

The following outcomes were achieved:

a. Council staff will consider the issues raised during the Conference and this will help inform their assessment.

**Comment:** All issues raised within the written submissions and raised at the Conciliation Conference have been considered as part of the assessment of the Development Application.

b. Council staff will require further information from the applicant and request that they address concerns raised at the meeting regarding how the proposal relates to surrounding development.

**Comment:** Following the Conciliation Conference, a meeting was held with the applicant to discuss the issues raised at the Conciliation Conference and matters raised in Council’s letter to the applicant dated 19 February 2016.

c. Council’s Traffic team will be requested to review:

- Need for the closure of Hector Court and the opening of the Severn Vale Drive extension.

**Comment:** The closure of Hector Court and the signalisation of the intersection of Severn Vale Drive and Memorial Avenue has been identified within the DCP as required local road upgrade works in order to improve traffic safety and improve traffic function and a clear road hierarchy. The closure of Hector Court is dependent on the development of adjoining parcels to the north of the subject site and the upgrade of Memorial Avenue by RMS.

- Changes in traffic flow around the area.

**Comment:** The revised road hierarchy and associated closures and road openings will result in changes to traffic flow in the area. It is acknowledged that this will alter the existing traffic arrangements on some roads, however these changes have been identified within the DCP and will lead to improved traffic safety and flow.

- Traffic improvements/upgrades in the area.
Comment:
The Balmoral Road Release Area DCP identifies where traffic improvements are to be implemented. In broad terms the key changes within the immediate area are:

- The closure of Hector Court;
- Construction of an extension of Severn Vale Drive to Memorial Avenue and the signalisation of the intersection.
- Upgrade of Memorial Avenue (work to be undertaken by RMS) to four lanes.
- Closure of Fairway Drive (at the future extension of Stone Mason Drive) to prohibit access to Windsor Road; and
- The construction of new local roads as part of on-going subdivision of the area.

- Increase in traffic in the area due to the new railway stations.

Comment:
The Sydney Metro North West rail link includes three stations in close proximity to the site, being Norwest Station, Bella Vista Station and Kellyville Station. The closest station to the site will be Norwest Station which is approximately 2.4 kilometres from the site. The traffic generated by the railway station precincts has been considered in the traffic report commissioned by Transport for NSW as part of the overall structure plans. The opening of the rail link will change traffic flow in the area and will reduce commuter road trips. Kellyville and Bella Vista Stations will attract commuters as they will have parking stations which will likely generate additional traffic on Memorial Avenue hence the need for the four lane upgrade works.

- Consideration of future sporting complexes and shopping centres.

Comment:
The location of future recreation and retail space has been considered as part of the planning process associated with the preparation of the DCP. As part of this review, traffic impacts have been considered which in part has contributed to the need for local road improvements such as traffic lights at Severn Vale Road/Memorial Road intersection and the Wrights Road/Windsor Road intersection.

- Confirmation of bus routes in the area.

Comment:
Hillsbus will determine the bus routes in the area to satisfy their contractual obligations to Transport for NSW. Route services will operate on Fairway Drive, Severn Vale Drive and Free Settlers Drive, and T-Way services will operate along Memorial Road.

- Accident history on Memorial Avenue.

Comment: A number of accidents have occurred on Memorial Road in the past, generally at intersections. The road upgrade works and signalised intersections will assist in reducing accidents and will improve road safety.

- Relocation of the rail stations in the area.

Comment:
The location of railway stations has been determined by the State Government.
ISSUES FOR CONSIDERATION

1. SEPP State and Regional Development 2011

Clause 20 of SEPP (State and Regional Development) 2011 and the Schedule 4A of the Environmental Planning and Assessment Act, 1979 provides the following referral requirements to a Joint Regional Planning Panel:

- Development that has a capital investment value of more than $20 million.

The proposed development has a capital investment value of $23,308,020 thereby requiring referral to, and determination by, a Joint Regional Planning Panel. In accordance with this requirement the application was referred to, and listed with, the JRPP for determination.

2. Compliance with LEP 2012

a. Background to the Zoning

The zoning of the area known as the Balmoral Road Release Area was originally zoned as Rural 1(a) under LEP 1991. In 2003 and 2004 Council considered the rezoning of the Balmoral Road Release Area and in September 2004 Council resolved to prepare a draft Local Environmental Plan (LEP) and Development Control Plan (DCP). The draft LEP proposed that the subject site be zoned Residential 2(a1) which allowed apartment buildings. Amendment No. 5 of LEP 2005 came into force in April 2006 and the site was rezoned to Residential 2(a1).

In March 2006 the NSW Government directed all Councils within the State to prepare a new LEP based on a standard template. This included a translation of zones from the old naming system to the new naming system. The zoning of the site then became R4 High Density Residential under LEP 2012. Apartment buildings continued to be a permissible use in the R4 High Density Residential.

b. Permissibility

The site is zoned R4 High Density Residential under LEP 2012. The proposal is defined as a residential flat building development as follows:

- **residential flat building** means a building containing 3 or more dwellings, but does not include an attached dwelling or multi dwelling housing.

A residential flat building is a permissible use within the R4 High Density Residential zone.

c. Zone Objectives

The objectives of the R4 High Density Residential zone are:

- To provide for the housing needs of the community within a high density residential environment.
- To provide a variety of housing types within a high density residential environment.
• To enable other land uses that provide facilities or services to meet the day to
day needs of residents.

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

Comment:

It is considered that the proposed development is not necessarily inconsistent with the
zone objectives however concern is raised that the proposal does not meet the intent of
the R4 High Density Residential zone given the density proposed.

d. LEP Standards

The LEP limits height on this site to 16 metres. The original proposal sought to exceed
the LEP height standard to a maximum height of 17 metres to the top of the lifts. The
proposal has since been amended and the following heights apply:

<table>
<thead>
<tr>
<th>Building</th>
<th>Maximum Height to Roof</th>
<th>Maximum Height to Top of Lifts</th>
</tr>
</thead>
<tbody>
<tr>
<td>Building 1</td>
<td>13.2 – 16m</td>
<td>13.8 – 16.4m</td>
</tr>
<tr>
<td>Building 2</td>
<td>15.4 – 16m</td>
<td>16.3m</td>
</tr>
<tr>
<td>Building 3</td>
<td>15.8 – 16m</td>
<td>15.9 – 16.2m</td>
</tr>
</tbody>
</table>

The applicant has advised as follows:

The plans have been amended to ensure the buildings are fully compliant with the
maximum height permitted of 16 metres under The Hills LEP 2012.
The submitted Clause 4.6 is therefore withdrawn.

The footprint of the units on the upper level has been reduced and one unit on the upper
level of building 1 has been removed. As amended the height to the roof of all buildings
is compliant with the maximum height permitted under the LEP. The lift overrun to each
Building results in a minor variation of between 200 to 400mm above the height control.

However, as discussed in detail in the submitted SEE, the lifts are designed as
architectural roof features that are a key component of the design of the building. The
lift overruns are a continuation of the external façade and result in a linear vertical
element that rises up the building. The lift overruns are an extension from the ground
level to the top of the building and provide a striking vertical expression on the facades.
The lift overruns are finished in rendered masonry that assists in the forms breaking the
length of the buildings.

As amended the proposed buildings are fully compliant with the maximum building
height permitted.

It is noted that the DCP also limits the height to four storeys. The proposal has a height
of five storey.

Comment:

LEP 2012 limits the height for the site to 16 metres. The proposed height is a maximum
16.4 metres to the top of the lift. This represents a maximum 2.5% variation to the LEP
standard. Attachment 6 shows the LEP height limit in relation to the buildings.
The objectives of Clause 4.3 are as follows:

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

The objectives of Clause 4.6 of LEP 2012 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.

The objectives of the R4 High Density Residential zone are:

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

Clause 5.6 of LEP 2012 states:

5.6 Architectural roof features

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

(a) to allow architectural roof features that will integrate with building composition and form and encourage a high quality built form.

(2) Development that includes an architectural roof feature that exceeds, or causes a building to exceed, the height limits set by clause 4.3 may be carried out, but only with development consent.

(3) Development consent must not be granted to any such development unless the consent authority is satisfied that:

(a) the architectural roof feature:
   (i) comprises a decorative element on the uppermost portion of a building, and
   (ii) is not an advertising structure, and
   (iii) does not include floor space area and is not reasonably capable of modification to include floor space area, and
   (iv) will cause minimal overshadowing, and

(b) any building identification signage or equipment for servicing the building (such as plant, lift motor rooms, fire stairs and the like) contained in or supported by the roof feature is fully integrated into the design of the roof feature.
The proposed variation to the building height is not considered to be an architectural design feature and as such a Clause 4.6 variation is required. The proposal is considered to be unsatisfactory and cannot be determined in a positive manner given the non-provision of the Clause 4.6 variation request.

The proposed lift over-runs are a clear feature of the roof line. The lift over-runs do not add to the architectural design of the roof and do not result in a high quality built form. As such the proposal is considered to be unsatisfactory in regard to the objective of the clause.

In regard to height, it is also noted that the DCP limits apartment development to four storey in nature. The proposed additional storey has added to the bulk and scale of the development. In addition, the density of the proposal adds to the scale of the development and has resulted in an over-development of the site.

The proposal is considered unsatisfactory in regard to the objectives of Clause 4.3 of LEP 2012 as the height of the buildings is not compatible with the adjoining development or the streetscape. In this regard the land to the south and west has been developed for two storey residential dwellings which reflect the low density nature of the area.

Whilst it is acknowledged that the site is zoned R4 High Density Residential and the proposed use is permissible, the proposed height does not adequately consider the adjoining low density single residential development to the west and south which generally comprises two storey detached dwellings. The proposed five storey design is out of character with the existing surrounding development and does not adequately address the interface.

On the basis of the height above the LEP limit, the non-provision of a Clause 4.6 variation and the proposed number of storeys, the development is considered unsatisfactory.

3. SEPP 55 – Remediation of Land

Clause 7 (Contamination and remediation to be considered in determining development application) of SEPP 55 – Remediation of Land 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.

The applicant has submitted a Preliminary Site Investigation report by Trace Environmental which has concluded that:

*Based on the results of the PSI, there is considered to be a low potential for contamination to be present at the site as a result of the current and historic land uses of the property, and the site is therefore considered suitable for the proposed medium density residential redevelopment. In view of this, a Detailed Site Investigation (DSI) is not considered necessary prior to the proposed residential redevelopment of the site.*
In the event that soil is excavated and requires off-site disposal during redevelopment, the soil should be tested and classified in accordance with NSW EPA guidelines prior to off-site disposal. Any imported material brought onto the site, to achieve construction levels or for landscaping purposes, must be validated as being suitable for the proposed medium density residential land use.

As such not objection is raised to the proposal on the basis of site contamination.

4. Compliance with DCP Part B Section 5 – Residential Flat Buildings

The following table details the proposal’s compliance with the DCP:

<table>
<thead>
<tr>
<th>DEVELOPMENT STANDARD (CLAUSE NO.)</th>
<th>DCP REQUIREMENTS</th>
<th>PROPOSED DEVELOPMENT</th>
<th>COMPLIANCE</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.1 Permissible Zones</td>
<td>R1 General Residential, R4 High Density Residential, B2 Local Centre, B4 Mixed Use</td>
<td>The subject site is zoned R4 High Density Residential and the proposal is a permissible use.</td>
<td>Yes</td>
</tr>
<tr>
<td>3.1 Site Requirements</td>
<td>The minimum lot size for residential flat buildings is specified in Clause 4.1A of The Hills Local Environmental Plan 2012, as follows: <strong>Within:</strong> R1 General Residential – 4,000m² R4 High Density Residential – 4,000m² B2 Local Centre – 4,000m² B4 Mixed use – 4,000m² Min. road frontage – 30m</td>
<td>5829m² (Lots 101 and 102 only – this area does not include the temporary access over Lot 103). The site has a frontage of 50.53m to Hector Court and 207.61m to Affleck Circuit. The proposal does not isolate any adjoining sites.</td>
<td>Yes</td>
</tr>
<tr>
<td>3.3 Setbacks – Building Zones</td>
<td>Where trees are located within the 10 front setback, 8m rear setback and 6m side setback, the building zone boundaries will be set so that all buildings are 5m from the trees or clear of the drip line of the trees whichever is the greater distance.</td>
<td>There are no significant trees that are worthy of retention.</td>
<td>No – see comments below.</td>
</tr>
<tr>
<td>Front (one street frontage) - 10m</td>
<td>Affleck Circuit is considered to be the primary frontage as it is the longest frontage. The site has three street frontages, including the frontage to Severn Vale Road (not yet constructed).</td>
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| Front (two street frontages):  
Primary frontage – 10m  
Secondary frontage – 6m | Hector Court – 6m setback required – variations proposed to the courtyards into the setback.  

Affleck Circuit – 10m setback required – encroachments are proposed including to the fire stairs, entry area and courtyards into the setback.  

Severn Vale Road – 6m setback required – variations proposed to the courtyards into the setback.  

Rear setback (to northern boundary – 8m required - variations proposed to the balconies into the setback.) |
| Side – 6m  
Rear – 8m |  |

|  |  |

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<table>
<thead>
<tr>
<th>3.4 Building Heights</th>
<th>Refer to building height maps of The Hills Local Environmental Plan 2012. No buildings shall contain more than 4 storeys above natural ground level.</th>
<th>See comments above in regard to LEP height. The proposed buildings are five storeys in height.</th>
<th>No – see comments below.</th>
</tr>
</thead>
<tbody>
<tr>
<td>3.5 Building Separation and Treatment</td>
<td>12m</td>
<td>Minimum 12m separation.</td>
<td>Yes</td>
</tr>
<tr>
<td>3.6 Landscaped Area</td>
<td>50% of site area</td>
<td>The site is 5829m² and 50% of the site is 2914.5m². There is 3712m² of landscape works proposed which is 64%.</td>
<td>Yes</td>
</tr>
<tr>
<td>3.7 Building Length</td>
<td>Max. 50m</td>
<td>The following buildings lengths are proposed: Building 1 – 50m Building 2 – 41.5m Building 3 – 50m</td>
<td>Yes</td>
</tr>
<tr>
<td>3.8 Building Design and Streetscape</td>
<td>Must refer to Council’s “Multi-Unit Housing: Urban Design Guidelines 2002” Designs must be in harmony in terms of form, mass, colour and structure with existing and likely future development in the street. Siting and design to ensure clear definition of street edge and reinforce street corners. Building lines together with landscaping treatments should distinguish the public and private realms. Must not be repetitive in design and incorporate harmonious design variations such as verandas, entrances, facades, etc. Walls and Rooflines: - Articulation provided to reduce bulk - With variety of colours to reduce monotony and add enhance the streetscape</td>
<td>The proposal is considered to be unsatisfactory in regard to its design and character. The proposed five storey development does not respond to the existing low density character of the area and is not in keeping with the desired scale and mass of development. The proposal does not reflect the existing scale of development in the area and does not respond to the interface between the two forms of development.</td>
<td>No</td>
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</tbody>
</table>
- With windows to enhance façade appearance
- Well balanced vertical and horizontal proportions
- Break up large horizontal facades (whether walls or roofs) into smaller sections no longer than 10m
- Use of well-proportioned and balanced projections and recesses on facades.
- Provision of architectural features in the façade such as entry porches, pergolas, etc.

**Garages:**
- Comprise more than one material and colour to enhance visual attractiveness and interest.
- Concealed or screened by planting from the street and public view, as much as possible.

**Entrances:**
- Clearly visible from the public and semi-public areas. Lighting to be provided for safety at night.
- Entries to be readily apparent from the street and clearly visible from inside the dwelling for casual surveillance.
- Space around building entrance to be sufficiently large to stand out and have a distinctive architectural form.
- Entries to be distinctive, attractive and welcoming.
- Provide sheltered transitional areas around building entries.
- All ground floor dwellings to have their own entry at ground level.
- Building entries to be visible from, or address the site front boundary, and clearly delineated and observable from the driveway.

**Views and Siting:**
- Siting of building to take advantage of any views to nearby/adjoining landscaped open space or any public reserve.
- Siting and design to take advantage of any views to open space, public reserves and bushland to promote natural surveillance and enhance visual amenity for residents.
- Avoid blank courtyard walls along boundaries shared with open space or reserves.
- Provide opportunities to create and orient dwellings to permit direct views from living areas into the open space/reserve.
- Avoid courtyards facing a street or public place. If cannot be avoided due to design constraints, design to comply with Section 3.27 Fencing giving consideration to streetscape and visual impact issues.

### 3.9 Urban Design Guidelines

| Demonstrate conformity with "Baulkham Hills Multi Unit Housing – Urban Design Guidelines 2002" | The proposal is considered to be unsatisfactory in regard to its design and character. The proposed five storey development does not respond to the existing low density character of the area and is not in keeping with the desired scale and mass of development. The proposal does not reflect the existing scale of development in the area and does not respond to the interface between the two forms of development. | No |

### 3.10 Density

| 150-175 persons per hectare | The proposed density is 288.21ppha. | No – see comments below. |
### 3.11 Unit Layout and Design

**Apartment Mix**

(a) No more than 25% of the dwelling yield is to comprise either studio or one bedroom apartments.

(b) No less than 10% of the dwelling yield is to comprise apartments with three or more bedrooms.

Residential Flat Development (30 or more units) (d) The minimum internal floor area for each unit, excluding common passageways, car parking spaces and balconies shall not be less than the following:

<table>
<thead>
<tr>
<th>Apartment Size Category</th>
<th>Apartment Size</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Type 1</strong></td>
<td></td>
</tr>
<tr>
<td>1 bedroom</td>
<td>50m²</td>
</tr>
<tr>
<td>2 bedroom</td>
<td>70m²</td>
</tr>
<tr>
<td>3 or more bedrooms</td>
<td>95m²</td>
</tr>
<tr>
<td><strong>Type 2</strong></td>
<td></td>
</tr>
<tr>
<td>1 bedroom</td>
<td>85m²</td>
</tr>
<tr>
<td>2 bedroom</td>
<td>90m²</td>
</tr>
<tr>
<td>3 or more bedrooms</td>
<td>120m²</td>
</tr>
<tr>
<td><strong>Type 3</strong></td>
<td></td>
</tr>
<tr>
<td>1 bedroom</td>
<td>75m²</td>
</tr>
<tr>
<td>2 bedroom</td>
<td>110m²</td>
</tr>
<tr>
<td>3 or more bedrooms</td>
<td>135m²</td>
</tr>
</tbody>
</table>

Type 1 apartments shall not exceed 30% of the total number of 1, 2 and 3 bedroom apartments.

Type 2 apartments shall not exceed 30% of the total number of 1, 2 and 3 bedroom apartments.

All remaining apartments are to comply with the Type 3 apartment sizes.

The proposal does not meet the unit size, mix and type requirements.

There are 24.4% one bedroom units and 8.1% three bedroom units.

Proposed Unit Sizes are:

- 1 bedroom Type 1 – 50-56m²
- 2 bedroom Type 1 – 75-86m²
- 3 bedroom Type 1 – 95-107m²

All units proposed are Type 1 units.

No – see comments below.
### 3.12 Building Materials

- Reflect and complement the existing character and streetscape.
- Choice of materials to consider both their environmental and economic costs.
- Use graffiti resistant materials in areas accessible by the general public and communal areas within the development.
- Use colours that are visually pleasing and reflect the predominant colours in the area.
- Avoid materials and colours with excessive glare.
- Avoid materials that are likely to contribute to poor internal air quality.
- Select materials that will minimise the long-term environmental impact over the whole life of the development.
- Preference to materials derived from renewable sources or are sustainable and generate lower environmental cost, recycled material/s with low embodied energy, better lifecycle costs and durability.

The proposed building materials are satisfactory and are appropriate for the form of development.

### 3.13 Open Space

<table>
<thead>
<tr>
<th>Type</th>
<th>Dimensions</th>
</tr>
</thead>
<tbody>
<tr>
<td>Private:</td>
<td>Ground level – 4m x 3m (min)</td>
</tr>
<tr>
<td></td>
<td>Above ground – min. 10m² with min. depth 2.5m</td>
</tr>
<tr>
<td>Common:</td>
<td>20m² per dwelling</td>
</tr>
</tbody>
</table>

All of the ground floor units exceed 12m² and have appropriate dimensions.

Variations are proposed to:
- Block 1 – 108, 208 and 308 (all 9m²).
- Block 2 – 111, 211 and 311 (all 8m²).

No – see comments below.
<table>
<thead>
<tr>
<th>3.14 Solar Access</th>
<th>Adjoining buildings / open space areas – 4 hours between 9am and 3pm on 21 June</th>
<th>Adequate solar access is provided to the common open space area.</th>
<th>Yes</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Common open space – 4 hours between 9am and 3pm on 21 June</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>Cross ventilation can be achieved through roof vents and air shafts. Apartments with mezzanines and two storey apartments assist in air movement.</td>
<td>Good cross ventilation can be achieved with double orientation apartments, having split levels and corridors on alternative floors.</td>
<td></td>
</tr>
<tr>
<td>3.15 Ventilation</td>
<td>Adequate ventilation is provided to all units in accordance with SEPP 65 and the Apartment Design Guidelines.</td>
<td>Yes</td>
<td></td>
</tr>
</tbody>
</table>
Consider prevailing breezes in relation to building orientation, window design and internal circulation.

- Place windows to allow for cross ventilation i.e. on opposite sides of the building rather than adjacent walls where possible. These windows are to be lockable in a partly open position.
- Promote air circulation and consider the installation of fans, roof vents, louvered windows and high-level windows to aid air circulation.
- Provide security screen doors at unit entries.
- Minimise air gaps by incorporating door and window seals.

### 3.16 Lighting

- Lighting to be in accordance with the Building Code of Australia.
- Adequate lighting to ensure the security and safety of residents and visitors.
- Maximise the use of natural lighting through window placement and skylights.
- In common areas lights are to be time switched and energy efficient fitting should be used.
- Motion detectors are to be used for unit entries, lobbies and outdoor security.

The proposal can comply with the BCA. Yes
| **3.17 Stormwater Management** | **-** Drainage easements required where the development property does not drain directly into the existing stormwater drainage system or a public road. Development Consent will not be issued until the submission of documents demonstrating the creation of any necessary easements over downstream properties.  
- Discharge points are to be controlled and treated to prevent soil erosion, and may require energy dissipating devices on steeper topography, to Council’s requirements.  
- Where necessary, downstream amplification of existing drainage facilities will be required including Council infrastructure if required.  
- Developments within the Upper Parramatta River Catchment must comply with any requirements of the Sydney Catchment Management Authority.  
- On-site detention, water recycling, or water quality management systems may be required to Council’s and/or the Sydney Catchment Management Authority and/or the Hawkesbury Catchment requirements, to counteract an increase in stormwater runoff.  
- Design of drainage systems to be in accordance with Council’s Design Guidelines for Subdivisions/ Developments.  
- Water Sensitive Urban Design (WSUD) principles to be employed in the management of the site’s stormwater in terms of water retention, reuse and cleansing. In this regard, the drainage design is to include Council’s Engineers have raised concerns with the proposal. | No – see comments below. |
measures to manage the water quality of stormwater runoff. At a minimum the design is to integrate bio-retention filters along roadways, driveways and within open space areas;
- On site detention tanks are only permitted in common areas within a proposed development (for example driveways, common open space) and not within private courtyards.

| 3.18 Vehicular Access | - Access to the site to be in accordance with the requirements of The Hills DCP Part C Section 1 – Parking.
- Provision of adequate vehicular entry and exit and circulation areas. The design must:
  - provide a safe environment for both pedestrians and vehicles using the site and surrounding road networks;
  - ensure vehicular ingress and egress to the site is in a forward direction at all times;
  - provide for service vehicles where possible; and
  - be designed to minimise the visual impact of hard paved areas.
- A centrally located driveway, a minimum of 10 metres from any side boundary or street.
- Minimum driveway width of 6 metres at the property boundary for a distance of 6 metres within the development to ensure easy entry/exit of vehicles.
<table>
<thead>
<tr>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Council’s Engineers</td>
<td>Council’s Engineers have raised concerns with the proposal. The proposed driveway access is not centrally located and has a setback from the northern boundary of approximately 350mm.</td>
</tr>
<tr>
<td>No – see comments</td>
<td>No – see comments below.</td>
</tr>
<tr>
<td>Section</td>
<td>Description</td>
</tr>
<tr>
<td>---------</td>
<td>-------------</td>
</tr>
</tbody>
</table>
| 3.19 Car parking | **Rate per unit & visitor parking:**  
1 space per 1 bedroom unit  
2 spaces per 2 or 3 bedroom unit  
Visitor – 2 spaces per 5 dwellings  
**Parking Dimension:**  
- Lockable single garages min. dimension – 5.5 metres x 3 metres (exclusive of storage)  
- Lockable double garages min. dimension – 5.5 metres x 5.4 metres (exclusive of storage)  
- Visitor parking dimensions – 5.5 metres x 2.6 metres  
**Manoeuvering and Ramps:**  
- First 6 metres of the driveway inside the property boundary to be a maximum of 5%  
- Ramp grades to comply with Australian Standard 2890.1  
- Manoeuvering in accordance with Australian Standard 2890.1  
Based on:  
21 x 1 bedroom @ 1 space = 21  
67 x 2/3 bedroom @ 2 spaces = 130  
151 resident spaces required.  
Based on 86 units, 35 (34.4) visitor spaces are required.  
Total: 186 spaces required.  
There are 186 spaces provided which comprise 151 residential spaces and 35 visitor spaces.  
This includes 5 accessible resident spaces and 1 accessible visitor space.  
The carparking layout will be required to comply with the Australian Standards.  
There are no stacked spaces proposed.  
One carwash bay is also provided within a visitor parking space, and four motorcycle spaces are provided.  
Yes |
| 3.20 Storage | 10m³ within a lockable garage with an area 5m² and dimension 2 metres  
The majority of units do not provide 10m³, and the area is split between internal and garage storage.  
No – see comments below. |
<table>
<thead>
<tr>
<th>3.21 Access and Adaptability</th>
<th>Lift provided if greater than 2 storeys</th>
<th>Lifts have been provided in all buildings.</th>
<th>Yes</th>
</tr>
</thead>
<tbody>
<tr>
<td>Accessible housing: 5% in a development &gt;20 units</td>
<td>Five units (5.7%) are accessible.</td>
<td></td>
<td></td>
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</tbody>
</table>

<table>
<thead>
<tr>
<th>3.22 Pedestrian/Bicycle Links</th>
<th>Within the Site</th>
<th>There is appropriate access to the site for pedestrian and bicycle access. All works would comply with the BCA.</th>
<th>Yes</th>
</tr>
</thead>
<tbody>
<tr>
<td>- Access to dwellings should be direct and without unnecessary barriers. No steps between the street frontage and the principal building entrances.</td>
<td>- Provide clearly defined pedestrian pathways between proposed development and proposed footpaths along sub-arterial roads.</td>
<td>- Adequate lighting in common and access areas.</td>
<td></td>
</tr>
<tr>
<td>- Provide clearly defined pedestrian pathways between proposed development and proposed footpaths along sub-arterial roads.</td>
<td>- Adequate lighting in common and access areas.</td>
<td>- All pathways and ramps to conform to the minimum dimensional requirements set out in AS1428 Part 1-1998 Design for Access and Mobility and AS1428 Part 2–1992 and Council’s Policy “Making Access for All” (2002).</td>
<td></td>
</tr>
<tr>
<td>- Adequate lighting in common and access areas.</td>
<td>- Adequate lighting in common and access areas.</td>
<td>- All surfaces to be stable, even and constructed of slip resistant materials. Any stair nosings should have a distinctive colour and texture.</td>
<td></td>
</tr>
<tr>
<td>Local Pedestrian Links</td>
<td></td>
<td></td>
<td></td>
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<tr>
<td>---------------------------------------------------------------------------------------</td>
<td>---</td>
<td></td>
<td></td>
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<tr>
<td>- Where possible, a pedestrian link through the site must be provided as part of the</td>
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<td></td>
</tr>
<tr>
<td>development to increase the connectivity of the area for local pedestrians. The following</td>
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</tr>
<tr>
<td>factors should be considered when identifying the most appropriate location for the</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>link of the pathway:</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>- The link must be no less than 3m wide;</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>- Should be a straight-line link through the site linking streets or other public</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>spaces; and</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>- Cannot include stairs and any ramps. Must have a reasonable gradient - refer to</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>AS 1428.1 - 1988 Design for Access and</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>-) The design and layout of any building adjoining and landscaped spaces adjoining the</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>pathway should ensure there is natural surveillance of the pathway to protect the</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>amenity of users. A solid fence along the boundary of the pathway restricting views</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>of the pathway from adjoining properties not acceptable.</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>- The pedestrian link must be dedicated to Council as a public footway and the</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>footpath, and lighting must be provided at no cost to Council.</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>3.23 Privacy – Visual and Acoustic</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>- Minimise direct overlooking of main internal living areas and private open</td>
<td>The proposal has adequately addressed privacy and overlooking between units within the development. The site is separated from existing residential development located across Affleck Circuit and Hector Court. Yes</td>
</tr>
<tr>
<td>space of dwellings both within and adjoining the development through building design,</td>
<td></td>
</tr>
<tr>
<td>window locations and sizes, landscaping and screening devices (refer to section 3.13</td>
<td></td>
</tr>
<tr>
<td>Open Space).</td>
<td></td>
</tr>
<tr>
<td>- Consider the location of potential noise sources within the development such as</td>
<td></td>
</tr>
<tr>
<td>common open space, service areas, driveways, and road frontage, and provide</td>
<td></td>
</tr>
<tr>
<td>appropriate measures to protect acoustic privacy such as careful location</td>
<td></td>
</tr>
</tbody>
</table>
of noise-sensitive rooms (bedrooms, main living areas) and double glazed windows.
- Dwellings adjoining arterial roads to be designed to acceptable internal noise levels, based on AS 3671 – Road Traffic Noise Intrusion Guidelines.

| 3.24 Services | - Development consent not to be granted until satisfactory arrangements are made with relevant authorities for the provision of services.  
- Pump out sewage management systems **not acceptable** for apartment building developments.  
- Site services and facilities (such as letterboxes, clothes drying facilities and garbage facility compounds shall be designed so as:  
  - To provide safe and convenient access by residents and the service authority; and  
  - Visually integrated with the development and have regard to the amenity of adjoining development and streetscape.  
- All electricity and telephone services on site must be underground.  
- Laundries shall be provided to each dwelling. | All services are available to the site. | Yes |

| 3.25 Waste Management – Storage and Facilities | - Waste collection and separation facilities to be provided for each dwelling. Each dwelling should have a waste storage cupboard in the kitchen capable of holding at least a single days waste, and sufficient to enable separation of recyclable material.  
- Adequate storage for waste materials must be provided on site and any such waste must be removed at regular intervals and not less frequently than once per week for garbage and fortnightly for recycling.  
- Screen views of waste and storage facility from any | Access to the site for waste vehicles has not been adequately addressed. | No – see comments below. |
adjoining property or public place while ensuring there is some natural surveillance from within the development to minimise vandalism and other anti-social activity.
- Waste storage areas to be kept clean, tidy and free from offensive odours at all times.

<table>
<thead>
<tr>
<th>3.26 Waste Management Planning</th>
<th>Submission of a Waste Management Plan – demolition, construction and on-going use.</th>
<th>Access to the site for waste vehicles has not been adequately addressed.</th>
<th>No – see comments below.</th>
</tr>
</thead>
</table>

3.27 Fencing
- Fencing materials chosen must protect the acoustic amenity and privacy of courtyards. Courtyard fences shall be constructed of masonry.
- Boundary fencing/ walls fronting a street shall be setback a minimum of 2 metres, to permit landscaping, and shall include recesses and other architectural features.
- Fencing or walls shall be combined and integrated with site landscaping.
- The following fencing or finishes are not acceptable because of its poor visual appearance:
  - Pre-painted solid, metal fencing; or
  - Rendered finishes where the entire fence is fully rendered.

The proposal provides adequate fencing details. Yes

3.28 Developer Contributions
In accordance with the current Section 94 rate – to be conditioned. A condition would address this matter. Yes

**a. Density**

The DCP limits density to 150-175 persons per hectare. The proposed density is 288.21 persons per hectare. This represents a 65% variation to the top of the density band.

The objectives of the DCP standard are:

(i) To ensure residential flat building development does not over-tax existing services and facilities.

(ii) To provide opportunities for a suitable density housing form that is compatible with the existing surrounding development.
The applicant has submitted the following as justification for the proposed variation:

As amended the development results in a reduction in the proposed density. The proposed development seeks to accommodate an additional 66 (reduction from 71) persons above the density rate identified in the DCP.

However as addressed in detail in the submitted Statement of Effects, with the introduction of the amendments to SEPP 65 the density control in the DCP is no longer a valid control. The assessment in the SEE confirmed that there is a disparity between the density control that was based on a specific size of unit and the unit sizes prescribed by the ADG endorsed by SEPP 65.

As a result, the density control in the DCP is no longer a valid planning control to control the density of development.

The original SEE submitted by the applicant commented as follows (note the original variation request was not updated to reflect the revised unit numbers and density):

The Hills DCP includes a density control to limit development of land in the LGA to a certain number of dwellings. The density control is based on a persons per hectare rate.

Section 3.10 of The Hills DCP 2012 Part B Section 5 – Residential Flat Buildings, outlines the maximum density control applicable to residential flat building developments.

The maximum population density permitted is 175 persons per hectare with a desirable range between 150-175 persons per hectare. The density is based upon the following occupancy rates:

<table>
<thead>
<tr>
<th>Dwelling Type</th>
<th>Occupancy Rate (Persons)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Existing fighter</td>
<td>0.7</td>
</tr>
<tr>
<td>1 bedroom unit</td>
<td>1.3</td>
</tr>
<tr>
<td>2 bedroom unit</td>
<td>2.1</td>
</tr>
<tr>
<td>3 bedroom unit</td>
<td>2.7</td>
</tr>
<tr>
<td>4 bedroom unit</td>
<td>3.5</td>
</tr>
</tbody>
</table>

Based on a site area of 5829m² being an area equivalent to 0.5829 hectares a maximum density of 102 persons would be permitted on the subject site, based on the current density rates.

The proposed unit mix and the number of persons likely to be accommodated on site is calculated below:

1 bed x 20 x 1.3 = 26
2 bed x 57 x 2.1 = 119.7
3 bed x 10 x 2.7 = 27

Total = 172.7 persons to be potentially accommodate across the subject site area of 5829m².

The proposed development seeks to accommodate an additional 70.7 persons above the density rate identified in the DCP.
As outlined above, the occupancy rate is based on a number of persons per unit type. Accordingly, the maximum density in the DCP is directly linked to the configuration of units and their unit size.

The introduction of the Apartment Design Guide and amendments to SEPP 65 overrides the apartment sizes in the DCP. Clause 30 of the SEPP provides standards that cannot be used as grounds to refuse development consent. Subclause (b) includes the 'internal area for each apartment will be equal to, or greater than, the recommended minimum internal area for the relevant apartment type specified in Part 4D of the Apartment Design Guide'. In addition, Clause 6A of the SEPP states that development control plans cannot be inconsistent with the Apartment Design Guide in relation to a range of requirements, including 'apartment size'.

Accordingly, there is a disparity between the density control that was based on a specific size unit and the current unit sizes prescribed by the ADG. As a result, the density control in the DCP is no longer a valid planning control to control the density of development.

It is reasonable to expect a larger proportion of residential units across a development site when the overall minimum unit size has decreased, as it will result in excess floor space creating the opportunity for additional dwellings.

It is on this basis that the density control in the DCP as is currently formed is no longer a relevant control.

Furthermore, the density control in the DCP was originally based on larger unit sizes, prior to the current control under Section 5 of the DCP. The unit sizes required were as follows:

<table>
<thead>
<tr>
<th>Apartment Size</th>
<th>Area (m²)</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 bedroom unit</td>
<td>75m²</td>
</tr>
<tr>
<td>2 bedroom unit</td>
<td>110m²</td>
</tr>
<tr>
<td>3 bedroom unit</td>
<td>135m²</td>
</tr>
</tbody>
</table>

When the Hills DCP was amended to include a range of unit sizes as identified below, the density control was not subsequently amended to reflect this significant change:

<table>
<thead>
<tr>
<th>Apartment Size</th>
<th>Area (m²)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Type 1</td>
<td></td>
</tr>
<tr>
<td>1 bedroom</td>
<td>70m²</td>
</tr>
<tr>
<td>2 bedroom</td>
<td>100m²</td>
</tr>
<tr>
<td>3 bedroom</td>
<td>120m²</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Apartment Size</th>
<th>Area (m²)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Type 2</td>
<td></td>
</tr>
<tr>
<td>1 bedroom</td>
<td>70m²</td>
</tr>
<tr>
<td>2 bedroom</td>
<td>110m²</td>
</tr>
<tr>
<td>3 bedroom</td>
<td>135m²</td>
</tr>
</tbody>
</table>

As noted above, the ADG overrides the DCP controls and accordingly negates the effectiveness of the density control. It is contrary to the state planning regime that seeks to reduce unit sizes and create more affordable housing options.
By a direct comparison, prior to the changes to the unit sizes in the DCP, the density and unit size controls envisaged approximately 2740m$^2$ of additional floor space being utilised on this site. This is calculated as the difference between the unit area requirements when the density control was incorporated in the DCP and the average proposed unit area under this DA. This again re-confirms the disparity between the controls.

The comparison between the density control and floor space is a valid comparison as the floor space reflects the anticipated built form on a development site. The density control although considered no longer relevant given the disparity in unit sizes and unit occupancy, is also about producing compatible housing and not over-taxing existing services. In this regard, consideration is given to the objectives of the control.

The objectives of the density control are outlined below:

(i) To ensure residential flat building development does not over-tax existing services and facilities; and

(ii) To provide opportunities for a suitable density housing form that is compatible with the existing surrounding development.

The proposed development will increase density and will satisfy the zone objectives and future character of the area. The development will be required to pay Section 94 Contributions to contribute to future facilities and services.

The site is located in close proximity to the future north-west railway line and within close proximity to open space. The development will not over-tax existing services and facilities, the DA demonstrates that appropriate stormwater water management and traffic generation will result from this development.

In addition, this report demonstrates that the proposed development will not unreasonably affect the lower density development to the south by way of overshadowing, bulk and scale (due to generous landscaped setbacks) and privacy.

The site is ideally positioned adjacent to the B2 zone, with the adjacent site likely to be developed in the future for a small village to service the neighbourhood. The proposed residential flat buildings will provide an appropriate transition towards the lower density zone and provide a buffer to the B2 zone.

It is therefore considered that the density control in this DCP is no longer a valid planning control. A DCP is a discretionary document and can be varied without a formal variation request. On the basis of the assessment provided above, it is considered that the proposed density is appropriate and consistent with the spirit of the DCP.

Comment:

When considering the appropriateness of the density which is being proposed, consideration should be afforded to the type of development envisaged at the time that the existing controls were established, and the broader change in the expectation of higher density development around town centres and transport nodes. Through this strategic planning policy, Council has generally maintained a planned approach to managing urban growth within the Shire, which makes use of existing infrastructure and extends the lifestyle opportunities of its residents. This approach focuses high density development in precincts that show capacity to accommodate further growth, with the result being increased population around town centres and major transport nodes.
The zoning of the area known as the Balmoral Road Release Area was originally zoned as Rural 1(a) under LEP 1991. In 2003 and 2004 Council considered the rezoning of the Balmoral Road Release Area and in September 2004 Council resolved to prepare a draft Local Environmental Plan (LEP) and Development Control Plan (DCP). The draft LEP proposed that the subject site be zoned Residential 2(a1) which allowed apartment buildings. Amendment No. 5 of LEP 2005 came into force in April 2006 and the site was rezoned to Residential 2(a1).

A key objective of this zone was to provide development for medium-density housing forms (including apartment buildings, town-houses, villas and the like) in locations close to the main activity centres of the local government area. This zone was a highly flexible zone which permitted most forms of residential development including apartment buildings, townhouses and dual occupancies.

The density range contained within the DCP is considered to be reflective of the zoning of the site as it anticipates and guides the desired future character of the area.

The proposal could easily be amended to reflect the density rate contained within the DCP. This would require a further review to be undertaken by the applicant of other key controls within the DCP which have been sought to be varied, most notably the unit mix and size requirements and height limits under both the LEP and DCP. An amended design which reduces the scale of the development and responds appropriately to the surrounding single residential development would also be more in keeping with the expectations of residents.

It is noted that the applicant considers that the DCP rates are not a valid planning consideration given the smaller unit areas contained within the ADG. In this regard, the ADG unit areas are a minimum area and larger unit sizes are permitted. In this respect, The Hills have always advocated larger unit sizes which are considered to better reflect the desires of existing and future residents.

According the proposed is considered and over development of the site and warrants refusal.

b. Assessment of Other Variations

As detailed in the table above, the applicant has also proposed variations to DCP requirements in relation to number of storeys, setbacks, building design and streetscape, urban design guidelines, unit layout and design (mix and size of units), private open space, setback to the driveway and storage.

i. Number of storeys: the DCP limits the height of apartment buildings to four storeys above ground level, however the proposed development has a height of five storeys. The proposed height is unsatisfactory in regard to the interface to the existing two storey low density residential character of the area. The proposed height has not had adequate regard to the streetscape character, with the proposed height adding to the scale of the development.

ii. Setbacks: the proposal includes encroachments into the setback of a fire stair, entry and courtyards. The setback variations are considered minor and in isolation could be supported, however when considered in conjunction with the other variations, particularly height, number of storeys and density, the cumulative impact of the variations result in an overdevelopment of the site.
iii. Building design and streetscape and urban design guidelines: the proposal is considered to be unsatisfactory in regard to its design and character. The proposed five storey development does not respond to the existing low density character of the area and is not in keeping with the desired scale and mass of development. The proposal does not reflect the existing scale of development in the area and does not respond to the interface between the two forms of development.

iv. Unit layout and design (mix and size of units): the DCP requires that a mix of unit sizes and types be provided in order to accommodate a range of housing types and to facilitate housing diversity. The design provides only Type 1 units which are the smallest unit type and does not provide a reasonable number of three bedroom units, with only 7 x 3 bedroom units provided (8.1%). The proposal does not provide a reasonable level of housing diversity for future residents.

v. Private open space: the DCP requires that all above ground units be provided with a balcony with a minimum area of 10m$^2$, however a number of units are provided with a balcony of either 8m$^2$ or 9m$^2$. The balcony area variations are considered minor and in isolation could be supported, however when considered in conjunction with the other variations, particularly height, number of storeys and density, the cumulative impact of the variations result in an overdevelopment of the site.

vi. Setback to the driveway: The DCP requires that the access driveway be centralised and have a 10m setback from any boundary. The proposed driveway has a setback of approximately 350mm. The driveway setback variation is considered minor and in isolation could be supported given the likely future development to the north.

vii. Storage: the DCP requires 10m$^3$ of storage within a lockable garage, however the majority of units do not provide 10m$^3$ and the storage area is split between the internal and basement storage. The storage variation is considered minor and in isolation could be supported.

The variations identified cannot be supported given they primarily relate to the overdevelopment of the site and relate to the application of the density controls by the applicant. In this regard, compliance with the LEP and DCP height limit and density requirements would likely result in a proposal which was compliant with the DCP requirements. Whilst some variations could be considered on merit having regard to the built form outcome, the development in its current form is considered to be an over-development of the site which does not have adequate regard to the low density nature of the area and the interface to the adjoining development.

c. Insufficient Information

In addition, the applicant has not submitted adequate information to allow a full assessment to be undertaken of stormwater management and vehicle access and waste management arrangements.

5. SEPP 65 and Apartment Design Guidelines

The proposal has been accompanied by a Design Verification Statement by a chartered architect which confirms that the proposal is satisfactory with regard to the provisions of SEPP 65.
The proposal has been assessed against the provisions of the Apartment Design Guidelines as outlined below:

<table>
<thead>
<tr>
<th>Clause</th>
<th>Design Criteria</th>
<th>Compliance</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Siting</strong></td>
<td></td>
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</tr>
<tr>
<td>Communal open space</td>
<td>25% of the site, with 50% of the area achieving a minimum of 50% direct sunlight for 2 hours midwinter.</td>
<td>The proposal provides 1462m² of common open space which is 25.1% of the site. Adequate solar access is provided to the common open space.</td>
</tr>
<tr>
<td>Deep Soil Zone</td>
<td>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 650-1500m² and 15% for sites greater than 1500m².</td>
<td>An area of 1938m² or 33.2% of the site is deep spoil zone.</td>
</tr>
<tr>
<td>Separation</td>
<td>For habitable rooms, 6m for 4 storeys, 9m for 5-8 storeys and 12m for 9+ storeys.</td>
<td>The buildings are 5 storey in height. A 12m separation is provided between the buildings.</td>
</tr>
<tr>
<td>Visual privacy</td>
<td>Visual privacy is to be provided through use of setbacks, window placements, screening and similar.</td>
<td>The proposed design of the units provides appropriate privacy to adjoining development and between units for future residents.</td>
</tr>
<tr>
<td>Carparking</td>
<td>Carparking to be provided based on proximity to public transport in metropolitan Sydney. For sites within 800m of a railway station or light rail stop, the parking is required to be in accordance with the RMS Guide to Traffic Generating Development which is: Metropolitan Sub-Regional Centres: 0.6 spaces per 1 bedroom unit. 0.9 spaces per 2 bedroom unit. 1.40 spaces per 3 bedroom unit. 1 space per 5 units (visitor parking).</td>
<td>The site is not within 800m of a railway station of light rail stop. The closest station to the site will be Norwest Station which is approximately 2.4 kilometres from the site.</td>
</tr>
<tr>
<td><strong>Designing the Building</strong></td>
<td></td>
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</tr>
<tr>
<td>Solar and daylight access</td>
<td>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.</td>
<td>All of the units meet the solar access requirements with balconies and living areas oriented north.</td>
</tr>
<tr>
<td>Natural ventilation</td>
<td>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.</td>
<td>70% of the units achieve natural ventilation.</td>
</tr>
<tr>
<td>Ceiling heights</td>
<td>For habitable rooms – 2.7m. For non-habitable rooms – 2.4m. For two storey apartments – 2.7m for the main living floor and 2.4m for the second floor, where it’s area does not exceed 50% of the apartment area. For attic spaces – 1.8m at the edge of the room with a 30° minimum ceiling slope. If located in a mixed use areas – 3.3m for ground and first floor to promote future flexible use.</td>
<td>All of the units have a habitable room ceiling height of 2.7m.</td>
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<tr>
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</tr>
<tr>
<td>Apartment size</td>
<td>Apartments are required to have the following internal size: Studio – 35m² 1 bedroom – 50m² 2 bedroom – 70m² 3 bedroom – 90m² The minimum internal areas include only one bathroom. Additional bathrooms increase the minimum internal areas by 5m² each. A fourth bedroom and further additional bedrooms increase the minimum internal area by 12m² each.</td>
<td>All of the units comply with the required floor area. Note: all of the 2 and 3 bedroom units have two bathrooms and therefore the unit size requirements are increased to 75m² and 95m² respectively.</td>
</tr>
<tr>
<td>Apartment layout</td>
<td>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.</td>
<td>The proposed layouts are satisfactory. All rooms contain a window within 8m or less.</td>
</tr>
<tr>
<td>Balcony area</td>
<td>The primary balcony is to be: Studio – 4m² with no minimum depth 1 bedroom – 8m² with a minimum depth of 2m 2 bedroom – 10m² with a minimum depth of 2m 3 bedroom – 12m² with a minimum depth of 2.4m For units at ground or podium levels, a private open space area of 15m² with a minimum depth of 3m is required.</td>
<td>The units all have compliant balcony areas.</td>
</tr>
<tr>
<td>Storage</td>
<td>Storage is to be provided as follows: Studio – 4m³ 1 bedroom – 6m³ 2 bedroom – 8m³ 3+ bedrooms – 10m³ At least 50% of the required storage is to be located within the apartment.</td>
<td>The units all have adequate storage areas.</td>
</tr>
<tr>
<td>Apartment mix</td>
<td>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.</td>
<td>The proposal provides and adequate unit mix.</td>
</tr>
</tbody>
</table>
The subject Development Application has been assessed against the relevant design quality principles contained within the SEPP as follows:

Concern is raised that the proposal fails to appropriately consider the following Principles of SEPP 65

Principle No. 1 – Context and Neighbourhood Character;
Principle No. 2 – Built Form and Scale;
Principle No. 3 – Density; and
Principle No. 6 – Amenity

**Principle 1: Context and neighbourhood character**
Good design responds and contributes to its context. Context is the key natural and built features of an area, their relationship and the character they create when combined. It also includes social, economic, health and environmental conditions.

Responding to context involves identifying the desirable elements of an area’s existing or future character. Well-designed buildings respond to and enhance the qualities and identity of the area including the adjacent sites, streetscape and neighbourhood.

Consideration of local context is important for all sites, including sites in established areas, those undergoing change or identified for change.

**Principle 2: Built form and scale**
Good design achieves a scale, bulk and height appropriate to the existing or desired future character of the street and surrounding buildings.

Good design also achieves an appropriate built form for a site and the building’s purpose in terms of building alignments, proportions, building type, articulation and the manipulation of building elements.

Appropriate built form defines the public domain, contributes to the character of streetscapes and parks, including their views and vistas, and provides internal amenity and outlook.

**Principle 3: Density**
Good design achieves a high level of amenity for residents and each apartment, resulting in a density appropriate to the site and its context.

Appropriate densities are consistent with the area’s existing or projected population. Appropriate densities can be sustained by existing or proposed infrastructure, public transport, access to jobs, community facilities and the environment.

**Principle 6: Amenity**
Good design positively influences internal and external amenity for residents and neighbours. Achieving good amenity contributes to positive living environments and resident well-being.

Good amenity combines appropriate room dimensions and shapes, access to sunlight, natural ventilation, outlook, visual and acoustic privacy, storage, indoor and outdoor space, efficient layouts and service areas and ease of access for all age groups and degrees of mobility.
Comment:

The proposal does not provide a development that responds to the desired future context and character of the locality. The development seeks to provide a built form that is considered excessive in respect to height and density. The proposal will result in poor amenity for residents being located within the site and for existing residents adjacent to the site.

The development in its current form is considered to be an over-development of the site which does not have adequate regard to the low density nature of the area and the interface to the adjoining development. In this regard the surrounding development generally comprises two storey attached and detached dwellings. The proposed development has a height of five storeys which is considered to be out of character with the existing built form of the area.

6. Issues Raised in Submissions

The proposal was advertised and notified to adjoining property owners and 34 submissions and a petition signed by an additional 30 persons was received. Upon receipt of amended plans and information, the proposal was re-notified to adjoining property owners and those who made a submission to the original plans and in response nine submissions were received. The following table outlines the issues raised in all submissions and at the Conciliation Conference.

<table>
<thead>
<tr>
<th>ISSUE/OBJECT</th>
<th>COMMENT</th>
<th>OUTCOME</th>
</tr>
</thead>
<tbody>
<tr>
<td>Increase in traffic in local streets.</td>
<td>Council’s Principal Co-ordinator Road and Transport has revised the proposal and advised that the proposal will generate in the order of 25 peak hours trips. The proposed traffic generation is relatively minor and acceptable.</td>
<td>Issue addressed.</td>
</tr>
<tr>
<td>Safety concerns due to increased traffic.</td>
<td>The proposed low traffic generation of the development will not result in decreased safety.</td>
<td>Issue addressed.</td>
</tr>
<tr>
<td>Adequacy of resident and visitor parking. The parking may comply with Council requirements, but residents believe it will still not be adequate. Due to socio-economic factors, most dwellings will have 2-3 cars.</td>
<td>The proposal provides 186 parking spaces within the basement parking areas which comprise 151 resident spaces and 35 visitor spaces. The proposal complies with Council’s DCP parking requirement and additional parking provision beyond the DCP rates is at the developer’s discretion.</td>
<td>Issue addressed.</td>
</tr>
<tr>
<td>Street parking will occur as the entrances to the buildings are from Affleck Circuit.</td>
<td>The proposal complies with Council’s DCP parking requirement. However it is acknowledged that some on-street parking may occur.</td>
<td>Issue addressed.</td>
</tr>
<tr>
<td>Affleck Circuit will become a main traffic thoroughfare.</td>
<td>Council’s Principal Co-ordinator Road and Transport has revised the proposal and advised that the proposal will generate in the order of 25 peak hours trips. The proposed traffic generation is minor. Given the</td>
<td>Issue addressed.</td>
</tr>
<tr>
<td>ISSUE/OBJECTION</td>
<td>COMMENT</td>
<td>OUTCOME</td>
</tr>
<tr>
<td>---------------------------------------------------------------------------------</td>
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</tr>
<tr>
<td>Safety to pedestrians and drivers due to increased traffic</td>
<td>The proposed low traffic generation of the development will not result in decreased safety.</td>
<td>Issue addressed.</td>
</tr>
<tr>
<td>Increase in traffic due to the closure of Hector Court which will result in vehicles traveling along Affleck Circuit to access Severn Vale Drive.</td>
<td>It is acknowledged that there will be some changes to traffic flow due to local road closures and openings which will occur in the future, however these changes are not due to the current application.</td>
<td>Issue addressed.</td>
</tr>
<tr>
<td>Increase in traffic on local roads due to the shopping centre adjoining the site and the new sporting complex proposed on Balmoral Road.</td>
<td>It is acknowledged that there will be some changes to traffic flow due to the development of the adjoining site to the north for commercial purposes and the sporting complex on Balmoral Road. However the local road hierarchy which proposes enhanced collector roads at these locations has been planned and considered as part of the DCP local road upgrades.</td>
<td>Issue addressed.</td>
</tr>
<tr>
<td>Increase in noise, including noise from future residents and from increased traffic.</td>
<td>The proposed apartment development is unlikely to result in any unreasonable noise impacts.</td>
<td>Issue addressed.</td>
</tr>
<tr>
<td>Proposal is out of character with the predominantly single dwelling and townhouse nature of the area.</td>
<td>The proposed height and density are considered unsatisfactory and the development is out of character with the adjoining development – see Sections 2 and 4 above.</td>
<td>Recommended for refusal.</td>
</tr>
<tr>
<td>Impact on amenity and wellbeing. Impact on a quiet, family neighbourhood area. The proposal is out of character with the existing development in the area.</td>
<td>The proposed height and density are considered unsatisfactory and the development is out of character with the adjoining development – see Sections 2 and 4 above.</td>
<td>Recommended for refusal.</td>
</tr>
<tr>
<td>Height, including that the height is above the 16m limit.</td>
<td>The proposed height is considered unsatisfactory – see Sections 2 and 4 above.</td>
<td>Recommended for refusal.</td>
</tr>
<tr>
<td>The height will be above the adjoining shopping centre and the existing residential dwellings.</td>
<td>The proposed height is considered unsatisfactory – see Sections 2 and 4 above.</td>
<td>Recommended for refusal.</td>
</tr>
<tr>
<td>Loss of sunlight/overshadowing to residential dwellings on Affleck Circuit.</td>
<td>The proposal will impact on solar access to the front yards of properties opposite (on Affleck Circuit) at 9am, 10am and 3pm on June 21, however the impact is considered acceptable. See shadow diagrams at Attachment 8.</td>
<td>Issue addressed.</td>
</tr>
<tr>
<td>ISSUE/OBJECTION</td>
<td>COMMENT</td>
<td>OUTCOME</td>
</tr>
<tr>
<td>--------------------------------------------------------------------------------</td>
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</tr>
<tr>
<td>Size, bulk, scale and proportion of the buildings. The buildings are obtrusive.</td>
<td>The proposed height and density are considered unsatisfactory – see Sections 2 and 4 above.</td>
<td>Recommended for refusal.</td>
</tr>
<tr>
<td>Impact on views.</td>
<td>It is acknowledged that the views are currently to a residential property which is likely to be redeveloped given the zoning, therefore there is not an unreasonable impact on views.</td>
<td>Issue addressed.</td>
</tr>
<tr>
<td>Tall buildings are visually unattractive.</td>
<td>High buildings need not be visually unattractive but the five level presentation to low density housing provides an unsatisfactory interface relationship.</td>
<td>Issue addressed.</td>
</tr>
<tr>
<td>The area does not have access to public transport or facilities. There is a lack of public transport in the area.</td>
<td>As part of the upgrade works in the area new T-Way bus stops will be incorporated along Memorial Road. Route services on Fairway Drive, Severn Vale Drive and Free Settlers Drive will be provided and will be utilised by local bus services as demand is warranted.</td>
<td>Issue addressed.</td>
</tr>
<tr>
<td>Road infrastructure in the area must be completed before further development is permitted.</td>
<td>The RMS are proposing to upgrade Memorial Avenue to four lanes over the next 12-18 months (subject to State Government funding), further enhancing performance levels of the road carriageway and future signalised intersections. The development of the site is not reliant on the local road upgrade works which are primarily funded through Section 94 contributions.</td>
<td>Issue addressed.</td>
</tr>
<tr>
<td>The existing road access to Memorial Avenue is dangerous.</td>
<td>The RMS are proposing to upgrade Memorial Avenue to four lanes over the next 12-18 months (subject to State Government funding), further enhancing performance levels of the road carriageway and future signalised intersections.</td>
<td>Issue addressed.</td>
</tr>
<tr>
<td>Residents believed that townhouses would be built on the site, not apartments, and that the site was zoned for medium density use.</td>
<td>The proposed development is a permissible use in the R4 High Density Residential zone.</td>
<td>Issue addressed.</td>
</tr>
<tr>
<td>Increase in density of the area.</td>
<td>The proposed density is considered unsatisfactory – see Section 4 above.</td>
<td>Recommended for refusal.</td>
</tr>
<tr>
<td>Covenants on the land limit development to low density housing only.</td>
<td>The proposed development is a permissible use in the R4 High Density Residential zone under LEP 2012.</td>
<td>Issue addressed.</td>
</tr>
<tr>
<td>Issue</td>
<td>Analysis</td>
<td>Addressed</td>
</tr>
<tr>
<td>-----------------------------------------------------------------------------------------------</td>
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</tr>
<tr>
<td>The zoning of land has changed since 2009 when residents purchased property on Affleck Circuit. Residents were not advised of the change in zoning. Request that the zoning be amended to R3 Medium Density Residential.</td>
<td>The site was rezoned in 2006 to Residential 2(a1) which allowed apartment buildings. The zoning was subsequently altered by LEP 2012 to R4 High Density Residential reflect the standard LEP template. Apartment buildings continued to be a permissible use in the R4 High Density Residential.</td>
<td>Issue addressed.</td>
</tr>
<tr>
<td>The proposal should be sited closer to the North West rail corridor which is better suited to high density development.</td>
<td>The site was rezoned in 2006 to Residential 2(a1) which allowed apartment buildings. The zoning was subsequently altered by LEP 2012 to R4 High Density Residential reflect the standard LEP template. Apartment buildings continued to be a permissible use in the R4 High Density Residential.</td>
<td>Issue addressed.</td>
</tr>
<tr>
<td>The development is not within 500m of a railway station.</td>
<td>The proposed development is a permissible use in the R4 High Density Residential zone under LEP 2012. The site has a reasonable level of access to public transport.</td>
<td>Issue addressed.</td>
</tr>
<tr>
<td>Increase in pollution.</td>
<td>The proposed apartment development is unlikely to result in any unreasonable pollution impacts.</td>
<td>Issue addressed.</td>
</tr>
<tr>
<td>Neighbour notification should have been extended to all residents in Hector Court, Grace Crescent, Willox Avenue and Severn Vale Drive.</td>
<td>The proposal was advertised and notified to residents in accordance with Council's notification requirements within the DCP.</td>
<td>Issue addressed.</td>
</tr>
<tr>
<td>Impact on property values and saleability.</td>
<td>There has been no evidence submitted that there will be a decrease in property values or sales. The loss of property values is not a planning consideration.</td>
<td>Issue addressed.</td>
</tr>
<tr>
<td>Small apartments will change the demographic of the area. The area is currently characterised by families.</td>
<td>The introduction of apartment development may change the demographic of the area however this is not considered to be an unreasonable impact.</td>
<td>Issue addressed.</td>
</tr>
<tr>
<td>Concerns with the number of higher density developments being built or planned around Balmoral Road, Memorial Drive, Windsor Road and Old Windsor Road.</td>
<td>The Balmoral Road area is one which is undergoing change from the previous rural land uses to a residential and commercial nature. The increased apartment development is consistent with the directives from the Department of Planning and Environment to increase this form of development in key locations.</td>
<td>Issue addressed.</td>
</tr>
<tr>
<td>The development is solely based on money making from the units proposed which will be sold at an inflated price.</td>
<td>It is acknowledged that the developer will seek to ensure a return on investment. This is not a planning matter for consideration.</td>
<td>Issue addressed.</td>
</tr>
</tbody>
</table>
A three storey apartment development would be fair. A townhouse development would be more appropriate.

The proposed development is a permissible use in the R4 High Density Residential zone under LEP 2012. The site. The proposed height exceeds the LEP height standard and DCP number of storeys and is unsatisfactory.

Recommended for refusal.

Concern that the original Residential 2(a1) zoning was applied to the site with no consideration of impacts to future residents. No-one can explain the reasoning behind the zoning.

The rezoning of the Balmoral Road area was the subject of a number of reports to Council and exhibition of the plans to the public. It is assumed that the Residential 2(a1) zoning was applied to the site due to the relationship with the B2 Local Centre zone to the north.

Issue addressed.

Concern that the interactive mapping shown on Council’s website is misleading as zoning notations are shown on other properties that are not zoned for that purpose.

It was noted that the information contained on the interactive mapping comes from the Department of Planning and Environment and is designed for people to check the zoning of a particular property. Lines drawn from labels to particular properties are actually correct but difficult to see.

Issue addressed.

Residents were aware of the R3 Medium Density zoning in the Grace Crescent area and the approval in place on Lot 102 for integrated housing and were generally satisfied with that form of development. Residents believe integrated housing would be a better outcome for the development of the site.

The proposed development is a permissible use in the R4 High Density Residential zone under LEP 2012. Other forms of residential development are also permissible within the zone.

Issue addressed.

At a briefing held by the Department of Planning regarding rail corridor development, a Department staff member advised that it was ‘more likely that the site was zoned for medium density’ use.

The proposed development is a permissible use in the R4 High Density Residential zone under LEP 2012. Other forms of residential development are also permissible within the zone.

Issue addressed.

This site is the only site zoned for high density planned so far from the future station. The site is over 2 kilometres from the station. The proposal is contrary to a newspaper article which said that the Council wanted higher

The proposed development is a permissible use in the R4 High Density Residential zone under LEP 2012. Other forms of residential development are also permissible within the zone. It is assumed that the zoning comes about due to the relationship with the B2 Local Centre zone to the north.

Issue addressed.
density housing closer to the future stations. The future rail station was previously located closer to the site and some residents believe this was why the site was zoned for higher density housing.

<table>
<thead>
<tr>
<th>Issue addressed.</th>
</tr>
</thead>
</table>

 Residents wish to challenge the R4 High Density Residential zoning.

The current zoning is in place. The Department of Planning and Environment are highly unlikely to ‘down-zone’ a property.

| Issue addressed. |

 Conveyancers did not advise residents when they were purchasing land in the area that the site was R4 High Density Residential.

This is a private matter between the purchaser and conveyancer. It is noted however that conveyancing advice is usually limited to the site being purchased and does not address adjoining sites.

| Issue addressed. |

 The need for the closure of Hector Court and the opening/construction of a new access point through the extension of Severn Vale Drive.

The closure of Hector Court and the new access to Memorial Avenue is part of the local road improvements in place as part of Council’s DCP requirements. The subdivision of land and existing and future development has been predicated on the DCP.

| Issue addressed. |

 Need for signalisation of roads and traffic improvements within the area.

The RMS are proposing to upgrade Memorial Avenue to four lanes over the next 12-18 months (subject to State Government funding), further enhancing performance levels of the road carriageway and future signalised intersections.

| Issue addressed. |

 Parking will occur on local streets as it is more convenient for residents and visitors.

It is likely that some people will park on the street if it is more convenient regardless of parking provision on the site. Notwithstanding this, the proposal complies with Council’s DCP parking requirements.

| Issue addressed. |

 Residents often use garages for storage purposes.

The proposal complies with Council’s DCP parking requirements and storage areas have been provided for each unit. If approval was granted a condition could be imposed requiring parking to be available and not used for storage.

| Issue addressed. |

 Children will not be able to play freely in front yards due to increased traffic.

The proposed apartment development will not limit children playing within a private front yard.

| Issue addressed. |

 Has increased traffic from the new railway stations been included in the traffic report?

The traffic generated by the railway station precincts has been considered in the traffic report commissioned by Transport for NSW as part of the overall structure plans. The opening of the rail link will change traffic flow in the area and will reduce commuter

<p>| Issue addressed. |</p>
<table>
<thead>
<tr>
<th>Issue</th>
<th>Description</th>
<th>Recommendation</th>
</tr>
</thead>
<tbody>
<tr>
<td>road trips. Kellyville and Bella Vista Stations will attract commuters as they will have parking stations which will likely generate additional traffic on Memorial Avenue hence the need for the four lane upgrade works.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>The closure of Fairway Drive at Windsor Road will result in increased traffic using Severn Vale Drive to access Memorial Avenue.</td>
<td>It is acknowledged that there will be some changes to traffic flow due to local road closures and openings which will occur in the future, however these changes are not due to the current application.</td>
<td>Issue addressed.</td>
</tr>
<tr>
<td>Parking provided outside of basements is more accessible and attractive for people to park in.</td>
<td>The provision of basement parking allows a more efficient use of the site. Basement parking is convenient and limits external hard paved areas.</td>
<td>Issue addressed.</td>
</tr>
<tr>
<td>Accident history on Memorial Avenue.</td>
<td>A number of accidents have occurred on Memorial Road in the past, generally at intersections. The road upgrade works and signalised intersections will assist in reducing accidents and will improve road safety.</td>
<td>Issue addressed.</td>
</tr>
<tr>
<td>The proposal is contrary to the objectives of the DCP.</td>
<td>The proposal includes a number of variations to the DCP requirements – see Section 4 above.</td>
<td>Recommended for refusal.</td>
</tr>
<tr>
<td>The proposal is contrary to the R4 High Density Residential zone objectives.</td>
<td>It is considered that the proposed development is not necessarily inconsistent with the zone objectives however concern is raised that the proposal does not meet the intent of the R4 High Density Residential zone given the density proposed.</td>
<td>Recommended for refusal.</td>
</tr>
<tr>
<td>Interface with other low density development in the area.</td>
<td>The proposed five storey design is out of character with the existing surrounding development and does not adequately address the interface.</td>
<td>Recommended for refusal.</td>
</tr>
<tr>
<td>Impacts on privacy, especially due to the proposed height.</td>
<td>Given the proposed separation to existing residential dwellings, there is unlikely to be any unreasonable privacy impacts.</td>
<td>Issue addressed.</td>
</tr>
<tr>
<td>Future development of the B2 Local Centre land to the north by Woolworths.</td>
<td>To date, a Development Application has not been lodged for development of the B2 Local Centre land to the north.</td>
<td>Issue addressed.</td>
</tr>
</tbody>
</table>

**Additional/Further Issues raised during the Second Notification Period**

<table>
<thead>
<tr>
<th>Issue</th>
<th>Description</th>
<th>Recommendation</th>
</tr>
</thead>
<tbody>
<tr>
<td>Density of population. The reduction of one unit does not address the concerns raised. The proposal should be amended to comply.</td>
<td>The proposed density is considered unsatisfactory and the development is out of character with the adjoining development – see Section 4 above.</td>
<td>Recommended for refusal.</td>
</tr>
</tbody>
</table>
The revised proposal does not address the community concerns. | The proposed development is considered unsatisfactory and is not supported. | Recommended for refusal.  
---|---|---  
The lift shafts continue to breach the LEP height limit. The proposal should comply fully. | The proposed height is considered unsatisfactory and the development is out of character with the adjoining development – see Section 2 above. | Recommended for refusal.  
---|---|---  
The proposal is 5 storey, where the limit is four storey. | The proposed height is considered unsatisfactory and the development is out of character with the adjoining development – see Section 2 above. | Recommended for refusal.  
---|---|---  
A redesign to a layout with no one bedroom units and larger and more ‘upmarket’ units would be more fitting to the area. | The current unit mix and types do not comply with the DCP requirements. A redesign of the proposal to meet the DCP requirements would allow a more appropriate development. | Recommended for refusal.  
---|---|---  
The shopping centre has recently been re-zoned to B2. The initial zoning only anticipated a small strip centre, not a major centre. The arguments from the developer regarding the zoning of this site in relation to the centre are now invalid. | The DCP refers to the site as a ‘village centre’ which has the objective to meet the weekly convenience shopping needs of residents, with a scale that is in keeping with surrounding residential character. To date, a Development Application has not been lodged for development of the B2 Local Centre land to the north. | Issue addressed.  
---|---|---

### TRAFFIC MANAGEMENT COMMENTS

**i. Existing Traffic Environment**

This application proposes to construct an 86 unit residential apartment development comprising 21 x 1, 58 x 2 and 7 x 3 bedroom apartments with 186 off street parking spaces at 2B Hector Court, Kellyville forming part of the Balmoral Road release area.

A traffic impact statement has been prepared by Thompson Stanbury Associates and submitted in support of the application. As referred in the consultant’s report Hector Court, in its current configuration, intersects with Memorial Avenue via a three way ‘Give Way’ sign controlled intersection and performs a precinct access function by virtue of its previous status as Balmoral Road. It is primarily constructed to a two lane rural road standard with a 7.0m sealed carriageway and 2.0m wide unsealed shoulders servicing the remaining rural allotments and more recent higher density residential developments in the area.

Under the future release area configuration Hector Court is to be closed at Memorial Avenue with Severn Vale Drive assuming the enhanced collector road function via a new four way signalised intersection at Memorial Avenue. As an enhanced collector with a 12.0m wide carriageway Severn Vale Drive is expected to cater for peak hour traffic demand of around 400-450 vehicles per hour.

**ii. Proposed Development - Traffic Generation**

The Roads and Traffic Authority Guide to Traffic Generating Developments nominates a specific traffic generation rate for higher density apartments at around 0.29 am peak hour trips per unit. On this basis an apartment complex with 87 units will generate in the order of 25 peak hour trips.
a. Need for Traffic Improvements in the Locality

The relatively low total traffic volume expected to be generated by this proposal will have minimal impact on service levels of the future enhanced collector of Severn Vale Drive or the operational performance of the future signalized intersection with Memorial Avenue. The applicant will be required to pay the appropriate Section 94 contributions towards the cost of future traffic and open space facilities in the locality.

b. Traffic egress/ingress to arterial/sub-arterial roads

As indicated above, Severn Vale Drive is a currently a no-through local access road with Hector Court performing the precinct collector road function until surrounding development activity occurs allowing the future signalized intersection with Memorial Avenue.

The RMS are proposing to upgrade Memorial Avenue to four lanes over the next 12-18 months (subject to State Government funding), further enhancing performance levels of the road carriageway and future signalized intersections.

c. Sight distance and other safety issues

The site is located on the northern side of Affleck Circuit bounded by Hector Court and Severn Vale Drive. All vehicular access is proposed via a combined entry/exit driveway located on the Severn Vale Drive frontage of the property. Sight distance for vehicles entering and exiting the property will be consistent with the recommended minimum Safe Intersection Sight Distance of 80m for a 50km/h urban road as required under the Austroad’s Guidelines.

iii. Recommendations

There are no objections raised from a traffic engineering perspective to the proposed development.

SUBDIVISION ENGINEERING COMMENTS

The applicant has not provided information in regard to:

- The design of the extension of Severn Vale Drive;
- Partial width road construction of Hector Court;
- Swept turning path analysis and clearances on the ramps;
- The provision of separate facilities for turning before the security doors to allow vehicles to exit if a residents is unavailable or denies access to a visitor.

TREE MANAGEMENT COMMENTS

No objection raised to the proposal.

HEALTH & ENVIRONMENTAL PROTECTION COMMENTS

No objection raised to the proposal.
WASTE MANAGEMENT COMMENTS

The applicant has not adequately demonstrated that the waste vehicles can enter and exit the site in an appropriate manner in regard to compliance with the Australian Standards, swept turning paths and access to the basement.

NSW POLICE COMMENTS

The NSW Police have reviewed the Development Application and outlined a number of Crime Prevention Through Environmental Design (CPTED) recommendations to ensure that the site is appropriately protected.

CONCLUSION

The application has been assessed against the provisions of Section 79C of the Environmental Planning and Assessment Act 1979, Local Environmental Plan 2012 and The Hills Development Control Plan 2012 and is considered unsatisfactory.

The proposed development is considered to be inconsistent with the objectives of the zone and is considered an overdevelopment of the site.

Accordingly, the application is recommended for refusal

IMPACTS:

Financial

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

The Hills Future - Community Strategic Plan

The social and environmental impacts have been identified and addressed in the report. The proposal conflicts with the development objectives of the LEP and DCP. It is considered unsatisfactory with regard to The Hills Future Community Strategic Plan.

RECOMMENDATION

The Development Application be refused for the following reasons:

1. The proposal exceeds to LEP height standard and has not been accompanied by a Clause 4.6 variation request (Section 79C(a)(i) of the Environmental Planning and Assessment Act 1979).

2. The proposal is unsatisfactory in regard to the requirements of Part B Section 5 Residential Flat Buildings in regard to density, number of storeys, setbacks, unit layout and design, open space and storage (Section 79C 1(a)(i) of the NSW Environmental Planning and Assessment Act 1979).

3. The proposed development results in an overdevelopment of the site which is incompatible with adjoining residences and neighbourhood character (Section 79C 1(a)(i) of the NSW Environmental Planning and Assessment Act 1979).
4. The proposal does not comply with the Design Principles of State Environmental Planning Policy No. 65 – Design Quality of Residential Flat Development in terms of:
   Principle No. 1 – Context and Neighbourhood Character;
   Principle No. 2 – Built Form and Scale;
   Principle No. 3 – Density; and
   Principle No. 6 – Amenity
   (Section 79C(a)(i) of the Environmental Planning and Assessment Act 1979).

5. The proposed development is contrary to the provisions of Clause 50 of the NSW Environmental Planning and Assessment Regulations 2000, which requires the applicant to provide all the necessary and requested information to Council to allow for a proper assessment of the application, including the submission of information including engineering matters and waste matters, specifically in regard to waste management vehicle access, the design of the extension of Severn Vale Drive, partial width road construction of Hector Court, swept turning path analysis and clearances on the ramps and the provision of separate facilities for turning before the security doors (Section 79C 1(a)(iv) of the NSW Environmental Planning and Assessment Act, 1979).

6. The impacts on and built environment in the locality are unacceptable in terms of bulk and scale of the proposed building which is not compatible with the surrounding development and the overall streetscape (Section 79C 1(b) of the NSW Environmental Planning and Assessment Act 1979).

7. The development is not considered to be suitable for the site as it is an overdevelopment in terms of scale and intensity and results in unacceptable amenity impacts on neighbours (Section 79C 1(c) of the NSW Environmental Planning and Assessment Act 1979).

8. The development is considered not to be in the public interest (Section 79C 1(e) of the NSW Environmental Planning and Assessment Act 1979).

**ATTACHMENTS**

1. Locality Plan
2. Aerial Photograph
3. LEP Height Standard
4. LEP Zoning Plan
5. Site Plan
6. Elevation showing LEP Height Limit
7. Elevation Plans
8. Shadow Diagrams
9. Section
10. Isometric Model
11. External Colour Scheme
12. Original Perspectives
ATTACHMENT 2 – AERIAL PHOTOGRAPH
ATTACHMENT 3 – LEP HEIGHT STANDARD
ATTACHMENT 6 – ELEVATION SHOWING LEP HEIGHT LIMIT
ATTACHMENT 7 – ELEVATION PLANS
ATTACHMENT 8 – SHADOW DIAGRAMS
ATTACHMENT 10- ISOMETRIC MODEL
ATTACHMENT 11 – EXTERNAL COLOUR SCHEME
**ITEM-2**

**JRPP REPORT- DA 1395/2016/JP**  
(Sydney West)

<table>
<thead>
<tr>
<th>JRPP No</th>
<th>2016SYW063</th>
</tr>
</thead>
<tbody>
<tr>
<td>DA Number</td>
<td>DA 1395/2016/JP</td>
</tr>
<tr>
<td>Local Government Area</td>
<td>THE HILLS SHIRE COUNCIL</td>
</tr>
</tbody>
</table>

**Proposed Development**

DEMOLITION OF EXISTING STRUCTURES AND CONSTRUCTION OF A MIXED USE DEVELOPMENT CONTAINING 247 RESIDENTIAL UNITS, GROUND FLOOR RETAIL, THREE (3) LEVELS OF COMMERCIAL OFFICES AND FIVE (5) LEVELS OF PARKING PROVIDING 646 CAR PARKING SPACES.

<table>
<thead>
<tr>
<th>Street Address</th>
<th>LOT 5074 DP 1003042, 11-13 SOLENT CIRCUIT, BAULKHAM HILLS AND LOT 102 DP 1065520</th>
</tr>
</thead>
<tbody>
<tr>
<td>Applicant</td>
<td>CAPITAL BLUESTONE</td>
</tr>
<tr>
<td>Number of Submissions</td>
<td>EIGHT (8) SUBMISSIONS</td>
</tr>
</tbody>
</table>

**Regional Development Criteria (Schedule 4A of the Act)**

- CIV Over $20 Million – General Development

**List of All Relevant s79C(1)(a) Matters**

- List all of the relevant environmental planning instruments: s79C(1)(a)(i)
  - The Hills Local Environmental Plan 2012
  - State Environmental Planning Policy (Infrastructure) 2007
  - State Environmental Planning Policy No. 55 – Remediation of Land
  - State Environmental Planning Policy No. 65 – Design Quality of Residential Flat Development
  - State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004
  - State Environmental Planning Policy (State and Regional Development) 2011

- List any proposed instrument that is or has been the subject of public consultation under the Act and that has been notified to the consent authority: s79C(1)(a)(ii)
  - Nil

- List any relevant development control plan: s79C(1)(a)(iii)
  - DCP 2012 Part C Section 6 – Business
  - DCP 2012 Part B Section 5 – Residential Flat Buildings
  - DCP 2012 Part C Section 1 – Parking

- List any relevant planning agreement that has been entered into under section 93F, or any draft planning agreement that a developer has offered to enter into under section 93F: s79C(1)(a)(iv)
  - List any coastal zone management plan: s79C(1)(a)(v)
    - Nil
  - List any relevant regulations: s79C(1)(a)(iv) eg. Regs 92, 93, 94, 94A, 288
    - Environmental Planning and Assessment Act Regulation 2000

<table>
<thead>
<tr>
<th>Does the DA require Special Infrastructure Contributions conditions (s94EF)?</th>
<th>No</th>
</tr>
</thead>
<tbody>
<tr>
<td>List all documents submitted with this report for the panel's consideration</td>
<td>Submissions and Clause 4.6 Written Request</td>
</tr>
<tr>
<td>Recommendation</td>
<td>Approval</td>
</tr>
<tr>
<td>Report by</td>
<td>Development Assessment Coordinator James McBride</td>
</tr>
<tr>
<td>Report date</td>
<td>20 October 2016</td>
</tr>
</tbody>
</table>

**Summary of S.79C matters**

Have all recommendations in relation to relevant s79C matters been summarised in the Executive Summary of the assessment report?  Yes

**Legislative clauses requiring consent authority satisfaction**

Have relevant clauses in all applicable environmental planning instruments where the consent authority must be satisfied about a particular matter been listed, and relevant recommendations summarised, in the Executive Summary of the assessment report?  Yes

**Clause 4.6 Exceptions to development standards**

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

**Conditions**

Have draft conditions been provided to the applicant for comment?  Yes
EXECUTIVE SUMMARY

The Development Application is for the demolition of existing structures and the construction of a mixed use development containing 247 residential units (36 x 1 bedroom, 179 x 2 bedroom, 25 x 3 bedroom and 7 x 4 bedroom), ground floor retail, three (3) levels of commercial offices, construction of a new boardwalk adjacent to Norwest Lake, landscaping works, tree removal and five (5) levels of parking providing 646 car parking spaces. The Capital Investment Value (CIV) of the development is $105,800,000.

The application is accompanied by a request to vary a development standard pursuant to Clause 4.6 of The Hills Local Environmental Plan 2012 (LEP). Clause 4.4 of the LEP prescribes a maximum floor space ratio of 2.42:1 for the subject site. The application proposes a floor space ratio of 2.53:1 which represents a variation of 4.8%. The Development Application is accompanied by a written justification to Clause 4.6 of the LEP to vary the floor space ratio development standard.

The proposal has been assessed against the relevant provisions of the Hills Development Control Plan 2012 (DCP). Variations to density, car parking, bicycle parking, loading bays, apartment sizes, private and common open space, landscaping, pedestrian access and storage have been identified. The variations are addressed in the body of the report and are considered to be satisfactory.

The application is classified as 'Nominated Integrated Development' pursuant to Clause 91 of the Environmental Planning and Assessment Act 1979 and Clause 5(1b) of the Environmental Planning and Assessment Regulations 2000, requiring referral to the NSW Department of Primary Industries – Water for concurrence. General Terms of Approval have been received from the NSW Department of Primary Industries – Water.

The proposal was exhibited and notified to adjoining property owners for a period of 30 days. In response, eight (8) submissions were received (one in support). The issues raised in the submissions relate to the inclusion of residential accommodation in the Norwest Business Park, building mass, height, design, setbacks, separation, noise, traffic and car parking. The matters raised in the submissions have been reviewed and do not warrant refusal of the application.

The proposed development is considered to be of a high quality design that is fitting to the context of the site being located on the periphery of Norwest Lake and within the Norwest Business Park. The proposed development responds appropriately to the interface of Norwest Lake and provides a publicly accessible space that will promote the active and passive use of land immediately adjoining Norwest Lake. Additionally, the proposed development will provide active commercial uses in the form of restaurants and retail at ground level. The residential component of the development has been designed to maximise the northerly orientation and facilitate views towards Norwest Lake. Generous communal facilities have been provided to enhance residential amenity. The design is responsive to the site and will establish a benchmark for the future character of development within close proximity to Norwest Station.

In the absence of the JRPP process, this matter would be determined by Council’s Development Assessment Unit.

The proposal is recommended for approval subject to conditions.
**BACKGROUND**

<table>
<thead>
<tr>
<th>Owner:</th>
<th>Hills Christian Life Centre Ltd and Norwest Association Ltd</th>
</tr>
</thead>
<tbody>
<tr>
<td>Zoning:</td>
<td>B2 Local Centre and SP2 Infrastructure (Drainage)</td>
</tr>
<tr>
<td>Area:</td>
<td>1.2 Hectares</td>
</tr>
<tr>
<td>Existing Development:</td>
<td>Sydney Ice Arena</td>
</tr>
</tbody>
</table>

**MANDATORY REQUIREMENTS**

1. **LEP 2012 – Clause 4.6** Variation required, see report.
2. **SEPP 65 – Design Quality of Residential Flat Development and Residential Flat Design Code** Variations required, see report.
3. **DCP 2012 Part B Section 6 – Business** Variations required, see report.
4. **DCP 2012 Part B Section 5 – Residential Flat Buildings** Variations required, see report.
5. **Section 79C (EP&A Act)** Satisfactory.
6. **VPA Contribution** Currently $3,130,000.00 (indexed in accordance with the Planning Agreement) for the first 240 units, as well as an additional amount of $13,041.67 (indexed in accordance with the Planning Agreement) for each of the additional 7 units proposed in excess of 240 units.

**SUBMISSIONS**

1. **Exhibition:** Yes, 30 days.
2. **Notice Adj Owners:** Yes, 30 days.
3. **Number Advised:** 457 adjoining land owners
4. **Submissions Received:** Eight (8) submissions

**REASON FOR REFERRAL TO JRPP**

1. Capital Investment Value in excess of $20 million

**HISTORY**

- **20/11/2015** Amendment No. 29 was notified on the NSW legislation website to increase the maximum permitted building height to RL 143.20, increase the floor space ratio to 2.42:1, allow additional permitted uses in the SP2 zone and specify a minimum 6,000m² of commercial floor space for the subject site.
- **23/12/2015** Pre-lodgement meeting held.
- **29/03/2016** Subject Development Application lodged.
- **11/04/2016** The application was exhibited for a period of 30 days.
- **12/05/2016** Exhibition period concludes.
14/06/2016  The applicant was requested to provide additional information in relation to compliance with floor space ratio, car parking, commercial floor area, design requirements of the Apartment Design Guide, submission of owners consent, engineering matters and tree management matters.

10/08/2016  The applicant submitted additional information including amendments to reduce floor space ratio and yield to 247 units.

22/08/2016  The applicant was requested to provide a revised BASIX Certificate.

26/08/2016  The applicant submitted a revised BASIX Certificate.

20/09/2016  The applicant submitted amended floor plans detailing finished levels for Building B.

SITE DESCRIPTION

The site is known as Lot 5074 DP 1003042 and is located at 11-13 Solent Circuit Baulkham Hills. The site is currently occupied by the Sydney Ice Arena with associated on grade car parking and scattered vegetation adjacent to the property boundaries. The site has access to Solent Circuit and frontage to Norwest Lake with a public walkway along the lake frontage. The site is irregular in shape and is 1.2 hectares in area.

The site has a cross fall of approximately 4-5 metres from the south-east corner to the north-west corner of the site. The site has an arc frontage of approximately 81 metres to Solent Circuit.

The site is affected by an easement for public access approximately 12 metres wide adjacent to Norwest Lake. It is noted that the existing boardwalk which provides public access is approximately 3 metres wide. The site is also affected by two drainage easements 2 metres and 1.5 metres wide respectively.

The site is bounded by Norwest Marketown immediately to the east of the site, Hillsong Church immediately to the south of the site and the Central Residential Precinct immediately to the north of the site on the opposite side of Solent Circuit.

PLANNING PROPOSAL

The site was subject to a Planning Proposal (Ref. No 17/2013/PLP) to amend the Hills Local Environmental Plan 2012. Amendment No. 29 was notified on the NSW legislation website on 20 November 2015. The plan amends The Hills Local Environmental Plan 2012 as follows:

- Increase the maximum permitted building height from RL 116 metres (approximately 11 storeys) to RL 143.20 metres (20 storeys);
- Increase the maximum permitted floor space ratio from 1.49:1 to 2.42:1;
- Allow uses that are permissible within the B2 Local Centre zone, that is, commercial premises, residential flat buildings, building identification signs and business identification signs, on that part of the site that is zoned SP2 (Drainage) through Schedule 1 - Additional Permitted Uses; and
- to specify a minimum 6,000m² of commercial floor space to be provided on the land.
Associated amendments to The Hills Development Control Plan 2012 (Part B Section 6 – Business) came into force on 1 December 2015 and provide objectives and development controls to guide the development of the site.

**PROPOSED DEVELOPMENT**

The Development Application is for the demolition of existing structures and the construction of a mixed use development containing 247 residential units (36 x 1 bedroom, 179 x 2 bedroom, 25 x 3 bedroom and 7 x 4 bedroom), ground floor retail, three (3) levels of commercial offices, construction of a new boardwalk adjacent to Norwest Lake, landscaping works, tree removal and five (5) levels of parking providing 646 car parking spaces. The Capital Investment Value (CIV) of the development is $105,800,000.

The proposal was amended during the assessment process to reduce the floor space ratio from 2.66:1 to 2.536:1 and in turn reduce the dwelling yield from 267 to 247 units. The amendments also include a reduction in the total number of car parking from 652 to 646 spaces.

The development comprises two residential towers above commercial/retail/parking podium levels. Building A will be 15 storeys in height above a four storey commercial podium. Building B will be 16 storeys in height above five levels of car park. The commercial component has been positioned to address and activate the interface to Norwest Lake and will contain approximately 6,056m² of commercial floor space that includes three restaurants and seven commercial tenancies on the ground floor in addition to 36 office tenancies over three levels. A through-site link in the form of a boardwalk over an existing public easement access will be provided to enhance pedestrian permeability and to activate the interface to Norwest Lake.

The residential development will provide a total of 247 residential flat units with the following mix:

- 36 x 1 bedroom units;
- 179 x 2 bedroom units;
- 25 x 3 bedroom units; and
- 7 x 4 bedroom units

Building A will address Norwest Lake and will contain 115 units above a four-storey commercial podium that will comprise of 36 office premises and ground floor restaurants.

Building B will address Solent Circuit and will contain 132 units above a five-storey car park with ground floor retail tenancies. A swimming pool and resident function room will be located within the level three parking area below Building B. The podium for Building B will contain the main communal open space area that includes an outdoor gym, outdoor cinema, communal dining areas, putting green and fitness stations.

Access to the car park has been provided off Solent Circuit. The lower two levels of basement car park will be dedicated to commercial and visitor spaces with the bottom upper three levels dedicated to the residential parking component. The proposed development seeks to utilise a dual parking arrangement whereby car parking spaces dedicated to the office component will be freely available to restaurant and retail uses between 6:30pm to midnight on weekdays and on weekends. Access to the residential parking component will be provided via a security gate to ensure the separation of public and private car spaces.
Pedestrian access to the building will be provided through a central colonnade between Building A and B. Separate lift cores have been provided for Building A, Building B and the commercial component which have been centrally located.

The stratum subdivision forms part of the application and will result in the subdivision of the building into three lots. Lot 1 relates to the ground floor commercial uses (retail/restaurant) and the parking spaces associated with those uses on the ground floor. Lot 2 relates to the remainder of the commercial areas and the associated parking spaces in the basement level. And Lot 3 relates to the residential areas and the associated parking spaces on levels one, two and three.

Landscaping is proposed within the communal open space areas and along the edges of the development which will generally comprise of the planting of canopy trees, groundcovers and shrubs within the landscaped areas. The proposed development will also include the embellishment of the existing boardwalk adjacent to Norwest Lake.

A condition of consent is recommended requiring separate consent for the restaurant and retail tenancies.

ISSUES FOR CONSIDERATION

1 STRATEGIC PLANNING FRAMEWORK

1.1 A Plan for Growing Sydney

The strategic plan prepared by the NSW Government entitled the *A Plan for Growing Sydney 2036* aims to integrate land use and transport planning to provide a framework for the growth and development of the Sydney Region to 2036.

The site is located in the Norwest Business Park adjacent to existing retail and commercial development, and within the 500m walking catchment of the future Norwest Railway Station. The site is well located to utilise existing services and infrastructure including the high frequency public transport services provided by the North West Rail Link. An increase in building height and subsequent higher densities in proximity to railway stations will encourage greater use of public transport and enhance the existing local centre.

1.2 North West Rail Link

The North West Rail Link (NWRL) has been identified by the NSW Government as a priority transport infrastructure project which will consist of a heavy rail line extending from Epping, through the North West Growth Centre, to Cudgegong Road. The North West Rail Link will support metropolitan planning objectives by putting in place a key transport project which extends the connectivity of the existing rail network and will support future growth within North West Sydney.

The future Norwest Railway station is located approximately 500 metres south of the site. Proximity to the Norwest Railway station makes the site ideal for high density development in order to capitalise upon the principles of transport orientated development.

1.3 North West Rail Link Corridor Strategy

To ensure that future development supports the public transport infrastructure, a precinct planning process for the North West Rail Link Corridor has been undertaken by the NSW Department of Planning & Infrastructure.
The North West Rail Link Corridor Strategy provides a vision for how the eight precincts surrounding the proposed railway stations could be developed to integrate with the new rail link. The Corridor Strategy includes a structure plan for each station precinct to inform appropriate zonings and amendments to built form controls and to guide the assessment of major projects and development applications within the corridor.

A key principle informing the corridor strategy is the integration of land use and transport planning by the provision of transit orientated development. This is defined as mixed use communities within walking distance of a transit node that provides for a range of residential, commercial, open space and public facilities in a manner that makes it convenient and attractive to walk, cycle or use public transport for the majority of trips. Accordingly, the strategy highlights that the new rail line provides significant opportunities for transit orientated development around the proposed rail stations.

The Strategy envisages that Norwest will need to provide an additional 15,000 jobs which would require approximately 225,000 – 375,000m² of commercial floor space, and projects that an additional 4,350 dwellings will be provided by 2036. The subject site is identified as an opportunity site in the short term however it is identified as part of the ‘local centre’ which could accommodate neighbourhood scale retailing on sites that are carefully designed to integrate into the existing streetscape and residential development.

The emerging significance of Norwest as a major employment area (Specialised Precinct) within the global economic corridor is recognised in the North West Rail Link Corridor Structure Plan. In fact the Structure Plan for Norwest flags the possibility of buildings up to 30 storeys on the “Station Precinct” located on the southern side of Norwest Boulevard in close proximity to the future railway station. A development of 20 storeys on the subject site would therefore not be inconsistent with the vision for the surrounding area.

The proposed development is considered to respond accordingly to the objectives of the Strategy and is a suitable response to the site’s location and proximity to the railway station. It will make a significant contribution towards the provision of the required dwellings and commercial floor space whilst enhancing the public domain and further activating the Norwest Lake. Therefore it is considered that the proposed development is consistent with the Corridor Strategy.

1.4 The Hills Shire Local Strategy

The Residential, Integrated Transport, Centres and Employment Lands Directions are the relevant components of the Local Strategy to be considered in assessing this application.

Residential Direction

The North West Subregional Strategy sets targets for the Shire to contribute additional housing to accommodate a share of Sydney’s population growth. The Residential Direction indicates that there is sufficient capacity to accommodate these targets based on the existing planning framework and current projects.

In this regard, the proposed amendments to building height, floor space ratio and the zoning of subject site are not required to meet housing targets. However, the planning proposal is consistent with the Direction since it would contribute to a diversity of housing choice in an existing urban environment, in close proximity to employment, services and transport infrastructure. Residential accommodation in this location would also contribute to creating a vibrant and safe town centre that functions beyond normal commercial business hours.
Integrated Transport Direction

A key objective of the Integrated Transport Direction is to ensure that planning and future development supports the provision of an efficient transport network. Relevant actions include planning for a concentration of and/or intensity of land use activities around major public transport nodes and higher order centres.

The subject site is located within the 500m walking catchment of the future Norwest Rail Station and is serviced by various bus services throughout the locality. The proposed development is consistent with this Direction as it will facilitate high density residential development and increased employment opportunities within close proximity to high frequency public transport services.

Centres Direction

The Centres Direction seeks to establish a network of centres that provides places for residents to shop, work, and have social interaction and recreational opportunities. The Direction includes a centres hierarchy which provides a framework for the scale, location and function of centres. This ensures that the population has access to a range of centres that meet their needs and are appropriate in scale and design for their location.

Norwest Marketown which adjoins the subject site is identified as a village centre with potential to grow into a town centre with additional floor space in demand from 2016. The proposed development will contribute to the developing Norwest Town Centre by providing employment opportunities, civic space and residential activation.

Employment Lands Direction

The North West Subregional Strategy establishes an employment capacity target for the Shire from 2001 to 2031 of 47,000 jobs. The Employment Lands Direction demonstrates that there is capacity to meet this target with capacity for 55,574 additional jobs to 2031.

In addition to the contribution towards anticipated employment targets, the Direction seeks to provide employment close to home, services and transport infrastructure.

The planning proposal would facilitate approximately 6,000m² of commercial floor space and 240 residential units in a central location, providing new employment and housing opportunities close to existing services and transport. The proposed development is considered to be consistent with this direction.

2 STATUTORY MATTERS FOR CONSIDERATION

2.1 State Environmental Planning Policy (State and Regional Development) 2011

Clause 20 of SEPP (State and Regional Development) 2011 and the Schedule 4A of the Environmental Planning and Assessment Act, 1979 provides the following referral requirements to a Joint Regional Planning Panel:-

Development that has a capital investment value of more than $20 million.

The proposed development has a capital investment value of $105,800,000 thereby requiring referral to, and determination by, a Joint Regional Planning Panel.
2.2 State Environmental Planning Policy No. 55 Remediation of Land

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

Clause 7 of the SEPP states:-

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

(a) it has considered whether the land is contaminated, and

(b) if the land is contaminated, it is satisfied that the land is suitable in its contaminated state (or will be suitable, after remediation) for the purpose for which the development is proposed to be carried out, and

(c) if the land requires remediation to be made suitable for the purpose for which the development is proposed to be carried out, it is satisfied that the land will be remediated before the land is used for that purpose.

Comment:

A Preliminary Contamination Assessment prepared by Douglas Partners accompanied the Development Application. The assessment concludes that the site presents a low risk of harm to human health or the environment and is therefore suitable for the proposed development.

Council’s Environmental Health Coordinator has reviewed the proposal and concurs with the findings and recommendations of the Preliminary Contamination Assessment. Accordingly, appropriate conditions of consent have been recommended to ensure that the recommendations of the reports are implemented during the course of construction.

In this regard, it is considered that the site is suitable for the proposed development with regard to land contamination and the provisions of SEPP 55.

2.3 SEPP (Infrastructure) 2007

This Policy aims to facilitate the delivery of infrastructure and identify matters to be considered in the assessment of development adjacent to particular types of infrastructure development. Specifically the SEPP contains provisions relating to traffic generating development.

2.3.2 Traffic generating development

Clause 104 ‘Traffic-generating development’ of the SEPP states:-

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

(a) new premises of the relevant size or capacity, or

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

(2) In this clause, relevant size or capacity means:
(a) in relation to development on a site that has direct vehicular or pedestrian access to any road—the size or capacity specified opposite that development in Column 2 of the Table to Schedule 3, or

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

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

(a) give written notice of the application to the RTA within 7 days after the application is made, and

(b) take into consideration:

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

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

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

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

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

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

Comment:

The proposal is categorised as traffic generating development pursuant to Schedule 3 of the SEPP. The SEPP requires development to be referred to the NSW Roads and Maritime Service where the development results in 200 or more vehicles with access to any road. The proposed development comprises of 646 car spaces with access to Solent Circuit.

The Development Application was referred to the NSW Roads and Maritime Service for review. The NSW Roads and Maritime Service raised no objections to the proposal in their letter dated 19 April 2016.

Additionally, Council’s Principal Traffic & Transport Coordinator has reviewed the proposal and raised no objection with respect to traffic generation.

2.4 SEPP (BASIX) 2004

State Environmental Planning Policy (BASIX) 2004 applies to the proposed development and aims to reduce the consumption of mains-supplied water, reduce emissions of greenhouse gases and improve the thermal performance of the building.
A BASIX assessment has been undertaken and indicates that the development will achieve the required targets for water reduction, energy reduction and measures for thermal performance. The commitments as detailed in the BASIX Certificate will be imposed as a condition of consent.

2.5 Compliance with The Hills Local Environmental Plan 2012

The site is zoned B2 Local Centre and SP2 Infrastructure (Drainage) under The Hills Local Environmental Plan 2012. Under the LEP, the proposed development is defined as a ‘residential flat building’ and ‘commercial premises’ as follows:

‘residential flat building means a building containing 3 or more dwellings, but does not include an attached dwelling or multi dwelling housing.’

commercial premises means any of the following:

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

Residential flat buildings and commercial premises are permissible pursuant to Schedule 1 of the LEP 'Additional Permitted Uses'. Clause 1 of Schedule 1 stipulates the following:

1 Use of certain land at Solent Circuit, Baulkham Hills

(1) This clause applies to that part of land at 11–13 Solent Circuit, Baulkham Hills, comprising Lot 5074, DP 1003042, that is zoned SP2 Infrastructure, shown as “Item 6” on the Additional Permitted Uses Map.

(2) Development for the purposes of building identification signs, business identification signs, commercial premises or residential flat buildings is permitted with consent.

Accordingly, the proposal is considered satisfactory with regard to the LEP.

Clause 4.1A of the LEP prescribes a minimum lot size of 4,000m$^2$ for residential flat buildings. The site has an area of 12,000m$^2$ and will comply with the minimum lot size requirement.

Clause 7.10 prescribes a minimum commercial floor space in Norwest Town Centre which explicitly applies to the subject site. Clause 7.10 stipulates the following:

7.10 Minimum commercial floor space in Norwest Town Centre

(1) The objective of this clause is to ensure that Norwest Town Centre continues to provide employment-generating activities.

(2) This clause applies to land at Norwest Town Centre, being 11–13 Solent Circuit, Baulkham Hills and comprising Lot 5074, DP 1003042.

(3) Development consent must not be granted to development on land to which this clause applies unless the development incorporates a minimum of 6,000 square metres of commercial floor space.
The proposed development provides a minimum commercial floor space of 6,056m² which is provided in the form of office premises, retail premises and food and drink premises. The proposal accordingly complies with Clause 7.10 of the LEP.

The table below contains the relevant development standards of the LEP applying to the proposed development:

<table>
<thead>
<tr>
<th>DEVELOPMENT STANDARD</th>
<th>LEP REQUIREMENT</th>
<th>PROPOSED DEVELOPMENT</th>
<th>COMPLIANCE</th>
</tr>
</thead>
<tbody>
<tr>
<td>Floor Space Ratio</td>
<td>2.42:1</td>
<td>2.536:1</td>
<td>No – refer to discussion below.</td>
</tr>
<tr>
<td>Building Height</td>
<td>RL 143.200</td>
<td>Building A – RL 143.113  Building B – RL 142.050</td>
<td>Yes</td>
</tr>
</tbody>
</table>

2.5.1 Clause 4.6 Exceptions to development standards

2.5.1.1 Floor Space Ratio

The applicant has provided the following written request seeking a Clause 4.6 variation to the development standard for floor space ratio:

The following environmental planning grounds are sufficient to justify contravention of the development standard:

- The recently adopted uplift in height and floor space ratio for the site was directly informed by the concept plan which accompanied the Planning Proposal for the site which was intended to provide certainty for the consent authority in relation to the likely built form which would result from the uplift in height and floor space ratio. However, it is understood that the gross floor area and resulting floor space ratio of 2.42:1 was specifically derived from a literal measurement of the indicative floor plans which accompanied the Planning Proposal which were only intended to demonstrate one possible option within the concept plan envelopes. Accordingly, there is no other strategic basis or other reason for the specific floor space ratio of 2.42:1 other than a measurement of one indicative option within the concept plan envelopes.

- Whilst the proposed development differs from the indicative scheme which accompanied the concept plan envelopes which informed the Planning Proposal, it is noted that the proposed development is nonetheless contained wholly within the concept plan building envelopes with some significant articulation also provided within the envelope. Accordingly, notwithstanding the minor variation to the floor space ratio control, the proposed development is consistent with the bulk and scale anticipated for the site by Council when it increased the height and floor space ratio.

- The proposed variation to the floor space ratio control results in 247 apartments which is only 7 more apartments or 2.9% increase in yield, when compared to the indicative number of 240 which informed the Planning Proposal and subsequent floor space ratio figure. This increase in yield is insignificant in terms of impact and does not result in any meaningful change to the perceived density of the proposal.
The proposed minor variation to the floor space ratio control and the proposed density does not prevent achievement of the 9 principles of SEPP 65. Apartments within the development are provided with a high level of amenity as the proposal provides for cross ventilation, solar access, open space, deep soil and landscaping in accordance with the relevant requirements therefore strict compliance with the floor space ratio control is considered to be unnecessary and unreasonable to achieve an appropriate level of amenity within the development.

There are no adverse impacts in terms of shadow, view, visual and acoustic privacy impacts to adjacent sites resulting from the proposed variation to the floor space ratio development standard which would warrant strict compliance.

The development provides the required provision of car parking and the proposed variation to the floor space ratio control will not result in any acceptable impact on local traffic conditions.

The proposed variation to the floor space ratio control will provide an improved diversity and quantum of housing within a strategically identified site which will assist in meeting demand generated by changing demographics and housing needs in an existing urban area with excellent access to transport and services.

Having regard to the fact that the proposed development is contained wholly within the concept plan building envelopes for the site, provides for an appropriate level of amenity for future occupants and does not result in adverse impacts to adjacent properties or the locality, the subject site is demonstrated to have the environmental capacity to absorb the proposed density and there are sufficient environmental planning grounds to justify contravening the development standard.

Comment:

The objectives of Clause 4.4 Floor Space Ratio of the LEP are:

(a) To ensure development is compatible with the bulk, scale and character of existing and future surrounding development.

(b) To provide for a built form that is compatible with the role of town and major centres.

The objectives of Clause 4.6 of the LEP 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(3) of LEP 2012 states:

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

(a) that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and

(b) that there are sufficient environmental planning grounds to justify contravening the development standard.
Clause 4.6(4) of LEP 2012 states:

*Development consent must not be granted for development that contravenes a development standard unless:*

(a) The consent authority is satisfied that:

(i) The applicant has adequately addressed the matters required to be demonstrated by subclause (3)

(ii) The proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which development is proposed to be carried out, and

Comment

The proposed development comprises a floor space ratio of 2.536:1 which exceeds the development standard of 2.42:1 by 4.8%. It is noted that during the course of assessment, the applicant reduced the floor space ratio of the development from 2.66:1 resulting in the reduction of 1,502 square metres of gross floor area which represents a reduction of 20 units. The reduction in gross floor area is attributed to the reduction in massing to the eastern side of Building B.

The objective of Clause 4.4 ‘Floor Space Ratio’ is to ensure that development is compatible with the bulk, scale and character of existing and future surrounding development. Additionally, the floor space ratio development standard aims to restrict the amount of gross floor area and should be considered in conjunction with controls relating to the building envelope. As such, the development standard for building height and the development controls for setbacks, building design, amenity and landscaping will be considered with respect to the merits of a variation pursuant to Clause 4.6.

The proposed development complies with the building height controls pursuant to Clause 4.3 of the LEP. The proposed maximum building height is RL 143.113 which complies with the maximum prescribed building height of RL 143.200. Further, the height and proportion of the development is considered to be commensurate with the planning framework established for the site and the desired future character of development in proximity to Norwest Station.

The proposed development will comply with the building setbacks adopted specifically for the subject site. The DCP requires a minimum setback to Solent Circuit of 23 metres to the podium levels and for the residential towers a minimum setback of 29 and 65 metres respectively. The proposed development fully complies with the setback requirements of the DCP. Further, it is noted that the proposed development also provides adequate building separation as required by SEPP 65 and the Apartment Design Guidelines.

The proposed development exceeds the required communal open space and deep soil zone controls applicable to the site. SEPP 65 stipulates a minimum communal open space area of 25% of the site area whilst the proposed development provides a communal open space area of 27% of the site area. Furthermore, the SEPP stipulates a minimum deep soil zone of 7.5% of the site area whilst the proposed development provides a deep soil zone of 18% of the site area. The objective of these controls is to enhance the landscaping area whilst minimising the footprint of the building. The proposed development incorporates a landscape scheme that will substantially enhance the landscaped setting of the site and surrounds, with provision made for canopy trees combined with shrub and grass vegetation within the front setback of Solent Circuit. It is further noted that the maximum site coverage of building on the site equates to 58%
with the remaining portion of the site accommodating landscaping, communal open space areas and publicly accessible spaces including the boardwalk adjacent to Norwest Lake.

The proposed design aims to provide a sympathetic response to the surrounding urban context through the spread of building mass. The design of the development with respect to massing is considered to respond appropriately to the curtilage of the site and surrounds. Combined with architectural elements to Building A and B, the proposed design is considered to provide good vertical and horizontal articulation, thereby enhancing the architectural quality and visual appearance of the development when viewed from the public domain. The design of the proposed development is anchored by the podium levels resulting in a development where the predominant building mass will be perceived to be at the base as opposed to the upper portion of the buildings.

The two residential buildings on top of the podium levels are offset from the lower podium levels thereby reducing the area of the floor plate above the podium level and enhancing separation to the western boundary to protect the amenity of existing residential properties located within the Central Norwest Residential Precinct. Shadow diagrams have also been submitted which detail the shadow cast from the proposed development during the winter solstice. The shadow diagrams clearly demonstrate that the proposed development will not generate a significant shadow cast onto adjoining properties. Existing residential properties within Central Norwest Residential Precinct will receive at least 4 hours of solar access as required by the DCP. Furthermore, the variation to floor space ratio will not result in undue opportunities for overlooking within the site and to adjoining properties.

Buildings A and B will incorporate high quality architectural elements. The façade of the commercial podium levels fronting the lake feature projecting balcony boxes and planters organised in a checkerboard arrangement that enhances modulation and captures differing views and vistas. The façade of the residential component of Building A fronting the lake adopts full height floor to ceiling glazing that is angled to provide an undulating quality to the façade. The design quality of the development is considered to respond appropriately to the surrounding context of the site which assists in minimising the perceived bulk and scale of the development. It is considered that the variation to floor space ratio will not result in a development of excessive bulk and scale given that the buildings are considered to be compatible with the existing and desired built form character of the locality.

The applicant has adequately demonstrated that the proposed development is in the public interest and is consistent with the objectives of Clause 4.4 ‘Floor Space Ratio’ and the B2 Local Centre and SP2 Infrastructure zone. In this regard, the variation to floor space ratio will not create a building of excessive height, bulk or scale nor will it cause undue impacts upon the amenity of adjoining residential properties. A variation to the floor space ratio in this instance is considered to be satisfactory given that the application of the development standard in this instance is considered to be both unreasonable and unnecessary. In this regard, the variation can be supported.

2.5.2 Development Near Zone Boundaries

Clause 5.3 of the LEP provides flexibility where the investigation of the site and its surrounds reveals a use allowed on the other side of a zone boundary would enable a more logical and appropriate development of the site and be compatible with the planning objectives for the adjoining zone. Clause 5.3 applies to any land that is within the relevant distance of a boundary between any two zones. The relevant distance is 20 metres.
The subject site is zoned B2 Local Centre and SP2 Infrastructure (Drainage) under the LEP. As noted previously, Schedule 1 of the LEP permits the proposed development within the SP2 Infrastructure (Drainage) zone of the subject site. However, a portion of the boardwalk extends into the adjoining property containing Norwest Lake known as Lot 102 DP 1065520. The adjoining property is zoned SP2 Infrastructure (Drainage) and is excluded from Schedule 1 of the LEP. The extent of the boardwalk within the adjoining property of Lot 102 DP 1065520 is in the order of approximately 5 metres and within the relevant distance of 20 metres.

The land use table of the SP2 Infrastructure zone is as follows:

<table>
<thead>
<tr>
<th>Zone SP2 Infrastructure</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 Objectives of zone</td>
</tr>
<tr>
<td>- To provide for infrastructure and related uses.</td>
</tr>
<tr>
<td>- To prevent development that is not compatible with or that may detract from the provision of infrastructure.</td>
</tr>
<tr>
<td>2 Permitted without consent</td>
</tr>
<tr>
<td>Roads</td>
</tr>
<tr>
<td>3 Permitted with consent</td>
</tr>
<tr>
<td>The purpose shown on the Land Zoning Map, including any development that is ordinarily incidental or ancillary to development for that purpose</td>
</tr>
<tr>
<td>4 Prohibited</td>
</tr>
<tr>
<td>Any development not specified in item 2 or 3</td>
</tr>
</tbody>
</table>

Whilst the boardwalk may be considered to be ancillary to the drainage function of Norwest Lake, it is considered to be more prudent to apply Clause 5.3 in this instance. The encroachment of the boardwalk will not be incompatible with or detract from the provision of drainage infrastructure. Accordingly, it is considered that the proposed development is satisfactory with respect to Clause 5.3 of the LEP.

2.5.3 Acid Sulfate Soils

Clause 7.1 of the LEP identifies land affected by Acid Sulfate Soils as detailed on the Acid Sulfate Soils Map. The site is not affected by Acid Sulfate Soils and accordingly Clause 7.1 of the LEP does not apply to the site.

2.6 State Environmental Planning Policy No. 65 - Design Quality of Residential Flat Development

The primary objective of SEPP 65 is to improve the design quality of residential flat development in NSW. In determining a development application for consent to carry out residential flat development, a consent authority must take into consideration the design quality of the residential flat development when evaluated in accordance with the design quality principles. A consent authority must also consider provisions of the Apartment Design Guidelines.
In accordance with Clause 50 of the Environmental Planning and Assessment Regulation 2000, a design verification statement was submitted with the application. This statement was prepared by Nicholas Turner (Chartered Architect No. 6695).

2.6.1 SEPP 65 Quality Design Principles

The subject Development Application has been assessed against the relevant design quality principles contained within the SEPP as follows:

Principle 1: Context and neighbourhood character

The site is located in the Norwest Business Park adjacent to existing retail and commercial development, and within a 500 metres walking catchment of the future Norwest Railway Station. The emerging significance of Norwest as a major employment area within the global economic corridor is recognised in A Plan for Growing Sydney and in the North West Rail Link Corridor Structure Plan. It is noted that the Structure Plan for Norwest identifies the potential for buildings up to 30 storeys on the ‘Station Precinct’ located on the southern side of Norwest Boulevard in close proximity to the future railway station. To the immediate north of the site and located further from Norwest Station is the East Norwest Residential Precinct which has development consent for a residential flat building up to 12 storeys in height. A development of 20 storeys on the subject site would therefore not be inconsistent with the vision for the surrounding area.

The site and surrounding area will be subject to substantial urban renewal for commercial, retail and mixed use developments in the future as part of the North West Rail Link Corridor Strategy. The proposal is considered to respond to the desired future character of the area and will provide a quality design that incorporates sufficient building articulation and peripheral landscaping.

Principle 2: Built form and scale

The overall scale of the development responds to the site and is considered to be appropriate to the desired future character of the Norwest Business Park. The development achieves a scale consistent with the desired outcome for well-articulated buildings that are set back to incorporate landscaping, open space and separation between buildings.

The buildings have been designed to respond to the alignment of the boundaries by adopting a curvilinear form which is translated vertically in height. The height of the development overall is acceptable in terms of solar access to the development site and adjoining sites.

The spatial relationship of buildings has been considered. The proposed buildings will maintain adequate separation with appropriate distances between both buildings and adjoining properties. The building separation will allow for landscape areas, entrances and a public domain area which will act as a thoroughfare adjacent to Norwest Lake.

The proposed design addresses matters such as privacy, acoustic impact, wind impact, and solar access. The proposed buildings achieve an appropriate built form for the site and its purpose, in terms of building alignment, proportions, and the manipulation of building elements. The buildings would appropriately contribute to the character of the desired future streetscape and include articulation to minimise the perceived scale.

The design of the building elements are of a contemporary style with a number of elements being used to provide an architectural character. The ultimate form of development is achieved in the articulation of the elevations, the selection of colours and materials and high quality landscaped setting adjacent to Solent Circuit and Norwest Lake.
Principle 3: Density

The proposed development for 247 units and 6,000 square metres of commercial floor space is considered to be appropriate for the site, the locality and within the context of the Norwest Business Park.

The proposed density is considered to be sustainable as it responds to the regional context, availability of infrastructure, public transport, community facilities and environmental quality and is acceptable in terms of density.

Principle 4: Sustainability

The design achieves natural ventilation and solar access as required the Apartment Design Guidelines. The incorporation of insulation will minimise the dependency on energy resources in heating and cooling. The achievement of these goals then contributes significantly to the reduction of energy consumption, resulting in a lower use of valuable resources and the reduction of costs.

The energy rating of the residential units has been assessed and the accompanying BASIX Certificate will be recommended as a condition of consent to ensure the commitments are fulfilled.

Principle 5: Landscape

The landscape plan demonstrates that open spaces will be appropriately landscaped with appropriate tree species and shrubs to provide a high quality landscape setting, particularly within the front setback to Solent Circuit and adjacent to Norwest Lake. Large canopy trees supported by shrubs and grasses will be planted in addition to the design of the boardwalk adjacent to the lake which will promote both passive and active areas. The proposed landscaping integrates with the overall appearance of the development and will assist in softening the podium levels of the development.

Deep soil areas provided around the building envelope would enhance the development’s natural environmental performance and provide an appropriate landscaped setting which is critical given the interface to low density residential properties to the south. Landscaping on the top podium level will provide for a high quality communal open space area for future residents with the communal open space area achieving in excess of the minimum requirement for solar access as stipulated by the Apartment Design Guide.

Principle 6: Amenity

The building design has been developed to provide for the amenity of the occupants as well as the public domain. The proposed units are designed with appropriate room dimensions and layout to maximise amenity for future residents. The proposal incorporates good design in terms of achieving natural ventilation, solar access and acoustic privacy. All units incorporate balconies accessible from living areas and privacy has been achieved through appropriate design and orientation of balconies and living areas. Storage areas and laundries have been provided for each unit. The proposal would provide convenient and safe access to lifts connecting the basement and all other levels.

Principle 7: Safety

The design orientates the balconies and windows of individual units in order to provide passive surveillance of the public domain and communal open space areas.
The Development Application was accompanied by a Crime Prevention Report prepared by Sutherland and Associates. The report includes details of surveillance, access control, territorial reinforcement and space management such as artificial lighting in public places; attractive landscaping whilst maintaining clear sight lines; security coded door lock or swipe card entry; physical or symbolic barriers to attract, channel or restrict the movement of people; security controlled access to car park areas; intercom access for pedestrians; and security cameras located at the entrance of the building and publicly accessible areas. The report considers the key principles of Crime Prevention Through Environmental Design (CPTED) and the NSW Police Safer By Design Guidelines.

The NSW Police have reviewed the Development Application and outlined a number of CPTED recommendations. Compliance with NSW Police recommendations will be recommended as a condition of consent.

**Principle 8: Housing diversity and social interaction**

The proposed development provides a high quality public realm with a focal point for social interaction between residents, staff, visitors and the wider community being accessible to people of all ages and disabilities. Landscaping is proposed throughout the site enhancing the public realm. The development is designed to provide a safe, secure living environment for all residents while encouraging public interaction in the main public realm adjacent to Norwest Lake.

Further, the location of this development provides dwellings within a precinct that will provide in the future, a range of support services. The development provides an apartment mix to accommodate a range of budgets. The proposed development is considered to have a positive social impact.

**Principle 9: Aesthetics**

The architectural treatment of the building incorporates indentations and projections in the exterior walls with balcony projections to articulate the facades. The roof is flat to minimise building height.

The bulk of the overall building and height is reduced by the articulation of the facades, creating smaller segments in order to minimise the overall bulk and scale of the development. The combination of materials, colours and finishes will assist in minimising the perceived bulk and scale of the development.

The articulation of the building, composition of building elements, textures, materials and colours would achieve a built form generally consistent with the design principles contained in the ADG and DCP. The design is modern in style and appropriate for the Norwest Business Park.

**2.6.2 Apartment Design Guidelines**

In accordance with Clause 30(2) of SEPP 65, a consent authority in determining a development application for a residential flat building is to take into consideration the Apartment Design Guidelines. The following table is an assessment of the proposal against the guidelines provided in the Apartment Design Guidelines.
<table>
<thead>
<tr>
<th>Clause</th>
<th>Design Criteria</th>
<th>Compliance</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Siting</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Communal open space</td>
<td>25% of the site, with 50% of the area achieving a minimum of 50% direct sunlight for 2 hours midwinter.</td>
<td>Yes</td>
</tr>
<tr>
<td></td>
<td>27% of site area. The communal open space area will receive at least 50% direct sunlight for 2 hours at midwinter.</td>
<td></td>
</tr>
<tr>
<td>Deep Soil Zone</td>
<td>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 650-1500m² and 15% for sites greater than 1500m².</td>
<td>Yes</td>
</tr>
<tr>
<td></td>
<td>18% of the site area is dedicated as deep soil zone which includes a combination of deep soil zone at ground level and on the podium communal open space area.</td>
<td></td>
</tr>
<tr>
<td>Separation</td>
<td>For habitable rooms, 6m for 4 storeys, 9m for 5-8 storeys and 12m for 9+ storeys.</td>
<td>No – refer to discussion below.</td>
</tr>
<tr>
<td></td>
<td>The separation distance internally between Building A and B is 26 metres.</td>
<td></td>
</tr>
<tr>
<td></td>
<td>The minimum separation distance of Building A to the eastern boundary is 8 metres which does not comply.</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Further, the minimum separation distance of 5 metres from the balconies of commercial offices to the eastern boundary does not comply.</td>
<td></td>
</tr>
<tr>
<td></td>
<td>The minimum separation distance of Building B is 16 metres from the southern property boundary which complies.</td>
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<td></td>
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</tr>
<tr>
<td><strong>Visual privacy</strong></td>
<td>Visual privacy is to be provided through use of setbacks, window placements, screening and similar.</td>
<td>Yes</td>
</tr>
<tr>
<td></td>
<td>The visual privacy of the development has been duly considered with the placement of windows and balconies. Separation distances between habitable / non habitable spaces are considered to be adequate. Screening devices set at oblique angles have been incorporated to minimise direct overlooking. The proposed development is considered to afford a reasonable degree of privacy for future residents and adjoining properties.</td>
<td></td>
</tr>
<tr>
<td><strong>Carparking</strong></td>
<td>Carparking to be provided based on proximity to public transport in metropolitan Sydney. For sites within 800m of a railway station or light rail stop, the parking is required to be in accordance with the RMS Guide to Traffic Generating Development which is: Metropolitan Sub-Regional Centres: 0.6 spaces per 1 bedroom unit. 0.9 spaces per 2 bedroom unit. 1.40 spaces per 3 bedroom unit. 1 space per 5 units (visitor parking).</td>
<td>Yes</td>
</tr>
<tr>
<td></td>
<td>Requirement</td>
<td></td>
</tr>
<tr>
<td></td>
<td>1 Bedroom: 22</td>
<td></td>
</tr>
<tr>
<td></td>
<td>2 Bedroom: 161</td>
<td></td>
</tr>
<tr>
<td></td>
<td>3 &amp; 4 Bedroom: 45</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Visitor: 50</td>
<td></td>
</tr>
<tr>
<td></td>
<td><strong>Total: 278</strong></td>
<td></td>
</tr>
<tr>
<td></td>
<td>Provided</td>
<td></td>
</tr>
<tr>
<td></td>
<td>337 (including tandem spaces)</td>
<td></td>
</tr>
<tr>
<td></td>
<td>309 (excluding tandem spaces)</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Visitor: 50</td>
<td></td>
</tr>
<tr>
<td></td>
<td><strong>Total: 387 (Including tandem parking spaces)</strong></td>
<td></td>
</tr>
<tr>
<td></td>
<td><strong>Total: 359 (Excluding tandem parking spaces)</strong></td>
<td></td>
</tr>
</tbody>
</table>
## Designing the Building

### Solar and daylight access

1. 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.

2. A maximum of 15% of apartments in a building receive no direct sunlight between 9am and 3pm at mid-winter.

| Yes | 72.5% of apartments receive 2 hours direct sunlight between 9am and 3pm midwinter. |
| No | Refer to discussion below. |
| 22% of apartments receive no direct sunlight between 9am and 3pm at mid-winter. |

### Natural ventilation

1. 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.

2. Overall depth of a cross-over or cross-through apartment does not exceed 18m, measured glass line to glass line.

| Yes | 60.8% of apartments received natural cross ventilation. |
| Yes | The maximum overall depth is 17 metres for a cross through apartment. |

### Ceiling heights

For habitable rooms – 2.7m.
For non-habitable rooms – 2.4m.
For two storey apartments – 2.7m for the main living floor and 2.4m for the second floor, where it’s area does not exceed 50% of the apartment area.
For attic spaces – 1/8m at the edge of the room with a 30° minimum ceiling slope.

If located in a mixed use areas – 3.3m for ground and first floor to promote future flexible use.

| Yes | Floor to ceiling height approx. 3 metres for all apartments. |
| Ground floor retail – 5.5 metres |
| First floor office – 3.5 metres |

### Apartment size

1. Apartments are required to have the following internal size:

   - Studio – 35m²
   - 1 bedroom – 50m²
   - 2 bedroom – 70m²
   - 3 bedroom – 90m²

| Yes | 1 bedroom – 52m² |
| 2 bedroom – 77m² |
| 3 bedroom – 103m² |
The minimum internal areas include only one bathroom. Additional bathrooms increase the minimum internal areas by 5m² each.

A fourth bedroom and further additional bedrooms increase the minimum internal area by 12m² each.

2. Every habitable room must have a window in an external wall with a total minimum glass area of not less than 10% of the floor area of the room. Daylight and air may not be borrowed from other rooms.

Where additional bathrooms are proposed, an additional 5m² has been provided.

The smallest four bedroom apartment is 148m².

Yes

All habitable rooms have windows greater than 10% of the floor area of the dwelling.

<table>
<thead>
<tr>
<th>Apartment layout</th>
<th>Habitable rooms are limited to a maximum depth of 2.5 x the ceiling height.</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>In open plan layouts the maximum habitable room depth is 8m from a window.</td>
</tr>
</tbody>
</table>

The width of cross-over or cross-through apartments are at least 4m internally to avoid deep narrow layouts

Yes

No - Refer to discussion below.

For the habitable rooms on A1704 and A1804, kitchen depth exceeds 8 metres.

No - Refer to discussion below.

<table>
<thead>
<tr>
<th>Balcony area</th>
<th>The primary balcony is to be:</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Studio – 4m² with no minimum depth</td>
</tr>
<tr>
<td></td>
<td>1 bedroom – 8m² with a minimum depth of 2m</td>
</tr>
<tr>
<td></td>
<td>2 bedroom – 10m² with a minimum depth of 2m</td>
</tr>
<tr>
<td></td>
<td>3 bedroom – 12m² with a minimum depth of 2.4m</td>
</tr>
</tbody>
</table>

For units at ground or podium levels, a private open space area of 15m² with a minimum depth of 3m is required.

Yes

All balcony sizes and depths comply.

<table>
<thead>
<tr>
<th>Common Circulation and Spaces</th>
<th>The maximum number of apartments off a circulation core on a single level is eight</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>For buildings of 10 storeys and over, the maximum number of apartments sharing a single lift is 40</td>
</tr>
</tbody>
</table>

Yes

No – Refer to discussion below.
Storage

Storage is to be provided as follows:

- Studio – 4m³
- 1 bedroom – 6m³
- 2 bedroom – 8m³
- 3+ bedrooms – 10m³

At least 50% of the required storage is to be located within the apartment.

<table>
<thead>
<tr>
<th>Apartments</th>
<th>Description</th>
<th>Pass/Fail</th>
</tr>
</thead>
<tbody>
<tr>
<td>Studio</td>
<td>Yes</td>
<td></td>
</tr>
<tr>
<td>1 bedroom</td>
<td>Yes</td>
<td></td>
</tr>
<tr>
<td>2 bedroom</td>
<td>Yes</td>
<td></td>
</tr>
<tr>
<td>3+ bedrooms</td>
<td>No</td>
<td>refer to discussion below.</td>
</tr>
</tbody>
</table>

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.

<table>
<thead>
<tr>
<th>Apartments</th>
<th>Description</th>
<th>Pass/Fail</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Yes</td>
<td></td>
</tr>
<tr>
<td></td>
<td>The apartment mix is satisfactory.</td>
<td></td>
</tr>
</tbody>
</table>

Variations to the ADG have been identified and are addressed as follows:

**2.6.2.1 Building Separation**

The ADG specifies that the minimum separation distance between habitable rooms and balconies should be 9 metres for a building height up to 25 metres (5–8 storeys) and 12 metres for buildings with a height above 25 metres or 9 storeys. Additionally, the ADG provides design guidance for residential buildings next to commercial buildings. The ADG specifies that the separation requirement for habitable rooms should apply for retail, office spaces and commercial balconies next to residential buildings.

The proposed development provides an 8 metre building setback to the eastern boundary however the ADG requires a 9 metre setback for a building height up to 25 metres (5-8 storeys) and a 12 metre setback where the building height is above 25 metres (9 storeys).

Additionally, the ADG requires a setback of 9 metres to the eastern boundary for the commercial office component. A setback of 8 metres is proposed to the office component and 5 metres to the balconies servicing the office component.

The site currently adjoins the Norwest Marketown which comprises a setback of approximately 9 metres at the ground floor to the common boundary. Additionally, the site contains a ground level child care centre which is setback approximately 12 metres from the boundary.

The applicant has submitted the following justification:

*The Eastern façade of Tower A is aligned with the approved envelope, 8m from the boundary with this application seeking a variation of 3-4m to the 12m separation between habitable rooms and balconies control. Window openings of this façade are either screened or orientated so that the habitable rooms in any future development will not be compromised.*

The minimum separation distance of Building A to the eastern boundary is 8 metres. Given that the interface to the eastern elevation is predominately a blank wall to habitable rooms and that there are no openings to habitable rooms perpendicular to the boundary, the separation distance is considered to be satisfactory. Fixed privacy screens will be incorporated on the eastern elevation of the balconies to mitigate direct overlooking. The proposed interface to the eastern boundary would be comparable to a non-habitable area where the ADG specifies a reduced separation requirement of 6 metres for a building height above 25 metres (9 storeys). Furthermore, it is noted that the depth of Building A represents approximately 21% of the length of the eastern
property boundary with Building B setback 36 metres from the eastern property boundary. The setback and depth of the proposed development will accommodate adequate curtilage between existing and potential future buildings to the east of the site. In this regard, the separation distance to the eastern boundary for Building A is considered to be satisfactory.

With respect to the office component, the encroachment of 4 metres into the separation distance relates only to Level 3. It is noted that the ADG specifies a separation distance of 6 metres to habitable rooms for a building height up to 12 metres and a separation distance of 9 metres to habitable rooms for a building height up to 25 metres. Therefore, Levels 1 and 2 comply with the exception of two balconies servicing Units 111 and 211 which encroach one metre into the separation distance. The entirety of Level 3 encroaches one metre into the separation distance whilst the balcony servicing Unit 311 encroaches 4 metres into the separation distance. In this regard, it is recommended that opaque glazing be incorporated onto the eastern elevation of the balconies in addition to the provision of highlight windows to the eastern elevation of Units 310 and 311. The setback to the boundary in this instance is considered to be satisfactory given the recommended privacy measures. Furthermore, it is noted that the setback to the eastern boundary was envisaged as part of the preceding Planning Proposal.

Nevertheless, the separation distance to any future development of land immediately to the east will be further considered if or when the adjoining site is re-developed.

2.6.2.2 Solar and Daylight Access

The ADG specifies that a maximum of 15% of apartments in a building receive no direct sunlight between 9 am and 3 pm at mid-winter. The proposed development will result in 24% of apartments that receive no direct sunlight between 9am and 3pm at mid-winter.

The applicant has submitted the following justification:

*The residential portion of the buildings are aligned approximately NW/SE which means that one of the four sides of the towers receive no sun at these times.*

*As the layout of the residential towers was set in the Planning Proposal stage to accommodate the heritage view corridor, the number of north aspect apartments are maximised and the number of south facing apartments is minimised. On a floor plate, most units have solar access with only 2 units who don't have direct solar access in mid-winter.*

**Comment**

The proposed axis of Building A and B is orientated in a north-west and south-east alignment in order to maximise the northerly orientation and address the frontage of Norwest Lake. As a result, the design of the floor plate results in at least 2 units on each floor plate which are orientated in a south-east direction and therefore receive no direct sunlight.

Where possible, the design has incorporated cross through and dual aspect apartments to maximise solar access and cross ventilation. The orientation of the buildings to maximise the northerly orientation and the double loaded nature of the corridor, results in south-east facing units that are single aspect. Given the nature of the site and its orientation, the unit layout and aspect is unavoidable.

Nevertheless, the proposed development will provide sufficient solar access to 72.5% of units for at least 2 hours between 9am and 3pm during mid-winter. Additionally, at least 50% of the communal open space area on the podium level will receive at least 2 hours solar access between 9am and 3pm during mid-winter.
A variation in this instance is considered to be satisfactory.

2.6.2.3 Apartment Layout

Habitable Room Depth

The ADG specifies that in open plan layouts the maximum habitable room depth is 8m from a window. Units 1704 and 1804 in Building A exceed this requirement and comprise a kitchen that is 9 metres from a window. It is noted that both respective units are cross over units and achieve natural ventilation.

The applicant has justified the variation on the basis that the proposed development complies with the solar access and natural ventilation requirements of the RFDC.

Given the elevation of the units and the prevailing breezes, adequate natural ventilation to the development will be achieved. In this regard, the proposed development achieves natural ventilation to 60.8% of units. Furthermore, the proposed development achieves at least 3 hours of solar access between 9am to 3pm during midwinter to 72.5% of units.

In this regard, given that the proposed development achieves a satisfactory level of solar access and natural ventilation for the entirety of the development, the variation to the apartment depth for the respective non-compliant units is considered to be satisfactory.

Width of Cross-through Apartments

The ADG specifies that the width of a cross-over or cross-through apartment must be at least 4 metres wide internally to avoid deep narrow layouts. Unit No. 6 on levels 5-16 of Building A comprise a portion of the unit that is less than 4 metres for a cross through apartment.

The applicant has justified the variation on the basis that the proposed development complies with the solar access and natural ventilation requirements of the RFDC.

The non-compliance is attributed to the narrowing of the unit in order to be aligned with the angle of the eastern property boundary. Accordingly, the portion of the unit that is not 4 metres wide relates to the master bedroom. It is noted that the living areas of the respective units will comprise a width that ranges between 5.4 metres to 6 metres.

In this regard, a variation is considered to be satisfactory given that the living spaces are in excess of 4 metres in width and achieve natural ventilation and solar access.

2.6.2.4 Common Circulation and Spaces

The ADG specifies that for buildings of 10 storeys and over, the maximum number of apartments sharing a single lift is 40. The proposed development will exceed this requirement with a single lift core servicing a maximum of 66 apartments.

The applicant has submitted the following justification:

_The Vertical Transportation Report advises that there is an industry standard provided by the Chartered Institution of Building Services Engineers (CIBSE) referred to as Guide D2010 which establishes an internal period (or wait time) of 50-70 seconds for residential apartment buildings. The proposed provision of lifts will provide an interval period 60 seconds which falls within this range. The provision of an additional lift for each building would deliver an interval period of 30 seconds which is a very high level of_
service equivalent to a premium grade office building, however, the demand requirements of residential apartments compared to office buildings differs significantly with apartments representing a very low level of demand such that such a high level of service is unwarranted.

Finally, there are only 8 apartments per floor and the distance from the lift core is considered to be entirely acceptable for all apartments with no meaningful impact upon amenity for the residents.

**Comment**

The applicant has justified a variation on the basis of the speed of the lifts and its interval service period. A Vertical Transportation Report accompanied the application which concluded that the proposed lifts would meet the industry standard referred to as Guide D2010. The guide specifies an internal interval period of 50-70 seconds for residential flat buildings. The proposed lifts will operate on an interval period of 60 seconds which falls within the range specified by Guide D2010. The report also indicates that strict compliance with the ADG would result in an oversupply of lifts.

It is also noted that the lift core services a maximum of eight units on each floor plate. In this regard, a variation is considered to be satisfactory given the speed and service level of the proposed lifts.

**2.6.2.5 Storage**

The ADG specifies that at least 50% of the required storage is to be located within the apartment. The proposed development will provide internal storage for each respective unit. However, 67 units do not provide more than 50% of the required storage within the apartment. The majority of storage area for these apartments will be located within the basement level.

A variation in this instance is considered to be satisfactory as the composition of storage area either within the basement or apartment is relatively marginal. Furthermore, the storage areas within the basement are immediately accessible from the circulation core or immediate to parking spaces.

**2.7 Compliance with The Hills Development Control Plan 2012**

The proposal has been assessed against the following provisions of The Hills Development Control Plan 2012:

- Part B Section 6 – Business
- Part B Section 5 – Residential Flat Buildings
- Part C Section 1 – Parking

**2.7.1 Part B Section 6 – Business**

The proposal has been assessed against the relevant controls of Part B Section 6 – Business as detailed in the table of compliance below:
## 2.2 Site Analysis

Land with a slope greater than 20% is not suitable for development.

Development applications for proposals on land with a slope of between 15-20% must be accompanied by a geotechnical report.

Development on land adjoining Bella Vista Farm Park should incorporate measures (such as setbacks and buffers) to minimise any impact on the Bella Vista Farm Park.

The site is located adjacent to Norwest Lake and will be designed to ensure that the finished floor level is above the flood level of 76.3 AHD.

### Compliance

<table>
<thead>
<tr>
<th>Required</th>
<th>Proposed</th>
</tr>
</thead>
<tbody>
<tr>
<td>Yes</td>
<td>Yes</td>
</tr>
</tbody>
</table>

## 2.3 Development Sites

The minimum site frontage requirement is 18 metres.

Consent may not be granted to an application that isolates an area of land that does not meet the minimum site area requirements.

For development located in the Norwest Business Park, the maximum site coverage is 50%.

Solent Circuit frontage – approximately 81 metres.

The proposed development will not isolate adjoining properties.

Site Coverage – 57.8%

<table>
<thead>
<tr>
<th>Required</th>
<th>Proposed</th>
</tr>
</thead>
<tbody>
<tr>
<td>Yes</td>
<td>Yes</td>
</tr>
<tr>
<td>No – refer to discussion below.</td>
<td></td>
</tr>
</tbody>
</table>

## 2.5 Setback – B2 Zoned Land

**Building Setbacks**

The building setback to roads within land zoned B2 Local Centre and the area identified as the Norbrik Neighbourhood Business Centre are to be considered on merit.

The proposed front setback is 25 metres to Solent Circuit.

Side/Rear Setback – 3.7 metres

<table>
<thead>
<tr>
<th>Required</th>
<th>Proposed</th>
</tr>
</thead>
<tbody>
<tr>
<td>Yes</td>
<td>Yes</td>
</tr>
<tr>
<td>2.7</td>
<td>Building Materials</td>
</tr>
<tr>
<td>2.8</td>
<td>Signage</td>
</tr>
<tr>
<td>2.9</td>
<td>Hours of Operation</td>
</tr>
<tr>
<td>---</td>
<td>---</td>
</tr>
<tr>
<td>2.12</td>
<td>Erosion and Sediment Control</td>
</tr>
<tr>
<td>2.13</td>
<td>Fencing,</td>
</tr>
<tr>
<td>Landscaping and Tree Preservation</td>
<td>Grassed embankments are not to exceed 1:6 slopes with vegetated embankments planted with soil stabilising species at max 1:3 grade. Earth mounding is desirable to mitigate noise impacts. Development south of Norwest Boulevarde shall</td>
</tr>
<tr>
<td>2.15 Vehicular Access</td>
<td>ensure consideration has been given to the Bella Vista Farm Conservation Management Plan.</td>
</tr>
</tbody>
</table>

|  | Entry and exit in a forward direction | Vehicular access to the site is proposed via Solent Circuit which will facilitate the entry and exit of vehicles in a forward direction. |

|  | Design to comply with Council’s Work Specifications, THDCP Part C, Section 1 - Parking and the Australian Standards. Suitable sight distance is to be provided. All development in the Norwest Business Park should ensure that access to the site is via internal roads. Restrictions on access to development sites from Old Windsor Road, Windsor Road and parts of Norwest Boulevard are as indicated on the map in Map Sheet 1 in Appendices A and Appendix B of the DCP. | The driveway widths are compliant with Australian Standards and ensure sufficient manoeuvring is available within the site. The design of the car park and associated access ways will be in accordance with current Australian Standards. It is noted that Council’s Subdivision Coordinator has reviewed the proposal and has raised no objections subject to conditions of consent. |

|  | Yes | Yes |
| 2.16 | Car Parking | Address THDCP Part C, Section 1 - Parking.  
Office premises - 1 space per 25m²  
Retail - 1 space per 18.5m²  
**Day time rate**  
Restaurants in a commercial building - 1 space per 25m²  
**Night time rate**  
Restaurants - 1 per 5 seats, plus 12 spaces per 100m² of GFA.  
Parking should be provided for “parents with prams” within shopping centres and public facilities.  
|  | Required:  
Day time rate  
Office - 182 spaces  
Retail - 28 spaces  
Restaurants - 45 spaces  
**Total - 255 car spaces**  
Night time rate  
Retail - 28 spaces  
Restaurants - 256 spaces  
**Total - 284 car spaces**  
Provided:  
259 car spaces  
| No - Refer to discussion below. |

| 2.17 | Bicycle Parking | Bicycle: 2 spaces plus 5% of total spaces where development exceeds 4,000m².  
Bicycle parking should be located in close proximity to the building’s entrance and clustered in lots not exceeding 16 spaces.  
Each bicycle parking space shall be not less than 1.8 metres in length and 600mm in width and shall have a bicycle rack system.  
Bicycle parking facilities within car parking areas shall be separated by a physical barrier to  
|  | 43 bicycle spaces required.  
14 bicycle spaces provided.  
| No - Refer to discussion below. |
| 2.18 | **Loading Docks** | Not visible from public domain and must provide buffer landscaping treatments. Provision of loading docks is to be commensurate with the size and nature of the development as per THDCP Part C, Section 1 – Parking. | The loading dock will be located within the basement car park and will be screened from Solent Circuit through the provision of landscaping. Required: 3 loading bays. Provided: 2 loading bays. | Yes

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| 2.19 | **Pedestrian Access and Movement** | Pathways and ramps to conform to AS 1428.1 – 2001 Design for Access and Mobility. All surfaces should be stable, even and non-slip. Clear pedestrian pathways are to be indicated along arterials road, between developments and links to public transport stations and rail link lines (e.g. North West Rail Link and North West T-way Stations). | The application was accompanied by an Access Review prepared by Morris Goding Accessibility which confirms that pathways and ramps will conform to AS1428.1. | Yes
| 2.21 | Stormwater Management | For development in Norwest Business Park, two of the measures M1 to M8 of the DCP inclusive must be implemented. Details on the actions required to implement each of these measures are included in Appendix B – Water Sensitive Urban Design of the DCP.

Consider satisfactory stormwater collection, discharge and drainage system design against Council’s Work Specifications.

Development proposals should not result in the filling of flood liable land or the erection of buildings on flood liable land.

Reference should be made to the Restriction As to User on the title of the land, or the development consent to which the development is proposed in relation to requirements for on-site detention. | The proposed development will involve the discharge of stormwater to an on-site detention system that incorporates water quality treatment measures. The detention system will discharge stormwater at a controlled rate to an existing drainage easement located within the site with overflow to discharge into Norwest Lake. Council’s Subdivision Coordinator has assessed the proposal and concurs with the proposed stormwater design and appropriate conditions are recommended. | Yes |
| --- | --- | --- | --- | --- |
| 2.22 | Waste Management – Storage and Facilities | All waste areas to be screened from the street and adjoining properties.

Adequate storage for waste materials must be provided on site and are not to restrict access to parking spaces. | Waste storage areas are located within the car park area which is enclosed and will not be visible from the street or adjoining properties. The waste storage area is separately confined and will | Yes |
| 2.23 | Waste Management | WMP required to be submitted and address demolition, construction and ongoing use requirements. | The proposed development will involve the on-site collection of waste by a private waste contractor. The proposed waste storage area is located adjacent to the loading dock within the basement car park and is accessible from Solent Circuit. The residential units have a dual chute system which enables chute disposal of both garbage and recycling. The chutes terminate in waste rooms in the car park area that contain bulk bins and linear track conveyors. Garbage is compacted however recycling is not compacted. Residential garbage and recycling will both be collected once weekly from the holding room adjacent to the loading dock. A caretaker is responsible for rotating bins to and from the waste storage areas. There is a waste storage area for commercial and retail waste. Tenants would take their waste direct to their respective area for disposal. A | Yes |
| 2.27 | Pollution Control | The use of mechanical plant and equipment may be restricted where sites are located near existing and proposed residential areas. Incinerators are not permitted for waste disposal. | The proposed development has been reviewed by Council’s Environmental Health Coordinator who has considered the potential environmental and acoustic impacts of the proposed development, and has raised no objection to the proposal subject to conditions of consent. | Yes |
| 2.33 | 11-13 Solent Circuit | (a) Development shall consist of a four (4) to five (5) storey podium containing restaurants, commercial uses and car parking. Slender, twin residential towers shall be placed in an offset position atop the podium. | The proposed development incorporates a 4-5 storey podium level. The residential towers are relatively slender however the proposed development has incorporated a broader floor plate which has resulted in the FSR variation. The towers are located in an offset position. | Yes |
(b) The bulk and scale of the development is to be minimised through the use of setbacks, materials and colours that emphasise the podium levels rather than upper levels when viewed from the surrounding area. The bulk and scale of the development is considered to be satisfactory with regard to the planning proposal and the future context of the area.

<p>| Development shall be designed to reduce the appearance of bulk and scale of the building, particularly when perceived from ground level, nearby residential development and with consideration of view corridors to and from Bella Vista Farm Park. | The bulk and scale of the development is sympathetic to the site surrounds and is not inconsistent with the potential bulk and scale earmarked on adjoining sites as part of the North West Rail Link Corridor Strategy. | Yes |
| Podium level is setback 24 metres. Building B is setback 30 metres Building A is setback 68 metres | It is noted that an awning will project beyond the main pedestrian entry point from Solent Circuit and will be setback approximately 12 metres. The awning is considered to be a relatively minor structure and ancillary to the building. The awning will serve a public benefit by providing all weather access to pedestrians and will have a minor impact on the streetscape. | Yes |</p>
<table>
<thead>
<tr>
<th></th>
<th>Above ground parking levels shall be sleeved by residential or commercial uses or otherwise appropriately screened from public areas using decorative screening, green walls or similar.</th>
<th>A combination of sandstone cladding and perforate metal cladding will be used in a decorative manner to screen the above ground parking levels.</th>
<th>Yes</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Parking for the residential and commercial components of the development must be clearly delineated.</td>
<td>Parking is clearly delineated with commercial and residential spaces being separately confined on certain levels.</td>
<td>Yes</td>
</tr>
<tr>
<td></td>
<td>A functional, open and high quality landscaped setting including seating and shading shall be provided at ground level.</td>
<td>A high quality landscaping area is provided adjacent to Norwest Lake.</td>
<td>Yes</td>
</tr>
<tr>
<td></td>
<td>A timber boardwalk of at least 3 metres in width must be maintained or replaced along the lake frontage of the site.</td>
<td>The boardwalk adjacent to the lake will have a minimum width of 4 metres.</td>
<td>Yes</td>
</tr>
</tbody>
</table>
|   | Pedestrian access shall be provided through the site in accordance with the easement for public access shown on Deposited Plan 1003042. This easement is to remain free of any restaurant seating or commercial use. | The site is affected by an easement for public access approximately 12 metres wide adjacent to Norwest Lake. It is noted that the existing boardwalk which provides public access is approximately 3 metres wide. The proposed boardwalk adjacent to the lake will be approximately 4 metres wide. | Yes

No – refer to discussion below.
(a) The development must incorporate podium level recreational spaces for residents including facilities such as a children’s playground, pool and terrace, gymnasium, gardens / passive areas, tennis court and a club room or similar that can accommodate private resident functions.

Podium level communal open space area provided which includes swimming pool, water features, outdoor gymnasium, fitness stations, an outdoor cinema and putting green.

| Variations to the DCP have been identified and are addressed as follows: |
|---|---|---|
| 2.7.1.1 Site Coverage |
| The DCP prescribes that for development located in the Norwest Business Park, the maximum site coverage is 50%. The proposed development has a site coverage of 57.8%. |
| The applicant has provided the following justification: |
| *The proposed development is generally in accordance with the FSR and building height controls. The proposed development is suitable for the location being in close proximity to the Norwest town centre and future station.* |
| Comment |
| The proposed development provides a high quality landscaped area that will enhance the interface and space adjacent to Norwest Lake. In addition, the proposed development will provide a through site link which will provide the public with access to Norwest Marketplace and to the future train station. Further, the landscaping area proposed is strategically located to screen the lower section of the podium and to embellish the areas adjacent to Norwest Lake. The proposed variation to site coverage is considered satisfactory in this instance. |
| 2.7.1.2 Car Parking |
| The proposed development has been assessed against the relevant commercial parking provisions of the DCP. The proposal provides 259 commercial car parking spaces where the DCP requires 284 car parking spaces. |
| The required parking rate and the provision of commercial parking are detailed in the table below:
The applicant has provided the following justification:

At night time and weekend, the restaurants would require 256 parking spaces. During those periods, offices are generally closed or operate with much reduced staff levels. It would therefore be appropriate for the restaurants patrons and staff to have access to the spaces for commercial developments during the evenings and weekends.

The 259 commercial spaces will be provided in the basement and ground floor levels. At night time and weekend, the restaurants would require about 255 parking spaces. As discussed above, these spaces would become available for restaurants patrons and staff during the evenings and weekends. It would be also reasonable to assume that about 10 to 15 percent of restaurant patrons would be residents walking from either the proposed development or from nearby residential developments in Norwest thus would not require parking.

A separate Carpark Management Report has been prepared by InterPark to address the use and management of the carparks and should be referred to in relation to these arrangements.

Comment

The proposed development results in a shortfall of 25 commercial car parking spaces when adopting a dual use parking rate as detailed in the table above.

The applicant has sought a variation to the car parking provision on the premise that the parking provided for the office component will be surplus to needs during peak dining periods and that these spaces could be utilised under a dual use arrangement for restaurant tenancies between 6:30pm to midnight on weeknights and during the weekend.

Furthermore, the applicant has advised that parking for the retail component will also be surplus to needs after 6:30pm on weekdays and during weekends. Based on this approach, the applicant asserts that the proposed reallocation of retail parking spaces for restaurant use will result in the proposed development complying with the parking provision, specifically for the restaurant component. However, the reallocation of the 28 spaces for the restaurant component during peak dining periods cannot be supported given that the operational nature of the retail tenancies is unknown at this stage. It is acknowledged that the location of the site and the nature of the retail floor plates are likely to result in retail uses that are non-destinational in nature however this would be subject to further consideration with a subsequent Development Application. Nevertheless, it is considered that the variation of 25 car parking spaces is satisfactory.

The parking layout has been designed in a manner where the basement level which comprises of 176 car parking spaces will be exclusively used by office tenancies during the weekday until 6:30pm. The ground floor level will comprise of 83 car parking spaces and will be exclusively used at all times by the retail and restaurant component which is

<table>
<thead>
<tr>
<th>Parking Type</th>
<th>Required Day Time</th>
<th>Required Night Time (Post 6:30pm and Weekend)</th>
<th>Proposed Day Time</th>
<th>Proposed Night Time and Weekend</th>
</tr>
</thead>
<tbody>
<tr>
<td>Office</td>
<td>182</td>
<td>-</td>
<td>182</td>
<td>-</td>
</tr>
<tr>
<td>Retail</td>
<td>28</td>
<td>28</td>
<td>28</td>
<td>34</td>
</tr>
<tr>
<td>Restaurants</td>
<td>45</td>
<td>256</td>
<td>49</td>
<td>225</td>
</tr>
<tr>
<td>Total</td>
<td>255</td>
<td>284</td>
<td>259</td>
<td>259</td>
</tr>
</tbody>
</table>
adequate for weekday hours. Thereafter, parking on the basement level will be freely accessible to retail and restaurants between 6:30pm to midnight on weekdays and weekends. To ensure the dual use arrangement will be implemented, conditions of consent are recommended to ensure that a positive covenant is placed on title which requires the basement car parking spaces to be accessible to restaurants and retail between 6:30pm to midnight during weeknights and on weekends.

To support this arrangement, a Carpark Management Report prepared by Interpark accompanies the Development Application which sets out the operational parameters for the dual use arrangement. Compliance with the Carpark Management Report will be recommended as a condition of consent.

Based on the proposed dual use arrangement, the proposed parking variation is considered to be acceptable given that there will be an adequate supply of parking at all times based on the differing operational peak usage periods of the commercial component. In this regard, a variation can be supported.

2.7.1.3 Bicycle Parking

The proposed development generates a requirement for 43 bicycle parking spaces. The proposed development provides for 14 bicycle parking spaces, which represents a shortfall of 29 spaces.

The applicant has provided the following justification:

The core objective for the provision of bicycle parking is to reduce dependence on motor vehicles and encourage the use of cycling for every day trips such as visiting shops/groceries and also for commuting. However, the subject site is located within a mixed use precinct with immediate access to shops and supermarkets which can be accessed for walking. Similarly, the site is within extremely close proximity to the forthcoming train station which will meet the commuting needs of future residents and is also within the major Norwest employment precinct such that some residents will likely also walk to work.

Having regard to the above, it is considered unnecessary for such a high provision of bicycle parking to be provided at the subject site and the objectives are met by the capacity of residents to walk to the nearby facilities. Notwithstanding, it is noted there are 104 storage cages for the apartments which are of sufficient size that they could accommodate a bicycle for recreational use.

Comment

The proposed bicycle provision of 14 spaces is considered to be satisfactory given the proximity and walking distance to Norwest Marketown, future Norwest Station and the proximity to places of employment in the Norwest Business Park. Additionally, the applicant has indicated that at least 90 storage areas located within the car park have the capacity to accommodate the storage of bicycles. In this regard, a variation is considered to be satisfactory.

2.7.1.4 Loading Docks

The proposed development is required to provide 3 loading bays in accordance with the DCP. The proposed development provides 2 loading bays.

The applicant has provided the following justification:
A loading facility will be provided on the western side of the development near the garbage holding room as shown in DN 110—010 of Appendix A. It will consist of two loading bays which could accommodate simultaneously a large rigid truck and a medium rigid truck. Trucks would enter the site in a forward direction than reverse into the loading area before exiting the site in a forward direction. The swept paths of trucks accessing the loading area are included in Appendix B. The proposed loading area complies with the Australian Standards for heavy vehicles (2002).

These two loading bays will most likely be used by garbage trucks and removals trucks when the building starts to get occupied. This number is adequate to accommodate trucks for the proposed type of development.

Most of the offices and restaurants would be serviced by van and courier type vehicles. Three such spaces have been designated in the ground floor near the office lobby and restaurants. These spaces have been designed with additional heights to accommodate such vans.

Comment

The proposed development will comprise 36 office tenancies which vary in size from 66m$^2$ to 188m$^2$. As a result of the cumulative floor area of the office component, the DCP would require 3 loading bays. In this instance, the provision of 3 loading bays is considered to be surplus to needs given the relatively small floor plates for each tenancy. The two proposed loading areas are likely to adequately accommodate the loading and unloading of goods for future office tenancies. It is also noted that the proposed development also provides for three designated loading and unloading spaces specifically for restaurant and retail uses on the ground floor. In this regard, a variation is considered to be satisfactory.

2.7.1.5 Pedestrian Access

The DCP requires that pedestrian access be provided through the site in accordance with the easement for public access shown on Deposited Plan 1003042. This easement is to remain free of any restaurant seating or commercial use. The easement for public access is approximately 12 metres wide and runs parallel to Norwest Lake. The proposed development will result in the encroachment of outdoor dining within the easement at ground level in addition to building overhang for the office component above.

The existing timber boardwalk adjacent to Norwest Lake is approximately 3 metres wide. The proposed development seeks to improve the boardwalk which will result in the widening of the boardwalk to a minimum width of 4 metres. Accordingly, the principal purpose of the public access easement is being maintained in that public pedestrian access is being facilitated.

Additionally, the applicant has supported the improvements to the boardwalk with the submission of a Public Space Analysis prepared by JBA. The analysis indicates that the width of the boardwalk exclusive of the area used for outdoor dining is satisfactory and is capable of accommodating pedestrian foot movements through the site. In this regard, the encroachment of the outdoor dining area into the public access easement will not detract from the ability of the boardwalk to accommodate pedestrian movements.

In this regard, a variation to the DCP and a departure from the terms of the deposited plan in accordance with Clause 1.9A of the LEP is considered to be satisfactory.
2.7.2 Part B Section 5 – Residential Flat Buildings

Part B Section 5 Residential Flat Buildings applies to land where residential flat buildings are permissible. This is a mixed use development with a residential flat building component. The DCP contains provisions which typically apply in residential zones where the maximum height limit is in the order of four storeys. In this regard, this particular section of the DCP has been used as a guide to assess the residential component of the development noting that the site is subject to site-specific LEP height and FSR controls and provisions under DCP Part B Section 6 – Business.

The proposal has been assessed against the relevant controls of Part B Section 5 – Residential Flat Building as detailed in the table of compliance below.

<table>
<thead>
<tr>
<th>DEVELOPMENT STANDARD (CLAUSE NO.)</th>
<th>BHDCP REQUIREMENTS</th>
<th>PROPOSED DEVELOPMENT</th>
<th>COMPLIANCE</th>
</tr>
</thead>
<tbody>
<tr>
<td>3.1 Site Requirements</td>
<td>The minimum lot size for residential flat buildings is specified in Clause 4.1A of The Hills Local Environmental Plan 2012, as follows: <strong>Within:</strong> R1 General Residential – 4,000m² R4 High Density Residential – 4,000m² B2 Local Centre – 4,000m² B4 Mixed use – 4,000m² Min. road frontage – 30m</td>
<td>12,000m²</td>
<td>Yes</td>
</tr>
<tr>
<td>3.5 Building Separation and Treatment</td>
<td>12m</td>
<td>Separation distance between Building A and B – 26 metres.</td>
<td>Yes</td>
</tr>
<tr>
<td>3.6 Landscaped Area</td>
<td>50% of site area</td>
<td>42% of site area is landscaped.</td>
<td>No – refer to discussion below.</td>
</tr>
</tbody>
</table>
| 3.7 Building Length | Max. 50m | Building A – 50 metres  
Building B – 51 metres | No – refer to discussion below. |
|----------------------|---------|--------------------------|-----------------------------|
| 3.8 Building Design and Streetscape | Must refer to Council’s “Multi-Unit Housing: Urban Design Guidelines 2002” | The proposal is consistent with the Multi-Unit Housing: Urban Design Guidelines 2002.  
The proposed design of the development is considered to be in harmony with respect to the form, mass, colours and finishes of existing and likely future development.  
The siting of the building, predominately to the alignment of the street and Norwest Lake and will reinforce public interfaces.  
The form of the development results in a harmonious design. Block A and B will comprise of distinguishing massing and features that will not result in a mirroring effect of the buildings.  
The proposed façades of the development fronting Solent Circuit and Norwest Lake comprise of high quality materials | Yes |

Designs must be in harmony in terms of form, mass, colour and structure with existing and likely future development in the street.

Siting and design to ensure clear definition of street edge and reinforce street corners. Building lines together with landscaping treatments should distinguish the public and private realms.

Must not be repetitive in design and incorporate harmonious design variations such as verandas, entrances, façades, etc.

**Walls and Rooflines:**
- Articulation provided to reduce bulk
- With variety of colours to reduce monotony and add enhance the streetscape
- With windows to enhance façade appearance
- Well balanced vertical and horizontal proportions
- Break up large horizontal facades (whether walls or roofs) into smaller sections no longer than 10m
- Use of well-proportioned and balanced projections and recesses on facades.
- Provision of architectural features in the façade such as entry porches, pergolas, etc.

**Garages:**
- Comprise more than one material and colour to enhance visual attractiveness and interest.
- Concealed or screened by planting from the street and public view, as much as possible.

**Entrances:**
- Clearly visible from the public and semi-public areas. Lighting to be provided for safety at night.
- Entries to be readily apparent from the street and clearly visible from inside the dwelling for casual surveillance.
- Space around building entrance to be sufficiently large to stand out and have a distinctive architectural form.
- Entries to be distinctive, attractive and welcoming.
- Provide sheltered transitional areas around building entries.
- All ground floor dwellings to have their own entry at ground level.
- Building entries to be visible from, or address the site front boundary, and clearly delineated and observable from the driveway.

**Views and Siting:**
- Siting of building to take advantage of any views to nearby/adjoining landscaped open space or any public reserve.
- Siting and design to take advantage of any views to and finishes. A mixture of sandstone cladding, metallic cladding, ceramic tile cladding and glazing will be incorporated into the design of the facades.

The proposed development will comprise of a basement garage and parking will be predominately concealed from public view.

The main entries into the central colonnade is clearly visible from Solent Circuit and will be defined by a projecting awning. The entries are suitably articulated and are identifiable to residents and visitors.

The siting of the proposed built form responds to the ridge setting of the site and takes advantage of views in all
open space, public reserves and bushland to promote natural surveillance and enhance visual amenity for residents.
- Avoid blank courtyard walls along boundaries shared with open space or reserves.
- Provide opportunities to create and orient dwellings to permit direct views from living areas into the open space/reserve.
- Avoid courtyards facing a street or public place. If cannot be avoided due to design constraints, design to comply with Section 3.27 Fencing giving consideration to streetscape and visual impact issues.

3.9 Urban Design Guidelines


3.10 Density

| 3.10 Density | 150-175 persons per hectare | 428 persons per hectare. | No – refer to discussion below. |

3.11 Unit Layout and Design

<table>
<thead>
<tr>
<th>3.11 Unit Layout and Design</th>
<th>Apartment Mix</th>
<th>Residential Flat Development (30 or more units)</th>
<th>Complies. A maximum of 14% of units are 1 bedroom</th>
<th>Complies. 12.9% of units are 3 bedroom</th>
</tr>
</thead>
<tbody>
<tr>
<td>(a) No more than 25% of the dwelling yield is to comprise either studio or one bedroom apartments.</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>(b) No less than 10% of the dwelling yield is to comprise apartments with three or more bedrooms.</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Residential Flat Development (30 or more units) (d) The minimum internal floor area for each unit, excluding common passageways, car parking spaces and balconies shall not be less than the following:

- Yes
### Apartment Size

<table>
<thead>
<tr>
<th>Apartment Size Category</th>
<th>Apartment Size</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Type 1</strong></td>
<td></td>
</tr>
<tr>
<td>1 Bedroom</td>
<td>50m²</td>
</tr>
<tr>
<td>2 Bedroom</td>
<td>70m²</td>
</tr>
<tr>
<td>3 or more Bedrooms</td>
<td>95m²</td>
</tr>
<tr>
<td><strong>Type 2</strong></td>
<td></td>
</tr>
<tr>
<td>1 Bedroom</td>
<td>65m²</td>
</tr>
<tr>
<td>2 Bedroom</td>
<td>90m²</td>
</tr>
<tr>
<td>3 or more Bedrooms</td>
<td>120m²</td>
</tr>
<tr>
<td><strong>Type 3</strong></td>
<td></td>
</tr>
<tr>
<td>1 Bedroom</td>
<td>75m²</td>
</tr>
<tr>
<td>2 Bedroom</td>
<td>110m²</td>
</tr>
<tr>
<td>3 or more Bedrooms</td>
<td>135m²</td>
</tr>
</tbody>
</table>

- Type 1 apartments shall not exceed 30% of the total number of 1, 2 and 3 bedroom apartments.
- Type 2 apartments shall not exceed 30% of the total number of 1, 2 and 3 bedroom apartments.
- All remaining apartments are to comply with the Type 3 apartment sizes.

- 80% of units are type 1.
- 17% of units are type 2.
- 3% of units are type 3.

No – refer to discussion below.

No – refer to discussion below.

Yes

### Building Materials

- Must comply with the Local Government Act, 1993, Local Government regulations and Building Code of Australia

- Reflect and complement the existing character and streetscape.

- Choice of materials to consider both their environmental and economic costs.

- Use graffiti resistant materials in areas accessible by the general public and communal areas within the development.

A condition of consent will be imposed to ensure compliance with the Building Code of Australia.

The proposed materials, colours and finishes will complement the existing streetscape and desired future character.

The selection of materials considers both environmental and economic costs.

Where possible, graffiti resistant materials will be used as recommended by the NSW Police.

Yes

Yes

Yes

Yes
Use colours that are visually pleasing and reflect the predominant colours in the area.

Avoid materials and colours with excessive glare.

Avoid materials that are likely to contribute to poor internal air quality.

Select materials that will minimise the long-term environmental impact over the whole life of the development.

Preference to materials derived from renewable sources or are sustainable and generate lower environmental cost, recycled material/s with low embodied energy, better lifecycle costs and durability.

The colour selection is reflective of a modern development in the Business Park.

The standard of glazing will be determined at the Construction Certificate stage and will be compliant with Australian Standards so as to minimise the effect of glare.

The selection of materials will not result in poor internal air quality.

The material selection is considered to afford the built form with longevity.

The selection of materials is considered to provide for satisfactory thermal comfort and durability.

### 3.13 Open Space

<table>
<thead>
<tr>
<th>Private: Ground level</th>
<th>4m x 3m (min)</th>
<th>Yes</th>
</tr>
</thead>
<tbody>
<tr>
<td>Above ground - min. 10m² with min. depth 2.5m</td>
<td>Yes</td>
<td></td>
</tr>
<tr>
<td>Common: 20m² per dwelling</td>
<td>Yes</td>
<td></td>
</tr>
<tr>
<td>Podium level private open space areas comply.</td>
<td>No – refer to discussion below.</td>
<td></td>
</tr>
<tr>
<td>Minimum 8m² with min. depth of 2m</td>
<td>No – refer to discussion below.</td>
<td></td>
</tr>
<tr>
<td>4,940m² of common open space area.</td>
<td>Yes</td>
<td></td>
</tr>
</tbody>
</table>
### 3.14 Solar Access

| Adjoining buildings / open space areas – 4 hours between 9am and 3pm on 21 June |
| Common open space – 4 hours between 9am and 3pm on 21 June |

Adjoining residential properties will receive 3 hours of solar access between 9am and 3pm on 21 June.

Yes

### 3.15 Ventilation

| - Consider prevailing breezes in relation to building orientation, window design and internal circulation. |
| - Place windows to allow for cross ventilation i.e. on opposite sides of the building rather than adjacent walls where possible. These windows are to be lockable in a partly open position. |
| - Promote air circulation and consider the installation of fans, roof vents, louvered windows and high-level windows to aid air circulation. |

The proposed orientation and internal configuration of the development responds to prevailing breezes in order to maximise natural ventilation to apartments. At least 60.8% of apartments are naturally ventilated which exceeds the 60% requirement of the ADG.

Windows have been located on opposite sides or to a different aspect where possible.

The proposed development will provide for sufficient air circulation to apartments and common areas.

Yes

### 3.16 Lighting

| - Lighting to be in accordance with the Building Code of Australia. |
| - Adequate lighting to ensure the security and safety of residents and visitors. |

A condition of consent will be imposed to ensure compliance with the Building Code of Australia.

Adequate lighting will be provided for the safety and security of residents.

Yes
<table>
<thead>
<tr>
<th>3.19 Car parking</th>
<th>Rate per unit &amp; visitor parking:</th>
<th>Required:</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>1 space per 1 BR</td>
<td>1 bedroom – 36</td>
</tr>
<tr>
<td></td>
<td>2 spaces per 2 or 3 BR</td>
<td>2 bedroom – 358</td>
</tr>
<tr>
<td></td>
<td>Visitor – 2 spaces per 5 dwellings</td>
<td>3 bedroom – 64</td>
</tr>
<tr>
<td></td>
<td>Visitor: 99</td>
<td>Total: 556 spaces</td>
</tr>
<tr>
<td>Parking Dimension:</td>
<td>- Lockable single garages min.</td>
<td>Proposed:</td>
</tr>
<tr>
<td></td>
<td>dimension – 5.5 metres x 3 metres (exclusive of storage)</td>
<td>Residential:</td>
</tr>
<tr>
<td></td>
<td>- Lockable double garages min.</td>
<td>337 (including tandem spaces)</td>
</tr>
<tr>
<td></td>
<td>dimension – 5.5 metres x 5.4 metres (exclusive of storage)</td>
<td>309 (excluding tandem spaces)</td>
</tr>
<tr>
<td></td>
<td>- Visitor parking dimensions –</td>
<td>Visitor: 50</td>
</tr>
<tr>
<td></td>
<td>5.5 metres x 2.6 metres</td>
<td>Total: 387 (Including tandem parking spaces)</td>
</tr>
<tr>
<td>Manoeuvring and Ramps:</td>
<td>- First 6 metres of the driveway inside the property boundary to be a maximum of 5%</td>
<td>Total: 359 (Excluding tandem parking spaces)</td>
</tr>
<tr>
<td></td>
<td>- Ramp grades to comply with Australian Standard 2890.1</td>
<td></td>
</tr>
<tr>
<td></td>
<td>- Manoeuvring in accordance with Australian Standard 2890.1</td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>3.20 Storage</th>
<th>10m³ with an area 5m² and dimension 2 metres</th>
<th>Minimum 8m³</th>
</tr>
</thead>
<tbody>
<tr>
<td>3.21 Access and Adaptability</td>
<td>Lift provided if greater than 2 storeys</td>
<td>All levels of the development are accessible by lift. Lift cores will be provided in each building and will service the basement level. The application was accompanied by an Access</td>
</tr>
</tbody>
</table>
Review prepared by Morris Goding Accessibility which confirms that 14 or 6% of units will be accessible.

A condition of consent is to be recommended to ensure that the proposed development is consistent with the methodology of the Access Review.

<table>
<thead>
<tr>
<th>3.22 Pedestrian/Bicycle Links</th>
<th>Within the Site</th>
<th>Access will be provided at-grade to Solent Circuit.</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>- Access to dwellings should be direct and without unnecessary barriers. No steps between the street frontage and the principal building entrances.</td>
<td>Internal pathways within the development will be clearly defined as detailed on the Landscape Plan.</td>
</tr>
<tr>
<td></td>
<td>- Provide clearly defined pedestrian pathways between proposed development and proposed footpaths along sub-arterial roads.</td>
<td>Adequate lighting to be provided to common open areas.</td>
</tr>
<tr>
<td></td>
<td>- Adequate lighting in common and access areas.</td>
<td>All access paths and ramps are to comply with relevant Australian Standards.</td>
</tr>
<tr>
<td></td>
<td>- All surfaces to be stable, even and constructed of slip resistant materials. Any stair nosings should have a distinctive colour and texture.</td>
<td>Yes</td>
</tr>
</tbody>
</table>

Yes

Yes

Yes

Yes
- Building and unit numbering and all signage is to be clear and easy to understand. International Symbols of Access should be displayed where buildings, crossings, amenities, car parking, pathways and ramps are accessible, as detailed in the The Hills Shire Council policy entitled “Making Access For All” (2002).

- Pathway locations must ensure natural surveillance of the pathway from primary living areas of adjoining units. Dwelling entries must not be hidden from view and must be easily accessible.

- A bicycle lockup facility to be provided close to the main entry to the building.

### Local Pedestrian Links
- Where possible, a pedestrian link through the site must be provided as part of the development to increase the connectivity of the area for local pedestrians. The following factors should be considered when identifying the most appropriate location for the link of the pathway:
  - The link must be no less than 3m wide;
  - Should be a straight-line link through the site linking streets or other public spaces; and
  - Cannot include stairs and any ramps. Must have a reasonable gradient - refer to AS 1428.1 - 1988 Design for Access and
  - The design and layout of any building adjoining and landscaped spaces adjoining the pathway should ensure there is natural surveillance of the pathway to protect

<table>
<thead>
<tr>
<th>Requirement</th>
<th>Provided</th>
</tr>
</thead>
</table>
the amenity of users. A solid fence along the boundary of the pathway restricting views of the pathway from adjoining properties not acceptable.

<table>
<thead>
<tr>
<th>3.23 Privacy – Visual and Acoustic</th>
</tr>
</thead>
<tbody>
<tr>
<td>- Minimise direct overlooking of main internal living areas and private open space of dwellings both within and adjoining the development through building design, window locations and sizes, landscaping and screening devices (refer to section 3.13 Open Space)</td>
</tr>
<tr>
<td>Units have been designed to minimise the potential for direct overlooking through the sufficient separation of Building A and B in addition to the appropriate placement of balconies and windows. Furthermore, given that the site is isolated and combined with the substantial distance to adjoining residential properties, the proposal will not result in undue overlooking into adjoining residential properties.</td>
</tr>
<tr>
<td>Yes</td>
</tr>
<tr>
<td>- Consider the location of potential noise sources within the development such as common open space, service areas, driveways, and road frontage, and provide appropriate measures to protect acoustic privacy such as careful location of noise-sensitive rooms (bedrooms, main living areas) and double glazed windows.</td>
</tr>
<tr>
<td>The internal configuration of the development has been designed to consider the location of potential noise sources. The Development Application was accompanied by an Acoustic Report. The report identifies the main noise sources including mechanical plant</td>
</tr>
<tr>
<td>Yes</td>
</tr>
</tbody>
</table>
equipment and traffic noise associated with vehicular traffic generated by the proposed development. The report concludes that the level of noise emitted by the proposed development will meet the noise level requirements of the NSW Environmental Protection Authority (EPA) subject to the implementation of noise mitigation measures.

<table>
<thead>
<tr>
<th>3.24 Services</th>
<th>- Development consent not to be granted until satisfactory arrangements are made with relevant authorities for the provision of services.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Services and facilities for residents and visitors have been designed for safe and convenient access.</td>
<td>- Site services and facilities (such as letterboxes, clothes drying facilities and garbage facility compounds shall be designed so as:</td>
</tr>
<tr>
<td>Service and facilities for residents shall be provided to each dwelling.</td>
<td>- To provide safe and convenient access by residents and the service authority; and</td>
</tr>
<tr>
<td>Service and facilities for residents and visitors shall be provided to each dwelling.</td>
<td>- Visually integrated with the development and have regard to the amenity of adjoining development and streetscape.</td>
</tr>
<tr>
<td>Service and facilities for residents shall be provided to each dwelling.</td>
<td>Each apartment will be provided with an internal laundry.</td>
</tr>
</tbody>
</table>

| | Yes | Yes | Yes |
3.25 Waste Management – Storage and Facilities

- Waste collection and separation facilities to be provided for each dwelling. Each dwelling should have a waste storage cupboard in the kitchen capable of holding at least a single day’s waste, and sufficient to enable separation of recyclable material.
- Adequate storage for waste materials must be provided on site and any such waste must be removed at regular intervals and not less frequently than once per week for garbage and fortnightly for recycling.
- Screen views of waste and storage facility from any adjoining property or public place while ensuring there is some natural surveillance from within the development to minimise vandalism and other anti-social activity.
- Waste storage areas to be kept clean, tidy and free from offensive odours at all times.

Communal waste storage area proposed within car parking area.
No objections received by Council’s Resource Recovery Officer and conditions provided accordingly.

Yes

3.26 Waste Management Planning

Submission of a Waste Management Plan – demolition, construction and ongoing use.

No objections received by Council’s Resource Recovery Officer and conditions provided accordingly.

Yes

Variations to the DCP have been identified and are addressed as follows:

### 2.7.2.1 Landscaping

The DCP requires a minimum landscaped area which equates to 50% of the site area. The proposed development will provide a landscaped area of 42%.

The applicant has provided the following justification:
The subject site is located predominantly within the B2 Local Centre zone pursuant to the Hills Local Environmental Plan 2012 with a core objective to provide a range of retail, business, entertainment and community uses that serve the needs of people who live in, work in and visit the local area.

Part B of the DCP relates to residential flat buildings and whilst it applies to the subject site, its application also applies to any residential flat building throughout the local government area in areas which are not within a local centre. The existing site does not provide 50% landscaping and the context of the site is characterised as an urban centre where such a landscaping provision is inconsistent with this character. The proposed development is in fact for a mixed use development with a substantial commercial component and Objective 4S-2 of the Apartment Design Guide provides that Landscaped communal open space should be provided at podium or roof levels whilst Objective 3E-1 in relation to deep soil provides that deep soil may not be possible where there are non-residential uses at ground floor.

Notwithstanding this, the proposal still provides a substantial amount of landscaping on the site being 42% and satisfies the objective for landscaping within the DCP to provide a satisfactory relationship between buildings, landscaping areas and adjoining developments. Given the context of the site within a local centre the provision of landscaping is considered capable of support.

Comment

The site is located within what is essentially a business zone within the Norwest Business Park. The landscape control typically applies to residential flat developments proposed in suburban zones. Nevertheless, the proposed development provides a high quality landscaped area that will enhance the interface and space adjacent to Norwest Lake. In addition, the proposed development will provide a through site link which will provide the public with access to Norwest Marketplace and to the future train station. Further, the landscaping area proposed is strategically located to screen the lower section of the podium and to embellish the areas adjacent to Norwest Lake.

In this regard, a variation is considered to be satisfactory.

2.7.2.2 Building Length

The DCP limits the length of buildings to a maximum of 50 metres. Building B will have a building length of approximately 51 metres.

The applicant has submitted the following justification:

Building A does not exceed 50 metres in length. The northern portion of Building B marginally exceeds 50m by approximately 1m however this is due to the balcony on the eastern side. Given the particularly minor nature of the exceedance and having regard to the highly modulated nature of the buildings and curved ends which diminish the perceived length of the facades, the proposed development is considered to represent an appropriate bulk and scale with respect to building length.

Comment

The objective of the control is to minimise the bulk and scale of the building and to ensure each unit achieves good residential amenity. The perceived bulk and scale of the development is considered to be satisfactory given that the building is sufficiently articulated and adopts a curvature form on the edges of the building.
The units are also considered to respond appropriately to the objectives regarding amenity. Unit sizes are larger than required with functional floor layouts. Units will receive adequate solar access, natural ventilation and will capitalise on views to Norwest Lake. It is also noted that the proposed length will not result in adverse shadowing impacts to residential properties in proximity to the site.

2.7.2.3 Density

The DCP prescribes a maximum density of 150-175 persons per hectare. The proposed development will result in a density of 428 persons per hectare.

The applicant has provided the following justification:

*The proposed development is in accordance with the planning proposal supporting the LEP amendment no.29 and Council’s strategic planning for mixed use on the site. The increase in density is not precluded by the VPA. The density is suitable for the location being in close proximity to the new Norwest train station.*

**Comment**

The site has been the subject of a Planning Proposal which determined that a higher form of density was appropriate for the site and earmarked a dwelling yield in the order of 240 units. Accordingly, the site is subject to a floor space ratio which would result in a density that would significantly exceed 150-175 persons per hectare. The floor space ratio control is considered to be a more appropriate mechanism to regulate the density of the development.

It is noted that the site is located within what is essentially a business zone within the Norwest Business Park. The density control typically applies to residential flat developments proposed in residential zones where there is no floor space ratio standard. Furthermore, it should be noted that the control applies to residential flat development that would typically be restricted to a maximum height of 4 storeys.

In this regard, the proposed development is considered to be of a suitable density given its location within the Norwest Business Park and its proximity to future Norwest Station.

2.7.2.4 Private Open Space

The DCP requires that private open spaces above ground floor comprise a minimum of 10m² with minimum depth 2.5 metres. The proposed development will include balconies that are 8m² with minimum depth 2 metres.

The applicant has submitted the following justification:

*The majority of the units comply with 6 units under the 10m² ranging by some 1-2m². This is a minor variation, adequate balcony sizes are provided. Complies with SEPP No.65 provisions.*

**Comment**

The private open space areas comply with the requirements of the Apartment Design Guidelines which specify a minimum area of 8m² for one bedroom units. Additionally, the proposed development provides for a high level of residential amenity with over 70% of private open space areas receiving 2 hours of solar access during mid-winter. Furthermore, the communal open space area provides for both passive and recreational activities. In this regard, a variation is considered to be satisfactory.
2.7.2.5 Common Open Space

The DCP requires that developments greater than 20 dwellings should provide a common open space area at a rate of 20 square metres per dwelling. This would result in an area of 4,940 square metres for 247 units.

The applicant has provided the following justification:

*Common open space is 27% of the site area being 3,240m². As this is a multi-storey development, communal open space is provided on the podium to encourage a variety of active and passive recreational uses. The development also includes communal facilities that value-add to the development such as the pool and spa room.*

**Comment**

The proposed development provides a communal open space area of 3,240 square metres. The communal open space is located on the podium level which will be extensively landscaped around the periphery. The communal open space area will promote a range of activities and include a swimming pool, water features, outdoor gymnasium, fitness stations, an outdoor cinema, dining areas and putting green.

In combination with areas for private open space, the proposed development is considered to be suitable with respect to communal open space areas capable of accommodating both passive and recreational uses.

2.7.2.6 Apartment Sizes

The proposed apartment sizes are inconsistent with the minimum apartment size typology required by the DCP. The proposal will provide for the following apartment sizes:

- One Bedroom: 52m² to 63m²
- Two Bedroom: 77m² to 93m²
- Three Bedroom: 103m² to 144m²
- Four Bedroom: 140m² to 156m²

With respect to compliance, 80% of units are Type 1, 17% of units are Type 2 and the remaining 3% of units will be Type 3. In this regard, the proposal significantly exceeds the maximum permitted Type 1 apartment size by 50% and falls short of the Type 3 apartment size by 37%.

The applicant has provided the following justification for the variation to apartment size:

*In accordance with the provisions of Clause 6A of the SEPP, Council’s DCP cannot be inconsistent with SEPP provisions and the SEPP will override. Clause 30 Standards that cannot be used as grounds to refuse development consent or modification of development consent states that:*

"if a development application for the carrying out of development to which this Policy applies satisfies the following design criteria, the consent authority must not refuse the application because of those matters:

(a) if the car parking for the building will be equal to, or greater than, the recommended minimum amount of car parking specified in Part 3J of the Apartment Design Guide"
(b) if the internal area for each apartment will be equal to, or greater than, the recommended minimum internal area for the relevant apartment type specified in Part 4D of the Apartment Design Guide,

(c) if the ceiling heights for the building will be equal to, or greater than, the recommended minimum ceiling heights specified in Part 4C of the Apartment Design Guide.

Comment:

The proposed development complies with the minimum amount of car parking, minimum internal areas for each apartment type and minimum ceiling heights as specified in the SEPP compared to Council's DCP. As this application complies with the provisions of Clause 30, Council cannot refuse development consent for this application based on non-compliance with Council’s DCP.

Comment

The applicant has also justified the variation by relying upon the minimum apartment size requirements of the Residential Flat Design Code.

In this regard, SEPP 65 contains the following minimum apartment sizes:

- 1 bedroom unit – 50m²
- 2 bedroom unit – 70m²
- 3 bedroom unit – 95m²

It is also noted that Clause 30A of SEPP 65 ‘Standards that cannot be used as grounds to refuse development consent for residential flat buildings’ states that apartment size cannot be a reason for refusal if the proposed area for each apartment is equal to, or greater than, the recommended internal area and external area for the relevant apartment type set out in the Apartment Design Guidelines. The apartment sizes all exceed the minimum requirements of the SEPP.

The apartments are satisfactory in regard to the minimum unit sizes required by SEPP 65 and are designed to take advantage of views, solar access and cross ventilation. Additionally, a large proportion of units comprise a balcony area that exceeds the minimum area requirement of the ADG. The varied apartment designs will allow a range of choice for future residents and will provide housing within close proximity to employment generating uses within the business park.

The apartment configuration and room dimensions are considered to provide for a high level of residential amenity. At least 70% of units achieve in excess of 2 hours solar access to living areas and balconies on 21 June. With respect to ventilation, 60% of units are cross ventilated given their aspect and elevation.

Furthermore the site exhibits the characteristics of a transit orientated development which typically includes a greater density of housing with a variety of sizes and configurations. Given the context of the site within the Norwest Business Park, the proposed apartment sizes and mix is considered to be satisfactory.

On this basis, it is considered that the proposed apartment sizes are satisfactory given the efficiency of the layout, the attainment of solar access and natural ventilation.
2.7.2.7 Car Parking

The proposed development has been assessed against the relevant residential parking provisions of the DCP. The proposal provides 387 car parking spaces where the DCP requires 556 car parking spaces. It is noted that the DCP excludes tandem car parking spaces from the parking provision. On this basis, there are 56 tandem car parking spaces of which only 28 will be counted in the car parking provision. Therefore, the total number of car parking spaces equates to 359.

The required parking rate and the provision of commercial parking are detailed in the table below:

<table>
<thead>
<tr>
<th>Parking Type</th>
<th>DCP Requirements</th>
<th>SEPP 65 requirements</th>
<th>Proposed</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 Bedroom</td>
<td>36</td>
<td>22</td>
<td>36</td>
</tr>
<tr>
<td>2 Bedroom</td>
<td>358</td>
<td>161</td>
<td>209</td>
</tr>
<tr>
<td>3+ Bedroom</td>
<td>64</td>
<td>45</td>
<td>64</td>
</tr>
<tr>
<td>Visitor</td>
<td>99</td>
<td>50</td>
<td>50</td>
</tr>
<tr>
<td>Total</td>
<td>556</td>
<td>278</td>
<td>359 (excluding tandem spaces)</td>
</tr>
</tbody>
</table>

The applicant has provided the following justification:

*The site is well within 800m of the Norwest Railway Station which is under construction. Therefore, the reduced rates provided by SEPP 65 are able to be relied upon in this instance to reduce the Council rates as the development application cannot be refused on the basis of car parking if the proposal meets the RTA Guide to Traffic Generating Development rates. It should be noted that the railway station is certain and would most probably be operational by the time any residential flat building on 11-13 Solent Circuit was ready for occupation.*

*It should be noted that the proposed parking rates for 1 and 3 and 4 bedroom units are similar to Council rates. The proposed variation applies to spaces for 2 bedroom units which are lower than Council’s rates but higher than the Guide to Traffic Generating Developments (RTA, 2002), and visitor spaces which are equal to those in the guide. The usage of available commercial spaces during the evenings and weekends is not affected.*

*Whilst the proposed parking supply of 387 spaces for the residential component is lower than Council’s requirement, it is well in excess of the requirements of SEPP 65 and is therefore considered appropriate given its proximity to the forthcoming Norwest railway station. All residential spaces will be provided in Levels 1 to 3.*

Comment

The proposed parking provision complies with the rate for one bedroom and three bedroom units. The rate of 1.5 car spaces for two bedroom units has been reduced to 1 car space. It is noted however that at least 1 car parking space will be provided for each unit.

The site is located in the Norwest Business Park in close proximity to Norwest Station currently under construction and will be highly accessible to future public transport links. The variation to the car parking provision is considered to be satisfactory and will indirectly discourage vehicular dependency which is consistent with planning principles established for transit-orientated developments. It is anticipated that residents of the development would take advantage of transport links to commute to places of employment or other destinations.
Furthermore, it is noted that the proposed development includes commercial uses which will accommodate the residents of the proposed development. The site is also located within close proximity to Norwest Marketown and will provide an opportunity for residents of the development to walk to shopping destinations or places of employment within the business park, thereby discouraging private transport use.

The proposed parking layout includes 56 tandem car parking spaces for residential units. The DCP explicitly excludes tandem car parking spaces from the overall parking provision. The tandem spaces are located in low traffic areas within the car park so as to minimise disruption to the flow of traffic. In addition, the applicant has indicated that the tandem spaces will be allocated to units that require two car parking spaces. In this regard, the tandem arrangement is considered to be satisfactory.

Visitor parking has been provided at a rate of 1 space per 5 units which is commensurate of the rate recommended by RMS guidelines. The DCP rate in this instance is considered to be superfluous for the proposed development given the high accessibility to future transport links. It is considered that the DCP rate would be relevant to other parts of the LGA where accessibility to public transport is limited.

The application was referred to the NSW RMS in accordance with Schedule 3 of the SEPP (Infrastructure) 2007 for Traffic Generating Developments. The RMS raised no objections to the proposed traffic generation and parking supply.

In this regard, it is considered that the variation to the parking provision is considered to be satisfactory.

2.7.2.8 Storage

The DCP requires storage to be provided at a rate of 10m$^3$ with an area 5m$^2$ and dimension 2 metres for each residential unit. The proposed development will provide a minimum storage volume of 8m$^3$.

The proposed development provides storage areas within the car park and units. The proposed storage is considered functional, meets the Apartment Design Guide minimum volume area and is satisfactory.

2.8 Multi-Unit Housing Guidelines

i. Character of the Area
The development integrates with the future built form character of the surrounding area and is consistent with the preceding Planning Proposal for the site. The proposed development responds to the zone objective and is considered satisfactory with respect to the desired character of the area.

ii. Site Analysis and Design
The development has provided satisfactory private open space areas maximising solar access where possible. The units therefore have been designed having regard to the contours and orientation of the site. The design of the buildings is considered satisfactory.

iii. Building Envelope and Siting
The massing of the built form provides a development which is considered appropriate to both surrounding properties and within the context of the Norwest Business Park.
iv. Setbacks
The buildings are articulated to provide visual interest when viewed from all adjoining interfaces. The proposed setback in front of the building is sufficient to provide high quality landscaping to complement the building form and enhance the landscape character of Solent Circuit. The proposed setbacks are considered satisfactory as outlined previously in this report.

v. Building Height
The height of the buildings complies with the maximum height limit prescribed by the LEP and is generally consistent with the height and scale envisaged under the North West Rail link Corridor Strategy.

vi. Communal and Private Open Space
Private open space is provided to all dwellings and is located so as to be an extension of the living area of the dwelling either at ground level or by way of balconies.

vii. Landscaping
The proposal provides landscaping for the enjoyment of future residents. Council’s Tree Management Section has reviewed the landscape plan, and has raised no objection, subject to conditions.

viii. On-Site Car Parking and Access
The proposed car parking is considered satisfactory as outlined previously within this report. Council’s Subdivision Coordinator has reviewed the proposal and has no objection to the proposed access subject to conditions of consent.

ix. Solar Access
The proposed development ensures acceptable levels of solar access are provided to all private open space areas within the site and ensures that the proposed development does not result in adverse overshadowing for adjoining properties.

x. Resource, Energy and Water Efficiency
The development application was accompanied by a Basix Certificate meeting the thermal comfort, water and energy rating requirements.

xi. Security
The location of buildings and associated balconies provides an opportunity for informal surveillance to improve the safety of future residents. It is considered that there is a clear definition of spaces and transition areas. The design of the development encourages passive to publicly visible areas.

xii. Ecological Sustainable Design
The development will provide a high energy efficiency rating for each dwelling. The dwellings will be designed to provide good thermal efficiency and adequate cross-ventilation.

xiii. Building Design
The development provides a high level of amenity to future residents by means of the provision of private and common open space, and visual and acoustic privacy.

3 ISSUES FOR CONSIDERATION

Issues Raised in Submissions
The proposal was exhibited and notified to adjoining property owners for a period of 30 days. In response, eight (8) submissions were received (one in support). The issues raised in the submissions relate to the inclusion of residential accommodation in the Norwest Business Park, building mass, height, design, setbacks, separation, noise, traffic and car parking. The matters raised in the submissions have been summarised below:
<table>
<thead>
<tr>
<th>ISSUE/OBJECTION</th>
<th>COMMENT</th>
<th>OUTCOME</th>
</tr>
</thead>
<tbody>
<tr>
<td>Concern is raised in relation to the impacts on the existing local road infrastructure with respect to traffic generation.</td>
<td>A Traffic Report has been submitted with the Development Application which indicates that the proposed development will not significantly affect the service levels for the surrounding road network. The Traffic Report has estimated that the proposed development is expected to generate 200 to 230 vehicle trips during the morning and afternoon peak hours respectively. The proposed development will only marginally affect the service levels of facilitating roads. Solent Circuit will continue to operate at Service level ‘A’. It is further noted that a monetary contribution towards the cost of upgrading the western intersection of Solent Circuit and Norwest Boulevard from a roundabout to a signalised intersection is the subject of the Voluntary Planning Agreement applicable to the proposed development. The traffic generation proposed by the development and the capacity of the surrounding road network have been reviewed by Council’s Principal Coordinator – Road and Transport. The existing road network is capable of accommodating the proposed development having regard to existing traffic conditions. Further, the NSW RMS have raised no objections to the proposed development with respect to traffic generation.</td>
<td>Issue addressed.</td>
</tr>
<tr>
<td>Concern is raised with respect to acoustic impacts particularly in relation to the location of plant and equipment on the ground floor adjacent to Norwest Marketown.</td>
<td>The Development Application was accompanied by an Acoustic Assessment prepared by Acoustic Logic. The assessment identifies the main noise sources including mechanical plant equipment and traffic noise associated with vehicular traffic generated by the proposed development.</td>
<td>Issue addressed.</td>
</tr>
</tbody>
</table>
The assessment concludes that the level of noise emitted by the proposed development with respect to traffic generation will meet the noise level criteria specified by SEPP (Infrastructure) 2007 subject to the implementation of noise mitigation measures. However, given that mechanical plant and equipment selection were not available at the time of assessment, the detailed noise control measures will be determined at the Construction Certificate stage. In this regard, a condition of consent has been recommended to require further acoustic assessment prior to the issue of the Construction Certificate.

Council’s Environmental Health Coordinator concurs with the recommendations of the report and has raised no objections in this regard.

| Concern is raised with respect to the loss of the Ice Rink which is a valuable community asset. | The Ice Rink is a privately operated commercial entity. Although the loss of the ice rink would be regrettable in terms of it being a recreational facility used by the community, the applicant/owner is entitled to seek a different use of the site. Moreover, the proposed development is consistent with the strategic and statutory planning framework envisaged for the site and its location within the Norwest Business Park. | Issue addressed. |

| Concern is raised in relation to the setback distance to Norwest Marketown. The setback to the balconies of the commercial office in addition to the setback of residential units does not comply with the building separation requirements of the Apartment Design Guide. | The minimum separation distance of Building A to the eastern boundary is 8 metres. Given that the interface to the eastern elevation is predominately a blank wall to habitable rooms and that there are no openings to habitable rooms perpendicular to the boundary, the separation distance is considered to be satisfactory. Fixed privacy screens will be incorporated on the eastern elevation of the balconies to | Issue addressed. |
mitigate direct overlooking. The proposed interface to the eastern boundary would be comparable to a non-habitable area where the ADG specifies a reduced separation requirement of 6 metres for a building height above 25 metres (9 storeys). Furthermore, it is noted that the depth of Building A represents approximately 21% of the length of the eastern property boundary with Building B setback 36 metres from the eastern property boundary. The setback and depth of the proposed development will accommodate adequate curtilage between existing and potential future buildings to the east of the site. In this regard, the separation distance to the eastern boundary is considered to be satisfactory.

With respect to the office component, the encroachment of 4 metres into the separation distance relates only to Level 3. It is noted that the ADG specifies a separation distance of 6 metres to habitable rooms for a building height up to 12 metres. Therefore, Levels 1 and 2 comply with the exception of two balconies servicing Units 111 and 211 which encroach one metre into the separation distance. The entirety of Level 3 encroaches one metre into the separation distance whilst the balcony servicing Unit 311 encroaches 4 metres into the separation distance. In this regard, it is recommended that opaque glazing be incorporated onto the eastern elevation of the balconies in addition to the provision of highlight windows to the eastern elevation of Units 310 and 311. The setback to the boundary in this instance is considered to be satisfactory given that the recommended privacy measures. Furthermore, it is noted that the setback to the eastern boundary was envisaged as part of the preceding Planning Proposal.

Nevertheless, the separation
<table>
<thead>
<tr>
<th>Concern is raised that the development is out of character with the area and that the buildings are too high.</th>
<th>The proposed development is compliant with the maximum building height of RL 143.2 as prescribed by the LEP. Further, the emerging significance of Norwest as a major employment area (Specialised Precinct) within the global economic corridor is recognised in the North West Rail Link Corridor Structure Plan. In fact the Structure Plan for Norwest flags the possibility of buildings up to 30 storeys on the “Station Precinct” located on the southern side of Norwest Boulevard in close proximity to the future railway station. To the immediate north of the site and located further from Norwest Station is the East Norwest Residential Precinct which has development consent for a residential flat building up to 12 storeys in height. A development of 20 storeys on the subject site would therefore not be inconsistent with the vision for the surrounding area.</th>
<th>Issue addressed.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Concern is raised that the proposed development is predominately residential and will compromise employment opportunities in the Norwest Business Park.</td>
<td>The proposed development is consistent with the strategic and statutory planning framework envisaged for the site. The site is zoned B2 Local Centre and SP2 Infrastructure (Drainage). The proposed development is permissible with consent. It is also noted that Clause 7.10 of the LEP prescribes a minimum commercial gross floor area of 6,000m² for the subject site. The proposed development complies with this provision and accommodates 6,056m² of commercial gross floor area.</td>
<td>Issue addressed.</td>
</tr>
<tr>
<td>Concern is raised that the proposed development exceeds the maximum floor space ratio standard. Council adopted a higher</td>
<td>The proposed development comprises a floor space ratio of 2.536:1 which exceeds the development standard of 2.42:1 by 4.8%. It is noted that during the</td>
<td>Issue addressed.</td>
</tr>
</tbody>
</table>
density for the site and supported a floor space ratio of 2.42:1. The proposed development has a floor space ratio of 2.66:1 which is inconsistent with the floor space ratio Council deemed to be acceptable for the site.

The development should comply with the commercial requirement of 6,000m² and ensure the residential component complies with the maximum floor space ratio of 2.42:1.

course of assessment, the applicant reduced the floor space ratio of the development from 2.66:1 resulting in the reduction of 1,502 square metres of gross floor area which represents a reduction of 20 units. The reduction in gross floor area is attributed to the reduction in massing to the eastern side of Building B.

The applicant has provided a Clause 4.6 variation to the development standard for floor space ratio. The Clause 4.6 variation sets out a merit based justification to support a departure to the development standard. In this instance, the proposed development fully complies with the maximum building height and the site-specific building setbacks. The variation to floor space ratio will not result in a building form that is excessive in scale. Furthermore, the proposed development will not result in undue environmental impact with respect to amenity impacts such as privacy and overshadowing.

It is also noted that the proposed development complies with the minimum commercial gross floor area as required by Clause 7.10 of the LEP.

The applicant has adequately demonstrated that the proposed development is in the public interest and is consistent with the objectives of Clause 4.4 'Floor Space Ratio' and the B2 Local Centre and SP2 Infrastructure zone. In this regard, the variation to floor space ratio will not create a building of excessive height, bulk or scale nor will it cause undue impacts upon the amenity of adjoining residential properties. A variation to the floor space ratio in this instance is considered to be satisfactory given that the application of the development standard in this instance is considered to be both unreasonable and unnecessary. In this regard, the variation can be supported.
<table>
<thead>
<tr>
<th>Concern raised</th>
<th>Proposed parking provision</th>
<th>Issue addressed</th>
</tr>
</thead>
<tbody>
<tr>
<td>Parking provision of 363 car parking spaces for 267 units is inadequate.</td>
<td>The proposed parking provision complies with the rate for one bedroom and three bedroom units. The rate of 1.5 car spaces for two bedroom units has been reduced to 1 car space. It is noted however that at least 1 car parking space will be provided for each unit. The proposed development provides 359 car parking spaces for 247 units. The site is located in the Norwest Business Park in close proximity to Norwest Station currently under construction and will be highly accessible to future public transport links. The variation to the car parking provision is considered to be satisfactory and will indirectly discourage vehicular dependency which is consistent with planning principles established for transit-orientated developments. It is anticipated that residents of the development would take advantage of transport links to commute to places of employment or other destinations. The proposed development includes commercial uses which will accommodate residents of the proposed development. The site is also located within close proximity to Norwest Marketown and will provide an opportunity for residents to walk to shopping destinations in addition to places of employment within the business park. Furthermore, it is noted that the proposed parking provision for the residential component complies with the requirements of SEPP 65 and the Apartment Design Guide.</td>
<td></td>
</tr>
<tr>
<td>Existing infrastructure such as sewer, water and power will not be able to accommodate the proposed development.</td>
<td>A condition of consent will be recommended to ensure that the applicant consults with relevant service authorities. However it is noted that the Development Application was referred to Sydney Water for review. No objections were raised</td>
<td>Issue addressed.</td>
</tr>
</tbody>
</table>
with regard to capacity and servicing of the proposed development.

<table>
<thead>
<tr>
<th>Concern is raised that the proposed development does not meet Council’s apartment size standards.</th>
<th>The proposed development will not comply with the apartment sizes specified in the DCP. However, the proposed development will comply with the apartment sizes as required by SEPP 65. The apartments are satisfactory with regard to the minimum unit sizes required by SEPP 65 and are designed to take advantage of views, solar access and cross ventilation. Additionally, a large proportion of units comprise a balcony area that exceeds the minimum area requirement of the ADG. The varied apartment designs will allow a range of choice for future residents and will provide housing within close proximity to employment generating uses within the business park. The apartment configuration and room dimensions are considered to provide for a high level of residential amenity. At least 70% of units achieve in excess of 2 hours solar access to living areas and balconies on 21 June. With respect to ventilation, 60% of units are cross ventilated given their aspect and elevation. Furthermore the site exhibits the characteristics of a transit orientated development which typically includes a greater density of housing with a variety of sizes and configurations. Given the context of the site within the Norwest Business Park, the proposed apartment sizes and mix is considered satisfactory.</th>
<th>Issue addressed.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Concern is raised that six units will not comply with the private open space area of 10m²,</td>
<td>The DCP requires units to provide an outdoor private open space area of 10m². The proposed development will provide private open space areas of 8m². The private open space areas comply with the requirements of</td>
<td>Issue addressed.</td>
</tr>
</tbody>
</table>
the Apartment Design Guidelines which specify a minimum area of $8\text{m}^2$ for one bedroom units. Additionally, the proposed development provides for a high level of residential amenity with over 70% of private open space areas receiving 2 hours of solar access during mid-winter. Furthermore, the communal open space area provides for both passive and recreational activities. In this regard, a variation is considered to be satisfactory.

<table>
<thead>
<tr>
<th>Issue addressed.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Concern is raised in relation to the non-compliance with site coverage. The maximum site coverage is 50%. The proposed development has a site coverage of 57.8% and does not comply.</td>
</tr>
<tr>
<td>The proposed development provides a high quality landscaped area that will enhance the interface and space adjacent to Norwest Lake. In addition, the proposed development will provide a through site link which will provide the public with access to Norwest Marketplace and to the future train station. Further, the landscaping area proposed is strategically located to screen the lower section of the podium and to embellish the areas adjacent to Norwest Lake. The proposed variation to site coverage is considered satisfactory in this instance.</td>
</tr>
</tbody>
</table>

2. **Internal Referral Comments**

**Subdivision Engineering Comments**

The Development Application was referred to Council’s Subdivision Coordinator to review the design of car parking, vehicular access points, stormwater management and stratum subdivision. No objections were raised to the proposed development subject to conditions of consent.

**Traffic Management Comments**

The Development Application was referred to Council’s Traffic Engineer to review traffic generation and the capacity of the facilitating road network. No objections were raised to the proposed development.

**Landscape and Tree Management Comments**

The Development Application was referred to Council’s Landscape Assessment Officer to review tree removal and landscaping. No objections were raised subject to conditions of consent.
Environment and Health Comments

The Development Application was referred to Council’s Environmental Health Coordinator to review land contamination and acoustic design. No objections were raised to the proposed development subject to conditions of consent.

Resource Recovery Comments

The Development Application was referred to Council’s Resource Recovery Officer to review waste management. No objections were raised to the proposed development subject to conditions of consent.

Land Information Services Comments

The Development Application was referred to Council’s Land Information Officer to review house numbering. No objections were raised subject to conditions of consent.

3. External Referral Comments

NSW Police Comments

The proposal was referred to The Hills Local Area Command, NSW Police in accordance with the requirements of “Safer by Design Guidelines” prepared by the NSW Police in conjunction with the Department of Planning and the memorandum of understanding between the Hills Shire Council and The Hills Local Area Command, NSW Police.

Comments and recommendations from the NSW Police form part of the conditions of consent.

NSW Department of Primary Industries – Water

The proposal is defined as 'Nominated Integrated Development' under the provisions of Section 91 of the Environmental Planning and Assessment Act, 1979. General Terms of Approval dated have been received from the NSW Department of Primary Industries – Water under the provisions of the Water Management Act 2000.

NSW Roads and Maritime Service Comments

The proposal is categorised as traffic generating development pursuant to Schedule 3 of the SEPP. The SEPP requires development to be referred to the NSW Roads and Maritime Service where the development results in 200 or more vehicles with access to any road.

The NSW Roads and Maritime Service have reviewed the proposed development and have raised no objections.

Sydney Water

The Development Application was referred to Sydney Water to ensure that the proposed development can be adequately serviced by reticulated water and sewer. Sydney Water has reviewed the proposed development and raises no objections.

CONCLUSION

The Development Application has been assessed against the provisions of Section 79C of the Environmental Planning and Assessment Act, 1979, The Hills Local Environmental Plan 2012, The Hills Development Control Plan 2012, and State Environmental Planning Policy No. 65 – Design Quality of Residential Flat Development and is considered satisfactory.
The proposal will provide additional housing choice for residents of the Shire and will accommodate a diverse range of commercial uses within the Norwest Town Centre. The external and internal design of the apartment buildings is satisfactory and will result in an appropriate streetscape outcome for the future character of the area. The interface of the proposed development to Norwest Lake will promote a range of active and passive uses whilst allowing the public to traverse the site.

The proposal was advertised and notified to adjoining property owners for a period of 30 days and no submissions were received.

The proposal is recommended for approval subject to conditions.

**RECOMMENDATION**

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

**GENERAL MATTERS**

1. **Development in Accordance with Submitted Plans**

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

**REFERENCED PLANS AND DOCUMENTS**

<table>
<thead>
<tr>
<th>DRAWING NO.</th>
<th>DESCRIPTION</th>
<th>ISSUE</th>
<th>DATE</th>
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<td>Typical Residential Levels prepared by Turner</td>
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<tr>
<td>DA-110-022</td>
<td>Roof Level prepared by Turner</td>
<td>J</td>
<td>08/08/2016</td>
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</table>
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. 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.

3. 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 an
Accredited Certifier. Plans submitted with the Construction Certificate are to be amended
to incorporate the conditions of the Development Consent.

4. Compliance with NSW Department of Primary Industries – Water
Compliance with the requirements of the NSW Department of Primary Industries – Water
throughout all stages of the subdivision as outlined in their letter dated 5 May 2016 Ref
10 ERM2016/0217 attached to this consent as Appendix A.

5. Compliance with NSW Police Requirements
Compliance with the requirements of the NSW Police as outlined in their letter dated 18
April 2016 Ref D/2016/162565 as follows:

Surveillance

- During the construction phase security sensor lights be used and security guards
  are to monitor the site.
- Paint the basement white to reflect light.
- CCTV is required to be installed at entry/exit points to the carpark, within the
  basement carparking and common areas. Height stickers are also required on
  entry/exit doors.
- Vegetation is to be maintained at all times to allow natural surveillance and
  reduce opportunities for concealment.
Lighting and Technical Supervision

- Lighting is to be utilised within the site in accordance with Australian Standards.

Environmental Maintenance

- Materials chosen are to have regard to the potential for graffiti.

Access Control

- Fencing is required to be vertical style to stop unauthorised access, with spaces left between vertical elements to limit physical access.

- The ground floor units are required to have upgraded security measures, such as alarmed doors and windows, thickened glass and sensor lights.

- Signage is to be erected to ensure that people are aware they are entering private property. The signage is also required to include details of what security treatment has been implemented.

- Ensure that the section of the security roller shutter near the manual door release is solid, that garage shutter doors are strong and that good-quality locking mechanisms are used.

- Letterboxes and caged storage areas are to have good-quality locking mechanisms and be secure.

6. Compliance with Norwest Association Requirements

The development is required to comply with the requirements of Norwest Association as follows:

- The Applicant is to maintain safe pedestrian access at all times during construction of the Development within the Easement for Public Access between Solent Circuit and Lot 5072 in DP878258 (Norwest Marketown).

- All building services, plant and equipment are to be screened from view from any public street or place and comply with the requirements of Council.

- External seating for restaurant patrons is to be restricted so as to maintain a safe passageway of not less than 2 metres in width along the frontage of the restaurants and not less than 5 metres in width along the boardwalk adjacent to the restaurants for unencumbered pedestrian flow.

- An automated irrigation system is to be provided and used in all landscaped areas.

- On completion of the landscaping works, the Applicant is to provide certification by a suitably qualified landscape architect that the landscaping as installed fully satisfies the design intent of the approved landscape concept and complies with the approved landscape plans.

- The party responsible for maintenance of common property in the Development is to maintain the landscaping with particular attention being given to the maintenance of perimeter landscaping, and in the absence of satisfactory maintenance, the party responsible for maintenance of common property in the Development authorises Norwest Association Limited and its agents to enter the property to carry out such maintenance works and draw down at the cost of the party responsible for maintenance of such common property as required.

- The Applicant is required to reinstate any works, infrastructure, paving or landscaping adjoining to the boundary of the Property disturbed during the construction phase.
7. Provision of Parking Spaces
The development is required to be provided with 646 off-street car parking spaces with a composition of 387 residential spaces and 259 commercial car parking spaces. These car parking spaces shall be available for off street parking at all times.

8. Dual Use Parking Spaces and Compliance with Carpark Management Report
The 176 car parking spaces located on the basement level car park and dedicated to parking for the office component on Levels 1-3 are to be freely available after 6:30pm to midnight on weeknights and on weekends for restaurant and retail patrons. This arrangement is to be carried out in accordance with the traffic report by TDG and the carpark management report prepared by InterPark.

9. 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.

10. Separate Development Application for Occupations
A separate development application is required for the occupation of the ground floor commercial tenancies. This application is required to provide assessment against:

- The Hills Local Environmental Plan 2012; and
- The Hills Development Control Plan 2012.

The above assessment should specifically address the following:

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

11. Privacy Treatment
The following privacy measures are to be adopted:

- A privacy screen is to be erected for the full height of the balconies on the eastern elevation for units 405, 506-1606, 1704 and 1804 as shown in red amendments on the approved plans referenced in Condition No. 1.

- Opaque or obscure glazing is to be incorporated for the full height of the eastern elevation of the balconies servicing units 111, 211 and 311 as shown in red amendments on the approved plans referenced in Condition No. 1.

- Highlight windows with a minimum sill height of 1.5 metres or opaque glazing to a height of 1.5 metres from finished floor level is to be erected for the full length of the eastern elevation of Unit 311 as shown in red amendments on the approved plans referenced in Condition No. 1.

Amended plans detailing the above measures are to be submitted to the satisfaction of Council’s Manager Development Assessment prior to the issue of the Construction Certificate.

12. Compliance with Access Review
The recommendations contained within Access Review prepared by Morris Goding Accessibility Consultants and dated 25 February 2016 are to be incorporated into the design of the development.
13. Compliance with Pedestrian Wind Environment Statement
The recommendations contained within the Pedestrian Wind Environment Statement prepared by Windtech and dated 9 February 2016 and supplementary statement dated 10 August 2016 are to be incorporated into the design of the development.

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

15. Property Numbering for Integrated Housing, Multi Unit Housing, Commercial Developments and Industrial Developments

The responsibility for property numbering is vested solely in Council.
The property address for this development is: **11 Solent Circuit Baulkham Hills 2153**

Unit Numbering is as per plans submitted – Revision K
Basement Levels- Carpark

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<thead>
<tr>
<th>Levels</th>
<th>Building A</th>
<th>Building B</th>
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<tr>
<td>Ground</td>
<td>Commencing at G01</td>
<td>Carpark</td>
</tr>
<tr>
<td>1st</td>
<td>101-112</td>
<td>Carpark</td>
</tr>
<tr>
<td>2nd</td>
<td>201-212</td>
<td>213 &amp; Carpark</td>
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<tr>
<td>3rd</td>
<td>301-312</td>
<td>313-319</td>
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<tr>
<td>4th</td>
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<td>18th</td>
<td>1801-1806</td>
<td>1807-1810</td>
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Unit numbering cannot be repeated throughout the development
These numbers, unless otherwise approved by Council in writing, are to be displayed clearly on all door entrances.

Clear and accurate external directional signage is to be erected on site at driveway entry points and on buildings. Unit numbering signage is also required on stairway access doors and lift/lobby entry doors. It is essential that all numbering signage throughout the complex is clear to assist emergency service providers locate a destination with ease and speed.

16. Acoustic Requirements
The recommendations of the Acoustic Assessment and Report prepared by Acoustic Logic Consultancy Pty Ltd, referenced as 20150907.1/2001A/R2/BW, dated 20 January 2016 and submitted as part of the Development Application are to be implemented as part of this approval. In particular:

- Section 6.1 Table 7 Glazing Construction Requirements.
- Section 6.2 Roof/Ceiling Construction
- Section 6.3 External Walls
- Section 7.3 Recommendations
17. Contamination Assessment Recommendations
The recommendations of the Preliminary Contamination Assessment prepared by Douglas Partners, dated 30 September 2016 and submitted as part of the Development Application are to be implemented as part of this approval.

18. 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.

19. Planning Agreement
The obligations in the Planning Agreement between The Hills Shire Council and Hills Christian Life Centre Limited and Capital Corporation (Waterside) Pty Ltd, dated July 2015, signed 11 August 2015 (Planning Agreement), must be performed in accordance with the terms of the Planning Agreement including, but no limited to, the payment of monetary contributions identified in Schedule 1 of the Planning Agreement.

20. Adherence to Operational Waste Management Plan
All requirements of the Operational Waste Management Plan submitted as part of the Development Application must be implemented during construction (design of facilities) and operation of the development, except where amended by other conditions of consent.

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

22. Management of Construction and 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. 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.

23. 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 onsite. 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.

24. Commencement of Domestic Waste Service
The property owner or agent acting for the owner must arrange the commencement of a domestic waste service with Council. This applies to the collection of waste and recycling from the residential units. The service must be arranged prior to occupancy of the development and no sooner than two weeks prior to occupancy. All servicing instructions from Council must be complied with at all times. Please telephone Council on (02) 9843 0310 for the commencement of waste services.

25. Commencement of Commercial Waste Service
The property owner must ensure that there is a contract with a licensed contractor for the removal of all waste generated on site. This applies to the collection of waste and recycling from commercial and retail units. Written evidence of valid and current collection 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.

26. Construction of Separate Waste Storage Areas
The buildings must incorporate separate waste storage areas constructed in accordance with the specifications below, to facilitate the separation of commercial waste and recycling from residential waste and recycling. The residential garbage holding room must have minimum storage provision for 15 x 1100L garbage bins and 25 x 660L recycling bins. All waste storage areas must be designed and constructed in accordance with the following requirements:

1. The areas must be of adequate size to comfortably store and manoeuvre the minimum required number of bins.
2. The layout of the areas must ensure that each bin is easily accessible and maneuverable in and out of the area with minimal or no manual handling of other bins.
3. The walls of the areas must be constructed of brickwork.
4. The floor of the areas must be constructed of concrete with a smooth non-slip finish, graded and drained to sewer.
5. The 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.
6. The areas must have a suitable resident access door, which allows wheelchair access for adaptable sites. Suitable resident access doors are single or double swinging doors. The resident access door should be outside of the truck loading bay area.
7. All doors of the areas, when fully opened, must be flush with the outside wall and must not block or obstruct vehicle access or footways. All doors must be able to be fixed in position when fully opened.
8. The areas must be adequately ventilated (mechanically). Ventilation should not be connected to the same ventilation system supplying air to the units.
9. The areas must be provided with a hose tap, connected to a water supply, to facilitate bin washing. If the tap is located inside the areas, it is not to conflict with the space designated for the placement of bins.
10. The areas must be provided with an internal light (artificial).
11. The maximum grade acceptable for moving bins for collection purposes is 7% (5% for 660L and 1100L bins). Under no circumstance are these grades to be exceeded. They are to allow safe maneuvering and servicing of the full bins by waste collection operators.

12. The areas must have appropriate signage, provided by Council, mounted in a visible location on an internal wall and is to be maintained by the Owners Corporation.

13. Finishes and colours of the areas must complement the design of the development

27. Residential Garbage Chute System
A dual chute system enabling chute disposal of both garbage and recycling must be provided in each building with openings on every residential floor. The chutes must terminate in a waste storage room. Garbage must discharge into 1100L bins placed on a linear track conveyor fitted with a compactor set at 2:1 compaction. Recycling must discharge into 660L bins placed on a linear track conveyor with no compaction. No changes are permitted without the previous written approval of Council.

28. Residential Bulky Goods Area
A separate room or caged area must be allocated in close proximity to the waste loading area for the interim storage and management of unwanted bulky goods. The minimum floor area shall be 20 cubic metres. A similar space should also be allocated for retail and commercial units.

29. Tree Removal
Approval is granted for the removal of forty (40) trees as shown in on the Existing Tree Plan prepared by Scape Design and recommended in the Arboricultural Impact Assessment prepared by Urban Tree Management, dated 07/12/12.

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.

30. Planting Requirements
Tree species Archontophoenix alexandreae (Alexander Palm) is on Council’s exempt trees list. As such they are to be substituted with an alternative appropriate palm or tree fern species that isn’t on Council’s list of exempt tree species.

31. Retention of Trees
All trees not specifically identified for removal on the Existing Tree Plan prepared by Scape Design are to be retained and protected in accordance to Council’s Protection of Existing Trees condition.

32. Parking Spaces – Access/ Dual Use
The residential and residential visitor spaces are located on levels one to three. The commercial spaces are located in the basement and the ground floor commercial spaces (retail/ restaurants) are located on the ground floor. With respect to this arrangement the following specific requirements apply in addition to the information provided with the traffic report by TDG and the carpark management report prepared by InterPark and submitted with the development application:

- The security point obstructing access to the basement from the ground floor needs to be open from 6:30pm onwards so that the basement is open/ available for the exclusive use of the ground floor commercial uses (retail/ restaurants).

- Access from the ground floor to the residential visitor spaces on level one must be available at all times. The design, configuration and use of the security point at the top of the ramp leading to level one from the ground floor needs to provide for this.
33. 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.

34. 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.

35. Water Sensitive Urban Design Handover Process
An operations and maintenance plan must be prepared for all WSUD proposals. The operations and maintenance plan must include:

- The location and type of each WSUD element, including details of its operation and design;
- A brief description of the catchment characteristics, such as land uses, areas etc;
- Estimated pollutant types, loads and indicative sources;
- Intended maintenance responsibility, Council, landowner etc;
- Inspection method and estimated frequency;
- Adopted design cleaning/ maintenance frequency;
- Estimate life-cycle costs;
- Site access details, including confirmation of legal access, access limitations etc;
- Access details for WSUD measure, such as covers, locks, traffic control requirements etc;
- Description of optimum cleaning method and alternatives, including equipment and personnel requirements;
- Landscape and weed control requirements, noting that intensive initial planting is required upfront to reduce the requirement for active weed removal;
- A work method statement;
- A standard inspection and cleaning form.

For the purposes of complying with the above a WSUD treatment system is considered to include all functional elements of the system as well as any landscaped areas directly surrounding the system.

36. 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.

37. Approved Subdivision Plan
The stratum subdivision of the approved building into three lots is included as part of this consent. The subdivision component of the development must be carried out in accordance with the approved plan of subdivision prepared by JBW Drawing 124913/DA-
STRATUMSUBD Sheets 1 to 8 dated 11/02/2016 subject to the following amendments/requirements:

- The subdivision plan must be amended to reflect the approved architectural plans, noting that an amended subdivision plan did not accompany the amended architectural plans.
- Lot 1 relates to the ground floor commercial uses (retail/restaurant) and the parking spaces associated with those uses on the ground floor.
- Lot 2 relates to the remainder of the commercial areas and the associated parking spaces in the basement level.
- Lot 3 relates to the residential areas and the associated parking spaces on levels one, two and three.
- The actual split between the parking spaces and their lots needs to be detailed on the final plan.
- The final plan needs to make allowance for the fact the basement parking level that forms part of lot two is to be made available for use by the ground floor commercial uses (retail/restaurant), as required by this consent.
- A building (or strata) management statement must accompany the final plan.

38. 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. With respect to the latter, this consent does not allocate parking spaces to each individual dwelling/residential unit/commercial tenancy. This requires separate approval as per SEPP (Exempt and Complying Development Codes) 2008.

39. Protection of Public Infrastructure

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.

40. 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.

Specifically, there are two existing easements across the front of the property shown on the approved subdivision plan and submitted survey plan that need to be considered.

41. 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:

- 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.

- All driveways and car parking areas must be graded, collected and drained by pits and pipes to a suitable point of legal discharge.

**42. Gutter and Footpath Crossing Application**

Each driveway requires the lodgement of a separate gutter and footpath crossing application, accompanied by the applicable fee as per Council’s Schedule of Fees and Charges.

**43. 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 on existing public roads or any other land under the care and control of Council must be approved and inspected by Council in accordance with the Roads Act 1993 or the Local Government Act 1993. A separate minor engineering works application and inspection fee is payable as per Council’s Schedule of Fees and Charges.

**a) Driveway Requirements**

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

The two proposed driveways must be built to Council’s heavy duty standard.

A separate driveway application fee is payable as per Council’s Schedule of Fees and Charges.

**b) Disused Layback/ Driveway Removal**

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

**c) Concrete Footpath/ Paving**

The existing 2.5 wide paved footpath (or a similar alternative treatment approved in writing by Council’s Manager – Subdivision and Development Certification) in Solent Circuit fronting the site, including access ramps at all intersections, must be maintained during construction and replaced or altered where the finished levels adjacent are varied as part of the approved works.

**d) Site Stormwater Drainage**

The entire site area must be graded, collected and drained by pits and pipes to a suitable point of legal discharge.

**44. 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 sustain 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 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.

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

45. Finished Floor Level – Flooding
The finished floor level (or levels) of the structure must reflect the approved plans and are to be no lower than RL 76.3 AHD.

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

PRIOR TO THE ISSUE OF A CONSTRUCTION CERTIFICATE

47. Erosion & Sediment Control Plan
Submission of an Erosion and Sediment Control Plan to the Principal Certifying Authority, including details of:

a) Allotment boundaries
b) Location of the adjoining roads
c) Contours
d) Existing vegetation
e) Existing site drainage
f) Critical natural areas
g) Location of stockpiles
h) Erosion control practices
i) Sediment control practices
j) Outline of a maintenance program for the erosion and sediment controls

(NOTE: For guidance on the preparation of the Plan refer to ‘Managing Urban Stormwater Soils & Construction’ produced by the NSW Department of Housing).

48. Additional Acoustic Assessment
As the plant and equipment selections were not available at the time of the development approval an additional acoustic assessment is required to be submitted to the certifying authority. The assessment is to consider noise impacts and noise attenuation for the plant and equipment including the ventilation system for the building and underground
carparks, pool pumps and potential locations and noise attenuation methods for future commercial kitchen exhausts. The assessment is to be based on the recommendations and the Plant Noise Objectives of the initial acoustic report prepared by Acoustic Logic Consultancy Pty Ltd.

49. Internal Pavement Structural Design Certification
Prior to a Construction Certificate being issued, a Certified Practicing 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 heavy rigid waste collection vehicle (i.e. 28 tonne gross vehicle mass) from the boundary to the waste collection point including any manoeuvring areas.

50. 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.

51. Sediment and Erosion Control Plan
A sediment and erosion control plan prepared in accordance with Council’s Works Specification Subdivision/Developments must be submitted. The plan must include:
- Lot boundaries;
- Roads;
- Contours;
- Existing vegetation;
- Existing site drainage;
- Critical natural areas;
- Location of stockpiles;
- Erosion control practices;
- Sediment control practices; and
- A maintenance program.

52. 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 is issued.

53. 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 is issued.
54. Security Bond – Road Pavement and Public Asset Protection
In accordance with Section 80A(6)(a) of the Environmental Planning and Assessment Act 1979, a security bond of $198,900.00 is required to be submitted to Council to guarantee the protection of the road pavement and other public assets in the vicinity of the site during construction works. The above amount is calculated at the rate of $85.00 per square metre based on the road frontage of the subject site plus an additional 50m on either side (180m) multiplied by the width of the road carriageway (accounting for the landscaped median) (13m).

The bond must be lodged with Council before a Construction Certificate is issued. The bond is refundable upon written application to Council and is subject to all work being restored to Council’s satisfaction. Should the cost of restoring any damage exceed the value of the bond, Council will undertake the works and issue an invoice for the recovery of these costs.

55. Engineering Works and Design
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” as categorised below:

1. Works within an existing or proposed public road, or works within an existing or proposed public reserve. These works can only be approved, inspected and certified by Council in accordance with the Roads Act 1993 and the Local Government Act 1993 respectively.

2. Works within the development site, or an adjoining private property, that relates to existing or proposed Council infrastructure assets, such as the laying of a stormwater pipeline or the formation of an overland flow path within a public drainage easement. These works can only be approved, inspected and certified by Council because Council will have an ongoing risk exposure and management/ maintenance liability with respect to these assets once completed. A “compliance certificate” as per Section 109(1)(a)(ii) of the Environmental Planning and Assessment Act 1979 can be issued certifying that the detailed design for these works complies with the requirements listed and the above documents. This “compliance certificate” can be issued by Council’s Manager – Subdivision and Development Certification and not a private certifier, as discussed. Once approved, the works must be carried out under the supervision of Council’s Construction Engineer in accordance with the terms attached to the issued “compliance certificate”. Post construction, a further “compliance certificate” as per Section 109(1)(a)(i) of the Environmental Planning and Assessment Act 1979 can be issued certifying that the as-built infrastructure and associated works have been carried out to the satisfaction of Council’s Construction Engineer. Alternatively, these works can be incorporated into any construction approval granted under category (1) above.

3. Works within the development site, or adjoining private properties, that do not relate to existing or proposed Council infrastructure assets, such as water sensitive urban design elements or inter-allotment drainage pipelines. Such works can be approved, inspected and certified by either Council or a private certifier, so long as the private certifier is accredited to do so. This certification must be included with the documentation approved as part of any Construction Certificate. The designer of the engineering works must be qualified, experienced and have speciality knowledge in the relevant field of work.

The following engineering works are required:
a) Onsite Stormwater Detention – Norwest Business Park

Onsite Stormwater Detention (OSD) is required in accordance with Council’s adopted policy for the Hawkesbury River catchment area, the Upper Parramatta River Catchment Trust OSD Handbook, with amended parameters accounting for the detention function provided for the existing lake/basin adjacent to the subject site.

The stormwater concept plan prepared by van der Meer Consulting dated 27/07/2016 is for development application purposes only and is not to be used for construction. The detailed design must reflect the approved concept plan and the following necessary changes:

- The design needs to be updated to reflect the amended/stamped approved architectural plans.
- The volume of the OSD tank must be 35m³ minimum.
- The volume of the rainwater reuse tank is 20,000 litres minimum.
- The orifice needs to be sized so that the full volume cited above is in use during the design 1:100 year storm.
- All works are to be clear of the existing drainage easements shown on the approved concept plan.
- The design must include the non-return valve to stop the basement from flooding.

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.

b) Water Sensitive Urban Design Elements

Water sensitive urban design elements, consisting of a rainwater reuse tank, pit inserts (except within street drainage pits) and seven SPEL filters (or an approved equivalent) within the OSD tank, 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.

These elements must be designed and constructed in accordance with best practice water sensitive urban design techniques and guidelines. Such guidelines include, but are not limited to:

PRIOR TO WORK COMMENCING ON THE SITE

56. 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 address the management, treatment and disposal of water which may collect in uncovered excavations. Water polluted with greater than 50mg/L of suspended solids must not be discharged to the stormwater system or any body of water.

57. 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 from the site 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 (of an area more than 10 square metres) must only be undertaken by a licenced asbestos removalist who is licenced to carry out the work. 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. Asbestos removal must be carried out in accordance with the WorkCover, 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.

58. Protection of Existing Trees
The trees that are to be retained are to be protected during all works strictly in accordance with AS4970-2009 Protection of Trees on Development Sites.

At a minimum a 1.8m high chain-wire fence is to be erected at least three (3) metres from the base of each tree and is to be in place prior to works commencing to restrict the following occurring:

- Stockpiling of materials within the root protection zone,
- Placement of fill within the root protection zone,
- Parking of vehicles within the root protection zone,
- Compaction of soil within the root protection zone.

All areas within the root protection zone are to be mulched with composted leaf mulch to a depth of not less than 100mm.

A sign is to be erected indicating the trees are protected.

The installation of services within the root protection zone is not to be undertaken without prior consent from Council.

59. 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.

60. Separate OSD Detailed Design Approval
No work is to commence until a detailed design for the OSD system has been approved by either Council or an accredited certifier.

61. Public Infrastructure Inventory Report
A public infrastructure inventory 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. 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 receipt from Sydney Water Tap in™ must be submitted to the Principal Certifying Authority 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.

63. 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.

Unimpeded access must be available to the electricity supply authority, during and after building, to the electricity meters and metering equipment.

The building plans must be submitted to the appropriate Sydney Water office to determine whether the development will affect Sydney Water’s sewer and water mains, stormwater drains and/or easements. If the development complies with Sydney Water’s requirements, the building plans will be stamped indicating that no further requirements are necessary.

64. Principal Certifying Authority
A sign is to be erected in accordance with Clause 98 A (2) of the Environmental Planning and Assessment Regulations 2000.

65. 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.

66. 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).

67. Builder and PCA Details Required
Notification in writing of the builder’s name, address, telephone and fax numbers to be submitted to the Principal Certifying Authority prior to work commencing.
Two days before work commences, Council shall be notified of the Principal Certifying Authority in accordance with the Regulations.

**DURING CONSTRUCTION**

**68. Hours of Work**
Work on the project to be limited to the following hours:
- Monday to Saturday - 7.00am to 6.00pm;
- 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. Council will exercise its powers under the Protection of the Environment Operations Act, in the event that the building operations cause noise to emanate from the property on Sunday or Public Holidays or otherwise than between the hours detailed above.

**69. Further contamination assessment**
A contamination assessment of the soils shall be carried out in areas that were inaccessible at the time of the initial contamination assessment. A copy of the assessment shall be submitted to Council’s Manager – Environment & Health.

**70. 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.

**71. 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). A construction noise management plan shall be developed and made available in the event of complaints of excessive noise.

**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:
- 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.

**73. Survey Report**
Survey Certificate to be submitted to the Principal Certifying Authority at footings and/or formwork stage. The certificate shall indicate the location of the building in relation to all boundaries, and shall confirm the floor level prior to any work proceeding on the building.

**74. Compliance with BASIX Certificate**
Under clause 97A of the Environmental Planning and Assessment Regulation 2000, it is a condition of this Development Consent that all commitments listed in BASIX Certificate
No. 658108M_03 are to be complied with. Any subsequent version of this BASIX Certificate will supersede all previous versions of the certificate.

A Section 96 Application may be required should the subsequent version of this BASIX Certificate necessitate design changes to the development. However, a Section 96 Application will be required for a BASIX Certificate with a new number.

75. Compliance with Critical Stage Inspections and Other Inspections Nominated by the Principal Certifying Authority

Section 109E(3)(d) of the Act requires certain specific inspections (prescribed by Clause 162A of the Regulations) and known as “Critical Stage Inspections” to be carried out for building work. Prior to permitting commencement of the work, your Principal Certifying Authority is required to give notice of these inspections pursuant to Clause 103A of the Regulations.

N.B. An Occupation Certificate cannot be issued and the building may not be able to be used or occupied where any mandatory critical stage inspections or other inspections required by the Principal Certifying Authority are not carried out.

Where Council is nominated as Principal Certifying Authority, notification of all inspections required is provided with the Construction Certificate approval.

NOTE: You are advised that inspections may only be carried out by the PCA unless by prior agreement of the PCA and subject to that person being an accredited certifier.

76. Landscaping Works

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

PRIOR TO ISSUE OF AN OCCUPATION AND/OR SUBDIVISION CERTIFICATE

77. Compliance with NSW Department of Primary Industries – Water Requirements

A letter from the NSW Department of Primary Industries – Water must be submitted confirming that all works associated with the Controlled Activity Authority have been completed to their satisfaction.

78. Planning Agreement

Pursuant to Section 80A(1) of the Environmental Planning and Assessment Act 1979, the obligations in the Planning Agreement between The Hills Shire Council and Hills Christian Life Centre Limited and Capital Corporation (Waterside) Pty Ltd must be performed in accordance with the terms of the Planning Agreement. This includes, but is not limited to, the payment of monetary contributions in accordance with the Planning Agreement, valued at $3,130,000.00 (indexed in accordance with the Planning Agreement) for the first 240 units, as well as an additional amount of $13,041.67 (indexed in accordance with the Planning Agreement) for the additional 27 units proposed in excess of 240 units.

79. Internal Pavement Construction

Prior to an 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 loaded heavy rigid waste collection vehicle.

80. Final Inspection of Waste Storage Areas

Prior to an Occupation Certificate being issued, a final inspection of the waste storage areas and management facilities must be undertaken by Council. This is to ensure compliance with design specifications specified in other conditions of this consent and that necessary arrangements are in place for waste collection by Council. Please telephone Council on (02) 9843 0310 to arrange this inspection.
NOTE: The garbage chute systems must be fully operational at the time of the inspection.

81. Agreement for Onsite Waste Collection
Prior to an Occupation Certificate being issued, an Indemnity Agreement is to be obtained from Council, completed, signed and returned to Council for approval. This is to enable Council and its contractor to enter onto private property with its collection vehicles to enable it to collect waste and recyclables.

82. Landscaping Prior to Issue of Occupation Certificate
Landscaping of the site shall be carried out prior to issue of the Final Occupation Certificate (within each stage if applicable) in accordance with the Landscape Plans prepared by Scape Design. All landscaping is to be maintained at all times in accordance with THDCP Part C, Section 3 – Landscaping and the approved landscape plan.

83. 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.

84. 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.

85. Provision of Telecommunication Services
Submission of a telecommunications infrastructure provisioning confirmation certificate issued by the relevant telecommunications provider authorised under the Telecommunications Act, or a design compliance certificate and an as-built compliance certificate from the company engaged to design and construct the pit and pipe infrastructure, confirming satisfactory arrangements have been made for the provision, or relocation, of telecommunication services including telecommunications cables and associated infrastructure. This must include the under-grounding of the existing telecommunication 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.

86. 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 (GDA 1994 MGA94 Zone56).

87. Amendment of Existing Easement
The existing easement for public access must be amended to reflect the approved building extent. As 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.
88. Building Adjacent to Proposed Boundary
Where any part of an existing/partially constructed building is located within 2m of a proposed boundary the location of such must be determined by a registered surveyor and shown on the final plan.

89. 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.

90. 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) Easement – Right of Access/ Easement for Services
A right of access/easement for services must be created over the three stratum lots to address access through separate lots and to provide for the shared use of infrastructure (such as parking) as required by this consent. These types of matters must be addressed via a combination of the final plan, the implied easements created via stratum subdivision and the building (or strata) management plan.

b) Restriction – Flood Planning Level
All three lots must be burdened with a restriction that refers to the flood information submitted with the development application using the “flood planning level” terms included in the standard recitals.

c) Restriction – Bedroom Numbers
Lot 3 must be burdened with a restriction using the “bedroom numbers” terms included in the standard recitals.

d) Covenant – Onsite Waste Collection
All three lots must be burdened with a positive covenant relating to onsite waste collection using the “onsite waste collection” terms included in the standard recitals.

e) Restriction/ Covenant – Onsite Stormwater Detention
All three lots must be burdened with a restriction and a positive covenant using the “onsite stormwater detention systems” terms included in the standard recitals.

f) Restriction/ Covenant – Water Sensitive Urban Design
All three lots 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.

g) Covenant – Parking Spaces – Access/ Dual Use
All three lots must be burdened with a positive covenant relating to the shared use of parking spaces throughout the development along with access to the same, as per the information provided with the traffic report by TDG and the carpark management report prepared by InterPark and submitted with the development application and the condition titled “Parking Spaces – Access/ Dual Use” included earlier.

91. 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.

92. Public Infrastructure Inventory Report - Post Construction
Before an Occupation Certificate is issued, 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.
93. **OSD System Certification**
The Onsite Stormwater Detention (OSD) system must be completed to the satisfaction of the Principal Certifying Authority (PCA) prior to the issuing of an Occupation Certificate. The following documentation is required to be submitted upon completion of the OSD system and prior to a final inspection:

- Works as executed plans prepared on a copy of the approved plans;
- A certificate of hydraulic compliance (Form B.11) from a suitably qualified engineer or surveyor verifying that the constructed OSD system will function hydraulically;
- A certificate of structural adequacy from a suitably qualified structural engineer verifying that the structures associated with the constructed OSD system are structurally adequate and capable of withstanding all loads likely to be imposed on them during their lifetime.

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

94. **Water Sensitive Urban Design Certification**
An Occupation Certificate must not be issued prior to the completion of the WSUD elements conditioned earlier in this consent. The following documentation must be submitted in order to obtain an Occupation Certificate:

- WAE drawings and any required engineering certifications;
- Records of inspections;
- An approved operations and maintenance plan; and

- A certificate of structural adequacy from a suitably qualified structural engineer verifying that any structural element of the WSUD system are structurally adequate and capable of withstanding all loads likely to be imposed on them during their lifetime.

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

**THE USE OF THE SITE**

95. **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*.

96. **Operational hours for Property and Garden Maintenance**
The use of power tools for the maintenance of the grounds and buildings is restricted to within 7am and 8pm Monday to Saturday and 8am and 8pm Sunday and Public Holidays.

97. **Waste and Recycling Management**
To ensure the adequate storage and collection of waste from the occupation or use of the premises, all garbage and recyclable materials emanating from the premises must be stored in a designated waste storage area, which includes 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. Under no circumstances should waste storage containers be stored in locations that restrict access to any of the car parking spaces provided onsite.
98. Waste and Recycling Collection
All waste generated onsite 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.

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

The General Manager
The Hills Shire Council
PO Box 75
Castle Hill NSW 1785

Attention: James McBride

5 May 2016

Dear Sir/Madam,

Re: Integrated Development Referral – General Terms of Approval
Dev Ref: DA206/1395/JP

Description of proposed activity: Demolition & construction of mixed use buildings
16 & 19 storeys residential units and ground floor retail & 3 levels of commercial

Site location: 11-13 Solent Circuit Baulkham Hills

I refer to your recent letter regarding an integrated Development Application (DA)
proposed for the subject property. Attached, please find DPI Water’s (formerly the NSW
Office of Water) General Terms of Approval (GTA) for works requiring a controlled activity
approval under the Water Management Act 2000 (WM Act), as detailed in the subject DA.

Please note Council’s statutory obligations under section 91A (3) of the Environmental
Planning and Assessment Act 1979 (EPA Act) which requires a consent, granted by a
consent authority, to be consistent with the general terms of any approval proposed to be
granted by the approval body.

If the proposed development is approved by Council, DPI Water requests that these GTA
be included (in their entirety) in Council’s development consent. Please also note the
following:

- DPI Water should be notified if any plans or documents are amended and these
amendments significantly change the proposed development or result in additional
works on waterfront land (which includes (i) the bed of any river together with any
land within 40 metres inland of the highest bank of the river, or (ii) the bed of any
lake, together with any land within 40 metres of the shore of the lake, or (iii) the bed
of any estuary, together with any land within 40 metres inland of the mean high
water mark of the estuary).

- Once notified, DPI Water will ascertain if the amended plans require review or
variation/s to the GTA. This requirement applies even if the proposed works are part
of Council’s proposed consent conditions and do not appear in the original
documentation.
• DPI Water should be notified if Council receives an application to modify the development consent and the modifications change any activities on waterfront land.

• DPI Water requests notification of any legal challenge to the consent.

As the controlled activity to be carried out on waterfront land cannot commence before the applicant applies for and obtains a controlled activity approval, DPI Water recommends the following condition be included in the development consent:

“The Construction Certificate will not be issued over any part of the site requiring a controlled activity approval until a copy of the approval has been provided to Council”.

The attached GTA are not the controlled activity approval. The applicant must apply (to DPI Water) for a controlled activity approval after consent has been issued by Council and before the commencement of any work or activity on waterfront land.

Finalisation of a controlled activity approval can take up to eight (8) weeks from the date DPI Water receives all documentation (to its satisfaction). Applicants must complete and submit (to the undersigned) an application form for a controlled activity approval together with any required plans, documents, the appropriate fee and security deposit or bank guarantee (if required by the Office or Water) and proof of Council’s development consent.

Application forms for the controlled activity approval are available from the undersigned or from DPI Water’s website:
www.water.nsw.gov.au Water licensing Approvals Controlled activities

DPI Water requests that Council provide a copy of this letter to the applicant.

DPI Water also requests that Council provides DPI Water with a copy of the determination for this development application as required under section 91A (6) of the EPA Act.

Yours Sincerely

Gina Potter
Water Regulation Officer
Water Regulatory Operations, WR Operations - Hunter, Sydney & South Coast
NSW Department of Primary Industries – DPI Water
# General Terms of Approval

for work requiring a controlled activity approval under s91 of the *Water Management Act 2000*

<table>
<thead>
<tr>
<th>Number</th>
<th>Condition</th>
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<tbody>
<tr>
<td>Site Address:</td>
<td>11-13 Solent Circuit Baulkham Hills</td>
</tr>
<tr>
<td>DA Number:</td>
<td>DA206/1395/JP</td>
</tr>
<tr>
<td>LGA:</td>
<td>The Hills Shire Council</td>
</tr>
</tbody>
</table>

**Plans, standards and guidelines**

1. These General Terms of Approval (GTA) only apply to the controlled activities described in the plans and associated documentation relating to DA206/1395/JP and provided by Council:
   - Site plan, map and/or surveys
   - Any amendments or modifications to the proposed controlled activities may render these GTA invalid.
   - If the proposed controlled activities are amended or modified DPI Water (formerly the NSW Office of Water) must be notified to determine if any variations to these GTA will be required.

2. Prior to the commencement of any controlled activity (works) on waterfront land, the consent holder must obtain a Controlled Activity Approval (CAA) under the Water Management Act from DPI Water. Waterfront land for the purposes of this DA is land and material in or within 40 metres of the top of the bank or shore of the river identified.

3. The consent holder must prepare or commission the preparation of:
   - Erosion and Sediment Control Plan
   - Soil and Water Management Plan

4. N/A

5. The consent holder must (i) carry out any controlled activity in accordance with approved plans and (ii) construct and/or implement any controlled activity by or under the direct supervision of a suitably qualified professional and (iii) when required, provide a certificate of completion to DPI Water.

6. N/A

7. The consent holder must reestablish waterfront land affected by the carrying out of any controlled activity in accordance with a plan or design approved by the DPI Water.

8. The consent holder must use a suitably qualified person to monitor the progress, completion, performance of works, rehabilitation and maintenance and report to DPI Water as required.

9-13 N/A

14. The consent holder must ensure that no materials or cleared vegetation that may (i) obstruct flow, (ii) wash into the water body, or (iii) cause damage to river banks, are left on waterfront land other than in accordance with a plan approved by DPI Water.

15-16 N/A

17. The consent holder must establish all erosion and sediment control works and water diversion structures in accordance with a plan approved by DPI Water. These works and structures must be inspected and maintained throughout the working period and must not be removed until the site has been fully stabilised.
<table>
<thead>
<tr>
<th>Number</th>
<th>Condition</th>
</tr>
</thead>
<tbody>
<tr>
<td>Excavation</td>
<td>The consent holder must ensure that no excavation is undertaken on waterfront land other than in accordance with a plan approved by DPI Water.</td>
</tr>
<tr>
<td>18</td>
<td>N/A</td>
</tr>
<tr>
<td>Groundwater</td>
<td>The consent holder must ensure that any construction below ground level does not result in the need for permanent dewatering, other than in accordance with licence conditions approved by DPI Water.</td>
</tr>
</tbody>
</table>
ATTACHMENTS

1. Locality Plan
2. Aerial Photograph
3. LEP 2012 Zoning Map
4. LEP 2012 Floor Space Ratio Map
5. LEP 2012 Height of Building Map
6. Site Plan
7. Ground Floor Plan
8. North Elevation
9. South Elevation
10. East Elevation
11. West Elevation
12. Building A South Elevation
13. Building B North Elevation
14. Landscape Plan – Ground Floor
15. Landscape Plan – Podium Level
16. Shadow Diagrams
17. Perspective
ATTACHMENT 1 – LOCALITY PLAN

NOTE: THE HILLS DISTRICT HISTORICAL SOCIETY ALSO NOTIFIED
SIX OBJECTIONS AND ONE IN FAVOUR
OF THE DEVELOPMENT RECEIVED
OFF THE SCOPE OF THIS MAP

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TO THESE COPYRIGHT TERMS.
ATTACHMENT 7 – GROUND FLOOR PLAN
ATTACHMENT 16- SHADOW DIAGRAMS
Note: Indicative perspective of original design, not reflective of amended plans which result in the reduction of massing to the eastern side of Building B.