Joint Regional Planning Panel

Friday, 28 August 2015
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<thead>
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<tr>
<td>ITEM-2</td>
<td>JRPP REPORT - DA NO. 824/2013/JP/B – SECTION 96(2) MODIFICATION TO AN APPROVED RESIDENTIAL APARTMENT DEVELOPMENT. AMENDMENTS INCLUDE THE CONSTRUCTION OF A FIFTH LEVEL ON ‘BUILDING 5’ PROVIDING AN ADDITIONAL 10 UNITS - LOT 31 DP 247442 - 28 FAIRWAY DRIVE, KELLYVILLE</td>
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<td>87</td>
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<td>ITEM-4</td>
<td>JRPP REPORT - DA NO. 998/2015/JP – CONSTRUCTION OF A BASEBALL FIELD, A MULTI-PURPOSE FOOTBALL FIELD, 2 MULTI-PURPOSE FOOTBALL FIELDS CO-LOCATED WITH A CRICKET FIELD, 2 AMENITIES BUILDINGS, 2 CAR PARKS AND ASSOCIATED ACCESS ROADS AND A SHARED PEDESTRIAN PATH NETWORK - CONSTRUCTION OF A BASEBALL FIELD, A MULTI-PURPOSE FOOTBALL FIELD, 2 MULTI-PURPOSE FOOTBALL FIELDS CO-LOCATED WITH A CRICKET FIELD, 2 AMENITIES BUILDINGS, 2 CAR PARKS AND ASSOCIATED ACCESS ROADS AND A SHARED PEDESTRIAN PATH NETWORK, LOT 2 DP 1129940, LOT 3001 DP 1038814, LOT 2 DP 1031575, LOT 309 DP 1184385, LOT 1 DP 1184385 - CADDIES CREEK SPORTS COMPLEX RESERVE NO. 413, MILLCROFT WAY, BEAUMONT HILLS</td>
<td>136</td>
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### ITEM-1

**JRPP REPORT - DA NO. 1410/2015/JP**
**(Sydney West Region)**

<table>
<thead>
<tr>
<th>JRPP No</th>
<th>2015SYW088</th>
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<tbody>
<tr>
<td>DA Number</td>
<td>1410/2015/JP</td>
</tr>
<tr>
<td>Local Government Area</td>
<td>THE HILLS SHIRE COUNCIL</td>
</tr>
<tr>
<td>Proposed Development</td>
<td>SHOP TOP HOUSING</td>
</tr>
<tr>
<td>Street Address</td>
<td>LOT 101 DP 1170464 - WINSTON HILLS SHOPPING CENTRE, 180-192 CAROLINE CHISHOLM DRIVE, WINSTON HILLS</td>
</tr>
<tr>
<td>Applicant/Owner</td>
<td>GLENDINNING MINTO &amp; ASSOCIATES</td>
</tr>
<tr>
<td>Number of Submissions</td>
<td>In excess of 500.</td>
</tr>
<tr>
<td>Regional Development Criteria (Schedule 4A of the Act)</td>
<td>CIV over $20 million.</td>
</tr>
<tr>
<td>List of All Relevant s79C(1)(a) Matters</td>
<td></td>
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</table>
  - List all of the relevant environmental planning instruments: s79C(1)(a)(i)
    - State Environmental Planning Policy No. 65 – Design Quality of Residential Flat Development
    - State Environmental Planning Policy (State and Regional Development) 2011
    - The Hills Local Environment Plan 2012
  - 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 B Section 6 – Business
    - DCP 2012 Part C Section 1 – Parking
    - DCP 2012 Part C Section 3 – Landscaping
    - DCP 2012 Part B Section 5 – Residential Flat Buildings
  - 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)
    - Nil
  - List any coastal zone management plan: s79C(1)(a)(v)
    - Nil
EXECUTIVE SUMMARY

The Development Application is for a 4-storey shop top housing development comprising one level of car parking for residents containing 137 spaces and three levels of residential flat units containing a total of 102 dwellings above Winston Hills Mall shopping centre.

The proposed development does not satisfy the provisions of State Environmental Planning Policy No. 65 – Design Quality of Residential Flat Development in respect of the design quality principles. The proposed design does not respond to nor contribute to overall context of the neighbourhood and streetscape in terms of character, scale, bulk and height. The proposal does not satisfy the Residential Flat Design Code in terms of building height, building depth, building separation, deep soil zone and communal open space.

The subject site is zoned B2 Local Centre under the provisions of The Hills Local Environmental Plan 2012. The proposal is considered to be an overdevelopment of the site as it is beyond the scale envisaged in B2 Local Centre Zone. The proposal is also considered to be inconsistent with Council’s Centres Direction 2009. The Centres Direction categorises the site as a “Stand Alone Centre” which has a typology of an internalised retail centre layout and design which serves local residents’ weekly shopping needs subject to height and floor space ratio being reflective of the character of the surrounding residential area.

The proposal does not meet the intent of shop top housing as defined in the LEP as the residential component does not sit above the ground floor retail or commercial part of the shopping centre. Shop top housing is defined in LEP 2012 as “one or more dwellings located above ground floor retail premises or business premises”. The residential floor levels are located directly above the proposed ground floor car parking level which sits on top of the subterranean retail premises occupied by an Aldi Supermarket and other shops within the shopping centre. The development does not provide for active frontages with retail uses which is typically characteristic and required in shop top housing development at street level.

The proposal exceeds the LEP maximum building height of 12 metres allowed for the site. The justification provided by the applicant under clause 4.6 of LEP 2012 is not supported as it is considered that strict compliance with the building height standard is considered reasonable and necessary having regard to the objectives and land uses for the adjoining R2 Low Density Residential zone.

The development is predominantly a residential flat building which does not integrate with the existing shopping centre or the one and two storey residences that surround the
site. The proposal is incompatible with the existing character of the area. The immediate vicinity (which is within the Parramatta Local Government Area) is predominantly characterised by one and two storey residential dwellings to the south, east and west. The area to the north of the site which is separated by the M2 Motorway (which is within The Hills Shire Local Government Area) is zoned as R2 Low Density Residential.

The proposed development does not comply with The Hills Development Control Plan Part B Section 6 – Business in terms of setbacks, building height or car parking provisions. The proposal does not comply with the required 6 metre front setback being opposite R2 Low Density Residential zone. Insufficient landscaping is proposed to be provided as a result of the reduced setbacks.

The proposal exceeds the maximum 3 storeys allowed in the B2 Local Centre zone. The protrusion outside the building height plane is not supported as it contributes to the bulk of the building and exacerbates the non-compliance with the LEP height limit and the maximum number of storeys allowed in the B2 zone.

The proposal does not comply with the required minimum car parking provision of 192 parking spaces. Only 137 parking spaces for the use of future residents are proposed. In addition, visitor parking are proposed to be accommodated within the shopping centre’s basement car parking area which is currently time restricted and secured by boom gates. The visitor car parking arrangement is considered impractical.

The proposal does not satisfy The Hills Development Control Plan 2012 Part B Section 5 – Residential Flat Buildings in terms of unit mix and size. One bedroom units are more than 25% of the dwelling yield and three bedroom units are less than 10%. The proposal also does not comply with the apartment unit size in the Type 2 Size Category for 2 and 3 bedroom units as there are 15 x 2 bedroom units and 2 x 3 bedroom units more than the maximum 30% allowed in the Type 2 size category.

The proposal was notified to surrounding properties and advertised in the local newspaper and a total of four hundred seventy two (472) submissions were received which included three petitions. A resident action group was formed in response to the development and they conducted a survey amongst the residents in the locality. Around 470 survey forms were received by Council raising similar issues and concerns outlined in the individual submissions and petitions. The issues raised in the submissions include traffic and parking, insufficient infrastructure and services, non-compliance with building height, floor space ratio, inappropriate zoning, inaccurate photomontages, character and construction related issues.

A Class 1 appeal has been lodged in the NSW Land and Environment Court against the deemed refusal of the application.

The application is recommended for refusal.

<table>
<thead>
<tr>
<th>BACKGROUND</th>
<th>MANDATORY REQUIREMENTS</th>
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<tbody>
<tr>
<td>Owner: Starby Pty Ltd</td>
<td>1. LEP 2012 – Permissible with consent.</td>
</tr>
<tr>
<td>Zoning: B2 Local Centre</td>
<td>2. The Hills DCP 2012 Part B Section 6</td>
</tr>
<tr>
<td>Area: 4.29 hectares</td>
<td>Business – Variation, see Report.</td>
</tr>
<tr>
<td></td>
<td>4. Section 94 Contribution – $207,143.07</td>
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### SUBMISSIONS

<table>
<thead>
<tr>
<th>1. Exhibition:</th>
<th>Yes, 14 days.</th>
</tr>
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<tbody>
<tr>
<td>2. Notice Adj Owners:</td>
<td>Yes, 14 days.</td>
</tr>
<tr>
<td>3. Number Advised:</td>
<td>Seventy three (73)</td>
</tr>
<tr>
<td>4. Submissions Received:</td>
<td>395 submissions received during the exhibition period and a further 77 submissions after the exhibition period, a total of 472. The submissions included three petitions. A separate survey was conducted by a resident action group and approximately 470 survey forms were completed and forwarded to Council.</td>
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### REASONS FOR REFERRAL TO JRPP

| 1. Capital Investment Value (CIV) exceeds $20 million. |

### HISTORY

**20/09/1995**

Development Application for alterations and additions to the Winston Hills Shopping Centre approved (DA 95/118).

**28/08/2007**


**22/02/2008**

Class 1 Appeal (Proceedings No: 10844 of 2007) against Council’s refusal of DA No. 1432/2007/HA upheld by the Land and Environment Court. The Court’s consent required an overall parking provision of 1,116 parking spaces on site.

**07/04/2009**

Development Consent No. 929/2009/HA issued for alterations and additions to Coles and Liquorland within the existing shopping centre. The Development Consent required an overall parking provision of 1,130 parking spaces on site.

**13/10/2009**

Development Consent No. 1029/2009/HA granted by Council’s Development Assessment Unit (DAU) for alterations and additions to Winston Hills Mall for a new supermarket, mini-major and specialty shops with associated basement car parking. The Development Consent required an overall parking provision of 1,265 parking spaces.
Council’s DAU granted Development Consent to DA 1030/2009/HA for the occupation of the new additional retail floor area created under DA 1029/2009/HA for an Aldi Supermarket.

10/08/2010

DA 1029/2009/HA/B for modification of the existing development consent for extension of the shopping centre approved by Council’s Development Assessment Unit. The parking condition was amended as a result of the modification which required an overall parking provision of 1,273 parking spaces, which contained a surplus of 22 spaces.

The modification included the following works:
- Replacement of the existing approved metal deck roof with a reinforced concrete slab.
- Provision of an amended entry/exit off Langdon Road.
- Removal of additional trees (Trees No. 2 & 37)
- Minor modification of proposed basement levels.

17/08/2010

DA 1029/2009/HA/A for modification of the existing development consent for extension of the shopping centre approved by Council’s Development Assessment Unit. The parking condition was amended as a result of the modification which required an overall parking provision of 1,271 parking spaces, which contained a surplus of 20 spaces.

The modification included the following works:
- Relocation of the proposed electricity transformer kiosk
- Relocation of the proposed electricity switch room
- Removal of additional trees in order to accommodate the relocated electricity transformer kiosk.
- As a consequence of the proposed revised electricity switch room location, two (2) existing car parking spaces were lost.

12/05/2015

Subject Development Application (1410/2015/JP) lodged.

25/05/2015 to 10/06/2015

Subject Development Application notified and exhibited for public comments.

05/06/2015

Letter sent to the applicant requesting additional information in relation to security access, waste management, non-compliance with unit mix and size as prescribed in Council’s Apartment Buildings DCP and clarification on proposed building height variation.

10/06/2015

Email sent to the applicant attaching a copy of letter sent on 05/06/2015 and advising that that the request to vary the 12m building height limit in LEP 2012 and the maximum 3 storey limit within the B2 Local Centre zone in DCP 2012 Part B Section 6 - Business is unlikely to be supported. The applicant was requested to reduce the residential levels to 2 storeys. Also reiterated the advice provided at the prelodgement meeting that the proposal is beyond the scale envisaged in B2 Local Centre zone and suggested that the proposal be reduced to reflect the B2 zone having regard to the predominantly low density residential uses situated within the Parramatta Local Government Area.
Letter received from the applicant in response to Council’s letter dated 05/06/2015 accompanied by amended plans. The amended plans include elevation drawings showing the extent of the building height variation, internal reconfiguration of 5 residential units to demonstrate that study rooms are no longer capable of being converted into bedrooms and waste collection arrangement.

E-mail sent to the applicant acknowledging the receipt of additional information and reiterating previous advice that the request to vary the 12 metre height limit in LEP 2012 and maximum 3 storey limit in the Business DCP is unlikely to be supported. The applicant was advised that more than 450 submissions have been received during the notification period.

E-mail sent to the applicant advising that the response to Council’s letter dated 05/06/2015 requesting to review the proposed unit mix and size was unsatisfactory as the calculations provided were incorrect.

E-mail sent to the applicant in response to the submitted additional information relating to security access. The applicant was advised that reliance of visitor parking within the shopping centre’s existing car park is unlikely to be supported as it would result to a shortfall in the overall parking provision for the shopping centre. Concern was also raised with the applicant as to how the visitors will be accommodated and allowed 24-hour access to the car park without being charged due to time restrictions.

The applicant was also requested to submit a complete copy of the acoustic report as there were missing pages in the report submitted with the application.

The applicant was advised that given the number of submissions received, a Conciliation Conference will be arranged.

Class 1 application lodged with the Land and Environment Court.

Applicant requested to participate in the Conciliation Conference process.

Email received from the applicant advising they will not participate in a Conciliation Conference given that the matter is now subject to an appeal before the Land and Environment Court.

**PROPOSAL**

The proposal is for a 4-storey shop top housing development comprising one level of car parking for residents containing 137 parking spaces and three levels of residential accommodation containing a total of 102 units being 53 x 1 bedroom units, 45 x 2
bedroom units and 4 x 3 bedroom units above Winston Hills Mall shopping centre. Entry to the residential car park is proposed off Langdon Road and egress from the development is via Caroline Chisholm Drive. It is proposed to provide visitor parking within the shopping centre’s retail car parking area.

The site is zoned B2 Local Centre. The proposal is defined under LEP 2012 as ‘shop top housing’ which is a permissible use in the zone.

The site is currently occupied by Winston Hills Mall shopping centre located at the corner of Langdon Road and Caroline Chisholm Drive and bounded by M2 to the north. The site is at the edge of The Hills and Parramatta LGA boundaries (refer Attachment 3 – Zoning Map).

The Development Application is accompanied by a written justification to vary the building height standard in The Hills Local Environmental Plan 2012.

**ISSUES FOR CONSIDERATION**

1. **Local Context**

The subject site is situated within the suburb of Winston Hills on the border of The Hills Shire and Parramatta Local Government Areas. The site is zoned B2 Local Centre under the provisions of The Hills Local Environmental Plan 2012. Immediately to the south and west of the site (on the opposite side of Caroline Chisholm Drive and Langdon Road respectively) is an area situated within the Parramatta Local Government Area which is predominantly zoned R2 Low Density Residential under the provisions of Parramatta Local Environmental Plan 2011 (refer to zoning map below).

Approximately 400m to the south east of the development site is the north western edge of an area within the suburb of Winston Hills identified as a Special Character Area within the Parramatta Development Control Plan 2011. Refer to map below with the Special Character Area boundary highlighted in green.
The Parramatta DCP 2011 describes Special Character Areas as well defined precincts that have been identified as having a special character and level of residential amenity that should be preserved. These areas were generally built over a relatively short period of time and have retained a consistency of design, materials and scale. Special Character Areas can be attributed to built form and also to subdivision pattern. Below is an extract of the statement of significance of this Special Character Area in Winston Hills as described on page 175 of the Parramatta DCP 2011.

"Statement of Significance"

This large development was the most important subdivision of its time. The land was acquired by Hooker-Rex and developed as the Model Farm Estate; a complete neighbourhood development. It was one of the last releases of land zoned as Green Belt, providing one of the last greenfields development areas. A number of the original farmhouses remain, incorporated in the subdivision plan. It was opened in 1965 as Winston Hills. The subdivision plan is characterised by curvilinear street designs, gully parklands, wider and less deep allotments than traditional subdivision patterns. House construction is 'wide-fronted' with low, horizontal lines. This appearance is created by a number factors including the siting of houses across the allotments, garages integrated with the house, simple low-pitched roofs with ridges parallel to the street, overhanging eaves or verandahs, and window and door detailing. Most homes are of brick construction with tiled roofs. There is a mixture of single, split level and two-storey homes, and wall finishes include face brick, painted brick and cement rendering. There are additions on some houses, in both brick and lightweight construction.”

There are specific design controls within the Special Character Area that apply to additions to existing dwelling houses and new dwelling houses (see extract of these controls below).
"Design Controls

Additions to existing dwelling houses

C.1 Additions must be designed to protect the amenity of neighbours and generally complement the architectural character of the original dwelling house.

C.2 Second storey additions to existing single storey dwelling houses should be positioned to the rear of the existing house where a consistent single storey scale is a predominant streetscape element.

New dwelling houses

C.3 New dwelling houses must be compatible with existing houses in the streetscape so that they do not dominate or stand out in marked contrast to existing dwellings.

C.4 Setbacks must be consistent with neighbouring buildings.

C.5 Dwelling houses should be 'wide-fringed' across the site. Overly complex roof forms should be avoided.

Development not consistent with the existing character of the area:

C.6 additions to the front of houses

C.7 front fences

C.8 loss of open character in front yards

C.9 second storey additions that are not designed in a manner that minimises the visual impact on the predominant streetscape scale"

Comment:
The primary objective of the B2 Local Centre Zone is to provide a range of uses that serve the needs of people who live and work in and visit the local area.

The proposal is considered to be an overdevelopment of the site as it is beyond the scale envisaged in B2 Local Centre Zone. The proposal is also inconsistent with Council’s Centres Direction 2009. The Centres Direction categorises the site as a Stand Alone Centre which has a typology of an internalised retail centre layout and design which serves local residents’ weekly shopping needs subject to height and floor space ratio being reflective of the character of the surrounding residential area.

A shop top housing development of this size and scale does not integrate with the surrounding residential development and is not considered a desirable and appropriate development of the site. The proposal is considered to be incompatible with the planning objectives and land uses for the adjoining predominantly R2 Low Density Residential zone within the Parramatta Local Government Area.

In respect to the Special Character Area in Winston Hills which is situated south east of the proposed development, the development controls do not apply, instead the controls provide an insight into the predominant character of the locality.

2. Compliance with The Hills Local Environment Plan 2012

The objectives of the B2 Local Centre zone in LEP 2012 are as follows:
• 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.
• To encourage employment opportunities in accessible locations.
• To maximise public transport patronage and encourage walking and cycling.

The following LEP statutory provisions are relevant to this application:

**Shop Top Housing Definition**

LEP 2012 defines Shop Top Housing as follows:

“One or more dwellings located above ground floor retail premises or business premises”

**Comment:**
The proposal does not meet the definition of shop top housing. The residential component of the proposal does not sit directly above the retail component. As stated above, a shop top housing development is defined in LEP 2012 as “one or more dwellings located above ground floor retail premises or business premises”. The three residential floor levels are directly located above the ground floor car parking area which sits on top of the subterranean retail premises currently occupied by an Aldi Supermarket and other shops within the shopping centre (refer to section diagram below). The development does not provide for active ground level street frontages which are typical characteristics of shop top housing development.

In *Hrsto v Canterbury City Council (No 2) [2014] NSWLEC 121*, Canterbury City Council successfully argued that the part of the development proposed that contained ‘residential accommodation’ on the ground floor level of the building could not be characterised as ‘shop top housing’.

The subject proposal does not contain residential units on the ground floor, instead a car parking facility for residents, which is ancillary to the development. Being ancillary to the residential accommodation it is considered that the proposal should not be characterised as ‘shop top housing’. As noted above the development does not provide for active ground level street frontages which are typical characteristics of shop top housing development.

In *Arco Iris Trading Pty Ltd v North Sydney Council [2015] NSWLEC 1113*, the proposed dwelling was entirely above the level of car parking which constitutes part of the commercial premises, and by virtue of its non-exclusion from the definition of such premises, it satisfied the test of shop top housing set by Sheahan J in *Hrsto v Canterbury City Council (No 2) [2014] NSWLEC 121* notwithstanding the fact that it was not entirely above the immediately adjacent retail premises.
In contrast, the subject proposal has three residential levels above the ground floor level car parking area for residents which sits on top of the subterranean retail premises. In this regard, it is considered that the proposal fails the test of shop top housing.

Building Height
Clause 4.3 (2) of LEP 2012 requires that the height of a building is not to exceed the maximum height shown for the land on the Height of Buildings Map which is restricted to 12 metres. The LEP sets the following objectives with regards to height of buildings:

(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 application seeks a variation to this building height standard by 1.689 metres or 14%.

Clause 4.6 (3) of the LEP states the following:

"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."

The Development Application is accompanied by a written request from the applicant that seeks to justify the contravention of the development standard as follows:

"It is my opinion that compliance with the requirements of Clause 4.3 is both unreasonable and unnecessary in the circumstances of this case for the following reasons:

• The proposal satisfies the objectives of Clause 4.3 of the LEP in that:

  o The subject site comprises a large isolated site which is separated from adjoining lands by perimeter roads comprising of Langdon Road to the west, Caroline Chisholm Drive to the south and the M2 Motorway to the north. The site is adjoined by the Winston Hills Tavern to the east. The zoning of the site and the applicable height controls are different to all of the adjoining/surrounding lands. It is therefore my opinion that it was always intended that the site would present differently both in terms of use and scale to those surrounding lands.

  o In terms of potential amenity impacts arising from the proposal it is noted that:
    • The proposal will not result in any unreasonable overshadowing of adjoining properties.
    • The proposal as a result of the separation distances (in excess of 22m) provided to the adjoining residential properties will not in my opinion result in any unreasonable loss of privacy (both visual and acoustic).
• Whilst the proposal will result in a change in the current outlook of a number of the nearby residential properties it is submitted that the proposal will not result in the loss of any iconic views and the proposal provides for an architecturally designed built form which is generally consistent with the intent of the applicable planning controls.

• The provision fails to recognise the unique site circumstances of this property which include:

  o The large isolated nature of the site and the confinement of the built form to the south western corner resulting in an outcome whereby the proposal does not interface with the remaining site boundaries.
  o The sloping nature of the adjoining footpaths and road reserves which fall away in opposing directions from the intersection of Langdon Road and Caroline Chisholm Drive and the inter-relationship of these levels with the site and its existing development.
  o In this regard the levels of the subject site have been significantly altered over time resulting in the current circumstance whereby the portion of the site the subject of this application contains a subterranean carpark and shopping centre the roof of which presents as a concrete slab at approximately footpath level.
  o It is noted that this slab which forms the ground level upon which the proposal is to be built is located both below and above the existing footpath levels as a result of the existing slope of the adjoining road reserve.

• The proposal has been designed to respond to the underlying objective of the provision by stepping back the upper level of the southern elevation of Block B so as to provide for general compliance where the building interfaces with the public domain.

Further to the above it is considered that:

• There are no unreasonable impacts resulting from the non-compliance particularly in relation to overshadowing, a loss of privacy and visual impact.

On this basis it is my opinion that strict compliance with the standard is unreasonable and unnecessary in the circumstances of this case.”

**Comment:**

The exceedance to the maximum allowable building height limit in LEP 2012 by 14% is exacerbated by the fact that the proposal also departs from the maximum number of storeys allowed in B2 Local Centre zone as prescribed in The Hills DCP 2012 Part B Section 6 – Business. The overall height of the development will detrimentally impact upon the streetscape and surrounding development as the houses on the southern side of Caroline Chisholm Drive and on the western side of Langdon Road are predominantly single and two storey, hence the proposal will be imposing in terms of bulk and scale when viewed from these properties. It should be noted that the area to the north of the site which is separated by the M2 Motorway is zoned R2 Low Density Residential.

The provisions under Clause 5.3 in LEP 2012 are relevant to this development being adjacent to a residential zone which is under the jurisdiction of Parramatta City Council. As discussed in Section 1 above, the area adjoining and surrounding the site is predominantly zoned R2 Low Density Residential under the provisions of Parramatta Local Environmental Plan 2011. The objective of Clause 5.3 in LEP 2012 is to provide flexibility where the investigation of the a site and its surroundings reveals that 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 and land uses for the adjoining zone. This clause applies to so much of any land that is within the relevant distance of a boundary between any 2 zones. The relevant distance is 20 metres. The area zoned R2 Low Density Residential zone immediately to the south and west of the site is within 20 metres.

The proposal is considered to be an overdevelopment of the site as it is beyond the scale envisaged in B2 Local Centre Zone. The proposal is also not consistent with Council’s Centres Direction 2009. The Centres Direction categorises the site as a Stand Alone Centre which has a typology of an internalised retail centre layout and design which serves local residents’ weekly shopping needs subject to height and floor space ratio being reflective of the character of the surrounding residential area.

A four storey development on top of the shopping centre does not integrate with the surrounding residential development or the overall streetscape and the proposed apartments are not of a size and composition which are compatible with the character of the area. A development of this size and scale is not considered a desirable and appropriate development of the site and is considered to be incompatible with the planning objectives and land uses for the adjoining R2 Low Density Residential zone.

A three storey development would be more appropriate for this location and would complement and integrate with adjoining and surrounding development. Reducing the proposal to three storeys would result in full compliance with the LEP building height limit and better integration with the surrounding development and the overall streetscape.

Having regard to the objectives of the building height standard and the provisions under clause 5.3 of LEP 2012, it is considered that strict compliance with the LEP building height standard is considered reasonable and necessary given the circumstances of the case and the objectives and land uses for the adjoining R2 Low Density Residential zone as discussed above.

Floor Space Ratio
Clause 4.4(2) of the LEP prescribes a maximum floor space ratio (FSR) of 1:1 for the subject site. The subject site has a total land area of 42,907m². The existing floor area of the shopping centre is 28,721.4m² or an equivalent FSR of 0.67:1. The proposed development will create an additional floor area of 10,363.2m², resulting in an overall floor area of 39,084.6m² or FSR of 0.91:1.

Comment:
Despite the proposal’s compliance with the maximum allowable FSR for the site, it is not the type of development envisaged in Council’s Centres Direction that will promote the site as a Stand Alone Centre. It is considered that the additional 0.24:1 to the existing FSR and concentration of this additional floor area on this corner section of the site is not a good urban design outcome as the resultant bulk and scale is not reflective of the character of the surrounding residential area. To allow a residential development of this size will significantly change the image of the shopping centre and consequently lose the opportunity to be developed to its maximum potential as a local employment generator contrary to the objectives of the B2 Local Centre zone.

3. Compliance with the Hills Development Control Plan Part B Section 6 – Business

The proposal has been assessed against the provisions of DCP 2012 and the following non-compliance has been identified:
### DEVELOPMENT STANDARD | DCP REQUIREMENTS | PROPOSED DEVELOPMENT | COMPLIANCE
--- | --- | --- | ---
2.5 Setbacks | (b) For buildings greater than two storeys or 8 metres in height, the remaining storeys are to be set back within a building height plane of 45° starting from a height of 8 metres. | The parapet of the building protrudes outside the prescribed building height plane. | No. Reducing the development to a compliant 3 storey building will eliminate this building height plane/envelope variation. The non-compliance with the required setback and integration with the existing streetscape would be required to be addressed. |
 | (c) Where any proposed development is opposite or adjacent to Residential, Special Purpose or Recreation zones, the building shall be set back a minimum of 6 metres, or as specified on the precinct plan maps contained in Appendix A to this section. This area is to be used exclusively for landscaping and screening purposes or for the protection of endangered ecological communities present on a site. | Varies from 3.2 metres up to 6 metres | No, however the extent of landscaping and screen planting is considered satisfactory as it would soften the impact of the development and enhance the streetscape. |
2.6 Building Height | (b) The maximum height of buildings within the B2 Local Centre Zone shall be 3 storeys. | The proposed development is 4 storeys. | No. The bulk and scale of the proposed building is not compatible with the surrounding development or the overall streetscape. |
### 2.16 Car Parking

<table>
<thead>
<tr>
<th>Per DCP 2012 Part C Section 1 - Parking, the following rates apply:</th>
<th>137 resident parking spaces are proposed.</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 car parking space per 1 bedroom unit;</td>
<td>Visitor parking spaces to be accommodated within the shopping centre’s car parking area. Winston Hills Mall is currently provided with a total of 1,271 parking spaces, with a surplus of 20 spaces.</td>
</tr>
<tr>
<td>2 car parking spaces per 2 bedroom unit;</td>
<td></td>
</tr>
<tr>
<td>2 visitor car parking spaces per 5 units; and</td>
<td></td>
</tr>
<tr>
<td>1 car parking space per 18.5m² of gross floor area for shops.</td>
<td></td>
</tr>
</tbody>
</table>

Total number of parking spaces required: **192 parking spaces**

### a) Setbacks

Clause 2.5 (b) of DCP 2012 Part B Section 6 - Business requires that for buildings greater than two storeys or 8 metres in height, the remaining storeys are to be set back within a building height plane of 45° starting from a height of 8 metres. Sub-clause (c) also requires that the building is to be set back 6 metres where it is opposite or adjacent to a Residential zone.

The relevant objectives of the setback standard are as follows:

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

It is proposed to vary the required 6 metre setback and the building height plane. The proposal is provided with varying building setbacks from the street frontages which range between 3.2 to 6 metres. In its current form it is considered that the setbacks combined with the proposed built form does not adequately address or seek to provide articulation to the streetscape which is typical of shop top housing.

The parapet of the building protrudes outside the building height plane as it is not adequately set back and as a result of the proposal’s non-compliance with the maximum 3 storeys allowed in B2 Local Centre zone.

The applicant has provided the following justification addressing the setback variation:
"It is advised that the reduced setbacks are required primarily for structural reasons having regard to the location of the load bearing external walls of the existing building located upon the site and the need for the upper level walls to correspond with their location.

The area comprising the proposed setback zone is to be treated as a landscape zone in accordance with the requirements of this section of the DCP.

Notwithstanding the non-compliance with the prescriptive requirements of this section of the DCP it is submitted that the proposal satisfies the objectives of this section of the DCP noting that:

- The proposal does provide for an attractive streetscape with substantial areas for landscaping and screen planting.
- The proposal is provided with adequate sight distances for vehicles entering and leaving the site.
- The proposal will not result in any unreasonable overshadowing of adjoining properties.
- The proposal as a result of setback distances to the residential properties located opposite will not result in any unreasonable overlooking or loss of privacy.

The proposed building setbacks are therefore considered to be acceptable in the circumstances of this case.”

Comment:
It is considered that the development is predominantly a residential flat building not shop top housing and by residential flat building standards the amount of landscaping provided within the front setback area is insufficient as it would normally be required to provide a minimum setback of 6 metres to both street frontages as the development is opposite R2 Low Density Residential zone. This setback area is to be used exclusively for landscaping and screening purposes.

The variation to the required setback is considered inadequate as it does not satisfy the objectives of the standard. In addition, the protrusion outside the building height plane is not supported as it contributes to the bulkiness of the building and exacerbates the non-compliance with the LEP height limit and the maximum number of storeys allowed in B2 Local Centre zone. As advised during the prelodgement meeting held with the applicant, the proposed development is beyond the scale envisaged in the Business DCP for the B2 Local Centre zone. In this regard, the proposed variation to the required setback within the building height plane is not supported for reasons outlined in item (b) below.

b) Building Height

Clause 2.6 (b) of DCP 2012 Part B Section 6 – Business states that the maximum height of buildings within the B2 Local centre zone shall be 3 storeys or as specified on the precinct plan maps contained in Appendix A of this section of the DCP.

The proposed development is four storeys in height which does not comply with the above control.

The relevant objectives of this building height standard are:

(i) To ensure that building heights respond to the existing landform of the neighbourhood, including ridgelines and drainage depressions.
(ii) To protect privacy and amenity of surrounding allotments and residential development in accordance with Council’s ESD objective 7.

The applicant has provided the following justification for the variation:

“The issue of building height has primarily been dealt with in response to Clause 4.3 & 4.6 of the LEP.

In addition to the matters discussed within those responses it is noted that this section of the DCP does seek a maximum limit of 3 storeys. Such a control would appear to be at odds with the LEP and which prescribes a maximum building height of 12m.

In circumstances where an inconsistency arises it would be normal to defer to the LEP.”

Comment:
The number of storeys proposed is not compatible with surrounding development and will adversely impact upon the amenity of the surrounding properties and streetscape. The existing dwellings on the southern side of Caroline Chisholm Drive and on the western side of Langdon Road are generally single and two storeys in height and the bulk and scale of a four storey development will be imposing when viewed from these properties.

The proposed development is not considered to respond to the topography of the site but rather attempts to provide for as many residential flat units as possible on top of the ground floor car park.

The intent of the LEP and DCP controls is to allow a three storey shop top housing development to be constructed on the site which will satisfy the needs of the local community without adverse impact on surrounding properties or the locality. A three storey shop top housing development is more appropriate in the B2 Local Centre zone and for this location and would complement and integrate with surrounding development in the area. As discussed in Section 2 of this report, the proposal does not satisfy the LEP zone objectives or the definition of shop top housing. Reducing the residential component of the proposed development by one storey would provide a development which would better integrate with surrounding development and the overall streetscape and satisfies the DCP objectives and control. In addition, any such shop top housing development should be respectful of the existing character of the area and provide for appropriate activation at the street frontages. The proposed development does not provide for such activation, nor does it respectfully have regard to the character of the area.

The proposal in its current form is not compatible with surrounding residential development and the overall streetscape and the bulk and scale will adversely impact the amenity of the surrounding properties.

The development presents as a four storey residential flat building which does not integrate with the existing shopping centre or the one and two storey residential development that surrounds the site.

The proposed variation to building height is not supported in this regard.

c) Car Parking
Clause 2.16 of the Business DCP refers to the applicable standards in DCP 2012 Part C Section 1 – Parking, which contains the following parking requirements for the development proposed:
1 car parking space per 1 bedroom unit;
2 car parking spaces per 2 bedroom unit;
2 visitor car parking spaces per 5 units; and
1 motorcycle parking space for every 50 car parking spaces or part thereof.

The objective of this clause of the DCP is:

(i) To provide sufficient parking that is convenient for the use of residents, employees and visitors of the development.

A total of 192 parking spaces are required based on the above parking rates (i.e. 151 resident and 41 visitor parking spaces). The proposal provides a total of 137 parking spaces for the exclusive use of residents, nil visitor and motorcycle parking spaces. The proposal is deficient by 55 parking spaces.

The applicant has provided the following justification to the car parking variation:

The proposed development scale produces a total parking requirement of 197 spaces according to The Hills Shire DCP. The development makes provision for 137 spaces, representing a numeric shortfall of 60 spaces. In comparison, the RMS also provides minimum parking requirements for high density residential flat buildings in their ‘Guide to Traffic Generating Developments’. For Metropolitan Sub-regional Centres, minimum parking rates are as follows:

- 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)

The proposed development scale produces a total parking requirement of 116 spaces according to RMS’ guide for parking requirements. The planned provision of 137 spaces is therefore in excess of the RMS requirement and represents a surplus of 21 spaces. There is a large difference between the parking provision requirements based on both the DCP and RMS parking rates, and as such, a study was completed on vehicle ownership in the surrounding areas.

The RMS parking rates are based on parking accumulation and demand surveys of existing dwellings, though covering a variety of locations and range of public transport accessibilities throughout New South Wales. It is possible though to conduct similar surveys using census data from 2011 and refining the survey area to be a singular postcode, suburb or LGA. The study in Table 6 has been completed of the subject site to arrive at an average parking demand. To supply parking above this demand would decrease public transport use and to supply below this would force car drivers to park on-street.

<table>
<thead>
<tr>
<th>Scale</th>
<th>LGA – The Hills Shire</th>
<th>Postcode - 2153</th>
<th>Suburb – Winston Hills</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 bed</td>
<td>0.95</td>
<td>0.42</td>
<td>0.40</td>
</tr>
<tr>
<td>2 bed</td>
<td>1.28</td>
<td>1.13</td>
<td>0.52</td>
</tr>
<tr>
<td>3 bed</td>
<td>1.53</td>
<td>1.57</td>
<td>N/A</td>
</tr>
<tr>
<td>Total</td>
<td>123.2 (124)</td>
<td>96.1 (97)</td>
<td>N/A</td>
</tr>
</tbody>
</table>
Given the large disparity between census data, The Hills Shire car ownership was adopted. This results in a car ownership of 124 vehicles for the proposed development, and represents the worst rate for vehicle ownership in the surrounding area.

A comparison of the DCP, RMS and census data parking requirements is shown in Table 7 below.

<table>
<thead>
<tr>
<th>Rate</th>
<th>DCP</th>
<th>RMS</th>
<th>Census Average</th>
<th>Development Provision</th>
</tr>
</thead>
<tbody>
<tr>
<td>Total Parking Requirement</td>
<td>197 x</td>
<td>116 √</td>
<td>124 √</td>
<td>137</td>
</tr>
</tbody>
</table>

The proposed car park is for 137 residential spaces only. From the table above, it is evident that whilst the development provision does not meet Council’s parking requirements, the proposed parking supply is in excess of both the RMS requirement and the average vehicle ownership of residents across the Hills Shire LGA.

As there is an abundance of car parking in the Winston Hills Mall car park as outlined in Section 2.5, visitor spaces will be assigned spaces in this car park. Therefore, the DCP requirement for 156 resident car spaces applies to the development, with the 137 car space provision representing a shortfall of 19 spaces. However, concessions can be made given the RMS parking requirement rate for both residents and visitors, as well as the average vehicle ownership in The Hills Shire LGA.”

**Comment:**
The proposal does not comply with the required minimum car parking provision based on the above parking rates. The proposal is required to provide 151 resident parking spaces and 41 visitor parking spaces, a total of 192 parking spaces and 4 motorcycle parking spaces. It is proposed to provide a total of 137 parking spaces for the exclusive use of future residents. There are no motorcycle parking spaces proposed. It is proposed to accommodate visitor parking within the basement level of the shopping centre’s existing car parking area which is currently time restricted and secured by boom gates. The visitor car parking arrangement is considered impractical and not workable. The shopping centre currently has a surplus of 20 parking spaces (based on the previous development consent for the extension of the shopping centre which included the creation of the Aldi Supermarket tenancy) and to accommodate visitor parking within the existing retail car parking area will result in a shortfall of 35 parking spaces overall.

In Stockland Development Pty Ltd v Manly Council [2004] NSWLE 472 revised – 01/10/2004 McClellan CJ held in par 87 also quoting North Sydney Council v Ligon 302 Pty Ltd (1995) 87 LGERA 435 and in the later decision North Sydney Council v Ligon 302 Pty Ltd (No 2) (1996) 93 LGERA 23 that:

"87...A development control plan adopted after consultation with interested persons, including the affected community, will be given significantly more weight than one adopted with little or no community consultation.

A development control plan which has been consistently applied by a council will be given significantly greater weight than one which has only been selectively applied.”

The current Parking DCP was adopted by Council on 24 August 2004. Since the DCP’s adoption, the car parking rate for residential flat buildings as outlined above has been consistently applied across the local government area.
New development should provide sufficient car parking to accommodate the vehicles of residents and visitors. On this basis, it is considered that the application proposes insufficient on-site car parking to adequately serve the development to the detriment of visitors to the development (who will be relying on the existing car parking facilities within the shopping centre) and will impact on the amenity of shopkeepers and patrons of the shopping centre as it will result to a shortfall of 35 spaces overall for the shopping centre. One hundred ninety two (192) car spaces and four motorcycle parking spaces would need to be provided on site to adequately cater for the parking demand generated by the development.

Given that insufficient provision has been made for car parking on-site, the extent of reliance on on-street parking is likely to increase, adversely affecting the local road network and existing uses in the area. Additionally, vehicles parking in and using Caroline Chisholm Drive, Langdon Road and surrounding residential streets will impact upon the amenity of residential landowners and upon the safety of pedestrians. Furthermore the lack of parking on-site will lead to difficulty for residents and visitors of the development to find convenient parking, to the detriment of staff and patrons of the shopping centre.

Despite the justification provided by the applicant, on balance, it is considered that the application proposes a significant unjustified variation to Council’s parking rates and should not be supported.

4. **Compliance with Development Control Plan 2012 Part B Section 5 – Residential Flat Buildings**

The proposed development has been assessed against the relevant development standards and objectives of The Hills Development Control Plan 2012 Part B Section 5 – Residential Flat Buildings and the following variations have been identified.

The proposal does not satisfy the apartment unit mix standards prescribed under clause 3.11 of Development Control Plan 2012 Part B Section 5 – Residential Flat Buildings, which require that no more than 25% of the dwelling yield is to comprise either studio or one bedroom apartments and no less than 10% of the dwelling yield is to comprise apartments with three or more bedrooms. The one bedroom units comprise 52% and the three bedroom units comprise 4% of the proposed yield.

In terms of unit size, the proposal does not comply with Type 2 Size Category for the 2 and 3 bedroom units, as shown in the table below:

<table>
<thead>
<tr>
<th>Apartment Size Category</th>
<th>Apartment Size (30 or more units)</th>
<th>DCP Maximum (%)</th>
<th>Proposed Units (Number)</th>
<th>Proposed Units (%)</th>
<th>Compliance</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>1 Bedroom</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Type 1</td>
<td>50m²</td>
<td>30%</td>
<td>15</td>
<td>28%</td>
<td>Yes</td>
</tr>
<tr>
<td>Type 2</td>
<td>65m²</td>
<td>30%</td>
<td>7</td>
<td>13%</td>
<td>Yes</td>
</tr>
<tr>
<td>Type 3</td>
<td>75m²</td>
<td>30%</td>
<td>31</td>
<td>58%</td>
<td>N/A</td>
</tr>
<tr>
<td><strong>Total (1 Bedroom)</strong></td>
<td></td>
<td></td>
<td>53</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>2 Bedroom</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Type 1</td>
<td>70m²</td>
<td>30%</td>
<td>9</td>
<td>20%</td>
<td>Yes</td>
</tr>
</tbody>
</table>
5. Compliance with State Environmental Planning Policy No. 65 – Design Quality of Residential Flat Development (SEPP 65)

Clause 31(2) of the SEPP 65 provides the following:

“If a development application or an application for the modification of a development consent has been made before the notification on the NSW legislation website of the making of State Environmental Planning Policy No 65—Design Quality of Residential Flat Development (Amendment No 3) and the application has not been finally determined before the commencement of that amendment, the application must be determined as if the amendment had not commenced.”

As the application was lodged prior to the amendments to SEPP 65, the proposal has been assessed against the previous SEPP. Clause 3 of the previous SEPP 65 defines a residential flat building as follows:

Residential flat building means a building that comprises or includes:

a) 3 or more storeys (not including levels below ground level provided for car parking or storage, or both, that protrude less than 1.2 metres above ground level), and

b) 4 or more self-contained dwellings (whether or not the building includes uses for other purposes, such as shops), but does not include a class 1a building or a class 1b building under the Building Code of Australia.

The proposed development meets the definition of a residential flat building and as such the provisions of SEPP 65 are applicable to the proposed development.

SEPP 65 requires any development application for residential flat development to be assessed against the 10 principles contained in clauses 9-18 of the previous SEPP 65 and the matters contained in the Residential Flat Design Code (RFDC).

A Statement of Environmental Effects was prepared by Glendinning Minto & Associates Pty Ltd and addressed SEPP 65 as follows:

SEPP No.65 is a State Government policy which applies to residential flat buildings having a height greater than 3 storeys and containing 4 or more units and as such applies to the proposal. The primary aim of the policy is to ensure that there is an improvement in the design quality of residential flat development. This is proposed to be primarily achieved by ensuring that in cases where the policy applies that buildings are designed by registered architects and that any design has regard to 10 design quality principles.
An architectural statement addressing each of the 10 design principles has been prepared by the architect and is included as an appendix to this report together with a design verification statement in accordance with the requirements of the SEPP.

In order to achieve compliance with the design quality principles as contained within the SEPP the Government has produced a Residential Flat Design Code. This document provides useful information (rules of thumb) as to ways of satisfying the design principles of the SEPP.

An assessment of the proposal against the requirements of the Residential Flat Design Code has also been undertaken by the architects and is also included as an Appendix to this report. It is my opinion that the proposal achieves appropriate compliance with its requirements.

It is therefore my opinion that the proposal satisfies the requirements of SEPP No.65 and the Residential Flat Design Code.

The Development Application has been assessed having regard to the design quality principles outlined in SEPP 65 and Urban Design Guidelines adopted by Council on 4 September 2001. The merits of the application in terms of urban design and the relationship to the site constraints are:

i) **Principle 1 - Context**

Good design responds to and contributes to its context. Context can be defined as the key natural and built features of an area.

Responding to context involves identifying the desirable elements of a location’s current character or, in the case of precincts undergoing a transition, the desired future character as stated in planning and design policies. New buildings will thereby contribute to the quality and identity of the area.

**Comment:**

As noted in Section 1 above, the proposal is considered to be an overdevelopment of the site as it is beyond the scale envisaged in B2 Local Centre Zone. The proposal is also inconsistent with Council’s Centres Direction 2009. The Centres Direction categorises the site as a Stand Alone Centre which has a typology of an internalised retail centre layout and design which serves local residents’ weekly shopping needs subject to height and floor space ratio being reflective of the character of the surrounding residential area.

The size and scale of this development does not integrate with the surrounding residential development and is not considered a desirable and appropriate development of the site. The proposal is considered to be incompatible with the planning objectives and land uses for the adjoining predominantly R2 Low Density Residential zone within the Parramatta Local Government Area which is predominantly characterised by one and two storey dwellings.

The proposed development is not considered to be consistent with adjoining and surrounding development and the overall streetscape and does not respond or contribute to the quality or identity of the locality. The proposal does not have regard to the Special Character Area immediately to the south east of the site being identified in the Parramatta DCP 2011 as a well defined precinct that has a special character and level of residential amenity that should be preserved.
ii) **Principle 2 - Scale**

Good design provides an appropriate scale in terms of the bulk and height that suits the scale of the street and the surrounding buildings.

Establishing an appropriate scale requires a considered response to the scale of existing development. In precincts undergoing a transition, proposed bulk and height needs to achieve the scale identified for the desired future character of the area.

**Comment:**
As detailed in this report, the proposed development exceeds the maximum number of storeys permitted by the DCP and does not meet the LEP zone objectives or definition of shop top housing. As a result, the bulk and scale of the development is not a good fit and appropriate for the street and does not complement or integrate with surrounding development.

iii) **Principle 3 - Built Form**

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

**Comment:**
As detailed in this report, the proposed development does not comply with the maximum number of storeys permitted by the DCP and does not meet the LEP zone objectives or definition of shop top housing. As noted in Principle 1: Context, the size and scale of this development does not integrate with the surrounding residential development and is not considered a desirable and appropriate development of the site. The proposal is considered to be incompatible with the planning objectives and land uses for the adjoining predominantly R2 Low Density Residential zone within the Parramatta Local Government Area which is predominantly characterised by one and two storey dwellings.

iv) **Principle 4 – Density**

Good design has a density appropriate for a site and its context, in terms of floor space yields (or number of units or residents).

Appropriate densities are sustainable and consistent with the existing density in an area or, in precincts undergoing a transition, are consistent with the stated desired future density. Sustainable densities respond to the regional context, availability of infrastructure, public transport, community facilities and environmental quality.

**Comment:**
Despite the proposal’s compliance with the maximum allowable FSR for the site, it is not the type of development envisaged in Council’s Centres Direction that will promote the site as a “Stand Alone Centre”. It is considered that the additional 0.24:1 to the existing FSR and concentration of this additional floor area on this corner section of the site is not a good urban design outcome as the resultant bulk and scale is not reflective of the character of the surrounding residential area. To allow a residential development of this size will significantly change the image of the shopping centre and consequently lose the opportunity to be developed to its maximum potential as a local employment generator contrary to the objectives of the B2 Local Centre zone.
v) **Principle 5 - Resource, Energy and Water Efficiency**

Good design makes efficient use of natural resources, energy and water throughout its full life cycle, including construction.

Sustainability is integral to the design process. Aspects include demolition of existing structures, recycling of materials, selection of appropriate and sustainable materials, adaptability and reuse of buildings, layouts and built form, passive solar design principles, efficient appliances and mechanical services, soil zones for vegetation and reuse of water.

**Comment:**
A BASIX Certificate was submitted with the application as required. Good solar access and natural ventilation is achieved in accordance with the requirements of the RFDC. Roof and wall construction will employ thermal insulation to ensure energy efficiency. Energy efficient appliances and water fixtures will be used within apartments as indicated in the BASIX report. Solar cell panels will be located on each apartment building roof to provide solar energy back to each building and the overall development.

vi) **Principle 6 - Landscape**

Good design recognises that together landscape and buildings operate as an integrated and sustainable system, resulting in greater aesthetic quality and amenity for both occupants and the adjoining public domain.

Landscape design builds on the existing site’s natural and cultural features in responsible and creative ways. It enhances the development’s natural environmental performance by co-ordinating water and soil management, solar access, micro-climate, tree canopy and habitat values. It contributes to the positive image and contextual fit of development through respect for streetscape and neighbourhood character, or desired future character.

Landscape design should optimise useability, privacy and social opportunity, equitable access and respect for neighbours’ amenity, and provide for practical establishment and long term management.

**Comment:**
It is considered that the development is predominantly a residential flat building not shop top housing and by residential flat building standards the amount of landscaping provided within the front setback area is insufficient as it would normally be required to provide a minimum setback of 6 metres to both street frontages as the development is opposite R2 Low Density Residential zone. This setback area is to be used exclusively for landscaping and screening purposes.

In addition, as the proposal is located above a fully developed retail shopping centre on a roof slab consequently the site does not offer any potential for additional deep soil planting.

vii) **Principle 7 - Amenity**

Good design provides amenity through the physical, spatial and environmental quality of a development.

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

Comment:
The visual and acoustic amenity of future residents would be adversely affected by the presence of the existing loading dock located on the north western corner of the site.

The lack of parking on site will be not only be to the detriment of future residents and visitors of the development but also to the staff and patrons of the shopping centre. Access by visitors to the shopping centre’s car parking area within the basement level is considered unsatisfactory and impractical as this parking facility is time restricted and secured by boom gates.

viii) Principle 8 - Safety and Security

Good design optimises safety and security, both internal to the development and for the public domain.

This is achieved by maximising overlooking of public and communal spaces while maintaining internal privacy, avoiding dark and non-visible areas, maximising activity on streets, providing clear, safe access points, providing quality public spaces that cater for desired recreational uses, providing lighting appropriate to the location and desired activities, and clear definition between public and private spaces.

Comment:
The proposed development provides a clear delineation between private open spaces of the residential apartment levels which are located above the public domain at street level. Access for residents to the apartment levels above will be restricted by security measures from the street entry to the carpark and from the retail and residential lifts connecting those levels. However, it is considered that visitor parking arrangement and access is considered unsatisfactory and impractical as this parking facility is time restricted and secured by boom gates, and therefore the safety and security of visitors will be compromised.

ix) Principle 9 - Social Dimensions

Good design responds to the social context and needs of the local community in terms of lifestyles, affordability, and access to social facilities.

New developments should optimise the provision of housing to suit the social mix and needs in the neighbourhood or, in the case of precincts undergoing transition, provide for the desired future community.

New developments should address housing affordability by optimising the provision of economic housing choices and providing a mix of housing types to cater for different budgets and housing needs.

Comment:
The proposal provides a variety of apartments which include 1 bed, 2 bed and 3 bed accommodation. However, it does not satisfy the apartment unit mix standards prescribed in Council’s Residential Flat Buildings DCP, which require that no more than 25% of the dwelling yield is to comprise either studio or one bedroom apartments and no less than 10% of the dwelling yield is to comprise apartments with three or more bedrooms. The one bedroom units comprise 52% and the three bedroom units comprise 4% of the proposed yield.
In terms of unit size, the proposal does not comply with Type 2 Size Category for the 2 and 3 bedroom units as prescribed in the DCP.

x) **Principle 10 - Aesthetics**

Quality aesthetics require the appropriate composition of building elements, textures, materials and colours and reflect the use, internal design and structure of the development. Aesthetics should respond to the environment and context, particularly to desirable elements of the existing streetscape or, in precincts undergoing transition, contribute to the desired future character of the area.

**Comment:**
The proposal’s non-compliance with building height, setbacks, deep soil zone, etc. will not be aesthetically pleasing and interesting in that these variations do not contribute in the enhancement of the streetscape.

**SEPP 65 - Residential Flat Design Code Compliance Table**

The relevant rules of thumb of the Residential Flat Design Code are addressed below:

<table>
<thead>
<tr>
<th>Primary Controls</th>
<th>Guideline</th>
<th>Compliance</th>
</tr>
</thead>
<tbody>
<tr>
<td>Part 1 – Local Context</td>
<td>Building Height</td>
<td>Where there is an existing floor space ratio (FSR), test height controls against it to ensure a good fit. Test heights against the number of storeys and the minimum ceiling heights required for the desired building use.</td>
</tr>
<tr>
<td>Building Depth</td>
<td>An apartment building depth of 10-18 metres is appropriate. Developments that propose wider than 18 metres must demonstrate how satisfactory daylighting and natural ventilation are to be achieved.</td>
<td>No, as portions of the apartment buildings are greater than 18m in depth due to the layout of apartments on both sides of the central corridor.</td>
</tr>
<tr>
<td>Building Separation</td>
<td>Design and test building separation controls in plan and section.</td>
<td>Complies. The building separation is more than 12m.</td>
</tr>
<tr>
<td>---------------------</td>
<td>------------------------------------------------------------------</td>
<td>--------------------------------------------------</td>
</tr>
<tr>
<td></td>
<td>Up to 4 storey: 12m between habitable rooms/balconies; 9m between habitable/balconies and non-habitable rooms; 6m between non-habitable rooms.</td>
<td></td>
</tr>
<tr>
<td>Street Setbacks</td>
<td>Identify the desired streetscape character, the common setback of buildings in the street, the accommodation of street tree planting and the height of buildings and daylight access controls.</td>
<td>No. The proposed variation to the required 6m setback is not supported as the amount of landscaping is compromised due to reduced setbacks. The building is provided with varying setbacks from 3.2 to 6 metres.</td>
</tr>
<tr>
<td></td>
<td>Test street setbacks with building envelopes and street sections.</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Test controls for their impact on the scale, proportion and shape of building facades.</td>
<td></td>
</tr>
<tr>
<td>Side and Rear Setbacks</td>
<td>Relate side setbacks to existing streetscape patterns.</td>
<td>The proposed buildings virtually have no side or rear setbacks being on a corner allotment and due to the location above the existing shopping centre.</td>
</tr>
<tr>
<td>Floor Space Ratio</td>
<td>Test the desired built form outcome against proposed floor space ratio to ensure consistency with building height - building footprint and three dimensional building envelope open space requirements.</td>
<td>As noted above, despite the proposal’s compliance with maximum allowable FSR, it is considered that the proposed building height is not a good fit as it is not proportionately distributed across the site. The resultant bulk and scale is not compatible with surrounding development and will adversely impact upon the amenity of the surrounding properties and streetscape.</td>
</tr>
</tbody>
</table>
### Part 2 – Site Design

<table>
<thead>
<tr>
<th>Site Configuration</th>
<th></th>
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</thead>
<tbody>
<tr>
<td><strong>Deep Soil Zones</strong></td>
<td>A minimum of 25% of the open space area of a site should be a deep soil zone; more is desirable. Exceptions may be made in urban areas where sites are built out and there is no capacity for water infiltration. In these instances, stormwater treatment measures must be integrated with the design of the residential flat building.</td>
</tr>
<tr>
<td><strong>Open Space</strong></td>
<td>The proposal does not comply as it is located above a fully developed retail shopping centre on a roof slab. Consequently the site does not offer any potential for additional deep soil planting.</td>
</tr>
<tr>
<td><strong>Communal open space areas are provided within the central courtyard separating the 2 apartment buildings at podium level.</strong></td>
<td></td>
</tr>
<tr>
<td><strong>Ground floor podium level apartments incorporate private landscaped terraced areas all of which are &gt;4m in width. Upper floor apartments all have private open space in the form of balconies.</strong></td>
<td></td>
</tr>
<tr>
<td><strong>Planting on Structures</strong></td>
<td>In terms of deep soil provision there is no minimum standard that can be applied to all situations</td>
</tr>
<tr>
<td><strong>Landscaping plan submitted with the application indicates that the podium courtyard will preserve long-term planting growth.</strong></td>
<td></td>
</tr>
<tr>
<td><strong>The minimum recommended area of private open space for each apartment at ground level or similar space on a structure, such as on a podium or car park, is 25m²; the minimum preferred dimension in one direction is 4 metres. (see Balconies for other private open space requirements).</strong></td>
<td></td>
</tr>
</tbody>
</table>

Open Space

- The area of communal open space required should generally be at least between 25 and 30% of the site area. Larger sites and brownfield sites may have potential for more than 30%.
  - Where developments are unable to achieve the recommended communal open space, such as those in dense urban areas, they must demonstrate that residential amenity is provided in the form of increased private open space and/or in a contribution to public open space.

- The minimum recommended area of private open space for each apartment at ground level or similar space on a structure, such as on a podium or car park, is 25m²; the minimum preferred dimension in one direction is 4 metres. (see Balconies for other private open space requirements).
as the requirements vary with the size of plants and trees at maturity. The following are recommended as minimum standards for a range of plant sizes:

Large trees such as figs (canopy diameter of up to 16m at maturity) – minimum soil volume 150 cubic metres – minimum soil depth 1.3m – minimum soil area 10mx 10m area or equivalent.

Medium trees (8m canopy diameter at maturity) – minimum soil volume 35 cubic metres – minimum soil depth 1m – approximate soil area 6m x 6m or equivalent.

Small trees (4m canopy diameter at maturity) – minimum soil volume 9 cubic metres – minimum soil depth 800mm – approximate soil area 3.5m x 3.5m or equivalent.

Shrubs – minimum soil depths 500- 600mm.

Ground cover – minimum soil depths 300- 450mm.

Turf – minimum soil depths 100-300mm.

Any subsurface drainage requirements are in addition to the minimum soil depths.

<table>
<thead>
<tr>
<th>Site Amenity</th>
<th>Minimum Standards</th>
</tr>
</thead>
<tbody>
<tr>
<td>Visual privacy</td>
<td>Refer to building separation minimum standard.</td>
</tr>
</tbody>
</table>

Nevertheless, the proposal’s non-compliance with the required deep soil planting is not supported as it will require high maintenance to ensure its sustainability.

Apartment and building layout has ensured that there visual privacy issues between apartments are minimised. However, the visual amenity of some units would be detrimentally impacted due the location of these units overlooking the loading dock area on the north western corner of the site adjacent to the
Site Access

| Pedestrian Access | Identify the access requirements from the street or car parking area to the apartment entrance. Follow the accessibility standard set out in Australian Standard AS 1428 (parts 1 and 2), as a minimum. Provide barrier free access to at least 20% of dwellings in the development. | Pedestrian access is provided from Langdon Road with lift access from the car park to each floor available. |

| Vehicle Access | Generally limit the width of driveways to a maximum of six metres. Locate vehicle entries away from main pedestrian entries and on secondary frontages. | Vehicle access to the residential carpark level is controlled through a separate entry from Langdon Road and exit onto Caroline Chisholm Drive. These entry and exit points are located at different parts of the site and are separate from retail parking access points. |

Part 3 – Building Design

Building Configuration

| Apartment Layout | Single-aspect apartments should be limited in depth to 8 metres from a window. The back of a kitchen should be no more than 8 metres from a window. Buildings not meeting the minimum standards listed above, must demonstrate how satisfactory daylighting and natural ventilation can be achieved, particularly in relation to habitable rooms (see Daylight Access and Natural Ventilation). | All kitchens are located a maximum of 8-9m from a window ensuring reasonable ventilation and natural light. Apartment depth is generally limited to a maximum of 8-9m throughout. Living rooms and bedrooms generally are orientated to north, east or west aspects. All apartments have private open space directly adjacent to living areas with all habitable rooms positioned on the external face of buildings. |

| Apartment Mix | If council chooses to standardise apartment sizes, a range of sizes that do not exclude affordable housing should be used. As a guide, | Apartment mix includes 1 bed, 1 bed + study, 2 bed, 2 bed + study and 3 bed accommodation. |
the Affordable Housing Service suggest the following minimum apartment sizes, which can contribute to housing affordability:
(apartment size is only one factor influencing affordability)
- 1 bedroom apartment 50m²
- 2 bedroom apartment 70m²
- 3 bedroom apartment 95m²

The proposal does not satisfy the apartment unit mix standards prescribed in Council’s Residential Flat Buildings DCP, which require that no more than 25% of the dwelling yield is to comprise either studio or one bedroom apartments and no less than 10% of the dwelling yield is to comprise apartments with three or more bedrooms. The one bedroom units comprise 52% and the three bedroom units comprise 4%.

In terms of unit size, the proposal does not comply with Type 2 Size Category for the 2 and 3 bedroom units.

<table>
<thead>
<tr>
<th>Balconies</th>
<th>Provide primary balconies for all apartments with a minimum depth of 2 metres. Developments which seek to vary from the minimum standards must demonstrate that negative impacts from the context—noise, wind—cannot be satisfactorily mitigated with design solutions. Require scale plans of balcony with furniture layout to confirm adequate, useable space when an alternate balcony depth is proposed.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Ceiling Heights</td>
<td>The following recommended dimensions are measured from finished floor level (FFL) to finished ceiling level (FCL). These are minimums only and do not preclude higher ceilings, if desired. In mixed use buildings: 3.3 metre minimum for ground floor retail or commercial and for first floor residential, retail or commercial to promote future flexibility of use.</td>
</tr>
<tr>
<td></td>
<td>Ceiling heights of 2.7m are provided to all habitable rooms.</td>
</tr>
</tbody>
</table>
In residential flat buildings or other residential floors in mixed use buildings:
- in general, 2.7 metre minimum for all habitable rooms on all floors, 2.4 metres is the preferred minimum for all non-habitable rooms, however 2.25m is permitted.

**Internal Circulation**

In general, where units are arranged off a double-loaded corridor, the number of units accessible from a single core/corridor should be limited to eight. Exceptions may be allowed:
- for adaptive reuse buildings
- where developments can demonstrate the achievement of the desired streetscape character and entry response
- where developments can demonstrate a high level of amenity for common lobbies, corridors and units, (cross over, dual aspect apartments).

Internal circulation lobbies have generous width of 2m or more and will be well ventilated and illuminated.

**Storage**

In addition to kitchen cupboards and bedroom wardrobes, provide accessible storage facilities at the following rates:
- 1 bedroom units 6m$^3$
- 2 bedroom units 8m$^3$

Storage in the apartment is suitably sized and located for convenient day to day access. In addition, some apartments are provided with further lockup storage at basement level. Storage for apartments complies with minimum requirements with over 50% located internally to apartments and the remainder in secure storage areas within the basements.

**Building Amenity**

**Daylight Access**

Living rooms and private open spaces for at least 70% of apartments in a development should receive a minimum of three hours direct sunlight between 9 am and 3 pm in mid winter. In dense urban areas a minimum of two hours may be acceptable.

70% of apartments achieve 3 hours direct sunlight between 9am and 3pm in mid-winter into habitable rooms, with 92% of apartments achieving more than 3 hours direct sunlight to private open space.
Limit the number of single-aspect apartments with a southerly aspect (SW-SE) to a maximum of 10% of the total units proposed. Developments which seek to vary from the minimum standards must demonstrate how site constraints and orientation prohibit the achievement of these standards and how energy efficiency is addressed (see Orientation and Energy Efficiency).

**Natural Ventilation**

- Building depths, which support natural ventilation typically range from 10 to 18 metres.
- 60% of residential units should be naturally cross ventilated.
- 25% of kitchens within a development should have access to natural ventilation.

- Building depths are greater than recommended, however 33% of apartments are dual aspect corner apartments and some centrally located apartments are heavily articulated to provide more than one aspect. 38% of single aspect apartments have depths of <8.3m.
- 60% of all apartments have natural cross ventilation, which conforms to the minimum RFDC requirement.

**Building Performance**

**Waste Management**

- Supply waste management plan as part of the development application submission as per the NSW Waste Board.

- A waste management plan was submitted with the application and is considered satisfactory.

**Water Conservation**

- Rainwater is not to be collected from roofs coated with lead- or bitumen-based paints, or from asbestos-cement roofs. Normal guttering is sufficient for water collections provided that it is kept clear of leaves and debris.

- Rainwater is harvested on site for use in irrigation of landscaping. Landscaping design will incorporate native vegetation with lower water demand. 3-star water fixtures and 3.5-star appliances will be installed to conserve water usage on site.

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### 6. Issues Raised in Submissions

The application has been exhibited and notified to adjoining property owners and received 395 submissions at the closing date of the exhibition and a further 77 submissions after the exhibition period, a total of 472 submissions including three
petitions. A separate survey was conducted by a resident action group and around 470 survey forms were completed and forwarded to Council raising similar issues and concerns outlined in the individual submissions and petitions. Issues raised in the submissions generally relate to the extent of notification, traffic and parking, insufficient infrastructure and services, non-compliance with building height, floor space ratio, inappropriate zoning, inaccurate photomontages, out of character, and construction related issues.

<table>
<thead>
<tr>
<th>ISSUE/OBJECTION</th>
<th>COMMENT</th>
<th>OUTCOME</th>
</tr>
</thead>
<tbody>
<tr>
<td>Residents received insufficient notification. Affected streets were not notified. The notification and advertising period is inadequate and unacceptable.</td>
<td>Council’s adopted notification policy is to notify landowners whose property adjoins the subject site and those directly opposite only. Notwithstanding this, 73 nearby property owners were advised of the proposal and an advertisement was placed in two local newspapers and a sign placed on the corner of the site.</td>
<td>Issue addressed.</td>
</tr>
<tr>
<td>Proposed parking provision is insufficient for a scheme of this size. The shopping centre staff already park in the surrounding streets as they are not allowed to park in the existing car park which will result in more people parking in the adjacent streets.</td>
<td>The proposal does not comply with Council’s parking requirements as discussed in Section 2 above. The traffic and parking assessment report submitted with the application suggests that the proposed parking supply is in excess of both the RMS requirement and the average vehicle ownership of residents across the Hills Shire LGA. The variation to Council’s car parking requirements by 55 spaces (which is partly due to non-provision of visitor parking within the proposal and relying upon the shopping centre’s existing car parking facility) is not supported as it will result in a shortfall of 35 parking spaces overall for the shopping centre.</td>
<td>Issue warrants refusal of the application. See reasons for refusal.</td>
</tr>
<tr>
<td>Locating visitor parking in the public car park is unacceptable and inappropriate given the car park is locked outside of trading hours.</td>
<td>As discussed in Section 2, reliance on the shopping centre car park for visitors parking is impractical. It would be inconvenient for the use of visitors of the development and would affect shopkeepers, staff and patrons of the shopping centre as a result of the shortfall in overall parking provision.</td>
<td>Issue warrants refusal of the application. See reasons for refusal.</td>
</tr>
<tr>
<td>ISSUE/OBJECTION</td>
<td>COMMENT</td>
<td>OUTCOME</td>
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<tr>
<td>Traffic report is flawed as it was only conducted over two days. The survey of vacant spaces in the car park on the weekend is incorrect.</td>
<td>Council’s Principal Traffic and Transport Coordinator has assessed the application and raised no objection to the proposal on traffic grounds.</td>
<td>Issue addressed.</td>
</tr>
<tr>
<td>Proposed vehicular entry off Langdon Road will be a hazard.</td>
<td>Council’s Principal Traffic and Transport Coordinator has assessed the application and accompanying traffic assessment report. Issues relating to access and environmental capacity of surrounding road network were taken into consideration in the assessment and are considered satisfactory. No objection is raised on traffic grounds.</td>
<td>Issue addressed.</td>
</tr>
<tr>
<td>Surrounding roads are narrow with no capacity for additional vehicular traffic.</td>
<td>Council’s Principal Traffic and Transport Coordinator has assessed the application and accompanying traffic assessment report. Issues relating to access and environmental capacity of surrounding road network were taken into consideration in the assessment and are considered satisfactory. No objection is raised on traffic grounds.</td>
<td>Issue addressed.</td>
</tr>
<tr>
<td>Increased traffic will be a safety risk to local children given proximity to the park and schools.</td>
<td>The proposal has been reviewed by Council’s Principal Traffic and Transport Co-ordinator who advised that the anticipated traffic generated by the proposed development is satisfactory and no objection raised on traffic grounds.</td>
<td>Issue addressed.</td>
</tr>
<tr>
<td>ISSUE/OBJECTION</td>
<td>COMMENT</td>
<td>OUTCOME</td>
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<tr>
<td>Heavy vehicle access to the shopping centre has never been complied with.</td>
<td>This issue is not a matter for consideration in this application as it relates to the existing delivery operations within the shopping centre. Vehicular access to the site will be separate from the existing loading dock access in the shopping centre.</td>
<td>Issue addressed.</td>
</tr>
<tr>
<td>Increased noise from traffic.</td>
<td>If the application were recommended for approval, a condition of consent would be imposed addressing this matter to ensure the impact on the road network and adjoining properties is managed.</td>
<td>Issue addressed.</td>
</tr>
<tr>
<td></td>
<td>For the reasons detailed in this report however the Development Application is recommended for refusal.</td>
<td></td>
</tr>
<tr>
<td>Existing public infrastructure and facilities are inadequate to cater for a development of this size. Local schools are at capacity. Public transport is poor and infrequent and local road network is already congested.</td>
<td>The proposal is a permissible development in the zone and if this application is to be approved the applicant will be required to pay monetary contributions in accordance with Section 94 of the Environmental Planning and Assessment Act, 1979 to provide for the increased demand for public amenities and services resulting from the development.</td>
<td>Issue addressed.</td>
</tr>
<tr>
<td></td>
<td>However, for the reasons detailed in this report the Development Application is recommended for refusal.</td>
<td></td>
</tr>
<tr>
<td>A four storey building is out of character with the surrounding area. The flood gates will be open to more similar developments and the character of Winston Hills will be lost forever. The proposal does not comply with the building height requirements.</td>
<td>The proposal in its current form is not supported and for the reasons detailed in this report which include non-compliance with Council’s building height control the Development Application is recommended for refusal.</td>
<td>Issue warrants refusal of the application. See reasons for refusal.</td>
</tr>
<tr>
<td>The proposal does not comply with the floor space ratio requirement.</td>
<td>The proposal will result in an overall floor space ratio of 0.91:1 which complies with the maximum floor space ratio allowed on this site of 1:1.</td>
<td>Issue addressed.</td>
</tr>
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<tr>
<td>The proposed development does not fit the intent of shop top housing. It fits the definition of a residential flat building which requires the site to be rezoned to R4 to allow it.</td>
<td>As discussed in the report, the proposal does not meet the intent of shop top housing as defined in the LEP as the residential component does not sit truly above the ground floor retail or commercial part of the shopping centre. For the reasons detailed in this report which include this issue on shop top housing definition the Development Application is recommended for refusal. Notwithstanding the above, a residential flat building is permissible with consent in the B2 Local Centre zone and rezoning to R4 is not necessary in this regard.</td>
<td>Issue warrants refusal of the application. See reasons for refusal.</td>
</tr>
<tr>
<td>The photomontages are inaccurate. The colour palette is not acceptable.</td>
<td>The photomontages and proposed colours and finishes are considered satisfactory for assessment purposes.</td>
<td>Issue addressed.</td>
</tr>
<tr>
<td>Adjoining residential properties will be overshadowed.</td>
<td>Shadow diagrams during mid-winter show that residential properties on the southern side of Caroline Chisholm Drive will not be overshadowed.</td>
<td>Issue addressed.</td>
</tr>
<tr>
<td>Concerns regarding construction hours which have previously occurred past midnight and caused nuisance to the surrounding residents.</td>
<td>If this application is to be approved, Council’s standard construction hours will be imposed and any breach to this condition will be dealt with accordingly. However, for the reasons detailed in this report the Development Application is recommended for refusal.</td>
<td>Issue addressed.</td>
</tr>
<tr>
<td>The proposal will affect TV receptions.</td>
<td>The impact of the development on surrounding properties in regards to this matter has no sufficient basis to support this claim.</td>
<td>Issue addressed.</td>
</tr>
<tr>
<td>Issue</td>
<td>Description</td>
<td>Addressed</td>
</tr>
<tr>
<td>----------------------------------------------------------------------</td>
<td>-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------</td>
<td>----------------------------</td>
</tr>
<tr>
<td>Increase in air pollution.</td>
<td>The impact of the development in regard to this matter has no sufficient basis to support this claim.</td>
<td>Issue addressed.</td>
</tr>
<tr>
<td>Residents are at a disadvantage given the Parramatta and The Hills LGA boundary issue.</td>
<td>The determination of this application will be based on the zoning of the property and the legal obligations under the Environmental Planning and Assessment Act 1979. Given the location of this development on the border of Parramatta Local Government Area, the zoning of the surrounding properties within the Parramatta LGA has been taken into consideration in the assessment of this application. For the reasons detailed in this report which include the issue of compatibility with the existing character of surrounding properties within the Parramatta LGA the Development Application is recommended for refusal.</td>
<td>Issue warrants refusal of the application. See reasons for refusal.</td>
</tr>
<tr>
<td>The area is declared by the State Government as a special character area where duplexes are the highest form of residential development allowed.</td>
<td>To the south east of the site is an area within the suburb of Winston Hills identified as a Special Character Area within the Parramatta Development Control Plan 2011. The Parramatta DCP 2011 describes Special Character Areas as well defined precincts that have been identified as having a special character and level of residential amenity that should be preserved. These areas were generally built over a relatively short period of time and have retained a consistency of design, materials and scale. Special Character Areas can be attributed to built form and also to subdivision pattern. There are specific design controls within the Special Character Area that apply to additions to existing dwelling houses and new dwelling houses.</td>
<td>Issue addressed.</td>
</tr>
</tbody>
</table>
Having regard to the above, it is considered that the design controls that apply to the Special Character Area in this part of Winston Hills are not relevant in the assessment of this application.

FIRE SAFETY COMMENTS
The proposal has been assessed by Council’s Fire Safety Officer with respect to clause 94 of the Environmental Planning and Assessment Regulation 2000. It is noted that the proposed units will be sited over the newest part of the shopping centre and have no connection with the shopping centre. Upgrading to the existing building will not be considered in this application and that further upgrading can be assessed with additions/alterations to the shopping centre or via a fire safety upgrade order if required in the future. No objection is raised to the proposal subject to conditions.

SUBDIVISION ENGINEERING COMMENTS
The proposal has been assessed by Council’s Subdivision Engineer. Additional information has been requested from the applicant to address the security door issue in the event that people (i.e. visitors of occupants within the development) cannot gain access to the car parking area. If this is the case, vehicles are to turn around within the property boundary and not be expected to reverse into the street, and that a dedicated turning bay will be required. The applicant advised that visitor parking will be provided within the existing retail car parking in the basement level. No engineering conditions were recommended as this visitor parking arrangement is not supported from a planning point of view.

TRAFFIC MANAGEMENT COMMENTS
No objection is raised to the proposal on traffic grounds.

TREE MANAGEMENT COMMENTS
No objection is raised to the proposal subject to conditions.

HEALTH & ENVIRONMENTAL PROTECTION COMMENTS
No objection is raised to the proposal subject to conditions.

RESOURCE RECOVERY COMMENTS
No objection is raised to the proposal subject to conditions.

NSW POLICE COMMENTS
No objection is raised to the proposal.

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 proposal is considered unsatisfactory as it does not satisfy the provisions of the State Environmental Planning Policy No. 65 – Design Quality of Residential Flat Development in respect of the design quality principles. The proposed design does not
respond to and contribute to overall context of the neighbourhood and streetscape in terms of character, scale, bulk and height. The proposal does not satisfy the Residential Flat Design Code in terms of building height, building depth, building separation, deep soil zone and communal open space.

The proposal is considered unsatisfactory as it exceeds the maximum allowable height limit of 12 metres required in LEP 2012. The applicant’s justification to vary the LEP building height is not supported as it is considered that strict compliance with the building height standard is considered reasonable and necessary having regard to the objectives and land uses for the adjoining R2 Low Density Residential zone.

In addition the proposed development is considered to be inconsistent with the objectives of the zone and does not meet the intent of shop top housing as defined in the LEP. The development does not provide for active frontages such as retail uses which is required in shop top housing development at street level.

The proposal is considered unsatisfactory with regard to DCP 2012 Part B Section 6 – Business and Part C Section 1 – Parking in relation to non-compliances with the maximum number of storeys, setbacks, building height plane, landscaping and parking provision.

The proposal was notified to adjoining properties and more than 500 submissions were received. The issues raised in the submissions include traffic and parking, insufficient infrastructure and services, non-compliance with building height, floor space ratio, inappropriate zoning, inaccurate photomontages, character and construction related issues.

Accordingly, the application is recommended for refusal

**IMPACTS:**

**Financial**

Costs will be incurred as the applicant has lodged an appeal with 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 Business and Parking DCP. It is considered unsatisfactory with regard to The Hills Future Community Strategic Plan.

**RECOMMENDATION**

The Development Application be refused on the following grounds:

1. The proposal does not satisfy the definition of shop top housing nor the objectives of the B2 Local Centre zone as provided in The Hills Local Environmental Plan 2012 and R2 Low Density Residential zone as provided in the Parramatta Local Environmental Plan 2011.

   The residential component of the proposal does not sit truly above the retail component. Shop top housing is defined in LEP 2012 as “one or more dwellings located above ground floor retail premises or business premises”. The three residential floor levels are directly located above the ground floor/podium residential car parking level which sits on top of the subterranean retail premises.
The proposal does not integrate with the surrounding residential development or the overall streetscape. The size and scale of the proposed development is not considered a desirable and appropriate development of the site and is considered to be incompatible with the planning objectives and land uses for the adjoining predominantly R2 Low Density Residential zone within the Parramatta Local Government Area. 
(Section 79C(a)(i) & (iii) and (b) of the Environmental Planning and Assessment Act 1979).

2. The development does not comply with the building height requirements of LEP 2012 and DCP 2012 Part B Section 6 – Business. The proposal does not satisfy the objectives of the Local Centre or Clause 4.3 of the LEP.

The proposed four storey development exceeds the three storey building maximum permitted by DCP 2012 Part B Section 6 – Business. The maximum building height proposed exceeds the 12 metre height limit prescribed in The Hills LEP 2012 for the site by 1.689 metres.

The bulk and scale of the proposed building is not compatible with the surrounding development and the overall streetscape. The development is a residential flat building and not a shop top housing development as it does not integrate with the existing shopping centre or seek to activate the street frontages with retail uses. 
(Section 79C(1)(a)(i & iii)) and (b) of the Environmental Planning and Assessment Act 1979).

3. The proposed development is not provided with sufficient car parking within the site as required by DCP 2012 Part C Section 1 – Parking and the proposal does not satisfy the objectives of the DCP. The parking proposed will not meet the demand generated by the proposed development and will result in an unreasonable impact on the surrounding road network, public car parking facilities and safety of road users. 
(Section 79C(a)(iii) of the Environmental Planning and Assessment Act 1979).

4. The proposed development does not comply with the building height plane as required by DCP 2012 Part B Section 6 – Business. The setback to the top floor level will not provide an attractive streetscape and are not in keeping with neighbouring residential development. 
(Section 79C(a)(iii) of the Environmental Planning and Assessment Act 1979).

5. The proposed development does not satisfy the unit mix and size controls prescribed in Council’s DCP for Residential Flat Buildings. 
(Section 79C(a)(iii) of the Environmental Planning and Assessment Act 1979).

6. The proposal does not comply with the provisions of State Environmental Planning Policy No. 65 – Design Quality of Residential Flat Development. The proposal does not fully satisfy the Residential Flat Design Code in terms of building height, building depth, deep soil zone and communal open space. 
(Section 79C(a)(i) of the Environmental Planning and Assessment Act 1979).
## ATTACHMENTS

1. Locality Plan  
2. Aerial Photograph  
3. Zoning Map  
4. Ground Floor Car Park Plan  
5. Level 1 (Podium) Floor Plan  
6. Level 2 Floor Plan  
7. Level 3 Floor Plan  
8. Elevations  
9. Sections  
10. Landscaping Plans  
11. Shadow Diagrams (3 pages)  
12. Perspectives (3 pages)
ATTACHMENT 1 – LOCALITY PLAN

☐ SUBJECT SITE
✓ PROPERTIES NOTIFIED

NOTE: 472 SUBMISSIONS RECEIVED FOR THIS DEVELOPMENT
RMS AND PARRAMATTA CITY COUNCIL ALSO NOTIFIED
ATTACHMENT 6 – LEVEL 2 FLOOR PLAN
ATTACHMENT 7 – LEVEL 3 FLOOR PLAN
ATTACHMENT 8 – ELEVATIONS

WEST ELEVATION – LANGDON ROAD

SOUTH ELEVATION – CAROLINE CHISHOLM DRIVE

EAST ELEVATION

NORTH ELEVATION
ATTACHMENT 11 – SHADOW DIAGRAMS (3 PAGES)

SHADOW DIAGRAM – MID WINTER – 9AM

1 of 3
SHADOW DIAGRAM – MID WINTER – NOON

21 JUNE 12NOON – PROPOSED CONDITIONS

1:000

SCALE
ATTACHMENT 12 – PERSPECTIVES (3 PAGES)

1 of 3

BEFORE (VIEW FROM CAROLINE CHISHOLM DRIVE)

AFTER
BEFORE (VIEW FROM CORNER OF CAROLINE CHISHOLM DRIVE & LANGDON ROAD)

AFTER
BEFORE (VIEW FROM LANGDON ROAD)

AFTER
ITEM-2 JRPP REPORT - DA NO. 824/2013/JP/B
(Sydney West Region)

<table>
<thead>
<tr>
<th>JRPP No</th>
<th>2015SYW104</th>
</tr>
</thead>
<tbody>
<tr>
<td>DA Number</td>
<td>824/2013/JP/B</td>
</tr>
<tr>
<td>Local Government Area</td>
<td>THE HILLS SHIRE COUNCIL</td>
</tr>
<tr>
<td>Proposed Development</td>
<td>SECTION 96(2) MODIFICATION TO AN APPROVED RESIDENTIAL APARTMENT DEVELOPMENT. AMENDMENTS INCLUDE THE CONSTRUCTION OF A FIFTH LEVEL ON ‘BUILDING 5’ PROVIDING AN ADDITIONAL 10 UNITS.</td>
</tr>
<tr>
<td>Street Address</td>
<td>LOT 31 DP 247442 - 28 FAIRWAY DRIVE, KELLYVILLE</td>
</tr>
<tr>
<td>Applicant/Owner</td>
<td>ARDEN CH (NSW) PTY LTD</td>
</tr>
<tr>
<td>Number of Submissions</td>
<td>Two</td>
</tr>
<tr>
<td>Regional Development Criteria (Schedule 4A of the Act)</td>
<td>GENERAL DEVELOPMENT WITH A CIV OF OVER $20 MILLION</td>
</tr>
</tbody>
</table>
| List of All Relevant s79C(1)(a) Matters | • Water Management Act 2000  
• SEPP 65 – Design Quality of Residential Flat Development  
• Draft SEPP 65 - Design Quality of Residential Apartment Development  
• SEPP 55 – Remediation of Land  
• The Hills LEP 2012  
• The Hills DCP 2012 |
| List all documents submitted with this report for the panel’s consideration | Copy of submissions |
| Recommendation   | Approval subject to conditions |
| Report by        | Senior Town Planner  
Sanda Watts |

EXECUTIVE SUMMARY

The Section 96(2) application is for the modification of an approved residential flat building development containing a total of 7 buildings. The modifications proposed include the construction of a fifth level on building 5 to include an additional 10 units, the construction of a second level of basement parking to accommodate the additional parking and storage requirements and subdivision of the site into three lots. Internal reconfigurations of building 5 are proposed which include changes to the mix and sizes. Amendments to roof pitch, materials, finishes and façade design are also proposed to buildings 4, 5 and 6.
The approved development has a mix of 65 x 1 bedroom, 89 x 2 bedroom and 20 x 3 bedroom units. The total number of units within the development is proposed to be increased from 174 to 184 units, having a proposed mix of 63 x 1 bedroom, 101 x 2 bedrooms and 20 x 3 bedrooms. The development complies with Council’s Residential Flat Buildings DCP in respect to size and typology requirements and provides an overall development more compliant with the DCP controls for unit mix.

The proposed development includes variations to The Hills DCP Part B Section 5 – Residential Flat Buildings in respect to the number of storeys and unit mix.

The proposed additional level results in an increase in height, which breaches the 16m LEP height limit. The proposed maximum height of building 5 is 17.2m, a non-compliance of 1.2m. The breach in height limit is considered satisfactory as the bulk of the building maintains the 16 metre height limit and there will be no unreasonable loss of privacy or amenity as a result of the variation. Furthermore, the North West Rail Link Corridor Strategy identifies the subject site for future residential development of 7-12 storeys. Therefore, the 5 storey building will provide a transition to denser and higher development to the south.

The application was advertised and notified and 2 submissions were received. The issues raised primarily relate to height, amenity impact, traffic and parking.

The Development Application has responded to the development standards contained within Council’s planning instruments. In the absence of the JRPP process the matter would be referred to Council’s Development Assessment Unit for determination.

Approval is recommended subject to the relevant conditions of consent being modified to reflect the proposed changes.

**BACKGROUND**

<table>
<thead>
<tr>
<th>Owner:</th>
<th>Arden CH (NSW) Ptd Ltd</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Zoning:</strong></td>
<td>R4 High Density and SP2 Stormwater Management System</td>
</tr>
<tr>
<td><strong>Area:</strong></td>
<td>20,230m²</td>
</tr>
<tr>
<td><strong>Existing Development:</strong></td>
<td>Residential Flat development under construction</td>
</tr>
</tbody>
</table>

**MANDATORY REQUIREMENTS**

<table>
<thead>
<tr>
<th>Owner:</th>
<th>Arden CH (NSW) Ptd Ltd</th>
</tr>
</thead>
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</tr>
<tr>
<td><strong>Existing Development:</strong></td>
<td>Residential Flat development under construction</td>
</tr>
</tbody>
</table>

1. **LEP 2012** - Satisfactory
2. **The Hills DCP 2012** - Satisfactory
3. **Section 79C (EP&A Act)** - Satisfactory
4. **SEPP 65 Design Quality of Residential Flat Development** - Satisfactory
5. **Draft SEPP 65 (Consultation) – Design Quality of Residential Apartment Development and Apartment Design Guide** - Satisfactory
6. **State Environmental Planning Policy No 55—Remediation of Land** - Satisfactory
7. **Section 94 Contribution** -
   - Stage 1 - $2,718,673.95
   - Stage 2 - $2,022,431.46
SUBMISSIONS

<table>
<thead>
<tr>
<th></th>
<th>Yes, 30 days</th>
<th>Capital Investment Value exceeds $20 million.</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Exhibition:</td>
<td>Yes, 30 days</td>
<td>1. Capital Investment Value exceeds $20 million.</td>
</tr>
<tr>
<td>2. Notice Adj Owners:</td>
<td>Yes, 30 days</td>
<td>2. Notice Adj Owners: Yes, 30 days</td>
</tr>
<tr>
<td>4. Submissions Received:</td>
<td>2</td>
<td>4. Submissions Received: 2</td>
</tr>
</tbody>
</table>

REASONS FOR REFERRAL TO JRPP

1. Capital Investment Value exceeds $20 million.
2. Section 96(2) Modification Applications require determination by the Joint Regional Planning Panel.

HISTORY

16/10/2014 The Joint Regional Planning Panel approved DA 824/2013/JP for a residential development comprising seven apartment buildings containing 174 apartments, at-grade and basement parking, landscaping and communal facilities.

09/03/2015 Section 96(1A) Modification approved under Delegated Authority to amend condition of DA 824/2013/JP to facilitate the staged construction of the development (2 stages).

10/03/2015 DA 1098/2015/HB lodged to construct a fifth level on ‘building 7’ containing 2 x 3 bedroom units, expansion of the basement car parking to provide additional spaces, increase the area of private open space to ground floor units, minor internal reconfiguration, reduction of floor to ceiling heights and changes to the approved façade. (This development application was listed for determination by Council’s Development Assessment Unit on 18 August 2015 at the time of writing this report).

22/04/2015 Subject Section 96(2) Modification application lodged.

05/05/2015 Amended plans received.

25/06/2015 Application briefed to the JRPP Panel.

03/07/2015 Applicant amended the application to include subdivision of the site into 3 lots.

PROPOSAL

The existing approved development is for the construction of a residential flat development comprising of 7 apartment buildings containing 174 apartments, basement parking, landscaping and communal facilities.

The proposed Section 96(2) Modification Application seeks to make the following amendments to the approved development:

- Construction of a fifth level on building 5, containing 10 units.
- Construction of a second level of basement parking to accommodate additional storage and parking for a total of 34 residential spaces and 4 visitor spaces.
• Modify the pitched roof to a flat roof for buildings 4, 5 and 6
• Internal reconfiguration of building 5 including changes to mix and size.
• Changes to the material, finishes and façade of buildings 4, 5 and 6.
• The total number of units within the development is proposed to be increased from 174 to 184 units, having an overall mix of 63 x 1 bedroom, 101 x 2 bedrooms and 20 x 3 bedrooms. (It is noted that a fifth level containing 2 x 3 bedrooms for building 7 is recommended for approval as part of DA 1098/2015/HB).
• Subdivision of the site into 3 lots.

ISSUES FOR CONSIDERATION

1. Compliance with Section 96 of the EP & A Act 1979

Section 96(2) of the Environmental Planning and Assessment Act, 1979 requires the following:

"(2) Other modifications

A consent authority may, on application being made by the applicant or any other person entitled to act on a consent granted by the consent authority and subject to and in accordance with the regulations, modify the consent if:

(a) it is satisfied that the development to which the consent as modified relates is substantially the same development as the development for which consent was originally granted and before that consent as originally granted was modified (if at all), and

(b) it has consulted with the relevant Minister, public authority or approval body (within the meaning of Division 5) in respect of a condition imposed as a requirement of a concurrence to the consent or in accordance with the general terms of an approval proposed to be granted by the approval body and that Minister, authority or body has not, within 21 days after being consulted, objected to the modification of that consent, and

(c) it has notified the application in accordance with:

(i) the regulations, if the regulations so require, or
(ii) a development control plan, if the consent authority is a council that has made a development control plan that requires the notification or advertising of applications for modification of a development consent, and

(d) it has considered any submissions made concerning the proposed modification within the period prescribed by the regulations or provided by the development control plan, as the case may be."

With respect to the above requirements the following is outlined:

• Physically, the proposed modifications, whilst resulting in a slightly different design and an increase in height, are not considered to result in a development that is substantially different to that already approved.
• The increase in yield represents an increase of less than 6.8% of the total development yield.
• No new significant impacts will result from the development.
• The proposed modified design and height will not result in an inconsistency in form in terms of how the development is viewed from the public domain.
• The proposed changes to the façade treatments do not substantially change the nature of the development.
• The modification application was referred to the NSW Office of Water who raised no concern to the works proposed, and no changes to the approved General Terms of Approval are required.
• The modified application has been notified in accordance with the Regulations and The Hills DCP Part A – Introduction.

As a result of the above assessment, the proposed modification application is appropriate as a Section 96(2) Modification Application and is considered satisfactory.

2. Compliance with The Hills Local Environmental Plan 2012

(i) Permissibility

The proposal is defined as a residential flat building:

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

A residential flat building is permitted within the R4 High Density Residential zone.

(ii) The Hills LEP 2012 - Development Standards

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

<table>
<thead>
<tr>
<th>CLAUSE</th>
<th>REQUIRED</th>
<th>PROVIDED</th>
<th>COMPLIES</th>
</tr>
</thead>
<tbody>
<tr>
<td>4.3 Height of buildings</td>
<td>16 metres</td>
<td>17.2 metres</td>
<td>No</td>
</tr>
</tbody>
</table>

The objectives of the building height – clause 4.3 of the LEP are:

(a) to ensure the height of buildings is compatible with that of adjoining development and the overall streetscape.

(b) To minimise the impact of overshadowing, visual impact, and loss of privacy on adjoining properties and open space areas.

The applicant has provided the following justification for the non-compliance with building height:

• The minor nature of the non-compliance and the negligible effect this has on the desired future character of the area which is one of high density residential development
• The visual impact on the existing development to the north of the site given the physical separation of the development and the presence of building 4 and 5 between building 5 and the northern boundary.
• As discussed above, the built form character of the land to the south is likely to be far greater in terms of intensity, density and heights.
• The proposed public reserve is located to the north of the site and the development cannot overshadow this space.
• No significant overshadowing, view loss or visual impacts are anticipated as a result of the proposed modified development.

Clause 4.6 – Not Applicable to a Section 96

It is noted that caselaw (North Sydney Council v Michael Standley & Associates Pty Ltd [1998] NSWSC 163) demonstrates that for a Section 96 application, a Clause 4.6 Exceptions (or SEPP 1 objection) to Development Standards is not required.

The relevant judgment states that section 96 is a ‘free-standing provision’, meaning that “a modification application may be approved notwithstanding the development would be in breach of an applicable development standard were it the subject of an original development application”. A section 96 authorises the development to be approved notwithstanding any breach of development standards. Section 96 is a broad power to approve, subject to its own stand-alone tests (such as the “substantially the same” test, and a requirement to consider all relevant s.79C matters). Section 96 does not rely upon having any SEPP 1 objection or clause 4.6 variation in order to enliven that power to approve.

The Courts have stated that SEPP 1 cannot ever be used at section 96 stage, as SEPP 1 expressly only applies ‘where a development application is made’, not when a modification application is made. The same would apply to clause 4.6 variations, which expressly only regulates whether ‘development consent’ may be granted, not whether an existing consent may be modified.

As such, a clause 4.6 variation has no application to section 96 modifications.

Comment:

The proposed modified design has a maximum height of 17.2 metres which occurs at the centre of the building. The breach in height of 1.2 metres on the northern elevation is limited to a parapet roof feature, and on the southern elevation the lift overrun structure, exceeds the height standard. A lesser breach of approximately 600mm occurs on the uppermost western portion of the building.

The breach in height limit is considered satisfactory as the bulk of the building maintains the 16 metre height limit. The extent of the non-compliance is limited to the central part of the building where it will have negligible visual impact or make any discernible difference to the building when viewed from the public domain, compared to a fully compliant building.

The North West Rail Link Corridor Strategy identifies the subject site for future residential development of 7-12 storeys. Therefore, the 5 storey building will provide a transition to denser and higher development to the south.

The landscaping provided with the development ensures that reasonable privacy is provided to neighbouring developments and impacts of the built form are minimised. There is no overshadowing on the existing residences on Horatio Avenue or the public open space given they are located to the north of the development. There will be no unreasonable loss of privacy or amenity as a result of the variation.

Accordingly, the proposed height is considered satisfactory and can be supported in this instance.
3. Compliance with DCP 2012 Part B Section 5- Residential Flat Building

It is noted that the development maintains compliance with Council’s Residential Flat Buildings DCP in respect to size, typology and mix requirements.

The proposal has been assessed against the requirements of Development Control Plan (DCP) 2012 Part B Section 5- Residential Flat Buildings and the following variation has been identified:

<table>
<thead>
<tr>
<th>DEVELOPMENT STANDARD</th>
<th>DCP REQUIREMENTS</th>
<th>PROPOSED DEVELOPMENT</th>
<th>COMPLIANCE</th>
</tr>
</thead>
<tbody>
<tr>
<td>Part B Section 5 – Clause 3.4 (a) and (c) Building Heights</td>
<td>No building shall contain more than 4 storeys above natural ground level.</td>
<td>The proposal involves the construction of a fifth storey.</td>
<td>No, the development exceeds the maximum storey control by 1 storey.</td>
</tr>
<tr>
<td>Part B Section 5 - Clause 3.11 Unit Layout and Design</td>
<td>No more than 25% of the dwelling yield is to comprise either studio or one bedroom apartments.</td>
<td>The proposed development has an overall mix of 34.2% one bedroom units.</td>
<td>No, the approved development (DA 824/2013/JP) had a mix of 37.4% of one bedroom units, and the amended development has a mix of 34.2% one bedroom units. This result in a decrease in the percentage of one bedroom units of 3.2%.</td>
</tr>
</tbody>
</table>

i) Building Heights

Part 3.4 of DCP 2012 Part B Section 5- Residential Flat Buildings requires the following in regards to building heights:

(c) No building shall contain more than 4 storeys above natural ground level.

The subject modification proposes a 5 storey residential flat building for Building 5.

The objectives of the building height clause of the DCP are:

(i) To ensure that buildings reflect the existing landform of the neighbourhood, including ridgelines and drainage depressions.

(ii) To protect privacy and amenity of surrounding allotments and residential development in accordance with Council’s ESD objective 7.

(iii) To minimise overshadowing of adjoining properties.

The applicant has provided the following justification for the proposed variation in the number of storeys:
• The LEP allows for development up to 16m which may accommodate up to 5 storeys.
• Under the Act, the DCP may not be more restrictive that the statutory LEP provisions.
• Under the Norwest Structure Plan, the site is identified as being suited to development up to 7-12 storeys in height.

Comment:
The LEP prescribes a height limit of 16 metres for the site, which would generally result in a development of 5 storeys. The North West Rail Link Corridor Strategy identifies the subject site for future residential development of 7-12 storeys. Therefore, the 5 storey building will provide a transition to denser and higher development to the south. There will be no unreasonable loss of privacy or amenity as a result of the variation.

Accordingly, the proposed number of storeys is considered satisfactory and can be supported in this instance.

ii) Unit Layout and Design

Part 3.11 of DCP Part B Section 5 – Residential Flat building requires the following in respect to apartment mix:

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

The approved unit mix of DA 824/2013/JP is:

65 x 1 bedroom units
89 x 2 bedroom units
20 x 3 bedroom units

The proposed modification results in an overall mix for the development of:

63 x 1 bedroom units
101 x 2 bedroom units
20 x 3 bedroom units

The total percentage of one bedroom units for the development is 63/184 = 34.2%, which is greater than 25%.

The relevant objectives of the unit layout and design clause are:

(iii) To provide a mix of residential flat types and sizes to accommodate a range of household types to facilitate housing diversity.

(iv) Address housing affordability by optimising the provision of economic housing choices and providing a mix of housing types to cater for different budgets and housing needs.

Comment:
The proposed modifications result in a decrease in the percentage of one bedroom units in the development by 3.2%. The approved development had a mix of 37.4% of one bedroom units, and the proposed development has a mix of 34.2% one bedroom units. The subject application is decreasing the number of one bedroom units, and increasing
the number of two bedroom units, thereby reducing the overall percentage of one bedroom units in the development. It is noted that the original application was lodged when these DCP requirements were draft. The original unit mix was considered as part of 824/2013/JP and was considered satisfactory.

4. Compliance with SEPP No. 65 Design Quality of Residential Flat Development and Apartment Design Code

A review of SEPP 65 and a new supporting Apartment Design Guide was placed on exhibition from 23 September 2014 until 31 October 2014. SEPP 65 – Design Quality of Residential Flat Development (Amendment No. 3) and the Apartment Design Guide was adopted on 17 July 2015.

The Apartment Design Guide which replaced the Residential Flat Design Code resulted in some changes which are aimed at increasing the supply of well designed, affordable apartments, to introduce greater consistency in the adoption of basic design principles, and to encourage more innovative design.

The key changes are:

- The Policy will now apply to mixed use development and shop top housing;
- Key sections of the Apartment Design Guide will prevail over any DCPs.;
- Car parking is either removed or reduced for sites within 800m of a rail station or light rail stop; and
- The existing Design Quality Principles are proposed to be consolidated and simplified.

Clause 31 Transitional provisions for SEPP 65, subclause (2) states:

*If a development application or an application for the modification of a development consent has been made before the notification on the NSW legislation website of the making of State Environmental Planning Policy No 65—Design Quality of Residential Flat Development (Amendment No 3) and the application has not been finally determined before the commencement of that amendment, the application must be determined as if the amendment had not commenced.*

Given that the application was lodged before the SEPP 65-Design Quality of Residential Development (Amendment 3) came into force, the previous SEPP 65 remains as the relevant instrument. The proposed 10 units comply with the relevant SEPP 65 design principles including apartment sizes, solar and daylight access, ventilation and balcony depth. The proposed development is considered to satisfy the design guidelines and rules of thumb contained within the Residential Flat Code.

However, the proposal has been assessed against the draft SEPP 65 principles. These principles are assessed as follows:

**i) Principle 1: Context and neighbourhood character**

The proposal provides for a transition in scale from the northern side of Horatio Avenue which is zoned R3 medium density development and provides for two storey integrated dwellings, to future high density development to the east and south in which a planning proposal received conditional Gateway Approval from the Department of Planning subject to further amendments being made to reduce the height and density of the proposal before finalisation. Following public exhibition, the matter was reported to Council and Council resolved to proceed to finalisation of planning proposal subject to amendments which reduced the height and density of the proposal. Nevertheless, the North West Rail
Link Corridor Strategy identifies the subject site, and sites to the south for future residential development of 7-12 storeys. The proposal is considered to be complementary to the existing and future context of the locality.

The proposal complies with the ‘desired future character’ for high density residential within the Norwest Study Area. Furthermore, the site is defined by the LEP and DCP provisions, and complies with the key controls and is considered to be a satisfactory design outcome.

**ii) Principle 2: Built form and scale**

The maximum proposed building height to the ridge of the building is 17.2 metres, which exceeds the maximum LEP building height of 16 metres. However, the scale of the building will be consistent with future residential flat buildings in the area, particularly to developments to the south and east of the site which have been identified as being 7-12 storeys under the North West Rail Link Corridor Strategy. The design of the building elements are of a contemporary style with a number of elements being used to provide architectural character.

**iii) Principle 3: Density**

The site is located in a high density residential zone and achieves compliance with the DCP requirements relating to density. The maximum permitted density is 175 persons per hectare and the proposed density complies, being 174.7 persons per hectare (when including the additional two units in building 7 recommended for approved as part of DA 1098/2015/HB).

The density is suitable for the site given its accessibility to public transport and its access to common and public open space.

**iv) Principle 4: Sustainability**

The Development Application is accompanied by a BASIX Certificate. The proposed development provides adequate solar access and cross ventilation to the new units.

There are no single aspect units facing south, the additional 10 units have living areas and private open space orientated to the north.

A waste management plan has been prepared and submitted with the development application and is considered satisfactory.

**v) Principle 5: Landscape**

The proposal provides for a variety of trees and shrubs surrounding the building to provide appropriate screening and soften the visual appearance of the building.

**vi) Principle 6: Amenity**

The proposed apartment layout demonstrates satisfactory spatial arrangement of rooms, circulation between rooms a satisfactory level of privacy for each room that will allow for good amenity for all the units in the development. The articulation of the building and provision of open space will ensure a suitable standard of residential amenity.

As stated above, the solar access for the development is considered satisfactory. There are no single aspect apartments facing south. The development also achieves a satisfactory level of cross-ventilation.
Units are provided with good solar penetration and ventilation and with sizes consistent with the Apartment Design Code.

The location of the site maximises the use of public transport given the close proximity to the future Norwest Station which is located less than 800 metres from the subject site.

vii) Principle 7 – Safety

The development has been designed with safety and security concerns in mind. The common open space is within direct view of occupants to allow passive surveillance. Open spaces are designed to provide attractive areas for recreation and entertainment purposes. These open spaces are accessible to all residents and visitors whilst maintaining a degree of security. Private spaces are clearly defined and screened.

viii) Principle 8 – Housing diversity and social interaction

The development has a mix of apartment types, which will assist in providing a choice for different demographics and household budgets. The location of this development provides dwellings in close proximity to Norwest that will provide a range of support services.

ix) Principle 9 – Aesthetics

The proposal integrates a number of recesses and projections into the facades of the structure to articulate the overall mass and form into smaller segments. The bulk of the overall building works and height is reduced by stepping of the building, and the articulation of the facades, creating smaller segments in order to minimise the overall bulk and scale of the development. The design is modern in style and appropriate for the area.

5. Issues Raised in Submissions

The application was notified and advertised for 30 days and 2 submissions were received. The issues raised in the submissions are addressed as follows:

<table>
<thead>
<tr>
<th>ISSUE/OBJECTION</th>
<th>COMMENT</th>
<th>OUTCOME</th>
</tr>
</thead>
<tbody>
<tr>
<td>We bought into this estate knowing that there would be 4 storey apartments, not 5 or more. If we let this proposal go through, we set a precedent on all future developments.</td>
<td>The LEP prescribes a height limit of 16 metres, which can potentially result in a 5 storey development (allowing 3 metres per storey). The applicant is entitled to lodge a modification seeking amendments to an approval. Furthermore, the North West Rail Link Corridor Strategy identifies the subject site for future residential development of 7-12 storeys. It is considered that this development will not result in an undesirable precedent.</td>
<td>Issue addressed.</td>
</tr>
</tbody>
</table>
Building 5 will exceed the LEP development standard related to building height of 16m.

<table>
<thead>
<tr>
<th>The applicant proposes to exceed the height limit by 1.2 metres, with the maximum height of the development being 17.2 metres. The applicant has provided suitable justification for the breach which is considered supportable in this instance.</th>
<th>Issue addressed.</th>
</tr>
</thead>
</table>

An additional level will affect the privacy of adjoining properties as well as overlooking into the playground, walkways, etc of the subject site.

<table>
<thead>
<tr>
<th>Development is yet to be constructed on land to the south of the site. In terms of overlooking within the site, it is acknowledged within a high density development, mutual overlooking will occur, however the development complies with SEPP 65 building separation requirements. Buildings 4 and 6 separate building 5 and the single dwellings to the north of the site.</th>
<th>Issue addressed.</th>
</tr>
</thead>
</table>

The developer has submitted a traffic study that uses RMS data, and states that the additional 10 units will only generate an additional 2 vehicle/hour trips during peak hours both ways. This is considered to be an underestimate. Horatio Avenue is a small internal feeder road, the additional traffic will cause more noise and risk of accidents.

<table>
<thead>
<tr>
<th>The additional traffic which will result from the additional 10 units is considered to be minor. A traffic report has been submitted in support of the development application, and states that &quot;the ten proposed additional dwellings generate some two vehicles per hour at peak times, compared to the approved development, based on surveys undertaken by the RMS. This is a very low generation.&quot; It is noted that works are still to occur to Horatio Avenue to provide for its ultimate width.</th>
<th>Issue addressed.</th>
</tr>
</thead>
</table>

The application seeks to modify the roof from pitched to flat. A pitched roof will blend in more with the existing medium density houses at Horatio Avenue.

<table>
<thead>
<tr>
<th>No issues are raised with the proposed flat roof, there are no requirements for a residential flat building to have a pitched roof, furthermore, the style of the development is in keeping with other flat buildings in the locality.</th>
<th>Issue addressed.</th>
</tr>
</thead>
</table>

**SUBDIVISION ENGINEERING COMMENTS**

Council’s Development Engineer has reviewed the proposed modifications. Including the proposed subdivision and no objection is raised, subject to the modification of relevant conditions.
WASTE MANAGEMENT COMMENTS
No objection raised to the modification, subject to modification of relevant conditions.

NSW OFFICE OF WATER
NSW Office of Water has reviewed the proposed modifications and no objection is raised to the amended plans and no changes to the approved General Terms of Approval are required.

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.

The proposed modification is considered to be substantially the same development as originally approved by the JRPP and is considered satisfactory with respect to Section 96(2) of the Environmental Planning and Assessment Act 1979.

The proposed modifications do not result in any adverse impacts such as overshadowing, solar access or privacy.

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

Accordingly approval subject to conditions as modified is recommended.

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

The Hills Future - Community Strategic Plan
The proposed development is consistent with the planning principles, vision and objectives outlined within “Hills 2026 - Looking Towards the Future” as the proposed development provides for satisfactory growth without adverse environmental or social amenity impacts.

RECOMMENDATION
The Section 96(2) application for modification of Development Consent 824/2013/JP be approved as follows:

CONDITIONS OF CONSENT
The following condition be deleted:

Conditions 30, 76 and 87.
The following conditions be **added**:

**5a. Compliance with Sydney Water Requirements**

Compliance with the requirements of Sydney Water throughout all stages of the subdivision, including finalisation of the creek/riparian corridor required and the subsequent lot 3 boundary amendments.

Correspondence from Sydney Water is required to show the final creek/riparian corridor lot layout required, and the final subdivision plan is to match Sydney Water’s requirements.

**37a Compliance with Sydney Water Requirements – Building Plan Approval**

The approved plans must be submitted to a Sydney Water Quick Check agent to determine whether the development will affect any Sydney Water sewer or water main, stormwater drains and/or easement, and if further requirements need to be met. Plans will be appropriately stamped.

For further assistance please telephone 13 20 92 or refer to Sydney Water’s website [www.sydneywater.com.au](http://www.sydneywater.com.au) for:

- Quick Check agent details - see Plumbing, building and developing then Quick Check agents, and
- Guidelines for Building Over/Adjacent to Sydney Water Assets - see Plumbing, building and developing then Building over or next to assets.

**61a. Compliance with Sydney Water Requirements**

A letter from Sydney Water must be submitted confirming that the works and subdivision plan have been prepared and completed to their satisfaction.

The following conditions be **deleted** and **replaced** with:

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

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

The amendments in red include:

- Deletion of bridge across SP2 zoned land in accordance with Sydney Water Requirements.

**DA 824/2013/JP**

**REFERENCED PLANS AND DOCUMENTS**

<table>
<thead>
<tr>
<th>DRAWING NO.</th>
<th>DESCRIPTION</th>
<th>REVISION</th>
<th>DATE</th>
</tr>
</thead>
<tbody>
<tr>
<td>DA-1.05</td>
<td>Site Plan</td>
<td>H</td>
<td>13 August 2014</td>
</tr>
<tr>
<td>DA-02.01</td>
<td>Basement Plan (West)</td>
<td>G</td>
<td>1 April 2014</td>
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<tr>
<td>DA-02.02</td>
<td>Basement Plan (East)</td>
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<td>13 August 2014</td>
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<tr>
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<td>Ground Floor Plan (West)</td>
<td>G</td>
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<td>DA-02.04</td>
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<td>DA-3.01</td>
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<td>South Elevation</td>
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<td>East and West Elevation</td>
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<td>13 August 2014</td>
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<tr>
<td>DA-4.01</td>
<td>Section A-A</td>
<td>H</td>
<td>13 August 2014</td>
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<td>Section B-B and C-C</td>
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<td>DA-4.03</td>
<td>Section D-D</td>
<td>H</td>
<td>13 August 2014</td>
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<td>DA-1.03</td>
<td>Proposed Riparian Zone</td>
<td>D</td>
<td>15 August 2013</td>
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**DA 824/2013/JP/A**

REFERENCED PLANS AND DOCUMENTS

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<th>DRAWING NO.</th>
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<th>REVISION</th>
<th>DATE</th>
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<tr>
<td>DA-1.05</td>
<td>Annexure 1 – Staging Plan - Site Plan</td>
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<td>02/08/2013</td>
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**DA 824/2013/JP/B**

REFERENCED PLANS AND DOCUMENTS

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<th>DESCRIPTION</th>
<th>REVISION</th>
<th>DATE</th>
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<tr>
<td>DA-1.05</td>
<td>Site Plan</td>
<td>K</td>
<td>21/04/2015</td>
</tr>
<tr>
<td>DA-02.02</td>
<td>Basement Plan</td>
<td>K</td>
<td>21/04/2015</td>
</tr>
<tr>
<td>DA-02.04</td>
<td>Building 5 – Level 1 (Ground)</td>
<td>K</td>
<td>21/04/2015</td>
</tr>
<tr>
<td>DA-02.08</td>
<td>Building 5 – Levels 2-5</td>
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<td>21/04/2015</td>
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<tr>
<td>DA-3.01</td>
<td>Elevations 1 – Building 4 and 6 – North and South</td>
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<td>21/04/2015</td>
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<tr>
<td>DA-3.02</td>
<td>Elevations 2 – Building 5 – North and South</td>
<td>K</td>
<td>21/04/2015</td>
</tr>
<tr>
<td>DA-3.03</td>
<td>Elevations 3 – Buildings 4 and 5 – East and Buildings 5 and 6 - West</td>
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<td>21/04/2015</td>
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<td>DA-4.01</td>
<td>Sections</td>
<td>I</td>
<td>21/04/2015</td>
</tr>
<tr>
<td>DA-4.02</td>
<td>Sections</td>
<td>I</td>
<td>21/04/2015</td>
</tr>
</tbody>
</table>
75. Final Plan and 88B Instrument
The final plan and Section 88B Instrument must provide for the following. Council’s standard recitals must be used.

i. Dedication – New Road
The dedication of the proposed public roads must be included on the final plan in accordance with the undertaking submitted relating to dedication.

ii. Dedication – Road Widening
The dedication of the proposed road widening must be included on the final plan in accordance with the undertaking submitted relating to dedication.

iii. Easement – Temporary Public Access
A temporary public access easement must be created within proposed lot 1 over the temporary cul-de-sac turning head using the “temporary public access easement” terms included in the standard recitals.

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

v. Restriction/ Positive Covenant – Riparian Corridor
The site must be burdened with a restriction and a positive covenant using the “riparian corridor requirements/ restricted development area” terms included in the standard recitals.

vi. Restriction – Rainwater Tanks
All residential lots must be burdened with a restriction using the “rainwater tanks” terms included in the standard recitals.

vii. Restriction – Bedroom Numbers
All lots that contain a new dwelling home/ attached dwelling must be burdened with a restriction using the “bedroom numbers” terms included in the standard recitals.

viii. Restriction/ Positive Covenant – Water Sensitive Urban Design
Lots 1 and 2 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.

ix. Positive Covenant – Stormwater Pump
The subject site must be burdened with 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.

x. Restriction/ Positive Covenants – Restricted Development Area
A restriction must be placed on the title to ensure that any built form on the affected lot is located outside of the restricted development area, which must be shown on the final plan, in accordance with the requirements of Council.

xi. Restriction/ Positive Covenant – Vegetation Management Plan
Any area recognised in the VMP as requiring an RDA must be burdened with a restriction and a positive covenant using the “vegetation management plan/restricted development area” terms included in the standard recitals.
93. Property Numbering for Integrated Housing, Multi Unit Housing, Commercial Developments and Industrial Developments

The responsibility for property numbering is vested solely in Council.

Buildings 4-6 will be addressed to the proposed new road Lucinda Avenue and will be allocated the street number one (1). One bank of letterboxes is to be located at the Lucinda Avenue frontage to accommodate units from these buildings

Building 7 will be addressed to the proposed new road Lucinda Avenue and will be allocated street number two (2). One bank of letterboxes is to be located at the Lucinda Avenue frontage to accommodate unit from this building.

Unit numbers are allocated as follows:

<table>
<thead>
<tr>
<th>Building 4 – Lift 4</th>
<th>Ground Floor</th>
<th>Ground Floor Units 20-25/1 Lucinda Avenue Kellyville</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>First Floor</td>
<td>Units 121-126/1 Lucinda Avenue Kellyville</td>
</tr>
<tr>
<td></td>
<td>Second Floor</td>
<td>Units 221-226/1 Lucinda Avenue Kellyville</td>
</tr>
<tr>
<td></td>
<td>Third Floor</td>
<td>Units 321-326/1 Lucinda Avenue Kellyville</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Building 5 – Lift 5</th>
<th>Ground Floor</th>
<th>Units 26-30/1 Lucinda Avenue Kellyville</th>
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<tbody>
<tr>
<td></td>
<td>First Floor</td>
<td>Units 127-131/1 Lucinda Avenue Kellyville</td>
</tr>
<tr>
<td></td>
<td>Second Floor</td>
<td>Units 227-231/1 Lucinda Avenue Kellyville</td>
</tr>
<tr>
<td></td>
<td>Third Floor</td>
<td>Units 327-331/1 Lucinda Avenue Kellyville</td>
</tr>
<tr>
<td></td>
<td>Fourth Floor</td>
<td>Units 401-406/1 Lucinda Avenue Kellyville</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Building 5 Lift 5A</th>
<th>Ground Floor</th>
<th>Units 31-35/1 Lucinda Avenue Kellyville</th>
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<tbody>
<tr>
<td></td>
<td>First Floor</td>
<td>Units 132-136/1 Lucinda Avenue Kellyville</td>
</tr>
<tr>
<td></td>
<td>Second Floor</td>
<td>Units 232-236/1 Lucinda Avenue Kellyville</td>
</tr>
<tr>
<td></td>
<td>Third Floor</td>
<td>Units 332-336/1 Lucinda Avenue Kellyville</td>
</tr>
<tr>
<td></td>
<td>Fourth Floor</td>
<td>Units 407-410/1 Lucinda Avenue Kellyville</td>
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</tbody>
</table>

<table>
<thead>
<tr>
<th>Building 6 – Lift 6</th>
<th>Ground Floor</th>
<th>Units 36-39/1 Lucinda Avenue Kellyville</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>First Floor</td>
<td>Units 137-141/1 Lucinda Avenue Kellyville</td>
</tr>
<tr>
<td></td>
<td>Second Floor</td>
<td>Units 237-241/1 Lucinda Avenue Kellyville</td>
</tr>
<tr>
<td></td>
<td>Third Floor</td>
<td>Units 337-341/1 Lucinda Avenue Kellyville</td>
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</table>

<table>
<thead>
<tr>
<th>Building 7 – Lift 7</th>
<th>Ground Floor</th>
<th>Units 40-42/2 Lucinda Avenue Kellyville</th>
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<tbody>
<tr>
<td></td>
<td>First Floor</td>
<td>Units 142-144/2 Lucinda Avenue Kellyville</td>
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<td></td>
<td>Second Floor</td>
<td>Units 242-244/2 Lucinda Avenue Kellyville</td>
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<tr>
<td></td>
<td>Third Floor</td>
<td>Units 342-344/2 Lucinda Avenue Kellyville</td>
</tr>
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</table>

These numbers, unless otherwise approved by Council in writing, are to be displayed at street frontages and on all door entrances.

As this development will be a staged Strata with the one common property, then duplicate unit numbers is not permitted. Should this change, then unit numbers will need to be reviewed & new numbers allocated accordingly.

A diagrammatic plan is to be erected on site at driveway entry points. Clear and accurate external directional signage is to be erected on all buildings, stairways, lift shafts, units and 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, in the event of an emergency.

96. Construction of Waste Storage Areas (Buildings Four-Six)
All work involving construction of the waste storage areas is required to comply with the requirements of Council’s Bin Storage Facility Design Specifications. Storage facility is to be provided for a minimum of:

**Buildings Four-Six:** Ten (10) 1100 litre bulk garbage bins and forty-six (46) 240 litre mobile recycling bins.

100. Stage 1 - Section 94 Contribution – Balmoral Road Release Area
The following monetary contributions must be paid to Council in accordance with Section 94 of the Environmental Planning and Assessment Act, 1979, to provide for the increased demand for public amenities and services resulting from the development.

Payments comprise of the following:-

<table>
<thead>
<tr>
<th>Purpose: 1 bedroom unit</th>
<th>Purpose: 2 bedroom unit</th>
<th>Purpose: 3 bedroom unit</th>
<th>Credit</th>
<th>No. of 1 Bedroom units: 32</th>
<th>No. of 2 Bedroom units: 65</th>
<th>No. of 3 Bedroom units: 8</th>
<th>No. of Credits: 1</th>
<th>Total S94</th>
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<tbody>
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<td>$17,904.40</td>
<td>$10,683.47</td>
<td>$612,790.14</td>
<td>$1,407,560.07</td>
<td>$1,103,365.54</td>
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<td>Open Space - Capital</td>
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<td>$2,551.77</td>
<td>$3,950.81</td>
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<td>Transport Facilities - Capital</td>
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Prior to payment of the above contributions, the applicant is advised to contact Council’s Development Contributions Officer on 9843 0268. Payment must be made by cheque or credit/debit card. Cash payments will not be accepted.

This condition has been imposed in accordance with Contributions Plan No. 12.

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

102. Design of Waste Storage Area (Buildings Four, Five and Six)
Prior to a Construction Certificate being issued, amended plans are required to be submitted to Council to the satisfaction of the Resource Recovery Project Officer. The plans must demonstrate that the waste storage room is sized to comfortably store and manoeuvre a minimum of ten (10) 1100 litre bulk garbage bins and forty-six (46) 240 litre mobile recycling bins. Additionally, the bay width of the waste servicing area is to be increased to be at least 4m.

108. 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. 626781M be complied with. Any subsequent version of these BASIX Certificates will supersede all previous versions of the certificate.

A Section 96 Application may be required should the subsequent version of these BASIX Certificates necessitate design changes to the development. However, a Section 96 Application will be required for a BASIX Certificate with a new number.
ATTACHMENTS
1. Locality Plan
2. Aerial Photograph
3. Zoning Map
4. Overall Site Plan
5. Site Plan – Building 5
6. Elevations
ATTACHMENT 1 – LOCALITY PLAN
ATTACHMENT 2 – AERIAL PHOTOGRAPH

Location of Building 5

Subject Site
ATTACHMENT 6 – ELEVATIONS

Building 5 – Proposed North Elevation

Building 5 – Proposed South Elevation

Building 5 – Approved South Elevation
Building 5 – Proposed West Elevation

Building 5 – Proposed East Elevation
### ITEM-3  
**JRPP REPORT - DA NO. 1308/2015/JP**  
(Sydney West Region)

<table>
<thead>
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<th>JRPP No</th>
<th>2015SYW078</th>
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<tr>
<td>DA Number</td>
<td>1308/2015/JP</td>
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<tr>
<td>Local Government Area</td>
<td>THE HILLS SHIRE COUNCIL</td>
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<tr>
<td>Street Address</td>
<td>PROPOSED LOT 311 IN A RE-SUBDIVISION OF LOT 301 DP 1160437 - GLENHAVEN ESTATE RETIREMENT VILLAGE, 15 OLD GLENHAVEN ROAD, GLENHAVEN</td>
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<tr>
<td>Applicant</td>
<td>KNOWLES GROUP</td>
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<tr>
<td>Number of Submissions</td>
<td>ONE</td>
</tr>
<tr>
<td>Regional Development Criteria (Schedule 4A of the Act)</td>
<td>GENERAL DEVELOPMENT WITH A CIV OF OVER $20 MILLION</td>
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<tr>
<td>List of All Relevant s79C(1)(a) Matters</td>
<td></td>
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</tbody>
</table>
  - List all of the relevant environmental planning instruments: s79C(1)(a)(i)  
  - SEPP Housing for Seniors or People with a Disability 2004  
  - SEPP State and Regional Development 2011  
  - SEPP 55—Remediation of Land  
  - The Hill LEP 2012  
  - 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)  
    - The Hills DCP 2012  
  - 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)  
    - Nil  
  - 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  
    - Nil |
EXECUTIVE SUMMARY

The Development Application is for the construction of a residential aged care facility accommodating 120 sole occupancy rooms over two levels. Parking is provided within a basement area which provides for 58 carparking spaces that will be shared between staff and visitors.

The facility will operate with 130 staff members (mix of full time, permanent part time and casual), generally with the break-up of 55 staff in the mornings, 30 staff in the evenings and 12 staff at night. Visiting hours are proposed from 10am to 6pm.

The proposal includes a variation to the LEP Height Control Map. The site has a 10 metre height limit, a maximum of 11.58 metres is proposed. The variation is 1.58 metres or 15.8%. The height variation relates to a portion of the building on the corner of Glenhaven Road and Holland Road. The height variation provides a built form that defines the street corner whilst having no detrimental impacts on adjoining residential properties. A front setback variation relating to an entry portico is also proposed. The variation is minor and does not result in any detrimental impact on neighbours.

The proposal was notified to adjoining and surrounding properties and one submission was received. The submission raised concerns with traffic impacts adversely affecting the immediate locality.

It is recommended that the Development Application be approved subject conditions.

In the absence of the JRPP process, this matter would be determined at an Ordinary meeting of Council.

BACKGROUND

Mandatory Requirements

<table>
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<tr>
<th>Owner:</th>
<th>CCR Interiors Pty Ltd.</th>
<th>1. Section 79C (EP&amp;A Act) - Satisfactory</th>
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<tbody>
<tr>
<td>Zoning:</td>
<td>RU6 Transition</td>
<td>2. SEPP Housing for Seniors or People with a Disability 2004 - Satisfactory.</td>
</tr>
<tr>
<td>Area:</td>
<td>Development site: 8,449m²</td>
<td>3. SEPP State and Regional Development 2011 - Satisfactory.</td>
</tr>
<tr>
<td></td>
<td></td>
<td>5. LEP 2012 – Variation to Height.</td>
</tr>
<tr>
<td></td>
<td></td>
<td>7. Section 94A Contribution – Yes, $267,696</td>
</tr>
</tbody>
</table>
SUBMISSIONS

1. Exhibition: No required. 1. Capital Investment Value in Excess of $20 million ($26,696,000).
2. Notice Adj Owners: Yes, 14 days
4. Submissions Received: One.

REASON FOR REFERRAL TO JRPP

HISTORY

11/03/2003 Development Consent 960/02/HC granted by Council for a SEPP 5 development at Nos. 11-15 Old Glenhaven Road, comprising 100 self-contained dwellings.


11/07/2014 Amendment No. 17 made to LEP 2012 to reduce the minimum lot size applicable to part of No. 15 Old Glenhaven Road, Glenhaven from two (2) hectares to 6000m² to facilitate the development of a residential care facility and enable subdivision of the land occupied by the facility from the remainder of the site.

22/12/2014 Subdivision Consent 531/2015/ZB to create the development site, proposed Lot 311 in a resubdivision of Lot 301 DP 1160437 issued under Delegated Authority.

22/12/2014 Development Consent 639/2014/HC granted at Council’s Delegated Authority Meeting for 30 self-care villas.

23/04/2015 Subject Development Application lodged.

29/05/2015 Letter sent to the applicant requesting additional information in relation to the Clause 4.6 Height Variation, servicing, acoustic matters and engineering matters.

19/06/2015 Additional information received in relation to request for information letter dated 29 May 2015.

25/06/2015 Briefing of Joint Regional Planning Panel.

28/07/2015 Letter sent to applicant requesting further engineering information.

29/07/2015 Response provided to request for additional engineering information.

PROPOSAL

The Development Application is for the construction of a residential aged care facility accommodating 120 sole occupancy rooms over two levels.
The facility will operate with 130 staff members (mix of full time, permanent part time and casual), generally with the break-up of 55 staff in the mornings, 30 staff in the evenings and 12 staff at night. Visiting hours are proposed from 10am to 6pm.

A cafe is proposed to operate in conjunction with the residential care facility and is expected to be open from 9.30am to 4.30pm 7 days a week.

Parking is provided within a basement area which provides for 58 carparking spaces that will be shared between staff and visitors.

The application has been referred to the NSW Rural Fire Service (NSWRFS) as it is classified as an “Integrated Development” pursuant to the provisions of Section 91 of the NSW Environmental Planning & Assessment Act, 1979 and the Rural Fires Act 1997

**ISSUES FOR CONSIDERATION**

1. **Compliance with SEPP Housing for Seniors or People with a Disability 2004**

The provisions of Chapter 3 of the SEPP state that the objective of this chapter is to "create opportunities for the development of housing that is located and designed in a manner particularly suited to both those seniors who are independent, mobile and active as well as those who are frail, and other people with a disability regardless of their age”.

Clause 17(1) of the SEPP restricts development on land that adjoins land zoned primarily for urban purposes unless the proposed development is for the purpose of any of the following:

(a) a hostel,
(b) **a residential care facility**,  
(c) serviced self-care housing.

The applicant seeks approval for a residential care facility under the provisions of the SEPP given the site adjoins R2 Low Density Residential zoned land on the southern side of Old Glenhaven Road.

A Residential Care Facility is defined within Clause 11 as:-

**'residential care facility’**

*In this Policy, a residential care facility is residential accommodation for seniors or people with a disability that includes:*

(a) meals and cleaning services;  
(b) personal care or nursing care, or both, and  
(c) appropriate staffing, furniture, furnishings and equipment for the provision of that accommodation and care, not being a dwelling, hostel, hospital or psychiatric facility.

The proposed residential care facility will provide meals, cleaning and nursing services to residents and it is considered that adequate staffing, furniture and equipment will be provided in accordance with the definition.
a. Site Compatibility Certificate

Clauses 24 and 25 refer to the requirement for a site compatibility certificate to be obtained for developments which are proposed upon land that adjoins land zoned primarily for urban purposes, land identified as ‘special uses’ and land that is used for the purposes of an existing registered club. As the subject site comprises land zoned RU6 Transition a site compatibility certificate is required. The consent authority, is not able to grant consent for a development unless a site compatibility certificate has been provided. The applicant has provided a Site Compatibility Certificate from the Department of Planning dated 28 November 2014. Accordingly Clauses 24 and 25 have been addressed.

b. Clause 26 - Location and Access to Facilities

The table below provides an assessment of the location and access requirements to facilities for the proposed development. As indicated, the proposal complies.

<table>
<thead>
<tr>
<th>DEVELOPMENT STANDARD</th>
<th>SEPP SL REQUIREIS</th>
<th>PROPOSED DEVELOPMENT</th>
<th>COMPLIANCE</th>
</tr>
</thead>
<tbody>
<tr>
<td>Facilities</td>
<td>(a) Access to Shops, banks and other retail and commercial services (b) Community services and recreational facilities (c) General medical practitioner</td>
<td>Within the locality all facilities and support services are available to residents, with some services available at Glenhaven and a major centre at Castle Hill (Castle Towers).</td>
<td>Yes</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Location and access</th>
</tr>
</thead>
<tbody>
<tr>
<td>Access is considered to comply if:</td>
</tr>
<tr>
<td>(a) the facilities and services listed above are located at a distance of not more than 400m from the site and the overall gradient is no more than 1:14, with alternate acceptable gradients for short distances, or</td>
</tr>
<tr>
<td>(b) there is a public transport service available to the residents who will occupy the development:</td>
</tr>
<tr>
<td>(i) that is located at a distance of not more than 400</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>PROPOSED DEVELOPMENT</th>
<th>COMPLIANCE</th>
</tr>
</thead>
<tbody>
<tr>
<td>There are no facilities either existing or proposed within 400m of the site.</td>
<td>No, however compliance with provision (b) is achieved. See below.</td>
</tr>
<tr>
<td>The closest bus-stop to the site is in front of the existing Seniors Living Development within 400m of the subject development. The applicant has confirmed with Hills Bus that a regular</td>
<td>Yes</td>
</tr>
</tbody>
</table>
metres from the site of the development, and

(ii) that will take those residents to a place that is located at a distance of not more than 400 metres from the relevant facilities or services, and

(iii) that is available both to and from the development during daylight hours at least once between 8am and 12pm and at least once between 12pm and 6pm from Monday – Friday (both days inclusive).

<table>
<thead>
<tr>
<th>metres from the site of the development, and</th>
<th>service (603) will be provided to this bus stop which complies with the clause. An alternate stop is located on Glenhaven Road within 400m of the site.</th>
</tr>
</thead>
<tbody>
<tr>
<td>(ii) that will take those residents to a</td>
<td>There are bus set down areas located within the town centre of Castle Hill. Castle Hill provides all of the facilities listed in this section.</td>
</tr>
<tr>
<td>place that is located at a distance of not</td>
<td>The bus service to Castle Hill will be regularly available during weekdays.</td>
</tr>
<tr>
<td>more than 400 metres from the relevant</td>
<td></td>
</tr>
<tr>
<td>facilities or services, and</td>
<td></td>
</tr>
<tr>
<td>(iii) that is available both to and from</td>
<td></td>
</tr>
<tr>
<td>the development during daylight hours at</td>
<td></td>
</tr>
<tr>
<td>least once between 8am and 12pm and at</td>
<td></td>
</tr>
<tr>
<td>least once between 12pm and 6pm from</td>
<td></td>
</tr>
<tr>
<td>Monday – Friday (both days inclusive).</td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>c. Clause 27 – Bushfire Prone Land</th>
</tr>
</thead>
<tbody>
<tr>
<td>The subject site is identified as bushfire prone land. The proposal must comply with the provisions of “Planning for Bushfire Protection” and take into consideration entry and exit from the area and other matters relating to fire impact, and consult with the Rural Fire Service. The RFS have granted General Terms of Approval on 4 June 2015 (Refer Attachment 10).</td>
</tr>
</tbody>
</table>

d. Clause 28 - Water and Sewer Services |
<table>
<thead>
<tr>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>The SEPP states that Council must not consent to a Development Application unless the Council is satisfied that the development will be connected to a reticulated water system and have adequate facilities for the removal or disposal of sewage. In this respect, regard must be given to the suitability of the site and availability of services.</td>
</tr>
<tr>
<td>The applicant has submitted a feasibility letter from Sydney Water regarding the works required to be undertaken for this development in order for the development to receive a Section 73 Certificate from Sydney Water. This letter states that the following works are to be undertaken in regard to sewerage facilities and water provision:</td>
</tr>
<tr>
<td>(i) construction of a drinking water main extension ;</td>
</tr>
<tr>
<td>(ii) construction of a sewer main extension via a private pumping station.</td>
</tr>
<tr>
<td>Appropriate conditions of consent will be recommended requiring the submission of a “Notice of Requirements” Certificate from Sydney Water prior to the issue of a Construction Certificate, and the submission of a Section 73 Certificate prior to issue of the Occupation Certificate.</td>
</tr>
</tbody>
</table>

| The bus service (603) will be provided to this bus stop which complies with the clause. An alternate stop is located on Glenhaven Road within 400m of the site. |
| There are bus set down areas located within the town centre of Castle Hill. Castle Hill provides all of the facilities listed in this section. |
| The bus service to Castle Hill will be regularly available during weekdays. |
e. Clause 30 – Site Analysis

Clause 30 of the SEPP states that a consent authority must not consent to a development application unless the consent authority is satisfied that the applicant has taken into account a site analysis prepared by the applicant in accordance with this clause.

The SEPP states that a site analysis must:

a. contain information about the site and its surrounds as described in subclauses (3) and (4), and

b. be accompanied by a written statement:
   i. explaining how the design of the proposed development has regard to the site analysis, and
   ii. explaining how the design of the proposed development has regard to the design principles set out in Division 2.

Within the Statement of Environmental effects and submitted plans the applicant has undertaken an appropriate and detailed site analysis to meet the requirements of the SEPP. The site analysis has guided the proposed built form which is considered reasonable.

f. Clause 32 – Design of residential development

Clause 32 states that a consent authority must not consent to a Development Application made pursuant to this Chapter unless the consent authority is satisfied that the proposed development demonstrates that adequate regard has been given to the principles set out in Division 2 (Clauses 33 - 39), discussed below.

g. Clauses 33 - 39 – Design Principles

Clauses 33 - 39 state that consent must not be granted unless the consent authority is satisfied that the proposed development demonstrates that adequate regard has been given to the design of the proposal, taking into consideration matters such as neighbourhood amenity and streetscape, visual and acoustic privacy, solar access and design for climate, stormwater, crime prevention, accessibility and waste management.

The proposed development has been designed having regard to these matters in particular:

Clause 33 – Neighbourhood Amenity
The proposal maintains reasonable neighbourhood amenity for existing residents. The amended proposal provides appropriate building setbacks to reduce bulk and overshadowing. The impact on existing residents is satisfactory.

Clause 34 – Visual and Acoustic Privacy
The proposed development has satisfactorily addressed the visual and acoustic privacy of residents by appropriate site planning, the location and design of windows and courtyards. As such the proposal results in acceptable impact on existing residents.

Clause 35 – Solar Access and design for climate
The proposed development ensures adequate daylight to the main living areas of neighbours in the vicinity and residents and adequate sunlight to substantial areas of private open space. As such the proposal has an acceptable impact on existing residents.

As such the proposal is considered satisfactory in respect to the Design Principles.
h. Clause 40 – Development standards—minimum sizes and building height

A consent authority must not consent to a Development Application made pursuant to this Chapter unless the proposed development complies with the standards specified in this clause.

<table>
<thead>
<tr>
<th>DEVELOPMENT STANDARD</th>
<th>SEPP REQUIRES</th>
<th>PROPOSED DEVELOPMENT</th>
<th>COMPLIANCE</th>
</tr>
</thead>
<tbody>
<tr>
<td>Site size</td>
<td>The size of the site must be at least 1,000m²</td>
<td>8,449m²</td>
<td>Yes</td>
</tr>
<tr>
<td>Site frontage</td>
<td>The site frontage must be at least 20 metres wide at the building line.</td>
<td>Site width (frontage to Glenhaven Road) is 77m</td>
<td>Yes</td>
</tr>
</tbody>
</table>
| Height in residential zones where residential flat builds are not permitted. | (a) 8 metre maximum  
(b) 2 storeys where adjacent to a boundary  
(c) building within the rear 25% not be greater than 1 storey | The development is located on land zoned RU6 Transition and therefore this cause is not relevant. | NA         |

i. Clause 48 – Standards that cannot be used to refuse development consent for residential care facilities

A consent authority must not refuse consent to a Development Application made pursuant to this chapter for the carrying out of development for the purpose of a residential care facility on any of the following grounds: building height, density and scale, landscaping and parking.

<table>
<thead>
<tr>
<th>DEVELOPMENT STANDARD</th>
<th>SEPP REQUIRES</th>
<th>PROPOSED DEVELOPMENT</th>
<th>COMPLIANCE</th>
</tr>
</thead>
<tbody>
<tr>
<td>Building Height</td>
<td>8 metres</td>
<td>11.58 metres</td>
<td>No, however the height specifically in relation to the LEP height limit of 10 metres is addressed in section 3 of this report</td>
</tr>
<tr>
<td>Density and Scale</td>
<td>Maximum FSR 1:1</td>
<td>0.98:1</td>
<td>Yes</td>
</tr>
<tr>
<td>Landscaped area</td>
<td>Minimum 25m²</td>
<td>3000m² required (25 x120), 3690m² proposed.</td>
<td>Yes</td>
</tr>
<tr>
<td>Parking</td>
<td>120/10=12 spaces</td>
<td>Proposed 58 spaces</td>
<td>Yes</td>
</tr>
</tbody>
</table>
3. The Hills Local Environmental Plan 2012 and Variation to Height

The proposal has been assessed against The Hills Local Environmental Plan 2012 and is considered to be satisfactory in relation to the relevant provisions and zone objectives. The height controls of the SEPP of 8 metres and that the rear 25% of the site be single storey do not strictly apply given the site is not located on land zoned residential. In this regard the proposal has been assessed against the height control of the LEP being 10 metres. The proposal has a maximum height of 11.58 metres a variation of 1.58 metres or 15.8%.

The applicant has provided a Clause 4.6 Variation which is provided at Attachment 9.

Clause 4.6 Exceptions to Development Standards states:

"(1) The objectives of this clause are as follows:
(a) to provide an appropriate degree of flexibility in applying certain development standards to particular development,
(b) to achieve better outcomes for and from development by allowing flexibility in particular circumstances.

(2) Development consent may, subject to this clause, be granted for development even though the development would contravene a development standard imposed by this or any other environmental planning instrument. However, this clause does not apply to a development standard that is expressly excluded from the operation of this clause.

(3) Development consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating:
(a) that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and
(b) that there are sufficient environmental planning grounds to justify contravening the development standard.

(4) Development consent must not be granted for development that contravenes a development standard unless:
(a) the consent authority is satisfied that:
(i) the applicant’s written request has adequately addressed the matters required to be demonstrated by subclause (3), and
(ii) the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out, and
(b) the concurrence of the Secretary has been obtained.

(5) In deciding whether to grant concurrence, the Secretary must consider:
(a) whether contravention of the development standard raises any matter of significance for State or regional environmental planning, and
(b) the public benefit of maintaining the development standard, and
(c) any other matters required to be taken into consideration by the Secretary before granting concurrence.

(6) Development consent must not be granted under this clause for a subdivision of land in Zone RU1 Primary Production, Zone RU2 Rural Landscape, Zone RU3 Forestry, Zone RU4 Primary Production Small Lots, Zone RU6 Transition, Zone R5 Large Lot Residential, Zone E2 Environmental Conservation, Zone E3 Environmental Management or Zone E4 Environmental Living if:
(a) the subdivision will result in 2 or more lots of less than the minimum area specified for such lots by a development standard, or
(b) the subdivision will result in at least one lot that is less than 90% of the minimum area specified for such a lot by a development standard.

(7) After determining a development application made pursuant to this clause, the consent authority must keep a record of its assessment of the factors required to be addressed in the applicant’s written request referred to in subclause (3).

(8) This clause does not allow development consent to be granted for development that would contravene any of the following:
(a) a development standard for complying development,
(b) a development standard that arises, under the regulations under the Act, in connection with a commitment set out in a BASIX certificate for a building to which State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004 applies or for the land on which such a building is situated,
(c) clause 5.4,
(c) clause 6.1 or 6.2."

The exceedence at its highest point relates to roof area of the building located at the corner of Glenhaven Road and Holland Road. In determining the appropriateness of the variation request a number of factors have been taken into consideration to determine whether the variation is supportable in this instance. They include:

**Site Characteristics**
As identified above the variation is considered satisfactory given that the site is surrounded by existing roads and the built form and scale is consistent with the locality. The site is at its lowest point in the area of the exceedance.

**Impacts**
The shadow impact from the development is considered reasonable and will fall primarily onto Glenhaven and Holland Road. The separation to adjoining future development will reduce the potential for overlooking and privacy impacts.

**Built Form**
The variation primarily relates to the roof form of the building located on the corner of Glenhaven Road and Holland Road. The variation is minor and is considered to provide no conceivable difference to the built form of the proposal when viewed form the public domain when compared to a development that would comply.

Accordingly, the proposed height is considered satisfactory and can be supported in this instance.

The Height of Building Clause objectives state:
Clause 4.3 Height of Buildings Objectives:

(a) to ensure the height of buildings is compatible with that of adjoining development and overall streetscape,

(b) to minimise the impact of overshadowing, visual impact, and loss of privacy on adjoining properties and open space areas.

Comment: The development has been designed to provide a built form outcome that responds to the sites opportunities and constraints. The development facilitates a built form that is compatible with adjoining development and site topography. The height variation does not result in any further detrimental impacts on adjoining developments in terms of solar access or bulk and scale.

It is also noted that in accordance with the Departments Circular PS 08-003 that Director General’s concurrence can be assumed in respect of any Environmental Planning Instrument that adopts Clause 4.6 Exceptions to Development Standards of the Standard Instrument or a similar clause.

4. Compliance with THDCP Part B, Section 1 – Rural

The Hills Development Control Plan Part B, Section 1 – Rural applies to the proposed development. The DCP has limited applicability given the standards within the SEPP (Housing for Seniors or People with a Disability) apply to this form of development given that the site has been identified suitable for a higher density urban form than envisaged by the DCP. Notwithstanding this, an analysis has been undertaken against the relevant controls. The DCP requires a 10m setback to Glenhaven Road and Holland Road which the development complies with the exception of the main portico that has a minimum setback of 6 metres. Given the structure is open the encroachment is considered reasonable in this instance.

5. Integrated Development – NSW Rural Fire Service

The application is classified as ‘integrated development’ pursuant to Section 91 of the Environmental Planning and Assessment Act, 1979 as the development requires approval from the Rural Fire Service (RFS).

The proposal was referred to the RFS for assessment who advised that development application is satisfactory. Refer Attachment 10.

6. Issues Raised in Submission

The proposal was notified to residents within the village and adjoining the site for 14 days. One submission was received. The issues raised are addressed in the following table.

<table>
<thead>
<tr>
<th>ISSUE/OBJECTION</th>
<th>COMMENT</th>
<th>OUTCOME</th>
</tr>
</thead>
<tbody>
<tr>
<td>The applicant relies on traffic survey data for Glenhaven Road that was carried out in 2001. Since that time the traffic volume on Glenhaven Road has increased.</td>
<td>Council’s Traffic Section have advised that the existing road infrastructure is adequate to cater for the proposed development. Council’s Local Traffic Committee monitor the need for improvements to road infrastructure should a need arise in the future.</td>
<td>Issue addressed.</td>
</tr>
</tbody>
</table>
We believe access to the facility should only be via Holland Road or the existing entrance in Old Glenhaven Road.

Access to the basement and onsite parking is provided from Holland Road. Only a drop off/pick up bay is provided from Glenhaven Road.

Issued addressed.

TRAFFIC COMMENTS

The application was referred to Council’s Traffic Section who has made the following comments with respect to the proposed works:-

Existing Traffic Environment
A traffic report prepared by Cardno has been submitted in support of the application.

Glenhaven Road comprises one lane in each direction with a double barrier line median. There is a posted speed limit of 60km/h on this road for both directions of traffic.

In July 2003, a traffic impact assessment was undertaken for another development on the site by BJ Bradley & Associates. The report included 2001 traffic survey data for Glenhaven Road for the AM and PM peak periods. The assessment used a growth rate of 3% per annum to predict the 2003 traffic volumes. It was determined that Glenhaven Road in 2003 carried approximately 630 vehicles in the AM Peak and 748 vehicles in the PM Peak. Using the same growth rate assumption of 3% per annum, it is estimated that there are some 857 vehicles and 1017 vehicles travelling on Glenhaven Road in the AM peak and PM peak hour respectively for year 2015. An analysis of this data against Council data in various locations along Glenhaven Road over the last 5 years has determined that these predictions a reasonable.

Holland Road is 5.5m wide two lane local road constructed to a rural standard with 2.0m wide unsealed shoulders providing access to 14 residential properties and Holland Road Reserve. There is no traffic count data for Holland Road provided with the report however it could reasonably be expected that peak hourly volumes would be in the order of less than 20 peak hour trips. Holland road will be widened under the subject application to provide a 9.5m carriage way with kerb and gutter on the eastern side of Holland Road.

Access and Sight Distance Requirements
The sight distance requirement at the intersection of Holland Road and Glenhaven Road exceeds the minimum Stopping Sight Distance (SSD) and also exceed the desirable Safe Intersection Sight Distance (SISD) requirements of AS 2890.1.2004.

Traffic Improvements in the Locality
The imposition of specific conditions requiring the applicant carry out traffic improvements not related to road construction is not justified as the proposed development does not substantially negatively impact on the operational efficiency or safety of the surrounding road network. It is noted that the development provides for Section 94A contribution exceeding $250,000 that will be allocated to works covered by the contributions plan which includes various works across the Shire including the signalisation of Old Northern Road and Glenhaven Road intersection.

Recommendations
There are no objections raised from a traffic engineering perspective to the proposed development.
ENGINEERING COMMENTS
The carpark layout design is considered satisfactory against the Australian Standards. No objection subject to conditions.

TREE MANAGEMENT COMMENTS
Council’s Tree Section have reviewed the proposal and raise no objection subject to conditions.

ENVIRONMENTAL HEALTH & SUSTAINABILITY COMMENTS
Council’s Environmental Health and Sustainability Section have reviewed the proposal and raise no objection subject to conditions.

RESOURCE RECOVERY COMMENTS
The subject site is serviced by private contractors. Council’s Resource Recovery Section have reviewed the proposal and raise no objection subject to conditions.

CONCLUSION
The proposal has been assessed having regard to the provisions of Section 79C of the Environmental Planning and Assessment Act, 1979, State Environmental Planning Policy - Housing for Seniors or People with a Disability 2004, Local Environmental Plan 2012 and Development Control Plan 2012 and is considered satisfactory.

It is recommended that the subject Development Application be approved subject to conditions.

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

RECOMMENDATION
The Development Application be approved subject to the following conditions.

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>SHEET</th>
<th>REVISION</th>
<th>DATE</th>
</tr>
</thead>
<tbody>
<tr>
<td>14650</td>
<td>Basement Plan</td>
<td>TP-100</td>
<td>I</td>
<td>18/06/2015</td>
</tr>
<tr>
<td>14650</td>
<td>Ground Floor Plan</td>
<td>TP-101</td>
<td>G</td>
<td>10/04/2015</td>
</tr>
<tr>
<td>14650</td>
<td>First Floor Plan</td>
<td>TP-102</td>
<td>G</td>
<td>10/04/2015</td>
</tr>
<tr>
<td>14650</td>
<td>Roof Plan</td>
<td>TP-103</td>
<td>D</td>
<td>17/03/2015</td>
</tr>
<tr>
<td>14650</td>
<td>Elevations</td>
<td>TP-200</td>
<td>E</td>
<td>17/03/2015</td>
</tr>
</tbody>
</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. **SEPP (Housing for Seniors or People with a Disability) 2004**
The residential care facility shall be restricted to the housing of older people and / or people with a disability in accordance with the provisions of State Environmental Planning Policy (Housing for Seniors or People with a Disability)2004.

3. **Compliance with NSW Rural Fire Service Requirements**
Compliance with the requirements of the NSW Rural Fire Service attached as Appendix (A) to this consent and dated 4 June 2015.

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

5. **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.

6. **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.

7. **Building Work to be in Accordance with BCA**
All building work must be carried out in accordance with the provisions of the Building Code of Australia.

8. **Provision of Parking Spaces**
The development is required to be provided with 58 off-street car parking spaces. These car parking spaces shall be available for off street parking at all times.

9. **Tree Removal**
Approval is granted for the removal of trees as shown on Landscaping layout plan prepared by Cardno dated 13/03/15 and any trees located within the building footprint and access driveway locations.

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.

10. **Planting Requirements**
All trees planted as part of the approved landscape plan are to be minimum 45 litre pot size. All shrubs planted as part of the approved landscape plan are to be minimum 200mm pot size. Groundcovers are to be planted at 5/m².

11. **Adherence to Waste Management Plan**
All commitments of the Waste Management Plan submitted to and approved by Council must be implemented during all stages of the development lifecycle. 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 removed from the site 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.

12. Management of Construction and/or Demolition Waste
Waste materials must be appropriately stored and secured within a designated waste area onsite at all times, prior to its reuse onsite or being sent offsite. This includes waste materials such as paper and containers which must not litter the site or leave the site onto neighbouring public or private property. A separate dedicated bin must be provided onsite by the builder for the disposal of waste materials such as paper, containers and food scraps generated by all workers. Building waste containers are not permitted to be placed on public property at any time unless a separate application is approved by Council to locate a building waste container in a public place. Any material moved offsite is to be transported in accordance with the requirements of the Protection of the Environment Operations Act 1997 and only to a place that can lawfully be used as a waste facility. The separation and recycling of the following waste materials is required: metals, timber, masonry products and clean waste plasterboard. This can be achieved by source separation onsite, that is, a bin for metal waste, a bin for timber, a bin for bricks and so on. Alternatively, mixed waste may be stored in one or more bins and sent to a waste contractor or transfer/sorting station that will sort the waste on their premises for recycling. Receipts of all waste/ recycling tipping must be kept onsite at all times and produced in a legible form to any authorised officer of the Council who asks to see them.

13. Surplus Excavated Material
The disposal of surplus excavated material, other than to a licenced waste facility, is not permitted without the formal 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.

14. Construction of Refuse Room
All work involving construction of the refuse room must comply with the requirements of Council’s ‘Commercial/Industrial Waste Storage Area Specifications’. A copy of the specifications is available at www.thehills.nsw.gov.au.

15. Clinical Waste
A yellow sharps container that complies with AS 4031-1992 must be provided at the premises for the storage and disposal of clinical and sharps waste. Clinical and sharps waste must be collected and disposed of by an authorised waste contractor in accordance with the Protection of the Environment Operations (Waste) Regulation 2005.

16. Contamination
Any new information, that may come to light during construction works, which has the potential to alter previous conclusions about site contamination, shall be immediately notified to Council’s Manager – Environment and Health.

17. Acoustic Requirements
The recommendations of the Acoustic Assessment and Report prepared by Cardno (QLD) Ltd, referenced as E027_80515008 dated March 2015 and submitted as part of the Development Application are to be implemented as part of this approval. In particular:

- Installation of the Glazing recommended.

18. Control of Noise from Trucks
The number of trucks waiting to remove fill from the site must be managed to minimise disturbance to the neighbourhood. No more than one truck is permitted to be waiting in any of the streets adjacent to the development site.
19. Street Trees
Street trees must be provided for the section of Glenhaven Road and Holland Road fronting the development site spaced between 7m and 10m apart. The location of street trees must be considerate of driveways, services, drainage pits and sight lines at intersections. The species and size of street trees must comply with the requirements of Council and the Rural Fire Service. Details demonstrating compliance with the above must be submitted for approval before any street trees are planted.

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

20. 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:

a) AS/ NZS 2890.1
b) AS/ NZS 2890.6
c) AS 2890.2
d) Council’s DCP Part C Section 1 – Parking
e) Council’s Driveway Specifications

Where conflict exists the Australian Standard must be used.

The following must be provided:

i. The driveway MDW3 servicing the Medium Rigid Vehicle must strictly comply with the longitudinal profile 80515008-CI-005.

ii. 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.

iii. All driveways and car parking areas must be separated from landscaped areas by a low level concrete kerb or wall.

iv. All driveways and car parking areas must be concrete or bitumen. The design must consider the largest design service vehicle expected to enter the site. In rural areas, all driveways and car parking areas must provide for a formed all weather finish.

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

21. 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.

22. 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.

23. 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.

24. 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.

PRIOR TO THE ISSUE OF A CONSTRUCTION CERTIFICATE

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

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

26. Letterbox Location
Australia post requires there be one (1) single group of cluster mail boxes. Should more than one (1) cluster be required, Australia Post approval is required.

The number of mail boxes be provided is to be equal to the number of units plus one (1) for the proprietors. Mail boxes are to have a minimum internal dimension of 230mm wide x 160mm High x 330mm long and are to be provided with an opening of 230mm x 30mm for the reception of mail.

27. Section 94A Contribution
Pursuant to section 80A (1) of the Environmental Planning and Assessment Act 1979, and The Hills Section 94A Contributions Plan, a contribution of $267,696 shall be paid to Council. This amount is to be adjusted at the time of the actual payment in accordance with the provisions of the Hills Section 94A Contributions Plan.

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

You are advised that the maximum percentage of the levy for development under section 94A of the Act having a proposed construction cost is within the range specified in the table below;

<table>
<thead>
<tr>
<th>Proposed cost of the development</th>
<th>Maximum percentage of the levy</th>
</tr>
</thead>
<tbody>
<tr>
<td>Up to $100,000</td>
<td>Nil</td>
</tr>
<tr>
<td>$100,001 - $200,000</td>
<td>0.5 %</td>
</tr>
<tr>
<td>More than $200,000</td>
<td>1%</td>
</tr>
</tbody>
</table>
28. Acoustic Assessment of Proposed Mechanical Plant
A detailed acoustic assessment of plant noise emissions is to be conducted to ensure compliance with the Acoustic Design Benchmarks as stated in the Noise Impact Assessment referenced as E027_80515008, prepared by Cardno (QLD) Ltd dated March 2015.

29. 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.

30. Engineering Works and Design
The design and construction of the engineering works listed below must be provided for in accordance with the following documents and requirements:

a) Council’s Design Guidelines Subdivisions/ Developments
b) Council’s Works Specifications Subdivisions/ Developments

Variation from these documents can only be approved by Council’s Manager – Subdivision and Development Certification.

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. For Council to issue this approval the following must be provided:
   a) A completed application form.
   b) An electronic copy of the design plans and accompanying documentation.
   c) Payment of the applicable application and inspection fees.
   d) Payment of any required security bonds.

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:

i. **Road Shoulder and Kerb and Gutter Construction**

The development must carry out construction of road shoulder and drainage, kerb and gutter, concrete footpath paving and footpath formation along the Glenhaven Road & Holland Road frontages of the development site unless such works have been completed under the preceding developments.

These works shall include any necessary service adjustments and ancillary work required to make the construction effective.

The construction shall ensure a total carriageway width to be consistent with the frontage of Stage 1 (approximately 9.5m) and a design traffic loading of $1 \times 10^6$.

ii. **Footpath Paving**

A 1.2m wide concrete footpath paving, including access ramps at all intersections, must be provided across the Glenhaven Road and Holland Road frontages of the development site transitioning into the existing footpath adjacent in accordance with the above documents.

iii. **Footpath Verge Formation**

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

iv. **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.

v. **Stormwater Drainage – Pipe Extension**

A new kerb inlet pit must be provided in Holland Road fronting the site where the proposed connection from outlet pipes to the street drainage.

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

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

The stormwater concept plan prepared by Cardno Consulting Engineers Drawing 80515008-Cl-003 Revision 3 dated 15/06/2015 and Drawing Revision 2 dated 5/8/2015 are for development application purposes only and is not to be used for construction. The detailed design must reflect the approved concept plan and the parameters modelled in the associated DRAINS modelling. Detailed design and construction details of the OSD storages shall be in accordance with the Upper Parramatta River Catchment Trust OSD Handbook, and shall include the following:

a) Minimum 150sqm surface area of the OSD tank

b) Flap valve to be within High Early Discharge pit
c) Provision of a junction pit within the property to have one outlet pipe across the footpath verge

d) Mass concrete benching up to the invert of orifice to achieve gravitational discharge

Comprehensive design plans showing full construction details must be prepared by an accredited OSD designer and submitted with:

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

The design and construction of the OSD system must be approved by either Council or an accredited certifier. This certification must be included with the documentation approved as part of any Construction Certificate.

A Design Compliance Certificate (DCC) certifying the detailed design of the OSD system can be issued by Council subject to the following being provided:

i. A completed application form;
ii. Four copies of the design plans and specifications;
iii. Payment of the applicable application and inspection fees.

32. Water Sensitive Urban Design Elements

Water sensitive urban design elements, must be provided with the development to achieve the pollutant reduction as detailed below.

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, the following:


33. 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:
a) Allotment boundaries;
b) 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; and
j) A maintenance program for the erosion and sediment controls.

34. 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 $242,000.00 is required to be submitted to Council to guarantee the protection of the road pavement and other public assets in the vicinity of the site during construction works. The above amount is calculated at the rate of $85.00 per square metre based on the Glenhaven Road frontage plus an additional 50m on either side (194m) and Holland Road frontage plus an additional 50m on one side (141m) and multiplied by the width of the road (8.5m).

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.

35. Security Bond – External Works

In accordance with Section 80A(6)(b) of the Environmental Planning and Assessment Act 1979, a security bond is required to be submitted to Council to guarantee the construction, completion and performance of all works external to the site. The bonded amount must be based on 150% of the tendered value of providing all such works. The minimum bond amount is $10,000.00. The bond amount must be confirmed with Council prior to payment.

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

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

36. Security Bond Requirements

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

a) Be in favour of The Hills Shire Council;
b) Be issued by a financial institution or other accredited underwriter approved by, and in a format acceptable to, Council (for example, a bank guarantee or unconditional insurance undertaking);
c) Have no expiry date;
d) Reference the development application, condition and matter to which it relates;
e) Be equal to the amount required to be paid in accordance with the relevant condition;
f) Be itemised, if a single security bond is used for multiple items.
Should Council need to uplift the security bond, notice in writing will be forwarded to the applicant 14 days prior.

37. Draft Legal Documents
Where an encumbrance on title is required to be created as part of this consent, draft copies of all legal documents must be submitted to Council for checking before a Construction Certificate is issued.

PRIOR TO WORK COMMENCING ON THE SITE

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

39. 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.

40. Management of Building Sites – Builder’s Details
The erection of suitable fencing or other measures to restrict public access to the site and building works, materials or equipment when the building work is not in progress or the site is otherwise unoccupied.

The erection of a sign, in a prominent position, stating that unauthorised entry to the site is not permitted and giving an after hours contact name and telephone number. In the case of a privately certified development, the name and contact number of the Principal Certifying Authority.

41. 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.

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

This will include, but not be limited to a stabilised access point and appropriately locating stockpiles of topsoil, sand, aggregate or other material capable of being moved by water being stored clear of any drainage line, easement, natural watercourse, footpath, kerb or roadside.

43. Traffic Control Plan
A Traffic Control Plan is required to be prepared and submitted to Council for approval. The person preparing the plan must have the relevant accreditation to do so. Where amendments to the plan are required post approval, they must be submitted to Council for further approval prior to 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.
44. 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:

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

45. 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.

DURING CONSTRUCTION

46. Hours of Work
Work on the project to be limited to the following hours: -

Monday to Saturday - 7.00am to 5.00pm;

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

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

47. 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.

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

Details of noise mitigation measures and likely duration of the activity will also be required to be submitted to Council’s Manager – Environment and Health within seven (7) days of receiving notice from Council.
49. 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).

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

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

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

52. Construction and Fit-out of Food Premises
To ensure that adequate provision is made for the cleanliness and maintenance of all
food preparation areas, all work involving construction or fitting out of the premises shall
comply with the requirements of Australian Standard AS 4674-2004 – Design,
construction and fit-out of food premises and the provisions of the Food Standards Code
(Australia). This includes, but is not limited to:

- The intersection of floors with walls and exposed plinths in food preparation,
  storage and servery areas are to be coved.
- All walls are to be solid construction. Solid construction is defined as brick,
  concrete blocks, structural fibrous cement or preformed panels that are filled with
  suitable material.
- Pipes and conduits adjacent to walls are to be set a minimum of 25mm off wall
  face with brackets. Pipes and conduits entering floors, walls or ceilings are to be
  fitted with a flange and all gaps fully sealed.
- Hand wash basins:
  - Must be provided, not obstructed and accessible at bench height and no
    further than 5 metres from any place where open food is handled or
    prepared; and
  - Must be fitted with a tap that operates hands free with a permanent
    supply of warm running potable water delivered through a single outlet.

Note: Copies of AS 4674-2004 may be obtained from www.saiglobal.com by visiting the
website: www.saiglobal.com and copies of the Food Safety Standards Code (Australia)
may be obtained from Food Standards Australia New Zealand by visiting the following

53. Standard of Works
All work must be carried out in accordance with Council’s Works Specification
Subdivisions/ Developments and must include any necessary works required to make the
construction effective. All works, including public utility relocation, must incur no cost to
Council.
PRIOR TO ISSUE OF AN OCCUPATION CERTIFICATE

54. 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 approved plan. All landscaping is to be maintained at all times in accordance with THDCP Part C, Section 3 – Landscaping, the approved landscape plan and the requirements of the Rural Fire Service.

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

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

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

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

58. Access and Useability
Prior to the issue of the Occupation Certificate, a report prepared by an Independent Assessor shall be submitted to Council or the Certifying Authority demonstrating the developments compliance with the provisions of relevant provisions of the State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004 on development standards concerning access and useability.

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

b) Australian Standard AS 1668.2 – 2002 - The use of ventilation and air conditioning in buildings – ventilation design for indoor air contaminant control;
c) Australian/New Zealand Standard AS/NZS 3666.1:2011 – Air handling and water systems of buildings – Microbial control – Design, installation and commissioning;
d) Australian/New Zealand Standard AS/NZS 3666.2:2011 – Air handling and water systems of buildings - Microbial Control - Operation and maintenance;
e) Australian/New Zealand Standard AS/NZS 3666.2:2011 – Air handling and water systems of buildings - Microbial Control – Performance based maintenance of cooling water systems; and
f) Public Health Regulation 2012.
The regulated system is to be registered with Council by submitting an Application for Registration of Regulated Water Cooling/Warm Water Systems, available on Council’s website www.thehills.nsw.gov.au prior to commissioning.

60. **Acoustic Compliance Report**
The acoustic consultant shall progressively inspect the installation of the required noise suppressant components as recommended in report titled Noise Impact Assessment referenced as E027_80515008, prepared by Cardno (QLD) Ltd dated March 2015. Certification is to be provided.

61. **Food Premises Final Inspection**
Prior to the issuing of an Occupation Certificate, the food premises shall be inspected by an Authorised Officer of The Hills Shire Council under the Food Act 2003, to determine compliance with the Food Act 2003, Food Safety Standards and Australian Standard 4674:2004: Design Construction and Fit-out of Food Premises.

62. **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.

63. **Works as Executed Plans**
Works as executed (WAE) plans prepared by a suitably qualified engineer or registered surveyor must be submitted to Council when the subdivision works are completed. The WAE plans must be prepared in accordance with Council’s Design Guidelines Subdivisions/ Developments.

The plans must be accompanied by pavement density results, pavement certification, concrete core test results, site fill results, structural certification, CCTV recording, signage details and a public asset creation summary, where relevant.

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

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

66. **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:

   a) Works as executed plans prepared on a copy of the approved plans;

   b) A certificate of hydraulic compliance (Form B.11) from a suitably qualified engineer or surveyor verifying that the constructed OSD system will function hydraulically;

   c) 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.
67. **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:

a) WAE drawings and any required engineering certifications;

b) Records of inspections;

c) An approved operations and maintenance plan; and

d) 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.

68. **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.

69. **Public Asset Creation Summary**
A public asset creation summary must be submitted with the WAE plans. A template is available on Council’s website.

70. **Creation of Restrictions / Positive Covenants**
Before an Occupation Certificate is issued the following restrictions/ positive covenants must be registered on the title of the subject site via a request document, Section 88B instrument associated with a plan or the like. Council’s standard recitals must be used.

i. **Restriction – Housing for Seniors or People with a Disability**

   The subject site must be burdened with a restriction using the "SEPP Housing for Seniors or People with a Disability" terms included in the standard recitals.

ii. **Restriction/ Positive Covenant – Onsite Stormwater Detention**

   The subject site must be burdened with a restriction and a positive covenant using the “onsite stormwater detention systems” terms included in the standard recitals.

iii. **Restriction/ Positive Covenant – Water Sensitive Urban Design**

   The subject site must be burdened with 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.

**THE USE OF THE SITE**

71. **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. Ideally waste storage containers should be kept inside the building and under no circumstances should waste storage containers be stored in locations that restrict access to any of the car parking spaces provided onsite.
72. Waste and Recycling Collection
All waste generated onsite must be removed at regular intervals and not less frequent than once weekly for garbage and once fortnightly for recycling. 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 formal approval of Council. Waste collection vehicles servicing the development are not permitted to reverse in or out of the site.

73. Grease Trap (Food Premises)
Sydney Water shall be contacted with regards to grease trap requirements.

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

This report should include but not be limited to, details verifying that the noise control measures as recommended in the acoustic report submitted with the application are effective in attenuating noise to an acceptable noise level and that the activities does not give rise to “offensive noise” as defined under the Protection of the Environment Operation Act 1997.

75. Hours of operation of the loading dock
Delivery of goods and waste collection shall be restricted to the following times;
Monday to Saturday – 7.00am to 6.00pm
Sunday and public holidays – 8.00am – 6.00pm

76. Offensive Noise - Acoustic Report
The proposed use of the premises and/or machinery equipment installed must not create offensive noise so as to interfere with the amenity of the neighbouring properties.

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

ATTACHMENTS
1. Locality Plan
2. Aerial Photograph
3. Approved Plan of Subdivision 531/2015/ZB
4. Site Plan
5. Elevations
6. Sections
7. Landscape Plans
8. 3D Images
9. Applicant’s Clause 4.6 Variation
10. RFS Bushfire Safety Authority
ATTACHMENT 1 – LOCALITY PLAN

THE HILLS SHIRE COUNCIL

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Glenhaven Road Frontage

Corner of Glenhaven Road and Holland Road
Holland Road Elevation
19th June 2015

The Hills Shire Council
3 Columbia Court
BAULKHAM HILLS NSW 2153

ATT: ROBERT BUCKHAM

Dear Robert

APPLICATION NUMBER 1308/2015UP 15 OLD GLENHAVEN ROAD, GLENHAVEN – MINOR INCONSISTENCIES WITH DEVELOPMENT STANDARDS AND CONTROLS

We write on behalf of Arcare Pty Ltd in relation to Development Application No. 1308/2015UP, lodged with The Hills Shire Council (THSC) in April 2015. The application seeks consent for a 120 bed Residential Care Facility, basement carpark, ancillary services and structures, tree removal and retaining walls. Following Council's initial assessment of the application, Council has requested further details and expanded justification in relation to variations to standards pursuant to Clause 4.6. Accordingly, this letter discusses the proposed variations from the relevant development standards and design controls under THSC LEP 2012, Clause 40 of SEPP (Housing for Seniors or People with a Disability) 2004 and the provisions relating to Rural Fencing under THSC DCP 2012 and.

The proposed development departs from the applicable development standards and controls in relation to the following matters:

1. The maximum height of the proposed western building when measured from natural ground level will be 11.58m (i.e. the western roofline exceeds the 10m height limit under the LEP by 1.58 metres). This represents a departure from both Part 4 clause 40 under SEPP (Housing for Seniors and People with a Disability) 2004 which indicates a desired topmost ceiling height limit of 8 metres and Clause 4.3 Height of Buildings under THSC Local Environmental Plan 2012 which imposes a 10 metre overall height limit.

2. The proposal does not contain a one story component to the rear 25% of the site, which represents a departure from Part 4 clause 40 under SEPP (Housing for Seniors and People with a Disability) 2004.

3. The proposal also proposes a solid fence to the Glenhaven Road/ Holland Road frontage which represents a departure from Clause 3.7 Rural Fencing under THSC Development Control Plan 2012.

Our Ref: 80515008
Contact: Natasha Wells

Cardno (NSWACT) Pty Ltd
3/325-327 Albany Street North
Gosford NSW 2250
Australia
Phone: 61 2 4333 2558
Fax: 61 2 4324 3251
www.cardno.com.au
As such, a formal variation to these development standards is sought under Clause 4.6 – Exceptions to Development Standards.

Clause 40(4) of the SEPP relates to Height of Buildings. This Clause states:

(4) Height in zones where residential flat buildings are not permitted

If the development is proposed in a residential zone where residential flat buildings are not permitted:

(a) the height of all buildings in the proposed development must be 8 metres or less, and

(b) a building that is adjacent to a boundary of the site (being the site, not only of that particular development, but also of any other associated development to which this Policy applies) must be not more than 2 storeys in height, and

Note. The purpose of this paragraph is to avoid an abrupt change in the scale of development in the streetscape.

(c) a building located in the rear 25% area of the site must not exceed 1 storey in height.

Land Zoning

The subject site is currently within a rural zone (RU6 Transition Zone). Consequently, a strict interpretation of Clause 40(4) suggests that, given the rural zone applying to the land, the development standards in relation to height under this clause do not apply to the subject site.

Notwithstanding the above and for completeness, the following information is provided in relation to the height provisions of the SEPP and Council’s LEP 2012.

8m Building Height Limit under the SEPP

The SEPP provides the following definitions:

- *ground level* means the level of the site before development is carried out pursuant to this Policy.

- *height in relation to a building* means the distance measured vertically from any point on the ceiling of the topmost floor of the building to the ground level immediately below that point.

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**Figure 1 Height Limitations (Section B-B)**

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Overall Max Height 11.2m

LEP 16m Maximum Overall Building Height

NB: The provisions of the SEPP override the provisions of LEP 2012.
Comment: If the SEPP provisions were to apply, part of the upper floor shown circled in red would not comply with the 8 metre height limit measured from natural ground level to the topmost ceiling level. As stated in the note to the clause "The purpose of this paragraph is to avoid an abrupt change in the scale of development in the streetscape." As can be seen from the Holland Road (western) elevation below, the building has been designed to follow the existing land form and presents as a two-storey building with basement car parking below natural ground level.

Figure 3 Holland Road Elevation (Western Elevation)

10m Building Height Limit under the LEP

The site is mapped under Council's LEP as having a 10m maximum height as depicted in Figure 1 above.

A minor part of the roof on the western most part of the building is non-compliant with the 10m height limit, by approximately an increase of 15%. It should be noted however, that in whole more than 60% of the proposed building is in fact under 8.5m in height.

Comment: In terms of streetscape and visual impacts, the articulation in design combined with a colour pallet of soft grays in combination with selective landscape treatments, results in a development that has high design merit with no abrupt changes in the scale of development or significant adverse impacts on the streetscape. There will be no shadow impacts on adjoining properties (early morning and late afternoon shadows fall on the streets and internally).
Two-storey Development in the Rear 25% of the Site

If the SEPP provisions were to apply, Clause 40(4)(c) advises that “buildings located in the rear 25% area of the site must not exceed 1 storey in height”.

Comment: Again, it is apparent that this provision seeks “to avoid an abrupt change in the scale of development” and to minimize any impacts arising therefrom (e.g. overshadowing and overlooking). As can be seen from the north elevation below, that a significant part of the new development will present as single storey development due to the land being retained at the boundary with only the western half of the elevation presenting as two-storey (circled green). It is noted that the proposed development is to be set back 4.823 metres from this boundary (~5m between buildings). Selective feature fencing and screen planting is also to be provided. The adjoining development has been approved for seniors accommodation to be managed by the current proponent. Given the greater than normal separation between buildings, screen fencing and plantings, and common management of the adjoining developments, it is considered that strict compliance with the 25% single storey development on the adjoining property is both unnecessary and unreasonable as the objectives of minimal impact will be achieved by the proposed separation of buildings, screening and the design quality of the development proposed.

Figure 4 North Elevation

Rural Fencing

THSC Development Control states:

(a) Fencing is to be of an open style or transparent that is rural in character.
(b) Solid masonry or solid panel fences are prohibited.
(c) Front fences shall be constructed from any material other than prefabricated metal sheeting or brush style fencing.
(d) The maximum height of a front fence, including any columns, shall be 1.8 metres from natural ground level.

Comment: The proposal development includes a solid panel fencing to the south western corner. This is proposed for both acoustic (noise from Glenhaven Road) and privacy (pedestrian and vehicle traffic) reasons as a courtyard for elderly patrons recreational enjoyment is situated in this area. It is considered the guideline is in place for rural properties undertaking rural agricultural uses. A variation is considered appropriate in this instance as the subject site, whilst zoned RU6 Rural Transition is utilised for residential purposes.
Conclusion:

The proposal would benefit the public and immediate community as it would provide much needed accommodation for senior citizens. The non-compliances discussed above will not raise any matter of State or Regional significance. However, the proposal would contribute positively to the care of the ageing population in the area.

Favourable consideration should be given to the proposed variations.

Yours faithfully,

[Signature]

Natasha Wells
Senior Town Planner/ Urban Designer
for Cardno (NSW/ACT) Pty Ltd
ATTACHMENT 10 – RFS BUSHFIRE SAFETY AUTHORITY

Integrated Development for Glenhaven Estate Retirement Village 15 Old Glenhaven Road Glenhaven NSW 2156

I refer to your letter dated 27 April 2016 seeking general terms of approval for the above Integrated Development in accordance with Section 91 of the 'Environmental Planning and Assessment Act 1979'.

This response is to be deemed a bush fire safety authority as required under section 100B of the 'Rural Fires Act 1997' and is issued subject to the following numbered conditions:

**Water and Utilities**

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

1. Water, electricity and gas are to comply with sections 4.1.3 and 4.2.7 of 'Planning for Bush Fire Protection 2006'.

**Evacuation and Emergency Management**

The intent of measures is to provide suitable emergency and evacuation (and relocation) arrangements for occupants of special fire protection purpose developments. To achieve this, the following conditions shall apply:

2. An emergency and evacuation plan shall be prepared in accordance with the NSW Rural Fire Service document ‘Guide for Developing a Bush Fire Emergency Evacuation Plan’.

**Design and Construction**
The intent of measures is that buildings are designed and constructed to withstand the potential impacts of bush fire attack. To achieve this, the following conditions shall apply:


**Landscaping**

4. Landscaping to the site is to comply with the principles of Appendix 5 of "Planning for Bush Fire Protection 2006".

For any queries regarding this correspondence please contact Garth Bladwell on 1300 NSW RFS.

Yours sincerely

[Signature]

Niko Fomin
Manager, Customer Service Centre East

## ITEM-4  
**JRPP REPORT - DA NO. 998/2015/JP**  
(Sydney West Region)

<table>
<thead>
<tr>
<th>JRPP No</th>
<th>2015SYW034</th>
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<tr>
<td>DA Number</td>
<td>998/2015/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>CONSTRUCTION OF A BASEBALL FIELD, A MULTI-PURPOSE FOOTBALL FIELD, 2 MULTI-PURPOSE FOOTBALL FIELDS CO-LOCATED WITH A CRICKET FIELD, 2 AMENITIES BUILDINGS, 2 CAR PARKS AND ASSOCIATED ACCESS ROADS AND A SHARED PEDESTRIAN PATH NETWORK.</td>
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<td>Street Address</td>
<td>LOT 2 DP 1129940, LOT 3001 DP 1038814, LOT 2 DP 1031575, LOT 309 DP 1184385, LOT 1 DP 1184385 - CADDIES CREEK SPORTS COMPLEX RESERVE NO. 413, MILLCROFT WAY, BEAUMONT HILLS</td>
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<tr>
<td>Applicant</td>
<td>THE HILLS SHIRE COUNCIL</td>
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<tr>
<td>Number of Submissions</td>
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<tr>
<td>Regional Development Criteria (Schedule 4A of the Act)</td>
<td>Council related development - Capital Investment Value in excess of $5 million</td>
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</table>
| List of All Relevant s79C(1)(a) Matters | • List all of the relevant environmental planning instruments: s79C(1)(a)(i)  
• State Environmental Planning Policy (State and Regional Development) 2011  
• State Environmental Planning Policy Infrastructure 2008  
• State Environmental Planning Policy No 19 — Bushland in urban areas  
• State Environmental Planning Policy No 55 — Remediation of Land  
• The Hills Local Environmental Plan 2012  
• 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 1 – Parking  
• DCP 2012 Part C Section 3 – Landscaping  
• DCP 2012 Part C Section 6 – Flood Controlled Land  
• DCP 2012 Part D Section 5 – Kellyville Rouse Hill Release area  
• 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)
- Nil
- 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 Regulation 2000

| List all documents submitted with this report for the panel’s consideration | Submissions |
| Recommendation | Approval |
| Report by | Development Assessment Co-ordinator Robert Buckham |

**EXECUTIVE SUMMARY**

The development application includes the construction of a baseball field, a multi-purpose football field, 2 multi-purpose football fields co-located with a cricket field, 2 amenities buildings, 2 car parks and associated access roads and a shared path network which will include 3 bridge crossings. In addition the proposal includes the subsurface drainage, collection and storage of water from the playing fields for irrigation and the lighting of the playing fields. Vehicular access is provided from Millcroft Way.

Playing fields have been planned at the end of Millcroft Way since the Kellyville / Rouse Hill Release Area Open Space Planning review was undertaken in 1991. Traffic signals are planned to be installed at the intersection of Millcroft Way and Windsor Road to assist with local resident access to the main road network, and right turn movements out of Millcroft Way will be permitted as a result.

32 submissions were received to the development application. The most common issue raised was the impact of traffic particularly the impact on Millcroft Way residents. Millcroft Way is proposed as the only vehicular access point as part of this application. Residents requested the provision of alternate or additional access points for the playing fields, namely from the western side of Caddies Creek at Sanctuary Drive or Windsor Road. These alternative access points would be across land not in the control of Council. However there are future opportunities for access from these points. Long term this land is also likely to provide alternate parking options for users of the sporting fields on the eastern side of Caddies Creek given the pedestrian pathways and bridges to be provided as part of this application, however sufficient parking is currently provided for the proposed uses.

Given the number of submissions received a conciliation conference was held and the applicant subsequently made an amendment to the application which involved road widening in the northern end of Millcroft Way to improve resident and road user safety.

There will be a significant increase in traffic in Millcroft Way but this road, which will be widened north of Phoenix Avenue, will be able to accommodate the increase. The fields will have a benefit to immediate residents in terms of recreational use and to the wider community given the demands for sporting fields in the Shire.
As the proposal is for a future Council asset, an independent town planning peer review of the application has been undertaken. The peer review concluded that the judgement and conclusions reached in this report are reasonably made and the conditions to be imposed are reasonable (refer Attachment 14).

The proposal is considered acceptable and approval is recommended.

**BACKGROUND**

**MANDATORY REQUIREMENTS**

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<tr>
<th>Owner:</th>
<th>The Hills Shire Council, Sydney Water, and Department of Planning and Environment.</th>
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<tr>
<td>Zoning:</td>
<td>RE1 Public Recreation and SP2 Infrastructure</td>
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<tr>
<td>Area:</td>
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<tr>
<td>Existing Development:</td>
<td>Vacant</td>
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</table>

1. **Section 79C (EP&A Act)** - Satisfactory
2. **The Hills LEP 2012** - Satisfactory
3. **State Environmental Planning Policy No 19** — Bushland in urban areas - Satisfactory
4. **State Environmental Planning Policy No 55** — Remediation of Land - Satisfactory
5. **State Environmental Planning Policy Infrastructure 2008** - Satisfactory
6. **SREP No. 20** — Hawkesbury Nepean River - Satisfactory
7. **The Hills DCP 2012** — Complies
8. **Capital Investment Value:** $11,733,499

**SUBMISSIONS**

**REASONS FOR REFERRAL TO JRPP**

<table>
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<td>4. Submissions Received:</td>
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<td>4. Submissions Received: 32</td>
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**HISTORY**

**13/02/2015** Subject Development Application lodged.

**06/03/2015** Comments received from Rural Fire Service.

**27/03/2015** Further owner’s consent received from Sydney Water.

**09/04/2015** Briefing to Joint Regional Planning Panel.
09/04/2015 General Terms of Approval received from Office of Environment and Heritage.

16/04/2015 Conciliation Conference held.

21/04/2015 Comments received from Office of Water.

24/04/2014 Letter received from Council’s Heritage consultant in response to Office of Environment and Heritage comments received on 9 April 2015.

29/04/2015 Comments received from Roads and Maritime Services.

02/07/2015 Letter sent to residents who made submissions advising that an amended traffic report and plans detailing road works within the northern section of Millcroft Way have been prepared and are available on Council’s website for viewing.

PROPOSAL

The proposal is for a local sporting field complex which in summary will include the construction of:

- Multi-purpose football and cricket fields and a baseball field;
- Vehicular access road;
- Car parking areas;
- Pedestrian pathways;
- Amenities buildings;
- Flood lighting; and
- Environmental protection works

In detail the proposal will include:

**Eastern side of Caddies Creek**
- One multi-purpose playing field (two football fields co-located with a cricket oval) including flood lighting for training
- One multi-purpose football field including flood lighting for training
- Public amenities buildings including toilets and showers, change rooms, canteen and storage
- Car parking for 120 vehicles, including three accessible parking spaces
- Overflow parking for an additional 40 vehicles
- Environmental controls, including rain gardens, wetlands and water re-use system
- Passive recreation facilities such as barbecues and picnic areas
- A shared pedestrian and cycle network.

**Western side of Caddies Creek**
- One baseball field including flood lighting for training
- Public amenities buildings including toilets, canteen and storage
- Car parking for 40 vehicles, including one accessible parking space
- Environmental controls, including rain gardens and water re-use system
- A shared pedestrian / cycle network.
Vehicular and Pedestrian Access and associated roadworks
Vehicular access to the complex is provided via Millcroft Way. The proposed works include the realignment of Millcroft Way with access into and out of the existing cul-de-sac to be controlled as a give way intersection facilitated by line marking. It is proposed the carpark to the baseball field will be accessed by alternate vehicular access not yet available. Given this access is certain a carpark for 40 vehicles has also been proposed however users of the baseball fields will be required to park on the eastern side of Caddies Creek until the access is formalised.

The Development Application as originally lodged did not seek to widen the northern end of Millcroft Way. A plan has now been prepared (Refer Attachment 8) that details 2 metres of widening on the eastern side (outside bend) of Millcroft Way and in front of No. 38 Millcroft Way on the western side of Millcroft Way.

The application will also require the provision of Traffic lights at the intersection of Windsor Road and Millcroft Way prior to operation. These lights are partly funded by Council.

The application includes pedestrian links to be provided to the following external roads
- Millcroft Way
- Phoenix Avenue
- Benson Road
- Cradle Close
- Drummond Road
- Townsend Court

The footpath network through the site will be designed to be trafficable for light vehicles including Council utilities, mowers and the baseball club’s golf cart. The proposed footbridge across Caddies Creek between the playing fields will also be trafficable by light vehicles to enable maintenance vehicles to access both sides of the creek. Portions of the footpath network are proposed to be lit by low level lighting to allow players and spectators to safely navigate from the site entry and car parks to each of the playing fields. This lighting will be turned off outside operational hours.

Operation
The operation of the complex will be controlled under the ‘Sportsgrounds Generic Plan of Management’. The sporting fields will generally operate from 8.00am to 5.00pm on weekends and until 9.30pm on week nights for training. Flood lighting is turned off automatically at 9.30pm.

The proposed playing fields have generally been designed to provide protection against flooding in the 1 in 2 year average storm event, with the exception of the football field which has been designed to allow more frequent inundation. The playing fields will act as stormwater detention during flood events.

The baseball field is the only field to be fenced, however provision has been made for access of emergency vehicles and or maintenance vehicles onto the field adjacent the amenities building.

Environmental Protection Works and Aboriginal Artefact Salvage
The proposal requires some removal of threatened ecological communities but the majority will be retained and rehabilitated.

The proposal requires the removal of 1.30 hectares of native vegetation (0.26ha of Cumberland Plain Woodland and 1.04ha River-flat Eucalypt Forest). A total of 11.92 hectares of Cumberland Plain Woodland (CPW) and River-flat Eucalypt Forest RFEF in the
study area would be retained as vegetated open space, and additional areas would be revegetated into the future as part of a staged revegetation program.

The application also foreshadows the complete or partial destruction of five known aboriginal sites. The sites subject to part destruction will also be subject to a salvage operation. These works require the approval of Office of Environment and Heritage under an Aboriginal Heritage Impact Permit.

Construction
It is anticipated that the construction of the complex will take approximately 24 weeks with earthworks taking approximately 12 weeks. Trucks delivering fill to the site will primarily access the site from Windsor Road through a temporary access point.

The proposal is defined as ‘Integrated Development’ under the provisions of Section 91 of the Environmental Planning and Assessment Act, 1979 as the proposal requires approval from the Office of Water under the Water Management Act 2000 and Office of Environment and Heritage under Section 90 of the National Parks and Wildlife Act 1974.

Applicant’s Justification
Council has undertaken open space planning studies to plan for the recreation needs of the community in the Kellyville/Rouse Hill urban release area. The Kellyville/Rouse Hill Open Space and Recreation Plan was released in 1998. The purpose of the plan was to ensure that adequate active and passive open space was provided for the predicted population growth in the release area of about 41,000 residents, and to determine the recreation facilities that would be required.

The 1998 plan identified the following needs within the area:
- district playing fields (The Hills Centenary Park and Bruce Purser Reserve)
- two other local playing field sites, including Caddies Creek Reserve, incorporating fields, amenities, car parking and path networks
- the provision of a ‘greenway’ open space corridor along ridge tops for passive recreation and off-road connectivity creek corridors to offer connectivity for recreation, with a primary a drainage function.

The Caddies Creek Reserve was one of the open spaces proposed by the Kellyville/Rouse Hill Open Space and Recreation Plan. It was anticipated that the reserve would provide important active and passive recreation facilities, as well as opportunities for enhancement and restoration of environmental values and social interaction for the growing community.

Sydney Water has responsibility for trunk drainage lands. This role and the defined extent of trunk drainage land are primarily to manage the potential for flooding impacts, and improve water quality and waterway amenity. In 2013, Sydney Water completed a plan of management for trunk drainage lands in the Rouse Hill development area. One of the recommendations of the plan of management was that a master plan should be prepared for Caddies Creek Reserve to guide future development of the site.

In May 2014, a Landscape Master Plan was prepared with input from Sydney Water and the Hills Shire Council. The Caddies Creek Landscape Master Plan Report identified a number of factors influencing the development of the site, including ownership, ecology, heritage (Aboriginal and European), hydrology, access and infrastructure.

Following the completion of the master plan, Council has prepared the subject Development Application.
CONCILIATION CONFERENCE
A Conciliation Conference was held on 16 April 2015. Issues discussed at the Conference include:

- Traffic Impacts;
- Acoustic Impacts; and
- Anti-social behaviour

The following outcomes were achieved:

- Council staff will consider the issues raised during the Conference and this will help inform their assessment.
- Council’s Environmental Health Team will address specific acoustic concerns.
- Council’s Traffic Team will consider where a section of Millcroft Way can be widened.
- Council’s Traffic Team will consider specific concerns raised regarding traffic including cumulative impact factoring in other potential developments such as subdivisions of vacant land off Phoenix Avenue.

An amended traffic report and plans detailing road works within the northern section of Millcroft Way were prepared and residents advised that they could be viewed on Council’s website.

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:

*Council related Development that has a capital investment value of more than $5 million.*

The proposed development has a capital investment value of $11,733,499 thereby requiring referral to, and determination by the Joint Regional Planning Panel.

2. The Hills Local Environmental Plan 2012

a. Permissibility

The subject site is zoned RE1 Public Recreation and SP2 Infrastructure.

The proposal is defined as the following:

RE1 Public Recreation

“Recreation facilities (outdoor)” means a building or place (other than a recreation area) used predominantly for outdoor recreation, whether or not operated for the purposes of gain, including a golf course, golf driving range, mini-golf centre, tennis court, paint-ball centre, lawn bowling green, outdoor swimming pool, equestrian centre, skate board ramp, go-kart track, rifle range, water-ski centre or any other building or place of a like character used for outdoor recreation (including any ancillary buildings), but does not include an entertainment facility or a recreation facility (major).
“Environmental Protection Works” means works associated with the rehabilitation of land towards its natural state or any work to protect land from environmental degradation, and includes bush regeneration works, wetland protection works, erosion protection works, dune restoration works and the like, but does not include coastal protection works.

SP2 Infrastructure
Activities permitted with consent relate to the purpose shown on the land zoning map (stormwater management systems) and includes any development that is ordinarily incidental or ancillary to development for that purpose. Any other development is prohibited.

As the playing fields will continue to provide a stormwater management function, acting as stormwater detention during flood events, the proposal is permitted with consent in the SP2 zone. The development of dual use of trunk drainage land is not unusual and a standard practice across Sydney to optimise land and reduce the cost to the community in land release areas.

It should be noted that if the proposal were entirely on land declared a public reserve under the control of or vested in the Council then the proposal would not require consent under the provisions of SEPP Infrastructure 2008. Given the subject site includes Sydney Water owned land, a Development Application was required to be lodged.

The zoning of the site under the previous Local Environmental Plan (LEP 2005 and 1991) also allowed the subject development.

b. Zone Objectives

The zone objectives of the RE1 Public Recreation zone are:

- To enable land to be used for public open space or recreational purposes.
- To provide a range of recreational settings and activities and compatible land uses.
- To protect and enhance the natural environment for recreational purposes.

The zone objectives of the SP2 Infrastructure zone are:

- To provide for infrastructure and related uses.
- To prevent development that is not compatible with or that may detract from the provision of infrastructure.

The proposal is considered to be consistent with the objectives in both zones. The proposal provides for the embellishment of land for recreation activities that is compatible with the natural environment and drainage use of the land.

c. LEP Special Provisions

The proposal has been considered against the relevant provision of the LEP. Specific regard has been given to Clauses:
5.9 Preservation of trees or vegetation;
5.10 Heritage conservation;
7.2 Earthworks;
7.3 Flood Planning; and
7.4 Biodiversity (Terrestrial)

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

3. The Hills Development Control Plan 2012

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

- Part C Section 1 – Parking
- Part C Section 3 – Landscaping
- Part C Section 6 – Flood Controlled Land
- Part D Section 5 – Kellyville Rouse Hill Release Area

The DCP has limited applicability to the subject proposal. The proposal has been designed with regard to the principles within each of the relevant Sections particularly Council’s recently adopted Flood Controlled Land section of the DCP. The subject site is flood affected and in accordance with the DCP a site specific flood assessment has been undertaken to determine that the fill platform for the proposal will not have a detrimental impact on adjoining properties particularly residential properties up and down stream of the proposal.

The Kellyville Rouse Hill section of the DCP again has limited reference to the proposal however it should be noted that the land subject to this application was identified in the DCP as land for Open Space purposes. This land classified Open Space covers land zoned both RE1 Public Recreation and SP2 Infrastructure. This land was identified for Open Space as part of a report considered by Council on 9 June 1998 which sought adoption of the “Rouse Hill/Kellyville Open Space and Recreation Plan” which envisaged a sporting complex (conceptual), somewhat more intensive in this location. It was exhibited from 23 June to 23 July 1998. Access is shown in the vicinity of Millcroft Way but also to the west in the vicinity of Sanctuary Drive. The access way included causeway bridges or “dry weather access only”. These types of crossings would not be supported now and flood free access would be required. Flood free access has been deemed unfeasible at this stage however alternative access will become available primarily to provide vehicular access to the baseball field. An extract of the DCP Map (Refer Attachment 4) and an extract of the Rouse Hill/Kellyville Open Space and Recreation Plan relating to the subject site are included (Refer Attachment 5).

4. Traffic Impacts and Alternate Access Points

The most common issue raised in the submissions to this application is the impact of traffic particularly the impact on Millcroft Way which is proposed as the only vehicular access point at this time. Residents requested the provision of alternate or additional access points for the playing fields, namely from the western side of Caddies Creek at Sanctuary Drive or Windsor Road. The following comments are provided in relation to the various potential alternative access points to the playing fields.

Access Sanctuary Drive and Caddies Boulevard

Traffic signals are planned at this intersection, but have not been approved by the RMS to date. Council will pursue these signals as part of adjacent development to land owned by the State Government, however the access cannot exist until that development by
the State Government is completed. Council will ensure that the baseball field will obtain vehicle access from those signals. Access to the whole complex would require a creek crossing, this is not feasible.

**Access from Windsor Road (Former entrance to Baulkham Hills Landscape supplies)**

Access to the playing fields from the existing service road off Windsor Road near Old Windsor Rd will be pursued by Council as part of development plans by the State Government, however this access arrangement cannot be finalised until after the rail line construction has been completed in 2019. Again access to the entire complex from this location would require a creek crossing, this is not feasible.

**Other Access Points**

Any other access points to the complex would be across land not owned or controlled by Council (primarily Sydney Water land). This land is generally below the 1 in 20 flood planning level. Sydney Water will not support any permanent alternative vehicular access to the playing fields for general traffic from Windsor Road across the trunk drainage land because the site has been identified as environmentally sensitive and only pedestrian and cycleway access should be provided.

The following comments have been provided by Council’s Traffic Coordinator in relation to the technical traffic related issues.

**i) Existing Traffic Environment**

This development application proposes the construction of a sporting facility comprising a baseball field, a multi-purpose football field, 2 multi-purpose football fields co-located with a cricket field, 200 (160 sealed/40 spillover/grass) off street parking spaces and associated amenity facilities on public recreation and trunk drainage lands north of Millcroft Way. All weather vehicular access is proposed via the northern end of Millcroft Way with a traffic report prepared by GHD Pty Ltd submitted in support of the application.

Millcroft Way is a 450m two way sealed road intersecting with Windsor Road (a State Arterial under the control of the Roads and Maritime Services) at an uncontrolled t-intersection at its southern extremity and terminating at a cul-de-sac adjacent to Caddies Creek Reserve to the north. The carriageway width of Millcroft Way ranges from 9.0m for the 300m section south of Phoenix Avenue to Windsor Road, and 7.0m wide for the 150m long northern section from Phoenix Avenue to the cul-de-sac. Millcroft Way would typically be classified as a local access street, however the southern section that also provides access to a number of adjoining side streets and a commercial development (Kellyville Pets) could be deemed as performing a minor collector road function within Council’s road hierarchy.

Millcroft Way currently provides the only vehicular access for around 100 detached dwellings and a commercial development (Kellyville Pets) located on the south eastern corner of Windsor Road. Intersection counts undertaken by the consultant on a typical Saturday between 12:00 and 13:00 confirmed that the southern section of Millcroft Way sustains around 264 peak hour trips in both directions. It is normal traffic engineering practice, based on RMS survey data, to assume peak hour traffic generation from a detached dwelling to be in the order of 1 peak hour vehicle trip per dwelling. On this basis the traffic generation from the private residences will be around 100 peak hour trips and the remaining 164 vehicles accessing the driveway of Kellyville Pets within the southern section of Millcroft Way.
SIDRA analysis of the existing intersection of Windsor Road and Millcroft Way confirms that the current uncontrolled intersection operates at a very good Level of Service A-B with minimal delays and sufficient spare capacity.

There have been no specific environmental capacity calculations undertaken for Millcroft Way as part of The Residential Development and Traffic Study undertaken by TAR Technologies on behalf of Council in August 2005. Environmental capacity is the volume of moving vehicles that can be accommodated in a street having regard to traffic volume, composition and speed considered with the need to maintain a reasonable level of residential amenity considering factors such as pedestrian delay and safety and noise.

As referred in the consultant’s report by referencing RMS Guidelines, a local access street, having similar characteristics in terms of carriageway width, grade, frontage setback and speed profile would typically have an environmental capacity in the order of 300 peak hour vehicle trips. A minor collector road with similar characteristics to the southern end of Millcroft Way would have an environmental capacity of around 400 - 450 peak hour vehicle trips. As referred above the traffic surveys undertaken at the Windsor Road intersection have established a total traffic flow of 264 vehicles on a Saturday at midday for the southern section of Millcroft Way. The section north of Phoenix Avenue servicing only 14 dwelling’s, would experience considerably less traffic movements with a total Saturday midday peak of 14 vehicles per hour.

**ii) Proposed Development – Traffic Generation**

The Roads and Maritime Services (RMS) Guide to Traffic Generating Developments provides average traffic generation rates for a range of different land uses. As outlined in the consultant’s report the guidelines however only provide peak hour vehicle trips (phvt) generated by recreational uses for developments such as tennis courts, squash courts, gymnasiums and not larger scale playing field type uses but rather suggests that surveys of similar activities or by analyzing the expected turnover of parking areas.

The traffic consultant has used Council’s carparking rates to determine that the number of parking spaces required to service such a facility is 151 spaces. The proposal provides for 160 spaces exceeding the requirement by 9 spaces. Having established the required space numbers, and adopting a conservative approach of assuming each parking space on average turns over each hour (1 trip in 1 trip out) creating 2 peak hour vehicle trips per space, the total peak hour vehicle trips is 302 trips for the entire facility. The demand parking will be lessened once development on the western side of Caddies Creek occurs and access formalised to a further 40 spaces for the baseball field.

**iii) Cumulative Impact in Locality – Millcroft Way**

The following table contains existing traffic volumes and the Environmental Capacity for northern and southern sections of Millcroft Way and the expected increase in traffic volumes that can be attributed to the proposed development. The northern section of Millcroft Way is classified as the part of Millcroft Way north of Wilkins Avenue.
Whilst the net % increase of traffic generated by the proposed development being distributed to the northern section of Millcroft Drive will be substantial compared to the very low existing traffic volumes, the increase when compared to the Environmental Capacity, is deemed to be within acceptable limits, particularly when taking into account the peak occurring only once a week on a Saturday, and not five days a week during normal AM and PM traffic peak hours. Similarly whilst the net % increase on the southern section of Millcroft Way, pushes the total expected traffic volumes above the Environmental Capacity as minor collector, as this again occurs on a Saturday only there should be no appreciable loss of amenity for the residents fronting this section of Millcroft Way.

iv) Need for Traffic Improvements in the Locality

As referred above the northern section of Millcroft Way is currently constructed with a 7.0m wide carriageway and roll top kerb fronting the private dwellings and barrier kerb fronting the public reserve. When vehicles park on both sides of a 7.0m carriageway, there is insufficient width to maintain two way traffic flow through the center of the road. To assist in maintaining two way traffic movements the pavement will be widened by 2.0m fronting House No’s 37, 38 and 39. A concept plan detailing the extent of this widening has been prepared (Refer Attachment 8).

v) Traffic egress/ingress to arterial/sub-arterial roads

Whilst the net increase of 302 peak hour vehicle trips on a Saturday will not significantly alter the service levels of the surrounding road network or nearby intersections, the provision of traffic signals at the intersection of Windsor Road and Millcroft Way has previously been investigated as a means of enabling safe and efficient right turn access into and out of Millcroft Way as surrounding residential developments proceed, including the possible connection of both sides of Wilkins Avenue and Phoenix Avenue and the closure of the temporary access to Windsor Road at Wilkins Avenue implemented.

vi) Sight distance and other safety issues

Sight distance when entering or exiting the proposed access driveway to the development site exceeds the minimum safe intersection sight distance standards required under the Austroads Standards for vehicles traveling at 50km/h. Refer comments above with respect to pavement widening and maintaining two way traffic flow (including for passing buses) on the northern section of Millcroft Way.

<table>
<thead>
<tr>
<th>Traffic Movements</th>
<th>Sat Peak</th>
<th>Environme</th>
<th>Ext</th>
<th>% Existing Relative</th>
<th>Prop Increase</th>
<th>Prop Volume</th>
<th>% Increase Relative</th>
<th>% Increase Relative</th>
</tr>
</thead>
<tbody>
<tr>
<td>Millcroft Way (north)</td>
<td>300</td>
<td>14</td>
<td>5</td>
<td>302</td>
<td>316</td>
<td>2257</td>
<td>105</td>
<td></td>
</tr>
<tr>
<td>Millcroft Way (south)</td>
<td>450</td>
<td>264</td>
<td>59</td>
<td>302</td>
<td>566</td>
<td>214</td>
<td>126</td>
<td></td>
</tr>
</tbody>
</table>
5. **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 application has identified that two former dams on the site have previously been filled. The source of the fill is unknown. As such it is recommended that a preliminary Stage 2 Environmental Site Assessment (ESA). The ESA should target the Area of Environmental Concern (AEC) identified in the Tier 1 Risk Assessment (see attached Figure 3). If the AEC pose a risk to receptors, a Remediation Action Plan (RAP) should be prepared for the site. A condition has been imposed in this regard.

6. **Issues Raised in Submissions**

The proposal was exhibited and notified for 31 days. The issues raised in the submissions are summarised below.

<table>
<thead>
<tr>
<th>ISSUE/OBJECTION</th>
<th>COMMENT</th>
<th>OUTCOME</th>
</tr>
</thead>
<tbody>
<tr>
<td>Parts of Millcroft Way already exceed environmental capacity. The proposal seeks to increase the demand. The applicant needs to justify the departure.</td>
<td>These issues are addressed in the Traffic Section of this report. Environmental capacity is the volume of moving vehicles that can be accommodated in a street having regard to traffic volume, composition and speed considered with the need to maintain a reasonable level of residential amenity considering factors such as pedestrian delay and safety and noise. The minor exceedance of environmental capacity is not a reason to refuse the application particularly given that the application will result in local road widening in part of Millcroft Way and will result in the provision of Traffic lights at Windsor Road that will mitigate traffic impacts.</td>
<td>Issue addressed.</td>
</tr>
<tr>
<td>The traffic calculations have not considered many things including undeveloped land, the future landscape supply establishment, closure of existing temporary access point.</td>
<td>An amended traffic report has considered future land uses in the immediate locality including an anticipated 54 lots on vacant land between the exiting eastern and western sections of Wilkins Avenue and Phoenix Avenue.</td>
<td>Issue addressed.</td>
</tr>
<tr>
<td>Only senior games have been considered, junior games which would use half a field would generate twice as many persons using the facility.</td>
<td>The traffic reports have considered the use of full fields for both junior and senior events. Junior events will create a greater impact given the more frequent turnover given the shorter length of games. It is acknowledged that the use of half fields by juniors has not been considered in terms of parking numbers or traffic impacts. It is considered that the carparking for the proposal will cater for the predominant use of the complex. The parking will generally meet peak demands and will be further offset by the baseball field car park once access becomes available.</td>
<td>Issue addressed.</td>
</tr>
</tbody>
</table>

| Peak demand is stated as Saturday only, however this fails to include peak demands on weekdays with training and other event traffic. | Analysis of like facilities demonstrates that peak demand will not occur during training periods during the week. The complex is unlikely to be able to cater for a high usage event such as a large tournament given the limited number of fields for each sport. | Issue addressed. |

<p>| More than one access way has always been planned. The proposed access to the sporting facility is clearly the easiest and most cost effective location however the impacts caused by the additional traffic are unacceptable. Access should be from Sanctuary Drive or directly from Windsor Road. | The access to Millcroft Way has always been planned. It is acknowledged that other access points have been previously identified for access to the complex. Access was shown in the Rouse Hill/Kellyville Open Space and Recreation Plan in the vicinity of Sanctuary Drive. The access way included causeway bridges or “dry weather access only”. These types of crossings would not be supported now and flood free access would be required. Flood free access has been deemed unfeasible at this stage. All other access points are not possible at this time given they traverse land owned by either Sydney Water or the Department of Planning and Environment. Development of the Department of Planning land to the west will result in an alternate access point either from Windsor Road or Sanctuary Drive however this is not part of the subject Development Application. However | Issue addressed. |</p>
<table>
<thead>
<tr>
<th>Issue</th>
<th>Description</th>
<th>Addressed</th>
</tr>
</thead>
<tbody>
<tr>
<td>a condition is recommended that access be formalised when it becomes available.</td>
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<tr>
<td>Concern is raised that the road (northern end of Millcroft Way) is not even wide enough for two passing buses.</td>
<td>The application now included the widening on the outside of the northern section of Millcroft Way by 2 metres (Refer Attachment 8).</td>
<td>Issue addressed</td>
</tr>
<tr>
<td>On the weekends, it is already busy with cars visiting Kellyville Pets and there will soon be a landscape supplies establishment accessing via Wilkins Avenue.</td>
<td>The application will result in the provision of traffic lights at the intersection of Windsor Road and Millcroft Way. The traffic impacts associated with the development have been assessed in this report and deemed to be reasonable.</td>
<td>Issue addressed</td>
</tr>
<tr>
<td>Off-street parking is insufficient.</td>
<td>The carpark accessed from Millcroft Way has been designed to cater for the expected use of the complex. The baseball field will be serviced from the western side of Caddies Creek in the future as part of the development of the Department of Planning and Environment Land.</td>
<td>Issue addressed</td>
</tr>
<tr>
<td>Proposal fails to meet acoustic criteria under a number of controls, including offensive noise criteria.</td>
<td>The Offensive Noise Criteria is a subjective assessment. The assessment of the unreasonableness of the noise, takes into account the nature and source of the noise. Noise likely to be generated from the use of the facility is considered to be reasonable. Further comments in relation to the Offensive Noise Criteria are included in the Environmental Health Comments Section of this report.</td>
<td>Issue addressed</td>
</tr>
<tr>
<td>Questions raised over the location of the noise logger and influence of other factors.</td>
<td>The acoustic assessment complies with the Industrial Noise Policy for implementation requirements and sitting of data loggers as two data loggers were deployed at No. 8 Cradle Close and at the end of Millcroft Way. These two sites are considered to be the most affected noise sensitive locations.</td>
<td>Issue addressed</td>
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<tr>
<td>Issue addressed.</td>
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<tr>
<td>Spectator noise modelling assumptions are not acceptable.</td>
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<tr>
<td>The spectator noise modelling used in the acoustic assessment (Handbook of Acoustical Measurements and Noise Control, Third Edition, Cyril M. Harris.) is consistent with other studies that provide values for spectator noise levels. Crowd noise levels have been studied by others. The levels that they report are lower than that are used by the acoustic consultant. Therefore, the spectator noise modelling assumptions are supported by scientific testing.</td>
<td></td>
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<tr>
<td>The 10dbA criteria should be a limit not a goal.</td>
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<tr>
<td>The noise impacts associated with a sporting facility are best controlled by the offensive noise criteria. A noise level of ‘background + 10 dB’ is not considered the most appropriate criteria due to the nature of noise and character of the use.</td>
<td></td>
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</tr>
<tr>
<td>Council has failed to consider resident feedback from residents during the Sydney Water Masterplan consultation specifically that alternate recreational activities are wanted by the community rather than sporting fields.</td>
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<tr>
<td>There is significant demand within the Shire for playing fields. The facility will cater for some passive recreation use in addition to the sports facilities.</td>
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<tr>
<td>How will anti-social behaviour within the park be managed?</td>
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<tr>
<td>The management of sporting fields is controlled under the provisions of Council’s Sportsground Plan of Management. Security firms engaged by Council will lock gates at night after training.</td>
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<tr>
<td>Concern regarding the location of pedestrian pathways.</td>
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<tr>
<td>The concern relating to pedestrian pathways primarily related to a path adjacent to Townsend Circuit. Consideration was given to relocating the pedestrian pathway to adjacent Barker Circuit in close proximity to the cycleway however this would require two creek crossing and create further impact on riparian land.</td>
<td></td>
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</tr>
</tbody>
</table>
A resident near Windsor Road requested Council consider rezoning properties to compensate for loss in amenity.

<table>
<thead>
<tr>
<th>A resident near Windsor Road requested Council consider rezoning properties to compensate for loss in amenity.</th>
<th>There are no plans to rezone any land in the immediate locality of the proposal.</th>
<th>Issue addressed.</th>
</tr>
</thead>
</table>

The proposal will increase the Bushfire Risk.

<table>
<thead>
<tr>
<th>The proposal will increase the Bushfire Risk.</th>
<th>The application was referred to the Rural Fire Service. No objection was raised to the proposal.</th>
<th>Issue addressed.</th>
</tr>
</thead>
</table>

**SUBDIVISION ENGINEERING COMMENTS**

No objection subject to the recommended conditions being imposed.

**SUSTAINABILITY COMMENTS**

The proposal requires some removal of threatened ecological communities but the majority will be retained and rehabilitated which is likely to result in an overall better biodiversity outcome. The development application does not result in a significant impact on vegetation on the site.

The proposal requires the removal of 1.30 hectares of native vegetation (0.26ha of Cumberland Plain Woodland and 1.04ha River-flat Eucalypt Forest). A total of 11.92 hectares of Cumberland Plain Woodland (CPW) and River-flat Eucalypt Forest RFEF would be retained as vegetated open space, and additional areas would be revegetated into the future as part of a staged revegetation program. The proposed removal of native vegetation would be offset as both retained and planted CPW and RFEF would be managed to conserve and enhance biodiversity values under a Vegetation Management Plan (VMP). This would include measures for restricting public access, treatment of weed infestations and ongoing bush regeneration. This would increase the viability of native vegetation communities and may also improve potential habitat for a number of threatened species that have the potential to occur in the area.

The ecological report has acknowledged that surveys for a some threatened species were not conducted under suitable conditions and have recommended preclearance surveys be undertaken to determine if specific mitigation measures are required during construction.

**ENVIRONMENTAL HEALTH COMMENTS**

A review has been undertaken of the contamination, salinity and acoustic reports. The recommendations of the reports are considered reasonable. A number of conditions are recommended in relation to these matters.

A comprehensive assessment of the acoustic report was carried out to determine appropriate noise levels in comparison to the assumptions provided in the acoustic assessment. Noise modelling was undertaken by the acoustical engineer and provided a worst case scenario. The scenario was all sports fields in operation, plus spectator noise, plant and equipment noise and traffic movements. The noise modelling appears to be acceptable and would not suggest the noise generated from the proposed site would unreasonably interfere with the comfort or report or cause harm.

**Offensive Noise Assessment:**

The offensive noise test can be applied to determine whether the proposal will be harmful or interfere unreasonably with the repose of a person outside the premises. The Protection of the Environment Operations Act 1997 defines offensive noise as:

*offensive noise* means noise:
a) that, by reason of its level, nature, character or quality, or the time at which it is made, or any other circumstances:
   (i) is harmful to (or is likely to be harmful to) a person who is outside the premises from which it is emitted, or
   (ii) interferes unreasonably with (or is likely to interfere unreasonably with) the comfort or repose of a person who is outside the premises from which it is emitted, or

b) that is of a level, nature, character or quality prescribed by the regulations or that is made at a time, or in other circumstances, prescribed by the regulations.

The Environmental Protection Authority has provided an offensive noise test in the *Noise Guide for Local Government (2013)*. The test considers a range of factors to determine whether the noise is offensive. Details of this assessment are:

1. **Is the noise loud either in absolute sense or relative to other noise in the area?**  
   **Comment:** A comparative of the noise modelling and average rating background noise levels reveals that the projected noise is relative to other noise in the area and does not appear to be loud.

2. **Is the noise well above background noise level?**  
   **Comment:** The scenario used for the noise modelling assessment is for all fields in operation plus spectator noise. The acoustic consultant provides a recommendation to achieve noise level to background + 10dB(A). There is only one exceedance which was 4dB(A) above the average rating background level for day time activities.

   The average rating background level for the area is measured as:
   - Day: 37 dB(A)
   - Evening: 39 dB(A)
   - Night (10pm-7am): 32 dB(A)

3. **Does the noise include any tones, impulses or fluctuations in volume?**  
   **Comment:** No.

4. **Does the noise occur at times when unreasonable interference with comfort or repose occurs or is likely?**  
   **Comment:** The noise from the sports fields would be generated between the hours of 7am until 10pm. This does not interfere with the sleep disturbance criteria as defined in the Industrial Noise Policy (INP). Noise from the playing of sport and spectator noise would not unreasonably interfere with the comfort or repose of neighbours.

5. **How often does the noise occur?**  
   **Comment:** Noise can occur between the hours of 7am until 10pm across seven days. The noise would only be generated during the operation of the sports fields including instances of training and weekend competition.

6. **Is the volume, duration or character of the noise typical of the activity in question?**  
   **Comment:** The volume, duration and character of the noise is typical to that of sports fields. Modelling has considered competition playing, spectator noise, operation of plant and equipment and traffic movements on the site.

7. **Is the noise affecting or likely to adversely affect people’s activities? (E.g. conversation, reading, studying, watching TV or sleeping?)**
Comment: No. The noise source would not adversely impact upon one’s personal activities. The noise generated does not excessively exceed the background noise level and it would appear not to be unreasonable. The operation of the sports fields would not cause sleep disturbances given the hours of operation recommended. The noise could be considered as annoying, however this is not a measurable consideration. The land has been zoned for this type of land use and it is not uncharacteristic of typical uses.

8. Is the noise typical of activities conducted in the area?
Comment: The land use around the proposed sports field is residential. It is bound by Windsor Road to the West and residential in all other directions. The North-West Rain Link (sky rail) also traverses the most western boundary of the lot. Whilst there are no sports fields located in the area, the noise is not considered as typical for the area. However, based on the noise modelling, the noise is typical for a sports field setting.

HERITAGE COMMENTS
The proposed development will impact upon known Aboriginal artefacts / areas of significance within the site. This component of the application has been considered by the Office of Environment and Heritage (see comments below).

In relation to European Heritage, the site is in the vicinity of two (2) items of heritage interest including:

- Site of the Swan/White Hart Inn; and
- Wooden fence posts.

Both items are located outside the current proposed development area and will not be directly impacted.

NSW OFFICE OF ENVIRONMENT AND HERITAGE
General Terms of Approval have been provided from the Office of Environment and Heritage. The application involves the complete or partial destruction of five known aboriginal sites. The sites subject to part destruction will also be subject to a salvage operation. These works require the approval of Office of Environment and Heritage under an Aboriginal Heritage Impact Permit. Comments received from the Office of Environment and Heritage are included at Attachment 11 with a response from Council’s applicant included at Attachment 12. In order for the works to commence, the applicant will be required to obtain approval from the Office of Environment and Heritage under an Aboriginal Heritage Impact Permit.

NSW OFFICE OF WATER
The application includes works within 40 metres of defined watercourses namely Caddies Creek, Strangers Creek, and an un-named tributary from the west. The Office of Water’s comments are included at Attachment 13. No objection was raised and no further approval is required.

ROADS & TRAFFIC AUTHORITY COMMENTS
The application was referred to the Roads and Maritime Services under the provision of SEPP Infrastructure 2008. The RMS advised:
1. The proposed traffic signals at the intersection of Windsor Road/Millcroft Way shall be designed to meet Roads and Maritime requirements. The Traffic Control Signal (TCS) plans shall be drawn by a suitably qualified person and endorsed by a suitably qualified practitioner.


The certified copies of the civil design plans shall be submitted to Roads and Maritime for consideration and approval prior to the release of a construction certificate by the Principle Certifying Authority or Council and commencement of road works.

Roads and Maritime fees for administration, plan checking, civil works inspections and project management shall be paid by the developer prior to the commencement of works. The developer will be required to enter into a Works Authorisation Deed (WAD) for the abovementioned works. Please note that the WAD will need to be executed prior to Roads and Maritime assessment of the detailed civil design plans, a copy of the WADPack is available on www.rms.nsw.gov.au

2. A Construction Traffic Management Plan detailing construction vehicle routes, number of trucks, hours of operation, access arrangements and traffic control should be submitted to the Principal Certifying Authority prior to the issue of a construction certificate.

Roads and Maritime has the following comments for Council’s consideration in the determination of the application:

3. The layout of the proposed car parking areas associated with the subject development (including, driveways, grades, turn paths, sight distance requirements, aisle widths, aisle lengths, and parking bay dimensions) should be in accordance with AS 2890.1-2004, AS2890.6-2009 and AS 2890.2 – 2002 for heavy vehicle usage.

4. Due to the nature of Millcroft Way being 7 metres in width, Council should consider installing “No Stopping” restrictions along Millcroft Way to ensure smooth traffic flow on game days.

Items 1, 2 and 3 have been incorporated into the recommended conditions of Consent. Item 4 has addressed through an amended plan relation to works in Millcroft Way.

RURAL FIRE SERVICE COMMENTS
The application was referred to the RFS given it included land identified as bushfire prone. The Service has reviewed the plans and documents received for the proposal and subsequently raise no concerns or issues in relation to bush fire.

NSW POLICE
The proposal was referred to the NSW Police Service under the Protocol between The Hills Shire Council and Castle Hill Police. The following matters were raised:

- CCTV be installed;
- Vegetation be maintained to prevent concealment;
- Provide effective lighting; and
- Minimise graffiti targets.
Comment:

The operation of the complex will be controlled under the ‘Sportsgrounds Generic Plan of Management’. Council has proposed a security gate at the entrance to the carpark. The gate is locked outside operation hours will provide protection from unauthorised access into the carpark. Generally council does not provide cctv with its parks. Should any anti-social behaviour occur, measures will be put in place to mitigate anti-social behaviour like the rest of Council’s reserves.

CONCLUSION

The proposed development has been assessed against the relevant heads of consideration under Section 79C of the Environmental Planning and Assessment Act, 1979, The Hills LEP 2012 and the provisions of The Hills DCP 2012 is considered satisfactory.

The issues raised in the submissions relating to traffic and amenity impacts, acoustic impacts, anti-social behaviour and general issues associated with the proposed use. These matters are addressed in the report and do not warrant refusal of the application.

Approval is recommended 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>SHEET</th>
<th>REVISION</th>
<th>DATE</th>
</tr>
</thead>
<tbody>
<tr>
<td>21-24027</td>
<td>Cover Sheet</td>
<td>G001</td>
<td>D</td>
<td>11/02/2015</td>
</tr>
<tr>
<td>21-24027</td>
<td>General Arrangement Plan</td>
<td>C001</td>
<td>D</td>
<td>11/02/2015</td>
</tr>
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<td>21-24027</td>
<td>Typical Sections Sheet 1 of 2</td>
<td>C005</td>
<td>C</td>
<td>11/02/2015</td>
</tr>
<tr>
<td>21-24027</td>
<td>Typical Sections Sheet 2 of 2</td>
<td>C006</td>
<td>C</td>
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<tr>
<td>21-24027</td>
<td>Bulk Earthworks Plan</td>
<td>C011</td>
<td>C</td>
<td>11/02/2015</td>
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<tr>
<td>21-24027</td>
<td>Sediment and Erosion Control Plan</td>
<td>C015</td>
<td>C</td>
<td>11/02/2015</td>
</tr>
<tr>
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<td>Carpark 1 – Football Fields Plan Sheet 1 of 2</td>
<td>C021</td>
<td>C</td>
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</tr>
<tr>
<td>21-24027</td>
<td>Carpark 1 – Football Fields Plan Sheet 2 of 2</td>
<td>C022</td>
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<td>11/02/2015</td>
</tr>
<tr>
<td>21-24027</td>
<td>Carpark 2 – Baseball Field Plan</td>
<td>C025</td>
<td>C</td>
<td>11/02/2015</td>
</tr>
</tbody>
</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. **Compliance with Office of Environment and Heritage Requirements**
Compliance with the requirements of the Office of Environment and Heritage attached as Appendix A to this consent and dated 7 April 2015.

3. **Compliance with Office of Water Requirements**
Compliance with the requirements of the Office of Water attached as Appendix B to this consent and dated 16 April 2015.

4. **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.

5. **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.

6. **Management of Construction Waste**
Waste materials must be appropriately stored and secured within a designated waste area onsite at all times, prior to its reuse onsite or being sent offsite. This includes waste materials such as paper and containers which must not litter the site or leave the site onto neighbouring public or private property. A separate dedicated bin must be provided.
onsite by the builder for the disposal of waste materials such as paper, containers and food scraps generated by all workers. Building waste containers are not permitted to be placed on public property at any time unless a separate application is approved by Council to locate a building waste container in a public place. Any material moved offsite is to be transported in accordance with the requirements of the Protection of the Environment Operations Act 1997 and only to a place that can lawfully be used as a waste facility. The separation and recycling of the following waste materials is required: metals, timber, masonry products and clean waste plasterboard. This can be achieved by source separation onsite, that is, a bin for metal waste, a bin for timber, a bin for bricks and so on. Alternatively, mixed waste may be stored in one or more bins and sent to a waste contractor or transfer/sorting station that will sort the waste on their premises for recycling. Receipts of all waste/recycling tipping must be kept onsite at all times and produced in a legible form to any authorised officer of the Council who asks to see them.

7. Tree Removal & Fauna Protection
Approval is granted for removal of trees within the development footprint and up to two (2) metres from the outer perimeter of the development footprint. All other trees are to remain. Retained trees and native vegetation is to be protected in accordance with the approved Vegetation Management Plan.

During any tree removal, an experienced wildlife handler is to be present to re-locate any displaced fauna that may be disturbed during this activity (please note only appropriately vaccinated personnel are to handle bats). Any injured fauna is to be appropriately cared for and released on site when re-habilitated.

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

Potential habitat, including thick stands of Allocasuarina shall be searched for resident fauna such as ringtail possum dreys or other signs of fauna occupancy.

8. Surplus Excavated Material
The disposal of surplus excavated material, other than to a licenced waste facility, is not permitted without the formal 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.

9. Acoustic Requirements
The recommendations of the Acoustic Assessment and Report prepared by GHD Pty Ltd, referenced as Caddies Creek Sports Facility, dated January 2015 and submitted as part of the Development Application are to be implemented as part of this approval. In particular: Section 6 – Recommendations:

- Time restrictions will be applied to operations of the proposal site, as per Council’s ‘Playing Fields Policy and Conditions of Hire (2013)’:
  - No activity is to commence prior to 7.00 am on any day.
  - No competitive sport is to commence prior to 8.00 am on any day.
  - No playing field activity is to occur after 10.00 pm on any day.
  - Floodlights are to be turned off by 9.30 pm without exception.

- The quiet enjoyment of property owners adjoining reserves is not to be disturbed by excessive noise, offensive language or behaviour or any other activity likely to cause disturbance.

- Ensure players, trainers and other site users are aware of potential noise impacts and minimise the use of loud shouting and whistles as far as practicable.
10. Contamination Assessment & Site Remediation
The recommendations of the Site Assessment and Report prepared by Environmental Investigation Services Pty Ltd, referenced as E27876KBrpt, dated 27 November 2014 and submitted as part of the Development Application are to be implemented as part of this approval. In particular:

- Undertake a preliminary Stage 2 Environmental Site Assessment (ESA). The ESA should target the Area of Environmental Concern (AEC) identified in the Tier 1 Risk Assessment (see attached Figure 3). If the AEC pose a risk to receptors, a Remediation Action Plan (RAP) should be prepared for the site; and
- Undertake a soil and groundwater salinity assessment and prepare a site specific salinity management plan for the development.

11. 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:

a) AS/ NZS 2890.1
b) AS/ NZS 2890.6
c) AS 2890.2
d) Council’s DCP Part C Section 1 – Parking
e) Council’s Driveway Specifications

Where conflict exists the Australian Standard must be used.

The following must be provided:

i. 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.

ii. All driveways and car parking areas must be separated from landscaped areas by a low level concrete kerb or wall.

iii. All driveways and car parking areas must be concrete or bitumen. The design must consider the largest design service vehicle expected to enter the site. In rural areas, all driveways and car parking areas must provide for a formed all weather finish.

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

12. 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.

PRIOR TO THE ISSUE OF A CONSTRUCTION CERTIFICATE

13. Approved Plans to be Submitted to Sydney Water
The approved plans must be submitted to a Sydney Water Quick Check agent to determine whether the development will affect any Sydney Water wastewater and water mains, stormwater drains and/or easement, and if any requirements need to be met. Plans will be appropriately stamped.
Please refer to the web site www.sydneywater.com.au for:

- Quick Check agents details – See building and Developing then Quick Check and
- Guidelines for Building Over/Adjacent to /Sydney Water Assets – see Building and Developing then Building and Renovating.

or telephone 13 20 92.

14. Vegetation Management Plan

A Vegetation Management Plan must be prepared for the areas of retained and rehabilitation areas in accordance with Council’s Vegetation Management Plan Guidelines (available on Council’s website http://www.thehills.nsw.gov.au). The Plan must be prepared by a suitably qualified bush regenerator or restoration ecologist with a minimum Certificate III Natural Area Restoration. The Plan must be submitted to The Hills Shire Council’s Manager – Environment and Health for approval.

The Vegetation Management Plan must include details relating to:

- The rehabilitation and management of native vegetation.
- The location and type of temporary and permanent protection fencing required.
- Mitigation measures required during the construction phase to protect existing biodiversity as specified in Chapter 6 of the Ecology Assessment prepared by GHD dated 2015.

15. Landscape Plan

The landscape plan is to be updated to provide details of all species proposed to be used for landscaping purposes. Plants are to be selected from the Cumberland Plain Woodland and/or River-flat Eucalypt Forest communities and be of local provenance. The list below provides a guide to suitable shade and feature trees species.

<table>
<thead>
<tr>
<th>Species Name</th>
<th>Scientific Name</th>
<th>Common Name</th>
</tr>
</thead>
<tbody>
<tr>
<td>Angophora floribunda</td>
<td></td>
<td>Rough-barked Apple</td>
</tr>
<tr>
<td>Angophora subvelutina</td>
<td></td>
<td>Broad-leaved Apple</td>
</tr>
<tr>
<td>Callistemon salignus</td>
<td></td>
<td>Willow Bottlebrush</td>
</tr>
<tr>
<td>Casuarina cunninghamiana subsp. cunninghamiana</td>
<td></td>
<td>River Oak</td>
</tr>
<tr>
<td>Melaleuca decora</td>
<td></td>
<td>White Feather Honeymyrtle</td>
</tr>
<tr>
<td>Melaleuca linariifolia</td>
<td></td>
<td>Flax-leaved Paperbark</td>
</tr>
<tr>
<td>Melaleuca styphelioides</td>
<td></td>
<td>Prickly-leaved Paperbark</td>
</tr>
<tr>
<td>Tristaniopsis laurina</td>
<td></td>
<td>Water Gum</td>
</tr>
</tbody>
</table>

16. Salinity Management Plan

A salinity assessment of soil and ground water must be undertaken for the development proposal and provided to Council for review.

Where salinity has been identified on the site, the report must also address these findings with regard to the impact of the development on the saline environment and the impact of the saline environment on the development.

Consideration should be given to all relevant Australian Standards or provisions referred to in the Building Code of Australia (BCA) that relate to the type and method of construction for all private and public assets proposed within to be constructed in the saline environment. An approach to address salinity treatments for the entire development site may be summarised in a Salinity Management Plan (SMP).
Where a SMP or salinity recommendations are provided in any assessment, the report shall address the impact of salinity on the approved development; these works must be incorporated into the building specifications which are to be provided to the Consent Authority prior to the issuing of the Construction Certificate.

17. 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.

18. 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.

19. Engineering Works and Design
The design and construction of the engineering works listed below must be provided for in accordance with the following documents and requirements:

   a) Council’s Design Guidelines Subdivisions/ Developments
   b) Council’s Works Specifications Subdivisions/ Developments

Variation from these documents can only be approved by Council’s Manager – Subdivision and Development Certification.

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. For Council to issue this approval the following must be provided:
   a) A completed application form.
   b) An electronic copy of the design plans and accompanying documentation.
   c) Payment of the applicable application and inspection fees.
   d) Payment of any required security bonds.

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:

### i. Stormwater Management

In order to ensure the proposed development does not have adverse impact on the existing flood behaviour over the catchment and provision of adequate flood protection measures to the development based on best engineering practices of floodplain and water quality management, and infrastructure assets, works shall include the following but not limited to:

- Bulk Earth Works
- Finished levels of the sports complex and playing fields
- Vehicular Access Roads and Car parks
- Creeks Rehabilitation Works and associated structures
- Site Drainage and Water Sensitive Urban Design measures
- Shared Paths, Light Weight Vehicle and Pedestrian Bridges

All detailed design and construction drawings shall be prepared in accordance with:

- Caddis Creek Reserve Flood Assessment Report, prepared by GHD, February 2015
- Caddis Creek Reserve TUFLOW Models received by Council from GHD, 02 April 2015
- Caddis Creek Engineering Design Report, prepared by GHD, February 2015
- Caddis Creek Reserve – Engineering Design Drawings Ref: 21-24027-G001 Revision D and associated set of drawings prepared by GHD, February 2015

**NOTE:**

The re-vegetation proposal is not part of the current development application.

Flood impacts reported on by GHD with the revegetation scenario will be subject to further investigation, and consultation with Sydney Water and the adjoining site owned by the NSW State Government.

### ii. Structural Certification

Certification from Structural Engineer is required confirming that all proposed structures are designed to withstand the forces of floodwater, debris and buoyancy up to and including Flood Planning Level (FPL) 3 (1 in 100 year ARI flood level).

### iii. Flood Compatibility

Engineer’s Certification is required confirming all structures have flood compatible building components below Flood Planning Level (FPL) 3 (1 in 100 year ARI flood level).
iv. Stormwater Drainage – Creek Outlets and Scour protection

Piped stormwater outlets/connections to a natural watercourse must comply with the requirements of Council and the NSW Office of Water (as well as Sydney Water, in the case of stormwater management land).

v. External Water

Appropriate drainage measures including temporary/permanent piped drainage or grass swales must be installed to intercept, control and redirect surface stormwater runoff from upstream developed and/or undeveloped properties.

20. Flood Emergency Response Plan

Prior to the issue of Construction Certificate a site specific Flood Emergency Response Plan must be prepared and be made available onsite for implementation. The Flood Emergency Response Plan is to be specifically focused on the proposed landuse, various stages (construction and occupation) of the development and the site conditions in conjunction with flood behaviour up to and greater than the 100 year ARI flood event experienced at the site.

Preparation of the Flood Emergency Response Plan is to utilise information provided within the Flood Assessment carried out for the and rely on the State Emergency Service (SES) Floodsafe Toolkit for Recreational Activities, available at the SES website http://www.ses.nsw.gov.au/topics/6471.html, addressing specific actions in regard to:

- Preparing for a flood;
- Responding when a flood is likely;
- Responding during a flood; and
- Recovery after a flood.

NOTE: The site specific Flood Emergency Response Plan is to be certified by a suitably qualified emergency management specialist, experienced in emergency urban flash flooding response prior to submission.

21. 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:

a) Allotment boundaries;
b) 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; andj) A maintenance program for the erosion and sediment controls.

22. Construction Management Plan

Prior to the issuing of a Construction Certificate a Construction Management Plan must be submitted to Council’s Manager – Subdivision and Development Certification for approval. The Construction Management Plan must specifically address each of the following matters:
- Timing of the works.
- Staging of the works.
- Parking for construction traffic within and around the site during construction.
- Movements of construction vehicles associated with the earthworks.

23. Roads and Maritime Services – Traffic Signals
The proposed traffic signals at the intersection of Windsor Road/Millcroft Way shall be designed to meet Roads and Maritime requirements. The Traffic Control Signal (TCS) plans shall be drawn by a suitably qualified person and endorsed by a suitably qualified practitioner.


The certified copies of the civil design plans shall be submitted to Roads and Maritime for consideration and approval prior to the release of a construction certificate by the Principle Certifying Authority or Council and commencement of road works.

Roads and Maritime fees for administration, plan checking, civil works inspections and project management shall be paid by the developer prior to the commencement of works. The developer will be required to enter into a Works Authorisation Deed (WAD) for the abovementioned works. Please note that the WAD will need to be executed prior to Roads and Maritime assessment of the detailed civil design plans, a copy of the WADPack is available on www.rms.nsw.gov.au

PRIOR TO WORK COMMENCING ON THE SITE

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

25. 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.

26. 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.

27. Pre-Clearance Surveys
Prior to construction targeted surveys are to be undertaken by a qualified ecologist under appropriate conditions for the following species:
• Spiked Rice Flower (Pimelea spicata)
• Green and Golden Bell Frog (Litoria aurea)
• Cumberland Plain Land Snail (Meridolum corneovirens)

If these species are found to be present on site, suitable mitigation measures are to be developed and a sub-plan to the Vegetation Management Plan must be prepared to reduce the potential for adverse impacts on this species as a result of the proposal and to manage the species into the future. The sub-plan is to be provided to The Hills Shire Council’s Manager – Environment and Health for approval.

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

This will include, but not be limited to a stabilised access point and appropriately locating stockpiles of topsoil, sand, aggregate or other material capable of being moved by water being stored clear of any drainage line, easement, natural watercourse, footpath, kerb or roadside.

29. Traffic Control Plan
A Traffic Control Plan is required to be prepared and submitted to Council’s Manager Infrastructure and Transport Planning for approval. The person preparing the plan must have the relevant accreditation to do so. Where amendments to the plan are required post approval, they must be submitted to Council for further approval prior to 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.

30. Erection of Signage – Supervision of Work
In accordance with Clause 98A(2) of the Environmental Planning and Assessment Regulations 2000, a sign is to be erected in a prominent position displaying the following information:

a) The name, address and telephone number of the Principal Certifying Authority;

b) The name and telephone number (including after hours) of the person responsible for carrying out the works;

c) That unauthorised entry to the work site is prohibited.

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

31. Contractors Details
In accordance with Section 109E(3) of the Environmental Planning and Assessment Act 1979, the contractor carrying out the subdivision works must have a current public liability insurance policy with an indemnity limit of not less than $10,000,000.00. The policy must indemnify Council from all claims arising from the execution of the works. A copy of this insurance must be submitted to Council prior to works commencing.

32. Public Infrastructure Inventory Report
A public infrastructure inventory report must be prepared 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:
a) Planned construction access and delivery routes; and  
b) Dated photographic evidence of the condition of all public assets.

**DURING CONSTRUCTION**

**33. Delivery of Fill**  
Trucks delivering fill to the site are to primarily use alternate access through Sydney water land off Windsor Road. Fill trucks using Millcroft Way is to be avoided where possible and is not permitted on weekends.

**34. Hours of Work**  
Work on the project to be limited to the following hours:

- **Monday to Friday - 7.00am to 5.00pm**;
- **Saturday – 8.00am to 1.00pm**

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.

**35. 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.

**36. 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.

**37. Construction and Fit-out of Food Premises**

To ensure that adequate provision is made for the cleanliness and maintenance of all food preparation areas, all work involving construction or fitting out of the premises shall comply with the requirements of *Australian Standard AS 4674-2004 – Design, construction and fit-out of food premises* and the provisions of the Food Standards Code (Australia). This includes, but is not limited to:
• The intersection of floors with walls and exposed plinths in food preparation, storage and servery areas are to be coved.

• All walls are to be solid construction. Solid construction is defined as brick, concrete blocks, structural fibrous cement or preformed panels that are filled with suitable material.

• Pipes and conduits adjacent to walls are to be set a minimum of 25mm off wall face with brackets. Pipes and conduits entering floors, walls or ceilings are to be fitted with a flange and all gaps fully sealed.

• Hand wash basins:
  o Must be provided, not obstructed and accessible at bench height and no further than 5 metres from any place where open food is handled or prepared; and
  o Must be fitted with a tap that operates hands free with a permanent supply of warm running potable water delivered through a single outlet.

Note: Copies of AS 4674-2004 may be obtained from www.saiglobal.com by visiting the website: www.saiglobal.com and copies of the Food Safety Standards Code (Australia) may be obtained from Food Standards Australia New Zealand by visiting the following website www.foodstandards.gov.au.

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

PRIOR TO ISSUE OF AN OCCUPATION CERTIFICATE

39. Validation report
A validation report shall be submitted to the Principal Certifying Authority. The report shall include:

• The degree of contamination originally present; and
• The type of remediation processes that have been carried out.

40. Traffic Signals
Prior to the operation of the reserve for competitive sport, traffic signals at the intersection of Windsor Road and Millcroft Way must be operational.

41. Road Widening - Millcroft Way
Proposed Road widening of Millcroft Way must be completed prior to issue of occupation certificate. Refer: Design concept ‘Millcroft Way – Road Widening Design Plan’ dated 24 June 2015 prepared by The Hills Shire Council. Owners of land affected by the proposed verge works are to be notified in accordance with Council’s standard practice.

42. 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.

43. Works as Executed Plans
Works as executed (WAE) plans prepared by a suitably qualified engineer or registered surveyor must be submitted to Council when the subdivision works are completed. The WAE plans must be prepared in accordance with Council’s Design Guidelines Subdivisions/ Developments.
The plans must be accompanied by pavement density results, pavement certification, concrete core test results, site fill results, structural certification, CCTV recording, signage details and a public asset creation summary, where relevant.

**44. Confirmation of Pipe Locations**
A letter from a registered surveyor must be provided with the WAE plans certifying that all pipes and drainage structures are located within the proposed drainage easements.

**45. Public Asset Creation Summary**
A public asset creation summary must be submitted with the WAE plans. A template is available on Council’s website.

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

**47. Construction Certification of Bridge Structures**
A certificate of structural adequacy prepared by a suitably qualified and practicing structural engineer must be submitted with the WAE plans certifying that the bridge has been built in accordance with the approved design. An itemised list detailing the quantity, length and tendered cost of each bridge component and associated works must also be submitted, along with a maintenance schedule.

**48. Public Infrastructure Inventory Report - Post Construction**
Before an Occupation Certificate is issued, an updated public infrastructure inventory report must be prepared to identify any damage to public assets and the means of rectification.

**49. Flood Extent Map and Certifications**
Flood protection measures as recommended in the Flood Assessment Report must be completed prior to the issuing of an Occupation Certificate.

The following documentation is required to be prepared and submitted upon completion of the above works and prior to a final inspection:

a) A plan of survey prepared by a registered surveyor that shows the various storm events including 2 year, 20 year and 100 year ARI storm flood levels associated with creeks. The plan must reflect the works carried out as shown on the WAE plans for the development and clearly indicate the extent of inundation for the above storm event(s).

b) A certificate from a suitably accredited engineer verifying that the floor levels comply with the approved plans, in accordance with the recommendation of the Flood Assessment report by GHD, February 2015.

c) A certificate of structural adequacy prepared by a suitably qualified and practicing structural engineer must be submitted with the WAE plans certifying that all structures to withstand the forces of floodwater, debris and buoyancy as designed and approved.

**THE USE OF THE SITE**

**50. Site Management – Vegetation Management Plan**
The native vegetation management zones must be maintained in accordance with the approved Vegetation Management Plan.

**51. Park Operation and Lighting**
The operation of the complex will be controlled under the ‘Sportsgrounds Generic Plan of Management’. The sporting fields will generally operate from 8.00am to 5.00pm on
weekends and until 9.30pm on week nights for training. Flood lighting is turned off automatically at 9.30pm.

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.

52. Offensive Noise - Acoustic Report
The proposed use of the premises and/or machinery equipment installed must not create offensive noise so as to interfere with the amenity of the neighbouring properties.

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

53. Access to Baseball Field Carpark
There is currently no vehicle access to the baseball carpark located beside the baseball field. Upon development of the adjoining land (lot 1 DP 1184385), vehicle access is to be provided the baseball carpark. In the interim, the baseball carpark is not to be used for vehicle parking.

ATTACHMENTS
1. Locality Plan
2. Aerial Photograph
3. Zoning Map
4. DCP Extract
5. Kellyville Rouse Hill Open Space Study Extract
6. Site Plan
7. Landscape Concept Plan
8. Bulk Earthworks Plan
9. Lighting Plan
10. Road Widening Plan
11. Office of Environment and Heritage General Terms of Approval
12. Response to Office and Environment and Heritage comments
13. Office of Water comments
14. Peer Review Comments
ATTACHMENT 1 – LOCALITY PLAN

NOTE: THE HILLS DISTRICT HISTORICAL SOCIETY, RMS AND BLACKTOWN CITY COUNCIL ALSO NOTIFIED

THREE SUBMISSIONS RECEIVED OFF THE SCOPE OF THIS MAP

THE HILLS SHIRE COUNCIL

THE HILLS
Sydney's Garden Shire
ATTACHMENT 2 – AERIAL PHOTOGRAPH
**ATTACHMENT 5 – KELLYVILLE ROUSE HILL OPEN SPACE STUDY EXTRACT**

**Caddies Creek Reserve**

**Classification:**
Sports Complex

**Area:**
16.47 hectares

**Site:**
Creekline, pasture (largely flood prone)

**Links:**
Major open space link via Caddies Creek conservation area Links to sub-regional centre and Greenway.

**Landscaping Features:**
Adjacent to Caddies Creek - Riparian habitat Gentle slopes

**Proposed Facilities:**
Ovals, cricket nets Basketball courts Parking, fencing, lighting Amenities block Pedestrian bridges Parking BBQ facilities

**Planting Themes**
Creekline:
Eucalyptus tereticornis
Eucalyptus amplifolia
Casuarina glauca
Melaleuca decora

Park area:
Platynus x acerifolia
Liriodendron tulipifera
ATTACHMENT 6 – SITE PLAN
ATTACHMENT 11 – OFFICE OF ENVIRONMENT AND HERITAGE GTA'S

Mr. David Walker,
General Manager
The Hills Shire Council
PO BOX 7064
BAULKHAM HILLS BC, NSW 2153

CC: Mr. Paul Osborne, Manager, Development Assessment
CC: Mr. Robert Buckley, Planning Team

Dear Mr Walker,

This letter contains Office of Environment and Heritage’s (OEH) general terms of approval for an Integrated Development (development application IDA 986/2015/UP) for those known Aboriginal sites which require an Aboriginal Heritage Permit (AHP) pursuant to a 90 of the National Parks and Wildlife Act 1974 (the Act).

OEH has reviewed the following reports provided in support of this Application: ‘Caddies Creek Reserve, Milcrew Way, Beaumont Hills, The Hills LGA, Draft Aboriginal Cultural Heritage Assessment Report’ prepared for the Hills Shire Council dated December 2014; The Caddies Creek Engineering Design Report prepared by GHD dated February, 2016; and the Caddies Creek Reserve Statement of Environmental Effects prepared by GHD dated February, 2015.

OEH understands from the Application that the subject land and surrounding area has been the subject of at least four separate archaeological investigations including both survey and excavation since 1993, which have concluded that these areas contain high cultural and archaeological values. Importantly these studies have subsequently concluded that parts of these areas also have conservation values. OEH further notes that several AHIMS sites (notably RHCD07 and RHCD12) located in this general area were expressly avoided due to their level of archaeological significance during development activities for the Rose Hill Development Area (RIDA). However, OEH further notes that there has been no conservation planning mechanism in place to ensure the protection of this area other than the listing of these sites on the Aboriginal Heritage Information Management System (AHIMS).

OEH understands that the SEE prepared to support this Application has not identified Aboriginal Cultural heritage sites and places as a constraint to the project, nor has the SEE considered any Aboriginal cultural heritage values within its assessment of cumulative environmental impact. The Due Diligence Assessment prepared for Council by AAlg demonstrates clearly to OEH that Council has been in receipt of advice since at least 2013 of the presence of Aboriginal cultural heritage sites within the subject land and the significance of these sites. No evidence has been provided in the supporting documentation for this IDA that Council has considered any options of design modifications to avoid harm to these significance Aboriginal cultural heritage sites in whole or part.

The current ACHAR has concluded that although there are 12 (twelve) Aboriginal Heritage Information Management System (AHIMS) sites in this area, several of these are duplicate entries. Consequently it is argued that only three Aboriginal heritage sites registered on the AHIMS will be harmed by the proposed development. These include AHIMS sites known as RHCD12; NYWRL PAD 10 and Caddies Creek 1. OEH however understands that the proposed activities will cause harm and therefore an AHP will be necessary.
The ACHAR impact assessment has focused on the impacts from the location of the proposed playing fields. However OEH understands from the meeting held with Hills Shire Council and AHMS on 13 February 2015, in addition to the SEE and Engineering Design Report prepared by GHD for this project that the proposed works will involve additional impacts. These impacts are likely to include rehabilitation of the riparian corridor, connectivity through footpaths, roads and cycleways, excavation and placing fill on top of an archaeologically significant and sensitive area and any associated services, landscaping as well as construction of the proposed buildings and playing fields.

Where harm cannot be avoided by the construction, any mitigation measures should be in-line with the significance of the archaeological resource and the extent of harm proposed.

OEH understands that the ACHAR has reassessed the specific elements expressed as retaining high archaeological significance relative to the AHMS sites in the subject land. The ACHAR has therefore also considered these elements when determining the mitigation measures for this proposal. The Assessment has concluded that contrary to previous investigations, the significant site elements associated with Aboriginal occupation of RH/CD12 are focused on terrace and levee deposits adjacent to Caddies Creek. These landform types are not present within the currently assessed development footprint, however OEH again notes that the impact assessment focused on the physical layout of the main structures, notably the playing fields. The test excavation has further investigated the deposits within the development footprint and identified that although limited stratigraphic evidence was indicated from these investigations, there are some deposits (D10, G11 and possibly also J15) indicative of higher archaeological significance not commonly identified in stone artefact assemblages within the local area. The ACHAR concludes that the evidence in the study area therefore retains moderate, not high archaeological significance.

Currently the ACHAR outlines that partial salvage focused on test pit D10 to a maximum area 100m² and expansion around test pit G11 would represent a suitable level of mitigation for harm for this project. This is based on the argument that the test excavation, which is limited as it was undertaken via the Code of Practice for Aboriginal Objects in NSW (2010) identified research potential for further archaeological salvage of these two areas. OEH notes however that the ACHAR does not discuss why further archaeological investigation of J13 and C12 is not warranted because these areas also retain evidence of higher frequencies of stone artefacts similar to G11, albeit not the identifiable variation in artefact types and stone flaking technologies present at D10. It is further noted that the ACHAR states that physical evidence indicative of post-contact use of the site was identified within test pit G4, yet no further discussion of investigation of this potential activity and significance at the site has been raised. OEH further notes that the current proposal and ACHAR will allow harm to this area with no further investigation or mitigation for the loss proposed. OEH would recommend that this area would contain equal value from an archaeological research perspective as well as potentially retaining cultural value.

Council should be advised that prior to receipt of this request for General Terms of Approval (GTAs), OEH met with the Applicant and their consultant to discuss Aboriginal cultural heritage options for this site. OEH provided general advice regarding the mitigation options which may be appropriate and this advice has also informed the GTAs provided below. A copy of the minutes from this meeting has been included with this letter for the information of Council’s determining officer, Mr. Robert Buckham. Notably Council identified that this project is a priority for Council, however Council cannot fund archaeological salvage excavation as currently recommended by its archaeologists.

Given the level of impact proposed and the significance outlined in particular for test pits D10, G11, J13, C12 and C4 with harm proposed for all, OEH would recommend that where harm will occur, any archaeological mitigation measures should be in-line with the extent of harm proposed and the significance.
of the material to be destroyed by these activities. This means that OEH does not consider the level of
salvage proposed is sufficient as presently proposed to mitigate the loss of these areas and a more in-
depth salvage excavation should be considered under an AHIP, where harm cannot be avoided or
minimised.

OEH further notes that partial excavation of subsoil and filling with modern material will still negatively
impact the archaeological resource. This salvage excavation should be focused on each of the areas D10,
G11, J13, C12 and C4 and an appropriate area should be excavated in accordance with the level of
significance and previous excavations in the Rouse Hill area.

Having considered the above advice, OEH provides the following terms of approval for the proposed
development as follows:

- The SEE has not considered the level of significance of the archaeological sites as a constraint to
this proposal in the planning stage. Hills Shire Council has not demonstrated evidence of avoidance
in whole or part of the significant Aboriginal cultural heritage resource which will be harmed by the
proposed activities.

- Mitigation measures must appropriately consider the harm proposed by the development footprint
as well as all additional activities likely to cause harm such as rehabilitation of the riparian corridor;
connectivity through footpaths, roads and cycleways; excavation and placing fill on top of an
archaeological significance and highly sensitive area and any associated services; landscaping as
well as construction of the proposed buildings and playing fields.

- OEH does not accept a potential interpretation strategy is appropriate to replace the need for
salvage excavation as currently proposed by Council as a form of mitigation to the loss of these
significant values in this area;

- In the event that harm cannot be avoided or minimised through the proposed development, an
appropriate level of salvage excavation in order to mitigate the loss of this significant resource must
first be undertaken. This excavation should be focused on each of the areas D10, G11, J13, C12
and C4 and an appropriate area should be excavated in accordance with the level of significance and
previous excavations in the Rouse Hill area. OEH further notes that partial excavation of subsoil
and filling with modern material will still negatively impact the archaeological resource.

- Where Aboriginal objects will be harmed by the proposed activities, an Aboriginal Heritage Impact
Permit (AHIP) must first be sought from OEH;

- The AHIP application must be accompanied by appropriate documentation and mapping as outlined
on page 5 of Applying for an Aboriginal Heritage Impact Permit, Guide for Applicants;

- Consultation with the Aboriginal community undertaken as part of an AHIP application must be in
accordance with the Aboriginal Cultural Heritage Community Consultation Requirements for
Proponents 2010;

- In the event that an area based AHIP is sought, the boundary of the proposed AHIP should not
overlap with any existing and active AHIP which has been issued by OEH. This should be checked
by the Applicant during the pre-application process.
If you have any further questions in relation to this matter, please contact Felicity Barry, Archaeologist, on (02) 9995 6914.

Yours sincerely,

S. Hannan 07/04/2015

SUSAN HARRISON
Senior Team Leader Planning
Greater Sydney Region
Office of Environment and Heritage

Attachment 1: Minutes from meeting held 13 February 2015 with Hills Shire Council, AHMS and DEH to discuss pre-judging of the Caddies Creek Reserve Aboriginal Heritage Impact Permit (AHIP).
Attachment 1:

Pre AHP lodgement meeting to discuss the Caddies Creek Reserve, Beaumont Hills, NSW Meeting Minutes

File: SP/15/62Z
Date: Friday 13 February 2015

In Attendance:

<table>
<thead>
<tr>
<th>OEH Planning Team</th>
<th>Senior Team Leader, Planning</th>
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<tbody>
<tr>
<td>Susan Pinnison</td>
<td>Archaeologist</td>
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<tr>
<td>Fran Stott</td>
<td>Archaeologist</td>
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<tr>
<td>Felicity Barry</td>
<td>Senior Archaeologist</td>
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<th>AHMAS</th>
<th>Hills Shire Council</th>
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<td>Tereza Makson</td>
<td>J. Ron Piddock, Project Manager</td>
</tr>
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1. Constraints were outlined for the area including:
   - The land in question is flood-prone.
   - There is existing development present including an existing Sydney Water sewerage pipeline through the subject site known as AHP C2 '2'.
   - The inimic Aboriginal sites RHR CD 12 is present within this location. OEH notes that this site was a conservation outcome from previous development within the Western Sydney area due to its Aboriginal cultural heritage values.
   - Complex land ownership – Council, Department of Planning and Sydney Water: Department of Planning are selling off the land to Council.
   - Council is leasing the land from Sydney Water and the Department of Planning.
   - OEH identified that landowners consent for any AHP application will be required.
   - Council was lodging the DA with Council today (15 February 2015).

2. Current Proposal:
   - Rehabilitation of the Episcopal corridor of Caddies Creek;
   - Construction of playing fields and amenities buildings with services established including lighting for playing fields;
   - It is proposed that the playing fields will require removal or the organic layer and an additional 0.3m of topsoil prior to placing fill on the land.
   - The placement of fill is required from an engineering requirement in order to use the land for playing fields due to the silt nature of the subsoil as well as the flood prone nature of the land.
   - There are some existing disturbances including services such as sewerage pipelines placed by Sydney Water across the existing fields.
   - Within the proposed fill layer, it is proposed that other services including electricity to service the fields will be placed.
   - Connectivity of the location with an existing cycleway from the Landscape Development and to Royston Hill Development area is required through the proposal.
   - Creek rehabilitation will also be necessary to the spurious corridors.

3. Work which has been undertaken to date for the proposed project:
   - A program of test excavation was undertaken by AIME in the area of proposed impact and four were expanded during this investigation. These results confirmed the results of Jo McDonald. Roughly the results identified that there was no density change in the deposits compared to those found further south along the Creekline. These may be associated with levees and terraces. Four areas in particular retained interesting assemblages.
   - Of the four areas referred to above, at least one area in particular (011) which was identified during the AIME testing phase was noted as warranting further archaeological. The stone artifact analysis was undertaken by Dr Trudy Deelman who identified further archaeological investigation would be warranted in these areas.
due to the diversity of artefacts recovered. OEH would like further information to clarify the significance of these deposits. AMHS to clearly provide this in the Antiquation.

- Noted that there are additional sites (including grinding grooves) outside the subject land but bordering it with other development. These areas appear to be in poor condition and are incised from access.
- Was stratification visible? AMHS responded that no C14 dates could be obtained and they couldn’t identify any during excavation.

4. Discussion of options for mitigation impacts through development

- The Southern part of the Study Area has a higher level of previous disturbance and lower density of stone artefacts. This may be an appropriate location of place one of the playing fields?
- Interpretation was discussed with OEH as a possible alternative to full salvage excavations of RH 00 12.
- Council advised that the cost of salvage would likely be prohibitive and would be seeking to reduce the level of salvage in favour of interpretation in the Hills district for heritage purposes (discussed in Point 5).
- Higher density areas may be avoided entirely, particularly for subsurface imaging and site placement. 3-4 areas as a whole were identified as retaining this level of density. Refer to advice from Stone artefact expert for significance of this evidence (Point J above).
- OEH provided advice that even placing geotechnical fabric and filling the void of the fill will cause harm to the archaeological integrity and context. OEH has several articles that are relevant to this discussion and will provide following the meeting.
- In addition there will be a need to drill down for the placement of lift piles. However these may be positioned away from higher significance areas.
- Subsurface imaging prior to filling is argued by the Consultant as an impact but also an opportunity for conservation. OEH disagrees, this is in fact an impact and a form of destruction as the archaeological integrity will be harmed by the fill placement activity (refer to attached reports).
- Interpretation is an interesting option however it would require detail to be provided to OEH. This could be included as a condition of approval. Details would need to be addressed in point 5.
- It is relevant to note that salvage excavation may also be required in addition to any interpretation option investigated by Council. This would need to be based on a consideration of the significance and interpretation of the archaeological context.
- What is an adequate level of information required before this is all lost by the coverage of fill material?

5. Interpretation Options

- Hills Council advised that Heritage Division has approved interpretation strategies/plans in relation to historical archaeological interpretation of e.g. Government Farm at Castle Hill.
- The intention is to seek engagement with the Western Sydney Aboriginal community groups to provide a different level of interpretation than presently seen at most sites (which are essentially panels of information).
- This would also provide another reason why people could visit the site other than for sporting activities. It is in a good location for connectivity and the interpretation could take this further by interpretation of the landscape with archaeology and the surrounding soils and area (vegetation and grinding grooves etc). This would provide more context to this area.
The ANPSJ judgement meeting to discuss the Caballes Creek Reserve, Beaumont Hills, NSW.

- It was not clear to OEH what form this strategy might comprise - artworks, and natural heritage interpretation. Where would it be located in this specific area or within other sublots?
- What types of information would be interpreted?
- What do the Registered Aboriginal Parties involved say about this option versus detailed salvage?
- How does this site tie into the information around it?
- Research question will also need to be addressed and consider what is known to be happening in the local area.

6. Aboriginal stakeholder response?
- Community groups have not reviewed the draft report at this time.
- The advice so far expressed in this meeting (i.e. of an interpretation strategy vs. extensive salvage excavation and recording) is based on informal discussions during test excavation and with some members of the ANPSJs but not all.
- This information needs to be included in the interpretation strategy.

7. The Extent of the ANPSJ was discussed (Land to which the ANPSJ will apply):
- Access routes for construction will be necessary.
- Vehicular crossing of the creek should be considered for inclusion
- Other land owners will need to give consent for ANPSJ if the above is required (Point 1).

Meeting ended, minutes to be prepared and sent out following meeting.
24 April 2015

Robert Buckham
The Hills Shire Council
PO Box 7064
Baulkham Hills BC, NSW 2153

RE: Office of Environment and Heritage’s General Terms of Approval for Integrated Development Application 999/2015/UP

Dear Mr Buckham,

As you may be aware Archaeological and Heritage Management Solutions Pty Ltd (AHMS) has been assisting The Hills Shire Council (HSC) in managing the Aboriginal cultural heritage requirements associated with the proposed Caddies Creek Reserve playing fields. Currently, our works has included an Aboriginal Cultural Heritage Assessment (ACHA) developed to draft stage in accordance with Office of Environment and Heritage (OEH) guidelines, and in consultation with the Registered Aboriginal Parties.

The ACHA identified Aboriginal objects, which are protected by the National Parks and Wildlife Act 1974, within the proposed development area. The HSC and AHMS therefore had a meeting with OEH to discuss the necessary Aboriginal Heritage Impact Permit (AHIP) and the extent of works that OEH would consider suitable in order to mitigate the impact of the proposed development on Aboriginal objects. This meeting was undertaken on 13 February 2015 and the outcomes were very positive. The HSC project manager outlined the constraints to the development, which did not allow complete avoidance of impact, the amendments to the design that had been undertaken to minimise impact, and the range of proposed mitigation measures, including heritage interpretation, conservation of key areas, and a limited program of salvage excavation. The OEH representatives agreed with the proposed approach but noted that they would need to be clearly outlined and supported in the ACHA and AHIP application.

However, the draft ACHA that was provided to OEH for comment with the IDA had been prepared prior to the meeting and did not address the outcomes of the meeting. It appears that the concerns raised by OEH in their response to the IDA relate to this, and that the meeting minutes provided by OEH have also been written following review of the draft ACHA (rather than at the time of the meeting).

AHMS is now amending the ACHA to address the meeting outcomes. In addition, and where feasible, we will incorporate the additional issues raised in the recent response to the IDA. In brief, the key issues are:
Archeological and Heritage Management Pty Ltd

- The Aboriginal cultural values of the study area. We consider that the significance of the study area is relatively low (in contrast to other sites surrounding this area), and will provide clarification and further justification for this in the amended ACHA.
- The level of archeological salvage excavation required. AHMS proposed one large salvage area, whereas OEH suggests several smaller salvage areas across the site. We will modify this recommendation to incorporate conservation of key areas of the site, as proposed by the HSC project manager, and believe that this will address the OEH concerns.
- Re-consideration of the development to avoid impact. We believe that OEH has not adequately considered the relatively low significance of the site within the study area, the constraints to the proposed development, and the amendments which have been made by the HSC project manager to minimize impact. These will be clearly outlined in the amended draft ACHA, in order to address this issue.

We understand from Ron Picock (HSC project manager) that the response from OEH in relation to the IDA has raised concerns. We hope that the information above explains the proposed response to OEH, and we highlight that the ACHA process is still ongoing, which will hopefully resolve any outstanding issues OEH has raised. We do not believe that any of the comments raised by OEH are a significant obstruction to the development, but further discussions on management of Aboriginal heritage is clearly likely to be required in the coming months.

If you have any enquiries or questions, please don’t hesitate to contact me on 02 9555 4000 or awilliams@ohms.com.au

Yours faithfully,

Alan Williams MAACA

NSW Manager – Aboriginal Heritage
Department of Primary Industries
Office of Water

The General Manager
The Hills Shire Council
PO Box 7064
Baulkham Hills BC NSW 2153

Attention: Mr. Robert Buckham

21 APR 2015

Dear Sir,

Re: Construction of a baseball field, multipurpose football field etc, Various Lots at Caddies Creek Sports Complex Reserve No 413, 41 Milcool Way, Beaumont Hills NSW - Dev Ref: 988/2615/UP
Site Location: Caddies Creek Sports Complex Reserve No 413, 41 Milcool Way, Beaumont Hills

I refer to the Section 61 notification sent to the NSW Office of Water (NOW) on 20 February 2015. The NOW apologises for the delay in response to this request.
An assessment has been undertaken for impacts on watercourses and for any water licensing requirements.

Under Clause 38 of the Water Management (General) Regulation 2011, a public authority is exempt in relation to all controlled activities that carry out in, on or under waterfront land. This means that no controlled activity approvals are required for works that Council will undertake within the streams or on lands within 40m of streams. However, all works must be consistent with the Guidelines for Riparian Corridors on Waterfront Land published by the NSW Office of Water.

An assessment was undertaken to determine whether a Works and Use approval (Approval) and a Water Access Licence (WAL) is required for the water to be collected for irrigation of the sports fields. As the Council has indicated, the water to be collected will be from the sporting fields and buildings and it will be stored in concrete tanks. It is the opinion of the NOW that while the Farm Dam Policy applies to the harvesting of rainwater for irrigation, in this situation the Policy will not apply. The volume of water to be collected is minimal (2 x 150,000L tanks plus several 5000L tanks), it is to be stored in concrete tanks and the volume of water to be stored in the tanks is less than the maximum Harvestable Rights Dam Capacity of the site of 2.312ML. Using this information, an Approval and a WAL are not required.

If Council would like further information, please contact Mr John Galea (WRO) on 88387520 or email john.galea@dpi.nsw.gov.au.

Yours Sincerely,

Wayne Common
Senior Water Regulation Officer
Hunter, Sydney and South Coast Cluster (Parramatta)

www.water.nsw.gov.au

Macquarie Tower, 10 Ultimo Avenue, Parramatta NSW 2150
PO Box 3720 Parramatta NSW 2124 Australia | T +61 2 8281 7777 | info@water.nsw.gov.au | ABN 47 661 508 163
ATTACHMENT 14 – PEER REVIEW COMMENTS

7 August 2015
Our Ref: 9288A.2KM

Mr Paul Osborne
Manager, Development Assessment Services
The Hills Shire Council
PO Box 7064
Baulkham Hills NSW 2153

Dear Sir

Independent Peer Review of Development Assessment Report
Proposed Public Recreation Facilities
41 Milcroft Way, Beaumont Hills

1.0 Introduction

In accordance with your request, DFP Planning Pty Limited (DFP) has undertaken an independent review of the Development Assessment Report prepared for the Sydney West Regional Joint Regional Planning Panel (JRPP) in relation to the abovementioned development.

In addition to the Development Assessment Report, we have reviewed the plans of the proposed development, the Statement of Environmental Effects submitted with the Development Application and other supporting documents inclusive of traffic, noise, ecology, flooding and the like.

The proposed development is set out in summary form in the Development Assessment Report but generally contains:

- provision of one multipurpose playing field (comprising two football fields co-located with a cricket oval) and a separate multipurpose football field on the eastern side of Caddies Creek;
- one baseball field of the western side of Caddies Creek;
- vehicular access from Milcroft Way which connects with Windsor Road further to the south of the site;
- allowance for a secondary access to the baseball field to be provided when land on the western side of Caddies Creek is developed for residential and other purposes in the future; and
- a total of 160 car parking spaces on the eastern side of Caddies Creek accessed from Milcroft Way with provision for 40 car parking spaces to be provided on the western side of Caddies Creek in anticipation of the secondary connection in that location in the future.

We understand that future playing fields have been identified in this location for several decades and Council has been receiving Section 94 monetary contributions towards their construction from residential housing development in the locality for many years. Now that the residential population density in the area has increased and the quantum of monetary contributions allows, Council wishes to provide for these planned facilities.
Our understanding of the development application is that vehicular access over Caddies Creek is not a desirable outcome due to the impacts on flooding and ecology that would result from large pieces of infrastructure such as bridges and raised roadways. Notwithstanding, pedestrian and cycle access across the creek is to be provided which will also serve a function for light maintenance vehicles to access both sides of the creek.

2.0 Vehicular Access and Traffic Impacts

Our consideration of the Development Assessment Report and documentation submitted with the application indicates that the single largest potential impact on the development is the single largest potential impact on surrounding residential areas in respect of the vehicular access via Milcroft Way. As indicated above, vehicular access across any of the arms of Caddies Creek (including access from Sanctuary Drive) would require a large vehicular bridge to be constructed which Council’s planning engineers have advised is not an appropriate outcome as all access roads leading thereto would be required to be raised above the relevant flood levels. This, together with removal of vegetation, would have significant adverse environmental impacts.

We agree with this assessment and also agree with the assessment of Council’s Officers that flexibility has been designed into the proposal to provide for car parking adjacent to the baseball field which will have a secondary access from Windsor Road (and new subdivision streets) on the western side of Caddies Creek in the future.

With regard to the traffic impacts on Milcroft Way, we agree that any increase in traffic could be deemed to have adverse amenity impacts. However, the majority of the dwellings in Milcroft Way currently enjoy a level of amenity which far exceeds that enjoyed by dwellings located on a collector road and this cannot be expected to be maintained in the longer term given that surrounding land is still to be developed and temporary access arrangements to Windsor Road for residential development further east to be closed in the future.

Council’s assessment is that Milcroft Way currently performs a role as a minor collector road in the road hierarchy rather than a local access street and we agree with this conclusion. This is particularly the case as future residential development to the east of Milcroft Way will be required to have vehicular access via Milcroft Way to Windsor Road and a new set of traffic lights which will be provided at that intersection. This has been a long term plan for the local traffic network and supports the function of Milcroft Way as a collector road more than a local access street.

Accordingly, we agree with the proposition that the “Environmental Capacity” of Milcroft Way is something between that of a local access street (300 vehicles per hour) and a local collector road (500 vehicles per hour). We note that the “Environmental Capacity” of a road is a guide only and not a statutory standard.

In order to determine the likely traffic and amenity impacts of the proposed development on Milcroft Way and the surrounding road network, an overly conservative approach has been adopted which suggests that vehicles accessing the proposed recreation facilities will arrive and depart within a singular 60 minute period. We believe that in practice, this is highly unlikely as most sporting events would require participants and spectators to arrive well before an event and typically leave a short period after the event. The event itself would typically run for at least 40-60 minutes (e.g. football matches). In addition, baseball events tend to be undertaken in the afternoon and in summer they are rarely coinciding with the peak Saturday morning junior football matches.

Accordingly, it is more likely that the traffic generation of the proposed facility is something less than the two trips per hour adopted for the purposes of the traffic assessment which would reduce the level of impact determined by Council’s Assessment Officers.
Notwithstanding, Council’s assessment of the traffic impacts is that the northern section of Millcroft Way (i.e. north of Wilkins Avenue) will encounter approximately 316 vehicles per hour in the peak period on Saturday mornings and this level of traffic is not expected to occur throughout the rest of the week. We agree with that assessment. Furthermore, upon connection of the secondary vehicular access to the baseball field on the western side of Caddies Creek, traffic along Millcroft Way would be reduced by 80 vehicle per hour bringing the total volume of traffic in the northern section of Millcroft Way to approximately 226 vehicles per hour in the Saturday peak. This is within the “Environmental Capacity” of a local street and well within that of a local collector road.

With regard to the southern section of Millcroft Way (i.e. south of Wilkins Avenue) there are approximately 0 to 0 dwellings of which one is located on the corner of Windsor Road and Millcroft Way. Within this section of Millcroft Way the anticipated traffic volume in the peak Saturday period is expected to be 566 vehicles per hour although 264 vehicle per hour of this comprises existing traffic, much of which is associated with the commercial development located on the corner of Windsor Road and Millcroft Way. As indicated above, when the secondary access on the western side of Caddies Creek to the baseball field becomes available, this level of traffic will drop by approximately 50 peak vehicle trips and bring the total traffic volume on this short section of Millcroft Way within the “Environmental Capacity” of a local collector road.

Accordingly, we consider that the assessment of the proposed development with regard to traffic impacts in Millcroft Way is acceptable subject to a Condition of Development Consent that the baseball field be provided with a secondary access as soon as practicable upon completion of the local road network on the western side of Caddies Creek.

With regard to the other minor road widening and traffic management measures proposed in Millcroft Way, we are of the view that these are not likely to result in significant adverse impacts for local residents in respect of access to their dwellings, pedestrian safety or vehicle safety and are acceptable in this instance.

3.0 Construction Traffic Impacts

We have also considered the potential short term construction traffic impacts on residents in Millcroft Way and surrounding streets and recommend that a Condition of Development Consent be imposed requiring that Millcroft Way not be used as the primary construction traffic route for heavy vehicles associated with the works on the eastern side of Caddies Creek (NB: the north-south aligned section of Windsor Road will have to be used for access for the baseball field works as a creek crossing is not and will not be available). Rather, the alternate route from Windsor Road, located midway between Caddies Creek and Dunross Place, should be used as far as practicable.

Furthermore, should heavy vehicles be permitted to use Millcroft Way, they should not be permitted to do so on weekends and Condition No. 34 could be amended slightly to ensure this.

These measures will minimise the impact of heavy vehicles importing fill to the proposed facility over the anticipated 12-24 week construction period and details of this access and construction traffic management are required through recommended Conditions of Development Consent.

4.0 Car Parking

With regard to car parking, the proposed development complies with Council’s numerical requirements. We note that it is not common practice to provide for the theoretical or “seasonal” maximum car parking demand of any land use such that it would be justified increasing the car parking provision in this particular instance. By way of example, car parking for a shopping centre may not satisfy the peak demand at Christmas, but this demand is only ever achieved for a short period of the entire year.
Accordingly, whilst it cannot be guaranteed that the proposed car parking will completely satisfy the demand of the proposed development at all times throughout the year, the level of car parking provision complies with Council’s standards and is considered acceptable for the typical weekly peak use of the proposed recreation facilities.

5.0 Acoustic Impact

We have considered the Acoustic Impact Assessment submitted with the Development Application and the mitigation measures proposed by the Applicant and included in the Development Assessment Report as Conditions of Development Consent (e.g. hours of operation). Based on these, we consider that the proposed development is unlikely to result in a significant adverse impact on the acoustic amenity of the surrounding residential areas subject to compliance with these recommended conditions.

6.0 Ecological Impacts

With regard to the ecological assessment of the proposed development, we agree that the small loss of native vegetation is not significant in the context of the plans for revegetation detailed within the application and which are to be undertaken through an approved Vegetation Management Plan required as a Condition of Development Consent.

7.0 Aboriginal Heritage Impacts

Furthermore, we note that the Office of Environmental Heritage (OEH) has granted its General Terms of Approval with respect to Aboriginal Heritage and a separate Aboriginal Heritage Impact Permit (AHIP) will need to be obtained before any works can commence.

8.0 Conclusion and Recommendations

In summary, we have considered the Development Assessment Report for the proposed development and in particular, the primary environmental issues of traffic and car parking and consequential impacts on residents in Millcroft Way. We are of the opinion that the Council’s assessment that the proposal is acceptable in this instance is a well-founded conclusion.

Notwithstanding, we have recommended several additional Conditions of Development Consent to provide further assurance that traffic access to the facility is appropriately managed in the longer term and that short-term construction traffic management impacts are minimised through controlled access arrangements.

We would be pleased to provide any further commentary on the proposed Development Application and Development Assessment Report if required. Should you have any queries, please do not hesitate to contact the undersigned.

Yours faithfully
DFP PLANNING PTY LTD

KENDAL MACKAY
PARTNER

Reviewed: __________________

[Signature]

[Signature]