

JOINT REGIONAL PLANNING PANEL
(Sydney West Region)

JRPP No	2011SYW054
DA Number	DA/421/2011
Local Government Area	Hornsby Shire Council
Proposed Development	Affordable rental housing comprising twenty-four townhouses with associated basement carpark for thirty-seven cars and landscaping
Street Address	Pt Lot 1, Pt Lot 2, Pt Lot 3 and Lot 4 DP 200513, Pt Lot 1 and Pt Lot 2 DP 214167 Nos.173-179A Pennant Hills Road, Thornleigh
Applicant	Urbanlink Pty Ltd
Owner	Northside Truck Sales Pty Ltd P Y M Pty Ltd Parkhill Developments Pty Ltd
Number of Submissions	Twelve submissions and six submissions upon renotification of amended plans
Recommendation	Approval
Report by	Aditi Coomar Acting Team Coordinator
Instructing Officer	Rod Pickles – Manager Assessment Team 2 James Farrington – Acting Executive Manager, Planning

ASSESSMENT REPORT AND RECOMMENDATION

EXECUTIVE SUMMARY

1. The application proposes affordable rental housing comprising twenty four, two-storey townhouses with associated basement car parking and landscaping works.
2. The application falls under the provisions of State Environmental Housing Policy (Affordable Rental Housing) 2009.
3. On 15 September 2011, the Joint Regional Planning Panel deferred the application to provide an opportunity for the applicant to amend the proposal to address the concerns raised by the Panel and Council.
4. The amended plans address the concerns satisfactorily.
5. Six submissions have been received upon re-notification of the application.
4. It is recommended that the application be approved.

RECOMMENDATION

THAT Development Application No. DA/421/2011 for the construction of an affordable housing development comprising twenty-four townhouses and basement car parking at Pt Lot 1, Pt Lot 2, Pt Lot 3 and Lot 4 DP 200513, Pt Lot 1 and Pt Lot 2 DP 214167 Nos.173-179A Pennant Hills Road, Thornleigh be approved subject to the conditions of consent detailed in Schedule 1 of this report.

HISTORY OF THE SITE

In 1950, Council approved the use of the site as a car sales and services premises. This use continued through to the 1970s. Subsequently, the use ceased and the buildings were demolished around 1984 following legal actions taken by Council in relation to unauthorized uses within the site.

Council's records indicate that there were no subsequent approvals granted on the site and the site remains vacant.

HISTORY OF THE APPLICATION

On 15 September 2011, the Joint Regional Planning Panel considered Council's Planning Report for DA/421/2011 and resolved the following:

"The Panel has unanimously resolved to allow a modification of the proposal to be submitted and reassessed:

- *The setbacks of the dwellings on Nelson Street, extending from the driveway and to the south, to be 6 metres*

- *The massing of the proposal to Nelson Street to be addressed to respond better to the residential character of Nelson Street (on the western side) by providing a stepped façade and recessed upper levels.*
- *The boundary fence to Pennant Hills Road shall be constructed of masonry to a height of 1.8 metres, acoustically treated to provide an acoustic buffer for the residents behind, and articulated to improve the presentation to Pennant Hills Road.*
- *A redesign of the Pennant Hills Road dwellings to ensure each dwelling can directly access the communal open space and the basement carpark.*
- *Removal of the tree mid-site would be allowed if it prevents an improved design.*
- *If these changes are presented to Council within 4 weeks, and are reassessed by Council, the Panel will meet again to resolve the application.”*

The applicant has amended the plans in the following ways to address the above concerns:

- An acoustic wall has been proposed fronting Pennant Hills Road up to a height of 1.8 metres with landscaping in front.
- The townhouses fronting Pennant Hills Road have direct access to the basement and to the communal open space.
- The communal open space has been redesigned with additional landscaping.
- The tree located mid-site is proposed to be removed to facilitate increased setbacks of townhouses to Nelson Street.
- The townhouses fronting Nelson Street, extending from the driveway to the south, have been setback 6 metres from the boundary.
- Stepped façades are provided to townhouses, with balconies fronting Nelson Street.
- Reduction in the number of bedrooms for some townhouses.

An assessment of the amended proposal is provided in this report.

THE SITE

The site comprises six allotments located on the southern side of Pennant Hills Road at its intersection with Nelson Street (western side), known as Nos. 173 –179A Pennant Hills Road, Thornleigh. The site is L-shaped with a total area of 3647 sq metres. The northern boundary of the site runs parallel to Pennant Hills Road and is located 1 metre below the road level. A concrete retaining wall provides structural support to the northern boundary of the site. The site generally falls towards the rear with a 14% slope. The site is currently vacant and comprises a number of native trees.

The surrounding developments along the southern side of Pennant Hills Road include a mix of single and two storey dwelling houses with the streetscape being intercepted by high fences. A multi unit housing development is in existence in close proximity to the south of the site. A car-wash/café is located on the eastern side of the intersection of Pennant Hills Road and Nelson Street and a petrol station is located at the corner of Stuart Street, further east. A commercial building is located adjoining the car wash and fronts Nelson Street. Brickpit Park is located opposite the site on the northern side of Pennant Hills Road. A vacant site (former veterinary hospital) and a petrol station are located adjacent to Brickpit Park.

The surrounding developments along both sides of the Nelson Street include single and two storey dwelling houses with large front setbacks. A group of townhouses are located at property Nos. 16-18 Nelson Street.

THE PROPOSAL

The proposal involves the construction of an affordable housing development comprising the following:

- Construction of twenty-four townhouses.
- TH 1 – TH 8 would comprise a row of north-facing attached townhouses fronting Pennant Hills Road. TH 7 and TH 8 would be two storeys in height whereas TH1 – TH6 would include a third storey within the roof (attic). The ground floor of the townhouses would be located 2.5 metres below the road level with the private open spaces fronting the street. Stairs across a common landscaped area in front would provide pedestrian access to each of the townhouses from Pennant Hills Road.
- TH 9 – TH 16 would comprise a row of south-facing townhouses, attached to the above townhouses. TH 9 and TH 10 would be two storeys in height whereas TH11 – TH16 would include a third storey within the roof (attic). Pedestrian access to these units would be via a pathway connecting Pennant Hills Road to the rear of the site. Individual front landscaped areas would provide access to these units and would also act as private open space areas.
- TH 17 – TH 24 would comprise a row of east-west orientated, two storey townhouses fronting Nelson Street and separated from the remaining townhouses by a landscaped area. Pedestrian access to the townhouses would be provided individually from Nelson Street through a front landscaped area. Terraces would also be located at the rear fronting the internal landscaped area and have access to Pennant Hills Road via a pedestrian pathway running through the site.
- Typically all townhouses except TH 17, TH 19, TH 20 and TH 24 include the primary living areas on the ground floor and the secondary living spaces on the upper floor including balconies.
- The details of the floor areas (GFA) are provided below:

Townhouse number	Bedrooms	Gross Floor Area
TH1	3	125.8 m ²
TH2	3	123.5 m ²
TH3	3	114.64 m ²
TH4	3	122.4 m ²
TH5	3	123.2 m ²
TH6	2	88.12 m ²
TH7	1	66.4 m ²
TH8	1	68.2 m ²
TH9	3	119.4 m ²
TH10	1	70.9 m ²
TH11	3	105.4 m ²
TH12	3	102.1 m ²
TH13	3	101.9 m ²
TH14	3	101.5 m ²
TH15	3	105.4 m ²
TH16	3	108.4 m ²
TH17	3	121.25 m ²
TH18	3	139.4 m ²
TH19	2	103.6 m ²
TH20	2	104.15 m ²
TH21	3	133.7 m ²
TH22	2	113 m ²
TH23	3	132.8 m ²
TH24	3	128 m ²
GFA		2623.12 m²

- The proposal includes basement car parking comprising thirty-seven spaces accessed via a ramp off Nelson Street. All townhouses would include lock-up garages with direct access from the unit. Three additional visitors' spaces have also been included in the basement.
- Pedestrian access to the basement car parking would be via two sets of stairs from the landscaped areas within the site and directly from Pennant Hills Road.
- Communal areas are proposed to be located at the northern and southern ends of the site.

ASSESSMENT

The development application has been assessed having regard to the '*Metropolitan Plan for Sydney 2036*', the '*North Subregion (Draft) Subregional Strategy*' and the matters for consideration prescribed under Section 79C of the *Environmental Planning and Assessment Act 1979* (the Act). Subsequently, the following issues have been identified for further consideration.

1. STRATEGIC CONTEXT

1.1 NSW State Plan

Priority of E6 of the *NSW State Plan* is 'Housing Affordability'. A key lever of Priority E6 was the introduction of State Environmental Planning Policy (Affordable Rental Housing) 2009. Being a fairly recent planning initiative, Hornsby local government area has only started receiving development applications for this type of housing since 2010. Therefore, it is important to carefully consider development proposals in the context of this strategic planning objective as well as more established local planning controls.

1.2 Metropolitan Plan for Sydney 2036 and (Draft) North Subregional Strategy

The *Metropolitan Plan for Sydney 2036* is a broad framework to secure Sydney's place in the global economy by promoting and managing growth. It outlines a vision for Sydney to 2036; the challenges faced, and the directions to follow to address these challenges and achieve the vision. The *Draft North Subregional Strategy* acts as a framework for Council in its preparation of the *Comprehensive LEP* by the end of 2012.

The *Draft North Subregional Strategy* sets the following targets for the Hornsby LGA by 2031:

- Employment capacity to increase by 9,000 jobs; and
- Housing stock to increase by 11,000 dwellings.

The proposed development would be consistent with the draft Strategy by providing an additional twenty-four dwellings, improving housing choice and contributing towards improved housing affordability in the locality.

2. STATUTORY CONTROLS

Section 79C(1)(a) requires Council to consider any relevant environmental planning instruments, draft environmental planning instruments, development control plans, planning agreements and other prescribed matters.

2.1 Hornsby Local Environmental Plan 1994

The subject land is zoned Residential A (Low Density) under the Hornsby Local Environmental Plan 1994 (HSLEP). The objectives of the Residential A (Low Density) zone are:

- (a) *to provide for the housing needs of the population of the Hornsby area.*
- (b) *to promote a variety of housing types and other land uses compatible with a low density residential environment.*
- (c) *to provide for development that is within the environmental capacity of a low density residential environment.*

The compliance of the development with the zone objectives must be read in the context of the aims of State Environmental Planning Policy (Affordable Rental Housing) 2009. An assessment of the application against the Policy is held at section 2.2 of this report.

The proposed development is defined as ‘multi-unit housing’ under the HSLEP and is permissible in the zone with Council’s consent.

Clause 15 of the HSLEP prescribes that the maximum floor space ratio (FSR) of development within the Residential A zone is 0.4:1. The proposal exceeds this requirement and relies on the provisions of State Environmental Planning Policy (Affordable Rental Housing) 2009 which permits a maximum floor space ratio of 0.75:1 and prevails over the HSLEP in case of any inconsistency.

Clause 18 of the HSLEP sets out heritage conservation provisions within the Hornsby area. The site is located in the vicinity of two heritage listed properties; Brickpit Park at Nos.142-178 Pennant Hills Road and the remains of Maltworks at No. 1 Pioneer Avenue Thornleigh. Council’s assessment of the proposal in this regard concludes that there are no historic or visual relationships between the sites due to separation by an arterial road and the Northern Railway line. Therefore, the proposal would have no impact on the heritage items and no further assessment is required.

2.2 State Environmental Planning Policy (Affordable Rental Housing) 2009

The application has been assessed against the requirements of State Environmental Planning Policy (Affordable Rental Housing) 2009 (AHSEPP). This Policy provides State-wide planning controls for the delivery of affordable rental housing through planning incentives to increase rental housing close to business centres and to expand the role of non-profit housing providers. A brief discussion of the compliance of the proposal against the various development controls and best practice standards within the AHSEPP is provided below.

2.2.1 Clause 54A Savings and transitional provisions—2011 amendment

The subject application was lodged on 29 April 2011 under the provisions of Division 1 (Part 2) of the AHSEPP. The AHSEPP was subsequently amended on 20 May 2011 repealing and amending a number of provisions within the above Division. The transitional provisions in Clause 54A of the amended AHSEPP allow the assessment of the application under the repealed provisions of the Policy subject to the application being supported by a statement which demonstrates the compatibility of the proposed development with the local character of the area. The applicant has submitted a “Local Character Compatibility Statement” in accordance with the above requirement. The matter has been discussed in detail in Section 2.2.8 of this report.

2.2.2 Clause 10 – Land to which this Division applies

The Policy applies to the majority of Council’s residential land use zones, subject to sites being located within 800 metres walking distance of a railway station or 400 metres of a bus stop with an hourly bus service as detailed in the Policy. The proposed development is a permissible use on the land pursuant to Clause 10.

The subject site is located within 400 metres walking distance of a frequently serviced bus stop on the southern side of Pennant Hills Road. This bus service provides south-bound services. The subject site is also located within 400 metres of a frequently serviced north bound bus stop. However, given that Pennant Hills Road is a six lane divided road which forms part of the National Highway network, physical pedestrian access is not available to

that bus stop within 400 metres walking distance. The distance from the closest point of the site to the bus stop is approximately 437 metres. Whilst this is less than ideal, it is considered that the departure from the development standard is not significant in the circumstances of the case.

2.2.3 Clause 11 – Building Height

Clause 11 restricts the maximum building height of buildings to 8.5 metres given the zone applying to the subject site. The proposed development complies with the 8.5 metres height restriction and satisfies Clause 11.

2.2.4 Clause 17 – Percentage of Dwellings for Affordable Rental Housing

Clause 17 provides that at least 50% of dwellings are to be used for affordable rental housing for a period of 10 years. The affordable rental housing accommodation is to be managed by a registered community housing provider. The application does not include any documentation to demonstrate that the development would be managed by a registered community housing provider. Given the absence of any related documentation, a condition of consent is recommended requiring suitable documentation regarding the above to be provided prior to the issue of the construction certificate.

2.2.5 Clause 14 – Standards that cannot be used to refuse consent

The following table sets out the compliance of the proposal against the development standards within Clause 14 of the AHSEPP:

SEPP - Affordable Rental Housing			
Control	Proposal	Requirement	Compliance
Site Area	3647m ²	450m ²	Yes
Floor Space Ratio	0.71:1	0.75:1	Yes
Dwelling Size (3 bd)	> 95m ²	Min 95m ²	Yes
Dwelling Size (2 bd)	95m ²	Min 70m ²	Yes
Dwelling Size (1 bd)	> 68m ²	Min 50m ²	Yes
Height	8.5m	8.5m	Yes
Car parking	37 spaces	12 spaces (0.5 per dwg)	Yes
Solar Access	70%	70%	Yes
Deep Soil	28%	15%	Yes

Zone			
Minimum dimension of deep soil zone	3m	3m	Yes
Landscaped Area	39%	30%	Yes
Deep Soil	20%	15%	Yes

As detailed in the above table, the proposed development complies with the prescriptive standards within the Policy. Below is a brief discussion on compliance of the amended proposal with the “Solar Access” clause.

2.2.5.1 Solar Access

Clause 14(e) of the AHSEPP requires living rooms and the private open space areas of at least 70% of the dwellings to receive three hours direct sunlight between 9 am and 3 pm in mid-winter.

The proposal has been amended in the following ways to improve solar access to the townhouses:

- The stepped retaining walls on the northern side of the courtyards fronting TH1 – TH8 have been deleted. Consequently, the northern courtyards and the living areas for TH 1 – TH 8 would receive satisfactory solar access.
- The pergolas over the courtyards have been removed. This has resulted in satisfactory solar access to the east-west orientated townhouses fronting Nelson Street. Larger front setbacks for TH20 – TH24 would result in useable front courtyard areas that would receive solar access between 9 am and 12 noon.
- TH 9 and TH 16 include north facing private open space areas. TH 16 would also include openings to the western side to improve the solar access to the living areas.
- TH10 – TH15 would however provide courtyard areas on the southern side that would not receive sufficient solar access.

Given the above, 70% of units receive would receive three hours direct sunlight between 9 am and 3 pm in mid-winter which satisfies the minimum solar access requirements under the AHSEPP.

2.2.6 Clause 15 – Design Requirements

The AHSEPP applies design criteria for low rise and high rise developments. For the subject site, the *Seniors Living Policy: Urban Design Guidelines for Infill Development* is to be taken into consideration. Below is a brief discussion on compliance with design principles and best practice standards within the *Urban Design Guidelines for Infill Development*.

2.2.6.1 Responding to Context

Nelson Street

The immediate locality along Nelson Street is characterised by single storey detached dwellings with open landscaped frontages along the street and varying housing styles. Front building setbacks are variable with an average of at least 6 metres. Dwellings contain a mix of building materials and finishes. A cluster housing development is located in close proximity to the subject site. However, the townhouses are not distinctly visible from the street due to extensive front setbacks and appropriate screening.

The proposal provides a denser form of development than is typical in the street. However, the amended proposal provides a setback of 6 metres from the street to the front building line for the townhouses located to the south of the driveway. The setbacks are further enhanced by provision of recessed upper levels for the townhouses fronting Nelson Street. This complies with the setback requirements in the low density areas of the Shire and would respond to the Nelson Street context and specifically to the context of the dwelling immediately adjoining the southern boundary.

Pennant Hills Road

The southern side of Pennant Hills Road in the immediate locality accommodates single and two storey dwellings, the front boundaries being intercepted by solid fences. The proposed development would maintain a minimum setback of 6 metres and predominantly 9 metres from the Pennant Hills Road frontage and would be placed below the road level with a solid 1.8 metre high articulated fence defining the front boundary. It is considered that the development responds appropriately to the Pennant Hills Road context.

2.2.6.2 Site Planning and Design

The objectives of the best practice standards are to provide a high level of amenity to the new dwellings and minimise impact on the neighbourhood character. The site planning of the amended proposal incorporates the following:

- The amenity of two south facing townhouses has been improved by proposing additional terraces and openings to the eastern and western sides.
- TH19 and TH18 would be located immediately adjoining the vehicular ramp and would include windows of living areas on the walls adjoining the ramp which is not acceptable. Accordingly, a condition is recommended requiring all windows fronting the basement ramp to be highlight windows.
- TH17 and TH 21 would be irregular shaped. However, the applicant has provided furniture layout to demonstrate that the spaces can be suitably used by the future occupiers.
- The private open spaces for TH 1- TH 8 would be located fronting Pennant Hills Road being screened by a 1.8 metre high acoustic fence and screen planting. The location of the private open spaces is considered acceptable due to the lower level, the landscaped buffer and the acoustic fence.

- The site includes two large well designed communal open space areas suitable to cater for future residents.
- The guidelines encourage provision of mid-block deep soil zones to provide adequate separation between the dwelling units, act as communal open space and provide solar access to the individual units. Due to the presence of basement car park, the site planning cannot achieve this requirement.
- Six of the twenty four townhouses would have inferior cross-flow ventilation and rely upon narrow openings to provide natural light. This is considered reasonable given that the site has a steep fall towards the rear and altering the orientation would result in direct exposure of further townhouses to the traffic noise along Pennant Hills Road. The design approach is considered balanced in this regard.
- The proposal adheres to the established streetscape pattern along Nelson Street, given the large setbacks and the recessed upper levels.

2.2.6.3 Impacts on Streetscape

The Guidelines require the design of buildings to respond to Council's local planning controls that specify the character or desired character of the area and to maintain the established front setback. The proposed site layout includes individual pedestrian access to most of the townhouses from the street and the basement car parking. The location of the driveway and the pedestrian access to the site is considered satisfactory in this regard.

The proposed built form fronting Pennant Hills Road would generally be dominated by the acoustic fence which is well articulated and landscaped at regular intervals. The location of the private open spaces is considered appropriate due to the landscaped pathway separating the courtyards and the front boundary. The amended proposal responds satisfactorily to the Pennant Hills Road streetscape.

As discussed in section 2.2.6.1 of this report under the heading "Responding to Context", the proposal is consistent with the streetscape of Nelson Street with regard to setbacks and building style.

2.2.6.4 Impacts on Neighbours

The objectives of the Guidelines are to prevent impacts on the amenity and privacy of the neighbouring properties. The Guidelines include controls for the rear 25% of the site to be single storey in zones where residential flat buildings are not permitted. Given that the height requirement of 8.5 metres is stipulated in the AHSEPP, it would prevail over the best practise Guidelines. The proposal includes a 3 metre wide deep soil landscaping area along the rear in compliance with the Policy. The following matters are discussed in details:

- The shadow diagrams indicate that the north-facing windows of the dwelling house located at No. 4 Nelson Street and part of the rear yard of No. 181 Pennant Hills Road would not receive three hours of direct sunlight during mid-winter.

The windows of the house at No. 181 Pennant Hills Road fronting north are not primary living areas and the private open space to the east would receive three hours of solar access between 9am and 12 noon mid winter. Given the topography of the site, solar access is considered reasonable.

However, TH 24 would have an unacceptable impact on the solar access to the north facing windows of the dwelling house at No. 4 Nelson Street. Given this, a condition is recommended to delete the first floor component of TH 24 and provide the additional bedroom on the ground floor as marked in red on the attached plans. Exclusion of the first floor component of this townhouse would result in improvement of solar access to the adjoining southern dwelling and provide a transition between the development and the adjoining low density building style along Nelson Street.

- The orientation of TH11 – TH16 would result in overlooking onto the private open space areas of the adjoining southern properties. Planter boxes with screen planting are proposed at the ground level for TH 11 – TH 16 to mitigate this impact to some extent. The upper floor balconies along the southern façade are narrow and are attached to secondary living areas of the buildings. These balconies are unlikely to be accessed by residents for passive recreation.

Given that the south facing townhouses are located at a minimum distance of 11 metres from the nearest southern dwelling, screen planting has been incorporated along the southern boundary of the courtyards and that the adjoining site boundary includes a number of trees, this condition is considered acceptable. The impact on the privacy of the neighbouring property at No. 4 Nelson Street would be reduced due to the deletion of the upper floor of TH 24.

2.2.6.5 Internal Site Amenity

The internal site amenity has been addressed in section 2.2.6.2 under the heading “Site Planning and Design”. The amended proposal has been improved in relation to site amenity in the following ways:

- The site planning incorporates a direct and safe access to all townhouses from the basement. The pedestrian pathways leading to these townhouses from Pennant Hills Road would be via the common open space areas and therefore would be safe. The design of the pathway along the southern side would have concealment opportunities, and is subject of crime risk. Conditions of consent are recommended to mitigate the adverse impacts via lighting arrangements.
- The pathway along the western boundary would also have opportunities for casual surveillance due to the openings incorporated on the western wall for TH1 and TH 16.

2.2.7 Car Parking

The development proposes thirty-seven car spaces located at the basement level with access being provided off Nelson Street. As indicated in the table, the number of car spaces provided on site is above the requirement of the AHSEPP and would not impact on the availability of on-street parking facilities in Nelson Street. The isle widths, manoeuvring areas and ramp gradient are also considered satisfactory.

2.2.8 Compatibility with the Local Character of the Area

In accordance with the requirements of Clause 16A and Clause 54A of the amended AHSEPP, the applicant has submitted a Local Character Statement which is summarised as follows:

- *There is no consistency of subdivision patterns and built forms in the streetscape.*
- *Large scale multi unit housing developments are located in close proximity to the subject site.*
- *The proposed development was lodged under the provisions of the AHSEPP at a time when it permitted such developments to be located in any low density residential zones complying with Clause 10(2).*
- *The proposal satisfies the objectives of the Residential A (Low Density) zone of the HSLEP which encourages redevelopment of low to medium density building forms.*
- *The proposal would enhance residential amenity and provide housing choice.*
- *The Pennant Hills Road streetscape does not have any consistency regarding building forms and types. Therefore the development would suit the existing streetscape of Pennant Hills Road.*
- *The proposed new development would not impact on the existing built form of the locality as the adjoining developments would be similar in height and bulk.*
- *The development would provide a well articulated and interesting building form.*
- *The location of the private open spaces along the street front would have a positive impact on the streetscape.*
- *Medium and mature tree planting along the perimeter would enhance the streetscape.*

The matters identified in the Local Character Statement have been assessed in detail in this report above and the following comments are provided:

- The amended proposal would have regard to the local character of the area via the increased setbacks and recessed upper levels for townhouses fronting Nelson Street.
- The site would incorporate a higher density development, when compared to the medium density multi unit developments in the locality. However, the proposal complies with the requirements of the AHSEPP with regard to the density provisions and being adjacent to Pennant Hills Road, this form of development is acceptable.

- The site planning and design of the proposal have been improved by increasing the setbacks of the townhouses to Nelson Street, recessing the upper levels and articulating the façade.
- Deletion of the upper floor of the southern most townhouse (TH 24) would result in a transition between the development and low density dwelling houses fronting Nelson Street.

The development on the site has been proposed under the AHSEPP which allows a denser form of development in the locality. The proposal responds to the context of Pennant Hills Road which does not have a specific character. The amended proposal incorporates design modifications which results in lowering the overall building bulk and providing a transition between this development and the existing low density residential developments.

Given that the development controls for the low density zone are not applicable for this development and that affordable housing can be suitably sited in this location, the proposed design is considered to be reasonable when compared to the local character of the area.

2.3 State Environmental Planning Policy Infrastructure 2007

The application has been assessed against the requirements of State Environmental Planning Policy (Infrastructure) 2007. This Policy contains State-wide planning controls for developments adjoining busy roads as outlined below:

2.3.1 Clause 101 – Development with frontage to classified road

The proposal is assessed against the requirements of Clause 101 of the SEPP (Infrastructure) as it fronts Pennant Hills Road.

2.3.1.1 Access

In accordance with the requirements of the Policy, the development does not propose any vehicular access from Pennant Hills Road. The proposed access to the site is considered satisfactory subject to the construction of a pedestrian refuge island at the intersection of Nelson Street and Pennant Hills Road.

2.3.1.2 Noise

The application includes a Noise Assessment Report addressing the noise attenuation measures to mitigate the noise from traffic on this road. The matters in relation to impact of noise are discussed in section 2.3.2 of this report.

2.3.1.3 Air Quality

Clause 101(2)(c) requires applicants to consider the impacts of vehicle emissions on a sensitive land use and propose measures to ameliorate such impacts.

TH1 – TH8 and TH 17 would have direct frontage to Pennant Hills Road and being a sensitive land use, would be exposed to the vehicle emissions. The remaining townhouses would also be located in close proximity to the road and may be impacted upon by the vehicle

emissions. In this regard Council requested the applicant to submit an Air Quality Management Report to address the requirements of the SEPP (Infrastructure). The information has not been provided. Accordingly, a condition of consent is recommended requiring this to be provided prior to the issue of the construction certificate.

2.3.2 Clause 102 – Impact of road noise or vibration on non-road development

In accordance with the requirements of the SEPP, the application has been assessed against the noise related controls contained within the Department of Planning and Infrastructure's publication "*Development near Rail Corridors and Busy Roads – Interim Guidelines*".

The applicant has addressed this requirement by submitting a Noise Assessment Report which provides construction techniques to attenuate road noise and vibration and concludes that the development would not exceed the specified noise criteria and L_{eq} levels within Clause 102 of the SEPP (Infrastructure) subject to adherence to the recommendations. The report has been assessed as satisfactory.

The amended proposal includes an addendum to the Noise Assessment Report. In accordance with the recommendations of this report, the development incorporates a 1.8 metre high articulated acoustic fence along the entire frontage of Pennant Hills Road. This would attenuate adverse noise impact on the private open space areas fronting Pennant Hills Road and is acceptable.

2.3.3 Traffic Generating Development

The development is classified as a Traffic Generating Development in accordance with Clause 104 of the SEPP (Infrastructure) as it is located on a site that has direct vehicular or pedestrian access to a road that connects to a classified road, where the access is located within 90m of the connection.

The development application includes a Traffic Assessment Report. The report calculates the trip generation for all components of the development in accordance with the Roads and Traffic Authority (RTA) guidelines and concludes that the development would result in a net increase of 10 trips per hour during the peak period which is considered negligible.

The application was referred to the RTA for concurrence whereby no objections were raised.

2.4 State Environmental Planning Policy No. 55 – Remediation of Land

State Environmental Planning Policy No. 55 (SEPP 55) requires that Council must not consent to the carrying out of any development on land unless it has considered whether the land is contaminated or requires remediation for the proposed use.

The proposal includes a Soil Assessment Report and results of qualitative identification of asbestos within the site. The report states that uncontrolled fill has been imported in the past to level the site. The historic activities and use of pesticides may have caused potential contamination of soil and asbestos fragments were detected across the central portion of the site. However, the report concludes that the risks associated with soil contamination are low in the context of the proposed use of the site. The site would be suitable to redevelop subject to the following:

- A remedial management strategy be developed culminating in the preparation of a Remedial Action Plan.
- Any soil removal from the site, as part of the remedial process, being classified in accordance with “*Waste Classification Guidelines*”.

These requirements are recommended as conditions of development consent.

2.5 State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004

The application has been assessed with regard to State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004 (SEPP (BASIX)). The application includes a BASIX Certificate which incorrectly states that TH 15 includes two bedrooms. However, the BASIX Certificate complies with the minimum scores for thermal comfort and energy and is acceptable.

2.6 Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005

The application has been assessed against the requirements of Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005. This Plan ensures that the catchment, foreshores, waterways and islands of Sydney Harbour are recognised, protected and maintained.

The proposal is consistent with the aims and objectives of the Plan as the proposal would not have a detrimental impact upon the catchment, foreshores waterways or islands of Sydney Harbour.

2.7 Waste Management and Minimisation Development Control Plan

The proposal includes a waste management plan with details of waste management during the construction phase of building works and is assessed as satisfactory.

With regard to the on-going waste management on the site, the applicant proposes that each townhouse would have its own set of three bins and residents would be responsible for placing their bins along the kerb side for collection by the waste collection vehicles. The occupiers of the south facing townhouses would need to cart the bins to Nelson Street or Pennant Hills Road via the pedestrian accessway with no steps on the bin carting route. Bin storage areas have been provided at the street level for the remaining townhouses. The bin storage locations are considered to be suitable.

There is sufficient space on both road frontages to accommodate the bins.

2.8 Sustainable Water Development Control Plan

The proposal is required to comply with Council’s Sustainable Water Development Control Plan. Subject to sediment and erosion control measures being implemented on site during construction, the proposal would comply with the requirements contained within the Plan.

2.9 Section 94 Contributions Plan

Council's Section 94 Plan applies to the development as it would result in the addition of twenty-four townhouses. Accordingly, the requirement for a monetary Section 94 contribution would be recommended as a condition of development consent, should the application be approved.

3. ENVIRONMENTAL IMPACTS

Section 79C(1)(b) of the Act requires Council to consider "*the likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality*".

3.1 Natural Environment

3.1.1 Ecological Impact

The site comprises a number of exotic and locally indigenous trees. Although the vegetation on the site has not been formerly mapped, it is likely that the original vegetation on the site would have been Blue Gum Shale Forest (BGSF) which is listed as Critically Endangered Ecological Species (CEEC) and that the locally native trees on the site are remnants of the original vegetation. This vegetation group would also provide a linking corridor for fauna to the adjacent mapped BGSF less than 50 metres from the site.

The proposal would provide appropriate setbacks to the street trees and the significant vegetation on the site and would result in minimal impact on the natural environment of the locality.

3.1.2 Impact on trees

The proposed development would necessitate the removal of four trees from the site. Council's assessment of the proposal included a detailed examination of the existing trees on the site. The Eucalyptus Pilularis (Tree 3 – Blackbutt) located at the centre of the site is considered to be significant and would require removal. This is considered acceptable as it would result in a better design outcome and attainment of the broader objective of the AHSEPP.

The initial proposal resulted in encroachments into the Tree Protection Zones (TPZ) of a Eucalyptus Pilularis (Tree 1 - Blackbutt) and a Eucalyptus Saligna (Tree 18 – Sydney Blue Gum). The amended proposal would result in increased setbacks that would result in the retention of these trees.

Given the above, the proposal is acceptable with regard to its impact on the trees within the site.

3.1.3 Stormwater Management

The proposed development would drain stormwater to Council's drainage system at Nelson Street via an on-site detention system. The basement car parking area would include a pump out system for drainage. Designated roof areas would drain to below-ground rainwater tanks

as per the BASIX commitments. The application includes a detailed Stormwater Management Plan and design of the on-site detention system. The proposed stormwater management solution is considered satisfactory and the development would not have any adverse impact on the existing street drainage system subject to implementation of recommended conditions.

3.2 Built Environment

The details of the impact of the proposed development on the built environment of the locality with regard to streetscape presentation, overall visual impact and traffic generation have been discussed in detail in the previous sections of this report.

3.3 Social Impacts

The proposed development would result in a positive social impact in providing affordable rental accommodation particularly for large families, thus reducing social disadvantage and fostering inclusive and diverse communities in accordance with the NSW State Plan. The assessment recognises that affordable housing would be suitable for the site and given the amendments to the proposal, the development would have a net benefit to the community.

3.4 Economic Impacts

The proposal would have a minor positive impact on the local economy in conjunction with other residential development in the locality by generating an increase in demand for local services. Submissions raise concerns regarding the devaluation of properties due to this development. However, this is not a matter for consideration under the provisions of Section 79C of the Act. No evidence has been submitted that the any adverse impact on land values would occur.

4. SITE SUITABILITY

Section 79C(1)(c) of the Act requires Council to consider “*the suitability of the site for the development*”.

There is no known hazard associated with the site with respect to landslip, subsidence, bushfire or flooding that would preclude development on the site. The proposal complies with the draft North Subregional Strategy which aims at improving housing choice in the locality.

Given the above, the site is considered to be suitable for the development as it is currently proposed.

5. PUBLIC PARTICIPATION

Section 79C(1)(d) of the Act requires Council to consider “*any submissions made in accordance with this Act*”.



5.1 Community Consultation

The proposed development was placed on public exhibition and was notified to adjoining and nearby landowners between 19 May 2011 and 23 June 2011 in accordance with Council’s Notification and Exhibition Development Control Plan. During this period, Council received

twelve submissions from eighteen residents. The amended proposal was notified between 5 October 2011 and 19 October 2011. During this period, Council received further submissions from the owners of six properties. The map below illustrates the location of those nearby landowners who made a submission to the initial and the amended proposal that are in close proximity to the development site.



NOTIFICATION PLAN

• PROPERTIES NOTIFIED	X SUBMISSIONS RECEIVED	 PROPERTY SUBJECT OF DEVELOPMENT	
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Twelve submissions objected to the original development, generally on the grounds that the development would result in:

- An overdevelopment of the site due to construction of twenty-four townhouses.
- A built form that is out of character with the area.
- Adverse privacy impacts on neighbouring properties.
- Adverse impact upon the solar panels installed on the roof of the adjoining southern property.
- Adverse overshadowing impacts on neighbouring properties.
- Inadequate solar access to the proposed townhouses.

- Increased crime risk in the locality.
- Increased on-street parking problems due to insufficient parking on the site.
- Increased accidents in the area.
- Unacceptable location of vehicular access.
- Insufficient area on Pennant Hills Road to place bins.
- Adverse impact on the locality due to noise.
- Devaluation of adjoining properties in the neighbourhood.

In addition to the above the objections, the submissions made the following observations:

- The development is based on the number of affordable units rather than the percentage of floor space as mentioned in the amended AHSEPP.
- The locality does not have sufficient infrastructure such as child care centres or medical support to cater for such a development.
- There is no demarcated area for letter boxes.
- Most of the private open space areas for the proposed townhouses are not orientated towards the north.
- All garages are not accessible from the common driveway.
- The application does not include a photo montage.
- The soil on the site may be contaminated due to historic activities. Asbestos has been illegally dumped on the site.
- The site is affected by vehicle emission.
- The site description does not include No. 2 Nelson Street which forms a part of the property.
- The submitted noise report and noise levels are incorrect.

The objections to the amended plans reiterated the previous concerns and included the additional matters:

- The site is not suitable for Affordable Housing as it does not comply with the accessible criteria.
- Clause 8 of the AHSEPP should not be applied to this development.

- The section which details the location of the townhouses adjoining Pennant hills Road is incorrect.
- The entry gates to the site from Pennant Hills Road for pedestrian access, has not taken into consideration, the massive drop in levels.
- There is incorrect reference to townhouse numbers in the Ground Floor Plan.
- Two-thirds of the deep soil zone is not located at the rear.
- A contamination report has not been provided.
- The proposed development does not incorporate a satisfactory waste management system.
- The proposal would result in loss of greenery in the locality.
- The proposal would result in reduced solar access to No. 5 Nelson Street.
- The amended plans include an attached form of development which is not compatible with the local character of the area.
- An Air Quality Management Plan has not been submitted.
- The amended proposal has not included the recommendations of the Joint Regional Planning Panel.

The merits of the matters raised in community submissions have been addressed in the body of the report and by conditions of consent except the following:

5.1.1 Property Description and incorrect Reference to townhouse numbering

Pt Lot 2, Pt Lot 3 and Lot 4 DP 200513 comprise three parcels of land known as Nos. 173 – 175 Pennant Hills Road. Lot 4 DP 200513 is not described as No. 2 Nelson Street. The incorrect reference to the townhouse number has been noted and corrected via conditions of consent.

5.2 Public Agencies

5.2.1 Roads and Traffic Authority

The development application was referred to NSW Roads and Traffic Authority (RTA) for comment under the requirements of SEPP (Infrastructure).

The RTA raised no objection to the proposal and no specific conditions are recommended.

6. THE PUBLIC INTEREST

Section 79C(1)(e) of the Act requires Council to consider “*the public interest*”.

The public interest is an overarching requirement, which includes the consideration of the matters discussed in this report. Implicit to the public interest is the achievement of future built outcomes adequately responding to and respecting the future desired outcomes expressed in environmental planning instruments and development control plans.

The application has satisfactorily addressed Council's and NSW Government's criteria for affordable housing in a locality. It would provide a development outcome that, on balance, would not result in a negative impact for the community. Accordingly, it is considered that approval of the proposed development would be in the public interest.

CONCLUSION

The proposed development is for the erection of an affordable rental housing development comprising twenty four townhouses and basement car parking for thirty-seven cars at Nos. 173 - 179A Pennant Hills Road Thornleigh.

The application has been assessed having regard to the provisions of Section 79C of the *Environmental Planning and Assessment Act 1979* and the *State Environmental Planning Policy (Affordable Rental Housing) 2009*. The proposed affordable housing development is permissible on the site pursuant to the savings and transitional provision of the AHSEPP.

The development complies with the development standards prescribed under the AHSEPP in respect to floor space ratio, car parking, landscaping, deep soil zones, dwelling size and solar access. The proposal has been amended by proposing an acoustic fence along Pennant Hills Road, increasing the setbacks of the townhouses from Nelson Street, proposing recessed upper levels for the east-west orientated townhouses, improved internal amenity for a number of townhouses and appropriately locating the communal open spaces. The impact of the proposal on the locality and the site planning and design comply with the best practice standards provided in the "*Seniors Living: Urban Design Guidelines-Infill Developments*." The proposal would result in a much denser form of development in the Nelson Street context. However, it satisfies the objectives of the AHSEPP and the design of the development would not have an unreasonable impact on the local character.

Approval of the proposal is recommended.

Note: At the time of the completion of this planning report, no persons have made a *Political Donations Disclosure Statement* pursuant to Section 147(3) of the Environmental Planning and Assessment Act 1979 in respect of the subject planning application.

Attachments:

1. Locality Plan
2. Survey Plan
3. Tree Location Plan and table – 3 pages
4. Site/Ground Floor Plan and First Floor Plan– 2 pages
5. Basement Plan, Attic Plan and Roof Plan– 3 page
6. Elevations & Sections – 2 pages
7. Shadow Plans – 2 pages
8. Landscape Plan – 1 page
9. Perspective view from Pennant Hills Road – 1 page

SCHEDULE 1

GENERAL CONDITIONS

The conditions of consent within this notice of determination have been applied to ensure that the use of the land and/or building is carried out in such a manner that is consistent with the aims and objectives of the relevant legislation, planning instruments and Council policies affecting the land and does not disrupt the amenity of the neighbourhood or impact upon the environment.

Note: For the purpose of this consent, the term ‘applicant’ means any person who has the authority to act on or the benefit of the development consent.

Note: For the purpose of this consent, any reference to an Act, Regulation, Australian Standard or publication by a public authority shall be taken to mean the gazetted Act or Regulation, or adopted Australian Standard or publication as in force on the date that the application for a construction certificate is made.

1. Approved Plans and Supporting Documentation

The development must be carried out in accordance with the plans and documentation listed below and endorsed with Council’s stamp, except where amended by Council and/or other conditions of this consent:

<i>Plan No.</i>	<i>Drawn by</i>	<i>Dated</i>
Survey Plan	RGM Property Surveys	15/04/2011
Ground Floor Plan DA02-Rev C	Urbanlink Pty Ltd	18/10/2011
Basement Plan-D03 Rev B	Urbanlink Pty Ltd	24/09/2011
First Floor Plan DA04-Rev C	Urbanlink Pty Ltd	18/10/2011
Attic Floor Plan DA05-Rev B	Urbanlink Pty Ltd	24/09/2011
Roof Plan-DA06 Rev B	Urbanlink Pty Ltd	24/09/2011
Sections and Elevations DA07-RevC	Urbanlink Pty Ltd	18/10/2011
Elevations DA08-RevB	Urbanlink Pty Ltd	24/09/2011
Landscape Concept Plans – sheet1/2 Rev A	Vision Dynamics	28/04/2011
Landscape Concept Plans – sheet2/2 Rev A	Vision Dynamics	28/04/2011
Stormwater Concept and calculations – D1 Rev A	Eze Hydraulic Engineers	22/04/2011
Stormwater Management Plan – D2 Rev A	Eze Hydraulic Engineers	22/04/2011
Soil and Water Management Plan – D3 Rev A	Eze Hydraulic Engineers	22/04/2011
Soil and Water Management Details – D4 Rev A	Eze Hydraulic Engineers	22/04/2011

<i>Document No.</i>	<i>Prepared By</i>	<i>Dated</i>
Coloured Perspectives	Urban Link Pty Ltd	Received by Council on 1/07/2011
Shadow Diagrams DA09-Rev B	Urban Link Pty Ltd	24/09/2011
Shadow Diagrams DA10-Rev B	Urban Link Pty Ltd	24/09/2011
Environmental Site Assessment Report	Argus Australia	June 2011
Results of Qualitative Identification of Asbestos	Argus Australia	2/06/2011
BASIX Certificate 373338M_04	Planning Principles	5/07/2011
Bus timetable and route map	Metrobus	Received by Council on 5/07/2011
Design Character Statement	Planning Principles	8/07/2011
Tree Assessment Report	Arboreport	28/04/2011
Acoustic Report	Acoustic Solutions Pty Ltd	27/04/2011
Addendum to Acoustic Report	Acoustic Solutions Pty Ltd	15/09/2011
Statement of Environmental Effects	Planning Principles	27/04/2011
Addendum to Statement of Environmental Effects	Planning Principles	4/07/2011
Traffic and Parking report	Traffic Solutions	27/04/2011
Waste Management Plan	Urbanlink Pty Ltd	28/04/2011

2. Removal of Existing Trees

This development consent only permits the removal of trees numbered 3, 6, 7, 17 marked in the Tree Location Plan prepared by Arboreport dated 28/04/2011. The removal of any other trees requires separate approval under Council's Tree Preservation Order.

3. Amendment of Plans

The approved plans are to be amended as follows:

- a. The Ground Floor Plan DA02-Rev C dated 18/10/2011 is to be amended by incorporating a bedroom for TH 24 as marked in red on the approved plans.
- b. First Floor Plan DA04-Rev C dated 18/10/2011 is to be amended by deleting the first floor component for TH 24.

- c. The townhouse numberings are to be corrected as marked in red on the approved plans.
- d. The Ground Floor Plan DA02-Rev C dated 18/10/2011 is to be amended by incorporating highlight windows for TH 18 and TH 19 at the locations marked in red on the approved plans with a minimum sill height of 1.6 metres.
- e. The following plans need to be amended to incorporate the amended site layout in Ground Floor Plan DA02-Rev C dated 18/10/2011 and Basement Plan-D03 Rev B dated 24/09/2011

Landscape Concept Plans – sheet1/2 Rev A	Vision Dynamics	28/04/2011
Landscape Concept Plans – sheet2/2 Rev A	Vision Dynamics	28/04/2011
Stormwater Concept and calculations – D1 Rev A	Eze Hydraulic Engineers	22/04/2011
Stormwater Management Plan – D2 Rev A	Eze Hydraulic Engineers	22/04/2011
Soil and Water Management Plan – D3 Rev A	Eze Hydraulic Engineers	22/04/2011
Soil and Water Management Details – D4 Rev A	Eze Hydraulic Engineers	22/04/2011

REQUIREMENTS PRIOR TO THE ISSUE OF A CONSTRUCTION CERTIFICATE

4. Building Code of Australia

All building work must be carried out in accordance with the requirements of the Building Code of Australia.

5. Contract of Insurance (Residential Building Work)

In the case of residential building work for which the *Home Building Act, 1989* requires there to be a contract of insurance in force in accordance with Part 6 of that Act, that such a contract of insurance is in force before any building work authorised to be carried out by the consent commences.

Note: This condition does not apply to the extent to which an exemption is in force under Clause 187 or 188 of the Act, subject to the terms of any condition or requirement referred to in Clause 187(6) or 188(4) of the Act, or to the erection of a temporary building.

6. Notification of Home Building Act, 1989 Requirements

Residential building work within the meaning of the *Home Building Act, 1989* must not be carried out unless the principal certifying authority for the development to which the work relates (not being Council) has given Council written notice of the following information:

- a. In the case of work for which a principal contractor is required to be appointed:
 - i. The name and licence number of the principal contractor.
 - ii. The name of the insurer by which the work is insured under Part 6 of that Act.
- b. In the case of work to be done by an owner-builder:
 - i. The name of the owner-builder.
 - ii. If the owner-builder is required to hold an owner-builder's permit under that Act, the number of the owner-builder's permit.

Note: If arrangements for doing the residential building work are changed while the work is in progress so that the information notified becomes out of date, further work must not be carried out unless the principal certifying authority for the development to which the work relates (not being Council) has given Council written notification of the updated information.

7. Water/Electricity Utility Services

The applicant must submit written evidence of the following service provider requirements:

- a. *Energy Australia* – a letter of consent demonstrating that satisfactory arrangements have been made to service the proposed development.
- b. *Sydney Water* – the submission of a 'Notice of Requirements' under s73 of the *Sydney Water Act 1994*.

Note: Sydney Water requires that s73 applications are to be made through an authorised Sydney Water Servicing Coordinator. Refer to www.sydneywater.com.au or telephone 13 20 92 for assistance.

8. Tree Root Mapping

Tree Root Mapping for tree no. 1 marked on the Tree Location Plan prepared by Arboreport dated 28/04/2011 must be completed under the supervision of a 'AQF Level 5 Arborist' and a certificate submitted to the principal certifying authority detailing the method(s) used to preserve the tree(s) and the extent of encroachment of the building works within the Tree Protection Zones of these trees.

9. Acoustic Details

The Construction certificate plans must demonstrate compliance with the recommendations in Section 5 of the Acoustic Report prepared by Acoustic Solutions Pty Ltd dated 27/04/2011.

10. Preservation of Survey Infrastructure

A registered surveyor must identify all survey marks in the vicinity of the proposed development. Any survey marks required to be removed or displaced as a result of the proposed development must be undertaken by a registered surveyor in accordance with Section 24 (1) of the Surveying and Spatial Information Act 2002 and following the Surveyor General's Directions No.11 – "Preservation of Survey Infrastructure".

11. Pedestrian Refuge

The Construction Certificate Plans must include the following:

A detailed design for a pedestrian refuge island in Nelson Street at the intersection with Pennant Hills Road must be prepared. The design of the facilities is to be in accordance with RTA guidelines, technical directions and Austroads standards. The design and documentation is to be submitted to Hornsby Shire Council and approved by the Hornsby Local Traffic Committee.

12. Registered Housing Provider

Evidence must be provided that at least twelve townhouses would be managed by a *registered community housing provider* as defined in the Housing Act 2001.

13. Air Quality Management Plan

An Air Quality Management Plan must be submitted and approved by the Principle Certifying Authority. The recommendations of the Management Plan must be incorporated in the design and construction of the development.

REQUIREMENTS PRIOR TO THE COMMENCEMENT OF ANY WORKS

14. Site Remediation Verification

- a. The applicant must provide documentation from a suitably qualified environmental consultant verifying that the site has been remediated in accordance with the recommendations of the "Environmental Site Assessment Report" prepared by Argus Australia dated June 2011, the NSW Environment Protection Authority's Contaminated Sites – Guidelines for Consultants Reporting on Contaminated Sites, the Contaminated Sites- Sampling Design Guidelines Contaminated Sites – Guidelines for the NSW Site Auditor.
- b. A validation report must be prepared by a suitably qualified environmental consultant in accordance with the NSW Environment Protection Authority's Contaminated Sites – Guidelines for Consultants Reporting on Contaminated Sites and Contaminated Sites – Sampling Design Guidelines validating that the proposed development has been remediated and is suitable for its intended use. The validation report is to be submitted to Council for approval.

15. Erection of Construction Sign

A sign must be erected in a prominent position on any site on which building work, subdivision work or demolition work is being carried out:

- a. Showing the name, address and telephone number of the principal certifying authority for the work,
- b. Showing the name of the principal contractor (if any) for any demolition or building work and a telephone number on which that person may be contacted outside working hours, and
- c. Stating that unauthorised entry to the work site is prohibited.

Note: Any such sign is to be maintained while the building work, subdivision work or demolition work is being carried out, but must be removed when the work has been completed.

16. Erosion and Sediment Control

Erosion and sediment control measures must be provided and maintained throughout the construction period in accordance with the manual '*Soils and Construction 2004 (Bluebook)*', the approved plans, Council specifications and to the satisfaction of the principal certifying authority. The erosion and sediment control devices must remain in place until the site has been stabilised and revegetated.

Note: On the spot penalties up to \$1,500 may be issued for any non-compliance with this requirement without any further notification or warning.

17. Dilapidation Report

A 'Dilapidation Report' is to be prepared by a chartered engineer detailing the condition of adjoining properties and assets in the public road and submitted to Hornsby Shire Council.

18. Toilet Facilities

Toilet facilities must be available or provided at the works site before works begin and must be maintained until the works are completed at a ratio of one toilet for every 20 persons employed at the site. Each toilet must:

- a. be a standard flushing toilet connected to a public sewer; or
- b. be a temporary chemical closet approved under the *Local Government Act, 1993*; or
- c. have an on-site effluent disposal system approved under the *Local Government Act, 1993*

19. Tree Protection Barriers

Tree protection fencing must be erected around all trees to be retained as per the recommendations of the Tree Assessment Report prepared by Arboreport dated 28/04/2011 unless otherwise prescribed in Condition 2 of this development consent. The tree fencing must be constructed of 1.8 metre 'cyclone chainmesh fence' or star pickets spaced at 2 metre intervals, connected by a continuous high-visibility barrier/hazard mesh at a height of 1 metre.

REQUIREMENTS DURING CONSTRUCTION

20. Construction Work Hours

All work on site (including demolition and earth works) must only occur between 7am and 5pm Monday to Saturday.

No work is to be undertaken on Sundays or public holidays.

21. Environmental Management

The site must be managed in accordance with the publication *'Managing Urban Stormwater – Landcom (March 2004)* and the *Protection of the Environment Operations Act 1997* by way of implementing appropriate measures to prevent sediment run-off, excessive dust, noise or odour emanating from the site during the construction of the development.

22. Council Property

During construction works, no building materials, waste, machinery or related matter is to be stored on the road or footpath.

23. Disturbance of Existing Site

During construction works, the existing ground levels of open space areas and natural landscape features must not be altered unless otherwise nominated on the approved plans.

24. Works near Trees

All required tree protection measures are to be maintained in good condition for the duration of the construction period.

All works (including driveways and retaining walls) within 5 metres of any trees required to be retained (whether or not on the subject property, and pursuant to this consent or the *Tree Preservation Order*), must be carried out under the supervision of an 'AQF Level 5 Arborist' and a certificate submitted to the principal certifying authority detailing the method(s) used to preserve the tree(s).

Note: Except as provided above, the applicant is to ensure that no excavation, filling or stockpiling of building materials, parking of vehicles or plant, disposal of cement

slurry, waste water or other contaminants is to occur within 4 metres of any tree to be retained.

25. Excavated Material

All excavated material removed from the site must be classified in accordance with the *NSW Environment Protection Authority's Environmental Guidelines – Assessment, Classification and Management of Liquid and Non-Liquid Wastes* prior to disposal to an approved waste management facility and reported to the principal certifying authority.

26. Landfill

Landfill must be constructed in accordance with Council's '*Construction Specification, 2005*' and the following requirements:

- a. All fill material imported to the site is to wholly consist of Virgin Excavated Natural Material (VENM) as defined in Schedule 1 of the *Protection of the Environment Operations Act 1997* or a material approved under the *Department of Environment and Climate Change's* general resource recovery exemption.
- b. A compaction certificate is to be obtained from a geotechnical engineer verifying that the specified compaction requirements have been met.

27. Survey Report – Finished Floor Level

Reports must be prepared by a registered surveyor and submitted to the principal certifying authority prior to the pouring of concrete at each level of the building certifying that:

- a. The building, retaining walls and the like have been correctly positioned on the site.
- b. The finished floor levels are in accordance with the approved plans.

28. Contamination during construction works

Should the presence of asbestos or soil contamination, not recognised during the application process be identified during demolition, the applicant must immediately notify the Principal Certifying Authority and Council.

29. Waste Management

Waste management during the construction phase of the development must be undertaken in accordance with the approved Waste Management Plan. Additionally written record of the following items must be maintained during the removal of any waste from the site and such information submitted to the Principal Certifying Authority within fourteen days of the date of completion of the works:

- a. The identity of the person removing the waste.
- b. The waste carrier vehicle registration.
- c. Date and time of waste collection.
- d. A description of the waste (type of waste and estimated quantity).
- e. Details of the site to which the waste is to be taken.
- f. The corresponding tip docket/receipt from the site to which the waste is transferred (noting date and time of delivery, description (type and quantity) of waste).
- g. Whether the waste is expected to be reused, recycled or go to landfill.

Note: In accordance with the Protection of the Environment Operations Act 1997, the definition of waste includes any unwanted substance, regardless of whether it is reused, recycled or disposed to landfill.

REQUIREMENTS PRIOR TO THE ISSUE OF AN OCCUPATION CERTIFICATE

Note: For the purpose of this consent, any reference to 'occupation certificate' shall also be taken to mean 'interim occupation certificate' unless otherwise stated.

30. Fulfilment of BASIX Commitments

The applicant must demonstrate the fulfilment of BASIX commitments pertaining to the development.

31. Sydney Water – s73 Certificate

A s73 Certificate must be obtained from *Sydney Water*.

32. Damage to Council Assets

Any damage caused to Council's assets as a result of the construction of the development must be rectified in accordance with Council's written requirements and at the sole cost of the applicant.

33. Vehicular Crossing

Separate applications under the *Local Government Act, 1993* and the *Roads Act, 1993* must be submitted to Council for the installation of a new vehicular crossing and the removal of the redundant crossing. The vehicular crossing must be constructed in accordance with Council's *Civil Works Design, 2005* and the following requirements:

- a. Any redundant crossings to be replaced with integral kerb and gutter.

- b. The footway area to be restored by turfing.
- c. Approval obtained from all relevant utility providers that all necessary conduits be provided and protected under the crossing.

Note: An application for a vehicular crossing can only be made to one of Council's Authorised Vehicular Crossing Contractors. You are advised to contact Council on 02 9847 6940 to obtain a list of contractors.

Note: A construction certificate must be obtained for these works

34. On Site Stormwater Detention

An on-site stormwater detention system must be designed by a chartered civil engineer and constructed in accordance with the following requirements:

- a. The drainage system to control all collected roof and surface stormwater shall be designed with an on-site-detention system (rain water tanks/above or below ground facility). Stormwater discharge from the development site shall be limited to 5 year pre development ARI discharge level. On site detention storage shall be provided for up to 50 year ARI storm events. Detail calculations are to be submitted with a construction certificate application.
- b. Have a surcharge/inspection grate located directly above the outlet.
- c. Discharge from the detention system to be controlled via 1 metre length of pipe, not less than 50 millimetres diameter or via a stainless plate with sharply drilled orifice bolted over the face of the outlet discharging into a larger diameter pipe capable of carrying the design flow to an approved Council system.
- d. Where above ground and the average depth is greater than 0.3 metres, a 'pool type' safety fence and warning signs to be installed.
- e. Not be constructed in a location that would impact upon the visual or recreational amenity of residents.
- f. A construction certificate application is to be submitted and approval obtained prior to commencement of works.

Note: A construction certificate must be obtained for these works

35. Stormwater Drainage

The stormwater drainage system for the dwellings (gutters and pipes) must be designed and constructed for an average recurrence interval of 20 years and be gravity drained. Connection to Council's piped system must be in accordance with Council's *Civil Works-Design and Construction Specifications 2005* and the following requirements:

- a. The drainage system shall be connected to an existing Council pit in Nelson Street via an on-site detention system.
- b. A Road Opening Permit is to be obtained from Council's Work Division for works within the nature strip to connect stormwater from the development to the Council pit.
- c. Obtain a compliance certificate from Council for proper connection to the pit in Nelson Street, to which stormwater from the development is to be discharged. Councils' Development Engineer is to be contacted for an inspection(s).

Note: A construction certificate must be obtained for these works.

Note: Inspection fees are to be paid to Council to demonstrate the satisfaction of this condition.

36. Traffic Control Plan

A Traffic Control Plan (TCP) must be prepared by a qualified traffic controller in accordance with the *Roads & Traffic Authority's Traffic Control at Worksites Manual 1998* and *Australian Standard 1742.3* for all work on a public road and be submitted to Council. The TCP must detail the following:

- a. Arrangements for public notification of the works.
- b. Temporary construction signage.
- c. Permanent post-construction signage.
- d. Vehicle movement plans.
- e. Traffic management plans.
- f. Pedestrian and cyclist access/safety.

37. Internal Driveway/Vehicular Areas

The driveway and parking areas on site must be designed in accordance with *Australian Standards 2890.1, 3727* and the following requirements:

- a. Design levels at the front boundary be obtained from Council.
- b. The driveway be a rigid pavement.
- c. The driveway pavement be 0.15 metres thick reinforced concrete with F72 steel reinforcing fabric and a 0.15 metre sub-base

- d. The driveway grade must not exceed 25 percent and changes in grade must not exceed 8 percent.

Note: A construction certificate must be obtained for these works

38. Creation of Easements

The following matter(s) must be nominated on the plan of subdivision under s88B of the *Conveyancing Act 1919*:

- a. The creation of an appropriate "*Positive Covenant*" and "*Restriction as to User*" over the constructed on-site detention/retention systems and outlet works, within the lots in favour of Council in accordance with Council's prescribed wording. The position of the on-site detention system is to be clearly indicated on the title.
- b. To register the OSD easement, the restriction on the use of land "*works-as-executed*" details of the on-site-detention system must be submitted verifying that the required storage and discharge rates have been constructed in accordance with the design requirements. The details must show the invert levels of the on site system together with pipe sizes and grades. Any variations to the approved plans must be shown in red on the "*works-as-executed*" plan and supported by calculations.

Note: Council must be nominated as the authority to release, vary or modify any easement, restriction or covenant.

39. Maintain Canopy Cover

To maintain canopy cover, three medium to large trees selected from Council's booklet '*Indigenous Plants for the Bushland Shire*' are to be planted on the subject site in accordance with the recommendations of the Tree Assessment Report prepared by Arboreport dated 28/04/2011. The planting location must not be within 4 metres of the foundation walls of a dwelling. The pot size is to be a minimum 25 litres and the trees must be maintained until they reach the height of 3 metres. Trees must be native to Hornsby Shire and reach a mature height greater than 10 metres.

40. Completion of Landscaping

A certificate must be provided by a practicing landscape architect, horticulturalist or person with similar qualifications and experience certifying that all required landscaping works have been satisfactorily completed in accordance with the approved landscape plans.

*Note: Advice on suitable species for landscaping can be obtained from Council's planting guide '*Indigenous Plants for the Bushland Shire*', available at www.hornsby.nsw.gov.au.*

41. Boundary Fencing

Fencing must be erected along all property boundaries behind the front building alignment to a height of 1.8 metres.

Note: Alternative fencing may be erected subject to the written consent of the adjoining property owners.

42. Consolidation of Allotments

All allotments the subject of this consent must be consolidated into one allotment.

Note: The applicant is recommended to submit the plan of subdivision to consolidate allotments to the NSW Department of Lands at least 4-6 weeks prior to seeking an occupation certificate.

43. Pedestrian Refuge Island

The pedestrian refuge island with connecting footways and ramps and in accordance with the requirements of Condition 11 must be constructed in Nelson Street at the intersection with Pennant Hills Road

44. Works as Executed Plan

A works-as-executed plan(s) must be prepared by a registered surveyor and submitted to Council for completed drainage system and on-site detention system.

45. Survey Infrastructure

A registered surveyor shall certify that there is no removal, damage, destruction, displacement or defacing of the existing survey marks in the vicinity of the proposed development and/or the re-establishment of damaged, removed or displaced survey marks has been undertaken in accordance with the Surveyor General's Directions No.11 – "Preservation of Survey Infrastructure".

46. s94 Infrastructure Contributions

The payment to Council of a contribution of \$213,669.80* for eighteen additional townhouses towards the cost of infrastructure identified in Council's Development Contributions Plan 2007-2011.

*Note: * The value of contribution is current as at 20 October 2011. The contribution will be adjusted from this date in accordance with the underlying consumer price index for subsequent financial quarters.*

It is recommended that you contact Council to ascertain the indexed value of the contribution prior to payment.

47. Restriction as to User – Affordable Rental Housing

To inform current and future owners that the townhouse development on the site is for affordable rental housing, a Restriction as to User must be created under Section 88B of the *Conveyancing Act 1919* identifying the following:

- (a) The development is for affordable rental housing pursuant to State Environmental Planning Policy (Affordable Rental Housing) 2009 for a period of 10 years from the date of the issue of the occupation certificate.
- (b) Twelve townhouses must be used for the purpose of affordable housing pursuant to Clause 6 of State Environmental Planning Policy (Affordable Rental Housing) 2009.
- (c) A minimum twelve townhouses must be managed by a *registered community housing provider* as defined in the Housing Act 2001.

Note: The wording of the Restriction as to User must be to Council's satisfaction and Council must be nominated as the authority to release, vary or modify the Restriction.

48. Waste Management Details

The following waste management requirements must be complied with:

- a. The bin room for the individual dwellings must be screened from public view.
- b. Each townhouse must be provided with an indoor waste/recycling cupboard for the interim storage of a minimum one day's waste generation with separate containers for general waste and recyclable materials.
- c. Space must be provided for either individual compost containers for each unit or a communal compost container;

Note: The location of the compost containers should have regard for potential amenity impacts.

- d. The bin carting route must be devoid of any steps.

Note: Ramps between different levels are acceptable

49. External Lighting

All external lighting must be designed and installed in accordance with *Australian Standard AS 4282 – Control of the Obtrusive Effects of Outdoor Lighting*. Certification of compliance with the Standard must be obtained from a suitably qualified person.

50. Construction for a safe environment

The site must include the following elements to provide a safer environment for the residents:

- a. An intercom system be installed at gate locations to ensure screening of persons entering dwellings.
- b. The entryway to the site be illuminated in high luminance at all times.
- c. The Nelson Street footpath be illuminated with high luminance by motion sensor lighting.
- d. Front and rear yard spaces of each dwelling be illuminated with high luminance by motion sensor lighting.
- e. The pathway along the western boundary adjacent to the illuminated in high luminance by motion sensor lighting.
- f. The pathway along the southern boundary of the site is to be illuminated during night time with low luminance.
- g. The common driveways and basement areas are to be illuminated with low luminance at all times.
- h. Anti-graffiti paint be used for the walls adjacent to Pennant Hills Road and the eastern boundary.
- i. Vandal proof locking mechanisms to be installed in all gates to individual townhouses.
- j. Robust materials which cannot be forced or breached with minimised maintenance requirements are to be used for construction work in the common areas.

51. Installation of Air Conditioner

To protect the amenity of adjacent properties, the condenser unit for any air conditioner must be sited a minimum of 3 metres from the property boundary of any adjoining residential premises unless a certificate has been prepared by a suitably qualified person confirming that the unit has been tested for heating and cooling on the highest settings and that the noise levels generated do not exceed 5 dB(A) above background noise levels when tested at the property boundary between 8 pm and 10 pm.

OPERATIONAL CONDITIONS

52. Landscaping Maintenance

All of the approved landscaping for the development must be continually maintained to ensure screening for privacy and the presentation of the development.

53. Car Parking and Deliveries

All car parking must be constructed and operated in accordance with *Australian Standard AS 2890.1 – 2004 – Off Street Car Parking* and *Australian Standard 2890.2 – 2002 – Off Street Commercial* and the following requirement:

- a. All parking areas and driveways are to be sealed to an all weather standard, line marked and signposted.
- b. Car parking, loading and manoeuvring areas to be used solely for nominated purposes.
- c. All vehicular entry on to the site and egress from the site shall be made in a forward direction.

54. Noise

The level of total continuous noise emanating from operation of the premises including all the plants and air conditioning units (LA10) (measured for at least 15 minutes) in or on the above premises, must not exceed the background level by more than 5dB(A) when measured at all property boundaries.

55. Fire Safety Statement - Annual

On at least one occasion in every 12 month period following the date of the first 'Fire Safety Certificate' issued for the property, the owner must provide Council with an annual 'Fire Safety Certificate' to each essential service installed in the building.

56. Maintenance of Wastewater Device

All wastewater and stormwater treatment devices (including drainage systems, sumps and traps) must be regularly maintained in order to remain effective. All solid and liquid wastes collected from the device must be disposed of in accordance with the *Protection of the Environment Operations Act 1997*.

- END OF CONDITIONS -

ADVISORY NOTES

The following information is provided for your assistance to ensure compliance with the Environmental Planning and Assessment Act, 1979, Environmental Planning and Assessment Regulation 2000, other relevant legislation and Council's policies and specifications. This information does not form part of the conditions of development consent pursuant to Section 80A of the Act.

Environmental Planning and Assessment Act, 1979 Requirements

- The Environmental Planning and Assessment Act, 1979 requires:
- The issue of a construction certificate prior to the commencement of any works. Enquiries regarding the issue of a construction certificate can be made to Council's Customer Services Branch on 9847 6760.
- A principal certifying authority to be nominated and Council notified of that appointment prior to the commencement of any works.
- Council to be given at least two days written notice prior to the commencement of any works.
- Mandatory inspections of nominated stages of the construction inspected.
- An occupation certificate to be issued before occupying any building or commencing the use of the land.

Long Service Levy

In accordance with Section 34 of the *Building and Construction Industry Long Service Payments Act 1986*, a 'Long Service Levy' must be paid to the *Long Service Payments Corporation* or *Hornsby Council*.

Note: The rate of the Long Service Levy is 0.35% of the total cost of the work.

Note: Hornsby Council requires the payment of the Long Service Levy prior to the issue of a construction certificate.

Tree Preservation Order

To ensure the maintenance and protection of the existing natural environment, it is an offence to ringbark, cut down, top, lop, remove, wilfully injure or destroy a tree outside 3 metres of the approved building envelope without the prior written consent from Council.

Note: A tree is defined as a single or multi-trunked wood perennial plant having a height of not less than three (3) metres, and which develops many branches, usually from a distance of not less than one (1) metre from the ground, but excluding any plant which, in its particular location, is a noxious plant declared as such pursuant to the

Noxious Weeds Act 1993. This definition of 'tree' includes any and all types of Palm trees.

All distances are determined under Australian Standard AS4970-2009 "Protection of Trees on Development Sites".

Fines may be imposed for non-compliance with Council's *Tree Preservation Order*.

Dial Before You Dig

Prior to commencing any works, the applicant is encouraged to contact *Dial Before You Dig* on 1100 or www.dialbeforeyoudig.com.au for free information on potential underground pipes and cables within the vicinity of the development site.

Covenants

The land upon which the subject building is to be constructed may be affected by restrictive covenants. Council issues this approval without enquiry as to whether any restrictive covenant affecting the land would be breached by the construction of the building, the subject of this consent. Applicants must rely on their own enquiries as to whether or not the building breaches any such covenant.

Rain Water Tank

It is recommended that water collected within any rainwater tank as part of the development be limited to non-potable uses. *NSW Health* recommends that the use of rainwater tanks for drinking purposes not occur where a reticulated potable water supply is available.

House Numbering

House numbering can only be authorised by Council. Before proceeding to number each premise in the development, the allocation of numbers is required to be obtained from Council's Planning Division. The authorised numbers are required to be displayed in a clear manner at or near the main entrance to each premise.

Asbestos

Should asbestos or asbestos products be encountered during demolition or construction works you are advised to seek advice and information should be prior to disturbing the material. It is recommended that a contractor holding an asbestos-handling permit (issued by *WorkCover NSW*) be engaged to manage the proper handling of the material. Further information regarding the safe handling and removal of asbestos can be found at:

www.environment.nsw.gov.au
www.nsw.gov.au/fibro
www.adfa.org.au
www.workcover.nsw.gov.au

Alternatively, telephone the *WorkCover* Asbestos and Demolition Team on 8260 5885.