

**JOINT REGIONAL PLANNING PANEL  
(Sydney West)**

<b>JRPP No</b>	2014SWY080
<b>DA Number</b>	DA/635/2014 (Lodged 12 June 2014)
<b>Local Government Area</b>	Hornsby Shire Council
<b>Proposed Development</b>	Demolition of existing structures and construction of an eight storey residential flat building containing 75 units with two levels of basement car park accommodating 83 car spaces and associated landscaping works
<b>Street Address</b>	Lot B DP 308840 and Lot 5 DP10385 (Nos. 6-8) Epping Road, Epping
<b>Applicant/Owner</b>	Applicant – 8 Epping Pty Ltd Owner - Mrs P E O'Connor, Mr K K Agarwal and Mrs A Agarwal
<b>Number of Submissions</b>	One submission has been received
<b>Regional Development Criteria (Schedule 4A of the Act)</b>	Capital Investment value > \$20 million
<b>List of All Relevant s79C(1)(a) Matters</b>	<ul style="list-style-type: none"> <li>• State Environmental Planning Policy No. 55 Remediation of Land</li> <li>• State Environmental Planning Policy No. 65 Design Quality of Residential Flat Development</li> <li>• State Environmental Planning Policy (Infrastructure) 2007</li> <li>• State Environmental Planning Policy (Building and Sustainability Index: BASIX) 2004</li> <li>• State Environmental Planning Policy No. 32 Urban Consolidation (Redevelopment of Urban land)</li> <li>• Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005</li> <li>• Hornsby Shire Local Environmental Plan 2013 - R4 High Density Residential Zone</li> <li>• Hornsby Development Control Plan 2013 and the draft amendments</li> <li>• Section 94 Contributions Plan 2012 - 2021</li> </ul>
<b>List all documents submitted with this report for the panel's consideration</b>	<ul style="list-style-type: none"> <li>• Locality Plan - 1 page</li> <li>• Architectural Plans - 6pages</li> <li>• Landscape Plan, stormwater plan and waste management plan- 5 pages</li> <li>• Shadow Diagrams – 3 pages</li> <li>• Photomontage – 1 page</li> </ul>

<b>Recommendation</b>	Refusal
<b>Report by</b>	Aditi Coomar

## ASSESSMENT REPORT AND RECOMMENDATION

### EXECUTIVE SUMMARY

1. The application proposes the demolition of existing dwellings and the construction of an eight-storey residential flat building containing 75 units and two levels of basement car parking.
2. The proposal does not comply with the provisions of *State Environmental Planning Policy No. 65* and the *Residential Flat Design Code* and *Hornsby Development Control Plan 2013*.
3. The proposed location of the driveway, access from Epping Road and the proposed waste collection methods are assessed as inappropriate.
4. One submission has been received objecting to the application.
5. It is recommended that the application be refused.

### RECOMMENDATION

THAT Development Application No. 635/2014 for demolition of existing dwellings and the construction of an eight-storey residential flat building containing 75 units and two levels of basement car parking at Lot B DP 308840 and Lot 5 DP10385 (Nos. 6-8) Epping Road, Epping be refused for the reasons detailed in Schedule 1 of this report.

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### BACKGROUND

- The site forms part of the Epping Urban Activation Precinct (Epping UAP).
- On 14 March 2014, the Department of Planning and Environment finalised amendments to the *Hornsby Local Environmental Plan 2013 (HLEP 2013)* to implement the Epping UAP via *State Environmental Planning Policy (Epping Town Centre) 2013 ("the SEPP Amendment")*.
- The Epping Town Centre amendments to the *HLEP 2013* involved rezoning of low density residential areas for the purpose of medium to high density residential and mixed use developments. The site was rezoned to R4 (High Density Residential) to permit residential flat buildings to a height of 8 storeys.
- Amendments to the *HDCP* were consequently prepared by Council to translate design controls recommended by the Department of Planning and Environment and provide planning controls to be read in conjunction with the *HLEP 2013* amendments. The DCP amendments have been exhibited and are the subject of a report to Council on 8 October 2014 recommending that Council approve the amendments.
- An informal Pre-lodgement meeting was held between Council officers and the applicant to discuss the design, prior to lodgement of the application. At the meeting, concerns were raised by Council regarding the proposed design and access from Epping Road.

- The Development Application was lodged on 12 June 2014.
- The application was notified between 24 June 2014 and 9 July 2014.
- On 28 July 2014, Council received a response from Roads and Maritime Services objecting to the development application.
- On 14 August 2014, Council sent a letter to the applicant outlining the planning concerns, following receipt of comments from internal branches and a briefing meeting with the Joint Regional Planning Panel.
- On 1 September 2014, the Applicant submitted additional information addressing the engineering concerns partly and requesting an extension of time to address the planning concerns. No timeframe was however, indicated in the letter.
- On 2 September 2014, Council informed the applicant that such an extension of time for submission of information was not warranted, given the nature of the concerns.
- On 22 September 2014, Council received another letter from the applicant indicating that the requested information and amendments would be submitted on 1 October 2014. To date, additional information has not been received.

## **SITE**

The subject site is situated in Epping, approximately 250 metres to the south-east of Epping Station and Epping Town Centre, with a 50.37 frontage to Epping Road on the southern side. The site comprises two allotments (Nos. 6 and 8 Epping Road) with a consolidated area of 2540 m<sup>2</sup> and a 12% diagonal cross fall to the rear from the north-west (Epping Road) to south-east.

The frontage of the property is affected by a 4m wide road widening Order under Section 25 of the Roads Act, 1993 as published in Government Gazette 17 October 1969. The subject site currently accommodates two detached residential dwellings with outbuildings and a swimming pool. A variety of exotic and native planted trees are scattered throughout the site.

The site adjoins a former bowling club to the south which is currently being used as a depot for the Epping to Thornleigh rail upgrade works. A two storey residential flat building occupies the adjoining western property. Low density developments are located on the eastern side. A mix of business and residential land uses are located on the northern side of Epping Road.

The site forms part of the Forest Grove, Epping Precinct which has been nominated to deliver "*predominantly residential flat buildings of varying heights*". Properties surrounding the subject site are expected to be re-developed for higher density residential accommodation in the future whilst the southern boundary would adjoin open space.

## PROPOSAL

The proposal involves the demolition of existing structures on the site and construction of an eight storey residential flat building containing 75 units over two levels of basement car parking and associated landscaping works.

The unit mix would comprise of 2 x studio, 41 x 1 bedroom, 24 x 2 bedroom and 8 x 3 bedroom units. The units would be accessed via a lift and would include balconies fronting the street, rear and side setbacks.

The development would be accessed from Epping Road via a driveway located close to the eastern boundary of the site. Internally, the driveway would run across the frontage, the entrance to the building being at the western end. The ground floor would include the driveway and parking facilities at the front and 5 units at the rear. A separate pedestrian entry would provide access to all levels from the foyer. A total of 81 car parking spaces, including 11 visitors' parking spaces are proposed in the basement and ground levels.

The site would drain to the Council-controlled drainage system in Forest Park via an inter-allotment drainage system requiring an easement through six properties to the east.

## ASSESSMENT

The development application has been assessed having regard to the *Metropolitan Plan for Sydney 2031*, 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). The following issues have been identified for further consideration.

### 1. STRATEGIC CONTEXT

#### 1.1 Metropolitan Plan for Sydney and (Draft) North Subregional Strategy

The *(Draft) Metropolitan Strategy for Sydney 2031* is a broad framework to provide for Sydney's growth to help plan for housing, employment, transport, infrastructure, the environment and open space. It outlines a vision for Sydney to 2031; the challenges faced, and the directions to follow to address these challenges and achieve the vision.

The North Subregion comprises Hornsby, Kuring-gai, Manly, Warringah and Pittwater Local Government Areas. The *Draft North Subregional Strategy* provided a framework for Council in its preparation of the *Hornsby Local Environmental Plan 2013*.

Within the North Subregion, the *Draft Metropolitan Strategy* proposes:

- Population growth of 81,000 from the current 2011 baseline of 529,000
- Housing growth of 37,000 from the current 2011 baseline of 204,000
- Employment growth of 39,000 from the current 2011 baseline of 186,000

The subject land is well located to utilise existing public transport, including the Epping Railway Station. The proposed development would be consistent with the *Metropolitan Strategy* by providing 73 additional dwellings and would contribute to housing choice 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 regulations”*.

### **2.1 Hornsby Local Environmental Plan 2013**

The relevant provisions of the Plan are discussed below:

#### **2.1.1 Land Use Zones and Permissibility**

The subject land is zoned R4 (High Density Residential) under the *Hornsby Local Environmental Plan 2013 (HLEP)*. The objectives of the zone are:

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

The proposed development is defined as ‘residential flat building’ under the *HLEP* and is permissible in the zone with Council’s consent.

#### **2.1.2 Height of Buildings**

Clause 4.3 of the *HLEP* provides that the height of a building on any land is not to exceed the maximum height shown for the land on the Height of Buildings Map. The maximum permissible height for the subject site is 26.5 metres. The proposal complies with this provision.

#### **2.1.3 Heritage Conservation**

Clause 5.10 of the *HLEP* sets out heritage conservation provisions for Hornsby Shire. The site does not include any heritage item and is not located within a heritage conservation area identified in the *HLEP*. ‘Forest Park’, at No. 723X Blaxland Road, is identified as a heritage item of local significance under the *HLEP*. However, the site does not immediately adjoin this item and is separated by the former bowling club site. The development proposes to drain to the existing drainage system within the Park which would not have any negative impact on the heritage listed trees or the war memorial. The application is assessed as satisfactory in this regard.

#### **2.1.4 Earthworks**

Clause 6.2 of the *HLEP* states that consent is required for proposed earthworks on site. Before granting consent for earthworks, Council is required to assess the impacts of the works on adjoining properties, drainage patterns and soil stability of the locality.

The proposed development is supported by a Geotechnical Assessment Report, which does not raise any objections to the proposed excavation subject to submission of dilapidation reports assessing the impact of the excavation on the adjoining properties. Council's assessment concludes that the proposal would be satisfactory in regards to earthworks subject to appropriate conditions regarding the preparation of dilapidation reports and earthwork management measures.

## **2.2 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 site has been used for residential purposes and is unlikely to be contaminated. No further assessment is considered necessary in this regard.

## **2.3 State Environmental Planning Policy No. 65 – Design Quality of Residential Flat Development**

The Policy provides for design principles to improve the design quality of residential flat development and for consistency in planning controls across the State.

The applicant has submitted a "Design Verification Statement" prepared by a qualified designer stating that the proposed development achieves the design principles of *SEPP 65*. An assessment against the design principles has been included in the Statement of Environmental Effects. The design principles of *SEPP 65* are addressed below.

### **2.3.1 Principle 1 - Context**

Design Principle 1 is as follows:

*Good design responds 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.*

The subject site is located within a precinct zoned for five to eight storey residential flat buildings in close proximity to the Epping Town Centre. The desired future character of the area, as outlined in the *Hornsby Development Control Plan 2013*, is that of a locality characterised by residential flat buildings of 6 or more storeys in height in landscape settings with underground car parking.

The *SEPP 65* assessment submitted by the applicant indicates that the proposal responds to the desired future character of the precinct as envisaged by Council. However, the building articulation does not reflect the desired urban form outlined in the *HDGP*. The proposed driveway in the front setback would result in minimal landscaping opportunities and therefore, would not appropriately address the Epping Road frontage. The overall built form would not contribute positively to the identity and future character of the precinct.

Given this, it is considered that the development does not respond suitably to the 'context' principle of SEPP 65, considering the desired future character of the area.

### **2.3.2 Principle 2 – Scale**

Design Principle 2 is as follows:

*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.*

The height of the development is in accordance with the required building height for the precinct. However, the architectural composition does not achieve the desired built form. The proposal does not comply with the side and rear setback requirements and the facades lack articulation. The scale of the development is therefore considered inappropriate for the site and inconsistent with the desired future character of the precinct.

### **2.3.3 Principle 3 – Built Form**

Design Principle 3 is as follows:

*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 streetscape and parks, including their views and vistas, and provides internal amenity and outlook.*

The proposal does not comply with the built form principle of SEPP 65. The matter has been assessed in detail against the applicable prescriptive measures within the HDGP as outlined in Section 2.11 of this report.

### **2.3.4 Principle 4 – Density**

Design Principle 4 is as follows:

*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.*

The HLEP does not incorporate floor space ratio requirements for the site. The density of the development is governed by the height of the building and the required setbacks. Given that the proposal does not comply with the setback requirements and includes insufficient deep soil zone, the proposed density would not be appropriate for the precinct which is undergoing transition.



### **2.3.5 Principle 5 – Resource, Energy and Water Efficiency**

Design Principle 5 is as follows:

*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.*

The applicant has submitted a BASIX Certificate for the proposed development. In achieving the required BASIX targets for sustainable water use, thermal comfort and energy efficiency, the proposed development achieves the design criteria and is considered acceptable in this regard.

### **2.3.6 Principle 6 – Landscape**

Design Principle 6 is as follows:

*Good design recognises that together landscape and buildings operate as an integral 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 neighbour's amenity, and provide for practical establishment and long term management.*

The application includes a landscape concept plan. The proposed driveway and reduced side setbacks would result in lack of landscaping for the site and excessive paved areas. The landscaping proposed along the frontage of the site would not be retained with future road widening. Accordingly, the application does not demonstrate that the future residential flat building would be sited within an integrated landscaped setting.

Given the above, the proposal would not satisfy the intent of the 'Landscaping' principle of *SEPP 65*.

### **2.3.7 Principle 7 – Amenity**

Design Principle 7 is as follows:

*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.*

The proposal would result in numerous non-compliances with the *Residential Flat Design Code (RFDC)* which provides development controls and best practice benchmarks for achieving the design principles of *SEPP 65*. An assessment of the proposal against the requirements of the Code is included in Section 2.4 of this report. The proposal does not comply with the 'Amenity' principle of *SEPP 65*.

### **2.3.8 Principle 8 – Safety and Security**

Design Principle 8 is as follows:

*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.*

The proposal includes a report assessing the development against the *Crime Prevention Through Environmental Design Principles (CPTED)* principles. The report concludes that the development would provide a safe environment for the future occupants.

The design orientates the balconies and windows of individual apartments towards the street, rear and side boundaries, providing passive surveillance of the public domain and communal open space areas. Whilst the vehicular entry point is visible from living areas, the development proposes two narrow side pedestrian entry points at the eastern (disabled access) and western end of the site.

Both the pedestrian pathways would lead to the entry level where no prominent foyer area has been designed. The corridor would act as a pedestrian thoroughfare with direct access to at least 6 units and the common open space at the rear. The entry points to the building would have inadequate levels of surveillance and are not considered to be safe and secure. In this regard, the proposed development would not meet the *RFDC* best practice for access control and space management for safety and security of residents.

Given the above, the proposal is not assessed as satisfactory against the principle "Safety and Security".

### **2.3.9 Principle 9 – Social Dimensions and Housing Affordability**

Design Principle 9 is as follows:

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

*New development 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 development 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.*

The *Hornsby Development Control Plan 2013* includes prescriptive measures for housing choice and for adaptable housing provisions. The proposal provides a varied housing mix and adaptable housing and is supported in respect to this Principle.

### 2.3.10 Principle 10 – Aesthetics

Design Principle 10 is as follows:

*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.*

The architectural treatment of the building is not consistent with the design principles contained within the *Residential Flat Design Code* and *Hornsby Development Control Plan 2013*. The architectural treatment would result in monotonous facades and lack of articulation in the built form. As a result, the building would dominate the streetscape and detract from the desired future character of the area.

The proposal is not supported with the regard to the principle “Aesthetics”.

## 2.4 SEPP 65 - Residential Flat Design Code

*SEPP 65* also requires consideration of the *Residential Flat Design Code*, *NSW Planning Department 2002*. The *Code* includes development controls and best practice benchmarks for achieving the design principles of *SEPP 65*. The following table sets out the proposal’s compliance with the *Code*:

Residential Flat Design Code			
Control	Proposed	Requirement	Compliance
Deep Soil Zone	27%	25%	Yes
Communal Open Space	25%	25%	Yes
Private Open Space (Ground)	25m <sup>2</sup> <4m depth	25m <sup>2</sup> 4m min depth	Yes No
Dwelling Size	Studio – 42 m <sup>2</sup> 1 br – 55m <sup>2</sup> – 74m <sup>2</sup> 2 br – 90m <sup>2</sup> – 112m <sup>2</sup> 3 br – 110m <sup>2</sup> -112m <sup>2</sup>	Studio – 38 m <sup>2</sup> 1 br – 50m <sup>2</sup> 2 br – 70m <sup>2</sup> 3 br – 95m <sup>2</sup>	Yes Yes Yes Yes
Single aspect unit depth and	54% of the single aspect units have depth >8m	8m	No
Distance to back of the	Kitchen distance for	8m max	No

<b>kitchen</b>	24% (18) units is greater than 8m		
<b>Minimum Balcony Depth</b>	2m	2m	Yes
<b>Ceiling heights – Residential floors</b>	2.7m	2.7m	Yes
<b>Total Storage area</b>	Storage cages in the basement for 59 units and storage cupboards not marked for majority of 1-bedroom units	1 br - > 6m <sup>3</sup> 2 br - > 8m <sup>3</sup> 3 br - > 10m <sup>3</sup> > 50% accessible from the apartments	No
<b>Dual Aspect &amp; Cross Ventilation</b>	44%	>60%	No
<b>Adaptable Housing</b>	32%	10%	Yes
<b>Units accessed from a single corridor</b>	11	8	No
<b>Single aspect south facing units</b>	6%	10% max	Yes
<b>Kitchen with access to natural ventilation</b>	2.6% (2 kitchens)	25% min	No

As detailed in the above table, the proposed development does not comply with a number of the prescriptive measures within the *Residential Flat Design Code (RFDC)*. Below is a brief discussion regarding the relevant development controls and best practice guidelines.

#### 2.4.1 Building Depth and Separation

The proposed building depth and the design of the building facades are in accordance with the requirements of Council's *Hornsby Development Control Plan 2013* as discussed in Section 2.11.

The *RFDC* requires a building separation of 12m between the unscreened habitable areas or balconies increasing to 18m from the fifth level, for two adjoining residential flat buildings. The proposal would achieve these requirements except for the balconies on the lower ground floor. Building setbacks and separation are addressed further in Section 2.11.

#### 2.4.2 Apartment Layout/Natural Ventilation/Storage Areas

As stated in the table above, the development would result in the following non-compliances with the *RFDC*:

- The design of the building would result in excessive single aspect units. As a result, only 44% of the units would be naturally cross-ventilated;
- 54% of the single aspect units would have a depth greater than 8m from a window;

- Although the floor areas of the units are in excess of the minimum requirements, the one bedroom single aspect units (fronting Epping Road) would have a floor area of 55 m<sup>2</sup> whereas the RFDC generally requires the floor area of such units to be at least 63 m<sup>2</sup>;
- The distance of the kitchen from the window would be greater than 8m for 24% of the units;
- Only 2 kitchens at the uppermost level would have direct access to a window;
- The proposal includes storage cubicles for 59 units out of 75 units within the basement level;
- The majority of the one bedroom units do not include any dedicated storage space as required by the RFDC, in addition to the wardrobes.

Given the above, it is considered that the proposed development would result in significant non-compliances with relevant best practice guides and rules of thumbs within the RFDC and cannot be supported in its current form.

#### **2.4.3 Ground Floor Apartments and Private Open Space**

The proposal does not comply with the *Code's* best practice for the 4 metre minimum width dimension for ground floor open space for one unit. However, the proposed ground floor open space areas are considered appropriate for the respective ground floor units in respect to dwelling size, aspect, unit configuration and amenity. Furthermore, the proposal complies with the private open space requirements of the HDCP. Therefore, no objections are raised regarding this non-compliance.

#### **2.4.4 Internal Circulation**

The proposed development includes access to all floors via a lift. The internal corridors, however, do not meet the *Code's* requirements as 11 units are proposed to be accessed from one corridor with minimal foyer area. It is considered the building's internal circulation does not meet the RFDC best practice to promote interaction, sense of community and safety and is not supported in this regard.

#### **2.4.5 Acoustic Privacy**

The internal layout of the residential units is designed so that noise generating areas would adjoin each other wherever possible. Circulation zones would act as a buffer between units. Bedrooms and service areas such as kitchens, bathrooms and laundries would be grouped together wherever possible. Accordingly, the proposal is consistent with the *RFDC* for acoustic privacy.

### **2.5 State Environmental Planning Policy (Building Sustainability Index – BASIX) – 2004**

The application has been assessed against the requirements of *State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004*. The proposal includes a BASIX Certificate for the proposed units and is considered to be satisfactory.

## **2.6 State Environmental Planning Policy No. 32 - Urban Consolidation (Redevelopment of Urban Land) (SEPP 32)**

The application has been assessed against the requirements of *SEPP 32*, which requires Council to implement the aims and objectives of this Policy to the fullest extent practicable when considering development applications relating to redevelopment of urban land. The application complies with the objectives of the Policy with regard to promoting social and economic welfare of the locality and would result in the orderly use of underutilised land within the Shire.

## **2.7 Roads Act 1993**

The proposed development involves access off Epping Road via a 7m wide driveway. The applicant submits that vehicular movement would be restricted to left in and left out. Section 138 of the *Roads Act 1993* requires consideration as the proposal includes a new driveway crossing accessed via Epping Road.

The application was referred to Roads and Maritime Services (RMS) for concurrence under the *Roads Act 1993*. RMS has refused to grant concurrence due to the following reasons:

- *Epping Road is a major arterial road, which carries a high volume of traffic, where transport efficiency of through traffic is of great importance. Roads and Maritime does not support vehicles turning right in and right out of the site at this location.*
- *The driveway access is in close proximity to the intersection of Epping Road and Blaxland Road, allowing right turn movements in and out of the site raises safety concerns.*

RMS has recommended the following:

- *That the proposal be amended to include a driveway which provides left in and left out access by virtue of its design; and*
- *That satisfactory setback be maintained from the front boundary to implement the road widening proposal in the future after acquisition of land.*

The comments and recommendations from the RMS were forwarded to the applicant. However, to date no response has been received.

Council's traffic assessment of the proposal concurs with the comments of RMS and concludes that opportunities for providing access from a rear lane should be explored as per the recommendations of *Epping Town Centre Urban Activation Precinct Plan* and the draft *Hornsby Development Control Plan 2013* amendments. The matter is discussed later in this report.

## **2.8 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 main roads. The development is located immediately adjoining a classified road corridor (Epping Road). The following matters are required to be considered pursuant to the *SEPP*.

### **2.8.1 Development with Frontage to a Classified Road**

The proposal has been assessed against the requirements of Clause 101 of *SEPP (Infrastructure)* as the site has frontage to the Epping Road and proposes new vehicular access from the road.

The objective of this Clause is:

- a) *to ensure that new development does not compromise the effective and ongoing operation and function of classified roads, and*
- b) *to prevent or reduce the potential impact of traffic noise and vehicle emission on development adjacent to classified roads.*

As discussed in Section 2.7 of this report, the proposed access is not supported primarily due to safety reasons. It is considered that the new development would compromise the effective and ongoing operation of the classified road due to the location of the driveway.

The application is supported by an Air Quality Assessment Report which concludes that the emissions from traffic on Epping Road would not result in the development exceeding the ambient air quality criteria. The application is assessed as satisfactory in this regard.

### **2.8.2 Impact of Road Noise**

Assessment of the impact of road noise on a residential use is required pursuant to Clause 102 of *SEPP (Infrastructure)*, where a development fronts a road with an annual average daily traffic volume of more than 40,000 vehicles. The Traffic and Parking Report submitted by the applicant states that average daily traffic volume for Epping Road is 43,400. Accordingly, based on traffic generation, Clause 102 of the *SEPP* applies.

The applicant has submitted an Acoustic Assessment report. The report provides details of construction techniques and measures to attenuate road and rail noise and vibration. The report concludes that the development would not exceed the specified noise criteria and  $L_{Aeq}$  levels within Clause 102 of the *SEPP (Infrastructure)* subject to adherence to the recommendations. Council's assessment in this regard concludes that the proposed noise mitigation measures are satisfactory.

Should the application be approved, the Construction Certificate Plans would be required to demonstrate compliance with the recommendations of the acoustic report through the use of appropriate materials for glazing and construction.

### **2.8.3 Traffic Generating Development**

The development is classified as a Traffic Generating Development in accordance with Clause 104 and Schedule 3 of *SEPP (Infrastructure)* as it would result in 75 dwellings fronting a classified road.

The applicant has submitted a Traffic and Parking Assessment Report estimating traffic generation of the existing site and proposed development using RMS traffic generation rates. The report concludes that the proposed development would generate 14 vehicle trips in peak hour traffic which is considered acceptable having regard to the capacity of the surrounding road network. Council's traffic assessment concurs that Epping Road is capable of accommodating the additional traffic.



The RMS, raises no objections with regard to traffic generation from the development.

## 2.9 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 subject to appropriate conditions of consent regarding soil and water management during construction.

## 2.10 Clause 74BA Environmental Planning and Assessment Act, 1979 - Purpose and Status of Development Control Plans

On 1 March 2013, the *Environmental Planning and Assessment Act, 1979* was amended so that a DCP provision will have no effect if it has the practical effect of “*preventing or unreasonably restricting development*” that is otherwise permitted and complies with the development standards set out in relevant Local Environmental Plans and State Environmental Planning Policies.

The principal purpose of a development control plan is to provide guidance on the aims of any environmental planning instrument that applies to the development; facilitating development that is permissible under any such instrument; and achieving the objectives of land zones under any such instrument. The provisions of a development control plan made for that purpose are not statutory requirements.

## 2.11 Hornsby Development Control Plan 2013

The site is subject to the draft *amendments* relating to the Epping UAP within the *Hornsby Development Control Plan 2013 (HDCP)*.

The proposed development has been assessed having regard to the relevant performance and prescriptive requirements within Part 1 and “*Section 3.5--Residential Flat Building (6 or more storeys)*” of the *Hornsby Development Control Plan 2013 (HDCP)* as well as the draft amendments to the *HDCP* regarding Epping UAP that are relevant to the site.

The following table sets out the proposal's compliance with the relevant provisions of the Plan:

Hornsby Development Control Plan			
Control	Proposal	Requirement	Compliance
Site Width	50.37m	40m (min)	Yes
Height	8 storeys – 26.5m	8 storeys – 26.5m	Yes
Maximum Floorplate Dimension	29m (N-S)	35m	Yes
	35m (E-W)	35m	Yes



<b>Height of basement above ground</b>	1m	1m (max)	Yes
<b>Front Setback (Epping Road)</b>	13.8m (10m from road easement) 7m (balconies)	10m 7m (balconies)	Yes Yes
<b>Rear Setback</b>	7m - 7.8m N/A 4m – 6m (balconies)	10m and 8m < 1/3 frontage 7m (balconies)	No N/A No
<b>Eastern Side Setback</b>	9m – 10m 21m < 1/3 frontage (upto Lvl 3) 9m < 1/3 frontage (Lvl 4 and above)  2m (ground floor) 6m (balconies – upper floor)	9m 7m (for 9.6m length) < 1/3 frontage  6m (balconies)	Yes No Yes  No Yes
<b>Western Side Setback</b>	9m – 10m 21m < 1/3 frontage (upto Lvl 3) 9m < 1/3 frontage (Lvl 4 and above)  4m (ground floor) 6m (balconies – upper floor)	9m 7m (for 9.6m length) < 1/3 frontage  6m (balconies)	Yes No  No Yes
<b>Top Storey Setback From Ground Floor</b>	3m additional provided except rear setback	3m additional	Yes
<b>Underground Parking Setback</b>	5.6m – front 6m – rear 6m - sides	7m front and rear 6m sides	No No Yes
<b>Basement Ramp Setback</b>	Entire front setback	2m	No
<b>Building Separation (sides)</b>	12m (for unscreened areas up to level 4) 18m (for unscreened areas on level 5)	12m (for unscreened areas up to level 4) 18m (for unscreened areas on level 5)	Yes Yes
<b>Deep soil Landscaped areas</b>	5.8m front 4m - 6m rear	7m front and rear	No No

	2m -6m sides	4m – 8m sides	No
<b>Private Open Space with Min Width 2.5m</b>	1 br units >10m <sup>2</sup>	1 br units 10m <sup>2</sup> (min)	Yes
	2 br units >12m <sup>2</sup>	2 br units 12m <sup>2</sup> (min)	Yes
	3 br units >16m <sup>2</sup>	3 br units 16m <sup>2</sup> (min)	Yes
<b>Communal Active area</b> <b>Communal Landscape Dim</b>	50m <sup>2</sup> (min)	50m <sup>2</sup> (min)	Yes
	6m	6m (min)	Yes
<b>Parking (site within 800m of railway station)</b>	69 resident spaces	69 resident spaces	Yes
	11 visitor spaces	11 visitor spaces	Yes
	None	23 bicycle racks	No
	2 motorbike space	2 motorbike space	Yes
<b>Solar Access</b>	Insufficient Information	70% units receive 2 hours	No
		2 hours to Communal Open Space	No
<b>Housing Choice</b>	10% of each type (min)	10% of each type (min)	Yes
			Yes
			Yes
<b>Adaptable Units</b>	32%	30%	Yes

As detailed in the above table, the proposed development does not comply with a number of prescriptive measures within *HDGP*. The matters of non-compliance are detailed below, as well as a brief discussion regarding the desired outcomes and the prescriptive measures.

### 2.11.1 Desired Future Character

The site is included in the Forest Grove, Epping Precinct which was rezoned from Residential A (Low Density) to R4 (High Density Residential) Zone recently.

The *HDGP* states that a development should demonstrate compatibility with the “Desired Future Character Statement” which includes the following:

*The locality is characterised by residential flat buildings of 6 or more storeys in height in landscaped settings with underground car parking;*

*Development footprints maintain landscape corridors around and through development sites.*

*The established tree canopy is complemented by new trees and shrubs throughout all gardens. Facade widths are limited, avoiding the appearance of a continuous wall of development. Buildings are integrated into a campus like setting with large areas of consolidated public and communal open space;*

*Balconies provide outdoor living areas which wrap around the corners of the buildings, providing usable open space as well as articulation in built form. Developments embody active*

*living principles including bicycle parking and storage, prioritized pedestrian and cyclist entrances to buildings, and connectivity to the public domain;*

The proposal does not comply with the above Statement in the following ways:

- a) The front setback would be dominated by the driveway. The proposed landscape screening along the front boundary would be removed with the widening of Epping Road;
- b) The building would dominate the streetscape given the lack of landscaping at the front and the proximity to Epping Road;
- c) The deep soil zone areas to the sides and rear are compromised due to balcony encroachments;
- d) The development footprint would not maintain the desired landscape corridors;
- e) The development does not include wrap around balconies;
- f) The balconies at the corners include solid balustrades which do not contribute to the building articulation, rather result in the appearance of a continuous wall of development;
- g) The proposal does not include consolidated communal open space areas. The residual areas within the setbacks have been treated as communal open space areas. Thus, a campus like setting has not been achieved;
- h) No bicycle parking provision has been provided.

### **2.11.2 Setbacks**

The building numerically complies with most of the setback requirements except balcony encroachments on the lower floors and non-compliance with the rear setback. Given that the building is required to be setback further from Epping Road to accommodate the road widening easement, the rear setback has been compromised to some extent. The non-compliance with the rear setback is acceptable as the site adjoins a bowling club zoned RE1(Public Recreation) and building separation requirements are not applicable.

However, it should be noted that the main objectives of the "Setbacks" are to achieve:

- a) *Well articulated building forms that are setback to incorporate landscaping, open space and separation between buildings.*
- b) *Well articulated building forms with a "pedestrian-friendly" scale and provides for landscaping, open space and separation between buildings.*

The building design and the proposed setbacks have not achieved the above objectives due to the following reasons:

- a) *The HDCP allows up to 1/3 of the building length to encroach within the stipulated setback areas. Such an encroachment is permitted to achieve the desired building articulation at all levels and provide a balance of solids and voids. The proposed design does not incorporate this element for the front and rear setbacks resulting in*

*monotonous facades and rows of balconies fronting Epping Road and the rear and side boundaries.*

- b) Almost the entire building length at the three lower levels is located between 7m – 9m from the side boundary which is not in accordance with the prescriptive measures of the HDCP and does not comply with its intent. Further, this would also result in reduced deep soil planting along the periphery.*
- c) The balconies would encroach within 2m of the side boundaries at the ground level reducing opportunities for deep soil planting and result in adverse privacy impacts on the occupants of future residential flat building developments on adjoining properties to the east and west;*
- d) The basement footprint is setback 5.6m from the front boundary which would reduce to approximately 1m after the road widening scheme is implemented. This would not provide opportunities for any screen planting or canopy tree planting along the front boundary.*
- e) The non-compliance with the front setback and location of 6 balconies on each level fronting a busy road with no landscape screen would adversely impact on the amenity of the future occupants of the building; and*
- f) The rear setback has been further compromised by the location of the underground on-site detention tank.*

Given the above, the proposal is not supported with regard to the design of the setback areas around the periphery of the building.

### **2.11.3 Building Separation**

The proposal achieves the building separation requirements for residential flat buildings as stipulated by *SEPP 65* and the *HDCP* on the eastern and western sides except the balconies that encroach within the deep soil zones areas at the ground level. Such an encroachment is not supported as it would result in lack of landscaping and would adversely impact on the privacy of the occupants of future residential flat buildings on adjoining allotments.

### **2.11.4 Floorplate, Separation and Articulation**

#### *Floorplate*

The floorplate dimension numerically complies with the *HDCP* requirements.

#### *Articulation*

The articulation of the building facades do not comply with the prescriptive measures within the *HDCP* due to the following reasons:

- a) Whilst the building has been vertically stepped including a distinct top and middle level, the base of the building is not prominently visible;*
- b) The facades have not been effectively articulated, with resultant rows of balconies and repetitive elements;*

- c) Solid masonry balustrades are proposed which are discouraged by the *HDCP*;
- d) The solid masonry balustrades, especially on the lower floors result in long and straight façade walls extending almost continuously along the full length of the facade;
- e) The building lacks stepping of walls and attached balconies that project;
- f) The balconies at the corners do not disguise the vertical walls, rather accentuate the features via solid balustrades;
- g) The desired façade pattern has not been achieved via varied arrangements and proportions for windows; and
- h) Sunshades and sunscreens do not form an integral part of the façade design.

Given the above, it is considered that the design of the floor plates, the proposed façade articulation and balcony projections would not result in an acceptable building form. The proposal is not supported in this regard.

#### **2.11.5 Landscape**

As discussed previously, the proposal does not achieve appropriate landscaping and deep a soil zone in the peripheral areas due to the basement and balconies encroaching within the stipulated setbacks and the future road widening easement at the front. The proposal is not supported in this regard.

#### **2.11.6 Open Space**

The proposed private open space areas comply with the prescriptive area requirements of the *HDCP*.

The proposal does not include a well-designed communal open space. Residual areas outside the building footprint have been designated as communal open space areas, the primary area being located at the south-east corner. The shadow diagrams do not clearly indicate whether this area would receive a minimum of 2 hours of unobstructed sunlight between 9am and 3 pm during Winter Solstice.

The design of the communal open is not assessed as satisfactory, given the above.

#### **2.11.7 Privacy**

The matters in relation to acoustic privacy of the units have been discussed in detail under "*Residential Flat Design Code*" in Section 2.4 of this report.

The development would achieve the building separation requirements as stipulated by the *RFDC* and *HDCP* except at the ground level. No concerns are raised regarding privacy at the upper levels of the building.

#### **2.11.8 Solar Access and Natural Ventilation**

The applicant submits that 69.3% (52/75) of the units would receive a minimum 2 hours of unobstructed sunlight access between 9am and 3pm on June 22. No supporting documents have been provided to justify the non-compliance.

The application includes shadow diagrams for 9am, 12pm and 3pm during Winter solstice. The application does not include detailed solar access analysis for the individual units; neither takes into account the overshadowing impacts from future five storey developments on adjoining sites.

As discussed previously, only 44% of the units would be naturally cross ventilated.

Given the above, it is considered that the proposal does not comply with the solar access and cross ventilation requirements of the *RFDC* and *HDCP*. Insufficient information has been provided to enable further assessment in this regard.

#### **2.11.9 Housing Choice**

The proposed development includes a range of housing types and provision for people with disabilities and for aging in place in accordance *HDCP* prescriptive measures.

#### **2.11.10 Vehicle Access and Parking**

The proposed basement car park is located over two levels and is accessed via a 7m wide driveway from the Epping Road. As discussed previously, the location and design of the driveway is not supported.

The parking provision for cars and motorcycles comply with the *HDCP* requirements. However, 10 of the parking spaces are proposed as small car only spaces and do not comply with the required minimum dimensions as required under AS2890.1 (2.4m x 5.4m). Such a provision is inappropriate, considering the nature of the development and only suits large public car parks where choice of parking for other car users exists. The design of parking spaces is not supported in this regard.

Bicycle parking racks are not marked on the basement plan. The submitted Traffic Report indicates that this would be resolved at the construction certificate stage. However, it is a requirement of the *HDCP* to nominate the location of bicycle parking in the architectural plans for assessment. The proposal is unacceptable in this regard.

#### **2.11.11 Key Principles Diagram – Forest Grove, Epping Precinct**

The draft amendments of the *HDCP* include strategies and a Key Principles Diagram for the *Forest Grove, Epping Precinct*.

The strategy for redevelopment of this precinct is to incorporate residential flat buildings with varying heights. The proposal would comply with this strategy.

#### ***Landscape Settings***

The landscape strategy requires provision of broad setbacks along street frontages and locates communal open spaces to retain existing trees that are prominent streetscape features. It also encourages planting canopy trees around the buildings.

The proposed development does not comply with the landscape strategy as it would not provide a landscape buffer fronting Epping Road and has limited opportunities for planting canopy trees along the sides and rear.

## *Access*

The latest version of the draft amendments to the *HDCP*, to be considered by Council on 8 October 2014, encourages access via a rear laneway which is proposed to connect Blaxland Road to Forest Grove as per the *Epping Town Centre Urban Activation Precinct Plan*. The strategy states that the laneway should be located between the rear setback area and the boundary with a minimum 2m planting zone at the boundary. Such a rear laneway connection would require amalgamation of properties or right-of-access via adjoining properties. Council's traffic assessment concludes that access to the site via this laneway is recommended as an appropriate access solution in lieu of a driveway directly off Epping Road.

Given the non-compliance with the rear setback, it would not be possible to incorporate an access way that complies with the relevant Australian standards and also include the planting zone as per the Key Principles Diagram. The supporting documents submitted by the applicant do not include any discussion regarding suitability of the proposed access and possibility of accessing the site from the rear.

## *Built Form*

The strategy encourages built forms that reflect the established pattern of detached developments, limit the width of new facades that would be visible from any street, and divide the floor space of every new building into well-articulated pavilion forms that are separated by courtyards with canopy trees. Additionally, siting and design should provide at least two hours sunlight daily for living areas in 70% of new dwellings. The design quality of the facades should respond to the visibility in all directions.

As discussed previously, the proposed built form does not respond appropriately to the visibility in all directions and would result in an outcome for the site that does not comply with the built form principles.

Given the above, it is considered that the development would not provide for a landscaped setting, access and a built-form that is consistent with the desired future outcome envisaged for the *Forest Grove, Epping Precinct*.

### **2.11.12 Waste Management**

#### *Waste management plan*

The proposal includes a waste management plan with details of waste management during the construction phase of building works.

A waste management plan for the demolition phase has not been provided.

#### *Bin room and garbage collection*

A garbage room would be provided at the basement level 1 capable of accommodating 5 x 660 litre garbage bins plus 16 x 240 litre recycling bins. Each residential level would include a garbage chute. The chute would empty into the garbage room with carousel/volume handling equipment. The ground



level parking area also includes a room for placement of unwanted bulky items awaiting collection. No objections are raised regarding bin rooms and the volume handling equipment subject to minor modifications.

#### *Truck Access and Waste Collection*

The development proposes a kerbside waste collection area at the Epping Road frontage. The waste collection area is proposed to be located within the road widening easement. In this regard the applicant submits the following:

*"The garbage collection (and servicing) cannot be accommodated on-site due to site constraints and would result in a totally unacceptable urban design outcome. Hence on-street collection is preferred due to the following significant design and amenity issue:*

- *The building would rise by 2 – 3m as a result of the head height requirements for waste collection vehicles;*
- *The parking displaced by the turning movements of the waste vehicle would result in the relocation of the lower floors of car parking;*
- *The access driveway would increase from 2.2m in height and 5.5m in width to 4.5m in height and 7m in width reducing the quality to the public domain;*
- *The provision of a ramp in compliance with AS 2890.2 (2002) would further deplete the car parking numbers;*
- *In view of the above, it is considered onerous and unnecessary to provide on-site collection. Garbage collection will thus be undertaken from the kerbside of Epping Road."*

Council has conducted a detailed assessment and concludes that the on-going waste management proposal for the site is not acceptable. The collection area nominated at the front of the site would be removed once road widening is undertaken for Epping Road. Further, servicing the bins from such a busy road is not acceptable on safety grounds.

The *HDCP Part 1 General in Table 1C2.3(a)* requires that residential flat buildings with more than 6 storeys should provide on-site access to the Heavy Rigid waste collection vehicle (HRV). The HRV should be parked within 10m of the bin collection point. It is considered that the proposal should comply with this provision despite the site constraints.

Residential Flat buildings within the Hornsby Town Centre have been designed on sites with steep slopes. However, in most cases, HRV access has been provided on the site, whilst complying with the maximum height requirement. The applicant's argument regarding depletion of car spaces and increasing the height of the building are not supported as these are design issues which can be resolved by reducing the yield of the site, redesigning the units and the common turning area at the ground level.

The basement and the ground floor area including the access driveway would require a redesign to accommodate truck parking and manoeuvring areas. The proposal is not supported in its current form as it cannot provide appropriate waste collection services for the future occupants.



#### **2.11.13 Accessible Design**

The applicant has submitted an Access Report which demonstrates that the units are capable of being adapted for people with a disability in accordance with *AS4299-1995 Adaptable housing*.

The development proposes continuous barrier free access to all floors via a lift and complies with the requirements of the *HDCP* with regard to the provision of adaptable and accessible units. The width of the corridors and the lift would be suitable for wheelchair access.

#### **2.11.14 Stormwater Management**

The development proposes to connect to Council's drainage system within Forest Park via an inter-allotment drainage system through six adjoining properties. Consent of the owners of these properties and Council (being the owner of Forest Park) granting easement has not been provided.

An on-site detention system has been proposed within the rear setback area to control the stormwater discharge from the site.

It is also noted that the plans submitted with the engineering details are different to the architectural plans and do not incorporate the same building footprint or internal layout.

Council's assessment of the stormwater management plan concludes that the development can be connected to the drainage system with Forest Park via the former bowling club to the south of the site and this would require inter-allotment drainage system through one property only. No details regarding the feasibility of this option have been included in the application.

#### **2.11.15 Public Domain and Traffic Management**

As previously discussed, the development would result in a net increase of 14 vehicular trips per day. The surrounding road network is capable of accommodating the additional flow.

A Traffic Management Improvement Plan, figure 3.2(r), is included in the draft amendments to the *Hornsby Development Control Plan 2013* relating to Epping UAP. This includes the widening of Epping Road to include a third westbound lane, upgrading works to the rail bridge and intersection of Blaxland Road and Epping Road, intersection improvement further east of the site, and review of prohibition of right turn from Langston place following completion of intersection works.

It is anticipated that these works would accommodate the increase in traffic in the area and ease of traffic flow within the existing network.

### **2.12 Section 94 Contributions Plan 2012 - 2021**

The Hornsby Shire Council Section 94 Development Contributions Plan 2012 - 2021 came into force on 5 September 2013. The S94 Plan applies to the development as it would result in 73 additional dwelling units.

Should approval be granted to this application, Section 94 contributions would be levied as a condition of consent.

## **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 Trees**

The site comprises a number of exotic, native planted trees and locally indigenous specimens.

The proposed development would necessitate the removal of the majority of the trees from the site to facilitate the development. The application includes an Arborist Report which identifies and assesses the impact of the development on the existing street trees and trees within the neighbouring properties.

Council’s assessment of the proposal concludes that the majority of trees considered worthy of retention are located around the site boundary in areas that may be suitable for future landscaping and those trees located towards the centre of the site are predominantly either exempt trees or otherwise considered unsuitable for retention due to fair to poor condition. The proposed tree removal is considered acceptable subject to tree protection fencing being erected around the trees within the neighbouring properties and one tree located close to the western boundary.

The development is proposed within a redevelopment precinct and would not have any adverse impact on the natural environment of the locality subject to replacement planting and appropriate landscaping.

### **3.2 Built Environment**

The building would be located within a precinct identified for future residential flat buildings of varying heights in a landscaped setting with underground car parking.

As discussed in this report, the resultant built-form would not be consistent with the desired future character of the precinct. The proposal is not assessed as satisfactory with regard to its impact on the built environment of the locality.

### **3.3 Social Impacts**

The development would improve housing choice in the locality by providing a range of household types. The location of the development is in close proximity to Epping Railway Station and the Epping Town Centre which would allow for direct access to retail, business, recreational, health and educational facilities for future residents.

### **3.4 Economic Impacts**

The development would result in a positive economic impact on the locality via employment generation during construction and minor increase in demand for local services following completion of the development.

## **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 or risk associated with the site with respect to landslip, subsidence, flooding and bushfire that would preclude development of the site.

However, given that the development would result in a built form which does not contribute positively to the locality and does not respond appropriately to the public domain, would result in reduced opportunities for landscaping and canopy tree planting, unsuitable access to the site and unacceptable on-site waste management practices, it is considered that the site is not suitable to accommodate the development in its current form.

## 2. 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 25/06/2014 and 9/07/2014 in accordance with the *HDCP 2013*. During this period, Council received one submission. The map below illustrates the location of those nearby landowners who made a submission that are in close proximity to the development site.



**NOTIFICATION PLAN**

• PROPERTIES NOTIFIED	X SUBMISSIONS RECEIVED	 PROPERTY SUBJECT OF DEVELOPMENT	
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One submission objected to the development, generally on the following grounds:

- The building would not achieve the required building separation from the adjoining residential flat building to the west;
- The units within the development have poor amenity given that a number of south facing single aspect units and the proportion of windows adjoining bedrooms;
- The building form is bulky in character;
- The proposal utilises the road widening easement as a landscaped area;
- The design of the driveway across the site is inappropriate;
- The proposal does not include on-site waste management facilities in accordance with the *HDCP*;
- The non-compliance with the rear setback would result in significant overshadowing of the future park within the RE1 zone;

Additionally the submissions included the following observations:

- *The design of the development assumes that No. 4 Epping Road would be redeveloped as a five-storey residential flat building in the future in accordance with the HLEP 2013. However, given the current strata subdivision and multiple owners, this may not be feasible in the future. Thus the design should take into consideration the adjoining development in its current form and provide additional setbacks to the west and a reduced height to facilitate the transition;*
- *A dilapidation report should be submitted, should the proposal be approved.*

The merits of the matters raised in community submission have been addressed in the body of the report with the exception of the following:

### **5.1.1 Transition in height and setbacks**

The proposed development generally complies with the setbacks on the western side except at the ground level. Given that the development is proposed within a redevelopment precinct with a desired future character of residential flat buildings with varying heights, it is not considered that further stepping of the building and reduction in height of the development is necessary.

## **3. 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 does not satisfactorily address Council's and the relevant agency's criteria and would not provide a development outcome that, on balance, would result in a positive impact for the community. Accordingly, it is considered that the approval of the proposed development would not be in the public interest.

## CONCLUSION

The application seeks approval for the demolition of the existing structures and the construction of an eight storey residential flat building comprising seventy-five units with basement car parking. The proposed development would be located on a site within a locality zoned as a high density residential precinct.

The proposed development is not assessed as satisfactory in respect to the *Hornsby Local Environmental Plan 2013*, design principles under *SEPP 65* and the best practice guidelines of the *Residential Flat Design Code*. The proposed development does not comply with the prescriptive measures of *Hornsby DCP* including the draft amendments and would result in a built form which does not contribute positively to the built environment and desired future character of the Forest Grove, Epping precinct.

The development would result in an excessive number of single aspect units with poor amenity and would not comply with the cross-ventilation requirements. The proposed location of the access driveway and the on-going waste management for the site are not supported by Council and Roads and Maritime Services.

The development proposes to drain to Council controlled drainage system within Forest Park via an inter-allotment drainage system that would require consent of seven owners including Council. No details of owners' consents have been provided.

Given the above, the application is recommended for refusal.

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



## SCHEDULE 1

### REASONS FOR REFUSAL

1. The proposed development is unsatisfactory in respect to Section 79C(a)(i) of the *Environmental Planning and Assessment Act, 1979* and provisions of applicable environmental planning instruments.
  - a) The proposed development does not have adequate regard to the design principles pursuant to State Environmental Planning Policy No. 65 – Design Quality Residential Flat Development for context, scale, built form, density, amenity, safety and security, and aesthetics.
2. The proposed development is unsatisfactory in respect to Section 79C(a)(iii) of the *Environmental Planning and Assessment Act, 1979* and the requirements of development control plans.
  - a) The proposed development does not meet design best practice benchmarks of the *Residential Flat Design Code* for number of single aspect units, percentage of naturally cross ventilated units, unit sizes, internal circulation, storage and kitchen distances from windows.
  - b) The proposed development does not meet desired outcomes and prescriptive measures of the *Hornsby Development Control Plan 2013* for desired future character, setbacks, solar access and natural ventilation, floorplates, articulation, design of communal open space, vehicle access and parking, waste management and the provisions of the Key Principles Diagram-*Forest Grove, Epping precinct*.
3. The proposed development is unsatisfactory in respect to Section 79C(1)(e) of the *Environmental Planning and Assessment Act 1979* and the public submission in response to the development application and the applicable planning controls.
4. Pursuant to the provisions of *Section 79C(1)(b)* of the *Environmental Planning and Assessment Act, 1979*, the application fails to demonstrate the following:
  - a) A satisfactory stormwater disposal method for the site as owners consent of neighbouring land owners granting easement has not been provided;
  - b) Satisfactory solar access provisions for the units as no solar access analysis, hourly shadow diagrams or documentation regarding impacts of future adjoining developments have been submitted;
  - c) Provision of satisfactory waste management as the proposed development does not include Heavy Rigid Vehicle Access provisions within the site for waste collection and servicing. The waste collection point is located within the road widening easement and would be eliminated upon widening of Epping Road.

5. Owner's consent granting an easement to drain water from the development to the Council controlled drainage system within Forest Park has not been provided.
6. The proposed development does not comply with Section 138 of the *Roads Act 1993* and the proposed location and design of the driveway is not supported by the Roads and Maritime Services due to safety reasons.
7. Pursuant to the provisions of Section 79C(1)(c) of the Act, the proposal, in its current form, is not considered to be suitable for the site as it does not demonstrate that an appropriate form of development can be achieved responding positively to the future built environment of the locality.
8. Pursuant to the provisions of Section 79C(1)(e) of the *Environmental Planning and Assessment Act, 1979*, it is considered that the proposed development would not be in the public interest.