

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

JRPP No	2014SWY080
DA Number	DA/635/2014 (Lodged 12 June 2014) – Further Report
Local Government Area	Hornsby Shire Council
Proposed Development (as amended)	Demolition of existing structures and construction of an eight storey residential flat building containing 64 units with two levels of basement car park accommodating 74 car spaces and associated landscaping works
Street Address	Lot B DP 308840 and Lot 5 DP10385 (Nos. 6-8) Epping Road, Epping
Applicant/Owner	Applicant – 8 Epping Pty Ltd Owner - Mrs P E O'Connor, Mr K K Agarwal and Mrs A Agarwal
Number of Submissions	One submission has been received
Regional Development Criteria (Schedule 4A of the Act)	Capital Investment value > \$20 million
List of All Relevant s79C(1)(a) Matters	<ul style="list-style-type: none"> • State Environmental Planning Policy No. 55 Remediation of Land • State Environmental Planning Policy No. 65 Design Quality of Residential Flat Development • State Environmental Planning Policy (Infrastructure) 2007 • State Environmental Planning Policy (Building and Sustainability Index: BASIX) 2004 • State Environmental Planning Policy No. 32 Urban Consolidation (Redevelopment of Urban land) • Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005 • Hornsby Shire Local Environmental Plan 2013 - R4 High Density Residential Zone • Hornsby Development Control Plan 2013 and the draft amendments • Section 94 Contributions Plan 2012 - 2021
List all documents submitted with this report for the panel's consideration	<ul style="list-style-type: none"> • Architectural Plans – 8 pages • Shadow Diagrams – 3 pages
Recommendation	Refusal
Report by	Aditi Coomar

ASSESSMENT REPORT AND RECOMMENDATION

EXECUTIVE SUMMARY

1. The application (as amended) proposes the demolition of existing dwellings and the construction of an eight-storey residential flat building containing 64 units and two levels of basement car parking.
2. On 7 October 2014, the applicant submitted concept amended plans to address the concerns raised by Council.
3. This report includes a summary of the proposed amendments with minor changes to the recommendation.

RECOMMENDATION

THAT Development Application No. 635/2014 for demolition of existing dwellings and the construction of an eight-storey residential flat building containing 64 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.

AMENDMENTS TO THE PROPOSAL

The applicant submitted concept amended plans on 7 October 2014 to address the concerns raised by Council. The amendments are summarised below:

- The units on the ground floor have been deleted reducing the total number of units to 64;
- 8 x 1-bedroom units at the north-eastern corner on Levels 1- 3 (Units 110, 111, 210, 211, 310, 311 and 410, 411) have been replaced by 4 x 2-bedroom corner units (110, 210, 310, and 410). Details of the internal layout of the new unit type have not been submitted;
- The amended unit mix would comprise 2 x studio, 32 x 1 bedroom, 22 x 2 bedroom and 8 x 3 bedroom units;
- The balcony encroachments within the side setbacks at the ground level have been deleted;
- Internal storage areas have been included for all units;
- Kitchens have been relocated for a number of units so that the distance of the back of the kitchen from the window is no more than 8m;

- The driveway has been redesigned by deleting the section traversing the front setback of the site;
- Vehicular access to the site is proposed from Epping Road via a 6m wide driveway along the eastern side of the site with the entry point at the south-eastern corner of the building rather than the north-west;
- Heavy Rigid Vehicle access is proposed at the ground level to facilitate garbage collection;
- The basement has been redesigned to incorporate a garbage room at the ground level and delete the "small car only" spaces;
- The car parking area would accommodate 74 spaces including residents' and visitors' spaces. Disabled car spaces have not been marked on the basement plan;
- The amended basement plan includes storage areas for all units and bicycle storage spaces;
- Planter boxes have been deleted on all facades to emphasise façade articulation;
- Hourly solar access diagrams have been submitted; and
- Additional documentation regarding cross-ventilation has been submitted.

ASSESSMENT

A preliminary assessment of the amended plans has been conducted having regard to the matters for consideration prescribed under *Section 79C* of the *Environmental Planning and Assessment Act 1979* (the Act).

The following tables set out the amended proposal's compliance with the *Residential Flat Design Code* and the *Hornsby Development Control Plan 2013* respectively:

Residential Flat Design Code			
Control	Proposed	Requirement	Compliance
Deep Soil Zone	40%	25%	Yes
Communal Open Space	Details not provided	25%	No
Private Open Space (Ground)	<25m ² <4m depth	25m ² 4m min depth	No No

Dwelling Size	Studio – 42 m ² 1 br – 55m ² – 74m ² 2 br – 90m ² – 112m ² 3 br – 110m ² -112m ²	Studio – 38 m ² 1 br – 50m ² 2 br – 70m ² 3 br – 95m ²	Yes Yes Yes Yes
Single aspect unit depth and	42% of the single aspect units have depth >8m	8m	No
Distance to back of the kitchen	8m max	8m max	Yes
Minimum Balcony Depth	2m 1m for ground floor units	2m	Yes No
Ceiling heights – Residential floors	2.7m – no sections submitted	2.7m	Yes
Total Storage area	1 br - > 6m ³ 2 br - > 8m ³ 3 br - > 10m ³ > 50% accessible from the apartments	1 br - > 6m ³ 2 br - > 8m ³ 3 br - > 10m ³ > 50% accessible from the apartments	Yes
Dual Aspect & Cross Ventilation	54.6% (35/64)	>60%	No
Adaptable Housing	34%	10%	Yes
Units accessed from a single corridor	10	8	No
Single aspect south facing units	7.8%	10% max	Yes
Kitchen with access to natural ventilation	6.25% (4 kitchens)	25% min	No

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

Height of basement above ground	1m	1m (max)	Yes
Front Setback (Epping Road)	13.8m (10m from road easement)	10m	Yes
	8m-9m(balconies from road easement)	7m (balconies)	Yes
Rear Setback	7m - 7.8m	10m and	No
	N/A	8m < 1/3 frontage	N/A
	6m (balconies)	7m (balconies)	No
Eastern Side Setback	9m – 10m	9m	Yes
	18m < 1/3 frontage (upto Lvl 3)	7m (for 9.6m length)< 1/3 frontage	No
	9m < 1/3 frontage (Lvl 4 and above)		Yes
	6m – 9m (balconies)	6m (balconies)	Yes
Western Side Setback	9m – 10m	9m	Yes
	21m < 1/3 frontage (upto Lvl 3)	7m (for 9.6m length)< 1/3 frontage	No
	9m < 1/3 frontage (Lvl 4 and above)		Yes
	6m – 9m (balconies – upper floor)	6m (balconies)	Yes
Top Storey Setback From Ground Floor	3m additional provided except rear setback	3m additional	Yes
Underground Parking Setback	7m – front		Yes
	4.4m – From road easement	7m front and rear	No
	7m – rear	6m sides	Yes
	6m - sides		Yes
Basement Ramp Setback	2m	2m	Yes
Building Separation (sides)	12m (for unscreened areas up to level 4)	12m (for unscreened areas up to level 4)	Yes
	18m (for unscreened areas on level 5)	18m (for unscreened areas on level 5)	Yes

Deep soil	7m front	7m front and rear	Yes
Landscaped areas	4.4m – From road easement	6m sides	No
	7m rear		Yes
	6m sides		Yes
Private Open Space with Min Width 2.5m	1 br units >10m ² except ground floor	1 br units 10m ² (min)	Yes
	2 br units >12m ²	2 br units 12m ² (min)	Yes
	3 br units >16m ²	3 br units 16m ² (min)	Yes
Communal Active area	Insufficient information	50m ² (min)	No
Communal Landscape Dim		6m (min)	No
Parking (site within 800m of railway station)	60 resident spaces	60 resident spaces	Yes
	10 visitor spaces	10 visitor spaces	Yes
	12	20 bicycle racks	No
	None	2 motorbike space	No
Solar Access	Insufficient information	70% units receive 2 hours	No
		2 hours to Communal Open Space	No
Housing Choice	10% of each type (min)	10% of each type (min)	Yes
			Yes
			Yes
Adaptable Units	34%	30%	Yes

As detailed in the above tables, the proposed amendments address a number of concerns raised by Council. However, a number of concerns have not been addressed via the amended plans. The amended proposal includes concept only plans and was submitted one week prior to the date of meeting. Consequently, the application has not been re-advertised or referred to Roads and Maritime Services for comments.

The amended plans have been assessed against the recommended grounds for refusal below.

Reason for Refusal No. 1

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.

Comment

The proposed building footprint is an improvement over the original proposal. However, given that the basement would be located within 4.4m of the road widening easement, there would be minimal opportunities for landscaping once Epping Road is widened. The location of the driveway within the eastern setback would reduce opportunities for canopy tree planting. Non-compliance with the rear setback coupled with the exclusion of the laneway from the rear would result in a site plan which is non-compliant with the Key Principles diagram for the *Forest Grove, Epping Precinct*.

The overall built form would not reflect the desired character of the area as outlined in the *Hornsby Development Control Plan 2013*. The façade articulation has been increased. However the floor plans require further modification to exclude repetitive elements and continuous bands of balconies, especially on the lower levels.

The concept plans do not include amended landscape plans or BASIX certificate. Therefore, further assessment in this regard cannot be conducted.

Given the above, it is considered that the amendments are not satisfactory 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 and do not address the above reason for refusal.

Reason for Refusal No. 2

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.*

Comment

Residential Flat Design Code

The proposed amendments have been assessed against the Rules of Thumb within the *Residential Flat Design Code* and the following comments are provided:

- Only 54.6% of the units would be naturally cross-ventilated. The applicant submits that deep indents have been provided on the facades to facilitate cross ventilation. However, the plans do not indicate that windows have been provided in two different orientations. Accordingly, the applicant's argument is not supported with regard to cross ventilation.
- 42% of the single aspect units would have a depth greater than 8m. The applicant submits that this has been addressed by placing the kitchen within 8m of a window. However, amended unit layouts have not been submitted to demonstrate that primary living areas of the single aspect units would be within 8m of the window. It is considered that sections of the living areas would be located outside the desired distance and would compromise the amenity of the future occupants.
- 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 m² whereas the RFDC generally requires the floor area of such units to be at least 63 m²;
- Only 4 kitchens at the uppermost level would have direct access to a window;
- The ground levels units at the rear have been deleted. The units on the ground floor fronting Epping Road would include private open space area compliant with the *HDCP* rather than *RFDC*. As such, this is acceptable given that the open space areas would be susceptible to road noise. However, Unit 109 would only include 5sqm of open space. The balcony depths for none of the ground level units comply with the minimum depth required by *HDCP* or *RFDC*.
- The amended proposal would still involve 10 units being accessed from a corridor with minimal foyer area.

Given the above, it is considered that the amended proposal would require further modification to comply with the relevant best practice guides and rules of thumbs within the *RFDC* and cannot be supported in its current form.

Hornsby Development Control Plan 2013

The proposed amendments have 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 amendments to the *HDCP* regarding Epping UAP that are relevant to the site and the following comments are provided:

- The proposed landscape screening along the front boundary would be minimal following widening of Epping Road as the basement encroaches within 4.4m of the front boundary;
- The building would dominate the streetscape given the lack of deep soil planting;

- The deep soil zone area to the rear is compromised due to non-compliance with the setback requirement;
- The development footprint would not maintain the desired landscape corridors, given lack of canopy tree planting within the front, driveway on the eastern setback and non-compliant setback to the rear;
- The applicant submits that the site is constrained due to location of the road-widening easement in front. Therefore, non-compliance with the rear setback requirement should be accepted. This argument is not supported given the adoption of the amendments to *HDGP* which require the provision of a laneway within the rear setback. The rear setback is required to accommodate the laneway providing alternate access to the site and the precinct in addition to screen planting and communal open space areas. The non-compliance will result in significant adverse impacts on the traffic management plan for the area and the *Key Principles Diagram for Forest Grove, Epping precinct*.
- It appears from the amended plans that the balconies at the corners would include solid balustrades which do not contribute to the building articulation, rather result in the appearance of a continuous wall of development;
- The amended plans do not include details of landscaping or location of communal open space areas;
- The building design and the proposed setbacks have not achieved the objectives of the "Setback" element as the encroachments do not comply with that outlined within the *HDGP*. Accordingly, a balance of solids and voids has not been achieved and the amended proposal does not improve the appearance of the building in this regard.
- 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 *HDGP* and does not comply with its intent. The façade articulation has been improved by deleting the planter boxes and introducing indents. However, the amended façade designs are essentially similar to those previously proposed.
- The applicant submits that 75% of the units would receive a minimum 2 hours of unobstructed sunlight access between 9am and 3pm on June 22. Hourly elevation shadow diagrams have been submitted. However, the shadow diagrams do not take into account the overshadowing impacts from future five storey developments on adjoining sites. Accordingly, the solar access diagrams are not considered satisfactory.
- The applicant has submitted an amended plan for the basement and access to the site. Council has assessed the amended plans and is satisfied that the basement and driveway design would address Council's concerns in the following ways:
 - A garbage collection area has been proposed at the ground level;

- Heavy Rigid Vehicle access has been provided for the site. This would enable satisfactory garbage collection and allow the garbage truck to enter and exit the site in forward direction on to Epping Road.
 - Should the application be approved, left in left out access from the site could be enforced via construction of a concrete median subject to concurrence from Roads and Maritime Services.
- The following issues regarding vehicular access to the site and parking areas remain outstanding:
 - The design of the development should incorporate the laneway provision at the rear to enable the precinct to be developed in the future as per the *Key Principles Diagram, Forest Grove, Epping precinct*.
 - The basement and the ground floor car park areas should connect to the rear lane in the future by virtue of design.
 - The basement plans should include provisions for disabled car spaces and motorcycle parking in accordance with the *HDCP*.
 - The amended plans do not include any Sections. Accordingly, it cannot be determined whether the height clearance complies with AS2890.2.

Given the above, it is considered that the amended proposal does not satisfactorily address Council's concerns in relation to non-compliances with the desired future character, setbacks, solar access and natural ventilation, floorplates, articulation, design of communal open space, vehicular access and parking and the Key Principles Diagram-Forest Grove, Epping precinct.

Reason for Refusal No. 3

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.*

Comment

The amended proposal has not been re-notified. Therefore, the objections to the original application are applicable.

Reason for Refusal No. 4 and 5

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.*

Comment

- The amended proposal addresses Council's concerns by providing details of garbage collection;
- The solar access diagram is not considered satisfactory as it does not include impacts of future five-eight storey developments on adjoining sites;
- Details of owner's consent of neighbouring land owners would be required to demonstrate that the stormwater can be disposed satisfactorily.

Reason for Refusal No. 6

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.*

Comment

The amended application has not been notified to Roads and Maritime Services for comments.

Reason for Refusal No. 7 and 8

- 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.*

Comment

Given the discussions in this report, it is considered that the amended proposal does not satisfactorily address Council's concerns and the development in its current form is not considered to be appropriate for the site or in the public interest.

CONCLUSION

The amended application seeks approval for the demolition of the existing structures and the construction of an eight storey residential flat building comprising sixty-four 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 recent 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 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 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:
 - d) A satisfactory stormwater disposal method for the site as owners consent of neighbouring land owners granting easement has not been provided;
 - e) Satisfactory solar access provisions for the units as documentation regarding impacts of future adjoining developments on the solar access provisions to the units have been not submitted;
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.