

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

<b>JRPP No</b>	2014SWY091
<b>DA Number</b>	DA/674/2014 (Lodged 20 June 2014)
<b>Local Government Area</b>	Hornsby Shire Council
<b>Proposed Development</b>	Demolition of existing structures and construction of a five storey mixed use development comprising a 56 place child care centre below shop-top housing with 26 residential units and basement car park accommodating 53 car spaces
<b>Street Address</b>	Lot 1 DP 206275, Lot 1 DP 795814 (No. 548) Pennant Hills Road, West Pennant Hills
<b>Applicant/Owner</b>	Applicant – Revelop Projects Pty Ltd Owner - Poliniti Ventures Pty Ltd
<b>Number of Submissions</b>	Seven submissions have been received
<b>Regional Development Criteria (Schedule 4A of the Act)</b>	Capital Investment value - \$ 8.6 million (Community Facility)
<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 20 (Hawkesbury and Nepean River)</li> <li>• Hornsby Shire Local Environmental Plan 2013 – B2 Local Centre</li> <li>• Hornsby Development Control Plan 2013</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 – 15 pages</li> <li>• Diagrams for a compliant development on adjoining site – 4 pages</li> <li>• Landscape Plan, stormwater plan – 2 pages</li> <li>• Shadow Diagrams – 6 page</li> </ul>

	<ul style="list-style-type: none"><li>• Photomontage – 1 page</li></ul>
<b>Recommendation</b>	Approval
<b>Report by</b>	Aditi Coomar, Senior Town Planner

## **ASSESSMENT REPORT AND RECOMMENDATION**

### **EXECUTIVE SUMMARY**

1. The application proposes the demolition of existing dwellings and the construction of a five-storey mixed use development comprising a 56 place child care centre, shop-top housing with 26 units and basement car parking.
2. The proposal complies with the provisions of *State Environmental Planning Policy No. 65, Residential Flat Design Code* and the *Hornsby Development Control Plan 2013*.
3. Seven submissions have been received objecting to the application.
4. It is recommended that the application be approved.

### **RECOMMENDATION**

THAT Development Application No. 674/2014 for demolition of existing structures and the construction of a five-storey mixed use development comprising a 56 place child care centre, shop-top housing with 26 units and basement car parking at Lot 1 DP 206275, Lot 1 DP 795814 (No. 548) Pennant Hills Road, West Pennant Hills be approved subject to the conditions of consent detailed in Schedule 1 of this report.

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### **BACKGROUND**

The site has been used for commercial purposes since the 1960s. The building on the site has existed in its current form since circa 1961.

The subject land was included in the 'Thompsons Corner, West Pennant Hills precinct' rezoned for 5-storey mixed used development on 15 September 2011 as part of Council's Housing Strategy.

On 21 November 2013, a pre-lodgement meeting was held between Council officers and the applicant to discuss the development.

On 20 June 2014, DA/674/2014 was lodged with Council for a 5-storey mixed-use development comprising a child care centre and 30 residential units with a mezzanine floor. The proposal did not comply with provisions of the *Hornsby Local Environmental Plan 2013* and *Hornsby Development Control Plan 2013*.

Following concerns raised by Council Officers and the Joint Regional Planning Panel, a meeting was held with the applicant to discuss the non-compliances.

On 1 October 2014, the applicant submitted amended plans addressing Council's concerns. The amended plans reduced the proposed number of residential units to 26, deleted the mezzanine floor and included the requested additional information.

## **SITE**

The site comprises two irregular shaped allotments located on the north-western side of Pennant Hills Road, West Pennant Hills approximately 160m north of its intersection with Castle Hill Road. The site has an area of 1,302.6 sqm, frontage of 27.1m and a 2.5% diagonal cross fall to the rear.

The current improvements on the site include a single storey commercial building with at grade car parking at the rear. The existing commercial building has a gross floor area of 305 sqm. Vehicular access to the site is provided via a driveway along the north-eastern boundary.

The site forms part of the commercial precinct known as Thompsons Corner, West Pennant Hills. Surrounding developments within the precinct include a mix of business premises, including shops and offices. A Liquorland store adjoins the site to the north-east. A driveway providing access to the Coles supermarket and car park adjoins the site to the south-west. A '7-Eleven' service station and convenience store is located south of this driveway fronting Pennant Hills Road. Tennis courts and playgrounds of the West Pennant Hills Public School adjoin the site to its north-west. A number of large significant trees within the school grounds are located in close proximity to the rear boundary. Low density residential developments are located on the opposite (eastern) side of Pennant Hills Road.

The site is located approximately 1.5km south-west of the Beecroft Railway Station. The North-West Rail link tunnel, currently under construction, would pass below the southern boundary of the site.

## **PROPOSAL**

The proposal involves the demolition of existing structures on the site and construction of a mixed use development comprising a child care centre, four levels of shop-top housing, at grade and basement car parks. The building would be contemporary in design with a three-storey high residential tower over a two storey podium. A continuous awning is proposed along the Pennant Hills Road frontage of the building. Details of the proposal are provided below.

### **Child care centre**

- A child care centre with the capacity for 56 children is proposed in the following age categories:
  - 0-2 years: 8 children
  - 2-3 years: 18 children
  - 3-6 years: 30 children
- The centre would be located at the ground level and partly at the first floor level (front section of the building only). The ground level would include a foyer and reception area, lift and services areas, a covered play area and an outdoor play area at the northern corner (rear) of the site.

- Three separate indoor play rooms to cater for each age group are proposed at the first floor level. Other facilities include an office, children's toilet, staff room, WC, laundry, kitchen, craft room, cot room, bottle preparation area and storage.
- Proposed hours of operation would be 7.00am to 6:00 pm Monday to Friday.
- A maximum of 8 staff members would be present on site at any one time.

### **Shop-top housing**

- Four levels of residential units are proposed to be located above the ground floor commercial use including eight units adjoining the child care centre at the first floor level;
- The unit mix would comprise of 9 x 1 bedroom, 12 x 2 bedroom and 5 x 3 bedroom units; and
- The majority of the units proposed would be two-storey cross over units with balconies fronting the north, south and rear.

### **Access and Parking**

- The development would be accessed from Pennant Hills Road via a driveway located along the south-western boundary of the site;
- Five residential visitors' car spaces and 14 car spaces dedicated to the child care centre would be located at the ground level separated from the play areas;
- A total of 34 car parking spaces are proposed at the lower basement level, catering for the residents;
- Pedestrian entry to the child care centre would be provided directly from Pennant Hills Road and from the ground level car park. A separate pedestrian entry would provide access to all the residential levels from the foyer; and
- Garbage rooms with a loading/truck turning area are proposed within the ground level.

### **Stormwater drainage**

- The site would drain to the drainage system within Pennant Hills Road via an on-site detention system located under the driveway.

## **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 proposed development would be consistent with the *Metropolitan Plan for Sydney 2031* by providing an additional 26 dwellings towards Council's dwelling target. The development would also provide a child care facility to support a growing population.

## **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 B2 (Local Centre) under the *Hornsby Local Environmental Plan 2013 (HLEP)*. The objectives of the zone are:

- *To provide a range of retail, business, entertainment and community uses that serve the needs of people who live in, work in and visit the local area.*
- *To encourage employment opportunities in accessible locations.*
- *To maximise public transport patronage and encourage walking and cycling.*

The proposal includes a "child care centre" and "shop-top housing". No other commercial uses are proposed at the ground level.

The B2 zone permits 'shop-top housing' but prohibits any other form of "residential accommodation". A 'child-care centre' is a separately defined use under the *HLEP* and is permissible within the zone. The *HLEP* includes the following definitions:

**shop top housing** means one or more dwellings located above ground floor retail premises or business premises.

**business premises** means a building or place at or on which:

(a) an occupation, profession or trade (other than an industry) is carried on for the provision of services directly to members of the public on a regular basis, or  
(b) a service is provided directly to members of the public on a regular basis,  
and includes a funeral home and, without limitation, premises such as banks, post offices, hairdressers, dry cleaners, travel agencies, internet access facilities, betting agencies and the like, but does not include an entertainment facility, home business, home occupation, home occupation (sex services), medical centre, restricted premises, sex services premises or veterinary hospital.

**commercial premises** means any of the following:

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

**child care centre** means a building or place used for the supervision and care of children that:

(a) provides long day care, pre-school care, occasional child care or out-of-school-hours care, and  
(b) does not provide overnight accommodation for children other than those related to the owner or operator of the centre,

The applicant submits the following argument to support the permissibility of the proposed development:

A “child care centre” is a form of “business premise” as it would provide a service directly to members of the public and would constitute an occupation/profession or trade. The statement is supported by legal advice which indicates that “service” is considered to be “an act of helpful activity”, as accepted by the Land and Environment Court (examples cited). A child care centre provides a “service” on a regular basis to paying members of the public. Whilst child care centre has not been included within the definition of “business premise”, it has not been specifically excluded. As such, the term “business premise” does not include an exhaustive list of uses. Given the nature of service provided by professionals, a child care centre can therefore constitute a business premise.

The list of permissible uses within the B2 zone does not specifically include a “business premise”. However, a “commercial premise” is permissible in the zone, which includes a “business premise”. Given that the development proposes a business use at the ground level, the proposed residential units on the upper levels would constitute shop-top housing and therefore, the development in its current form would be permissible on the subject site.

Council’s solicitors have reviewed the submitted legal advice and concur with the applicant’s argument regarding permissibility of the proposed development. It is reasonably arguable that the child care centre proposed at the ground level constitutes a “business premise” as defined by the *HLEP*. The car-parking area at the rear of the child care centre is ancillary to the facility. Therefore, the majority of the ground floor area would be utilised as a commercial premise except the residential foyer area

which is ancillary to the residential use. Given that the proposed residential accommodation is located above a business use, the development constitutes “shop-top housing”.

Based on the supporting documentation provided and the Legal advice received by Council, it is considered that the development in its current form constitutes a “child care centre” and “shop-top housing” and would be permissible on the subject site.

### **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 17.5 metres. The proposal complies with this provision.

### **2.1.3 Floor Space Ratio**

Clause 4.4(2) of the *HLEP* provides that the floor space ratio (FSR) on any land is not to exceed the maximum shown for the land on the Floor Space Ratio Map. The maximum permissible FSR for the precinct in accordance with the map is 1:1.

Clause 4.4(2C) states the following:

*Despite subclause (2), the floor space ratio for development on land identified as “Area 5” on the Floor Space Ratio Map may exceed the floor space ratio shown for the land on the Floor Space Ratio Map if the development is for the purposes of:*

- (a) shop top housing, and*
- (b) any other land use permitted in the zone, other than residential accommodation, that comprises a floor space ratio of at least 0.5:1.*

The subject site is located within “Area 5” on the Floor Space Ratio Map. The proposal constitutes shop top housing and a child care centre. The child care centre component would have a gross floor area of 650 sqm including the ground level play space, the floor space ratio being 0.5:1. Accordingly, the proposal complies with Clause 4.42(c) of the *HLEP*.

### **2.1.4 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*. Accordingly, no further assessment in this regard is necessary.

### **2.1.5 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.

Council’s assessment concludes that the proposal would be satisfactory in regards to earthworks subject to appropriate conditions regarding the preparation of dilapidation reports assessing impacts of excavation on adjoining properties 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 application is supported by a preliminary site contamination investigation report prepared by *Getex*. The report states that the site was used as an orchard between 1916 and 1957 before commercial use began in the 1960s. The commercial uses within the site included restaurants and automotive part retailers. The adjoining property to the north-east was occupied as a service station previously. The neighbouring property to the south-west is currently being utilised as a service station. The Coles supermarket building has a history of use as a timber yard.

Given the nature of use of the premises, the adjoining properties and the proximity to Pennant Hills Road, the report concludes that the site has potential to contain below ground contamination. Details of potential contaminants have been identified in the report and a phase 2 site contamination investigations recommended. However, a detailed investigation of the site cannot be undertaken unless the existing building is demolished. Accordingly, it is recommended that detailed site contamination assessment and any required remediation measures be carried out, subject to Council's approval, after the demolition of the building and prior to the issue of the construction certificate for any other building works on the site.

Conditions of consent, listed in Schedule 1 of this report, have been staged accordingly.

## **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 storey mixed use developments. The desired future character of the area, as outlined in the *Hornsby Development Control Plan 2013*

(HDCP), is that of a high density mixed use precinct incorporating five storey mixed use developments with at grade parking for retail customers and parking in basements for employees and residents. Business uses are required to be located on the lower two storeys providing a broad podium with dwellings above, creating a pedestrian friendly scale.

The Design Verification Statement indicates that the proposal responds to the desired future character of the precinct as envisaged by Council by incorporating a podium with residential tower above and continuous awnings. The precinct is already an established commercial hub and the subject site is disconnected from the main retail strip to the south due to the driveway, service station and the Coles supermarket building. It is considered that a child care centre at the ground level, would be an appropriate use in the context of the surrounding land uses. The proposed use would maintain significant activities during the week and would reasonably present an active frontage to the main road.

The addition of 26 residential units and the child care centre would contribute positively to the existing businesses of the area and stimulate the economy of the wider area. Once the redevelopment of the precinct is completed, the proposal would integrate with the surrounding sites and would be in keeping with the desired urban form. It is considered that the proposed building would contribute to the identity and future character of the precinct and responds suitably to the 'context' principle of SEPP 65, considering the established and 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. The proposed height and setbacks provide an architectural composition that achieves the required podiums with active frontage. The scale of the development is considered appropriate for the site and consistent 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 proposed five storey development would be the first within the 'Thompsons Corner, West Pennant Hills precinct' following change to planning controls as part of Council's Housing Strategy.

The building is appropriately articulated to add to the visual interest of the development. The matter has been assessed in detail against the applicable prescriptive measures within the *HDCP* 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 proposal complies with the maximum FSR prescribed by the *HLEP* and achieves a dwelling density that is consistent with the prescriptive measures within the *HDCP*. The proposal is assessed as satisfactory with regard to the principle “Density”.

#### **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 site includes minimal landscaping opportunities except at the rear. The design includes appropriate landscaping within the rear setback and the outdoor play area.

Given the above, the proposal satisfies 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 proposed units are designed to achieve natural ventilation, sunlight and acoustic privacy in accordance 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 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 application includes an assessment of the proposal 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 side and rear boundaries, providing passive surveillance of the public domain and common areas. The vehicular and pedestrian entry points would also be located in prominent locations with controlled access.

To ensure that adequate safety is maintained, a number of conditions are recommended including controlled entry points; security gate access to basement car park; intercom access for pedestrians; security deadlocks to each apartment door; foyer door construction of safety glass; lighting for building foyer entries, driveways and common external spaces and on-going management of building repairs and landscaping.

Given the above, the proposal is 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 consistent with the design principles contained within the *RFDC* and *HDCCP*. The matter has been assessed in detail against the applicable prescriptive measures within the *HDCCP* as outlined in Section 2.11 of this report.

The proposal is 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	4%	25%	No
Communal Open Space	None proposed	25%	No
Building Separation	3m – 6m	12m – levels 1 – 4 18m – level 5	No Yes
Dwelling Size	1 br – 50m <sup>2</sup> – 55m <sup>2</sup> 2 br – 78m <sup>2</sup> – 86m <sup>2</sup> 3 br – 95m <sup>2</sup> -110m <sup>2</sup>	1 br – 50m <sup>2</sup> 2 br – 70m <sup>2</sup> 3 br – 95m <sup>2</sup>	Yes Yes Yes
Maximum Kitchen Distance	6m (max)	8m	Yes
Minimum Balcony Depth	2.5m	2m	Yes
Ceiling heights - Residential floors	3.1m	2.7m	Yes
Total Storage area	1 br - > 6m <sup>3</sup> 2 br - > 8m <sup>3</sup> 3 br - > 10m <sup>3</sup> > 50% accessible from the apartments	1 br - > 6m <sup>3</sup> 2 br - > 8m <sup>3</sup> 3 br - > 10m <sup>3</sup> > 50% accessible from the apartments	Yes
Dual Aspect & Cross Ventilation	76.9%	60%	Yes
Adaptable Housing	30%	10%	Yes
Units accessed from a single corridor	13	8	No
Single aspect south facing units	None	10% max	Yes
Kitchen with access to natural ventilation	25%	25% min	Yes

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 *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 on the north-eastern side as a 6m setback has been provided. The south-western boundary of the site currently adjoins a driveway to the Coles car park. The Key Principle Diagram for the Thompsons Corner, West Pennant Hills precinct, within the *HDCP*, includes a central roadway at this location providing access to the precinct. Given this, a building separation requirement of 12m to 18m would not apply to the southern side. The proposed setback of 3m – 6m on this side is considered acceptable.

#### **2.4.2 Apartment Layout**

The layout of the proposed apartments includes a combination of single aspect units, corner units and two –storey dual aspect crossover units. The two storey cross-over units achieve the desired natural ventilation. The unit layouts would provide for housing choice and a range of household types.

The proposed apartment layouts are functional and satisfy the *RFDC* requirements for internal privacy, and natural ventilation. It is considered that the apartment layout and unit mix achieve the intent of the best practice requirements of the *RFDC* and are acceptable in this regard.

#### **2.4.3 Internal Circulation**

The proposed development includes access to all floors via a lift. The development includes two storey units, the entry point to the units being provided on alternate floors. The number of units (13) accessed from one corridor, does not comply with the best practice requirements of the *RFDC*.

In this regard, it is considered that the designs of the units do not constitute a typical layout with single level units accessed from a foyer. The total number of units proposed and the overall density of the development is assessed as satisfactory. Accordingly, the non-compliance is supported in this instance.

#### **2.4.4 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. The residential use is well separated from the child care via careful location of windows and noise generating areas. Accordingly, the proposal is consistent with the *RFDC* for acoustic privacy.

#### **2.4.5 Communal Open Space and Deep Soil Zone**

The proposed development would be located within an established business precinct. There are limited opportunities on site to provide deep soil zones and communal open space in accordance with the prescriptive measures of the *HDCP*.

Given this, the non-compliance with *RFDC* with regard to deep soil zones and communal open space area is acceptable.

### **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 Pennant Hills Road via a 6m wide driveway. Vehicular movement would be restricted to left in and left out given the location of the central median in Pennant Hills Road. Section 138 of the *Roads Act 1993* requires consideration as the proposal includes a new driveway crossing accessed via Pennant Hills Road.

The application was referred to Roads and Maritime Services (RMS) for concurrence under the *Roads Act 1993*. The letter of concurrence from RMS includes a road widening plan for Pennant Hills Road affecting the entire frontage of the site. RMS has advised that the road widening has already occurred and that the proposed building would not be affected by any further road widening provisions.

No objections to the development were raised by the RMS, subject to conditions of consents.

## **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 (Pennant Hills Road) and an interim rail corridor (North-West rail link). The following matters are required to be considered pursuant to the *SEPP*:

### **2.8.1 Development within or adjacent to interim rail corridor**

The proposal has been assessed against the requirements of Clause 88 of *SEPP (Infrastructure)* as the site adjoins the proposed North-West Rail Link (southern side).

The application was referred to State Rail for concurrence in accordance with the requirements of *Clause 88*. Concurrence has been granted by the Public Authority with no specific conditions recommended.

### **2.8.2 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 Pennant Hills Road and proposes a 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.*

The compliance of the proposal with the objectives of Clause 101 has been assessed under the following headings:

#### **2.8.2.1 Impact of the development on Pennant Hills Road**

The development would front Pennant Hills Road which is a State Road carrying three traffic lanes in each direction separated by a concrete median island in the vicinity of the site, with turning bays at key locations. Clearway restrictions apply during commuter peak periods. The traffic volume on Pennant Hills Road (northbound) is currently in the order of 3000 vehicles/hours in the commuter peak hours.

The *Roads and Maritime Services* publication "*Guide to Traffic Generating Development*" states that the typical one-way mid-block lane capacities for a 4-lane divided urban arterial road under interrupted flow conditions are 1,900 vehicles/hour/lane assuming *Clearway* conditions. In the vicinity of the development site, Pennant Hills Road has three travel lanes northbound and the above figure would apply in terms of carriageway capacity. Based on the observed traffic flows, the estimated *Volume to Capacity Ratio* (the degree of congestion) of Pennant Hills Road has been established to be less than 0.52 which is less than 52% of the nominal capacity (midblock).

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 result in a nett increase of 48.7 vehicle trips in peak hour traffic. The projected increase in traffic activities is minimal when compared to the maximum number of vehicles that can be accommodated by Pennant Hills Roads, in the vicinity of the site.

Extensive traffic modelling was undertaken as a part of Council's *Housing Strategy* at the time of rezoning of the precinct, including consultation with RMS. The traffic studies estimated the cumulative impact of the traffic generated after the redevelopment of the precinct and no additional traffic improvement works or intersection upgrading works have been recommended for the precinct. RMS has reviewed the proposal having regard to its impact on Pennant Hills Road and raises no objections subject to conditions of consent.

It is considered that the net traffic generated by the development would have negligible impacts on the surrounding road network, given the existing traffic volumes and the carrying capacities. The location of the driveway is considered safe and acceptable by RMS. Consequently, it is concluded that the proposed development would not adversely impact on the on-going operation of Pennant Hills Road and would comply with the objectives of *Clause 101*.

#### **2.8.2.2 Impact of airborne contaminants on the proposed development**

The application is supported by an Air Quality Assessment Report which includes monitoring results for Carbon Monoxide, airborne dust, lead and benzene. The report concludes that the airborne

contaminant levels detected during investigation were below the National Environmental Protection (Ambient Air Quality) Measure (NEPM) Air Quality goals, adopted as indicative guidelines. The study did not identify airborne contaminants that would restrict the development of the site as a child care centre or as a residential accommodation. Council's assessment of the proposal in this regard was based on the submitted report and the analysis results. It is concluded that the development would not be adversely impacted by airborne emissions and dust. The application is assessed as satisfactory in this regard.

### **2.8.2.3 Impact of Traffic Noise**

The matters in relation to traffic noise are discussed below.

### **2.8.3 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 Pennant Hills Road is 61,000. Accordingly, based on traffic generation, Clause 102 of the *SEPP* applies.

The applicant has submitted an Acoustic Assessment report which considers the impacts of external noise on the residential development. The report identifies the potential noise sources to be the following:

- Pennant Hills Road
- The surrounding uses including the service station to the south
- The proposed child care centre
- West Pennant Hills Public School

The report provides details of construction techniques/ measures to attenuate noise and vibration including glazing thickness, acoustic treatment of walls for the units and the childcare centre and 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 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.

The submitted report also recommends that active outdoor play area times be restricted to a maximum of 2 hours per day and the number of children playing outside be restricted to 40 at any one time to maintain the acoustic privacy of the future residents. Based on this recommendation, condition 68 of the development consent requires the following:

- Play times within the open to air outdoor play area at the rear be restricted to between 10:00 am and 12:00 noon; and
- A maximum of 40 children can play within the open to air outdoor play area at any one time.

#### 2.8.4 Traffic Generating Development

The development is not classified as Traffic Generating Development in accordance with Clause 104 and Schedule 3 of SEPP (Infrastructure) as it would not result in more than 75 dwellings or 2500 sqm of commercial floor area fronting a classified road. No objections have been raised by RMS with regard to traffic generation. Therefore, no further assessment in this regard is necessary.

#### 2.9 Sydney Regional Environmental Plan No. 20 (Hawkesbury - Nepean River)

The application has been assessed against the requirements of *Sydney Regional Environmental Plan No. 20 (SREP 20)*. The Policy provides general planning considerations and strategies to ensure Council considers the impacts of this proposal on water quality, scenic quality, aquaculture, recreation and tourism.

The proposal includes details of stormwater management of the site including the provision of an on-site detention system. Council's assessment of the proposal in this regard concludes that the development is satisfactory. Conditions are recommended with respect to installation of sediment and erosion control measures prior to, and during, construction (Condition Nos. 11, 15, 35 and 38).

The proposed development would have minimal potential to impact on the Hawkesbury-Nepean Rivers Catchment subject to the implementation of recommended conditions.

#### 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 proposed development has been assessed having regard to the relevant performance and prescriptive requirements within Part 1 and "*Section 4.4—Mixed Use Precincts (5 storeys)*" and "*Section 7 – Community Uses*" of the *Hornsby Development Control Plan 2013 (HDCP)*. The following table sets out the proposal's compliance with the relevant provisions of the Plan:

Hornsby Development Control Plan – Section 4.4			
Control	Proposal	Requirement	Compliance
Site Width	27.1m	30m	No

<b>Height</b>	5 storeys – 17.5m	5 storeys – 17.5m	Yes
<b>Podium</b>	2 storeys	2 storeys	Yes
<b>FSR (Commercial)</b>	0.5:1	0.5:1	Yes
<b>Maximum Res Floorplate Dimension</b>	18m 45m	35m (parallel to frontage) 25m (perpendicular to frontage)	Yes No
<b>Height of basement above ground</b>	1m	1m (max)	Yes
<b>Podium Level Setback</b>	0m front and sides 1m-6m	0m 0m	Yes Yes
<b>Front Setback - Tower</b>	3m from Podium	3m from Podium	Yes
<b>NE Side Setback - Tower</b>	6m	6m	Yes
<b>SW Side Setback - Tower</b>	3m	6m	No
<b>Rear</b>	0m from Podium	0m from Podium	Yes
<b>Top Storey Setback</b>	3m additional except sections of rear and north	3m additional from lowest storey of tower above podium	No
<b>Basement Ramp Setback</b>	0m	2m	No
<b>Building Separation – N E side</b>	12m  18m	12m (for unscreened areas up to level 4) 18m (for unscreened areas on level 5)	Yes  Yes
<b>Private Open Space with Min Width 2.5m</b>	1 br units >10m <sup>2</sup> 2 br units >12m <sup>2</sup> 3 br units >16m <sup>2</sup>	1 br units 10m <sup>2</sup> (min) 2 br units 12m <sup>2</sup> (min) 3 br units 16m <sup>2</sup> (min)	Yes Yes Yes
<b>Parking (site distance &gt; 800m of railway)</b>	34 resident spaces 5 visitor spaces 9 bicycle racks	34 resident spaces 5 visitor spaces 9 bicycle racks	Yes Yes Yes

station)	1 motorbike space	1 motorbike space	Yes
<b>Solar Access</b>	96% units receive 2 hours	70% units receive 2 hours	Yes
<b>Housing Choice</b>	1 br unit – 31% 2 br unit – 50% 3 br unit - 19%	10% of each type (min) 10% of each type (min) 10% of each type (min)	Yes Yes Yes
<b>Adaptable Units</b>	30.7%	30%	Yes
<b>Hornsby Development Control Plan – Section 7</b>			
<b>Number of Children</b>	56	90	Yes
<b>Recreation</b> - Outdoor - Indoor	392m <sup>2</sup> 182m <sup>2</sup>	392m <sup>2</sup> (@7m <sup>2</sup> per child) 182m <sup>2</sup> (@3.25m <sup>2</sup> per child)	Yes Yes
<b>Car Parking</b>	14 spaces	14 spaces	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 Thompsons Corner, West Pennant Hills Precinct. The proposal would include a five-storey mixed use development with a 2-storey high podium. The building is designed to have a pedestrian friendly scale with a continuous awning along the entire frontage of the site. The visible active street frontage would enhance the streetscape.

The built form, proposed use and the site layout complies with the desired future character statement for the precinct.

### 2.11.2 Site Requirements

The site has a frontage of 27m which does not comply with the 30m frontage requirement within the *HDGP*. The adjoining site to the north-east has a triangular shape with 45m frontage to Pennant Hills Road. Concerns were initially raised by Council regarding non-compliance with the frontage, the resultant non-compliances with regard to the built-form and the potential isolation of the adjoining sites to the north and south. The applicant submits the following to address the concerns raised by Council:

- *The site is essentially isolated as follows:*
  - *Pennant Hills Road to the east;*
  - *School grounds to the West*

- *Access way and carpark for Thompsons Corner Shopping Centre to the South*
- *Liquor land site to the North*
- *The Isolation of the site to the south is as a result of:*
  - *The allotment is proposed to be a road (New Street) under the Key Principles Diagram – Thompsons Corner, West Pennant Hills Precinct*
  - *The multiple ownership and strata title components of the existing access way to the Coles supermarket car park results in unavailability of this land for amalgamation.*
- *Isolation to the north is a result of an existing drive through liquor store continuously operating for many years at No. 546 Pennant Hills Road.*
- *The applicant had made numerous approaches to amalgamate with the site by contacting the owner's real estate agents.*
- *The property is encumbered by a long term lease to Liquorland Australia, registered on the title of No. 546 as dealing A1309936. The lease terms expire in 2018 but provide the lessee an option to extend for a further 5 years. Given the history of this long term lease, amalgamation of the subject site with the adjoining property is not feasible.*
- *The proposal demonstrates that a five storey mixed-use development (compliant with HDCP) can be built on No. 546 Pennant Hills Road in isolation.*
- *The proposal demonstrates compliance with majority of the prescriptive measures within the HDCP, despite being developed in isolation.*

Council has conducted a detailed assessment of the proposal in this regard and concurs with the applicant's submissions due to the following reasons:

- Satisfactory information has been provided to demonstrate that amalgamation with No. 546 Pennant Hills Road (adjoining site to the north) is not feasible;
- Details of an acceptable five-storey mixed use development have been provided on No. 546 Pennant Hills Road, demonstrating general compliance with the requirements of the *HDCP*;
- The adjoining driveway to the south-west forms part of the Coles supermarket complex. The Key Principles Diagrams requires widening of this road to form the main access way to the precinct in the future. Therefore, amalgamation with this allotment would be contrary to the desired future character of the precinct as outlined in the *HDCP*;
- The proposal demonstrates that a reasonable form of development can be achieved on the site complying with the intent of the prescriptive measures within the *HDCP*;
- The development would result in orderly and economic development of underutilised land within the Shire without isolating any adjoining site; and
- The non-compliance with the frontage requirement of the *HDCP* is acceptable.

### **2.11.3 Setbacks**

The building numerically complies with majority of the setback requirements. The podium would be built to the boundary fronting Pennant Hills Road providing a pedestrian friendly scale and the residential tower would be setback resulting in a well-articulated built form. The building is setback from the rear boundary to retain significant trees within the West Pennant Hills Public School grounds.

An additional 3m setback at the top-storey level has not been provided at the rear. This is considered acceptable as the building would be setback from the rear boundary and screened by the existing trees. It would adjoin the school grounds rather than a residential flat building and the additional top storey setback would not significantly improve the amenity to the school. The non-compliance does not warrant refusal of the application.

The tower level setback at the north-eastern boundary varies between 6m – 9m from the first floor level. Additional setbacks have not been provided at the top storey for those sections of the building with a 9m setback. The elevation is well articulated and given the variation in setbacks at each level, an additional setback is not warranted at this instance. The setback areas would be utilised as terraces.

The driveway would be built to the south-western boundary with no setbacks or landscape verges. This is consistent with the Key Principles Diagram for the Thompsons Corner precinct which requires the site to abut the main access way to the precinct (New Street). The applicant has provided a high wire mesh screen along the southern boundary and submits that the proposed driveway could be integrated with any future access way by removing the screen. Given this, a landscape buffer would not be appropriate in this instance and the non-compliance with setbacks is supported.

#### **2.11.4 Building Form and Separation**

##### *Separation*

The proposal achieves the building separation requirements for residential flat buildings as stipulated by *SEPP 65* and the *HDCP* on the north-eastern side. The matter has been addressed under Section 2.4.1 of this report.

##### *Floorplate*

The *HDCP* requires that residential floor plates should have a maximum dimension of 35m parallel to the retail frontage and 25m perpendicular to the frontage. The desired outcome of this prescriptive measure is to achieve a continuous and active shopfront with dwellings above that are limited in depth and width. The floorplate dimension for the facade perpendicular to the frontage is 45m on the south-western elevation and does not numerically comply with the *HDCP* requirement of 25m.

The prescriptive measures relating to floorplate dimensions can be achieved on sites with a wider frontage and narrower depth. The site has a narrow 27m frontage to Pennant Hills Road, but a variable depth of 36m - 58m. The *HDCP* allows residential floorplates to have a setback of 3m to the front and 6m to the sides. Given the constraints of site, compliant setbacks would result in a much longer building length, perpendicular to the frontage. Compliance with the floorplate dimension in this direction would unreasonably restrict development on the site as the tower façade width parallel to Pennant Hills Road is only 18m.



Whilst the floor plate does not comply with the *HDCP* requirements, it is noted that this façade would not front any major road. The southern elevation would adjoin an access way, a Coles supermarket and a service station to the south. Three indents, each measuring 2m x 1m have been proposed on the southern façade in addition to offsets and balconies to eliminate a monotonous design. Given the varied character of the surrounding uses and the mixed nature of the precinct, the non-compliance with the façade width would not result in a built form which is out of character with desired future character of the area.

The north-eastern façade would be visible by southbound motorists and pedestrians along Pennant Hills Road. However, the façade width is restricted to 34m on this side and is considered acceptable. It is considered that the proposed building length is reasonable for the site.

### *Articulation*

Building articulation has been achieved by proposing two steps between the podium level and upper residential storeys across 50% of the front and side façades. At the Pennant Hills Road level, the child care centre and building entrance would occupy 66% of the façade width, the remainder being the driveway. Given the narrow frontage, the design complies with the intent of the *HDCP* which encourages shops and office windows to occupy 90% of the façade width at the street level.

The articulation of the podium level has been achieved by proposing a band or ribbon of windows, curtain walls that contrast with solid walls with panels of light cladding.

Articulation of residential facades is achieved by dividing facades into vertical panels that are no wider than 8m and are visually separated by balconies and eaves that are project forward of exterior walls.

The design includes the provision of wrap around balconies and a varied use of colours and materials to break up the built form. The proposed building complies with the *HDCP* articulation prescriptive measures and meets the key principles for built form within the Thompsons Corner, West Pennant Hills precinct.

### **2.11.5 Landscape and Open Space**

The proposed private open space areas comply with the prescriptive area requirements and are designed for active living and to maximise useable space.

The proposal would retain significant trees located on the adjoining property to the west and would maintain a deep soil zone at the rear and the north-eastern corner.

The application is assessed as satisfactory in this regard.

### **2.11.6 Privacy**

The development would achieve the building separation requirements as stipulated by the *RFDC* and *HDCP* on the north-eastern side and would provide appropriate privacy to the balconies and living areas at the residential levels. The south-western façade would include limited balconies, given the adjoining commercial uses. The proposed building separation would not raise privacy concerns for future adjoining developments.



The acoustic privacy of the residential units may potentially be impacted by the noise from the outdoor play area of the child care centre, located at the north-eastern corner. The submitted acoustic report provides details of noise attenuation measures including restriction to outdoor play times and number of children to play in the outdoor area at any one time. The report concludes that acoustic privacy of the residents would be maintained subject to compliance with the recommendations. The proposal is supported in this regard.

#### **2.11.7 Solar Access and Natural Ventilation**

The shadow diagrams submitted with the application indicates that 96% of the apartments would achieve the minimum requirement of 2 hours of solar access between 9am – 3pm during the Winter Solstice. The proposal takes advantage of the northerly aspect for living room areas on the northern facades and provides satisfactory sunlight and natural ventilation to the proposed units.

#### **2.11.8 Housing Choice**

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

#### **2.11.9 Key Principles Diagram – Thompsons Corner, West Pennant Hills Precinct**

The strategy for redevelopment of this precinct is to *“Create a landmark redevelopment that incorporates features of a traditional main street shopping environment, including apartments, in buildings up to five storeys which are serviced by a new street and parking structures for shoppers and residents.”*

The diagram identifies a building on this site with at-grade parking, setback from the new street. The desired built-form as outlined in the Key Principle Diagram can only be achieved via amalgamation with the adjoining northern allotment which is not currently feasible.

The proposed development would incorporate part basement car parking and part at-grade parking and would be able to integrate with the precinct plan by constructing a driveway adjoining the proposed new street. The site layout and built form complies with the intent of the Key Principle Diagram. Accordingly, the application is assessed as satisfactory in this regard.

#### **2.11.10 Child Care Centre – Site requirements**

The *HDCCP* encourages child care centres to be located on sites that are readily accessible to users, promote the health and safety of the future occupants of the facility and minimise potential land use conflicts. Sites adjacent to non-residential uses are generally the preferred location for child care centres.

The proposed child care centre would be located within a mixed use precinct adjoining a school and shopping centre. The centre would cater for the residents of the population in the greater West Pennant Hills catchment as well as future occupants of the redevelopment precinct. The site is disconnected from the main retain strip to the south and therefore, the use of the site as a child care centre is considered appropriate.

In accordance with the requirements of the *HDCCP*, the application includes an Air Quality Study, Noise Assessment Report and a preliminary Site Contamination Report. The proposal is assessed as

satisfactory with regard to vehicle emission and acoustic privacy. Detailed site contamination assessment followed by remediation measures would be undertaken prior to the issue of the construction certificate for building works on the site.

#### **2.11.11 Open Space – Child care centres**

The proposal complies with the requirements of *Clause 28 (Space requirements) of the Children (Education and Care Services) Supplementary Provisions Regulation 2012*. The indoor play areas are separated into three separate rooms in accordance with the age groups and include unencumbered play space.

The majority of the outdoor play area would be provided as enclosed space at the ground level. Additional play area open to the air is proposed at the north-eastern corner of the site adjoining the school grounds.

The *HDCP* states that for child care centres within Business zones, part of the outdoor play area can be located within the building, should unencumbered space be not available. The space should be designed and equipped to promote the fundamental movement skills, be physically separated from the indoor play areas and have access to natural sunlight.

The proposal would achieve the above by proposing a large indoor area at the ground level in addition to the limited outdoor play space at the north-western corner. Access to sunlight is proposed via skylights and large openings on the western side. It is noted that stairs are proposed between two levels in this area. This is not acceptable as it would not provide barrier-free access for the users. Accordingly, a condition of consent (No. 3a) is recommended requiring ramp access between the two levels. The proposed design of the indoor and outdoor play areas are assessed as satisfactory subject to conditions of consent.

#### **2.11.12 Vehicle Access and Parking**

The proposal includes car parking spaces at ground and basement levels, being accessed via a 6m wide driveway from Pennant Hills Road.

The car parking for the child care centre staff and patrons would be located at the rear of play area with at-grade access. The child care staff parking area includes tandem car spaces, which is acceptable given the nature of use. The parking area would be well separated from the circulation space and residential spaces to avoid any vehicular conflict.

It is noted the garbage truck turning area would adjoin the child care visitors' spaces. Although the garbage truck would not access the parking area on a daily basis, it is considered that there may be a potential conflict with the users of the centre during peak hours. Accordingly, a condition of consent recommends that the garbage truck must not access the site during the child care centre peak hours (Monday – Friday). The proposed car parking layout is assessed as satisfactory subject to the recommended condition (No. 70).

Residential car spaces would be accommodated at the basement level. Tandem car spaces have been provided for the 3-bedroom units which are considered acceptable. The visitors' spaces would adjoin the driveway at ground level, being located 6m from the front boundary line.

The parking provision is in accordance with the minimum number of car spaces prescribed by the *HDCP*. The location and width of the driveway, ramp gradients and aisle widths are assessed as satisfactory by the RMS and Council subject to conditions of consent requiring appropriate signposting. The basement level includes storage for residents and a bicycle parking areas.

### **2.11.13 Waste Management**

#### *Waste management plan*

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

#### *Bin room and garbage collection*

Each residential level would include a garbage chute and a recycling cupboard. The garbage room, located at the ground level includes two separate areas for commercial and residential use with volume handling equipment. The chute is located approximately 2.5m north of the garbage room at the ground level. This is not considered ideal. Accordingly condition No. 3c of the development consent requires the garbage room to be extended to include the chute.

The residential component would require 3 x 660 L garbage bins (serviced twice per week), 7 x 240 L recycling bins (serviced weekly) and 1 x 660 L paper/cardboard bin (serviced weekly). The commercial component would require 4 x 240 L garbage bins and 2 x 240 L recycling bins, serviced weekly. The bin room is of sufficient size to accommodate the required number of bins for both the uses. No objections are raised regarding bin rooms and the volume handling equipment subject to minor modifications.

#### *Truck Access and Waste Collection*

The development proposes small rigid vehicle (SRV) access to the site at the ground level. A small rigid vehicle would be sufficient to cater for the five storey residential use and the child care. A truck parking area is proposed to be located in front of the garbage room.

The Traffic and Parking Report includes swept path analysis for a SRV and demonstrates that the truck can enter and exit the site in a forward direction. Council's assessment in this regard concludes that the minor widening of this area is required to avoid any encroachment within the adjoining car spaces. This is achievable subject to minor modifications and is recommended as a condition of consent (Condition Nos. 3d and 31).

### **2.11.14 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.

The Access Report also concludes that the proposal complies with all the relevant *Acts* with regard to accessibility and incorporates recommendations regarding construction of the building. Subject to the implementation of the recommendations and conditions of consent requiring ramp access between play area levels, the application is assessed as satisfactory with regard to access.

#### **2.11.15 Stormwater Management**

The development proposes to connect to the street drainage system on Pennant Hills Road via an on-site detention system located under the driveway. Council's assessment in this regard is satisfactory subject to recommended conditions of consent.

#### **2.12 Children (Education and Care Services) Supplementary Provisions Regulation 2012**

Compliance with the *Children (Education and Care Services) Supplementary Provisions Regulation 2012* is required for the licensing of child care centres by the NSW Department of Community Services.

The proposed development has been designed in accordance with Clause 28 of the *Regulation* which requires the provision of 3.25 sqm of unencumbered indoor play area per child and 7 sqm of useable outdoor play area per child. The development also includes a separate sleeping area for under 2 year olds, administration/meeting room and staff room. Majority of the outdoor play area is proposed as enclosed space and would therefore be adequately shaded.

The Statement of Environmental Effects indicates that the proposed child care centre has been designed in accordance with *Clause 52-Staff to Child Ratios*. The centre would employ 8 staff members distributed in 3 rooms to comply with the respective child ratios as follows:

1. 1:4 for 0-2 year olds;
2. 1:8 for 2 – 3 year olds; and
3. 1:10 for 3-6 year olds.

Subject to conditions, the proposal complies with the *Children (Education and Care Services) Supplementary Provisions Regulations 2012*.

#### **2.13 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 26 additional dwelling units.

Further, the applicant submits that the child care centre is considered to be a commercial development. Accordingly, Section 94 contributions for 345 sqm of additional commercial space would apply to the development.

The Section 94 contributions have been levied as a condition of consent (condition No. 5).

### **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 does not contain any vegetation. The school grounds, located to the west include a large number of significant trees in close proximity to the common boundary.

The proposed development is sufficiently setback from the significant trees. A minor encroachment would be incurred within the tree protection zone for tree No. 5 due to the basement. The submitted Arboricultural Impact Assessment Report provides details of retention of this tree and the required tree protection measures.

Council's tree assessment of the proposal concludes that the proposal is satisfactory subject to implementation of the tree protection measures in accordance with recommended conditions of consent (condition Nos. 12, 17, 36, 40).

The development is proposed within a redevelopment precinct and would not have any adverse impact on the natural environment of the locality.

### **3.2 Built Environment**

As discussed in this report, the resultant built-form would be consistent with the desired future character of the precinct. The proposal is 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 with access to retail, business, recreational, health and educational facilities for future residents.

The proposed child care centre would provide positive social contribution to the local community by providing an additional 56 child care spaces.

### **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. The site is considered suitable for the proposed use.

## **5. PUBLIC PARTICIPATION**

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



- Noise due to truck movement on Pennant Hills Road would be reflected back due to the height of the building and would increase the noise pollution in the area;
- The development would be out of character with the area;
- The building is six storeys and includes a much higher density of units than that warranted for the site;
- The car parking does not comply with the requirements of *HDGP 2013*;
- The location of the child care centre at the ground level would cause traffic speed restrictions on Pennant Hills Road; and
- The proposed vehicle crossing is located in close proximity to existing crossings. Users of the proposed development would be required to cross three vehicle crossings when travelling south and north along Pennant Hills Road.

Additionally, the submissions included the following observations:

- The proposed development has not considered the potential effects of the 24 hour, 7 day operation of the 7-Eleven Service Station on the residential units;
- The proposal includes a number of openings (windows and balcony doors) to the entire south west elevation oriented towards the 7-Eleven Service Station and the potential acoustic impacts to the residents needs to be appropriately addressed within the Statement of Environmental Effects and the Noise Impact Assessment;
- Conditions of consent should be imposed to require acoustic specification of building facade elements to provide acceptable internal noise levels for new dwellings; and
- The applicant should prepare and submit a Construction Management Plan including areas within the site used for construction vehicle parking and to ensure safe ingress and egress from the site.

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 Impacts of service station**

The proposed development would be located in close proximity to the 7-Eleven Service station, which operates for 24 hours on all days. The submitted Noise Assessment Report considers all the noise emitting sources and recommends noise attenuation measures required to achieve the target internal noise levels for sleeping areas, living areas (both day and night) and the child care centre.

The building has been designed to minimise the number of living areas and balconies fronting the south-western façade. Only three units would front the shopping area of which two would have alternate balconies on the northern side. The Noise report takes into account all possibilities of noise intrusion and Council's assessment in this regard concludes that the proposal is satisfactory subject to implementation of recommended conditions.

It is acknowledged that the proposed development is located in a mixed use precinct with service stations/other non-residential operations and would front a major road with truck movements



throughout the night. The development has been reasonably designed to respond to the constraints. Accordingly, no further assessment in this regard is considered necessary.

### **5.1.2 Construction management Plan**

Condition No. 30 recommends the submission of a Construction Traffic Management Plan, prior to the issue of a Construction Certificate.

### **5.1.3 Vehicular crossing**

Both Council and RMS have reviewed the application with regard to the location of the driveway and raise no safety issues. The car parking area for the child care centre is located at the ground floor level and there would be no conflict with any vehicular crossing. The requirement for pedestrians to cross a number of vehicular crossings while walking along the Pennant Hills Road reserve is unavoidable. However, future development of the precinct would require provision of a new access road to the shopping centre to minimise the number of separate driveways.

The site is considered suitable for a child care centre and residential use and the location of adjoining vehicular crossings does not warrant refusal of the application.

## **5.2 Public Agencies**

The development application is not Integrated Development under the *Environmental Planning and Assessment Act 1979*. The application was referred to the following Agencies for comment and their concurrence in accordance with *SEPP Infrastructure 2007*.

### **5.2.1 NSW Police**

The application was referred to the NSW Police for comment in respect to *Crime Prevention Through Environmental Design* principles. No comments have been received to date.

### **5.2.2 NSW Roads and Maritime Services**

The application was referred to the NSW Roads and Maritime Service for concurrence. No objections were raised to the proposal subject to conditions.

### **5.2.3 NSW RailCorp**

The application was referred to NSW RailCorp pursuant to the provisions of *SEPP(Infrastructure)*. No objections have been raised.

## **6. THE PUBLIC INTEREST**

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

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



The application satisfactorily addresses Council's and the relevant agency's criteria and would 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 be in the public interest.

## **CONCLUSION**

The application seeks approval for the demolition of the existing structures and the construction of a five-storey mixed use development comprising a child care centre and four levels of shop-top housing comprising 26 residential units.

The applicant has submitted legal advice to demonstrate that the proposal is a permissible land use on the subject site.

The proposed development is 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 generally complies with the prescriptive measures of *Hornsby DCP* and would result in a built form which contributes positively to the built environment and desired future character of the Thompsons Corner, West Pennant Hills precinct.

Given the above, the application is recommended for approval.

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**  
**CONDITIONS OF APPROVAL**  
**CONDITIONS APPLICABLE TO STAGE 1 AND 2**

**GENERAL CONDITIONS**

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

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

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

**1. Approved Plans and Supporting Documentation**

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

<b>Plan No.</b>	<b>Issue</b>	<b>Drawn by</b>	<b>Dated</b>
DA001 – context Plan, Unit Schedule	C	Bureau SRH Architecture	7/11/2014
DA002-Unit Schedule, Site, Site Analysis	C	Bureau SRH Architecture	7/11/2014
DA101 – Basement Plan	C	Bureau SRH Architecture	7/11/2014
DA102 –Ground Floor Plan	C	Bureau SRH Architecture	7/11/2014
DA103 – First Floor Plan	C	Bureau SRH Architecture	7/11/2014
DA104 – Second Floor Plan	C	Bureau SRH Architecture	7/11/2014
DA105 – Third Floor Plan	C	Bureau SRH Architecture	7/11/2014
DA106 – Fourth Floor Plan	C	Bureau SRH Architecture	7/11/2014
DA107 – Roof Plan	C	Bureau SRH Architecture	7/11/2014
DA 201- East Elevation Street Elevation	C	Bureau SRH Architecture	7/11/2014
DA 202- North Elevation	C	Bureau SRH Architecture	7/11/2014
DA 203-South Elevation	C	Bureau SRH Architecture	7/11/2014
DA 301- Section AA	C	Bureau SRH Architecture	7/11/2014
DA 302- Section BB	C	Bureau SRH Architecture	7/11/2014
DA 303- Section CC	C	Bureau SRH Architecture	7/11/2014
DAS04-Section Storage under stair	C	Bureau SRH Architecture	7/11/2014
Erosion and Sediment Control Plan – 1 of 2	C	ING Consulting Engineers Pty Ltd	25/09/2014

Stormwater Site Notes, Details – 2 of 2	C	ING Consulting Engineers Pty Ltd	25/09/2014
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<b>Plan No.</b>	<b>Drawn by</b>	<b>Dated</b>
Noise Impact Assessment	Acoustic Logic	19/12/2013
Landscape Plan/Ground floor SK01	Carmichael Solutions	Received 20/06//2014
Survey Plan	Helensburgh Surveying Services	January 2008
Shadow Diagrams – DA402 B	Bureau SRH Architecture	23/09/2014
Solar Study	Bureau SRH Architecture	Received on 26/09/2014
BASIX Certificate 521865M_03	Gradwell Consulting	26/09/2014
Assessor Certificate 14510163	Gradwell Consulting	26/09/2014
Statement of Compliance Access for People with A Disability – A	Accessible Building Solutions	22/09/2014
Memorandum of Advice	Concordia Pacifica	Received 30/09/2014
Lease Details	-	Received 1/10/2014
Waste Management Plan	Bureau SRH Architecture	Received 1/10/2014
Preliminary Air Quality Study	Getex Pty Ltd	16/12/2013
Phase 1 Preliminary Site Contamination Investigation	Getex Pty Ltd	7/10/2014
Arboricultural Impact Assessment Report	Redgum Horticultural	13/12/2013, Revised 13/01/2014 and Addendum letter 8/10/2014
Traffic and Parking Assessment Report	Varga Traffic Planning Pty Ltd	26/09/2014
SEPP 65 Design Verification Statement	Simon Hanson	Received 20/06/2014
Statement of Environmental Effects	Think Planners Pty Ltd	16/01/2014

## 2. Project Arborist

A Project Arborist is to be appointed in accordance with AS 4970-2009 (1.4.4) to provide monitoring and certification throughout the development process.

## 3. Amendment of Plans

- a) The approved plan “DA102 –Ground Floor Plan – Issue C” prepared by *Bureau SRH Architecture* dated 7/11/2014 is to be amended to include ramp access between the two levels as marked in red;

- b) The approved “*Landscape Plan/Ground floor SK01*” prepared by *Carmichael Solutions* received on 20/06/2014 is to be amended to be consistent with “*DA102 – Ground Floor Plan – Issue C*”;
- c) The approved plan “*DA102 –Ground Floor Plan – Issue C*” prepared by *Bureau SRH Architecture* dated 7/11/2014 is to be amended by extending the garbage room to include the chute as marked in red; and
- d) The truck turning area and Waste Collection Vehicle parking area marked on the “*DA102 –Ground Floor Plan – Issue C*” prepared by *Bureau SRH Architecture* dated 7/11/2014 is to be amended so that waste collection vehicle travel path including waste collection loading bay complies with AS2890.2-2002 for Small Rigid Vehicles.

#### 4. Construction Certificate

A Construction Certificate is required to be approved by Council or a Private Certifying Authority prior to the commencement of any works under this consent.

#### 5. Section 94 Development Contributions

- a) In accordance with Section 80A(1) of the *Environmental Planning and Assessment Act 1979* and the *Hornsby Shire Council Section 94 Development Contributions Plan 2012-2021*, the following monetary contributions shall be paid to Council to cater for the increased demand for community infrastructure resulting from the development:

Description	Contribution (4)
Roads	\$ 31,119.40
Open Space and Recreation	\$ 321,700.55
Community Facilities	\$ 44,861.50
Plan Preparation and Administration	\$ 1,579.40
<b>TOTAL</b>	<b>\$399,260.85</b>

Being for 9 x 1 bedroom, 12 x 2 bedroom, 5 x 3 bedrooms and 345 sqm of additional commercial floor space; (A credit for 305 sqm of existing commercial floor space has been applied.)

- b) The value of this contribution is current as at 25 November 2014. If the contributions are not paid within the financial quarter that this condition was generated, the contributions payable will be adjusted in accordance with the provisions of the Hornsby Shire Council Section 94 Development Contributions Plan and the amount payable will be calculated at the time of payment in the following manner:

$$\text{\$C}_{PY} = \text{\$C}_{DC} \times \text{CPI}_{PY}$$

Where:

$\text{\$C}_{PY}$  is the amount of the contribution at the date of Payment

$\text{\$C}_{DC}$  is the amount of the contribution as set out in this Development Consent

$\text{CPI}_{PY}$  is the latest release of the Consumer Price Index (Sydney – All Groups) at the date of Payment as published by the ABS.

CPI<sub>DC</sub> is the Consumer Price Index (Sydney – All Groups) for the financial quarter at the date applicable in this Development Consent Condition.

- c) The monetary contributions shall be paid to Council:
- i) prior to the issue of the Subdivision Certificate where the development is for subdivision; or
  - ii) prior to the issue of the first Construction Certificate where the development is for building work; or
  - iii) prior to issue of the Subdivision Certificate or first Construction Certificate, whichever occurs first, where the development involves both subdivision and building work; or
  - iv) prior to the works commencing where the development does not require a Construction Certificate or Subdivision Certificate.

It is the professional responsibility of the Principal Certifying Authority to ensure that the monetary contributions have been paid to Council in accordance with the above timeframes.

Council's Development Contributions Plan may be viewed at [www.hornsby.nsw.gov.au](http://www.hornsby.nsw.gov.au) or a copy may be inspected at Council's Administration Centre during normal business hours.

## **STAGE 1 – DEMOLITION**

### **REQUIREMENTS PRIOR TO THE ISSUE OF A CONSTRUCTION CERTIFICATE**

#### **6. Building Code of Australia**

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

#### **7. Waste Management Details**

The following waste management requirements must be complied with:

- a) A Waste Management Plan Section One – Demolition Stage and Section Three – Construction Stage, covering the scope of this project and including the following details, is required to be submitted to Council:
- i) An estimate of the types and volumes of waste and recyclables to be generated;
  - ii) A site plan showing sorting and storage areas for demolition and construction waste and the vehicle access to these areas;
  - iii) How excavation, demolition and construction waste materials will be reused or recycled and where residual wastes will be disposed;
  - iv) The total percentage (by weight) of demolition and construction waste that will be reused or recycled.

### **REQUIREMENTS PRIOR TO THE COMMENCEMENT OF ANY WORKS**

#### **8. Erection of Construction Sign**

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

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

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

## **9. Protection of Adjoining Areas**

A temporary hoarding, fence or awning must be erected between the work site and adjoining lands before the works begin and must be kept in place until after the completion of the works if the works:

- a) Could cause a danger, obstruction or inconvenience to pedestrian or vehicular traffic.
- b) Could cause damage to adjoining lands by falling objects.
- c) Involve the enclosure of a public place or part of a public place.

*Note: Notwithstanding the above, Council's separate written approval is required prior to the erection of any structure or other obstruction on public land.*

## **10. Toilet Facilities**

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

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

## **11. Erosion and Sediment Control**

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

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

## **12. Tree Protection Barriers**

Tree protection fencing and associated measures must be erected around trees to be retained, as identified in the approved plans, in accordance with the *Tree Protection Plan (Appendix F)* in the submitted *Arboricultural Impact Assessment* prepared by *Redgum Horticultural* dated 13 December 2013 and revised on 13 January 2014.

*Note: A certificate from the Project Arborist is to be submitted to the Principal Certifying Authority stating that all tree protection measures are in accordance with the above and consistent with the intentions of the Australian Standard 'Protection of Trees on Development Sites (AS 4970-2009) prior to commencement of works.*

## **REQUIREMENTS DURING CONSTRUCTION**

### **13. Construction Work Hours**

All work on site (including demolition and earth works) must only occur between 7am and 5pm Monday to Saturday. No work is to be undertaken on Sundays or public holidays.

### **14. Demolition**

All demolition work must be carried out in accordance with “*Australian Standard 2601-2001 – The Demolition of Structures*” and the following requirements:

- a) Demolition material must be disposed of to an authorised recycling and/or waste disposal site and/or in accordance with an approved waste management plan;
- b) Demolition works, where asbestos material is being removed, must be undertaken by a contractor that holds an appropriate licence issued by *WorkCover NSW* in accordance with Chapter 10 of the *Occupational Health and Safety Regulation 2001* and Clause 29 of the *Protection of the Environment Operations (Waste) Regulation 2005*; and
- c) On construction sites where buildings contain asbestos material, a standard commercially manufactured sign containing the words ‘DANGER ASBESTOS REMOVAL IN PROGRESS’ measuring not less than 400mm x 300mm must be erected in a prominent position visible from the street.

### **15. Environmental Management**

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

### **16. Council Property**

During construction works, no building materials, waste, machinery or related matter is to be stored on the road or footpath. The public reserve must be kept in a clean, tidy and safe condition at all times.

### **17. Works Near Trees**

All required tree protection measures are to be maintained in good condition for the duration of the construction period. All works (including driveways and retaining walls) within the Tree Root Zone (TRZ) of any trees required to be retained (whether or not on the subject property, and pursuant to this consent or the *Tree Preservation Order*), must be carried out under the supervision of an 'AQF Level 5 Arborist' and a certificate submitted to the principal certifying authority detailing the method(s) used to preserve the tree(s).

*Note: Except as provided above, the applicant is to ensure that no excavation, filling or stockpiling of building materials, parking of vehicles or plant, disposal of cement slurry, waste water or other contaminants is to occur within the TRZ of any tree to be retained.*

#### **18. Waste Management Details**

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

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

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

### **STAGE 2 – EARTHWORKS AND CONSTRUCTION**

<b>REQUIREMENTS PRIOR TO THE ISSUE OF A CONSTRUCTION CERTIFICATE</b>
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#### **19. Building Code of Australia**

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

#### **20. Contract of Insurance (Residential Building Work)**

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

#### **21. Notification of Home Building Act, 1989 Requirements**



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

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

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

## **22. Water/Electricity Utility Services**

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

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

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

## **23. Dilapidation Report**

A 'Dilapidation Report' is to be prepared by a 'chartered structural engineer' detailing the structural condition of the adjoining property at No. 546 Pennant Hills Road.

## **24. Detailed Site Investigation**

A detailed investigation of the proposed development site must be prepared by a suitably qualified environmental consultant. Such investigation must be undertaken in accordance with NSW Environment Protection Authority's Contaminated Sites – Guidelines for Consultants Reporting on Contaminated Sites and Contaminated Sites – Sampling Design Guidelines.

## **25. Remedial Action Plan**

Should the preliminary/detailed investigation reveal contamination exceeding criteria prescribed by the NSW Environment Protection Authority's *Contaminated Sites – Guidelines for the NSW Site Auditor Scheme*, a Remedial Action Plan (RAP) must be prepared by a suitably qualified environmental consultant and submitted to Council for approval.

**26. Noise**

The design of the development must comply with the assessment criteria in Section 4 of the *Noise Impact Assessment Report* prepared by *Acoustic Logic* dated 19/12/2013. All details must be submitted with the Construction Certificate plans.

**27. Adaptable Units and Accessibility Details**

The details of fit-outs of all accessible units, details of adaptable units and fit-outs for the child care centre must be provided with the Construction Certificate Plans.

**28. Letter Boxes**

The details of letter boxes must be provided with the Construction Certificate Plans.

**29. Traffic Control Plan**

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

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

**30. Construction Management Plan**

Construction Traffic Management Plan (CTMP) detailing construction vehicle routes, number of trucks, hours of operation, access arrangements and traffic control should be submitted to Council for approval prior to the issue of a construction certificate.

**31. Internal Driveway/Vehicular Areas**

The driveway and parking areas on site must be designed in accordance with *Australian Standards 2890.1, 2890.2, 3727* and the following requirements:

- a) Design levels at the front boundary must be obtained from Council;
- b) The driveway must be a rigid pavement;
- c) The pavement must have a kerb to one side at least and a one-way cross fall with a minimum gradient of 2 percent with kerb inlet pits provided on grade and at low points;
- d) Conduit for utility services including electricity, water, gas and telephone must be provided.
- e) All parking spaces for people with disabilities must be designed in accordance with *Australian Standard AS/NZS 2890.6:2009 – Off-street parking for people with disabilities*;

- f) All bicycle parking spaces are to be designed in accordance with *Australian Standard 2890.3-1993 – Bicycle parking facilities*.
- g) Motorcycle parking spaces are to be designed in accordance with *AS 2890.5-1993*;
- h) The driveway should be splayed at the front boundary in accordance with *AS 2890.2-2002*;
- i) The sections of driveway / access way used by waste collection vehicles must be designed in accordance with *Australian Standard AS 2890.2 – 2002 Parking Facilities Part 2: Off-street commercial vehicle facilities* including a vertical clearance of 3.5m.

<b>REQUIREMENTS PRIOR TO THE COMMENCEMENT OF ANY WORKS</b>
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### **32. Erection of Construction Sign**

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

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

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

### **33. Protection of Adjoining Areas**

A temporary hoarding, fence or awning must be erected between the work site and adjoining lands before the works begin and must be kept in place until after the completion of the works if the works:

- a) Could cause a danger, obstruction or inconvenience to pedestrian or vehicular traffic.
- b) Could cause damage to adjoining lands by falling objects.
- c) Involve the enclosure of a public place or part of a public place.

*Note: Notwithstanding the above, Council's separate written approval is required prior to the erection of any structure or other obstruction on public land.*

### **34. Toilet Facilities**

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

- a) be a standard flushing toilet connected to a public sewer; or
- b) be a temporary chemical closet approved under the *Local Government Act 1993*; or

- c) have an on-site effluent disposal system approved under the *Local Government Act 1993*.

**35. Erosion and Sediment Control**

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

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

**36. Tree Protection Barriers and Ground Protection**

Tree protection fencing must be erected around trees to be retained, as identified on the approved plans, in accordance with the *Tree Protection Plan (Appendix F)* in the submitted *Arboricultural Impact Assessment* prepared by *Redgum Horticultural* dated *13 December 2013* and revised on *13 January 2014*.

*Note: A certificate from the Project Arborist is to be submitted to the Principal Certifying Authority stating that all tree protection measures are in accordance with the above and consistent with the intentions of the Australian Standard 'Protection of Trees on Development Sites (AS 4970-2009) prior to commencement of works.*

<b>REQUIREMENTS DURING CONSTRUCTION</b>
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**37. Construction Work Hours**

All work on site (including demolition and earth works) must only occur between 7am and 5pm Monday to Saturday. No work is to be undertaken on Sundays or public holidays.

**38. Environmental Management**

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

**39. Street Sweeping**

Street sweeping must be undertaken following sediment tracking from the site along Pennant Hills Road during works and until the site is established.

**40. Works Near Trees**

All required tree protection measures are to be maintained in good condition for the duration of the construction period. All works (including driveways and retaining walls) within the Tree Root Zone (TRZ) of any trees required to be retained (whether or not on the subject property, and pursuant to this consent or the *Tree Preservation Order*), must be carried out under the

supervision of an 'AQF Level 5 Arborist' and a certificate submitted to the principal certifying authority detailing the method(s) used to preserve the tree(s).

*Note: Except as provided above, the applicant is to ensure that no excavation, filling or stockpiling of building materials, parking of vehicles or plant, disposal of cement slurry, waste water or other contaminants is to occur within the TRZ of any tree to be retained.*

**41. Council Property**

During construction works, no building materials, waste, machinery or related matter is to be stored on the road or footpath. The public reserve must be kept in a clean, tidy and safe condition at all times.

**42. Disturbance of Existing Site**

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

**43. Landfill**

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

- a) All fill material imported to the site is to wholly consist of Virgin Excavated Natural Material (VENM) as defined in Schedule 1 of the *Protection of the Environment Operations Act 1997* or a material approved under the *Department of Environment and Climate Change's* general resource recovery exemption.

**44. Excavated Material**

All excavated material removed from the site must be classified in accordance with the Department of Environment, Climate Change and Water NSW *Waste Classification Guidelines* prior to disposal to an approved waste management facility and reported to the principal certifying authority.

**45. Waste Management Details**

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

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

- g) Whether the waste is expected to be reused, recycled or go to landfill.

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

**46. Survey Report – Finished Floor Level**

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

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

**47. Construction Noise Management**

The construction works must be undertaken in accordance with the “Interim Construction Noise Guidelines – 2009” published by DECCW.

**48. Construction Vehicles**

All construction vehicles associated with the proposed development are to be contained on site as no construction zones will be permitted on Pennant Hills Road in the vicinity of the site.

**REQUIREMENTS PRIOR TO THE ISSUE OF AN OCCUPATION CERTIFICATE**

*Note: For the purpose of this consent, a reference to ‘occupation certificate’ shall not be taken to mean an ‘interim occupation certificate’ unless otherwise stated.*

**49. Fulfilment of BASIX Commitments**

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

**50. Sydney Water – s73 Certificate**

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

**51. Stormwater Drainage**

The stormwater drainage system for the development must be designed prior to the issue of the Construction Certificate and constructed in accordance with Council's *Civil Works – Design and Construction Specification 2005* and the following requirements:

- a) Connected directly to the street drainage system;
- b) The invert level of the internal drainage system must be checked prior to the issue of the Construction Certificate to ensure capable fall to the street drainage system.

*Note: All works must be completed prior to the issue of the Occupation Certificate.*

**52. Vehicular Crossing**

A separate application under the *Local Government Act 1993* and the *Roads Act 1993* must be submitted to Council for the installation of a new vehicular crossing and the removal of the redundant crossing. The vehicular crossing must be designed prior to the issue of the Construction Certificate and constructed in accordance with Council's *Civil Works Design 2005* and the following requirements:

- a) Any redundant crossings must be replaced with integral kerb and gutter;

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

### **53. On Site Stormwater Detention**

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

- a) Have a capacity of not less than 20 cubic metres, and a maximum discharge (when full) of 40 litres per second.
- b) Have a surcharge/inspection grate located directly above the outlet.
- c) Discharge from the detention system to be controlled via 1 metre length of pipe, not less than 50 millimetres diameter or via a stainless plate with sharply drilled orifice bolted over the face of the outlet discharging into a larger diameter pipe capable of carrying the design flow to an approved Council system.

*Note: All works must be completed prior to the issue of the Occupation Certificate.*

### **54. Damage to Council Assets**

Any damage caused to Council's assets as a result of the construction of the development must be rectified in accordance with Council's Civil Works Specifications. Council's Restorations Supervision must be notified for a formwork inspection prior to pouring concrete.

### **55. Creation of Easements**

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

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



*Note: In regard to the above requirements, an Application must be made to Hornsby Council for 'Execution of Legal Documents', approval and registration.*

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

#### **56. Car Parking and Deliveries**

All car parking must be designed prior to the issue of the Construction Certificate constructed in accordance with *Australian Standard AS 2890.1- 2004 Off Street Car Parking* and *Australian Standard 2890.2 - 2002 Off Street Commercial vehicle facilities* and the following requirement:

- a) All parking areas and driveways are to be sealed to an all weather standard, line marked and signposted.
- b) All parking spaces for people with disabilities must be constructed in accordance with *AS/NZS 2890.6:2009 – Off-street parking for people with disabilities*.
- c) The driveway must be constructed in accordance with the conditions of this development consent and the approved plans.
- d) A "GIVE WAY TO PEDESTRIANS" sign and a speed hump are to be provided on the driveway at the boundary line.
- e) Signs are to be erected within the car park directing that "ALL VEHICLES ARE TO EXIT ONTO PENNANT HILLS ROAD IN A FORWARD DIRECTION."

#### **57. Certification**

A certificate by a Registered Surveyor must be submitted to the Principal Certifying Authority, certifying that there has been no removal, damage, destruction, displacement or defacing of the existing survey marks in the vicinity of the proposed development or otherwise the re-establishment of damaged, removed or displaced survey marks has been undertaken in accordance with the Surveyor General's Direction No.11 – "Preservation of Survey Infrastructure".

A certificate stating that the requirements of relevant utility authorities - such as Ausgrid and Telstra - have been met must be submitted.

#### **58. Construction of a Safe Environment**

Prior to the issue of the Occupation Certificate, the site must include the following elements:

- a) An intercom system be installed at gate locations to ensure screening of persons entering the units;
- b) The entryway to the site be illuminated in high luminance at all times;
- c) The service areas of the ground floor and the garbage room be illuminated with high luminance by motion sensor lighting;
- d) The driveway and the basement car park is to be illuminated with low luminance at all times;

- e) Robust materials which cannot be forced or breached with minimised maintenance requirements are to be used for construction work in the common areas;
- f) Effective signage be provided to guide visitors to the main areas and parking areas;
- g) A street sign be prominently displayed in front of the site in accordance with Order No. 8, Section 124 *Local Government Act 1993*;
- h) Units' numbers, entry and exit signs must be legible and clear;
- i) Fire exit doors to be fitted with single cylinder locksets (Australia New Zealand Standard-Locksets);
- j) The entry doors to the pedestrian and child care foyer is to be constructed of safety rated glass to enable residents a clear line of site before entering or exiting the residential apartments;
- k) Security deadlocks are to be provided to each apartment door; and
- l) Peep holes are to be provided to individual apartment doors to promote resident safety.

## **59. Waste Management Details**

The following waste management requirements must be complied with:

- a) The bin storage room at the ground level must include water or a hose for cleaning, graded floors with drainage to sewer, a robust door, sealed and impervious surface, adequate lighting and ventilation, and must be lockable. The waste facility cupboards at each residential level must include sealed and impervious surface, adequate lighting and ventilation.
- b) A report must be prepared by an appropriately qualified person, certifying the following:
  - i) A comparison of the estimated quantities of each waste type against the actual quantities of each waste type.  
  
*Note: Explanations of any deviations to the approved Waste Management Plan is required to be included in this report.*
  - ii) That at least 60% of the waste generated during the demolition and construction phase of the development was reused or recycled.  
  
*Note: If the 60% diversion from landfill cannot be achieved in the Construction Stage, the Report is to include the reasons why this occurred and certify that appropriate work practices were employed to implement the approved Waste Management Plan. The Report must be based on documentary evidence such as tipping dockets/receipts from recycling depots, transfer stations and landfills, audits of procedures etc. which are to be attached to the report.*
  - iii) All waste was taken to site(s) that were lawfully permitted to accept that waste.

- c) Each unit must be provided with an indoor waste/recycling cupboard for the interim storage of a minimum one day's waste generation with separate containers for general waste and recyclable materials.
- d) Space must be provided for either individual compost containers for each unit or a communal compost container;  
*Note: The location of the compost containers should have regard for potential amenity impacts.*
- e) The truck turning zone be clearly marked on "No Parking" signs installed.
- f) A 3.5m vertical clearance height within the truck travel path must be maintained and not be reduced by ducting or pipes.
- g) A report(s) must be prepared by a registered surveyor and submitted to the principal certifying authority certifying that the finished access way (including ramp, vehicle turning area, loading bay and site entry/exit) to be used by waste collection vehicles, complies with *Australian Standard AS2890.2-2002 Parking Facilities Part 2: Off-street Commercial Vehicle Facilities* for Small Rigid Vehicles with minimum design vehicle dimensions of 6.4 metres overall length, width of 2.3 metres, with maximum gradient of 1:6.5 and minimum 3.5 metre clearance height.

#### **60. Garbage Collection Easement**

For the purpose of waste collection, an easement entitling Council, its servants and agents and persons authorised by it to enter upon the subject land and to operate thereon, vehicles and other equipment for the purposes of garbage collection must be granted to Council by the owner of the land.

*Note: The easement must be in a form prescribed by Council and must include covenants to the effect that parties will not be liable for any damage caused to the subject land or any part thereof or to any property located therein or thereon by reason of the operation thereon of any vehicle or other equipment used in connection with the collection of garbage and to the effect that the owner for the time being of the subject land shall indemnify the Council, its servants, agents and persons authorised by it to collect garbage against liability in respect of any such claims made by any person whomsoever.*

#### **61. Completion of Landscaping**

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

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

#### **62. Certification by Project Arborist**

Following the final inspection and the completion of any remedial works, the Project Arborist must submit documentation to the Principal Certifying Authority stating that the completed works have been carried out in compliance with the approved plans, tree protection measures specified in the conditions of development consent and AS 4970-2009.

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

**63. Site Remediation Verification**

The applicant must provide documentation from a suitably qualified environmental consultant verifying that the site has been remediated in accordance with the NSW Environment Protection Authority's Contaminated Sites – Guidelines for Consultants Reporting on Contaminated Sites, the Contaminated Sites- Sampling Design Guidelines Contaminated Sites – Guidelines for the NSW Site Auditor Scheme and the recommendations of the approved Remedial Action Plan.

**64. Unit Numbering**

The allocation of unit numbering must be authorised by Council prior to the numbering of each unit in the development.

**65. Food Premises**

The fit out and operation of that part of the building to be used for the manufacture, preparation or storage of food, must be in accordance with *Australian Standard 4674-2004 – Design and fit out of food premises*, the *Food Act 2003*, and the *Food Regulation 20010 and the Food Standards Code developed by Food Standards Australia New Zealand*. *Food Standards 3.3.1. 3.2.2 and 3.2.3* are mandatory for all food businesses.

*Note: Walls are to be of solid construction.*

**66. Kitchen Exhaust Installation**

A kitchen exhaust system must be designed and installed to effectively prevent air pollution in accordance with the *Protection of the Environment Operations Act 1997*.

**67. External Lighting**

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

<b>OPERATIONAL CONDITIONS</b>
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**68. Use of Premises**

- a) The development approved under this consent shall be used for 'child care centre' and 'shop-top housing' and not for any other purpose without Council's separate written consent.
- b) The child care centre shall accommodate a maximum of 56 children. The age mix of children as at 1 January of each calendar year in accordance with the following:
  - 0-2 years: 8 children
  - 2-3 years: 18 children
  - 3-6 years: 30 children

- c) A maximum of 8 staff members are allowed to be present at the centre at any one time;
- d) The hours of operation of the “child care centre” are restricted to those times listed below:
  - Monday to Friday - 7:00 am to 6:00 pm
  - Saturday, Sunday & Public Holidays - No work
- e) All staff members are required to park on-site within the ground level car park.
- f) A maximum of 40 children are permitted to play within the open to air outdoor play area at the rear of the site at any one time.
- g) The children using the child care centre are permitted to use the open to air outdoor play area only between 10:00 am and 12:00 noon (Monday to Friday).

**69. Noise**

All noise generated by the proposed development must be attenuated to prevent levels of noise being emitted to adjacent premises which possess tonal, beating and similar characteristics or which exceeds background noise levels by more than 5dB(A).

**70. Waste Management**

The waste management on site must be in accordance with the following requirements:

- a) A site caretaker must be employed and be responsible for moving bins where and when necessary, washing bins and maintaining waste storage areas, ensuring the chute system and related devices are maintained in effective and efficient working order, managing the communal composting area, managing the bulky item storage area, arranging the prompt removal of dumped rubbish, and ensuring all residents and commercial tenants are informed of the use of the waste management system.
- b) All commercial tenants must keep written evidence on site of a valid contract with a licensed waste contractor(s) for the regular collection and disposal of the waste and recyclables that are generated on site.
- c) The site must have a sufficient number of bins to contain the volume of waste and recycling expected to be generated between collection services.
- d) The garbage truck must not access the site between 7am – 9am and 3pm – 6pm (Monday to Friday).

**71. Car Parking and Deliveries**

All car parking areas must be operated in accordance with the following requirements:

- a) Car Parking areas should be sealed to all weather standards at all times.
- b) Car parking, loading and manoeuvring areas to be used solely for nominated purposes.
- c) Vehicles awaiting loading, unloading or servicing must be parked on site and not on adjacent or nearby public roads.

- d) All vehicular entry on to the site and egress from the site shall be made in a forward direction.
- e) Residential parking areas in the basement are to be secured, the access controlled by card or numeric pad. Visitors must be able to access the visitors parking spaces at all times.
- f) Access be restricted to the garbage room and waste collection areas.

**72. Landscape Establishment**

The landscape works must be maintained into the future to ensure the establishment and successful growth of plant material to meet the intent of the landscape design. This must include but not be limited to watering, weeding, replacement of failed plant material and promoting the growth of plants through standard industry practices.

**73. Fire Safety Statement - Annual**

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

**CONDITIONS OF CONCURRENCE – NSW ROADS AND MARITIME SERVICES**

The following conditions of consent are from the nominated State Agency pursuant to Section 79b of the *Environmental Planning and Assessment Act 1979* and must be complied with to the satisfaction of that Agency.

**74. Driveway Crossing**

The redundant driveway on the north-eastern boundary of the site must be removed and replaced with kerb and gutter to match existing, prior to the issue of the Occupation Certificate. Design for the proposed gutter crossing on Pennant Hills Road must be in accordance with Roads and Maritime Services (RMS) requirements.

Detailed design plans for the proposed gutter crossing must be submitted to RMS prior to the issue of the Construction Certificate.

*Note: The details of RMS requirements must be obtained from RMS's Project Services Manager, Traffic Projects Section, Parramatta (telephone 8849 2138).*

*A plan checking fee (amount to be advised) and lodgement of a performance bond may be required from the applicant prior to the release of the approved road design plans by RMS.*

**75. Parking Area Design**

The layout of the proposed car parking areas associated with the subject development including driveways, grades, turn paths, sight distance requirements, aisle widths, aisle lengths and parking bay dimensions) should be in accordance with AS2890.1-2004 and AS2890.2-2002 for Small Rigid vehicle usage.

**76. Excavation**

Detailed design drawings and documentation related to excavation of the site and support structures must be submitted to RMS for assessment, in accordance with Technical Direction GTD2012/001.

The information must be submitted at least 6 weeks prior to the commencement of construction works on the site.

*Note: The report and enquiries should be forwarded to:*

*Project Engineer, External Works  
Sydney Asset Management  
Roads and Maritime Services  
PO BOX 973 Parramatta CBD 2124  
Telephone 8848 2114  
Fax 8849 2766*

*Note: The developer/applicant is required to pay the assessment cost.*

If it is necessary to excavate below the level of the base of the footings of the adjoining roadways, the person acting on the consent must ensure that the owner/s of the roadway is/are given at least 7 days' notice of intention to excavate below the base of the footing. The notice must include complete details of the work.

## **77. Stormwater Design**

Detailed design plans and hydraulic calculations of any changes to the stormwater drainage system must be submitted to RMS for approval, prior to the commencement of any works.

*Note: The details should be forwarded to:*

*Project Engineer, External Works  
Sydney Asset Management  
Roads and Maritime Services  
PO BOX 973 Parramatta CBD 2124  
Telephone 8848 2114  
Fax 8849 2766*

*Note: A plan checking fee would be payable and a performance bond may be required from the applicant prior to the release of the approval by RMS.*

*The following person should be contacted regarding Civil Works requirements:*

*RMS Project Engineer  
External Works  
Telephone 8848 2114  
Fax 8849 2766*

## **78. Construction**

- a) All demolition and construction vehicles are to be wholly contained wholly within the site and vehicles must enter the site before stopping.
- b) A construction zone is not permitted on Pennant Hills Road.



- c) A Road Occupancy Licence should be obtained from RMS for any works that may impact on traffic flows on Pennant Hills Road during construction activities.

#### **79. Design of the building**

The building should be designed such that the road traffic noise from Pennant Hills Road is mitigated by durable materials in order to satisfy the requirements of habitable rooms under Clause 102(3) of State Environmental Planning Policy (Infrastructure) 2007.

#### **80. Operation**

- a) All vehicles must enter and leave the site in a forward direction.
- b) All vehicles are to be wholly contained on site before being required to stop.
- c) All works/regulatory signposting associated with the proposed development are to be at no cost to RMS.

#### **ADVISORY NOTES**

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

#### **Environmental Planning and Assessment Act 1979 Requirements**

The Environmental Planning and Assessment Act 1979 requires:

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

#### **Long Service Levy**

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

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

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

#### **Tree and Vegetation Preservation**

In accordance with Clause 5.9 of the *Hornsby Local Environmental Plan 2013* a person must not ringbark, cut down, top, lop, remove, injure or wilfully destroy any tree or other vegetation protected

under the Hornsby Development Control Plan 2013 without the authority conferred by a development consent or a permit granted by Council.

*Notes: A tree is defined as a long lived, woody perennial plant with one or relatively few main stems with the potential to grow to a height greater than three metres (3M). (HDCP 1B.6.1.c).*

*Tree protection measures and distances are determined using the Australian Standard AS 4970:2009, "Protection of Trees on Development Sites".*

*Fines may be imposed for non-compliance with both the Hornsby Local Environmental Plan 2013 and the Hornsby Development Control Plan 2013.*

### **Disability Discrimination Act**

The applicant's attention is drawn to the existence of the *Disability Discrimination Act*. A construction certificate is required to be obtained for the proposed building/s, which will provide consideration under the *Building Code of Australia*, however, the development may not comply with the requirements of the *Disability Discrimination Act*. This is the sole responsibility of the applicant.

### **Advertising Signage – Separate DA Required**

This consent does not permit the erection or display of any advertising signs. Most advertising signs or structures require development consent. Applicants should make separate enquiries with Council prior to erecting or displaying any advertising signage.

### **Dial Before You Dig**

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

### **Telecommunications Act 1997 (Commonwealth)**

If you are aware of any works or proposed works which may affect or impact on Telstra's assets in any way, you are required to contact: Telstra's Network Integrity Team on Phone Number 1800810443.

### **Asbestos Warning**

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

[www.environment.nsw.gov.au](http://www.environment.nsw.gov.au)

[www.nsw.gov.au/fibro](http://www.nsw.gov.au/fibro)

[www.adfa.org.au](http://www.adfa.org.au)

[www.workcover.nsw.gov.au](http://www.workcover.nsw.gov.au)

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

### **House Numbering**

House numbering can only be authorised by Council. Before proceeding to number each premise in the development, the allocation of numbers is required to be obtained from Council's Planning Division

prior to the issue of a Subdivision Certificate. The authorised numbers are required to comply with Council's Property Numbering Policy and be displayed in a clear manner at or near the main entrance to each premise.