JOINT REGIONAL PLANNING PANEL
(Sydney West Region)

JRPP No	2014SYW135
DA Number	DA/1089/2014 (17 September 2014)
Local Government Area	Hornsby Shire Council
Proposed Development	Demolition of the existing commercial building and the construction of ground floor retail / commercial floor space; 106 shop top housing and residential flat building dwellings in three (3) buildings of 9, 8 and 2 storeys and 3 levels of basement car parking.
Street Address	Lots 2 and 3 in DP 3150, Nos. 117-119 Pacific Highway, Hornsby
applicant/Owner	Lenland Hornsby Pty Ltd
Number of Submissions	A total of six (6) submissions were received
Regional Development Criteria (Schedule 4A of the Act)	The DA is referred to the JRPP pursuant to Schedule 4A of the Environmental Planning and Assessment Act 1979, as amended. The Panel is authorised to exercise the consent authority functions of Council as the development proposed has a combined capital investment value of more than $20 million.
List of All Relevant s79C(1)(a) Matters	• State Environmental Planning Policy (State and Regional Development) • State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004 • State Environmental Planning Policy (Infrastructure) 2007 • State Environmental Planning Policy No. 55 – Remediation of Land • State Environmental Planning Policy No. 65 – Design Quality of Residential Flat Development • Sydney Regional Environmental Plan No. 20 – Hawkesbury – Nepean River • Hornsby Local Environmental Plan 2013 • Hornsby Development Control Plan 2013 • Hornsby Section 94 Development Contributions Plan 2012 - 2021 • Draft State Environmental Planning Policy No. 65 – Design Quality of Residential Flat Development

List all documents submitted with this report for the panel's consideration	• Locality Plan – 1 page • Survey Plan and existing elevations-2 pages • Floor Plans – 17 pages • Elevations and Sections – 6 pages • Landscape Plan ground level – 2 pages • Roof Landscape Plan – 6 pages • Shadow Diagrams – 2 pages • Photomontage – 1 page
Recommendation	Approval
Report by	GLN Planning Pty Ltd on behalf of Hornsby Shire Council

ASSESSMENT REPORT AND RECOMMENDATION

EXECUTIVE SUMMARY

- The application proposes the demolition of an existing 3 storey commercial building and associated structures and the construction of a mixed retail / commercial / residential development.
- The development comprises:
    - A nine storey building (Tower A) containing ground level retail / commercial floor space and shop top housing
    - An eight storey building (Tower B) containing a residential flat building
    - A two storey building at the ground level between the two towers containing 'terrace style apartments'
    - Three (3) levels of basement car parking across the entire site.
    - A total of 495 square metres of retail / commercial floor space and 106 dwellings.
- The major environmental assessment issues for this application are building height, setbacks, building separation, open space and overshadowing.
- The proposal generally complies with the provisions of *State Environmental Planning Policy No. 65 – Design Quality Residential Flat Development*, the *Residential Flat Design Code*, and the relevant local planning instruments and policies. There are several areas in which the proposal does not comply with these policies, but the variations are considered acceptable in the circumstances of the case.
- The applicant has made a submission in accordance with Clause 4.6 of the *Hornsby Local Environmental Plan 2013 (*'Exceptions to development standards') to vary the 29.5m maximum building height control. The submission is considered well-founded and is supported.
- The proposal generally complies with *Hornsby Development Control Plan 2013.* Where the development does not comply, the proposed variations are considered justified.
- A total of six (6) submissions have been received in respect of the application, objecting to the proposal on the grounds of inadequate setbacks to adjoining developments, excessive bulk and scale, inconsistent built form, loss of views, increased overshadowing of adjoining properties, loss of breezes, loss of privacy, traffic and pedestrian safety impacts, increased fire risk to adjoining properties, construction related impacts, reduction in property values, and loss of telecommunication reception.
- It is considered that, overall, the development is a reasonable response to the constraints of the site, and that the application should be approved subject to conditions.

RECOMMENDATION

THAT Council assume the concurrence of the Secretary of the Department of Planning and Environment pursuant to Clause 4.6 of the *Hornsby Local Environmental Plan 2013* and approve Development application No. 1089/2014 for demolition of existing structures and construction of retail / commercial floor space, shop top housing and residential flat buildings comprising a total 106 units with basement car parking at Lots 2 and 3 in DP 3150, Nos. 117-119 Pacific Highway, Hornsby subject to the conditions of consent detailed in Schedule 1 of this report.

BACKGROUND

The site is currently developed for commercial purposes with a three storey commercial office building constructed above a ground level car park. Uncovered at-grade car parking is provided behind the office building at the rear of the site.

The site is an isolated infill development site with strata titled residential flat buildings adjoining to the north and south. These adjoining residential flat buildings were constructed since the 1990s.

The residential building to the south (No. 107-115 Pacific Highway) comprises a four storey podium built from boundary to boundary, with an 11 storey tower building behind and a building comprising 4 residential levels (above elevated parking) at the rear. The four storey building at the rear of No. 107 has been built to the northern common boundary with the subject site and includes windows on the common boundary.

The residential building to the north (No. 121-133 Pacific Highway) comprises a three storey podium with upper levels setback. The residential tower to the rear has been built to the southern common boundary with the subject site with the residential tower at the front of the site comprising a small boundary setback (less than 1m) above level 2. Towards the front of the site, two levels of balconies have been built facing the common site boundary.

The minimal adjoining north and south setbacks of the existing adjoining residential flat buildings influence the design and development yield achievable on the subject site. Specifically, the windows and balconies that have been built to the common site boundaries have prevented the proposed development from being built from boundary to boundary, as was envisaged in the *Hornsby Development Control Plan 2013*.

SITE

The subject site is situated in the suburb of Hornsby, approximately 450 metres to the south of the Hornsby Town Centre. The Hornsby Railway Station is situated approximately 400 metres to the north of the site.

The subject site comprises two allotments (both fronting the Pacific Highway) with a consolidated area of 2,782m². The subject site has a primary road frontage of approximately 24.4 metres to the Pacific Highway and a frontage of approximately 28.4 metres to Wanderers Way to the rear (west). Wanderers Way is a private road, which connects to Pretoria Parade to the south and Government Road and Pound Road to the north. The Main Northern Railway line adjoins Wanderers Way to the west.

The subject site currently accommodates a 3-storey commercial office building with under croft and at-grade parking to the rear. Vehicular access to the site is via an existing sealed driveway from Pacific Highway. The site slopes from east to west with an RL of 190.68 at the eastern (Pacific Highway) boundary to an RL of 182.10 at the western boundary, which equates to a fall of approximately 8.5 metres. There is limited vegetation within the site with shrubs and small trees in a front garden and generally scattered throughout the rear parking area.

The site has access to all utility services, including water, sewer, electricity, gas and telecommunications. The rear of the site is affected by a number of easements including a right of carriageway and easement for services. These easements are of variable width and are limited in height to a regular inclined plane between RL 186.3 (northern extent) and RL 189.6 (southern extent).

The site is within a precinct that has been planned to accommodate high density mixed uses that are within walking distance of the Hornsby Town Centre.

The site is an isolated infill development site in this precinct with strata titled residential flat buildings adjoining to the north at Nos. 121-133 Pacific Highway, and to the south at Nos. 107-115 Pacific Highway. To the north of Nos. 121-133 is a vacant block, which is the subject of a DA seeking approval for a mixed use retail and residential flat development. To the south of Nos. 107-115 is a Kennard's Storage business and recently completed mixed use development at the corner of Pacific Highway and Pretoria Parade.

Opposite the site on the eastern side of the Pacific Highway is a service station. To the north of the service station is a mixed use retail and residential flat development and to the south, is a mix of retail and business uses.

PROPOSAL

The proposal is for the demolition of an existing 3 storey commercial office building and associated structures and the construction of two residential flat buildings of 8 and 9 storeys and three x 2 bedroom 'terrace style' apartments above a common basement car park. The residential flat building fronting the Pacific Highway is also proposed to comprise retail / commercial floor space at the ground floor level.

Details of the towers' land use and unit mix are as follows:

Tower A – fronting Pacific Highway (9 storeys)

- 52 residential apartments, including 8 x studio apartments, 12 x 1 bedroom apartments, 26 x 2 bedroom apartments and 6 x 3 bedroom apartments.
- 495m² of retail floor space.

Tower B – fronting Wanderers Way (8 storeys)

- 51 residential apartments, including 14 x 1 bedroom apartments, 30 x 2 bedroom apartments and 7 x 3 bedroom apartments.

A total of 105 residential parking spaces have been provided over four levels of basement parking, including 25 spaces on the lower ground level, 36 spaces on basement level 2, and 44 spaces on basement level 3. Residential visitor parking comprising 15 spaces is provided on basement level 1 along with the 17 retail parking spaces. The proposed basement level parking will be accessed directly from Wanderers Way.

On-building landscaping will be provided at ground level, which includes a communal open area with lawn and raised garden beds, raised planters along the main access walkway, courtyard planting for the three 'terrace style' apartments, and trough pot planting on the balconies of level 7 and within the roof-top terrace on Tower B. Landscaping will also be provided along the Pacific Highway frontage.

In addition to the landscaped areas, the proposal includes a 70m² all-weather communal space and a small common room (33m²) provided off the central courtyard area. A roof-top terrace is proposed on Tower B, which will provide 350m² of covered and uncovered communal open space for the use of all residents and their guests.

ASSESSMENT

The DA has been assessed having regard to the *A Plan for Growing Sydney*, the *North Subregion (Draft) Subregional Strategy* and the matters for consideration prescribed under the *Environmental Planning and Assessment Act 1979* (the Act).

1. STRATEGIC CONTEXT

1.1 A Plan for Growing Sydney and (Draft) North Subregional Strategy

A Plan for Growing Sydney has been prepared by the NSW State Government to guide land use planning decisions for the next 20 years. The Plan sets a strategy for accommodating Sydney's future population growth and identifies the need to deliver 689,000 new jobs and 664,000 new homes by 2031. The Plan identifies that the most suitable areas for new housing are in locations close to jobs, public transport, community facilities and services.

The NSW Government will this year develop in partnership with council's subregional plans to define objectives and set goals for job creation, housing supply and choice in each subregion. Hornsby Shire has been grouped with Hunters Hill, Ku-ring-gai, Lane Cove, Manly, Mosman, North Sydney, Pittwater, Ryde, Warringah and Willoughby to form the North Subregion. The existing 2009 *Draft North Subregional Strategy* will be reviewed and the Government will set housing targets and monitor supply to ensure planning controls are in place to stimulate housing development.

The proposed development would be consistent with *A Plan for Growing Sydney*, by providing for additional residential dwellings within close proximity to the Hornsby Town Centre and the existing strategic transport corridors of the Pacific Highway and Northern Railway Line).

2. STATUTORY CONTROLS

Section 79C(1)(a) of the Act requires the consent authority, in its assessment of a DA, 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 proposed development has been assessed having regard to the provisions of the *Hornsby Local Environmental Plan 2013* (*HLEP*).

2.1.1 Zoning of Land and Permissibility

The subject land is zoned R4 High Density Residential Zone under the *HLEP.* The objectives of the R4 Zone are:

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

The proposed development is defined as 'business premises', 'residential flat building' and 'shop top housing' and is permissible with Council's consent in the R4 Zone.

2.1.2 Height of Buildings

Clause 4.3 of the *HLEP* provides that the height of a building on any land should not exceed the maximum height show for the land on the Height of Buildings Map. The maximum permissible height for the subject site is 29.5 metres. The proposal does not comply with this provision.

2.1.3 Exceptions to Development Standards

The application has been assessed against the requirements of Clause 4.6 of the *HLEP.* This clause provides flexibility in the application of the development standards in circumstances where strict compliance with those standards would, in any particular case, be unreasonable or unnecessary or tender to hinder the attainment of the objectives of the zone.

The proposal exceeds the 29.5 maximum building height prescribed under Clause 4.3 of the *HLEP*, which seeks to permit building heights that are appropriate for the site constraints, development potential and infrastructure capacity of the locality.

The applicant has made a submission in support of a variation to this development standard. The application seeks to vary the development standard by up to 1.5 metres for proposed 'Tower A' and up to 3.89 metres for proposed 'Tower B'. The applicant states the proposed variation is considered to be consistent with the objectives of the control and is justified as follows:

- The additional building height is limited to the western end (rear) of Tower A and the lift core of Tower B, and arises due to the sloping nature of the site.
- The rear of Tower A faces internally to the site and the extent of the additional height is not discernible from the Pacific Highway frontage. Tower B sits behind Tower A and the maximum height of Tower B is lower than Tower A.
- The additional height does not contribute to additional or excessive bulk and scale when viewed from the Pacific Highway frontage.

- The western (rear) end of Tower A steps in towards the middle of the site and the additional height does not extend to the northern and southern boundaries.
- The height exceedance for Tower B is for the lift core and plant room. The lift core has been extended to provide access to the roof top to allow the roof top to be used as communal open space.
- The residential floor areas of Tower B sit within the site's building height limit and good separation is provided between the two residential towers.
- The lift core of Tower B is located to the middle of the site and the additional height does not extend to the northern and southern boundaries.
- The design of the towers responds to the built form of the adjoining development, which is up to eleven (11) storeys in height. The proposed buildings are nine (9) and and eight (8) storeys, which is consistent with the built form envisaged in the *Hornsby Development Control Plan 2013*.
- The scale of the proposed development is appropriate to the site's context and achieves an appropriate built form for the site.
- The additional height will not result in any adverse overshadowing impacts on surrounding premises.

State Government Guidelines on varying development standards recommend considering the provisions of Clause 4.6 of the *HLEP* and the 'five part test' established by the Land and Environment Court as follows:

1. The objectives of the standard are achieved notwithstanding noncompliance with the standard;
2. The underlying objective or purpose of the standard is not relevant to the development and therefore compliance is unnecessary;
3. The underlying object of purpose would be defeated or thwarted if compliance was required and therefore compliance is unreasonable;
4. The development standard has been virtually abandoned or destroyed by the council's own actions in granting consents departing from the standard and hence compliance with the standard is unnecessary and unreasonable;
5. The compliance with development standard is unreasonable or inappropriate due to existing use of land and current environmental character of the particular parcel of land. That is, the particular parcel of land should not have been included in the zone.

The applicant's submission to vary the 29.5 metre height development standard is considered to be well founded for the following reasons:

- As a result of the site's sloping topography, the additional height will not be visible from the Pacific Highway frontage.
- The RL at the highest point for the proposed development is 218.5 whereas the RLs for highest point of the adjoining buildings are RL218.76 and RL 220.14. Therefore, there

will be no undue environmental impacts to adjoining properties or other impacts that arise from the proposed non-compliance.

- The site is situated within the Pound Road Precinct, which is currently undergoing transition/re-development. In terms of its compatibility, the proposal is considered to achieve the height and scale identified to express the desired future character of the Precinct.
- The greater height non-compliance is with Tower B, which mainly arises as a result of the lift tower extending to the roof-top area which is to be made available for communal open space for the use and enjoyment of residents. There are very limited opportunities for communal opens space at ground level.
- The proposal is considered to be in the public interest as it achieves consistency with the objectives of the R4 High Density Residential Zone and the objective of the Height of Buildings development standard.

Based on this assessment, it is considered that compliance with the development standard would be unreasonable and unnecessary in the circumstances of the case. Accordingly, the Clause 4.6 submission is supported.

2.1.4 Heritage Conservation

Clause 5.10 of the HLEP sets out heritage conservation provisions for Hornsby LGA. The site does not include a heritage item and is not located in a heritage conservation area.

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 of the proposed works and excavation concludes that it is appropriate in the context of concealing car parking and mechanical plant, and subject to recommended conditions of consent, would not result in adverse impacts on the quality of the existing environment.

2.1.6 Additional Permitted Uses

Clause 2.5 of the *HLEP* states that an additional permitted use on particular land that is described or referred to in Schedule 1 may be carried out with or without development consent.

The site is identified within 'Area 6' on the Additional Permitted Uses Map, which permits development for the purposes of business premises, restaurants or cafés, shops, and take away food and drink premises, with consent.

The proposal includes 495m² of retail/commercial floor space on the ground floor level of Tower A, which would be permissible with Council's consent.

2.2 State Environmental Planning Policies

2.2.1 State Environmental Planning Policy (State and Regional Development)

State Environmental Planning Policy (State and Regional Development) requires that the Regional Panel exercises the consent authority functions for general development with a capital investment value of more than $20 million. The proposed development has an estimated capital investment value of $22.9 million. Therefore, the Sydney West Joint Regional Planning Panel (JRPP) is the consent authority for the determination of this application.

2.2.2 State Environmental Planning Policy (Building Sustainability Index – BASIX) 2004

The proposed development has been assessed against the requirements of *State Environmental Planning Policy (Building Sustainability Index – BASIX) 2004*. The DA includes a BASIX Certificate for the dwellings within the proposed development, which demonstrates compliance with the requirements of the *SEPP*.

2.2.3 State Environmental Planning Policy (Infrastructure) 2007

Clause 85 – Development Adjoining a Rail Corridor

Clause 85 of *State Environmental Planning Policy (Infrastructure) 2007* (*Infrastructure SEPP*), sets out provisions relating to development located immediately adjacent to rail corridors. The site directly adjoins a rail corridor to the rear and involves the excavation of earth and the construction of buildings with electricity conductive materials. Further to this, the proposal may require the use of a crane on the site, which could have mobility over the air space above the rail corridor.

The application was referred to RailCorp on 23 September 2014. As of 1 July 2014, the property functions of RailCorp have been transferred to Sydney Trains. Whilst RailCorp still exists as the legal owner of the corridor, its concurrence functions under *State Environmental Planning Policy (Infrastructure) 2007* has been delegated to Sydney Trains.

Sydney Trains has assessed the proposed development taking into account the further information provided by the applicant. Sydney Trains has granted its concurrence to the proposed development subject to Council imposing a deferred commencement condition and a number of operational conditions that will need to be complied with upon satisfaction of the deferred commencement condition.

Clause 87 – Impact of Rail Noise or Vibration on Non-Rail Development

Clause 87 of the *Infrastructure SEPP* sets out provisions relating to the potential impact of rail noise or vibration on non-rail development, which apply to development for a residential use that is likely to be adversely affected by rail noise or vibration. The site is located in close proximity to the Mail Northern Railway line, therefore the provisions of Clause 87 apply to the proposed development.

An Acoustic Report, prepared by Acoustic Logic (dated 15 April 2014), was submitted with the application, which provides an assessment of the potential noise and vibration impacts from

the adjoining railway line, having regard to the *Hornsby Development Control Plan 2013*, relevant Australian Standards and *Development Near Rail Corridors and Busy Roads – Interim Guideline*. The report concluded that the proposed development is capable of meeting relevant guidelines, subject to the adoption of minimum acoustic performance standards for building elements, including glass, seals and doors. Based on the results of the vibration assessments, no additional acoustic or vibration treatments are required to be conducted to the proposed development.

As suitable condition has been recommended to ensure that the proposal is consistent with the requirements outlined in the Acoustic Report.

Clause 101 – Development with Frontage to a Classified Road

Clause 101 of the *Infrastructure SEPP* applies to the proposed development as the subject site has frontage to the Pacific Highway which is a classified road.

All access to the development will be from the rear of the site via Wanderers Way, which is a privately owned road, which connects to Pretoria Parade to the south and Government Road and Pound Road to the north. The direct vehicular access that is currently available from the Pacific Highway will be removed. This will improve the safety, efficiency and operation of the Pacific Highway. The development comprises residential apartments, which will incorporate suitable measures to ameliorate potential traffic noise (refer to Clause 87 above).

Based on the above, the proposed development is consistent with the provisions of Clause 101 of the *Infrastructure SEPP*.

Clause 102 – Impact of Road Noise or Vibration on Non-Road Development

Clause 102 sets out provisions relating to the reduction of impacts of road noise upon residential uses.

An Acoustic Report was submitted with the application, which provides an assessment of the potential noise and vibration impacts from the Pacific Highway. The Report concluded that the proposed development is capable of meeting relevant guidelines, subject to the adoption of minimum acoustic performance standards for building elements, including glass, seals and doors.

A suitable condition has been recommended to ensure that the proposal is consistent with the requirements outlined in the Acoustic Report.

Clause 104 – Traffic Generating Development

Clause 104 sets out provisions relating to 'traffic generating development', as defined in Schedule 3 of the *Infrastructure SEPP*. Development for the purpose of an apartment or residential flat building comprising 75 or more dwellings with access to a classified road, or to a road that connects to a classified road (if access within 90 metres of connection), is traffic generating development.

Whilst the site has direct frontage to the Pacific Highway, site access is via Wanderers Way, which connects to Pretoria Parade to the south and Government Road to the north. Both of these roads connect to the Pacific Highway. However, as the access driveway is

approximately 230m from the Pacific Highway and further than 90m from the connection to the Pacific Highway, the proposed development does not require referral to the Roads and Maritime Services.

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

State Environmental Planning Policy No. 55 – Remediation of Land contains state-wide planning controls for the remediation of contaminated land. The Policy states that Council's must not consent to the carrying out of any development on land unless it has considered whether the land is contaminated and/or requires remediation for the intended land use.

Council's Environmental Protection Team assessed the abovementioned development and determined that the site is not potentially contaminated. As such, no further assessment is considered necessary in terms of site contamination issues.

2.2.5 State Environmental Planning Policy No. 65 – Design Quality of Residential Flat Development

State Environmental Planning Policy No. 65 – Design Quality of Residential Flat Development (*SEPP 65*) aims to raise the design quality of residential flat development across NSW through the application of a series of design principles. The *Environmental Planning and Assessment Regulation 2000*, requires the involvement of a qualified designer throughout the design, approval and construction stages for residential flat developments.

Clause 30(2) of *SEPP 65* requires the consent authority, in determining a development application for consent to carry out residential flat development, to take into consideration the design quality of the residential flat development when evaluated in accordance with the 'Design Quality Principles', and the *Residential Flat Design Code* (*RFDC*).

As per clause 50 of the Environmental Planning and Assessment Regulation 2000, the applicant has submitted a *Design Verification Statement* prepared by a qualified architect, Steven Isaacs of Architecture Saville Isaacs. The Statement contains comments responding to each of the Design Quality Principles and concludes by stating that:

> *Given the numerous constraints on the isolated site, including adverse challenges of the adjoining buildings, the proposed design is considered to be a good outcome for the site, which will be of benefit to its future inhabitants as well as the local community. The project built form, height, scale and density are considered appropriate and are compatible with the local buildings. The building is considered well suited to its site and location.*

We have reviewed the submitted Statement and agree that the proposal satisfactorily addresses / incorporates the Design Quality Principles of *SEPP 65*.

Our assessment of the Design Quality Principles is detailed in the Table below:

Design Quality Principle	Requirement	Assessment	Compliance
1 – Context	*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 context of the subject site is defined by the Desired Future Character Statement of the *Hornsby Development Control Plan 2013* (*HDCP*). The subject site forms part of the *HDCP* 2013 'Pound Road, Hornsby Precinct'. This Precinct has been nominated to deliver residential flat buildings of up to 9 storeys in height, with commercial floor space on the ground floor that provides an active frontage to the public domain. The development would be consistent with the desired future character of the locality. The submitted Design Verification Statement is supported in respect to this Principle	**Yes**
2 – Scale	*Good design provides an appropriate scale in terms of the bulk and height that suits the scale of the street and the surrounding buildings.* *Establishing an appropriate scale requires a considered response to the scale of existing development. In precincts undergoing a transition, proposed bulk and height needs to achieve the scale identified for the desired future character of the area*	The scale of the proposed development is appropriate to its context and generally complies with the height and built form controls of the Pound Road, Hornsby Precinct under the *HDCP* 2013. The scale of the proposed development is appropriate for the subject site and generally conforms to the planning controls and desired future character for the Precinct. Specifically, the proposal incorporates a podium of three storeys with a recessed tower above. The top two floors are further setback on all sides, providing the classical vertical hierarchy of base, middle and top. The proposal responds to the lower height of the residential towers to the rear by adjusting its scale and stepping down towards the rear boundary. The submitted Design Verification Statement is supported in respect to this Principle.	**Yes**
3 – Built Form	*Good design achieves an appropriate built form for a site and the building's purpose, in terms of building alignments, proportions, building type and the manipulation of building elements.* *Appropriate built form defines the public domain, contributes to the character of streetscapes and parks, including their views and vistas, and*	The *HDCP* 2013 includes planning controls for height, setbacks, building footprints and articulation, which prescribe the future built form of the Pound Road Precinct. The proposed residential flat building is appropriately sited, modulated and articulated to reduce bulk and scale and to express the preferred residential character of the Pound Road Precinct. The mass of the proposal is broken down into two distinct tower elements. The eastern tower fronting the Pacific Highway sits above a three storey	**Yes**

Design Quality Principle	Requirement	Assessment	Compliance
	provides internal amenity and outlook.	podium, which is articulated and modulated to respond to the podiums of the two adjoining buildings (north and south). An open frame element has been provided at level 3 to reflect the higher four storey podium of the southern neighbour. The proposed built form responds directly to the built form of the adjoining development. To the north, south and west, the proposal steps inward and downwards to respond to the scale of its neighbours as well as to maximise solar access to the neighbouring properties. The submitted Design Verification Statement is supported in respect to this Principle.	
4 – Density	*Good design has a density appropriate for a site and its context, in terms of floor space yields (or number of units or residents).* *Appropriate densities are sustainable and consistent with the existing density in an area or, in precincts undergoing a transition, are consistent with the stated desired future density. Sustainable densities respond to the regional context, availability of infrastructure, public transport, community facilities and environmental quality.*	The site density is regulated by the statutory height control of 29.5 metres and the controls contained within the *HDCP* 2013. The proposal is generally consistent within the DCP prescriptive measures as addressed in Section 2.7 of this report. The high density of the proposed development is consistent with the existing density in the area and is appropriate given the rising demand for housing within close proximity to the Hornsby Town Centre and train station. The submitted Design Verification Statement is supported in respect to this Principle.	**Yes**
5 – Resource, Energy and Water Efficiency	*Good design makes efficient use of natural resources, energy and water throughout its full life cycle, including construction.* *Sustainability is integral to the design process. Aspects include demolition of existing structures, recycling of materials, selection of appropriate and sustainable materials, adaptability and reuse of buildings, layouts and built form, passive solar design principles, efficient appliances and mechanical services, soil zones for vegetation and reuse of*	The proposed works include the demolition of all existing structures and excavation works to accommodate the new development. The applicant has submitted a Waste Management Plan detailing the proposed disposal and recycling of demolition and excavation materials. The applicant has submitted a BASIX Certificate for the proposed development (Certificate No. 565897M). In achieving the required BASIX targets for sustainable water use, thermal comfort and energy efficiency, the proposed development would achieve efficient use of natural resources, energy and water throughout its full life cycle, including demolition and construction.	**Yes**

Design Quality Principle	Requirement	Assessment	Compliance
	water.	The submitted Design Verification Statement is supported in respect to this Principle.	
6 – Landscape	*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.*	Due to the constraints of the site, the landscape concept plan proposes to implement 'on-building' landscaping, including a landscaped roof-top terrace on proposed Tower B, an open space area with lawn and raised planters at ground level, raised planters along the main pedestrian access, planters / trough pots on a number of the upper levels and courtyard plantings on the ground floor terraces. Along the Pacific Highway frontage landscaping is proposed to be provided between the street pavement and the covered building colonnade, which is consistent with the neighbouring properties to the north and south. Three (3) street trees are proposed to enhance the streetscape and pedestrian amenity. The submitted Design Verification Statement is supported in respect to this Principle.	**Yes**
7 – Amenity	*Good design provides amenity through the physical, spatial and environmental quality of a development.* *Optimising amenity requires appropriate room dimensions and shapes, access to sunlight, natural ventilation, visual and acoustic privacy, storage, indoor and outdoor space, efficient layouts and service areas, outlook and ease of access for all age groups and degrees of mobility.*	The proposed units are designed with appropriate room dimensions and layout to maximise amenity for future residents. The proposal incorporates good design in terms of achieving natural ventilation, solar access and acoustic privacy. All units incorporate balconies accessible from living areas and privacy has been achieved through appropriate design and orientation of balconies and living areas. Storage areas have been provided within each unit and in the basement levels. The proposal would provide convenient and safe access via a central lift connecting the basement and all other levels. The submitted Design Verification Statement is supported in respect to	**Yes**

Design Quality Principle	Requirement	Assessment	Compliance
		this Principle.	
8 – Safety and Security	*Good design optimises safety and security, both internal to the development and for the public domain.* *This is achieved by maximising overlooking of public and communal spaces while maintaining internal privacy, avoiding dark and non-visible areas, maximising activity on streets, providing clear, safe access points, providing quality public spaces that cater for desired recreational uses, providing lighting appropriate to the location and desired activities, and clear definition between public and private spaces.*	The proposed residential flat building provides opportunities for passive surveillance of access points and common open space areas. The proposed design includes secure access to the basement car park and to the dwellings. A Crime Prevention through Environmental Design (CPTED) Report, prepared by DFP Planning Consultants (dated 29 August 2014) was submitted with the application. The CPTED Report concluded that subject to the implementation of recommended measures, the proposal provides for a safe environment for future residents. The application was referred to the NSW Police 23 September in relation to CPTED. As no formal response has been received, it is assumed that NSW Police have no objections to the proposal and no conditions were required. The submitted Design Verification Statement is supported in respect to this Principle.	**Yes**
9 – Social Dimensions and Housing Affordability	*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 proposed development will provide a diverse range of apartment sizes, ranging from smaller studio apartments to larger three bedroom apartments with private open spaces ranging from courtyards to terraces and balconies. This will result in a range of price categories and encourage social diversity. Within the site, accessibility is provided in accordance with AS1428 and AS4299 and in accordance with BCA standards. Disabled access is gained directly from the street level into the ground floor residential lobbies then via the lift to all apartment levels. Accessible car parking spaces are provided to both residential and public parking areas with direct lift access to the residential lobby and retail space. 30% of the apartments are specifically designed to AS4299 for adaptable housing, with 10% of residential parking being accessible. The submitted Design Verification Statement is supported in respect to this Principle.	**Yes**
10 –	*Quality aesthetics require the appropriate*	The proposed development exhibits a high standard of architecture and	**Yes**

Design Quality Principle	Requirement	Assessment	Compliance
Aesthetics	*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.*	overall aesthetics, which would contribute positively to the Pacific Highway streetscape. The building provides a modern contemporary form with an acceptable use of material articulation and modulation to provide a distinctive and strongly defined building element, which complements the quality of urban design envisaged for the 'Pound Road, Hornsby Precinct'. The submitted Design Verification Statement is supported in respect to this Principle.	

The proposed residential development is generally considered to be of a good design that responds and contributes to its context, makes efficient use of natural resources, energy and water, provides quality aesthetics, and optimises amenity through reasonable access to sunlight, natural ventilation, and visual and acoustic privacy.

2.3 State Environmental Planning Policy No. 65 – *Residential Flat Design Code*

The *RFDC* includes development controls and best practice benchmarks for achieving the design principles of *SEPP 65*.

The applicant has submitted a *RFDC* compliance table stating how the proposed development complies with the primary development controls of the *RFDC*.

Our assessment of the *RFDC* 'Rules of Thumb' and 'Control Checklist' is detailed in the Table below. The assessment demonstrates that the proposal generally complies with the recommended development controls and best practice guidelines of the *RFDC* other than for building depth and separation, deep soil zones, open space, apartment layout and sizes, ground floor apartments, storage, and daylight access.

Part 01 – LOCAL CONTEXT		
Preliminary Development Controls		
Building Height	Where there is an existing FSR, test height controls against it to ensure a good fit.	**Not Applicable** – No FSR applies under the *HLEP* and *HDCP*.
	Test heights against the number of storeys and the minimum ceiling heights required for the desired building use (2.7m for habitable rooms, 2.4m for non-habitable rooms and 1.5m for attics).	**Complies** – The *HDCP* requires residential flat buildings within the Pound Road Precinct to be 9 storeys in height (excluding basement car parking) and to include a broad podium level with a height of 3 storeys along the Pacific Highway frontage. The height of proposed Tower A, which adjoins the Pacific highway frontage, is 9 storeys in height and incorporates a 3 storey broad

		podium level. The height of proposed Tower B is 8 storeys in height and does not include a podium level. Tower B is situated to the rear of Tower A and therefore does not have a direct frontage to the Pacific Highway.
		Complies – Ceiling heights of 2.7 metres are proposed for all habitable rooms.
Building Depth	An apartment depth of 10m - 18m is appropriate. Developments that propose wider than 18m must demonstrate how satisfactory day lighting and natural ventilation are to be achieved.	**Does not comply, but acceptable** – See detailed discussion after Table.
Building Separation	Design and test building separation controls in plan and section. Up to 4 storeys/12m: ▪ 12m between habitable rooms/balconies. ▪ 9m between habitable/balconies and non-habitable rooms. ▪ 6m between non-habitable rooms. 5 to 8 storeys/up to 25m: ▪ 18 metres between habitable rooms and balconies. ▪ 13 metres between habitable rooms/balconies and non-habitable rooms. ▪ 9 metres between non-habitable rooms.	**Does not comply, but acceptable** – See detailed discussion after Table.
	Test building separation controls for daylight access to buildings and open spaces.	**Complies** – See discussion in Building Amenity below).
Street Setbacks	Identify the Desired Streetscape Character, the common setback of buildings in the street, the accommodation of street tree planting and the height of buildings and daylight access controls.	**Complies** – Proposed Tower A is consistent with the built form and build-to-lines established by the *HDCP*. Tower A is 9 storeys in height and comprises a commercial floor space on the gro*HDCP*und floor that provides for an active street frontage enhanced by the provision of street trees, landscaping and a generous colonnade.
	Test street setbacks with building envelopes and street sections.	**Complies** – the building height plane at the Pacific Highway street setback is complied with.

Side and Rear Setbacks	Relate side setbacks to existing streetscape patterns.	**Complies** – The proposed development responds to the existing side setbacks of adjoining developments to ensure continuation of the streetscape pattern along the Pacific Highway.
	Test side and rear setback with building separation, open space and deep soil zone requirements.	**Does not comply, but acceptable** – See discussion on Building Separation, Open Space and Deep Soil Zones below this Table.
	Test side and rear setbacks for overshadowing of other parts of the development and/or adjoining properties, and of private open space.	**Complies** – See discussion in Daylight Access. Adjoining properties to the north and south will achieve the minimum requirements for solar access. The lowest two levels of balconies of the adjoining residential building to the north are orientated south towards the site and currently do not achieve adequate solar access during 9am to 3pm mid-winter. The design of the proposed Tower A has taken into account the presence of the adjoining balconies by providing a stepped building form along the common northern boundary. Whilst this will not improve the provision of solar access, it will provide for the penetration of natural daylight to these lower level balconies.
Floor Space Ratio	Test the desired Built Form outcome against proposed floor space ratio to ensure consistency with building height-building footprint the three dimensional building envelope open space requirements.	**Complies** – No FSR applies under the *HLEP* or *HDCP*.
Part 02 – SITE DESIGN		
Site Configuration		
Deep Soil Zones	A minimum of 25% of the open space area of a site should be a deep soil zone.	**Does not comply, but acceptable** – See detailed discussion after Table.
Open Space	The area of communal open space required should generally be between 25 and 30% of the site area.	**Does not comply, but acceptable** – See detailed discussion after Table.
	The minimum recommended area of private open space for	**Complies** – The ground floor is an elevated podium above a

	each apartment at ground level or similar space on a structure, such as on a podium or car park, is 25m²; the minimum preferred dimension in one direction is 4 metres. (See 'Balconies' for other private open space requirements)	basement car park. The apartments with terraces / courtyards on the lower ground floor and ground floor, being apartments LG02, LG03, LG04, LG05, G03 and G08-G10, achieve a minimum of 25m² of private open space with a minimum dimension of 4 metres in one direction).
Safety	Carry out a formal Crime Risk Assessment for all residential developments of more than 20 new dwellings.	**Complies** – The proposal provides opportunities for passive surveillance of access points and common open space areas. The proposed design includes secure access to the basement car park and to the dwellings. A CPTED Report was submitted with the application. It concluded that subject to the implementation of recommended measures, the proposal provides for a safe environment for future residents. The application was referred to the NSW Police. No comments were received from NSW Police.
Visual Privacy	Refer to building separation minimum standards.	Refer to discussion on Building Separation above.
Pedestrian Access	Identify the access requirements from the street or car parking area to the apartment entrance.	**Complies** – The proposed development incorporates clearly defined and activated building entrances from both the street and basement car parking areas.
	Follow the accessibility standard set out in AS 1428 (parts 1 and 2), as a minimum.	**Complies** – Subject to appropriate conditions of consent.
	Provide barrier free access to at least 20% of dwellings in the development.	**Complies** – An Access Report, prepared by Accessible Building Solutions (dated 6 August 2014) concludes that the proposal achieves compliance with the access provisions of the Building Code of Australia (BCA).
Vehicle Access	Generally limit the width of driveways to a maximum of six metres.	**Does not comply, but acceptable** – The proposed basement car park access from Wanderers Way comprises 2 x 3m wide entry and exit driveways separated by a central median. The overall width of the access including the median is approximately 7m, which is considered to be acceptable.
	Locate vehicle entries away from main pedestrian entries and on secondary frontages.	**Complies** – The proposed vehicular entry will be from the Wanderers Way frontage adjacent to the western boundary. It will be away from the main pedestrian entry, which is from the Pacific Highway.

Part 03 – BUILDING DESIGN		
Building Configuration		
Apartment Layout	Single-aspect apartments should be limited in depth to 8 metres from a window and the back of a kitchen should be no more than 8 metres from a window. Buildings not meeting the minimum standards listed above, must demonstrate how satisfactory day lighting and natural ventilation can be achieved, particularly in relation to habitable rooms (see Daylight Access and Natural Ventilation).	**Does not comply, but acceptable** – Due to the narrow width and east-west orientation of the site, the majority of the apartments are single aspect. The depth of these apartments varies between 9m and 11m and where possible, the kitchens have been located within 8m of a window. The proposed layout of the single aspect apartments is considered to be satisfactory given that they achieve good environmental performance and amenity outcomes for residents.
Apartment Sizes	If council chooses to standardise apartment sizes, a range of sizes that do not exclude affordable housing should be used. As a guide, the Affordable Housing Service suggest the following minimum apartment sizes, which can contribute to housing affordability: ▪ 1 bedroom apartment 50m² ▪ 2 bedroom apartment 70m² ▪ 3 bedroom apartment 95m²	**Does not comply, but acceptable** – Council has not standardised apartment sizes. Nonetheless, the majority of the proposed apartments comply with the suggested minimum apartment sizes for affordable housing. Twelve (12) of the two bedroom apartments are sized between 65m² and 68m², and one (1) of the three bedroom apartments is 92m². Whilst slightly smaller than the 70m² and 95m² respective recommended minimums, the apartments provide functional layouts, with the majority achieving satisfactory solar access and cross ventilation.
Apartment Mix	Provide a variety of apartment types between studio, one, two, three and three-plus bedroom apartments, particularly in large apartment buildings.	**Complies** - The layout of the proposed apartments includes a combination of single aspect apartments and dual aspect apartments. The apartment layouts provide for housing choice and a range of household types. The following mix is proposed: ▪ 8 x Studios ▪ 26 x 1 Bedroom ▪ 56 x 2 Bedrooms ▪ 13 x 3 Bedrooms
Balconies	Provide primary balconies with a minimum depth of 2m.	**Complies** – The proposed design provides for balconies for all upper floor apartments. The proposed minimum depth of these areas comply with and mostly exceed the 2m recommended standard.

Ceiling Heights	The following recommended dimensions are measured from finished floor level (FFL) to finished ceiling level (FCL): ▪ 2.7 metre minimum for all habitable rooms on all floors, ▪ 2.4 metres is the preferred minimum for all non-habitable rooms, however 2.25m is permitted.	**Complies** - Ceiling heights of 2.7m are proposed.
Ground Floor Apartments	Provide ground floor apartments with access to private open space, preferably as a terrace or garden.	**Complies** – Three ground floor terrace style apartments are proposed between the two residential flat buildings. One apartment on the ground floor and five apartments on the lower ground floor have courtyards / terraces, which is the optimum achievable on the site.
	Optimise the number of ground floor apartments with separate entries and consider requiring an appropriate percentage of accessible units. This relates to the desired streetscape and topography of the site.	**Does not comply, but acceptable** – The proposed design does not provide separate entries for the proposed ground floor apartments, except for proposed apartments G03, G04 and G08-10. The proposed variation is considered to be acceptable as: • The limited area available for side setbacks restricts the opportunities for separate ground level entries • the majority of the apartments are to be accessed via clearly defined and secured building entrances from the ground floor level and basement car parking areas.
Internal Circulation	In general, where units are arranged off a double-loaded corridor, the number of units accessible from a single core / corridor should be limited to eight.	**Complies** – Double loaded corridors occur off a single lift core within proposed Towers A and B. All cores and corridors serve less than 8 dwellings.
Storage	In addition to kitchen cupboards and bedroom wardrobes, provide accessible storage facilities at the following rates: ▪ Studio apartments – 6m³ ▪ One bedroom apartments – 6m³ ▪ Two bedroom apartments – 8m³.	**Does not comply, but acceptable** – Four of the three bedroom apartments achieve 9m³, which is slightly below the 10m³ recommended minimum. This minor variation is considered to be acceptable as there is additional storage within the basement car park areas to ensure the three bedroom apartments achieve 10m³ of

	▪ Three bedroom apartments – 10m³.	storage space.
Building Amenity		
Acoustic Privacy	Provide a high level of amenity by protecting the privacy of residents both within the apartments and in private open space.	**Complies** – The Acoustic Report, submitted with the application identified potential environmental noise sources which may have an impact on the site development. These included rail noise from the adjoining railway line and traffic noise from the adjoining Pacific Highway; as well as noise sources from the proposed development which may have an impact on adjoining residential developments (i.e. mechanical plant serving the site). A suitable condition has been recommended to ensure that the proposal is consistent with the requirements outlined in the Acoustic Report.
Day Light Access	Living rooms and private open spaces for at least 70 percent of apartments in a development should receive a minimum of three hours direct sunlight between 9 am and 3 pm in mid-winter. In dense urban areas a minimum of two hours may be acceptable.	**Does not comply, but acceptable** – See detailed discussion after Table.
Aspect	Limit the number of single aspect apartments with a southerly aspect (SW to SE) to a maximum of 10% of the total units proposed.	**Complies** – Only two of the proposed apartments are directly south facing (apartments LG04 and G04).
Natural Ventilation	Sixty percent (60%) of residential units should be naturally cross ventilated.	**Complies** – In total 65.1% (69 out of 106) of the apartments are naturally cross ventilated.
Building Performance		
Waste Management	Supply waste management plans as part of the DA submission as per the NSW Waste Board.	**Complies** – Council's Waste Management Officers support approval subject to conditions.
Water Conservation	Rainwater is not to be collected from roofs coated with lead- or bitumen-based paints, or from asbestos-cement roofs. Normal guttering is sufficient for water collections provided that it is kept clear of leaves and debris.	**Complies** – Subject to appropriate conditions of consent.

The following provides a discussion of those aspects of the proposal that do not comply with the numeric standards of the *RFDC*.

2.3.1 Building Depth

The proposal provides for two towers, Tower A and Tower B, separated by a central area of communal open space and 3 terrace dwellings at ground level. The buildings have an irregular form and have been designed to respond to the relatively deep, narrow site and proximity to existing residential flat buildings, which adjoin the site to the north and south.

The proposed building depth of each tower ranges from approximately 21 metres to 37 metres. As per the *RFDC*, freestanding buildings (e.g. towers) may have a depth greater than 18 metres if satisfactory daylight and natural ventilation can be achieved. The proposed building depth exceeding 18 metres is considered to be acceptable based on the following:

- 65% of the total number of apartments proposed will achieve satisfactory cross ventilation.
- A reasonable proportion (60.4%) of the total number of apartments will receive 2+ hours of solar access between 9am and 3pm mid-winter. When modelled between 8am and 4pm mid-winter this increases to 76% of apartments achieving 2+ hours.

2.3.2 Building Separation

The proposed separation between the balconies of the two residential flat buildings range from approximately 15 metres to 17 metres. The *RFDC* would require at least 18 metre separation. The variation sought is considered to be acceptable as the buildings have been designed to include privacy screens and to off-set windows to maximise privacy. Wrap-around balconies have been provided on the western elevation of proposed Tower A and the eastern elevation of proposed Tower B so as to maximise opportunities for solar access.

The neighbouring residential flat buildings to the north and south have been built to the respective common site boundaries. Strict compliance with the recommended building separations (to existing adjoining residential flat buildings) would unreasonably limit the development opportunity of this narrow site.

The residential flat building to the north (121 Pacific Highway) has been built to the southern boundary and, inexplicably, includes two levels of balconies on this common boundary. In response, the northern side of proposed Tower A (up to Level 4) has been stepped so as to align with the eastern extent of these balconies and includes an open void area. This will ensure a reasonable level of light penetration to these private open space areas. Above level 2, the adjoining building has a small boundary setback.

The four storey residential building (above elevated parking) at the rear of the adjoining site to the north has been built to the common boundary. There are no existing windows on this elevation and the main outlook for the existing balconies is away from proposed Tower B – to the east and west respectively.

The residential flat building to the south (107 Pacific Highway) has been built to the common boundary. The main outlook of this building is towards the Pacific Highway to the east and as such, there are no windows on the common elevation.

The four storey residential building (above elevated parking) at the rear of the site to the south has been built to the northern boundary and, inexplicably, includes windows on this common boundary. In response, the southern side of proposed Tower B has been stepped inwards towards the centre of the site in order to increase the separation from the neighbouring building as well as to maintain daylight access and privacy. The proposed setback is 3.5m from the common boundary. At Levels 5 and 6 the building line is setback an additional 3.0m with balconies setback at 3.5m.

The proposed Tower A and Tower B building setbacks are consistent with those existing and are considered to be suitable. They would maintain a reasonable level of privacy and would allow a reasonable level of solar access to the neighbouring developments.

2.3.3 Deep Soil Zones

No deep soil zone can be provided as the proposed landscaped areas are situated above the basement car parking areas. Due to the narrow width of the site, the design of the basement has been restricted and as such, covers the majority of the site. So as to improve the amenity of the development, 'on-building' landscaping is proposed, including a landscaped roof-top terrace on proposed Tower B, an open space area with lawn and deep planter boxes to allow for trees up to 5 metres in height, raised planters along the main pedestrian access, trough pots on a number of the upper levels and courtyard plantings on the ground floor terrace.

Based on the above, the proposed variation sought is considered to be acceptable.

2.3.4 Open Space

The communal open space is proposed to be provided in the form of a central courtyard at ground level and a landscaped roof-top terrace on Tower B. The total proposed area of communal open space in the development is 579m² or 21% of the site area.

The proposed variation from the *RFDC* rule of thumb control of 25% of site area is considered to be minor and acceptable. It is also noteworthy that the *HDCP* requires much less communal open space than the *RFDC* for developments in the Pound Road precinct, and the proposed rate of open space area would be greater than other similar high density development in the locality.

2.3.5 Day Light Access

The *RFDC* recommends that 70% of all apartments within a development should receive a minimum of three hours direct sunlight between 9am and 3pm in mid-winter. In dense urban areas a minimum of two hours may be acceptable.

Due to the narrow and east-west orientation of the site as well as the minimal setback of the residential flat building to the north, it is not possible for the proposed development to achieve a minimum three hours of sunlight between 9am and 3pm mid-winter. Of the total number of

apartments proposed, 26.4% will receive no solar access, 13.2% will receive less than 2 hours and 60.4% will receive 2+ hours of solar access.

Despite the above, when modelled between the hours of 8am to 4pm, 72% of the total proposed apartments will achieve a minimum of 2 hours of sunlight mid-winter.

Having regard particularly to the existing surrounding development, east-west orientation and narrow frontage of the land, the proposed solar access is considered to be acceptable.

2.4 Sydney Regional Environmental Plan No. 20 – Hawkesbury – Nepean River

The site is located within the catchment of the Hawkesbury Nepean River. Part 2 of this Plan contains general planning considerations and strategies requiring Council to consider the impacts of development on water quality, aquaculture, recreation and tourism.

Subject to the implementation of sediment and erosion control measures and stormwater management to protect water quality, the proposal would comply with the requirements of the Plan.

2.5 Draft Environmental Planning Instruments

2.5.1 Draft State Environmental Planning Policy No. 65 – Design Quality of Residential Flat Development

The Department of Planning and Environment (DP&E) recently exhibited amendments to *State Environmental Planning Policy No. 65 – Design Quality of Residential Flat Development* (known as Draft Amendment No. 3). These amendments were accompanied by a proposed draft *Apartment Design Guide – Tools for Improving the Design of Residential Flat Development*, which will replace the current *Residential Flat Design Code*.

The key changes of relevance to this application are identified and addressed below:

- The 10 Design Quality Principles have been consolidated into 9 new Principles. The new Principles are largely the same, however the 2 existing 'Scale' and 'Built Form' Principles have been combined into a new 'Built Form and Scale' Principle. As detailed earlier in this Report, the built form and scale of the proposed development has been found to be acceptable.
- The numeric requirements for matters such as building separation, building depth, solar access and ceiling height remain the same. As detailed in the assessment of the RDFC above, the proposed development seeks a number of variations to building separation and solar access. The proposed variations have been justified and are considered to be acceptable in this instance.
- The draft Apartment Design Guide introduces the opportunity for developers to provide one of the specified 'Acceptable Solutions' as an alternative to the relevant Performance Criteria (primary development controls). The Acceptable Solutions largely replicate the existing Better Design Principles and Rules of Thumb of the current *RFDC*. However, there are additional and / or amended numerical standards proposed to be applied. Those of relevance to the proposal are identified and addressed in the Table 3 over page:

<table>
<tr><th>Proposed in the Draft Apartment Design Guide</th><th>Change from the RFDC</th><th>Compliance</th></tr>
<tr><td>Deep Soil Zones:

<table><tr><th>Site Area</th><th>Deep Soil Zone (% of Site Area)</th><th>Minimum Dimensions</th></tr><tr><td>Less than 650m²</td><td>7% consolidated</td><td>-</td></tr><tr><td>650m² - 1,500m²</td><td>10%</td><td>3m</td></tr><tr><td>Greater than 1,500m²</td><td>15%</td><td>6m</td></tr><tr><td>Greater than 1,500m² and significant tree cover</td><td>20%</td><td>6m</td></tr></table></td><td>Changes the existing control of 25% of the open space area being deep soil zone.</td><td>Does not comply, but acceptable – refer to the justification provided at Section 2.3.3 above.</td></tr>
<tr><td>Visual Privacy:

Unimpeded space is provided in front of windows and balconies to ensure visual privacy is achieved. Separation distances from buildings to the side and rear boundaries are:

<table><tr><th>Site Area</th><th>Habitable Rooms and Balconies</th><th>Non-habitable Rooms</th></tr><tr><td>Up to 12m (4 storeys)</td><td>6m</td><td>3m</td></tr><tr><td>Up to 25m (5-8 storeys)</td><td>9m</td><td>4.5m</td></tr><tr><td>Over 25m (9+ storeys)</td><td>12m</td><td>6m</td></tr></table>
Separation distances between buildings on the same site are double the above requirements.</td><td>Existing controls defer to the ‘Primary Development Controls’ and provide standards for building-to-building.

New Standards provide separation distances from building-to-boundary.</td><td>Does not comply, but acceptable – refer to the justification provided at Section 2.3.3 above.</td></tr>
<tr><td>Apartment Layout:

▪ Studio Apartment – 35m²
▪ 1 Bedroom Apartment – 50m²
▪ 2 Bedroom Apartment – 70m²
▪ 3 Bedroom Apartment – 95m²</td><td>Introduces a new minimum apartment size for studio apartments.</td><td>Complies – insofar as the proposed studio apartments exceed the 35m². Sizes for other apartments remain unchanged.</td></tr>
<tr><td>Balconies and Private Open Space:

1. Primary private open space at ground level or similar space on a structure has a minimum area of 16m² and a minimum dimension in one direction of 3m.

2. Primary balconies are provided for all apartments with the following minimum area and depth according to apartment size:

<table><tr><th>Dwelling Type</th><th>Minimum Area</th><th>Minimum Depth</th></tr><tr><td>1 Bedroom Apartment</td><td>8m²</td><td>2m</td></tr><tr><td>2 Bedroom Apartment</td><td>10m²</td><td>2m</td></tr></table></td><td>Previous control requires a minimum depth of 2 metres for all apartments.
Additional numeric controls, which did not previously exist.</td><td>Complies – As detailed at Section 2.3 above, three ground floor terrace style apartments are proposed between the two residential flat buildings. One apartment on the ground floor and five apartments on the lower ground floor have courtyards / terraces, which is the optimum achievable on the site.
All of the upper level apartments provide private open space in the form of a balcony. These</td></tr>
</table>

Proposed in the Draft Apartment Design Guide			Change from the *RFDC*	Compliance
3+ Bedroom Apartment	**12m²**	**2.5m**		balconies are consistent with the recommended minimum area and dimensions.

2.6 Development Control Plans

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

Clause 74BA of the Act states that a DCP provision will have no effect if it prevents or unreasonably restricts development that is otherwise permitted and complies with the development standards in relevant Local Environmental Plans and State Environmental Planning Policies.

The principal purpose of a DCP is to provide guidance on the aims of any environmental planning instrument that applies to the development; facilitate development that is permissible under any such instrument; and achieve the objectives of land use zones. The provisions contained in a DCP are not statutory requirements and are for guidance purposes only. Consent authorities have flexibility to consider innovative solutions when assessing development proposals, to achieve good planning outcomes.

2.6.2 Hornsby Development Control Plan 2013

The proposed development has been assessed having regard to the relevant desired outcomes and prescriptive requirements within the *Hornsby Development Control Plan 2013* (*HDCP*).

Our assessment of the proposal against the relevant HDCP development standards is detailed in the table below.

The assessment below demonstrates that the proposal generally complies with the development controls other than for site width, height, setbacks, building separation, sunlight and ventilation.

Control	Requirement	Compliance
PART 1 GENERAL		
Stormwater Management	▪ Erosion and Sediment Control Plan to be prepared and submitted. ▪ An On Site Detention (OSD) system, designed in accordance with the Hornsby Shire Council Civil Works Specification to be provided.	**Yes, subject to conditions** – A Stormwater Management Plan prepared by JHA Consulting Engineers was submitted with the application. Refer to Section 3.1.2 after the Table.
Earthworks	▪ Filling should not exceed 1m in height from existing ground level. ▪ Excavation outside building platform should be limited to	**Yes, subject to conditions** – Due to the site slope, excavation will be between 5-12 metres. The proposed excavation is considered appropriate in the context of concealing car

Control	Requirement	Compliance
	a depth of 1m unless required to achieve a high quality built form.	parking, garbage storage areas and mechanical plant, and will not result in adverse impacts on the quality of the existing environment. The Geotechnical Report prepared by Douglas Partners, did not identify any subsurface or groundwater conditions that would prevent construction of the proposed development. Recommended conditions of consent will ensure the proposed earthworks would not adversely impact on the quality of the existing environment.
Car Parking	(Sites <800m from Railway Station) <u>Residential Component</u> ▪ 1 Bedroom – 0.75 spaces/dwelling. ▪ 2 Bedroom – 1 space/dwelling. ▪ 3+ Bedroom – 1.5 spaces/dwelling. ▪ Visitor – 1 spaces/7 dwellings. ▪ Motorcycles – 1 space/50 car spaces. <u>Retail Component</u> ▪ 1 space/29m² GLFA.	**Yes** – Based on the DCP rates, the proposed residential development requires 104 car spaces, 15 visitor car spaces and 2 motorcycle spaces. A total of 119 car spaces and 3 motorcycle spaces are proposed. The proposed residential Tower A comprises a ground floor retail component of 495m². Based on the DCP rate, 17 retail car spaces would be required. The proposed level 1 basement comprises 17 car spaces, which will be dedicated to the retail component. A total of 136 car and 3 motor cycle spaces will therefore be provided.
Bicycle Parking	▪ 1 space/5 dwellings for residents. ▪ 1 space/10 dwellings for visitors.	**Yes** – Based on the DCP rates, 21 resident bicycle spaces and 11 bicycle spaces for visitors, would be required. A total of 32 bicycle spaces are proposed.
Access	▪ All new building work should comply with the accessibility provisions of the Building Code of Australia (BCA) and the Disability (Access to Premises – Buildings) Standards 2010 where required.	**Yes** – An Access Report prepared by Accessibility Solutions (NSW) Pty Ltd, was submitted with the application and demonstrates that the development complies or is capable of complying with the relevant standards.
Waste Management	▪ A waste management plan must be prepared.	**Yes, subject to conditions** – An Operational Waste Management Plan prepared by Universal Foodservice Design, was submitted with the application. As detailed in the Plan, on site waste collection is provided for in the basement loading bay and waste rooms. Council's Waste Management Officers support approval subject to conditions.
Noise and Vibration	▪ Noise sensitive land uses adjoining a major road or a railway corridor should be accompanied by an acoustic report.	**Yes, subject to conditions** – A Noise and Vibration Assessment prepared by Acoustic Logic, was submitted with the application. The Report identified the main environmental noise sources, which may have an impact on the

Control	Requirement	Compliance
		site (mainly rail noise from the adjoining railway line and traffic noise from the adjoining Pacific Highway) as well as noise sources from the proposed development, which may have an impact on adjoining residential developments (mainly mechanical plant serving the site). A suitable condition has been recommended to ensure that the proposal is consistent with the requirements outlined in the Acoustic Report.
Air Quality	▪ An air quality report required for development within 100m of a public road	**Yes** – An air quality assessment was not submitted with the application. The development is proposed to be mechanically ventilated to provide appropriate air quality, which is considered to be satisfactory. The nature of the proposed development will not generate offensive odour.
Crime Prevention	▪ CPTED Report required for developments with 20 or more dwellings.	**Yes** – A Crime Prevention through Environmental Design (CPTED) Report, prepared by DFP Planning Consultants was submitted with the application. The CPTED Report concluded that subject to the implementation of recommended measures, the proposal provides for a safe environment for future residents. The application was referred to the NSW Police 23 September 2014 in relation to CPTED. As there was no formal response received within 21 days, it was assumed that NSW Police had no objections to the proposal and no conditions were required.
PART 3.5 RESIDENTIAL FLAT BUILDINGS (6 OR MORE STOREYS)		
Desired Future Character	▪ Residential flat buildings 9 storeys in height. ▪ Podium of 3 storeys ▪ Communal open space located between two residential towers ▪ Development setback from Pacific Highway to allow for continuity in building alignment.	**Yes** - The proposed development for two, nine and eight storey residential flat buildings (one with commercial floor space at ground level) with basement car parking, is considered to be consistent with the desired future character of the Precinct. A 3 storey podium is provided to the Pacific Highway frontage with the upper levels setback. Approximately 230m² of communal open space is provided between the proposed residential towers. Additional communal open space is proved in the form of a roof-top terrace on proposed Tower B. In total, approximately 580m² of communal open space is provided, which is considered to be appropriate for the proposed high density environment.
Design Quality	▪ Design Quality of Part 2 of *SEPP 65* are to be achieved. ▪ Design is to be consistent with the objectives of the *Residential Flat Design*	**No, but acceptable** – Refer to the comments of compliance at Section 2.3 of this Report.

Control	Requirement	Compliance
	Code.	
Minimum Site Width	▪ Minimum site width of 25m.	**No, but acceptable** –The subject site has an existing frontage of 24.4m to the Pacific Highway. As the site is an isolated infill development site with residential flat buildings adjoining to the north and south, there is no potential for this frontage to be extended to the 25m minimum.
Height	▪ Height limit of 9 storeys – 29.5m.	**No, but acceptable** – Whilst the proposed residential flat buildings are 8 and 9 storeys respectively, both buildings marginally exceed the 29.5 maximum building height prescribed under the HLEP. Specifically, proposed Tower A is 31m in height (9 storeys) and proposed Tower B is 33.39m (8 storeys). As detailed at Section 2.1.3 of this Report, the applicant has made a submission in support of a variation to the development standard in accordance with Clause 4.6 of the *HLEP*. The submission is supported on the grounds that the additional height will not be visible from the Pacific Highway frontage, and it will not have adverse environmental impacts on adjoining properties.
Setbacks	<u>3 Storey Podium</u> ▪ Front – 4m to primary road (plus 3.5m ground floor retail/business setback behind colonnade). ▪ Side – 0m up to the height of any adjoining development built to the boundary, or 12m. ▪ Rear – 12m to railway corridor. ▪ Basement car park – 12m to railway corridor. <u>4 storey and above</u> ▪ Primary – 10m (can be reduced to 8m for a maximum of 1/3 of the building). ▪ Side – 12m (up to 4 storeys). ▪ Side – 18m (5-8 storeys). ▪ Western boundary (railway corridor) – 15m. ▪ Top-storey – 3m additional (measured from the walls of the 4th storey).	**No, but acceptable** – The proposed development does not comply with the minimum side and rear setbacks as detailed below: <u>3 Storey Podium</u> ▪ Tower A is built to the northern and southern side boundaries, which is consistent with the adjoining residential flat buildings. ▪ Tower B is built to the northern side boundary and 3.5m from the southern side boundary. ▪ Variable setbacks to the Basement Levels is provided to the rear, which ranges from 11.9m – 12.7m. ▪ Variable setbacks to the Ground Floor Level up to Level 3 is provided to the rear, which ranges from Lower Ground Floor Level ranging from 9.5m – 11.6m (excluding balconies). These setbacks are consistent with those of the adjoining residential flat buildings to the north and south. <u>4 storey and above</u> ▪ Proposed Tower A is built to the side boundaries (north and south). ▪ Tower B, is built to the northern side boundary and 3.5m from the southern side boundary. The top most levels of Tower B

Control	Requirement	Compliance
		have been setback an additional 3m. Therefore, 6.5m side setback to southern boundary. ▪ Variable setback to Level 4 up to Level 6 is provided, which ranges from 9.5m – 14m (excluding balconies) The proposed Tower A and Tower B building setbacks are consistent with those existing and are considered to be suitable as they would maintain a reasonable level of privacy and allow a reasonable level of solar access to the neighbouring developments. Refer to the comments at Section 2.3.2 (above) for further justification of the building separation.
Building Form and Separation	Floor-plates ▪ Floor-plates adjoining public domain should provide continuity in the building alignment. Articulation ▪ Façades should be expressed as 3 distinct levels, base, middle and a top ▪ 3.5m deep colonnade at the Pacific Highway frontage.	**Yes** – The proposed development achieves an appropriate built form for the site. Specifically, Tower A, which fronts the Pacific Highway presents as a three storey podium with recessed tower above, which responds to the adjoining developments to the north and south. The top levels are setback on all sides, which presents a vertical hierarchy of a base, middle and top. A 3.5m wide colonnade is provided at the street level so as to activate the street frontage.
	Separation ▪ Up to 4 storeys – 12m. ▪ 5-8 storeys – 18m. ▪ 9 storeys – 24m. ▪ Setbacks from side and rear boundaries that adjoin neighbouring residential buildings should be ½ of the above separation distances.	**No, but acceptable** – The proposed separation between the balconies of the two residential flat buildings range from approximately 15 metres to 17 metres. The neighbouring residential flat buildings to the north and south have been built to the respective common site boundaries. As such, strict compliance with the minimum side setbacks would limit the development potential of the narrow site. Based on the justifications provided at Section 2.3.2 of this Report, the proposed DCP variations to building separation are supported.
Landscaped Area	▪ Minimum width of 4m for length of primary boundary. ▪ Landscaped areas between 2 buildings should have a minimum total width of 12m.	**Yes** – The proposed development complies with the minimum requirements. Specifically, a 4m wide landscaped area is proposed to be provided along the Pacific Highway frontage, and the central communal open space has a minimum dimension of 12m.
Private Open Space	▪ 1 Bedroom – 10m²/2.5m minimum width. ▪ 2 Bedroom - 12m²/2.5m minimum width.	**Yes** – The proposed development complies with the minimum private open space requirements.

Control	Requirement	Compliance
	▪ 3 Bedroom - 16m²/2.5m minimum width.	
Communal Open Space	▪ Minimum of 50m² per building. ▪ Minimum dimension of 6m. ▪ Receive at least 2 hours of sunlight during mid-winter.	**Yes** – The proposed provides 166m² of outdoor communal open space at ground level. This area has a minimum dimension of 6m and will receive at least 2 hours of sunlight during mid-winter. Further communal open space is proposed to be provided in the form of a roof-top terrace on proposed Tower B (350m²). This terrace complies with the minimum dimensions and solar access requirements.
Privacy	▪ Orientate dwelling living rooms and private open space towards the front and rear to promote privacy. ▪ Balconies, terraces and windows near ground level should be screened. ▪ The commercial and residential components of development should be distinguished in terms of building entries and private, communal and public open space.	**Yes** – The proposed development complies based on the following: ▪ Living areas, habitable rooms and windows have been orientated towards private open space areas or to the street frontages to limit overlooking. ▪ The proposed articulation and 'stepping' of the façades of the development will limit the potential for upper level apartments to overlook the private open space areas of the lower apartments. ▪ Where there is potential for the overlooking of adjoining residential developments, privacy screens have been proposed. ▪ The commercial and residential areas are proposed to have separate entries.
Sunlight and Ventilation	▪ 70% of dwellings should receive 2 or more hours of direct sunlight to at least ½ of the principal living room windows and private open space between 9am – 3pm mid-winter. ▪ 60% of dwellings should have dual aspect and natural ventilation.	**No, but acceptable** – As detailed at Section 2.3.5, due to the narrow and east west orientation of the site as well as the location of the residential flat building to the north, only 60.4% of the apartments will receive 2+ hours of sunlight between 9am – 3pm mid-winter. However, when modelled between 8am – 4pm mid-winter this increases to 76%, which is considered to be acceptable. Further to this, the majority of the apartments are dual aspect with 65% naturally cross ventilated.
Housing Choice	▪ At least 10% of each dwelling type (Studio, 1, 2 and 3 bedrooms) to be provided. ▪ 30% of dwellings should be adaptable. ▪ 10% of all units to have designated disabled parking space.	**Yes** – Of the total number (106) of apartments proposed, 32% will be Studio/1 Bedroom, 56.6% will be 2 Bedroom and 11.4% will be 3 Bedroom. 30% (or 32) of the apartments will be adaptable and 11 disabled spaces are proposed to the provided.

2.7 Section 94 Contributions Plans

Hornsby Shire Council Section 94 Contributions Plan 2012 – 2021 applies to the development as it proposes new residential units and 495 sqm of commercial floor space in lieu of the existing 2770 sqm of commercial floor space on site.

Should the application be approved, an appropriate condition of consent is recommended requiring the payment of a contribution in accordance with the Plan. Given that the commercial floor space has been reduced, Section 94 contributions have nly been levied for the additional 106 residential units.

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 Tree and Vegetation Preservation

The site in its current form contains minimal landscaping in the car park and a small number of trees and shrubs at the Pacific Highway frontage. A landscaping scheme was submitted with the application proposing new planting with available areas and within prominent locations along the Pacific Highway frontage. The proposed scheme comprises a communal open space area with lawn and raised garden beds, raised planters along the main access walkway, courtyard planting for the three 'terrace style' apartments, and trough pot planting on the balconies of level 7 and within the roof-top terrace on Tower B.

Council's Tree Management Team have assessed the application and have noted that the proposed development would necessitate the removal of 6 native planted trees, which are all under 4m in height. Subject to a number of recommended conditions, the Tree Management Team does not oppose the proposed development.

Based on the above, the proposed development is considered acceptable with regard to the natural environment.

3.1.2 Stormwater Drainage

A Stormwater Management Plan, prepared by JHA Consulting Engineers, was submitted with the application. The proposed stormwater management system has been designed to cater for an average recurrence interval of 100 years (storm event), and generally comprises the following:

- Stormwater from all roof, hardstand and landscaped areas will discharge to an on-site detention tank with a 40m³ capacity system.
- All roof and ground surface areas will have a dedicated overland flow path, which allows overflowing rainwater to be directed safely off the site.
- Roof overflows will have a dedicated overland flow path, which allows overflowing rainwater to be directed safely off the site and not to enter any building on neighbouring property.
- Freeboard has been provided to protect all buildings from internal flooding.

Further to the above, appropriate soil and erosion control barriers are to be installed during the construction phase and managed in accordance with the measures outlined within the submitted Stormwater Management Plan.

The application was referred to Council's Development Engineering Department, which raised no objection to the proposed development subject to a number of recommended conditions. It is therefore considered that the proposed stormwater drainage works would not adversely affect impact on the natural environment.

3.2 Built Environment

3.2.1 Overshadowing of Adjoining Properties

Hourly shadow diagrams were submitted with the application showing the shadows cast by the existing residential flat development to the north and south, and those cast by the proposed development between the hours of 9am to 3pm mid-winter.

In general, the submitted shadow diagrams demonstrate minor increases in overshadowing to the developed site to the south at 107-115 Pacific Highway as a result of the proposed development.

The majority of the north facing apartments in that adjoining development will still receive satisfactory levels of solar access. The rear apartments that inexplicably have windows on the northern common boundary will have diminished mid-winter solar access, but will still receive some natural daylight due to the proposed 6.5m setback for Tower B. This impact is unavoidable due to the design of the adjoining building with windows on the common boundary. Solar access will still be available to these apartments from their east and west facing windows. In this regard, the proposed impact is considered to be acceptable.

3.2.2 Traffic Generation and Road Safety

A Traffic and Parking Impact Assessment, prepared by Transport and Urban Planning Pty Ltd, was submitted with the proposal. The assessment estimated that the proposed development would generate an additional 15 vehicle trips during an afternoon peak hour.

Council's engineering assessment of the traffic impacts concludes that while the net traffic generation from the proposed development is minor, the cumulative traffic impacts of all sites within the Pound Road, Hornsby Precinct that are earmarked for re-development, will be significant. This cumulative impact has been considered in the strategic transport model prepared for the housing strategy. The required traffic management improvements have been included in Council's Section 94 Contributions Plan.

3.2.3 Noise and Vibration

As discussed in previous sections of this report, a Noise and Vibration Impact Assessment was submitted with the application to assess the potential noise and vibration impacts from the adjoining railway line and traffic noise impacts from the adjoining Pacific Highway. The assessment concluded that the proposed development was capable of meeting the relevant guidelines subject to the adoption of minimum acoustic performance standards for building elements, including glass, seals and doors.

With regard to the operation of mechanical plant associated with the development (i.e. air conditioners), detailed plant selection has not yet been completed. A suitable condition is

recommended to require the completion of an acoustic assessment to determine acoustic treatments to control the noise emission of mechanical plant to satisfactory levels.

3.2.4 Electrolysis

An Electrolysis and Stray Traction Current Report, prepared by Cathodic Protection Services, was submitted with the application to identify the extent of any stray traction from the adjoining electrified rail line.

According to the report, stray currents from the 1500 volt power supply to the rail line can cause erosion to underground metallic services and the steel reinforcement of concrete. Stray currents flowing in the ground can also be picked up by steel reinforcement or other metallic materials and when discharged back into the ground, can cause corrosion at the discharge point.

As stray currents were noted to be present on the site, Cathodic Protection Services recommended a number of measures to eliminate the potential for corrosion hazards. A suitable condition is recommended to ensure that the proposed development accords with the recommendations made within the submitted Electrolysis and Stray Traction Current Report.

3.2.5 Excavation

The proposed development involves the formation of a basement car park comprising of 2-3 levels. Based on the Geological Investigation Report submitted as part of the application, excavation for the basement will be required within filling, residual soils and shale / laminite bedrock of varying strength. The majority of the rock is likely to be extremely low to low strength with some stronger bands throughout. Excavation in these materials is proposed to be undertaken using hydraulic excavators with bucket attachments, with some light ripping of the stronger bands required.

Excavation in the lowest portion of the basement (approximately RL 178.5m AHD) and detailed excavation for footings, tanks, lift pits (etc.) is likely to be within medium or high strength laminate, which will require rock hammers and/or rock saws.

The basement excavation is approximately 10m from the edge of the railway corridor with the tracks further than 15m away from the boundary. Further to this, the proposed basement level will be only marginally below the track level (i.e. approximately 1.5m). On this basis, the report concludes that the proposed excavation and construction works will not have an impact on the railway corridor or the tracks and associated infrastructure within it.

The Geological Investigation Report recommends a number of measures to be implemented prior to and during the proposed excavation works to ensure that the geotechnical fabric of the subject property and its surrounds are not compromised.

A suitable condition is recommended requiring that the proposed development is carried out in accordance with the recommendation of that report.

3.2.6 Demolition and Construction

A detailed Construction Management Plan (CMP) was not submitted with the application as a construction contractor has not yet been appointed for the project. A suitable condition of

consent is recommended to require the submission of a CMP prior to the issuing of any construction certificate for the proposed development.

At a minimum the CMP will be required to identify the general management requirements for environmental awareness and training, complaints handling procedures and procedures for managing environmental incidents. It will also need to identify procedures for the management of environment risks and potential environmental impacts, including, erosion and sediment management, water management, dust control, construction noise management and construction waste management.

In accordance with the Environmental Planning and Assessment Regulation, all demolition activities will need to comply with *AS 2601—1991: The Demolition of Structures.*

3.3 Social Impacts

The social impacts of the proposed development are considered to be positive as it will increase the availability and mix of housing within the locality, including the provision of adaptable housing. The site is within close proximity to the Hornsby Town Centre and railway station and, as such, is close to retail shops and businesses, community facilities, recreational and entertainment facilities and public transport which will provide for the daily needs of future residents.

3.4 Economic Impacts

The subject site currently comprises commercial offices, which will be replaced by housing and 495m² of retail/business floor space on the ground floor level. The overall small reduction in commercial floor space is not expected to have an adverse economic impact on the locality as the site is not within the core commercial and business area of the Hornsby Town Centre.

In addition to the above, the proposal would have a minor positive impact on the local economy in conjunction with other new high residential development in the locality by generating an increase in demand for local services, and in creating jobs during the construction period.

4. SITE SUITABILITY

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

The site is capable of and appropriate for accommodating the proposed mixed use and high density residential development, for reasons stated in the foregoing sections of this report, including:

- Proximity to the Hornsby Town Centre and railway station.
- The scale and bulk of the proposed development is consistent with the Council's anticipated planning outcomes for the surrounding Pound Road, Hornsby Precinct.
- Both future residents of the development as well as adjoining residents will be afforded acceptable levels of privacy, solar access and amenity.
- The proposed nine and eight storey buildings will not unreasonably impact upon the amenity of adjoining properties, or the amenity of the adjoining residential properties.

- Vehicular access to the development will avoid direct access from the Pacific Highway an take advantage of the rear private service road (Wanderers Way).

5. PUBLIC PARTICIPATION

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

5.1 Community Consultation

The proposed development was placed on public exhibition and was notified to adjoining and nearby landowners between 2 October 2014 and 3 November 2014 in accordance with the Notification and Exhibition requirements of the *HDCP*. During this period, Council received four (4) submissions. Two (2) supplementary submissions were received on 7 and 20 March 2015, subsequent to the lodgement of amended architectural plans by the applicant. The map below illustrates the location of those nearby landowners who made a submission that are in close proximity to the development site.

NOTIFICATION PLAN

• PROPERTIES NOTIFIED	X SUBMISSIONS RECEIVED	PROPERTY SUBJECT OF DEVELOPMENT	N W E S

The six (6) submissions received objected to the proposed development, generally on the grounds that it would result in:

- Inadequate setbacks to adjoining developments
- Excessive bulk and scale
- Inconsistent built form
- Loss of views
- Increased overshadowing of adjoining properties
- Loss of breezes
- Loss of privacy
- Traffic and pedestrian safety impacts
- Increased fire risk to adjoining properties
- Construction related impacts
- Reduction in property values
- Loss of telecommunication reception.

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

5.1.1 Loss of views

Proposed residential Tower B will result in some view loss from the residences of No. 107-115 Pacific Highway that have windows on the northern side common boundary. The nature of the views to be lost as result of the residential Tower B are local and district views both predominantly of urban development.

Adjoining developments are also part of the high density Pound Road precinct. It could have reasonably been expected that the subject site would at some stage be developed for development similar to that which exists on adjoining land.

The proposed built form of the site is consistent with that already existing on the locality and the Council's planning controls. That is, a high density urban environment characterised by a nine storey / 29.5m height control and a stepped building form above the third storey.

Whilst the application proposes to increase the height of Tower B by 3.89m, the exceedance only relates to the lift core and plant room, which have been extended to allow the roof top be used as communal open space. The lift core of Tower B is located towards the middle of the site and the additional height does not extend across the building footprint. All residential floor areas of Tower B sit within the site's building height limit and good separation is provided to the common boundary.

If the building was to be redesigned to accord to the prescribed planning controls for height and side setbacks, the nature and extent of the view loss would not be materially different.

Based on the above, the proposed development is considered to be appropriate and the objection should not be given determining weight.

5.1.2 Loss of breezes

Collectively, the proposed residential Towers A and B of the proposed development will alter breezes for surrounding development. Nonetheless, the planning controls allow for a development to a height of 9 storeys / 29.5m and covering a significant proportion of the 2,782m² site. In this regard, such changes are inevitable in the Pound Road, Hornsby Precinct and should not be given determining weight.

5.1.3 Increased fire risk to adjoining properties

A number of concerns were raised regarding the proposed two storey terrace dwellings adjoining the podium of No. 107-115 Pacific Highway and their potential to increase fire risk.

Fire rating, fire insulation, fire warning systems and firefighting equipment are requirements incorporated into the *Building Code of Australia (BCA*). A BCA Assessment Report, prepared by Blackett Maguire Goldsmith, was submitted with the application and provided an assessment of the proposed building design against the Deemed-To-Satisfy provisions of the BCA. Whilst the report concluded that the proposed development can achieve compliance with the relevant provisions of the BCA, it identified a number of key compliance items that will need to be addressed prior to the issue of any construction certificate. A suitable condition is recommended in this regard.

Based on the above, the objection should not be given determining weight.

5.1.4 Construction related issues

Concerns were raised regarding the damage that is likely to be caused to Wanderers Way during construction. Wanderers Way is private road, which benefits a number of existing properties via reciprocal rights-of-way. Schedule 8B – Rights and Obligations Implied in Certain Easements of the *Conveyancing Act 1919*, covers this issue.

Concerns were also raised regarding the noise and dust generated by construction vehicles and the delays and safety issues that they will cause to other motorists using Wanderers Way. Suitable conditions of consent are recommended requiring the preparation of a Construction Management Plan (**CMP**) and a Construction Traffic Management Plan (**CTMP**) prior to the issue of Construction Certificate. Specifically, the CMP will require procedures for the management of environmental risks and potential environmental impacts, including dust control and construction noise management. The CTMP will require details of the proposed construction vehicle routes, number of trucks, hours of operation, access arrangements and traffic control.

Based on the above, the objections should not be given determining weight.

5.1.5 Reduction in property values

Impacts on property values are conjectural and in any event is not a material planning consideration in the determination of the DA. Therefore, the objection should not be given determining weight.

5.1.6 Loss of telecommunication reception

A number of concerns were raised regarding the height and mass of the proposed development and its potential to impact on telecommunication reception. This is a matter for telecommunication providers and is not of itself a reason to refuse the application.

5.2 Public agencies

The development application was referred to the following agencies for comment:

5.2.1 Sydney Trains

In accordance with Clause 86(1) of State Environmental Planning Policy (Infrastructure) 2007, the application was referred to Sydney Trains for concurrence.

Sydney Trains assessed the application in accordance with the requirements of Clause 86(4) of the *Infrastructure SEPP* and has decided to grant its concurrence to the development proposed. Sydney Trains' concurrence is only granted if Council issues the deferred commencement condition and a number of operational conditions. The operational conditions will need to be complied with upon satisfaction of the deferred commencement condition.

5.2.2 NSW Police

On CPTED, no formal response was received from the NSW Police within 21 days of the DA being sent. It is therefore assumed that there are no objections to the proposal and no conditions required.

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 is considered to have satisfactorily addressed Council's and relevant agencies' criteria and will result in a development outcome that, on balance, that has 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 proposed development is for the demolition of an existing 3 storey commercial office building and associated structures and the construction of two, nine (9) and eight (8) storey residential flat buildings and three 'terrace style' apartments above a common basement level car park. One of the residential flat buildings is proposed to comprise retail / commercial floor space at the ground floor level.

The proposed development is in accordance with the provisions of the *HLEP*, except for Clause 4.3, which prescribes a maximum building height of 29.5m for the site. In accordance with Clause 4.6 of the *HLEP*, the applicant made a submission in support of the variation. Based on a detailed assessment of Clause 4.6 and the 'five part test' established by the Land

and Environment Court, strict compliance with the development standard was found to be unreasonable and unnecessary in the circumstances of the case. Accordingly, the applicant's Clause 4.6 submission is supported.

The proposal satisfies the key development principles for the Pound Road, Hornsby Precinct contained in the *HDCP*. Although the proposal does not comply with some numeric standards, the proposal meets the *HDCP* desired outcomes for future character, design quality, landscaping, floorplates and articulation, open space, privacy, sunlight and ventilation, housing choice and vehicle access and parking.

Despite a number of justified variations, the proposed development is generally in accordance with the Design Quality Principles of *SEPP 65* and the best practice requirements of the *Residential Flat Design Code*. The built form of the proposed development is considered to be an appropriate response to both the existing development in, and the planning directions established for, the Pound Road, Hornsby Precinct.

Six (6) public submissions were received raising concerns relating to the proposed built form, bulk and scale, building setbacks, overshadowing of adjoining residences, loss of views, breezes, privacy, and telecommunication reception, traffic and pedestrian safety, fire risk and construction related impacts. It is considered that, overall, the development is a reasonable response to the constraints of the site, and that a genuine attempt has been made for the development to comply with the planning controls applying to this precinct. Subject to a number of recommended conditions, the proposed development is considered to be acceptable.

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

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. Deferred Commencement

Pursuant to Section 80(3) of the Environmental Planning and Assessment Act 1979, this consent does not operate until the applicant satisfies the Council that it has obtained approval/certification from Sydney Trains as to the following matters:

a) The Applicant shall prepare and provide to Sydney Trains for approval/certification the following items:

i) Final Geotechnical and Structural report/drawings. The Geotechnical Report must be based on actual borehole testing conducted on the site closest to the rail corridor. The Structural drawings/report shall include a detailed design of the retaining wall system and assessment of ground movement (lateral displacement and settlements) behind the wall.

ii) Final Construction methodology with construction details pertaining to structural support during excavation including detailed design documentation of the shoring system, construction sequence etc.

iii) Final cross sectional drawings showing ground surface, rail tracks, sub soil profile, proposed basement excavation and structural design of sub ground support adjacent to the Rail Corridor. All measurements are to be verified by a Registered Surveyor.

iv) Detailed Survey Plan showing the relationship of the proposed developed with respect to Sydney Trains land and infrastructure.

v) A numerical (i.e. finite element) analysis which assesses the different stages of loading-unloading of the site, ground movement and its effect on the rock mass surrounding the rail corridor.

vi) In order to avoid the overflow of stormwater from the above ground detention area into the rail corridor, the rear wall shall be raised to a

height nominated by the Sydney Trains Rail Corridor Management Group coordinator.

Such information shall be submitted within 24 months of the date of this notice.

Upon Council's written satisfaction of the above information, the following conditions of development consent will apply:

2. 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:

Architectural Plans prepared by Architecture Saville Isaacs Pty Ltd

Plan No.	***Issue***	***Title***	***Dated***
DA. 003	A	Demolition Plan	22/08/2014
DA. 004	A	Finishes and Materials Selections	22/08/2014
DA. 100	A	Basement 3 Floor Plan	22/08/2014
DA. 101	A	Basement 2 Floor Plan	22/08/2014
DA. 102	A	Basement 1 Floor Plan	22/08/2014
DA. 103	B	Lower Ground Floor Plan	17/02/2015
DA. 104 –	A	Ground Floor Plan	22/08/2014
DA. 105	B	Level 1 Floor Plan	17/02/2015
DA. 106	B	Level 2 Floor Plan	17/02/2015
DA. 107	B	Level 3 Floor Plan	17/02/2015
DA. 108	B	Level 4 Floor Plan	17/02/2015
DA. 109	A	Level 5 Floor Plan	22/08/2014
DA. 110	B	Level 6 Floor Plan	17/02/2015
DA. 111	B	Level 7 Floor Plan	17/02/2015
DA. 112	A	Level 8 Floor Plan	22/08/2014
DA. 113	B	Roof Plan	17/02/2015
DA. 121	B	Adaptable Unit Layouts (Tower A)	17/02/2015
DA. 122	A	Adaptable Unit Layouts (Tower B)	22/08/2014
DA. 123	B	Adaptable Unit Layouts (Tower B)	17/02/2015
DA. 201	A	East Elevation (Pacific Highway	22/08/2014
DA. 202	B	West Elevation (Rear)	17/02/2015
DA. 203	B	North Elevation (Side)	17/02/2015

DA. 204	B	South Elevation (Side)	17/02/2015
DA. 301	B	Section AA	17/02/2015
DA. 302	B	Section BB	17/02/2015
DA. 401	A	Shadow Diagrams	22/08/2014
DA. 402	A	Solar Access Diagrams	22/08/2014

Landscaping Plans prepared by Wallman Partners Pty Ltd

Plan No.	***Issue***	***Title***	***Dated***
L-1	A	Landscape Plan for DA Ground Floor	11/08/2014
L-2	A	Landscape Plan for DA Level 7 Planting Schedule	11/08/2014
L-3	A	Landscape Sections for DA Through Ground Floor Community Space	11/08/2014
L-4	A	Landscape Plan for DA Tower B, Level 7	17/02/2015

Stormwater Drainage prepared by JHA Consulting Engineers

Plan No.	***Issue***	***Title***	***Dated***
H001	A	Hydraulic Services Detail Sheet 1	August 2014
H002	A	Hydraulic Services Control Plan – Silt Control Plan	August 2014

Supporting Documents

Document Title	***Prepared by***	***Dated***
Noise Impact Assessment	Acoustic Logic Consultancy Pty Ltd	15/04/2014
Geotechnical Investigation	Douglas Partners Pty Ltd	08/05/2014
Assessment of Traffic and Parking Impacts	Transport and Urban Planning Pty Ltd	29/08/2014
Electrolysis and Stray Traction Current Report	Cathodic Protection Services	20/08/2014
Waste Management Plan	Universal Foodservice Designs	18/08/2014
Crime Prevention Through Environmental Design (CPTED) Assessment Report	DFP Planning Pty Ltd	29/08/2014

Statement of Compliance Access for People with a Disability	Accessible Building Solutions	06/08/2014
BCA Assessment Report	Blackett Maguire and Goldsmith	September 2014
BASIX and NatHERs Certificates	JHA Consulting Engineers	19/08/2014

3. Amendment of Plans

The approved plans are to be amended as follows:

b) The northern extent of the balconies of Units LG01, L101, L107, L201, L207, L301, L307, L401 and L407 (Tower B) are to include a suitable privacy screen. Details of these privacy screens are to be shown on the plans.

c) The southern extent of the balconies of Units L106, L206, L306 and L406 (Tower B) and Units L410, L507 and L607 (Tower A) are to include a suitable privacy screen. Details of these privacy screens are to be shown on the plans.

d) The western extent of the balcony of Unit L104 (Tower B) is to include a suitable privacy screen. Details are to be shown on the plans.

e) All glass louvers associated with the balconies of Units L110 – L113, L210 – L213, L411, L412, L508, L509, L608 and L609 (Tower A) must not be opaque. Details to be shown on the plans.

f) Twenty one (21) residential bicycle spaces are to be made secure spaces for residents of the development. These secure spaces are to be shown on the plans.

g) Residential parking spaces are to be secure spaces for both vehicles and pedestrians. The manner in which this is to be provided is to be shown on the plans.

h) The Waste collection area and the bin system must be amended in accordance with the following requirements and as marked on the approved plans:

i) The e-diverter chute system of both towers is to be replaced by a standard garbage chute system fitted with a 4 x 660 L carousel to automatically change the bin under the chute when it becomes full (no compaction). A recycling bin is to be placed in each waste facility on every residential level of both towers.

ii) The bulky waste storage area is to be relocated to the rear of the loading bay. Its area is to be 5 m wide by 1.6 m deep and is to be fitted with a 4 m wide roller door. (The bollards can remain).

iii) The commercial bin room is to be increased in area to 3.5 m wide by 3.2 m deep and fitted with at 3 m wide roller door.

iv) The bin wash facility (tap and drainage to sewer) is to be relocated to the rear corner of the residential bin room.

v) The residential bin room at the loading dock level is to be increased in area.

vi) The part of the bulky waste storage room not required for the commercial bin room, and the garbage wash bay, are to be included in the residential bin room.

vii) The depth needs to be increased to 3.2 m from the retail bin room to the carousel. This section is to be fitted with a 4 m wide roller door and a 2.5 m wide roller door.

viii) The area under the chute is to be widened to 2.8 m to fit the carousel under the chute.

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. Removal of Existing Trees

This development consent permits the removal of Tree Nos. 1 – 6 as marked on the approved DA003 (Demolition Plan) dated 22/08/2014. The removal of any other trees requires separate approval in accordance with the Tree and Vegetation Chapter 1B.6 Hornsby Development Control Plan (*HDCP*).

6. 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	$ 133,610.55
Open Space and Recreation	$ 1,298,345.05
Community Facilities	$ 181,055.95
Plan Preparation and Administration	$ 5,441.55
TOTAL	**$1,618,453,10**

being for 106 additional dwellings comprising 34 x 1 bd, 59 x 2-bd and 13 x 3-bd units.

b) The value of this contribution is current as at 23 March 2015. 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:

$$\$C_{PY} = \$C_{DC} \times \frac{CPI_{PY}}{CPI_{DC}}$$

Where:

$\$C_{PY}$ is the amount of the contribution at the date of Payment

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

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_{DC} 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 or a copy may be inspected at Council's Administration Centre during normal business hours.

REQUIREMENTS PRIOR TO THE ISSUE OF A CONSTRUCTION CERTIFICATE

7. Building Code of Australia

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

8. 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.

9. 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.

10. 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 or telephone 13 20 92 for assistance.

11. Dilapidation Report

A 'Dilapidation Report' is to be prepared by a 'chartered structural engineer' detailing the structural condition of all adjoining properties.

12. Noise – Rail Corridor

The development must be carried out in accordance with the recommendations contained within the acoustic report prepared by Acoustic Logic Consultancy Pty Ltd and dated 15/04/2014 submitted with the development application, and the

requirements of the Department of Planning's *Development Near Rail Corridors and Busy Roads – Interim Guideline* and RailCorp's *Interim Guidelines for Applicants*.

Note: The Department of Planning's document is available at www.planning.nsw.gov.au *(development assessments). The RailCorp document is available at* www.railcorp.nsw.gov.au/publications.

13. 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) The driveway must be a rigid pavement;

b) The driveway grade must not exceed 25 percent and changes in grade must not exceed 8 percent per plan metre;

Note: A construction certificate shall be obtained prior to the commencement of these works and shall be completed prior to the issue of an occupation certificate.

14. 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.

15. Construction Management Plan

A Construction Management Plan (CMP) must be prepared and detail the following:

a) A Site Plan identifying site access, construction compound area, material stockpile areas, bunded areas, erosion and sediment control, and waste storage areas.

b) Procedures for the management of environmental risks and potential environmental impacts, including:

   i) Erosion and sediment management

   ii) Water management

   iii) Dust control

   iv) Construction noise management

v) Construction waste management

c) General management requirements for environmental awareness and training, complaints handling procedures, and procedures for managing environmental incidents

16. Waste Management Details

The following waste management requirements must be complied with:

a) The access way (including ramp, vehicle turning area, loading bay and site entry/exit) to be used by waste collection vehicles, must be designed in compliance with *Australian Standard AS2890.2-2002 Parking Facilities Part 2: Off-street Commercial Vehicle Facilities* for heavy rigid vehicles.

b) 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.

c) Space must be provided for storage of motorised bin transport equipment.

2. **Adaptable units**

Details of all adaptable units must be shown on the Construction Certificate Plans.

REQUIREMENTS PRIOR TO THE COMMENCEMENT OF ANY WORKS

17. 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.

18. 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.

19. 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.*

20. 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.

REQUIREMENTS DURING CONSTRUCTION

21. 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.

22. 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.

23. 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.

24. Street Sweeping

Street sweeping must be undertaken following sediment tracking from the site along Pacific Highway and Wanderers Way, Hornsby during works and until the site is established.

25. Disturbance of Existing Site

During construction works, the existing ground levels of open space areas and natural landscape features, (including natural rock-outcrops, vegetation, soil and watercourses) must not be altered unless otherwise nominated on the approved plans.

26. Landfill

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

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

b) A compaction certificate is to be obtained from a geotechnical engineer verifying that the specified compaction requirements have been met.

27. 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.

28. 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.

Note: This consent does not give right of access to the site via Council's park or reserve. Should such access be required, separate written approval is to be obtained from Council.

29. 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.

30. Construction Vehicles

All construction vehicles associated with the proposed development are to be contained on site as no construction zones will be permitted on Pacific Highway.

31. Construction Traffic Management Plan

A 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 prior to the issue of a construction certificate. Council will review the CTMP, agree any modifications with the proponent and enforce the CTMP during construction.

32. Waste Management Details

Waste management during the demolition and 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.

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.

33. Fulfilment of BASIX Commitments

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

34. Sydney Water – s73 Certificate

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

35. Public Road Works

A separate application under the Local Government Act 1993 and the Roads Act 1993 must be submitted to Council for all public road and drainage works within the road reserve. All road works approved under this consent must be designed and constructed in accordance with Council's Civil Works Design and Construction Specification 2005 and the following requirements:

a) The existing kerb and gutter in the Pacific Highway along the full frontage of the development site shall be removed and reconstructed.

b) The redundant vehicular crossing shall be replaced with integral kerb and gutter.

c) The existing road pavement to be saw cut a minimum of 300 mm from the existing edge of the bitumen and reconstructed.

d) The existing concrete footpath in the Pacific Highway along the full frontage of the development site shall be removed and reconstructed with pavers. The pavers are to be Claypave "Monarch Tan" pavers 65mm thick laid on a 125mm thick F72 reinforced slab on a prepared sub grade.

e) Details of the road works be provided with the Construction Certificate plans.

Note: Engineering design details shall be submitted to Council for approval prior to the commencement of these works and shall be completed prior to the issue of an occupation certificate.

36. Stormwater Drainage

The stormwater drainage system for the development must be designed and constructed for an average recurrence interval of 20 years and be gravity drained in accordance with the following requirements:

a) Connected to the Council stormwater drainage system in Wanderers Way.

Note: A construction certificate shall be obtained prior to the commencement of these works and shall be completed prior to the issue of an occupation certificate.

37. On Site Stormwater Detention

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

a) Details of the design submitted with the Construction Certificate plan.

b) Have a capacity of not less than 32.5 cubic metres, and a maximum discharge (when full) of 81 litres per second.

c) Have a surcharge/inspection grate located directly above the outlet.

d) 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.

e) Where the on-site detention system is proposed under the vehicular driveway / car park, a qualified structural engineer is to certify that the detention tank is structurally capable of withstanding the maximum anticipated traffic loads.

f) Where above ground and the average depth is greater than 0.3 metres, a 'pool type' safety fence and warning signs to be installed.

g) Not be constructed in a location that would impact upon the visual or recreational amenity of residents.

38. Stormwater Quality Improvement Device

The stormwater drainage system shall be designed and constructed with a minimum 25,000 litre rainwater tank and stormwater treatment device (SPEL 3P Hydrosystem 1000 filtration unit or similar) to comply with the water quality targets outlined in Hornsby Council DCP 2013 - Part 1C.

Note: Details of the design are to be submitted with the Construction Certificate Plan.

39. Damage to Council Assets

Any damage caused to Council's assets including the removal, damage, destruction, displacement or defacing of the existing survey marks 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.

40. Completion of Landscaping

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

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

41. Maintain Canopy Cover

To maintain canopy cover, 3 medium to large trees selected from Council's booklet 'Indigenous Plants for the Bushland Shire' such as Angophora floribunda, are to be planted on the subject site. The planning location shall not be within 4 metres of the foundation walls of a dwelling or in-ground pool. The pot size is to be a minimum 25 litres and the tree(s) must be maintained until they reach the height of 3 metres. Trees must be native to Hornsby Shire and reach a mature height greater than 9 metres.

42. Planter Boxes / On slab planting

On slab planter boxes must include waterproofing, subsoil drainage (proprietary drainage cell, 50mm sand and filter fabric) automatic irrigation, minimum 500mm planting soil for shrubs and minimum 1000mm planting soil for trees and palms and 75mm mulch to ensure sustainable landscape is achieved.

43. Security Intercom

A security intercom must be provided on the driveway entry to the car park so that visitors are able to contact the person in the unit they are visiting to release the car park roller shutter giving the visitor access to the car park.

44. 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 system, stormwater quality improvement device 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, stormwater quality improvement device and outlet works must be submitted. A certificate from a qualified engineer verifying that the required storage, discharge rates and stormwater quality improvement devices have been constructed in accordance with the design requirements. The details must show the invert levels of the on site system together with pipe sizes and grades. Any

variations to the approved plans must be shown in red on the *"works-as-executed"* plan and supported by calculations.

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

45. 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.

46. 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) Any proposed landscaping and/or fencing must not restrict sight distance to pedestrians and cyclists travelling along the footpath.

47. No Stopping Restriction

No Stopping restrictions are to be installed on both sides of Wanderers Way along the frontage of the proposed development to ensure sufficient manoeuvring area for vehicles entering the loading dock.

48. Works as Executed Plan

A works-as-executed plan(s) must be prepared by a registered surveyor and submitted to Council for completed road pavement, kerb & gutter, public drainage systems, driveways and on-site detention system. The plan(s) must be accompanied

by a certificate from a registered surveyor certifying that all pipelines and associated structures lie wholly within any relevant easements.

49. Waste Management Details

The following waste management requirements must be complied with:

a) The residential bin storage rooms and commercial bin storage room at the basement level must include water or a hose for cleaning, graded floors with drainage to sewer, robust doors, sealed and impervious surface, adequate lighting and ventilation, and must be lockable. The waste facility rooms 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 bin carting routes must be devoid of any steps.

Note: Ramps between different levels are acceptable

f) Prior to the issue of the Occupation Certificate, a survey must be carried out and a report 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, has been constructed in compliance with Australian Standard AS2890.2-2002 Parking Facilities Part 2: Off-street Commercial Vehicle Facilities for heavy rigid vehicles.

OPERATIONAL CONDITIONS

50. Noise – Plant and Machinery

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

An acoustic assessment is to be undertaken by a suitably qualified environmental consultant within 60 days of occupying the site in accordance with the *Environment NSW Industrial Noise Policy (2000), Council's Policy and Guidelines for Noise and Vibration Generating Development (Acoustic Guidelines V.5, 2000) and the DECC's Noise Guide for Local Government (2004)*. The assessment must be submitted to Council for review. Should the assessment find that noise from the premise exceeds 5dB(A) appropriate measures must be employed to rectify excessive noise.

51. Car Parking Areas

All car parking must be operated in accordance with *Australian Standard AS/NZS 2890.1:2004 – Off-Street Car Parking and Australian Standard AS 2890.2:2002 – Off-Street Commercial Vehicle Facilities* and the following requirements:

c) Car parking, loading and manoeuvring areas to be used solely for nominated purposes;

d) Vehicles awaiting loading, unloading or servicing shall be parked on site and not on adjacent or nearby public roads;

e) All vehicular entry on to the site and egress from the site shall be made in a forward direction.

f) Residential visitors must be able to access the visitor parking spaces Basement 1 at all times

g) All parking spaces for people with disabilities must be operated in accordance with *Australian Standard AS/NZS 2890.6:2009 – Off-Street Parking for People with Disabilities.*

h) All bicycle parking spaces are to be designed in accordance with *Australian Standard 2890.3-1993 – Bicycle Parking Facilities.*

i) Motorcycle parking spaces are to be designed in accordance with *AS 2890.5-1993*.

52. 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. The site caretaker must be employed for a sufficient number of hours each week to allow all waste management responsibilities to be carried out to a satisfactory standard.

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.

53. 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.

54. 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.

CONDITIONS OF CONCURRENCE – RailCorp

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.

55. Operational Conditions

a) Prior to the issuing of an Occupation Certificate the Applicant is to submit as-built drawings to Sydney Trains and Council. The as-built drawings are to be endorsed by Registered Surveyor confirming that there has been no encroachment into the Sydney Trains property or easements, unless agreed to be these authorities.

The Principal Certifying Authority is not to issue the final Occupation Certificate until written confirmation has been received from Sydney Trains confirming that this condition has been satisfied.

b) Prior to the issue of a Construction Certificate the Applicant must hold current public liability insurance cover for a sum to be determined by Sydney Trains. This insurance shall not contain any exclusion in relation to works on or near the rail corridor, rail infrastructure. The Applicant is to contact Sydney Trains Rail Corridor Management Group to obtain the level of insurance required for this particular proposal. Prior to issuing the Construction Certificate the Principal Certifying Authority must witness written proof of this insurance in conjunction with Sydney Trains written advice to the Applicant on the level of insurance required.

c) Prior to the issue of a Construction Certificate the Applicant is to contact Sydney Trains Rail Corridor Management Group to determine the need for the lodgement of a Bond or Bank Guarantee for the duration of the works. The Bond/Bank Guarantee shall be for the sum determined by Sydney Trains. Prior to issuing the Construction Certificate the Principal Certifying Authority must witness written advice from Sydney Trains confirming the lodgement of this Bond/Bank Guarantee.

d) The Applicant is to obtain Sydney Trains endorsement prior to the installation of any hoarding or scaffolding facing the common boundary with the rail corridor.

e) Unless advised by Sydney Trains in writing, all excavation, shoring and piling works within 25m of the rail corridor are to be supervised by a geotechnical engineer experienced with such excavation projects.

f) No rock anchors/bolts are to be installed into RailCorp's property.

g) Unless advised by Sydney Trains in writing, the effect of construction induced settlement due to groundwater drawdown (potentially leading to track settlement) is to be avoided at all times.

h) The following are to be submitted to Sydney Trains for review and endorsement prior to the issuing of a Construction Certificate:

   i) Machinery to be used during excavation construction.

   ii) Track/vibration monitoring plan detailing the proposed method of track monitoring during excavation and construction phases.

   iii) Groundwater monitoring plan, if required.

   iv) If required by Sydney Trains, a rail safety plan including instrumentation and the monitoring regime.

   The Principal Certifying Authority is not to issue the Construction Certificate until it has received written confirmation from Sydney Trains that this condition has been complied with.

i) No work is permitted within the rail corridor, or rail easements, at any time unless prior approval or an Agreement has been entered into with Sydney Trains.

j) Drainage shall not be discharged within the rail corridor.

k) There is a need to ensure that the roots and foliage of trees being planted beside the rail corridor do not have an impact on the rail corridor. The development's landscaping and planting plan should be submitted to Sydney Trains for review.

l) Prior to the commencement of works appropriate fencing is to be in place along the rail corridor to prevent unauthorised access to the rail corridor during construction. Details of the type of fencing and the method of erection of any new fencing are to be to Sydney Trains satisfaction prior to the fencing work being undertaken.

m) The development shall have appropriate fencing fit for the future usage of the development site to prevent unauthorised access to the rail corridor by future occupants of the development. Prior to issuing of an Occupation Certificate the Applicant shall liaise with Sydney Trains regarding the adequacy of any existing fencing along the rail corridor boundary. Details of the type of new fencing to be installed and the method of erection are to be to Sydney Train's satisfaction prior to the fencing work being undertaken.

n) Sydney Trains or Transport for NSW (TfNSW), and persons authorised by those entities for the purpose of this condition, are entitled to inspect the site of the development and all structures to enable it to consider whether those structures have been or are being constructed and maintained in accordance with the approved plans and these conditions of consent, on giving reasonable notice to the principal contractor for the development or the owner or occupier of the part of the site to which access is sought.

o) The Applicant must provide a plan of how future maintenance of the development (including the wall on the boundary) along the rail corridor is to be undertaken. The maintenance plan is to be submitted to Sydney Trains prior to the issuing of a Construction Certificate. The Principal Certifying Authority is not to issue a Construction Certificate until written confirmation has been received from Sydney Trains advising that the maintenance plan has been prepared to its satisfaction.

p) Prior to the commencement of works, prior to the issue of the Occupation Certificate, or at any time during the excavation and construction period deemed necessary by Sydney Trains, a joint inspection of the rail infrastructure and property in the vicinity of the project is to be carried out by representatives from Sydney Trains and the Applicant. These dilapidation surveys will establish the extent of any existing damage and enable any deterioration during construction to be observed. The submission of a detailed dilapidation report will be required unless otherwise notified by Sydney Trains.

q) Prior to the commencement of works, the Applicant shall peg-out the common boundary with the rail corridor and/or rail easement to ensure that there is no encroachment. This work is to be undertaken by a registered surveyor.

r) Prior to the issuing of a Construction Certificate, the Applicant shall submit a revised acoustic report prepared by Acoustic Logic to Sydney Trains for endorsement. The revised report shall address the following items:

i) Indication of the predicted noise levels on Table 4 at the nearest Bedrooms and the nearest Living Room based on the measured noise level at the roof top of the existing three storey building. This would assure the "Recommended Glazing Construction" at Table 7 are of sufficient minimum STC and fit for the recommended purpose

ii) Provision of the vibration measurement data recorded at the two locations as shown on Figure 1 (Page 5), either in this section or in the Appendix, for supporting the vibration assessment findings

The Principal Certifying Authority is not to issue the Construction Certificate until it has received written confirmation from Sydney Trains that this condition has been complied with.

s) Prior to the issuing of a Construction Certificate, the Applicant shall submit a revised Electrolysis Report prepared by Cathodic Protection Services to Sydney Trains for endorsement. The revised report shall address the following items:

i) Prescription of some form of control/mitigation for the local earthing at the electrical point of supply for the development (provisions for periodic condition monitoring over the first twelve months with a plan on how to interpret the data and what actions would be taken depending on the analysis of the data).

The Principal Certifying Authority is not to issue the Construction Certificate until it has received written confirmation from Sydney Trains that this condition has been complied with.

t) Given the possible likelihood of objects being dropped or thrown onto the rail corridor from balconies, windows and other external features (e.g. roof terraces and external fire escapes) that are within 20m and face the rail corridor, the Applicant shall provide Sydney Trains for endorsement details of the measures to be installed (e.g. awning windows, louvres, enclosed balconies, window restrictors etc.) which prevent the throwing of objects onto the rail corridor. These measures are to comply with Sydney Trains' requirements.

The Principal Certifying Authority is not to issue the Construction Certificate until it has confirmed that these measures are to be installed and have been indicated on the Construction Drawings.

u) The design, installation and use of lights, signs and reflective materials, whether permanent or temporary, which are (or from which reflected light might be) visible from the rail corridor must limit glare and reflectivity to the satisfaction of Sydney Trains.

The Principal Certifying Authority is not to issue the Construction Certificate until written confirmation has been received from Sydney Trains confirming that this condition has been satisfied.

v) Prior to the issue of a Construction Certificate a Risk Assessment/Management Plan and detailed Safe Work Method Statements (SWMS) for the proposed works are to be submitted to Sydney Trains for review and comment on the impacts on rail corridor.

The Principal Certifying Authority is not to issue the Construction Certificate until written confirmation has been received from Sydney Trains confirming that this condition has been satisfied.

w) No metal ladders, tapes and plant/machinery, or conductive material are to be used within 6 horizontal metres of any live electrical equipment. This applies to the train pantographs and 1500V catenary, contact and pull-off wires of the adjacent tracks, and to any high voltage aerial supplies within or adjacent to the rail corridor.

x) Prior to the issuing of a Construction Certificate the Applicant is to submit to Sydney Trains a plan showing all craneage and other aerial operations for the development and must comply with all Sydney Trains requirements. If required by Sydney Trains, the Applicant must amend the plan showing all craneage and other aerial operations to comply with all Sydney Trains requirements. The Principal Certifying Authority is not to issue the Construction Certificate until written confirmation has been received from the Sydney Trains confirming that this condition has been satisfied.

y) Copies of any certificates, drawings, approvals/certification or documents endorsed by, given to or issued by Sydney Trains must be submitted to Council for its records prior to the issuing of a Construction Certificate.

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.

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 for free information on potential underground pipes and cables within the vicinity of the development site.

Asbestos Warning

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

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

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

Unit Numbering

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