

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

JRPP No	2014SYW136
DA Number	DA/1059/2014
Local Government Area	Hornsby Shire Council
Proposed Development	Demolition of existing structures and construction of two, five storey residential flat buildings comprising 90 units with basement car parking for 95 cars
Street Address	Lots 28, 29 & 30 in DP 10385 and Lots 1 & 32 in DP 34322, Nos. 17, 19, 21, 23 and 25 Epping Road, Epping
Applicant/Owner	Applicant: Hi Fu Spv1 Pty Ltd Owner: Hi Fu Spv1 Pty Ltd
Number of Submissions	Two (2)
Regional Development Criteria (Schedule 4A of the Act)	General Development Over \$20 Million Cost of Construction proposed = \$21.65 million
List of All Relevant s79C(1)(a) Matters	<ul style="list-style-type: none"> • <i>Hornsby Local Environmental Plan 2013</i> • <i>State Environmental Planning Policy No. 32 – Urban Consolidation</i> • <i>State Environmental Planning Policy No. 55 – Remediation of Land</i> • <i>State Environmental Planning Policy No. 65 – Design Quality Residential Flat Development</i> • <i>State Environmental Planning Policy (Building Sustainability Index – BASIX) 2004</i> • <i>State Environmental Planning Policy (Infrastructure) 2007</i> • <i>State Environmental Planning Policy - Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005</i> • <i>Hornsby Development Control Plan 2013</i>
List all documents submitted with this report for the panel's consideration	Locality Plan, Site Analysis Plan, Landscape Plan, Basement Levels 1-2, Levels 1–5, Roof Plan, Elevations, Sections, Regulatory Requirements, Height Plane Breach Calculations, Common Open Space Plan, Deep Soil Plan, Shadow Impact Analysis, Photomontages
Recommendation	Deferred Commencement Approval
Report by	Kendal Mackay - Consultant Planner (DFP Planning Pty Ltd)

ASSESSMENT REPORT AND RECOMMENDATION

EXECUTIVE SUMMARY

1. The application proposes demolition of existing structures and the erection of two five storey residential flat buildings comprising 90 units with basement parking for 95 cars.
2. The proposal generally complies with *Hornsby Local Environmental Plan 2013*, *State Environmental Planning Policy No. 65 – Design Quality Residential Flat Development*, Residential Flat Design Code and Hornsby Development Control Plan 2013.
3. The Applicant's justification for the proposed variation to the maximum building height development standard under clause 4.6 of the *Hornsby Local Environmental Plan 2013* is acceptable.
4. Two (2) submissions have been received in respect of the application.
5. It is recommended that the application be approved as a deferred commencement due to the need to obtain an easement for stormwater drainage, minor design adjustments required to provide adequate waste storage, minor design amendments to provide for additional car parking and in order to provide a Landscape Plan consistent with the amended architectural drawings.

RECOMMENDATION

THAT the Joint Regional Planning Panel (Sydney West) assume the concurrence of the Secretary of the Department of Planning and Environment pursuant to clause 4.6 of *Hornsby Local Environmental Plan 2013* and approve Development Application No. 1059/2014 for demolition of existing structures and the erection of two, five storey residential flat buildings containing 90 units with basement parking for 95 cars at Nos. 17, 19, 21, 23 and 25 Epping Road, being Lots 28, 29 & 30 in DP 10385, Lots 1 & 32 in DP 34322 and Lot 6 in DP 226068 as a deferred commencement pursuant to Section 80(3) of the Environmental Planning and Assessment Act, 1979 subject to the conditions of consent detailed in Schedule 1 of this report.

HISTORY OF THE SITE

On 14 March 2014, the subject land was re-zoned from Residential A (Low Density) to R4 (High Density Residential) as part of the Epping Town Centre Urban Activation Precinct.

On 3 June 2014, a pre-lodgement meeting was held with Council. Key issues included height and number of storeys, tree retention, interpretation of setbacks (given the multiple street frontages), compliance with Council's DCP control for 4m x 4m 'indentations' in facades, SEPP 65 and RFDC compliance, unit mix, stormwater and access/car parking.

On 12 September 2014, the subject application was lodged with Council.

Between December 2014 to the end of February 2015, Council requested additional information and amended plans in respect of various matters including stormwater, waste management, building height and roof structures, building separation, communal open space, private open space, unit sizes, unit mix and internal storage.

On 4 February 2015, Council briefed the JRPP on the proposed development. The JRPP raised concerns with the building separation of the two proposed buildings, the utility of the principal communal open space, the significant non-compliances with private open spaces requirements and the significant departures from the RFDC with respect to internal storage.

On 3 March 2015, the Applicant forwarded amended plans and additional information to address matters raised by Council and to address the concerns of the JRPP.

On 25 March 2015, Council requested additional information and amended plans in respect of various matters including stormwater, communal open space, private open space, unit sizes and unit mix.

On 2 April 2015, the Applicant forwarded amended plans and additional information to address matters raised by Council.

SITE

The Site comprises five properties known as Nos. 17, 19, 21, 23 and 25 Epping Road, Epping. Each property contains a single storey dwelling house with a variety of outbuildings.

The Site has a combined area of 4,422m² (excluding land that is reserved for road widening fronting Epping Road) and is trapezoidal in shape and has frontages to Epping Road of 93 metres and Smith Street of 47 metres. The Site has a slope of approximately 7% (1 in 14) from the south-western corner (intersection of Epping Road and Smith Street) to the north-eastern corner.

This Site is within the Epping Town Centre Urban Activation Precinct (ETCUAP), is less than 300 metres from Epping Rail Station and in close proximity to a range of other retail, commercial, education, open space and recreational facilities in an around the Epping Town Centre.

The Site is within an existing residential area with single dwelling houses located to the north, north-east, and east. To the south is Epping Road and to the west is Smith Street with development opposite the Site also being single dwelling houses and townhouses, respectively. Nos. 32-34 Essex Street to the east, was the subject of a recent development consent issued by Council on 11 February 2015 for a five storey residential flat building containing 30 units and construction of this development has commenced.

The locality is undergoing a transition from a low density to a high density residential area being within the ETCUAP and consistent with the objectives of the R4 High Density Residential Zone under the HLEP.

PROPOSAL

The proposal involves demolition of all existing structures and removal of trees with the exception of two Magenta Lilly Pilly trees which are to be retained.

The Site is to be excavated to approximately 6.74 metres to allow for construction of basement car parking over two levels for 95 vehicles (including visitors) with access from Smith Street.

The proposal entails construction of two, five storey (with upper level mezzanine) residential flat buildings over the basement levels with 90 units comprising 42 x 1 bedroom (47%), 40 x 2 bedroom (44%) and 8 x 3 bedroom (9%) apartments. Pedestrian access is proposed to be solely from Epping Road.

It is proposed to drain stormwater to the east over adjoining private land to Essex Street. An easement over No. 32 Essex Street will be required to facilitate this.

ASSESSMENT

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

1. STRATEGIC CONTEXT

1.1 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 use the subregional planning process 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 *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 Plan identifies Epping as being within the Global Economic Corridor and Epping Town Centre being a Priority Precinct, where new housing is to be accelerated. The Site is within this Priority Precinct and is well located to utilise existing and future public transport infrastructure including Epping Railway Station and strategic bus routes along Epping and Blaxland Roads.

The proposed development would be consistent with 'A Plan for Growing Sydney', by providing 90 additional dwellings and would contribute to housing choice in the locality.

2. STATUTORY CONTROLS

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

2.1 Hornsby Local Environmental Plan 2013

The relevant provisions of the Plan are discussed below.

2.1.1 Land Use Zones and Permissibility

The Site is predominantly zoned R4 High Density Residential (the R4 Zone) and partially zoned SP2 Infrastructure (Road) (the SP2 Zone) under the *Hornsby Local Environmental Plan 2013 (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 'residential flat building' under the *HLEP* and is permissible in the R4 Zone with consent.

The objectives of the SP2 Zone are:

- *To provide for infrastructure and related uses.*
- *To prevent development that is not compatible with or that may detract from the provision of infrastructure.*

Only development for the purpose shown on the Land Zoning Map (i.e. Road) or development that is ordinarily incidental or ancillary to that purpose is permissible with consent. The proposed development does not entail any residential use of the land zoned SP2 and this land is set aside for the intended future purpose (i.e. road).

2.1.2 Height of Buildings

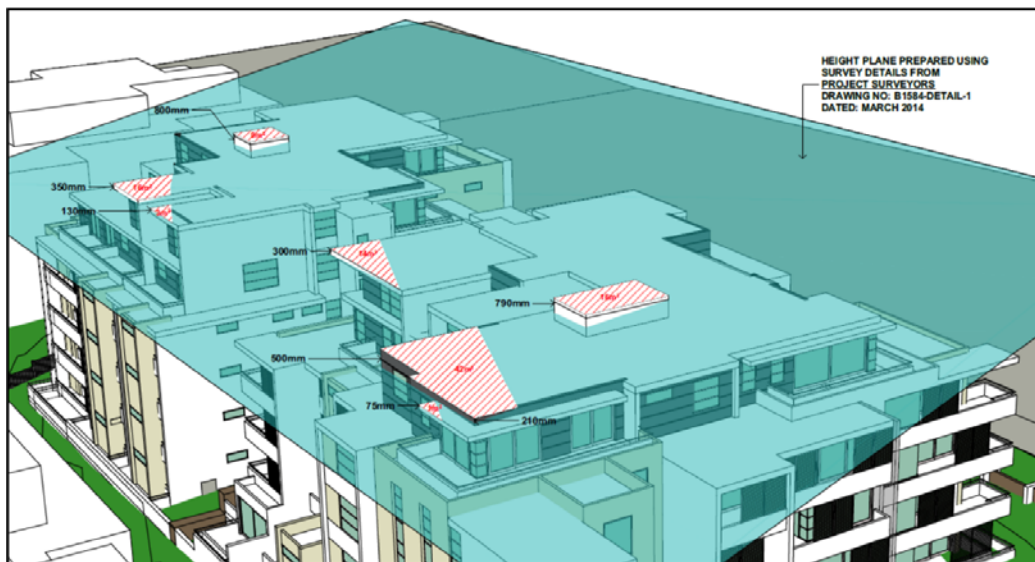
Clause 4.3 of the *HLEP* provides that the height of a building on any land is not to exceed the maximum height shown for the land on the Height of Buildings Map. The maximum permissible height for the Site is 17.5 metres.

The proposed development exceeds the maximum building height due to the lift overruns and parts of the roof overhangs at the uppermost level on the northern elevation. The Applicant has submitted written justification for exceeding the 17.5 metre height limit, pursuant to Clause 4.6 – Exceptions to Development Standards and this is discussed in Section 2.1.3.

2.1.3 Exceptions to Development Standards

Clause 4.6 of *HLEP* provides some flexibility in the application of development standards subject to written justification by the Applicant that compliance with the standard is unreasonable and that there are sufficient planning grounds for exception to the standard.

The Applicant has submitted an objection against Council's adherence to the development standard under Clause 4.3 of the *HLEP* for a maximum building height of 17.5m. The non-compliant parts of the building are shown in the following illustration, which demonstrates that the lift overruns exceed the maximum 17.5 metre building height limit by 800mm (eastern building) and 790mm (western building) whilst parts of the roof overhangs on the northern elevation exceed the maximum 17.5 metre building height limit by 130-350mm (eastern building) and 75-500mm (western building). Accordingly, the maximum building height is 18.3 metres to the top of the lift overrun on the eastern building.



The proposed variation of the building height development standard would not raise any matter of significance for State and regional planning.

The Applicants justification for non-compliance with the 17.5 metre building height development standard relies upon the “5-part test” established by the NSW Land and Environment Court in *Winten Developments Pty Ltd v North Sydney Council [2001]* and expanded upon in *Wehbe v Pittwater Council [2007]*. The “5-part test” can be summarised as follows:

1. *Is the planning control in question a development standard?*
2. *What is the underlying object or purpose of the standard?*
3. *Is compliance with the standard consistent with the aims of the policy, and in particular, does compliance with the standard tend to hinder the attainment of the objects specified in s 5(a)(i) and (ii) of the Environmental Planning & Assessment Act 1979?*
4. *Is compliance with the development standard unnecessary or unreasonable in the circumstances of the case?*
5. *Is the objection well founded?*

The Applicant's written request to vary the building height development standard can be summarised as follows:

- The building height control under HLEP is a development standard;
- In terms of area, the parts of the building which exceed the height standard total 101m², which equates to only 9.5% of the total building footprint;
- The height exceedences are in part due to the need to respond to site topography and also achieve suitable access for cars and service vehicles from Smith Street which have directly informed site planning and basement levels, and in consequence floor levels and overall building height;
- The design does not seek to vary the standard for the purposes of increasing habitable floor space;
- The desired future character of the locality is achieved, as demonstrated in the Statement of Environmental Effects accompanying the development application;
- Amenity is not compromised for the public domain in that the minor exceedences of the height control will not erode or diminish any public views, or result in excessive or unacceptable overshadowing of the public domain;
- Amenity is not compromised for adjacent or neighbouring residential sites. The minor exceedences of the height control will not erode or diminish any private view over the site, nor will it result in excessive or unacceptable overshadowing of any private open space or north facing living rooms;
- The objectives of the zone are achieved as the proposed development:
 - provides an additional supply of 90 dwellings into the local housing market, consistent with Sydney Metropolitan and subregional strategies which promote the supply of a significant majority of the region's housing demand in accessible established areas close to public transport and retail, commercial and support services;
 - provides for a high quality built form;

- does not result in any significant adverse amenity outcomes for adjacent sites or the public domain; and
- does not result in adverse outcomes for the natural environment.
- a "better planning outcome" is achieved as a height-compliant development would not result in any marked, and indeed, improved, outcome in environmental planning terms relates given that the breaches of the height standard are, in the context of the overall built form, nominal and associated only with ancillary elements of the building.

It is considered that the proposed development predominantly complies with the maximum 17.5 metre building height limit other than for the lift overruns and minor parts of the roof overhangs and that these non-compliances do not adversely impact on the bulk and scale of the development or its environmental amenity impacts on surrounding properties or the public domain. Accordingly, the Applicant's justification for the non-compliance is considered to be well-founded although a condition is recommended to ensure that the building does not exceed the height specified on the plans to be approved.

2.1.4 Heritage Conservation

Clause 5.10 of the *HLEP* sets out heritage conservation provisions for Hornsby Shire and Schedule 5 of *HLEP* designates land to the south-east, on the opposite side of Epping Road, as being within the Essex Street Heritage Conservation Area and also designates a heritage item at No. 47 Essex Street (Item No. 378).

The Site is not within the conservation area, does not contain any heritage items and the proposed buildings would not be viewed from the public domain in the context of the nearby conservation area and heritage item. Accordingly, the proposal is unlikely to result in adverse heritage impacts.

2.1.5 Earthworks

Clause 6.2 of the *HLEP* requires consent for earthworks and requires Council to assess the impacts of proposed earthworks on adjoining properties, drainage patterns and soil stability of the locality, before granting development consent for such works.

The proposal involves excavation to approximately 6-7 metres below existing ground level and accordingly, the Applicant has submitted a geotechnical report prepared by Douglas Partners dated June 2014 which indicates that the site comprises topsoil and filling to depths of 0.3-1.0 metres, underlain by residual silty clay to a depth of 1.2 metres, low to very low strength shale to approximately 3.5 metres and low to medium strength shale to 6 metres.

The geotechnical report includes recommendations for excavation methods, vibration monitoring, groundwater monitoring and disposal (if encountered), excavation support for Epping Road, foundation design and construction materials.

A condition is recommended for the proposed development to be constructed in accordance with the recommendations of the geotechnical report.

A condition is also recommended requiring a dilapidation assessment of adjoining properties.

2.2 State Environmental Planning Policy No. 32 - Urban Consolidation (Redevelopment of Urban Land)

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

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

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

The Site has a history of residential use and it is unlikely to be contaminated such that a more detailed assessment would be required.

A condition of consent is recommended regarding the site disposal of excavated material and building waste.

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

State Environmental Planning Policy No. 65 – Design Quality Residential Flat Development (SEPP 65) provides for design principles to improve the design quality of residential flat development and for consistency in planning controls across the State.

The Applicant has submitted a “Design Verification Statement” prepared by a qualified Architect stating that the proposed development achieves the design principles of *SEPP 65*.

The design principles of *SEPP 65* and a summary of the Applicant’s response to these principles are outlined below.

2.4.1 Principle 1 – Context

Design Principle 1 is as follows:

Good design responds and contributes to its context. Context can be defined as the key natural and built features of an area.

Responding to context involves identifying the desirable elements of a location's current character or, in the case of precincts undergoing a transition, the desired future character as stated in planning and design policies. New buildings will thereby contribute to the quality and identity of the area.

- The locality is in the process of undergoing transition after being declared by the Department of Planning as an Urban Activation Precinct. The proposal is for five storey Residential Flat Buildings which are consistent with the new zoning of R4 (Medium Density Residential).
- The site layout results in two separate buildings with a length and articulation that is in compliance with the DCP.
- The proposed buildings have an 8-10m setback to Epping Road and Smith Street providing generous deep soil landscaping to allow for large trees to grow.
- Ground floor terraces and individual apartment access are limited to provide dense landscaping along the street setbacks.

2.4.2 Principle 2 – Scale

Design Principle 2 is as follows:

Good design provides an appropriate scale in terms of the bulk and height that suits the scale of the street and the surrounding buildings.

Establishing an appropriate scale requires a considered response to the scale of existing development. In precincts undergoing a transition, proposed bulk and height needs to achieve the scale identified for the desired future character of the area.

- The height of the proposed buildings generally sits within the height control for the site and reflects the general height and scale of the controls.
- The proposal is for five storey buildings designed to ensure the top floor is setback as required by the DCP to increase building separation.

2.4.3 Principle 3 – Built Form

Design Principle 3 is as follows:

Good design achieves an appropriate built form for a site and the building's purpose, in terms of building alignments, proportions, building type and the manipulation of building elements.

Appropriate built form defines the public domain, contributes to the character of streetscape and parks, including their views and vistas, and provides internal amenity and outlook.

- The site is bounded by Epping Road to the south and Smith Street to the west. The building alignment has been carefully considered to take into account the trapezoidal

form of the site. The L shape plan form of the buildings provides relief to the length of the building resulting in a well-articulated building facade. The inner space of the L shape plan provides landscaped common open space.

- The proposal is a consolidation of five residential blocks. The consolidation will reduce the current number of driveway crossings from five to one providing a consolidated landscaping surrounding the buildings. The proposal ensures that no single allotment in the neighbouring properties will be isolated as future a development site.
- The building setbacks of this corner site was established in conjunction with Council in a Pre DA meeting. Whilst Epping Road is considered as secondary frontage due to its length compared to Smith Street as stipulated in the DCP, a greater setback (of 8-10m) was established to provide greater separation between the Epping Road and the proposed built-form to ensure a high level of amenity is provided to the future occupant by way of generous landscaping and open space.
- The rear and side setback ensures that the balcony and Living area of the apartments are behind the 6m setback line to ensure appropriate building separation for a future RFB on neighbouring properties. Bedrooms that are within the 6m setback are treated with privacy measures by the provision of high sill windows for privacy.
- The top floor is setback 3m from the wall edge as required by the DCP providing appropriate building separation. The terraces of the apartments at level 5 are setback along the edge with landscape planters to maintain privacy and alleviate overlooking.
- The angled alignment of the east and western boundary creates a staggered façade providing well-articulated elevations.
- The buildings are carefully proportioned with a podium base forming part of the 'street wall', a central body modulated by fins, and vertical elements counterbalanced by large horizontal balconies at the top forming a pavilion-like top or head expressing the facades in three distinct levels.
- Facade articulation is achieved by the provisions of vertical panel elements of solids and voids (of the fenestrations) and the horizontal forms of the balconies. Corner treatment incorporates wrap-around balconies, flat roof and fin walls creating shadows which assist in breaking up the built form.
- The various compositional elements of the 3 principal facades have been carefully modulated to create a fine grained composition of solid and void, vertical and horizontal, solid and non-reflective, and glazed and reflective. The design intent is a building that will present a variety of visual cues from different vantage points, which will 'play', with the movement of light across the facade at different time of the day.
- The buildings are an appropriate contribution to the future character of the place, respectful built form and in keeping with the principles and objectives of the Controls.

2.4.4 Principle 4 – Density

Design Principle 4 is as follows:

Good design has a density appropriate for a site and its context, in terms of floor space yields (or number of units or residents).

Appropriate densities are sustainable and consistent with the existing density in an area or in precincts undergoing a transition, are consistent with the stated desired future density. Sustainable densities respond to the regional context, availability of infrastructure, public transport, community facilities and environmental quality.

- The application proposes 90 apartments which is consistent with the density levels and zoning envisaged by the Epping Town Centre Study.
- The built form and density are managed by satisfying the DCP envelope controls.

2.4.5 Principle 5 – Resource, Energy and Water Efficiency

Design Principle 5 is as follows:

Good design makes efficient use of natural resources, energy and water throughout its full life cycle, including construction.

Sustainability is integral to the design process. Aspects include demolition of existing structures, recycling of materials, selection of appropriate and sustainable materials, adaptability and reuse of buildings, layouts and built form, passive solar design principles, efficient appliances and mechanical services, soil zones for vegetation and reuse of water.

- In the technical documentation submitted with the proposal, the following ESD measures will be documented and/or detailed: Rainwater capture tanks for reuse for irrigation, LED lighting to residential areas, 3 star plus WELS rated tap-ware, 3 or 4 star rated appliances, movement sensors and timed lighting to car-parks and public areas. It is noted that the BASIX targets are achieved for the project.

2.4.6 Principle 6 – Landscape

Design Principle 6 is as follows:

Good design recognises that together landscape and buildings operate as an integral and sustainable system, resulting in greater aesthetic quality and amenity for both occupants and the adjoining public domain.

Landscape design builds on the existing site's natural and cultural features in responsible and creative ways. It enhances the development's natural environmental performance by coordinating water and soil management, solar access, micro-climate, tree canopy and habitat values. It contributes to the positive image and contextual fit of development through respect for streetscape and neighbourhood character, or desired future character.

Landscape design should optimise useability, privacy and social opportunity, equitable access and respect for neighbour's amenity, and provide for practical establishment and long term management.

- The proposed development will be landscape in accordance with the Landscape Plan and Report prepared by Peter Glass and Associates.
- Key trees are identified and retained.

2.4.7 Principle 7 – Amenity

Design Principle 7 is as follows:

Good design provides amenity through the physical, spatial and environmental quality of a development.

Optimising amenity requires appropriate room dimensions and shapes, access to sunlight, natural ventilation, visual and acoustic privacy, storage, indoor and outdoor space, efficient layouts and service areas, outlook and ease of access for all age groups and degrees of mobility.

- The proposal complies with the requirement under the RFDC in regards to dual aspect apartments, natural ventilation, kitchens within 8m of a natural light source, solar access, balcony width and sizes, storage and accessibility.

2.4.8 Principle 8 – Safety and Security

Design Principle 8 is as follows:

Good design optimises safety and security, both internal to the development and for the public domain.

This is achieved by maximising overlooking of public and communal spaces while maintaining internal privacy, avoiding dark and non-visible areas, maximising activity on streets, providing clear, safe access points, providing quality public spaces that cater for desired recreational uses, providing lighting appropriate to the location and desired activities, and clear definition between public and private spaces.

- Access into the building is via a clear open forecourt and lobby allowing passive and active surveillance and will be access controlled by means of a proximity card or similar security device.
- Once within the building all corridors are short and direct with no dark corners in which potential assailants could hide.
- Travel distances from lifts to front doors is short.
- There is a clear distinction and security between public and private spaces.
- The carpark will be security controlled by means of a remote operated roller shutter.

2.4.9 Principle 9 – Social Dimensions and Housing Affordability

Design Principle 9 is as follows:

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

New development should optimise the provision of housing to suit the social mix and needs in the neighbourhood or, in the case of precincts undergoing transition, provide for the desired future community.

New development should address housing affordability by optimising the provision of economic housing choices and providing a mix of housing types to cater for different budgets and housing needs.

- The development provides for a mix of apartment types to address issues of affordability, family size and life-style choices.

2.4.10 Principle 10 – Aesthetics

Design Principle 10 is as follows:

Quality aesthetics require the appropriate composition of building elements, textures, materials and colours and reflect the use, internal design and structure of the development. Aesthetics should respond to the environment and context, particularly to desirable elements of the existing streetscape or, in precincts undergoing transition, contribute to the desired future character of the area.

- The massing of the proposal is adequately articulated and the architectural expression proposed is contemporary and respectful to desired street character.
- The proposed two separate buildings in an L shape plan provides an appropriate scale and articulation. The facade is an assemblage of compositional elements of vertical walls with horizontal projections of balconies.
- Pedestrian entry is demarcated by a covered entry walkway providing clear legibility to the entry.
- The proposal is to use materials that are long lasting. These are rendered and painted rendered masonry, aluminium framed glazing and brick.

2.5 SEPP 65 – Residential Flat Design Code

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

Residential Flat Design Code			
Control	Requirement	Proposal	Compliance
Building Depth	10-18m	20-35m	No (see below)
Single Aspect (Sth facing)	10% max.	18%	No (see below)
Natural Light	70% min.	73%	Yes
Cross Ventilation	60% min.	69.2%	Yes
Building Separation	Up to 4 storeys: 12m – habitable/habitable	8.5-9m	No (see below)
Deep Soil Zone	25% of open space min.	81.7%	Yes
Communal Open Space	25-30% min.	37%	Yes
Ground Level Private Open Space	25m ² min. 4m min. dimension	10-16m ²	No (see below)
Dwelling Size	1 br – 50m ² min. 2 br – 70m ² min. 3 br – 95m ² min.	50-68m ² 70-88m ² 95-110m ²	Yes Yes Yes
Kitchen Distance	8m max.	8m	Yes
Balcony Depth	2m min.	2m	Yes
Adaptable Housing	10% min.	29%	Yes
Storage	1 br – 6m ³ min. 2 br – 8m ³ min. 3 br – 10m ³ min. 50% internal	7-10m ³ 8-13m ³ 10-11m ³ 50-60%	Yes Yes Yes Yes

As detailed in the above table, the proposed development generally complies with the prescriptive measures in the *Residential Flat Design Code* other than the building depth and apartment aspect, building separation and open space. Below is a brief discussion regarding the relevant development controls and best practice guidelines:

2.5.1 Building Depth and Single Aspect (South facing) Apartments

The proposed buildings exceed the building depth Rule of Thumb under the *RFDC* and contain 16 (18%) south facing single aspect units which does not comply with the *RFDC*. Notwithstanding, the Applicant has justified the building depth and quantum of south facing single-aspect apartments on the basis that the primary frontage is Epping Road and the east-west alignment of the site makes it difficult to fully utilise the site area and to limit the number of such units. Given the compliance with solar access and natural ventilation requirements, this is considered acceptable in this instance.

2.5.2 Building Separation

The proposal entails two buildings with a separation at Level 1 of 8.5-9 metres. Whilst this separation does not comply with the *RFDC*, it generally accords with Council's DCP which permits a reduced separation of 9 metres between buildings within a development site. Accordingly, the separation between the two proposed buildings is considered acceptable subject to a condition requiring privacy screening along the edges of several balconies to protect the visual privacy of future residents.

The proposal complies with the required building separation from the residential flat building under construction to the east of the Site and provides for adequate setbacks to the northern adjoining properties to enable compliant separation from any future development to the north.

2.5.3 Ground Level Open Space

None of the proposed ground floor units are considered to meet the minimum requirement under the RFDC although all ground floor units are provided with private open space contiguous with deep soil landscaping within the front, side and rear setbacks which provides for a high level of spatial amenity and this is considered acceptable given the site's context.

In addition, the amended proposal has relocated the principal communal open space toward the Epping Road frontage which is a more sizeable and useable area with ready access for all occupants and contributes to the landscaped setting and presentation to Epping Road.

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

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

2.7 State Environmental Planning Policy (Infrastructure) 2007

The proposed development has been assessed against the requirements of *State Environmental Planning Policy (Infrastructure) 2007 (ISEPP)*. Amongst other things, the *ISEPP* contains State-wide planning controls for developments adjoining rail corridors and busy roads. The Site has frontage to a classified road corridor (Epping Road) and accordingly, the following matters are required to be considered pursuant to the *ISEPP*.

2.7.1 Development with frontage to a Classified Road and Traffic Generating Development

Pursuant to Clause 101 of the *ISEPP*, consent must not be granted to development fronting a classified road unless the consent authority is satisfied that:

- where practicable, vehicular access to the land is provided by a road other than the classified road, and
- the safety, efficiency and ongoing operation of the classified road will not be adversely affected by the development as a result of the design of the vehicular access to the land, the emission of smoke or dust from the development or the nature, volume or frequency of vehicles using the classified road to gain access to the land, and
- the development is of a type that is not sensitive to traffic noise or vehicle emissions, or is appropriately located and designed, or includes measures, to ameliorate potential traffic noise or vehicle emissions within the site of the development arising from the adjacent classified road.

In addition, Clause 104 and Schedule 3 of the *ISEPP* relate to traffic generating development and require referral to the NSW Roads and Maritime Service (RMS) where a proposed development has an access point within 90 metres of a classified road and car parking for more than 50 vehicles.

The proposed development has frontage to Epping Road which is a Classified Road and comprises 95 car parking spaces.

All vehicular access is to be via Smith Street rather than Epping Road and the RMS has provided concurrence to the proposed development in respect to the traffic generated and the operation of Epping Road.

2.7.2 Impact of Road Noise

Pursuant to Clause 102 of the *ISEPP*, an assessment of the impact of road noise on a residential use is required where a development fronts a road with an annual average daily traffic (AADT) volume of more than 40,000 vehicles.

The Site is immediately adjacent to Epping Road which has an AADT of more than 40,000 vehicles per day. Accordingly, a noise and vibration assessment report was submitted with the application. The Noise report demonstrates that the development is capable of achieving reasonable amenity and acoustic privacy. A consent condition is recommended to incorporate measures to mitigate against noise to habitable rooms in accordance with the criteria set out within clause 102(3) of the *SEPP*.

2.8 Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005

The Site is located within the catchment of the Sydney Harbour. The Plan includes planning principles applicable to the site within the upper part of the catchment. The principles incorporate measures to protect water quality, minimise urban runoff, conserve water and to ensure the catchment watercourse, wetlands, riparian lands and remnant vegetation are protected.

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 Policy.

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

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

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

2.10 Hornsby Development Control Plan 2013 (HDCP) – Part 1 General Controls

2.10.1 Stormwater Management

The proposed stormwater drainage system involves connection to Council's infrastructure in Essex Street, to the east of the Site. This will require the Applicant to obtain an easement over No. 32 Essex Street.

The owner of No. 32 Essex Street has objected to this stormwater drainage proposal on the basis that the Applicant should pursue an alternate arrangement to drain directly to Epping Road. Council's engineering assessment concludes that Council's preferred solution is to drain via an inter-allotment drainage easement over No. 32 Essex Street to Essex Street for the following reasons:

- Depositing of more stormwater in Epping Road is likely to exceed the capacity of the local RMS drainage system;
- The RMS is responsible for the assessment of its own stormwater system and can deny access to that system, thereby frustrating the construction planning process;
- Some proposed built upon, balcony and other pervious areas may be prevented from draining to the system, thereby reducing the effect of the detention system; and
- There is less hydraulic grade to deal with overflows from on-site detention systems than disposing to an inter-allotment drainage system to Essex Street.

Accordingly, given the lack of a viable alternative, drainage to Essex Street is supported in this instance. However, without an easement to drain over the adjoining land, a Deferred Commencement consent is recommended, requiring the Applicant to provide evidence of a formal arrangement via a drainage easement to drain stormwater from the Site to a lawful point of discharge.

In addition, appropriate conditions are recommended to ensure that water quality measures are employed to meet the requirements of *HDCP*.

2.10.2 Waste Management

The waste management aspects of the proposed development, including demolition stage and construction stage Waste Management Plans have been assessed by Council's Waste Management Services Team which concludes that the proposal is acceptable subject to recommended conditions.

The proposed development is considered to be generally acceptable with regard to bin storage within the residential levels with the exception of some minor adjustments to the size of several bin cupboards and the bulky waste store room at the upper basement level to meet Council's requirements. These adjustments are to be required via a condition of consent.

The bin storage room in the upper basement level is insufficient in size to cater for all functions required of it. These functions include housing all required bins and a bin lifter (for safe decanting of the 240L garbage bins from each residential level into 660L garbage bins) and space to access and manoeuvre the bins.

Accordingly, this bin storage room needs to be enlarged to no less than 6m x 6m. This will involve relocating the fire escape which may require unit B-01 to be decreased in size. This can reasonably be done by replacing the current Unit Type 1A for Unit Type 1B. Each of the Unit Types are 1 bed units and accordingly, there would be no change to the number of units or the unit mix. This design change is required as a Deferred Commencement condition.

2.10.3 Services and Lighting

The proposal includes a booster pump and electrical room in Basement 1 which will not be visible from the street.

A condition is recommended for external and security lighting in accordance with *AS4282- Control of the Obtrusive Effects of Outdoor Lighting*.

Accordingly, the proposal is considered to meet the controls for services and lighting design to minimise impacts on the streetscape.

2.11 Hornsby Development Control Plan - Part 3 Residential

In addition to the General Controls within Part 1 of HDCP, the proposed development has been assessed having regard to the relevant desired outcomes and prescriptive measures within *Part 3.4 - Residential Flat Building (5 storeys)* of HDCP as set out in the following table:

Hornsby Development Control Plan – Part 3.4			
Control	Requirement	Proposal	Compliance
Site Width	30m min.	47m Smith St 93m Epping Rd	Yes Yes
Height	5 storeys	5 storeys	Yes
Roof Design	Flat-pitched, without parapets, incorporating eaves which cast shadows across the top-storey walls.	Flat-pitched incorporating top-storey eaves.	Yes
Front Setback – Epping Road	10m min. 8m for 1/3 building width 7m balconies 7m basement/deep soil	8-16m 8m for 50% 8m 6.2	No (see below) No (see below) Yes No (see below)
Front Setback – Smith	10m min.	7-13m	No (see below)

Hornsby Development Control Plan – Part 3.4			
Control	Requirement	Proposal	Compliance
Street	8m for 1/3 building width 7m balconies 7m basement/deep soil	8m for 30% 7m 5.36-12.05m	Yes Yes No (see below)
Side Setback – North	6m min. 4m for 1/3 building width 4m basement/deep soil	4-12m 4m for 35% 2-4m	No (see below) No (see below) No (see below)
Side Setback – East	6m min. 4m for 1/3 building width 4m basement/deep soil	4-8.5m 4 for 30% 2.4-4m	No (see below) Yes No (see below)
Top Storey Setback	3m additional	>3m	Yes
Floorplates	35m max. 4x4m indent required >25m	20-35m 3.1x4m	Yes No (see below)
Building separation	9m min.	8.5-9m	No (see below)
Private Open Space	1 br – 10m ² min. 2 br – 12m ² min. 3 br – 16m ² min. Min. width 2.5m	10-19m ² 12-16m ² 14-33m ² 2m	Yes Yes No (see below) No (see below)
Communal Open Space	25% site area min.	37%	Yes
Principal Communal Open Space	50m ² min. 4m min. dimension 2 hours solar access Landscaped for active/passive recreation	120m ² 10m	Yes Yes
Housing Choice	1 br – 10% 2 br – 10% 3 br – 10%	47% 44% 9%	Yes Yes No (see below)
Car Parking	84 resident spaces 14 visitor spaces 2 motor cycle spaces 30 bicycle spaces	86 9 2 39	Yes No (see below) Yes Yes
Adaptable Units	30%	29%	No (see below)

As detailed in the above table, the proposed development does not comply with numerous prescriptive measures within HDCP and these matters of non-compliance are addressed below, as well as a brief discussion on compliance with relevant performance requirements.

2.11.1 Setbacks

There are numerous incursions into the front and side setbacks at both the basement and above ground levels and a number of these non-compliances result from the angled eastern and western boundaries. Notwithstanding, these incursions are generally minor and for only short distances. In addition, the proposal provides for a high degree of modulation and articulation in the facades and complies with the required quantum of deep soil landscaping. Accordingly, the proposed setbacks are considered to be acceptable in this instance.

2.11.2 Floorplates/Indents

The western elevation of the western building comprises an indent which is less than the 4m x 4m indent required by the DCP. Notwithstanding, the non-compliance is minor and this elevation has variable setbacks as it steps along the street frontage and it is considered to provide an adequate level of articulation.

2.11.3 Building Separation

The proposed buildings have a minimum separation of 8.5 metres. However, the predominant separation is 9 metres. Whilst the minimum separation is slightly less than that required by the *HDCP*, it occurs in only minor areas between the proposed buildings. Notwithstanding, these areas of non-compliance are in the vicinity of balconies and windows to habitable rooms and accordingly, a condition requiring privacy screening along the edge of the balcony to several units is recommended to protect the visual privacy of future residents.

2.11.4 Private Open Space

The proposal predominantly complies with the minimum area of private open space per unit with the exception of three units. These three units are all 3-bed units and are provided with 14m² each, which is slightly less than the 16m² required by *HDCP*. The Applicant has justified this non-compliance on the basis that these three units all have excellent amenity in terms of solar access, cross ventilation and general aspect/outlook and that widening the balconies to these three units is not possible due to clearances required to retain adjoining Lilly Pilly trees.

It is considered that the nature and quantum of non-compliances is minor and is acceptable in this instance.

Fifty percent of the proposed units do not comply with the 2.5-metre minimum dimension for balconies under *HDCP*. Notwithstanding, all balconies meet the 2-metre minimum required under the RFDC which prevails over the *HDCP* and as discussed above, all but three balconies meet Council's minimum area requirements. Accordingly, the proposal is considered acceptable in this instance.

2.11.5 Communal Open Space

At the request of Council, the Applicant submitted amended plans which provide for a principal communal open space adjacent to the main pedestrian entry off Epping Road. This area exceeds the requirement under *HDCP* in terms of total area and minimum dimension and whilst it is located to the southern side of the development, it will receive direct sunlight during the middle of the day and early afternoon and is considered to be a superior space than previously proposed.

The amended architectural plans indicate tables and chairs beneath a large tree, which was noted as a *Magnolia grandiflora* on the landscape plan. This tree is slightly relocated from the position shown on the landscape plan and the landscape plan does not reflect the newly

proposed communal open space embellishment shown on the amended architectural plans. Accordingly, a condition of consent is recommended requiring an amended landscape plan that accords with the architectural plans and that provides details of the proposed embellishment of this space, including tables, chairs, benches or the like.

2.11.6 Housing Choice

The proposal provides for only 9% of the total number of units as 3-bed units instead of the 10% minimum required by *HDCP*. The non-compliance equates to one (1) unit which is not considered to be a significant variation from the control and is acceptable in this instance.

2.11.7 Car Parking

The proposal provides for a total of 95 car parking spaces which does not comply with the total requirement under *HDCP* of 98 car parking spaces. The plans of the proposed development depict 9 visitor car parking spaces which is less than the requisite 14 and 86 resident car parking spaces which is greater than the requisite 84.

In part the non-compliance with the total number of car parking spaces has arisen due to design changes to improve the dwelling mix, provision of private open space and storage areas required by *SEPP 65*. However, it is considered that the proposal is capable of compliance by a minor extension of the Basement 2 car park to provide for the three (3) additional car parking spaces. Whilst this would require additional excavation, the area of affectation is within the existing building footprint and would not adversely impact on soft landscaping, drainage or stability of adjoining land.

Accordingly, a Deferred Commencement condition is recommended to require these three (3) car parking spaces to be provided.

In addition, a condition of consent is recommended to ensure that a minimum of 14 visitor car parking spaces are provided at Basement 1.

2.11.8 Adaptable Units

The proposed development provides 26 adaptable units (29%) instead of the required 27 units (30%) required by *HDCP*. The non-compliance equates to 1 unit which is not considered a significant variation from the control and is acceptable in this instance.

2.12 Section 94 Contributions

Hornsby Shire Council Section 94 Contributions Plan 2012-2021 applies to the development as it would result in the addition of 90 residential units in lieu of the five existing dwellings. Accordingly, a monetary contribution pursuant to the Section 94 Plan has been included as a condition of development consent.

3. ENVIRONMENTAL IMPACTS

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

3.1 Natural Environment

The proposal has retained significant trees on the Site and includes landscaped areas around the periphery and within the development to soften the visual appearance of future built structures.

The proposal has also been assessed as being satisfactory with regard to stormwater quantity and quality subject to conditions which are recommended within this report.

3.2 Built Environment

The Site is within an area earmarked and zoned for high density urban development and is in general compliance with the built form controls under HLEP, SEPP 65, the RFDC and the DCP. The minor non-compliances outlined herein are not considered likely to result in significant adverse amenity impacts.

As detailed in the Applicant's SEPP 65 submission and accompanying details, the proposal provides for a high degree of vertical and horizontal articulation which will be supplemented by variable building materials and landscaping and is likely to result in an overall positive streetscape impact in this part of Epping.

3.3 Social Impacts

The proposal will replace five existing dwellings with 90 units within an apartment development that is envisaged by Council's controls and therefore, provide additional housing supply in the locality, in close proximity to public transport, employment opportunities and retail/commercial services.

Subject to conditions recommended herein, the proposal is considered to be satisfactory with regard to security and safety.

Furthermore, the proposal will provided for accessible and adaptable apartments and accordingly, is considered to have positive social impacts.

3.4 Economic Impacts

The proposal will not give rise to any adverse economic impacts and will create employment opportunities during the construction of the development.

4. SITE SUITABILITY

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

The Site has not been identified as bushfire prone or flood prone land and is considered to be capable of accommodating the proposed development which is consistent with the scale and future character envisaged by Council's planning controls for the locality.

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 29 September and 29 October 2014 in accordance with the *HDCP* notification requirements. During this period, Council received submissions from, or on behalf of, two (2) surrounding landowners. The following map 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	
One (1) SUBMISSION RECEIVED OUT OF MAP RANGE			

Two submissions objected to the development, generally on the following grounds:

5.1.1 A requirement to drain stormwater over adjoining land where no easement has been agreed to

This matter is discussed in Section 2.10.1 of this report where it has been concluded that the proposed development is acceptable subject to a Deferred Commencement condition requiring the Applicant to provide evidence of a formal arrangement via a drainage easement to drain stormwater from the Site to a lawful point of discharge.

5.1.2 Unacceptable cumulative adverse impact on traffic and on-street car parking in this part of Epping.

This matter is discussed within this report and it has been concluded that the proposal is consistent with the strategic vision for the locality and zoning of the land to sustain higher density residential development of the nature proposed.

As part of the Epping UAP, detailed traffic modelling was undertaken to confirm the capacity of the road network to accommodate the anticipated increase in traffic volumes associated with development. The modelling confirmed the need for traffic improvements including works to the intersection of Essex Street and Epping Road and the widening of the Epping Railway Bridge. The State Government has allocated funds to deliver these works in association with development within the precinct. The projects are at various stages of the design and implementation.

Furthermore, a Deferred Commencement condition is recommended to require three (3) car additional off-street car parking spaces to be provided in order to comply with Council's DCP and a condition of consent is recommended to ensure that a minimum of 14 visitor car parking spaces are provided at Basement 1.

5.2 Public Agencies

The development application is Integrated Development under the Act. Accordingly, the application was referred to the following Agencies for comment:

5.2.1 Roads and Maritime Services

The development application was referred to the Roads and Maritime Service as the Site fronts Epping Road which is a Classified Road and parts of the Site are designated for road widening.

On 30 October 2014, the RMS provided concurrence to the development application subject to various conditions addressing excavation and construction practices, stormwater, redundant driveways, traffic noise and requiring works to be clear of land designated for road widening on Epping Road. These matters have been incorporated in the recommended conditions of consent.

5.2.2 NSW Police

The development application was referred to the NSW Police for consideration of Crime Prevention Through Environmental Design. The NSW Police provided comments that are addressed in the recommended consent condition No. 56.

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 proposed development is considered to have satisfactorily addressed Council's and relevant agencies' criteria and would provide a development outcome that, on balance, would result in a positive impact for the community. Accordingly, it is considered that the approval of the proposed development would be in the public interest.

7. CONCLUSION

The application seeks approval for the demolition of existing structures and construction of two, five storey residential flat buildings comprising 90 units and basement car parking.

The proposal complies with the design principles of SEPP 65 and generally complies with the *Residential Flat Design Code* with the minor non-compliances considered acceptable in this instance as they are unlikely to result in significant adverse amenity impacts.

The non-compliance of the proposed buildings with the 17.5m maximum building height under Clause 4.3 of *HLEP* is acceptable with regard to the justification for the variation for the lifts overruns and roof overhangs as submitted by the Applicant, pursuant to Clause 4.6 of *HLEP*.

The proposed development is generally in accordance with the development controls for the 'Essex Street/Pembroke Street, Epping' Precinct of the *Hornsby DCP* and would contribute to the desired future five storey residential character of the precinct. With conditions, the minor non-compliances with prescriptive measures for setbacks, building articulation, private open space, housing mix and adaptable housing are considered acceptable.

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.

Attachments:

1. Locality Plan

2. Site Analysis Plan
3. Landscape Plan
4. Floor Plans & Elevations
5. Shadow Impact Analysis
6. Photomontages

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.

Part A – Deferred Commencement

Pursuant to Section 80(3) of the Environmental Planning and Assessment Act 1979, this consent does not operate until the following information is submitted to Council:

1. Downstream Drainage Easement

The proposed drainage easement over downstream Lot 23 DP 10385 connecting the subject site to a Council controlled drainage system must be registered with the NSW Department of Lands. A copy of the registered documents and plans shall be submitted to Council for information and confirmation prior to commencement of the DA.

2. Waste Management

Amended plans are required as follows:

- a) The basement bin storage room is to be no less than 6.0m by 6.0m;
- b) The bulky waste storage area is to have a floor area of no less than 8m², with no dimension less than 2m;
- c) There must be a bin cupboard (with minimum internal dimensions of 1400mm wide by 900mm deep to house one 240L garbage bin and one 240L recycling bin) on Level B accessed from the lobby of each tower. The bin cupboard must be accessible by persons with a disability;
- d) The bin cupboard on Level 5 of the East Tower must have internal dimensions of no less than 1400mm wide by 900mm deep;
- e) Every bin cupboard on each residential level of each tower must be no less than 900mm deep.

3. Landscape Plan

A revised landscape plan is to be submitted and is to include the following:

- a) details of the proposed embellishment of the principal communal open space area adjacent to Epping Road including tables, chairs, benches or the like;
- b) planter boxes to balcony and terrace edges as depicted on the architectural drawings dated 1/04/2015; and
- c) additional trees adjacent to Units B.03 and B.04 as depicted on the architectural drawings dated 1/04/2015.

4. Car Parking

Amended plans are required to provide for an additional three (3) off-street car parking spaces at Basement 2.

Such information shall be submitted within twelve (12) months of the date of this notice.

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

Part B – General Conditions

1. Approved Plans and Supporting Documentation

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

<i>Plan No.</i>	<i>Drawn by</i>	<i>Dated</i>
DA2000 Rev C Basement 2 Floor Plan	JPR Architects Pty Ltd	31/03/2015
DA2001 Rev C Basement 1 Floor Plan	JPR Architects Pty Ltd	31/03/2015
DA2002 Rev C L1 Proposed Site Plan	JPR Architects Pty Ltd	31/03/2015
DA2003 Rev C First Floor L2 Plan	JPR Architects Pty Ltd	31/03/2015
DA2004 Rev C Second Floor L3 Plan	JPR Architects Pty Ltd	31/03/2015
DA2005 Rev C Third Floor L4 Plan	JPR Architects Pty Ltd	31/03/2015
DA2006 Rev C Fourth Floor L5 Plan	JPR Architects Pty Ltd	31/03/2015
DA2007 Rev C Roof Plan	JPR Architects Pty Ltd	31/03/2015
DA2300 Rev C Epping Road Elevation	JPR Architects Pty Ltd	31/03/2015
DA2301 Rev C Smith Street Elevation	JPR Architects Pty Ltd	31/03/2015
DA2302 Rev C North	JPR Architects Pty Ltd	31/03/2015

Plan No.	Drawn by	Dated
Elevation		
DA2303 Rev C East Elevation	JPR Architects Pty Ltd	31/03/2015
DA2400 Rev C Long Section AA	JPR Architects Pty Ltd	31/03/2015
DA2401 Rev C Cross Section BB	JPR Architects Pty Ltd	31/03/2015
DA2402 Rev C Cross Section CC	JPR Architects Pty Ltd	31/03/2015
DA2403 Rev C Car Park Ramp Section	JPR Architects Pty Ltd	31/03/2015
DA2404 Rev C Car Park Swept Path Section	JPR Architects Pty Ltd	31/03/2015
DA2500 Rev C Regulatory Requirements	JPR Architects Pty Ltd	31/03/2015
DA2501 Rev C Height Plane Breach Calculations	JPR Architects Pty Ltd	31/03/2015
DA2502 Rev C Common Open Space	JPR Architects Pty Ltd	31/03/2015
DA2503 Rev C Deep Soil	JPR Architects Pty Ltd	31/03/2015
DA2600 to 2616 Rev C Unit Types	JPR Architects Pty Ltd	31/03/2015
DA6200 Rev A Schedule of Finishes	JPR Architects Pty Ltd	12/09/2014
H-DA-00 Rev C Sedimentation Control, Legend and Details	itm Design Pty Ltd	24/02/2015
H-DA-01 Rev C Basement 2 Stormwater Drainage	itm Design Pty Ltd	24/02/2015
H-DA-02 Rev C Basement 1 Stormwater Drainage	itm Design Pty Ltd	24/02/2015
H-DA-03 Rev C Level 1 Stormwater Drainage	itm Design Pty Ltd	24/02/2015

Document No.	Prepared by	Dated
Design Verification Statement	JPR Architects Pty Ltd	09/09/2014
BASIX Certificate No. 563944M_02	BASIX Services Australia	05/05/2015
BASIX Assessor Certificate and Stamped Plans – Certificate No. 16580106	BASIX Services Australia	05/05/2015
Traffic Impact Assessment	GTA Consultants	02/09/2014
Acoustic Assessment	SLR Consulting Australia	11/09/2014
Natural Ventilation	WINDTECH Consultants	05/09/2014

Document No.	Prepared by	Dated
Statement		
BCA Capability Report	Vic Lilli & Partners Consulting	29/08/2014
Arboricultural Impact Assessment	Urban Forestry Australia	September 2014
Waste Management Plan	JPR Architects Pty Ltd	09/09/2014
Access Audit	ILC Access	08/09/2014
Report on Geotechnical Investigation	Douglas Partners	June 2014
Stormwater Drainage Details Ref 13 – 264 / let1001.doc	itm Design Pty Ltd	24/02/2015

2. Height of Buildings

The proposed development is not to exceed the building heights specified on the stamped approved plans specified herein and no consent is granted to additional or ancillary roof structures such as plant rooms, railings, stair wells or the like or for use of the roof top for recreational purposes.

3. Removal of Existing Trees

This development consent only permits the removal of prescribed tree numbered T9 as identified on the Tree Location Plan prepared by Catriona MacKenzie dated September 2014.

The removal of any other trees requires separate approval in accordance with the Tree & Vegetation Chapter 1B.6 Hornsby Development Control Plan (HDCP).

4. Construction Certificate

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

5. Section 94 Development Contributions

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	\$62,092.35
Open Space and Recreation	\$951,239.70
Community Facilities	\$132,642.20
Plan Preparation and Administration	\$3,932.10
TOTAL	\$1,149,906.35

being for 42 x 1 bed, 40 x 2 bed and 8 x 3 bed units including a credit for 5 existing dwellings.

- b) The value of this contribution is current as at 7 May 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:

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

Where:

- $\text{\$C}_{PY}$ is the amount of the contribution at the date of Payment
 $\text{\$C}_{DC}$ is the amount of the contribution as set out in this Development Consent
 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
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6. Building Code of Australia

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

7. 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.

8. 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) *Telstra* – a letter of consent demonstrating that satisfactory arrangements have been made to service the proposed development.

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.

9. Accessible Units

The development is required to provide 26 units designed as adaptable housing pursuant to the requirements of 1C.2.2 of the Hornsby Development Control Plan. In this regard, nine (9) car parking spaces are to be designed for people with a disability and allocated to nine (9) adaptable units. The details of all adaptable units must be provided with the Construction Certificate plans.

10. Letterboxes

The details of letter boxes and meter enclosures must be provided with the Construction Certificate Plans. The letter boxes and meter enclosures must be provided with a minimum setback of 2 metres from all boundaries and must be suitably screened.

11. Storage

Each dwelling within the development must have a minimum area for storage (not including kitchen and bedroom cupboards) of 6m³ for one bedroom units, 8m³ for two bedroom units and 10m³ for three bedroom units, where at least 50% is required to be located within the apartment and accessible from either the hall or living area. Details must be submitted with the Construction Certificate plans.

12. Noise – Epping Road Corridor

The development must be carried out in accordance with the recommendations contained within the Acoustic Assessment report submitted with the development application (Ref 610.13930-R1), prepared by SLR Consulting Australia and dated 11 September 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).

13. Sydney Water – Quick Check

This application must be submitted to a *Sydney Water* 'Quick Check Agent' or 'Customer Centre' for approval to determine whether the development would affect any *Sydney Water* infrastructure, and whether further requirements are to be met.

Note: Refer to www.sydneywater.com.au or telephone 13 20 92 for assistance.

14. Dilapidation Report

A 'Dilapidation Report' is to be prepared by a 'chartered structural engineer' detailing the structural condition of the adjoining properties at Nos. 30C Essex Street and Nos. 7-9 Smith Street, Epping

15. Road Works

All road works approved under this consent must be constructed in accordance with Council's *Civil Works Design and Construction Specification 2005* and the following requirements: -

- a) Removal of existing kerb and gutter along the Smith Street and Epping Road frontages of the development and reconstruction of Council standard 150 mm integral kerb and gutter on the alignment and level of the existing kerb and gutter.
- b) A concrete footpath to be constructed within the road verge on the Smith Street and Epping Road frontages with the remaining area turfed. The work shall also provide construction of Council's standard pram ramp on the corner of Smith Street and Epping Road.
- c) The existing road pavement to be saw cut a minimum of 600 mm from the existing edge of the bitumen and reconstructed.

- d) The submission of a compaction certificate from a geotechnical engineer for any fill within road reserves, and all road sub-grade and road pavement materials.
- e) Pursuant to s138 *Roads Act 1993*, application shall be made to Hornsby Council and Roads and Maritime Services for consideration and approval for all road works. The Applicant shall pay the Roads Authorities' fees for plan assessment and compliance inspections. Early application shall be made to Roads Authorities in to order to permit reasonable assessment time prior to proposed construction.

16. Vehicular Crossing

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

- a) Any redundant crossings must be replaced with integral kerb and gutter;
- b) The footway area must be restored by turfing;

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

17. 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) Road Occupancy License work dates where required for Classified Roads
- d) Vehicle movement plans.
- e) Traffic management plans.
- f) Pedestrian and cyclist access/safety.

18. Internal Driveway/Vehicular Areas

The driveway and parking areas on site must be designed in accordance with *Australian Standards 2890.1, 2890.2 and 2890.6* and the following requirements:

- a) Design levels for the front boundary crossing must be obtained from Council.

19. Stormwater Drainage

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

- a) Connected directly to Council's street drainage system via an interallotment drainage system.
- b) The development is to provide water quality treatment system in accordance with Council's HDCP s1C.1.2.i. Details of the internal treatment system are to be shown on the Engineer's drainage plans.
- c) The Essex Street drainage system is proposed to be extended to No. 32 Essex Street, Epping in accordance with Council's *Design and Construction Specification 2005*.
- d) In regard to c) above and pursuant to s138 *Roads Act 1993*, an Application shall be made to Hornsby Shire Council for the Construction Certificate for extension of the drainage works. The Applicant shall pay Council's fee for assessment, construction approvals and compliance inspections prior to release of the Construction Certificate.
- e) The Essex Street drainage system shall be designed and piped to contain the 20 year *Average Recurrence Interval* storm event from the upstream catchment.

20. 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) Have a capacity of not less than 45 cubic metres, and a maximum discharge (when full) of 100 litres per second.
- b) Have a surcharge/inspection grate located directly above the outlet.
- c) Discharge from the detention system to be controlled via 1 metre length of pipe, not less than 50 millimetres diameter or via a stainless plate with sharply drilled orifice bolted over the face of the outlet discharging into a larger diameter pipe capable of carrying the design flow to an approved Council system.
- d) Where above ground and the average depth is greater than 0.3 metres, a 'pool type' safety fence and warning signs to be installed.
- e) Not be constructed in a location that would impact upon the visual or recreational amenity of residents.

21. Waste Management Details

The following waste management requirements must be complied with:

- a) A *Waste Management Plan Section One – Demolition Stage* and *Section Three – Construction Stage*, covering the scope of this project and including the following details, is required to be submitted to Council:
- i. An estimate of the types and volumes of waste and recyclables to be generated;
 - ii. A site plan showing sorting and storage areas for demolition and construction waste and the vehicle access to these areas;
 - iii. How excavation, demolition and construction waste materials will be reused or recycled and where residual wastes will be disposed;
 - iv. The total percentage (by weight) of demolition and construction waste that will be reused or recycled.
- b) The access way (including ramp, vehicle turning area, loading bay and site entry/exit) to be used by waste collection vehicles, must comply with Australian Standard AS2890.2-2002 *Parking Facilities Part 2: Off-street Commercial Vehicle Facilities* for small rigid vehicles with minimum design vehicle dimensions of 6.4 metres overall length, width of 2.3 metres.

Note: Encroachments of the small rigid vehicle turning path and low speed manoeuvring clearance (300 mm both sides) into parking spaces cannot be tolerated.

REQUIREMENTS PRIOR TO THE COMMENCEMENT OF ANY WORKS
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22. 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.

23. 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.

24. 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*.

25. 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 may be issued for any non-compliance with this requirement without any further notification or warning.

26. Project Arborist

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

27. Tree Protection Barriers

Tree protection fencing must be erected around trees numbered T1 & T4 in accordance with Fig.1 & Fig.2, Excerpt of Ground Floor L1 Plan, marked by C.MacKenzie page 9 of the Arboricultural Impact Assessment. The fencing must remain at a distance of no further than 1m from the edge of the approved building external wall within the TPZ.

All other tree fencing is to be in accordance with the Arboricultural Impact Assessment prepared by Catriona MacKenzie dated September 2014.

The tree fencing must be contiguous and constructed of 1.8 metre 'cyclone chainmesh fence'.

28. Tree Protection – Ground Protection

Prior to works commencing and throughout construction, the area of the Tree Protection Zone (located on the property) of trees T1 & T4 is to be protected by the use of wood-chip mulch. Wood-chip mulch is to be installed on top of a geotextile landscape fabric, placed over the root zone of the trees. The mulch is to be maintained at a depth of 150mm – 300mm using material that complies with AS 4454.

Note: A certificate from the Project Arborist (AQF 5) is to be submitted to the Principal Certifying Authority stating that all tree protection measures are in accordance with the above and consistent with the intentions of the Australian Standard 'Protection of Trees on Development Sites (AS 4970-2009) prior to commencement of works.

REQUIREMENTS DURING CONSTRUCTION

29. 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.

30. 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.

31. 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.

32. Street Sweeping

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

33. Works Near Trees

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

Trenching, other than stipulated below (for building footings) must remain outside the TPZ. All machinery other than hand held must remain outside the TPZ.

Consent is granted to undertake works within the Tree Protection Zones of trees T1 & T4 only subject to the following conditions:

- a) *Project Arborist*
 - i. Works must not reduce the useful life expectancy of the tree and be carried out under the direct supervision of the Project Arborist. The Project Arborist must assess the condition of the tree/s and the growing environment and make recommendations for, and if necessary carry out remedial action to ensure the health and vigour of the trees. The Project Arborist shall ensure that 80% of the nominated Tree Protection Zone remains fenced, intact and undisturbed.
- b) *Drilling/Boring*
 - i) The installation of any services within the nominated Tree Protection Zone of any tree to be retained shall utilise the thrust boring method. Thrust boring shall be carried out so that 'top of pipe' is a minimum 700mm depth beneath existing ground level.
- c) *Excavation*
 - i) Prior to any excavation being undertaken the location of roots where footings are to be installed shall be determined by hand excavation only.
- d) *Root Pruning*
 - i) No tree root greater than 30mm diameter located within the nominated Tree Protection Zone of any tree to be retained on or off-site shall be severed or injured in the process of any works during the entirety of the consent.

Tree roots less than 30mm diameter required to be severed for the purposes of this consent shall be cut cleanly by hand, by a qualified and experienced Arborist or Horticulturalist with minimum qualifications of Horticultural Certificate or Tree Surgery Certificate (AGF 3). All pruning shall be undertaken as specified in the Australian Standard 'Pruning of Amenity Trees' (AS 4373-2007).

e) *Canopy Pruning*

- i) Consent is granted to undertake Selective Pruning in accordance with the Australian Standard 'Pruning of Amenity Trees' (AS 4373-2007) of trees T1 & T4 by less than 10% of each tree's total foliage area. Pruning must not reduce the volume of the crown so that the structure and size of the trees is retained.

Note: Except as provided above all personnel (the applicant, contractors, service providers, principal certifying authority) involved with the development are to ensure that no excavation, including sub-surface trenching for stormwater or other services, or the filling or stockpiling of building materials, parking of vehicles or plant, the use of machinery other than hand held, disposal of cement slurry, waste water or other contaminants is to occur within the Tree Protection Zone of any tree to be retained.

34. 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.

35. 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.

36. 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.

37. Excavation Work

All excavation work is to be undertaken in accordance with the recommendations included in the Report on Geotechnical Investigation, Project 73964.00 prepared by Douglas Partners and dated June 2014.

38. 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.

39. 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.

40. Waste Management

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

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

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

REQUIREMENTS PRIOR TO THE ISSUE OF AN OCCUPATION CERTIFICATE

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

41. Fulfilment of BASIX Commitments

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

42. Sydney Water – s73 Certificate

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

43. Damage to Council Assets

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

44. 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.

45. Certificate of Tree Protection

Where works have been undertaken within the Tree Protection Zone of a tree, the project Arborist must assess the condition of tree(s) and the growing environment and make recommendations for, and carry out remedial actions where necessary.

Following the final inspection and the completion of any remedial works, the project arborist must submit to the Principal Certifying Authority documentation stating that the completed works have been carried out in compliance with the approved plans and specifications for tree protection as above and AS 4970-2009.

46. 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.

47. Retaining Walls

All required retaining walls must be constructed as part of the development.

48. Boundary Fencing

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

Note: Alternative fencing may be erected subject to the written consent of the adjoining property owner(s).

49. Installation of Privacy Devices

The following device(s) must be installed to maintain an element of privacy between units within the development:

- a) A 1.7 metre high privacy screen is to be erected along the eastern edge of the balconies to Units 1.07, 2.08 and 3.08 to minimise a direct line of sight to units within the eastern adjoining building. The screens must have no individual openings more than 30mm wide and have a total of all openings less than 30% of the surface area of the screen.

50. External Lighting

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

51. Waste Management Details

The following waste management requirements must be complied with:

- a) The garbage bin storage room at the basement level must include water or a hose for cleaning, graded floors with drainage to sewer, a robust door, sealed and impervious surface, adequate lighting and ventilation, a bin lifter for use in decanting the 240 L garbage bins into 660 L garbage bins, and must be lockable. The waste facility rooms/cupboards at each residential level must include sealed and impervious surface, adequate lighting and ventilation.
- b) A report must be prepared by an appropriately qualified person, certifying the following:
 - i. A comparison of the estimated quantities of each waste type against the actual quantities of each waste type.
Note: Explanations of any deviations to the approved Waste Management Plan is required to be included in this report
 - ii. That at least 60% of the waste generated during the demolition and construction phase of the development was reused or recycled.
Note: If the 60% diversion from landfill cannot be achieved in the Construction Stage, the Report is to include the reasons why this occurred and certify that appropriate work practices were employed to implement the approved Waste Management Plan. The Report must be based on documentary evidence such as tipping dockets/receipts from recycling depots, transfer stations and landfills, audits of procedures etc. which are to be attached to the report.
 - iii. All waste was taken to site(s) that were lawfully permitted to accept that waste.

- c) Each unit must be provided with an indoor waste/recycling cupboard for the interim storage of a minimum one day's waste generation with separate containers for general waste and recyclable materials.
- d) Space must be provided for either individual compost containers for each unit or a communal compost container;
Note: The location of the compost containers should have regard for potential amenity impacts.
- e) The bin carting routes must be devoid of any steps.
Note: Ramps between different levels are acceptable
- f) "No Parking" signs must be installed to prevent cars parking in the loading bay.
- g) The 3.5 metre vertical clearance height within the truck travel path must not be reduced by ducting, lights, pipes or anything else.
- h) A report(s) must be prepared by a registered surveyor and submitted to the principal certifying authority prior to the issue of the Subdivision/Occupation Certificate, certifying that: The finished access way (including ramp, vehicle turning area, loading bay and site entry/exit) to be used by waste collection vehicles, complies with Australian Standard AS2890.2-2002 Parking Facilities Part 2: Off-street Commercial Vehicle Facilities for small rigid vehicles with minimum design vehicle dimensions of 6.4 metres overall length, width of 2.3 metres, with maximum gradient of 1:6.5 and minimum 3.5 metre clearance height.
Note: Encroachments of the small rigid vehicle turning path and low speed manoeuvring clearance (300 mm both sides) into parking spaces cannot be tolerated.

52. 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.

53. Creation of Easements

The following matter(s) must be nominated on the plan of subdivision under s88B or s88E of the *Conveyancing Act 1919*:

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

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

54. Unit Numbering

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

55. Consolidation of Allotments

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

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

56. Safety and Security

This site must include the following elements:

- a) An intercom system must be installed at any gate locations to ensure screening of persons entering the units.
- b) The entry doors to pedestrian foyers are to be constructed of safety rated glass to enable residents a clear line of site before entering or exiting the residential apartments.
- c) Lighting is to be provided to pathways, building foyer entries, driveways and common external spaces.
- d) Security gate access is to be provided to the car parking areas allowing residents only access to private car spaces.

- e) The communal open space, at the south of the site must be illuminated with high luminance by motion sensor lighting.
- f) The driveway and basement car parking must be illuminated with low luminance at all times.
- g) Security deadlocks are to be provided to each apartment door.
- h) Peep holes are to be provided to individual apartment doors to promote resident safety.

OPERATIONAL CONDITIONS

57. 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 limited to watering, weeding, replacement of failed plant material and promoting the growth of plants through standard industry practices.

58. Sight Lines

Minimum sight lines for pedestrian safety are to be provided at the driveway. Any proposed landscaping and/or fencing must not restrict sight distance to pedestrians and cyclists travelling along the footpath.

59. Car Parking

All car parking must be constructed and 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:

- a) All parking areas and driveways are to be sealed to an all-weather standard, line marked and signposted;
- b) Car parking, loading and manoeuvring areas to be used solely for nominated purposes;
- c) Vehicles awaiting loading, unloading or servicing shall be parked on site and not on adjacent or nearby public roads;
- d) Residential parking spaces are to be secure spaces with access controlled by card or numeric pad;
- e) Visitors are to have access to the parking area at all times. Visitors are to be able to access the basement car park by an audio/visual intercom system located at the top of the ramped driveway.
- f) All vehicular entry on to the site and egress from the site shall be made in a forward direction.

60. Allocation of Car Parking

A minimum of 14 visitor and 84 resident car parking spaces are to be provided in the basement.

61. Disabled Parking

All parking spaces for people with disabilities must be constructed and operated in accordance with *Australian Standard AS/NZS 2890.6:2009 – Off-street parking for people with disabilities*

62. Bicycle Parking

- a) All bicycle parking spaces are to be designed in accordance with *Australian Standard 2890.3-1993 – Bicycle parking facilities*.
- b) A minimum of 10 visitor and 29 resident bicycle parking spaces are to be provided in the basement.

63. Motorcycle Parking Spaces

Two (2) motorcycle parking spaces are to be provided in the basement in accordance with AS 2890.5-1993.

64. 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, decanting the 240 L garbage bins into the 660 L garbage bins, managing the communal composting area, managing the bulky item storage area, arranging the prompt removal of dumped rubbish, ensuring the loading bay is kept clear of parked cars and ensuring all residents 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.

65. Maintenance of Wastewater Device

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

66. Noise

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

67. Fire Safety Statement - Annual

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

CONDITIONS OF CONCURRENCE – NSW ROADS AND MARITIME SERVICES

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

68. Land Reserved for Road Widening

The subject property is affected in the manner shown by pink colour on the attached plan (DP 226068) by a Road Widening Order under Section 25 of the Roads Act, 1993.

Any new buildings or structures, together with any improvements integral to the future use of the site, are to be erected clear of the land reserved for road widening (unlimited in height or depth).

The area reserved for road should be identified as part of the common property in any plan of subdivision.

69. Redundant Driveways

The redundant driveways on Epping Road shall be removed and replaced with kerb and gutter to match existing.

70. Kerb and Gutter Design

The design and construction of kerb and gutter works on Epping Road shall be in accordance with Roads and Maritime Services requirements. Details of these requirements should be obtained from Roads and Maritime Project Services Manager, Traffic Projects Section, Parramatta (telephone 8849 2138).

Detailed design plans of the proposed kerb and gutter works are to be submitted to Roads and Maritime for approval prior to issue of a Construction Certificate and commencement of any road works.

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

71. Site Excavation

The developer is to submit design drawings and documents relating to the excavation of the site and support structures to Roads and Maritime for assessment in accordance with Technical Direction GTD2012/001.

The developer is to submit all documentation at least six (6) weeks prior to commencement of construction and is to meet the full cost of the assessment by Roads and Maritime.

The Report and any enquiries should be forwarded to:

Project Engineer, External Works
Sydney Asset Management
Roads and Maritime Services
PO Box 973 Parramatta CBD 2124

Telephone 8849 2114
Fax 8849 2766

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

72. Traffic Noise

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

73. Stormwater Drainage

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

Details should be forwarded to:

The Sydney Asset Management
Roads and Maritime Services
PO Box 973 Parramatta CBD 2124.

A plan checking fee will be payable and a performance bond may be required before Roads and Maritime approval is issued. With regard to Civil Works requirement please contact the Roads and Maritime Project Engineer, External Works Ph: 8849 2114 or Fax: 8849 2766.

74. Construction Zone

All demolition and construction vehicles must be contained wholly within the site and vehicles must enter the site before stopping. A construction zone will not be permitted on Epping Road.

- END OF CONDITIONS -

ADVISORY NOTES

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

Environmental Planning and Assessment Act 1979 Requirements

The Environmental Planning and Assessment Act 1979 requires:

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

Long Service Levy

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

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

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

Tree and Vegetation Preservation

In accordance with Clause 5.9 of the *Hornsby Local Environmental Plan 2013* a person must not ringbark, cut down, top, lop, remove, injure or wilfully destroy any tree or other vegetation protected under the Hornsby Development Control Plan 2013 without the authority conferred by a development consent or a permit granted by Council.

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

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

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

Disability Discrimination Act

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

Covenants

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

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.

Telecommunications Act 1997 (Commonwealth)

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

Asbestos Warning

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

www.environment.nsw.gov.au

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.

House Numbering

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

Occupation Certificate Requirements

Certificates are required to be lodged with Council containing the following information:

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