

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

<b>JRPP No</b>	2014SYW164
<b>DA Number</b>	DA/1448/2014
<b>Local Government Area</b>	Hornsby Shire Council
<b>Proposed Development</b>	Demolition of existing structures and construction of two, 5-storey residential flat buildings comprising 45 apartments and basement car parking for 61 vehicles
<b>Street Address</b>	Lot 8, 9 and 15 DP 204624, Nos. 10-12 Belair Close and 18X Water Street, Hornsby
<b>Applicant/Owner</b>	Applicant: RJK Architects Pty Ltd Owners: Mr John Joseph Baran Dr Qijian Sun Ms Ying Liu Hornsby Shire Council (No. 18X)
<b>Number of Submissions</b>	Four (4)
<b>Regional Development Criteria (Schedule 4A of the Act)</b>	Council related development over \$5 million Cost of Construction proposed = \$10.855 million
<b>List of All Relevant s79C(1)(a) Matters</b>	<ul style="list-style-type: none"> <li>• <i>Hornsby Local Environmental Plan 2013</i></li> <li>• <i>State Environmental Planning Policy No. 32 – Urban Consolidation</i></li> <li>• <i>State Environmental Planning Policy No. 55 – Remediation of Land</i></li> <li>• <i>State Environmental Planning Policy No. 65 – Design Quality Residential Flat Development</i></li> <li>• <i>State Environmental Planning Policy No. 65 – Design Quality Residential Flat Development (Amendment No 3)</i></li> <li>• <i>State Environmental Planning Policy (Building Sustainability Index – BASIX) 2004</i></li> <li>• <i>State Environmental Planning Policy - Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005</i></li> <li>• <i>Hornsby Development Control Plan 2013</i></li> <li>• <i>Hornsby Section 94 Contributions Plan 2012-2021</i></li> </ul>
<b>List all documents submitted with this report for the panel's consideration</b>	Locality Plan – 1 page Survey plan and site analysis plan – 2 pages Architectural plans – 18 pages Landscape Plan – 1 Shadow Diagrams- 8 pages Photomontage – 2 pages
<b>Recommendation</b>	Approval subject to Conditions
<b>Report by</b>	Kendal Mackay - Consultant Planner (DFP Planning Pty Ltd)

## **ASSESSMENT REPORT AND RECOMMENDATION**

### **EXECUTIVE SUMMARY**

1. The application proposes demolition of existing structures, removal of 15 trees and the erection of two, 5-storey (with mezzanine) residential flat buildings comprising 45 units with basement parking for 61 cars.
2. The proposal generally complies with *Hornsby Local Environmental Plan 2013*, *State Environmental Planning Policy No. 65 – Design Quality Residential Flat Development* and Hornsby Development Control Plan 2013.
3. The Applicant's justification for the proposed variation to the maximum building height development standard under clause 5.6 (Architectural Roof Feature) of the *Hornsby Local Environmental Plan 2013* is acceptable.
4. Four (4) submissions have been received in respect of the application.
5. It is recommended that the application be approved.

### **RECOMMENDATION**

THAT the Joint Regional Planning Panel (Sydney West) approve Development Application No. 1448/2014 for demolition of existing structures and the erection of two, 5-storey residential flat buildings containing 45 units with basement parking for 61 cars at Nos. 10-12 Belair Close and No. 18X Water Street, Hornsby being Lots 8,9 and 15 DP 204624, pursuant to Section 80(1)(a) 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**

The subject land was rezoned from Residential A (Low Density) to R4 (High Density Residential) on 2 September 2011 as part of Council's Housing Strategy.

On 20 November 2014, the subject application was lodged with Council.

On 22 December 2014, the applicant submitted unsolicited amended plans which incorporated internal and external layout changes, resulting in an additional unit, changes to the number of bedrooms in two of the units and reduction of the top storey setbacks to 0m in some instances.

On 4 February 2015, Council briefed the JRPP on the proposed development. The JRPP raised concerns with flooding calculations, deficient number of car, bicycle and motorcycle parking spaces, vehicular access locations, non-compliant building height and separation and provision of adaptable housing.

On 11 February 2015, Council requested additional information and amended plans in respect of various matters including flooding, height, building articulation, communal open space, trees, adaptable housing, car, motor cycle and bicycle parking, electricity substation, storage, garbage truck service area, waste facilities, chute service room, bins storage, bins and service frequency, bin transfer, garbage bin holding bay, vehicular crossing, driveway longitudinal section and circulation ramps.

On 12 March 2015, the Applicant forwarded amended plans and additional information to address matters raised by Council and concerns of the JRPP including increasing top storey setbacks, improving building articulation, reducing basement excavation, addressing flooding concerns, increasing storage, complying with adaptable housing.

On 19 May 2015, Council requested additional information and amended plans in respect of driveway design and waste management.

On 18 June 2015, the Applicant submitted amended plans and additional information to address matters raised by Council.

On 25 June 2015, Council requested additional amended plans in respect of waste storage.

On 2 July 2015, the Applicant submitted amended plans to address the waste storage requirements of Council.

On 27 August and 10 September 2015, the Applicant submitted further amended plans to reduce the impact of the proposal on Tree #2.

## **SITE**

The Site comprises three properties known as Nos. 10 and 12 Belair Close and 18X Water Street, Hornsby. No. 10 Belair Close contains a single storey dwelling, No. 12 Belair Close contains a two storey brick rendered dwelling and No. 18X Water Street is vacant of buildings although contains numerous trees. No. 18X Water Street is owned by Hornsby Shire Council.

The Site has a combined area of 2,365m<sup>2</sup> and incorporates a combined 20.738m street frontage to Belair Close and a 37.49m frontage to Water Street. The Site slopes down from Belair Close to Water Street. The site is affected by a floodway along the northern boundary in an easterly direction prior to draining to a nearby open creek (Hornsby Creek) being a part of the Hawkesbury River Catchment area. This section of the site constitutes flood prone land.

The Site is within an existing residential area on the fringe of the Hornsby Medium-High Density precinct. Development surrounding the Site comprises several existing three-storey residential flat buildings, several 5-storey residential flat building under construction and a Council drainage reserve.

## **PROPOSAL**

The proposal involves demolition of all existing structures and removal of 15 trees including one *Angophora costata*.

The Site is to be excavated approximately 2-7 metres to allow for the construction of basement car parking over two levels for 61 vehicles with access from Water Street.

The proposal entails construction of two, 5-storey (one with mezzanine) residential flat buildings over the basement levels with 45 units comprising 10 x 1 bedroom (22%), 30 x 2 bedrooms (67%) and 5 x 3 bedroom (11%) apartments. Pedestrian access is proposed to be from Belair Close to Building A and from Water Street to Building B.

## **ASSESSMENT**

The development application has been assessed having regard to *A 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 proposed development would be consistent with '*A Plan for Growing Sydney*', by providing 43 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 zoned R4 High Density Residential (the R4 Zone) under the *Hornsby Local Environmental Plan 2013 (HELP)*. 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 consistent with these objectives as it provides a variety of residential accommodation in a high density environment.

The proposed development is defined as 'residential flat building' under the *HELP* and is permissible in the R4 Zone with development consent.

### **2.1.2 Height of Buildings**

Clause 4.3 of the *HELP* 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 has a maximum building height of 18.5m due to an architectural roof feature and the Applicant has submitted written justification for this non-compliance pursuant to Clause 5.6 – Architectural Roof Features which is discussed in Section 2.1.3.

### **2.1.3 Architectural Roof Features**

Clause 5.6 of *HELP* provides some flexibility in the application of maximum building height standards for roof features of visual interest whilst maintaining the majority of the roof within the maximum building height standard.

The non-compliant part of the proposal is in the north-western corner the roof of the southern building, which has a maximum building height is 18.5 metres. The Applicant has submitted a justification under Clause 5.6 of *HELP* for exceeding the maximum building height of 17.5m including a "4-part test" as specified by the LEP to determine whether a building element is an architectural roof feature. The Applicant's response is summarised as follows:

Requirement	Proposal
<i>The architectural roof feature comprises a decorative element on the uppermost portion of a building</i>	The non-compliant part the roof consists of a corner of the uppermost part of a decorative roof element. The building could be designed to have a less interesting roof detail and fully comply with the height requirements.
<i>The architectural roof feature is not an advertising structure</i>	The architectural roof feature elements are not advertising structures.
<i>The architectural roof feature does not include floor space area and is not reasonably capable of modification to include floor space area</i>	The minor projecting elements do not constitute floor space nor could they in any way be converted to be floor space.
<i>The architectural roof feature will cause minimal overshadowing</i>	The projecting elements are minimal and relate to a small portion of the uppermost part of the proposed roof. The shadow cast by the architectural roof feature will be minimal and indiscernible to the scale of development expected at the site.

It is considered that the proposed development predominantly complies with the maximum 17.5 metre building height limit other than a minor part of the architectural roof feature on the southern building and this part of the roof does 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 is supported. Notwithstanding, a condition is recommended to ensure that the building does not exceed the height specified on the plans to be approved (see Condition No. 2).

#### **2.1.4 Heritage Conservation**

The Site does not contain any heritage items and is not within a conservation area pursuant to Clause 5.10 of *HLEP*.

#### **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 has been assessed by Council's Development Engineers and is considered to be acceptable with regard to earthworks, drainage and flooding. The application is assessed as satisfactory subject to a condition requiring a dilapidation assessment to be undertaken for all adjoining properties (see Condition No. 11).

## **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 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.

It is noted that the DA was submitted on 20 November 2014, prior to the commencement of the amendments to *SEPP 65* on 17 July 2015 and accordingly, is to be assessed in accordance with *SEPP 65* and the *RFDC* as they existed at the date of lodgement of the DA.

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 building design contributes to defining the street edges of the end of Belair Close to the south and west and Water Street to the north- west.
- The design is consistent with the existing and future desired character of the area as the locality undergoes a transition to denser residential development.
- The proposal incorporates landscaping that will visually extend the vegetation of Belair Close.
- The building design, including bulk, height and scale is in character with surrounding developments.

#### **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 proposed bulk and height are in character with surrounding buildings and the desired future character of the area.

#### **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 bulk of the buildings has been reduced through modulation and articulation.
- Vertical design elements break the predominant horizontal form of the buildings thereby reducing the apparent visual bulk of the buildings.
- The articulation of the building maximises solar access and cross-ventilation.
- A generous amount of communal open space has been provided to the west of the site and on podium between the two buildings for residents use.
- The proposed roof features add interest to the building's design.



#### **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 45 residential apartments with a mix of 1, 2 and 3 bedrooms which is appropriate for the zoning and location and consistent with the site's context.
- The proposed density responds to the regional context, including the availability of infrastructure, public transport, community facilities and environmental quality.

#### **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.*

- The building design incorporates sustainability measures including selection of appropriate and sustainable materials, passive solar design principles and use of energy efficient appliances.
- A BASIX report has been submitted with the proposal and the requirements of solar access and cross ventilation have been achieved.
- More than 2 hours of solar access have been provided to 84% of the residential units and natural cross-ventilation has been provided to 77% of the units due to their dual aspect. The remainder of the units receive passive natural ventilation.

#### **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 landscaping maximises the aesthetic quality and amenity for the occupants of the buildings.
- The landscape design builds on the existing natural features on the site whilst enhancing and improving coordination of water and soil management, solar access, microclimate, tree canopy and habitat values.
- The proposed development will be landscaped in accordance with the Landscape Plan prepared by Black Beetle Pty Ltd.

#### **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 majority of the residential units will achieve cross flow ventilation and solar access requirements.
- There are no single aspect south facing units.
- All apartments incorporate balconies which are used as private open space. The balcony elements maximise ventilation and outdoor living opportunities.
- Storage is provided within each apartment and also within the basement.
- The lift provides access to all levels, including street level.
- The proposal achieves a minimum 2 hours solar access to primary living space.
- Vertical louvres and solid fin walls add to the visual and acoustic privacy of the buildings.
- Apartment layout design allows for residents to have private functions within all rooms without compromising views, outlook, ventilation and solar access.
- Apartment layouts, private open space are functional and consistent with recommendations of the *RFDC*.

- Private open spaces can accommodate suitable seating arrangements.
- 77% of all units are natural cross-ventilated.

#### **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.*

- Natural passive surveillance of the public domain and common open space areas are achieved through the orientation of the buildings, floor layouts and provision of balconies.
- Security arrangements are incorporated at the pedestrian entry lobby.
- Pedestrian areas have been designed to keep clear sight lines.

#### **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 Site is located in close proximity to public transport, child care facilities, schools, health care, supermarkets, education and leisure facilities.
- 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 proposal is of modern design and is a high standard with good quality articulation and form.
- The selected materials and colours are simple to provide for a timeless character to the building.
- The design is in character with surrounding developments and enhances the streetscape by removing the existing outdated dwellings on the site.

## 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 below sets out the proposal's general compliance with the RFDC.

As detailed in this table, the proposed development generally complies with the prescriptive measures of the RFDC other than building depth, building separation, communal open space, ground level private open space, balcony depth and storage. A brief discussion of these development controls and best practice guidelines follows the table.

Residential Flat Design Code			
Control	Requirement	Proposal	Compliance
<b>Building Separation</b>	4 st. - 12m	4 st. - 8-10m	No
<b>Habitable to habitable</b>	5-8 st - 18m	5-8 st. - 8.75-15m	No
<b>Deep Soil Zone</b>	25% of open space.	95%	Yes
<b>Communal Open Space</b>	25-30% (591m <sup>2</sup> )	21.5% (510m <sup>2</sup> )	No
<b>Ground Level / Podium</b>	25m <sup>2</sup> min.	12-40 m <sup>2</sup>	No
<b>Private Open Space</b>	4m min. dim.	3m	No
<b>Adaptable Housing</b>	20% min.	31% (14 units)	Yes
<b>Kitchen Distance</b>	8m max.	8m	Yes
<b>Dwelling Size</b>	- 1 br – 50m <sup>2</sup> min.	- 53-63m <sup>2</sup>	Yes
	- 2 br – 70m <sup>2</sup> min.	- 79-95m <sup>2</sup>	Yes
	- 3 br – 95m <sup>2</sup> min.	- 96-117m <sup>2</sup>	Yes
<b>Balcony Depth</b>	2m min.	2m	Yes
<b>Storage</b>	- 1 br – 6m <sup>3</sup> min.	- 6-13m <sup>3</sup>	Yes
	- 2 br – 8m <sup>3</sup> min.	- 6-14m <sup>3</sup>	No
	- 3 br – 10m <sup>3</sup> min.	- 8-25m <sup>3</sup>	No
	- 50% internal	- 37.5-100%	No
<b>Solar Access</b>	70% min. (32)	77% (35)	Yes
<b>Single Aspect</b>	10% max. (5)	0% (0)	Yes

Residential Flat Design Code			
Control	Requirement	Proposal	Compliance
Building Depth	10-18m	19-25m	No
Cross Ventilation	60% min. (27)	80% (36)	Yes

### 2.5.1 Building Separation

The proposal entails two buildings with a separation at Level 1 of 8-8.9 metres. Whilst this separation does not comply with the *RFDC*, it generally accords with the *Hornsby Development Control Plan 2013 (HDCP)* which permits a reduced separation of 9 metres between buildings within a development site. The design has responded to this non-compliance through the strategic location of windows, providing privacy screening along the edges of several balconies and minimising the number of windows to habitable rooms in the opposing buildings on the site.

With regard to separation from existing and approved buildings external to the site, the proposal does not strictly meet the requirements of the *RFDC*. Notwithstanding, the proposed side boundary setbacks are considered acceptable in this instance subject to certain conditions of consent and this is discussed in detail in Section 2.10.4 of this report.

### 2.5.2 Communal Open Space

The proposal does not comply with the minimum communal open space requirement under the *RFDC* although large private open spaces have been generally provided, the communal open space that is provided is easily accessible for all residents the site is located nearby to public open spaces which can be utilised by the occupants of the buildings. The matter is discussed in detail in Section 2.10.8 of this report.

### 2.5.3 Ground Level Private Open Space

Six of the eight ground floor units do not comply with the minimum private open space requirement under the *RFDC*. However, all ground floor units are provided with private open space which meets or exceeds the minimum required per unit type under *HDCP* and all ground level private open space is contiguous with deep soil landscaping within the front and side setbacks which provides for a high level of spatial amenity and this is considered acceptable given the site's context.

### 2.5.4 Storage

Only three (3) of the proposed units do not meet the minimum total storage requirement under the *RFDC* although the non-compliances equate to only 2m<sup>3</sup> in each case. In addition, two (2) units do not meet the minimum of 50% internal storage. Notwithstanding, there is an abundance of external storage provided in the basement levels that can be reallocated to ensure that all units achieve the minimum total requirements or greater and a condition of consent in this regard is recommended (Condition 15).

### **2.5.5 Building Depth**

The proposed buildings incorporate a 19-25m building depth which exceeds the optimal building depths of 10-18m of the *RFDC*. Notwithstanding, the proposed building depth is acceptable given the buildings meet the requirements for natural light and cross-ventilation and there are no solely south facing apartments within the development.

### **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 Sydney Regional Environmental Plan No. 20 – Hawkesbury – Nepean River**

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

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

### **2.8 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.

### **2.9 Hornsby Development Control Plan 2013 (HDCP) – Part 1 General Controls**

#### **2.9.1 Stormwater Management**

The proposed stormwater drainage system involves a pipe network system to collect stormwater runoff from areas; overland flow paths to carry major storms through the site and an on-site detention (OSD) storage tank with discharge control.

A Stormwater Management Plan has been prepared by C&M Consulting Engineers detailing the proposed stormwater management system for the Site and no concerns were raised by Council in regard to this.

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

### 2.9.2 Waste Management

The application includes a Waste Management Plan for the demolition stage and construction stage of the development. Waste Management Plans have been assessed by Council's Waste Management Services Team which concludes that the proposal is acceptable subject to recommended conditions.

It is noted that the Applicant has amended the proposal to specifically meet Council's requirements for the bin storage room at the Water Street frontage which has resulted in one apartment being converted from two bedrooms to one bedroom.

### 2.9.3 Services and Lighting

The Applicant has advised that negotiations are currently being undertaken with the property owners of Nos. 2-8 Belair Close and 5-15 Belair Close for the use of a shared substation should a substation be required for this development. At the date of preparing this report, no such arrangement had been finalised and a condition of consent has been included requiring demonstration that satisfactory arrangements have been made in this regard, prior to issue of a Construction Certificate (see Condition 10).

A condition is also recommended for external and security lighting in accordance with *AS4282- Control of the Obtrusive Effects of Outdoor Lighting* (Condition No. 53).

## 2.10 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.

<b>Hornsby Development Control Plan</b> <b>Part 3.4 – Residential Flat Buildings (5 storeys)</b>			
<b>Control</b>	<b>Requirement</b>	<b>Proposal</b>	<b>Compliance</b>
<b>Site Frontage</b>	30m min.	23.79m Belair Cl. 37.49m Water St.	No Yes
<b>Height</b>	5 storeys	6 storeys	No
<b>Roof Design</b>	Flat-pitched, without parapets, eaves to cast shadows across top-storey	Articulated roof forms	Yes



<b>Hornsby Development Control Plan</b> <b>Part 3.4 – Residential Flat Buildings (5 storeys)</b>			
<b>Control</b>	<b>Requirement</b>	<b>Proposal</b>	<b>Compliance</b>
	walls.		
<b>Front Setback – Belair Close</b>	- 10m min. - 8m up to 1/3 building width - 7m balconies - 7m basement/deep soil	- 4-10m - <8m for 80% - 2.4m - 2-7m	No No No No
<b>Front Setback – Water Street</b>	- 10m min. - 8m up to 1/3 building width - 7m balconies - 7m basement/deep soil	- 4-10m - <8m for 60% - 3-7m - 6.5m	No No No No
<b>Side Setback – East</b>	- 6m min. - 4m up to 1/3 building width - 4m basement/deep soil	- 4.25-10m - >4 - 4m	No Yes Yes
<b>Side Setback – South</b>	- 6m min. - 4m up to 1/3 building width - 4m basement/deep soil	- 1.4-8.5m - <4m for 50% - 1.4-6m	No No No
<b>Side Setback – West</b>	- 6m min. - 4m up to 1/3 building width - 4m basement/deep soil	- 4-12.5m - 4m for 10% - 2.8-7m	No Yes No
<b>Top Storey Setback</b>	3m additional	1-3m	No
<b>Floorplates</b>	35m max.	20-24m	Yes
<b>Building separation</b>	9m min.	8-9m	No
<b>Façade Articulation</b>	- Vertical panels = 8m wide - At least two steps between ground level setback and penthouse façade across 50% of facade width to prevent sheer vertical planes taller than 2 or 3 storeys.	- 12m - 3 storeys	No Yes
<b>Private Open Space</b>	- 1 br = 10m <sup>2</sup> min. - 2 br = 12m <sup>2</sup> min. - 3 br = 16m <sup>2</sup> min. - Min. width 2.5m	- 10-26m <sup>2</sup> - 12-91m <sup>2</sup> - 17-76m <sup>2</sup> - 2m	Yes Yes Yes Yes
<b>Communal Open Space</b>	25% site area min.	21.5%	No
<b>Principal Communal Open Space</b>	- 50m <sup>2</sup> min. - 4m min. dimension - 2 hours solar access - Landscaped for active/passive recreation	- 372.2m <sup>2</sup> - >4m - 2-3 hours - Yes	Yes Yes Yes Yes

<b>Hornsby Development Control Plan</b> <b>Part 3.4 – Residential Flat Buildings (5 storeys)</b>			
<b>Control</b>	<b>Requirement</b>	<b>Proposal</b>	<b>Compliance</b>
<b>Housing Choice</b>	- 1 br – 10% (5) - 2 br – 10% (5) - 3 br – 10% (5) - 30% min. adaptable (14)	- 22% (10) - 67% (30) - 11% (5) - 31% (14)	Yes Yes Yes Yes
<b>Car Parking</b>	- Resident (total) = 52 0.75/1 bed (10) = 7.5 1/2 bed (30) = 30 1.5/3+ bed (5) = 7.5 1/10 visitor = 7 - 1/3 adaptable units to be provided with accessible car parking (5 required) - Motorcycle 1/25 cars = 2.1 - Bicycle(total) = 14 1/5 dwelling (resident) = 9 1/10 dwellings (visitor) = 4.5	- 61 (including 7 visitor)  - 5  - 3 - 18	Yes  Yes  Yes Yes
<b>Key Development Principles</b>	Promote access from Belair Close and Sherbrook Road.	Access via Water Street	No

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

### 2.10.1 Site Width

The non-compliant site width is acceptable in this instance as the site incorporates irregular site frontages to Belair Close and Water Street but is generally in excess of 30m wide through the remainder of the site. It is considered that the non-compliant site width does not compromise the building design or functionality of the proposed development.

### 2.10.2 Storeys

A small part through the centre of Building B constitutes 6-storeys although the proposal complies with the overall height limit under *HLEP* and the upper floor level is essentially contained within the architectural roof form. The height in storeys non-compliance is in part due to the topography of the site and part due to Council's request to increase the top storey setback, thereby relocating part of this upper level over habitable spaces within the Lower-Ground Level. Furthermore, the uppermost level does not result in any significant adverse overshadowing impacts and accordingly, the minor 6-storey component is considered acceptable in this instance.

### **2.10.3 Front Setbacks**

The front setback incursion to Belair Close is considered acceptable due to the irregular frontage being part of a cul-de-sac head and buildings are considerably setback for a significant portion of this frontage.

The Water Street front setback incursion is also considered to be acceptable as the Water Street frontage has a wider verge incorporating a landscaped setting adjacent to the drainage reserve.

Accordingly, the proposed setbacks are considered to be acceptable in this instance.

### **2.10.4 Side Setbacks**

Given the site's dual frontages, the eastern, southern and western boundaries have all been treated as side boundaries for the purposes of building setback compliance.

The eastern side setback of Building B (northern building) varies from 4.25m to 6.75m at the lower levels increasing to a minimum of 6.75m at Level 3 and approximately 10m at Level 4. In addition, the setbacks of the approved development to the east are compliant or exceed the required setbacks, non-residential uses (gymnasium and community room) are generally contained within the lower level of that development and privacy screening is used to west-facing balconies (i.e. toward the site). Furthermore, the side setbacks of both developments will be heavily landscaped.

Notwithstanding, a condition of consent is recommended (Condition 52) requiring units in the north-eastern corner of Building B at Levels Lower Ground, Upper Ground and 1-3, to have opaque glazing or louvred screens installed to the kitchen and bedroom windows and privacy screens installed along the eastern edge of the balconies for the extent of the living room windows.

The southern side boundary setback non-compliances are in part a function of the oblique boundary with Nos. 5-15 to the south. In addition, the approved development on the southern adjoining land incorporates its driveway along this boundary, significant building setbacks and heavy landscaping. Accordingly, the proposed non-compliances are considered acceptable in this instance.

The western side boundary setbacks are substantially compliant except for a short section of wall along the north-western side of Building A (southern building). Windows in this part of the building are generally offset from the western adjoining development and screening is proposed to some balconies.

Notwithstanding, a condition of consent is recommended (Condition 52) requiring units in the north-western corner of Building A at Levels Upper Ground and 1-3, to have opaque glazing or louvred screens installed to the kitchen and bedroom windows and privacy screens installed along the western edge of the balconies for the extent of the living room windows.

#### **2.10.5 Top Storey Setbacks**

The top storey of each proposed building does not strictly meet the minimum setback requirement with setbacks varying across each elevation. In part, this is due to the highly articulated building forms. Notwithstanding, the proposed top floor setbacks have been increased significantly from the plans previously submitted and are considered to achieve the objective of this development control which is to encourage well-articulated buildings and reduce the visual bulk of the development when viewed from ground level.

#### **2.10.6 Building Separation**

The separation between the two buildings on the site ranges from 7-9m with only a small area less than the *HDCP* requirement for 9m building separation distance between two buildings on the same site. The proposed building separation is supported given the façade is adequately articulated and incorporates a mixture of materials and colours. In addition, the design offsets windows and/or uses privacy screens and minimises the number of living rooms and kitchens facing the internal communal open space area between the two buildings.

#### **2.10.7 Façade Articulation**

The proposed buildings include some minor elements with vertical panels in excess of 8m wide. Notwithstanding, the buildings portray a high degree of modulation and articulation and these areas of non-compliance do not detract from the overall aesthetics of the proposed development and are supportable in this instance.

#### **2.10.8 Communal Open Space**

The proposal does not comply with the minimum communal open space requirement under the *RFDC*. However, the area of the principal communal open space complies with that required under the *HDCP*. The Applicant has justified the departure on the basis of the site being heavily constrained by the two site frontages and the site being located nearby to public open spaces which can be utilised by the occupants of the buildings.

Given the constraints of the site, the proposal's compliance with the principal communal open space requirements of the *HDCP* and the Section 94 contributions required to contribute to public open space in the locality (as envisaged by the *RFDC*), the non-compliance is acceptable in this instance.

#### **2.10.9 Key Development Principles**

The proposed development is located within the Belair Close, Hornsby precinct. The vehicular strategy for this precinct is to promote access from Belair Close. If access is not available from that street, existing access off Sherbrook Road should be consolidated. The precinct plan does not consider the use of No. 18X Water Street as a potential development site, given the remnant bushland in the near vicinity. However, the application includes amalgamation with one site fronting Water Street and therefore the access provision is inconsistent with the Key Principles diagram for the precinct.

It is considered that access from Water Street provides a more logical entry to basement car parking given its lower level than Belair Close. Council's Traffic Engineers note that the net traffic generation of the proposed development has been estimated to be 10 vehicle trips in the AM and PM peak periods that can be readily accommodated within Water Street and the surrounding road network. In addition, Council's Waste Management Officers and Development Engineers are satisfied with the proposed access and loading arrangements for service vehicles. Accordingly, the proposed access is acceptable.

As such, the cumulative traffic impacts of developments in this locality have been considered in the strategic transport model for Council's Housing Strategy and any required traffic management improvements have been included in the S94 contributions plan.

Given that the diagram provides a broad strategy for the precinct only, this non-compliance is supported at this instance.

## **2.11 Section 94 Contributions**

Hornsby Shire Council *Section 94 Contributions Plan 2012-2021* applies to the development as it would result in the addition of 45 residential units in lieu of the two existing dwellings and one vacant lot. Accordingly, a monetary contribution pursuant to the Section 94 Plan has been included as a condition of development consent (Condition 6).

## **3. ENVIRONMENTAL IMPACTS**

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

### **3.1 Natural Environment**

#### **3.1.1 Trees**

The proposal involves the removal of 15 trees including one *Angophora costata*. Council's Tree Management Team assessed the originally submitted proposal and was not supportive of the proposal due to the proximity of the southern building to Tree #2 ( a significant tree) which is located on the adjoining western property. Accordingly, the Applicant amended the proposal to increase the side setbacks at the basement and ground levels, increasing the terracing to this side boundary and therefore reducing the courtyard to Unit UG 02-A. These amendments minimise the encroachment of the development on the TPZ of Tree #2 and would ensure long term health and vitality of the tree.

Council's Tree Management Team has assessed the amended design and is now supportive of the proposed development subject to conditions relating to excavation practices, tree protection and replacement landscaping which are included in Schedule 1 to this report.

#### **3.1.2 Flooding**

The site is affected by a floodway along the northern boundary of the site. The proposal is supported by a flooding assessment which indicates that the proposed development complies with the relevant flood planning levels for residential apartments, waste areas and the like and Council's Development Engineers have assessed the proposal as being satisfactory with regard to flooding, 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. Whilst there are numerous departures from the built form controls under *HLEP*, *SEPP 65*, the *RFDC* and *HDCP*, these non-compliances are generally minor and in many instances, are as a consequence of the site having two frontages and oblique boundaries. Notwithstanding, subject to mitigation measures proposed by the applicant and recommended as conditions of consent, the proposal is unlikely 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 Hornsby.

### **3.3 Social Impacts**

The proposal will replace two existing dwellings and utilise the vacant land with 45 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 provide for accessible and adaptable apartments in compliance with the *RFDC* and *HDCP* 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 land although is subject to flooding due to the adjoining drainage reserve. Notwithstanding, Council's Development Engineers have assessed the amended proposal as being satisfactory with regard to flooding and stormwater subject to conditions which are recommended within this report. In addition, the proposal is

considered to be consistent with the scale and future character envisaged by Council's planning controls for the locality and is consistent with the scale and nature of previously approved residential flat buildings in Belair Close.

## 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 8 January and 11 February 2015 in accordance with the *HDCP* notification requirements. During this period, Council received submissions from, or on behalf of, four (4) 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 NO ADDRESS			



Four (4) submissions objected to the development, generally on the following grounds:

#### **5.1.1 Safety – Increased Traffic**

This matter relates to safety in the vicinity of Beatrice Thomson Park which is located approximately 200m to the west of the site. Council's Traffic Engineers have assessed the proposed development and have concluded that the quantum of traffic generated by the site is likely to be an additional 10 vehicles during the peak hours. This can be readily accommodated within Water Street and the surrounding road network.

#### **5.1.2 Traffic, parking and access**

As discussed above, Council's Traffic Engineers have assessed the proposed development and have concluded that the proposal is acceptable with regard to traffic volumes and the proposed development complies with Council's car parking requirements.

The proposed access arrangements have been assessed as being acceptable and any localised on-street car parking issues in Water Street will be reviewed by Council Officers if and when they arise.

#### **5.1.3 Vegetation loss**

The proposal has been assessed by Council's Natural Resources Unit and Parks and Recreation Officers and the removal of vegetation is considered to be acceptable in this instance subject to conditions of consent recommended in Schedule 1 which relate to tree protection measures for significant trees within the site and replacement planting (Condition Nos. 3, 4, 7, 30, 31, 37, 48).

#### **5.1.4 Timing of Works**

The proposed development is on a site adjacent to several other redevelopment sites and accordingly, construction of those approved development and the proposal will have a short term impact on surrounding residences in terms of construction traffic and noise.

Notwithstanding, the proposed development will be subject to Council's standard conditions of consent (Condition Nos. 32, 34 and 35) to control the impacts of construction activities including restricting construction access to Belair Close. Condition are also included requiring excavation to be undertaken by rock sawing rather than rock hammering where practicable and to prevent rock sawing/breaking on Saturdays or between the hours of 12 pm and 1 pm weekdays (Condition 32).

#### **5.1.5 Hours of construction**

The proposed development will be subject to a condition of consent (Condition 32) relating to construction hours.

#### **5.1.6 Dust control and mitigation**

The proposed development will be subject to Council's standard conditions of consent (Conditions 34, 35 and 36) relating to dust control.

#### **5.1.7 Storm and flood water management**

As discussed within this report, the proposal is supported by a flooding assessment which indicates that the proposed development complies with the relevant flood planning levels for residential apartments, waste areas and the like and Council's Development Services Engineers have assessed the proposal as being satisfactory with regard to flooding, stormwater quantity and quality subject to conditions which are recommended within this report.

### **5.2 Public Agencies**

The development application was referred to the NSW Police for consideration of Crime Prevention Through Environmental Design. The NSW Police have not provided comments although matters in this regard are addressed in the recommended consent condition No. 60.

## **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 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, 5-storey residential flat buildings comprising 45 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 exception of building separation, communal open space, ground level private open space, storage and building depth. Notwithstanding, these non-compliances are considered to be minor, unlikely to result in significant adverse amenity impacts and are acceptable in this instance subject to conditions specified in Schedule 1 to this report.

The proposed building height is permissible under Clause 5.6 *HLEP* as the part of the building exceeding the 17.5m height limit stipulated under Clause 4.3 of *HLEP* is an architectural roof feature.

The proposed development is consistent with the desired future character of the locality as envisaged by *HDCP* although there are minor non-compliances with prescriptive measures for site width, storeys, setbacks, building separation, communal open space and vehicular access. Notwithstanding, these non-compliances are in part due to the site having two site frontages, the sloping topography and/or are minor and unlikely to result in significant adverse amenity impacts. Accordingly, subject to conditions of consent recommended in Schedule 1, the proposal is considered acceptable in these regards in this instance.

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

## SCHEDULE 1

### GENERAL CONDITIONS

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

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

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

### 1. Approved Plans and Supporting Documentation

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

<b>Plan No.</b>	<b>Drawn by</b>	<b>Dated</b>
DA 1.01 Rev B Site/Roof Plan	RJK Architects Pty Ltd	August 2015
DA 2.00 Rev C Level Basement 02	RJK Architects Pty Ltd	June 2015
DA 2.01 Rev E Level Basement 01 / Lower Ground	RJK Architects Pty Ltd	August 2015
DA 2.01.1 Rev E SRV Garbage Truck Turning Paths	RJK Architects Pty Ltd	August 2015
DA 2.02 Rev D Level Upper Ground	RJK Architects Pty Ltd	June 2015
DA 2.03 Rev C Level 01-02	RJK Architects Pty Ltd	June 2015
DA 2.04 Rev D Level 03	RJK Architects Pty Ltd	June 2015
DA 2.05 Rev D Level 04	RJK Architects Pty Ltd	June 2015
DA 2.06 Rev D Level 05 – Mezzanine	RJK Architects Pty Ltd	May 2015
DA 3.00 Rev D Elevation East	RJK Architects Pty Ltd	August 2015
DA 3.01 Rev D Elevation North and South	RJK Architects Pty Ltd	August 2015
DA 3.02 Rev D Elevation West	RJK Architects Pty Ltd	August 2015

<b><i>Plan No.</i></b>	<b><i>Drawn by</i></b>	<b><i>Dated</i></b>
DA 3.03 Rev C Elevation North – Block A	RJK Architects Pty Ltd	June 2015
DA 3.04 Rev D Elevation South – Block B	RJK Architects Pty Ltd	June 2015
DA 4.00 Rev C Section A-A	RJK Architects Pty Ltd	June 2015
DA 4.01 Rev D Section 1-1 and 2-2	RJK Architects Pty Ltd	August 2015
DA 3.05 Rev A Colours Materials & Finishes	RJK Architects Pty Ltd	November 2014
LP01/C Rev C Landscape Plan	Black Beetle	09/09/15
01209_100 Rev 4 Stormwater Drainage Works Cover Sheet	C&M Consulting Engineers	10/09/15
01209_201 Rev 4 Stormwater Drainage Basement Level 2 Plan	C&M Consulting Engineers	10/09/15
01209_202 Rev 4 Stormwater Drainage Basement Level 1 and Lower Ground Plan	C&M Consulting Engineers	10/09/15
01209_203 Rev 4 Stormwater Drainage Upper Ground Floor Plan	C&M Consulting Engineers	10/09/15
01209_204 Rev 4 Stormwater Drainage Catchment Plan	C&M Consulting Engineers	10/09/15
01209_301 Rev 2 Driveway Detail Grading Plan & Longitudinal Sections	C&M Consulting Engineers	10/09/15
01209_501 Rev 4 On-Site Detention System Details and Calculations	C&M Consulting Engineers	10/09/15
01209_701 Rev 3 Sediment & Erosion Control Plans & Details	C&M Consulting Engineers	10/09/15

<b><i>Document No.</i></b>	<b><i>Prepared by</i></b>	<b><i>Dated</i></b>
Design Verification Statement	RJK Architects Pty Ltd	November 2014
BASIX Certificate No. 582742M_02	Gradwell Consulting	7/09/2015
BASIX Assessor Certificate and Stamped Plans – Certificate No. BDAV14510357	Gradwell Consulting	7/09/2015

<b>Document No.</b>	<b>Prepared by</b>	<b>Dated</b>
Tree Inspection Report	Treehaven Environscapes	08/10/2014
Addendum to Tree Inspection Report	Treehaven Environscapes	08/10/2014
Traffic and Parking Assessment	Traffic Solutions Pty Ltd	07/11/2014
Waste Management Plan	RJK Architects Pty Ltd	November 2014
Access Report	Bio-Building Design	07/11/2014
Flooding and Stormwater Drainage Statement No. R01209-F Revision C	C&M Consulting Engineers	September 2015
Stormwater Management Plan No. R01209-WQ Revision A	C&M Consulting Engineers	November 2014

## 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 roof areas for recreational purposes.

## 3. Removal of Existing Trees

- a) This development consent only permits the removal of tree specified on page 9 of 37, Sub-section 6.1 contained in the numbered 4, 5, 6, 7, 30, 32, 33, 35, 36, 37, 38, 39, 40 as identified in Tree Location Plan (Appendix 2 pg 22) of the *Aboricultural Impact Report* prepared by *TreeHaven Environscapes* dated 8 October 2014.
- b) The removal of any other trees requires separate approval in accordance with the Tree & Vegetation Chapter 1B.6 Hornsby Development Control Plan (HDCP).

## 4. Pruning Works

This development consent only permits the pruning of tree(s) numbered 27 and 28 as identified in Tree Location Plan (Appendix 2 pg 22) of the *Aboricultural Impact Report* prepared by *TreeHaven Environscapes* dated 8 October 2014.

The recommended pruning works for Tree 2 will require the consent of the owner of that asset. **No works** are to be undertaken without that consent.

*Note: Council acknowledges there is a requirement to provide scope to undertake the construction works. It is desirable that pruning works are only canopy lifting is undertaken, rather than excessive reduction.*

All tree works consented will require supervision by a project Arborist. All works are to undertaken by an Arborist holding an AQF level 3 certification in Arboriculture.

## 5. Construction Certificate

- a) 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.
- b) The Construction Certificate plans must not be inconsistent with the Development Consent plans.

## 6. 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	\$ 51,870.80
Open Space and Recreation	\$ 523,243.60
Community Facilities	\$ 74,191.55
Plan Preparation and Administration	\$ 2,220.45
<b>TOTAL</b>	<b>\$ 660,526.40</b>

being for 10 x 1 bed, 30 x 2 bed and 5 x 3 bed units including a credit for 2 existing dwellings and one vacant lot.

- b) The value of this contribution is current as at 14 September 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:

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

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
- $\text{CPI}_{PY}$  is the latest release of the Consumer Price Index (Sydney – All Groups) at the date of Payment as published by the ABS.
- $\text{CPI}_{DC}$  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](http://www.hornsby.nsw.gov.au) or a copy may be inspected at Council's Administration Centre during normal business hours.

## **7. 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. Details of the appointed Project Arborist are to be forwarded to Council and the Principal Certifying Authority prior to the issue of the Construction Certificate.

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

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

## **9. 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.

## **10. 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](http://www.sydneywater.com.au) or telephone 13 20 92 for assistance.*

**11. 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](http://www.sydneywater.com.au) or telephone 13 20 92 for assistance.*

**12. Dilapidation Report**

A ‘Dilapidation Report’ is to be prepared by a ‘chartered structural engineer’ detailing the structural condition of the adjoining property at Nos. 14-18 Water Street, Hornsby.

**13. Accessible Units**

The development is required to provide 14 units designed as adaptable housing pursuant to the requirements of 1C.2.2 of the Hornsby Development Control Plan. In this regard, five (5) car parking spaces are to be designed for people with a disability and allocated to five (5) adaptable units. The details of all adaptable units must be provided with the Construction Certificate plans.

**14. 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.

**15. Storage**

Each dwelling within the development must have a minimum area for storage (not including kitchen and bedroom cupboards) of 6m<sup>3</sup> for one bedroom units, 8m<sup>3</sup> for two bedroom units and 10m<sup>3</sup> 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.

**16. Construction & Traffic Management Plan**

In order to enable unencumbered movement of traffic in the public road during construction works, a Construction Management Plan, including a Traffic Management Plan and scaled construction plan prepared by a suitably Chartered and Qualified Chartered Engineer and Qualified Worksite Traffic Controller shall be prepared and submitted with the Construction Certificate according to the following requirements:-

- a) A copy of the plans shall be submitted for consideration and written approval by Hornsby Shire Council's Manager of Traffic & Road Safety Branch prior to the release of the Construction Certificate.
- b) The plans shall detail the order of construction works and arrangement of all construction machines and vehicles being used at the same time during all stages.
- c) In order to prevent injury, accident and loss of property, no building materials, work sheds, vehicles, machines or the like shall be allowed to remain in the road reserve area without written consent of Hornsby Shire Council.
- d) The Plan shall be generally in compliance with the requirements of the Road and Traffic Authority's "Traffic Control at Worksites Manual 1998" and detailing:-
  - i) prior to the issue of the Subdivision Certificate where the development is for subdivision; or
  - ii) Public notification of proposed works;
  - iii) Long term signage requirements;
  - iv) Short term (during actual works) signage;
  - v) Vehicle Movement Plans, where applicable;
  - vi) Traffic Management Plans;
  - vii) Pedestrian and Cyclist access and safety;
- e) The plans shall indicate traffic controls including those used during non-working hours and shall provide pedestrian access and two-way traffic in the public road to be facilitated at all times.
- f) The Applicant and all employees of contractors on the site must obey any direction or notice from the Prescribed Certifying Authority or Hornsby Shire Council in order to ensure the above.
- g) The plan shall include noise attenuation measures to be implemented along the western boundary of the site including a hoarding height not less than 3m from the existing ground level;
- h) The plan shall provide that during excavation works, rock removal must be undertaken by sawing instead of rock hammering, wherever practicable;
- i) The plan shall provide that construction works be undertaken in accordance with the "Interim Construction Noise Guidelines - 2009" published by DECCW and achieve compliance with the relevant noise levels;
- j) The plan shall provide that the delivery times and vehicular movements related to demolition, excavation and construction works be restricted to the construction hours only.
- k) The TCP shall be submitted and approved by Council's Manager Traffic and Road Safety prior to the issue of a construction certificate.

## **17. Internal Driveway/Vehicular Areas**

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

- a) Design levels for the front boundary crossing must be obtained from Council.
- b) The driveway must be a rigid pavement;
- c) The driveway grade must not exceed 25 percent and changes in grade must not exceed 8 percent per plan metre.
- d) Prior to the issue of a construction certificate, a certificate from a qualified engineer shall be submitted to the principal certifying authority certifying that the access driveway, parking and services areas have been designed in accordance with Australian Standards AS 2890.1 and AS 2890.2.

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

## **18. 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 garbage truck collection bay 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) The vehicular crossing shall have a minimum width of 6.7 metres to enable vehicles to pass whilst the garbage truck collection bay is occupied.
- b) Longitudinal sections along both sides of the vehicular crossing shall be submitted to Hornsby Council for approval.
- c) Any redundant crossings must be replaced with integral kerb and gutter;
- d) The footway area must be restored by turfing;
- e) Approval must be obtained from all relevant utility providers that all necessary conduits be provided and protected under the crossing.

*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.*

## **19. Road Works**

A separate application under the *Local Government Act, 1993* and the *Roads Act, 1993* must be submitted to Council for approval of all works within the public road reserve. 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) A concrete footpath to be constructed along the full frontage of the development site in Belair Close within the road verge with the remaining area turfed.
- b) The existing kerb and gutter and pavement along the full frontage of the development site in Belair Close shall be removed and reconstructed.
- c) The existing road pavement to be saw cut a minimum of 300 mm from the existing edge of the bitumen and reconstructed.
- d) Detailed design drawings by a qualified engineer shall be submitted to Council for approval with the construction certificate application for public road works.

*Note: A separate Construction Certificate is required to be submitted and approval obtained by Hornsby Shire Council prior to the commencement of these works.*

## **20. Stormwater Drainage**

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

- a) Connected directly to Council's trunk drainage system in Water Street. An application shall be submitted to Council for approval.

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

## **21. Connection to Council Drainage Infrastructure**

The connection to Council's trunk drainage system shall be in accordance with Council's Civil Works Specification and inspected by a Council Engineer in the Planning Division. Prior to the connection, an application shall be made to Council and all fees paid.

*Note: An inspection booking can be made by calling Council on 9847 6787.*

## **22. 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 29.3 cubic metres, and a maximum discharge (when full) of 48 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.

*Note: All works are to be completed prior to the issue of an occupation certificate.*

### **23. Overland Flow Path**

Prior to the issue of a construction certificate, a qualified engineer must certify that the construction drawings have been designed in accordance with the recommendations outlined in the Flooding and Stormwater Drainage Assessment Report No. R01209-F Revision C dated August 2015 by C & M Consulting Engineers.

### **24. Water Quality Treatment**

Stormwater quality treatment measures shall be designed in accordance with the MUSIC Model outlined in the Stormwater Management Plan Report No. R01209-WQ Revision A dated November 2014 by C & M Consulting Engineers to meet the stormwater quality targets outlined in Hornsby Council's Development Control Plan 2013.

### **25. Waste Management Details**

The following waste management requirements must be complied with:

- a) The volume handling equipment (a 2x660L bin linear or 4x660L bin carousel), to automatically change the bin under the chute when it becomes full, must not be fitted with a compactor.
- b) A bin lifter (to safely decant the 240 L garbage bins into 660 L bins) must be provided for Building A.
- c) The section of driveway located within 6m of the garbage collection area (as measured from the Water Street boundary) must have a gradient no steeper than 1:20.
- d) The lane separation, in this section of the driveway, must not be by raised median (line marking and/or rumble bars are acceptable).
- e) Columns or other objects (including but not limited to the car park security access point) must not be located within this section of the driveway.
- f) The waste facilities at each residential level must be accessible by persons with a disability. The facility must be able to accommodate the garbage chute/240L garbage bin (whichever applicable) and a 240L recycling bin.

<b>REQUIREMENTS PRIOR TO THE COMMENCEMENT OF ANY WORKS</b>
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## **26. 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.*

## **27. 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.*

## **28. 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*.

## **29. Erosion and Sediment Control**

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



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

**30. Tree Protection measures**

- a) The appointed Project Arborist (AQF5 qualified) must oversee the installation of tree trunk protection and fencing required to protect the tree root zone of trees T2, T3, T8-T26, T41-T51.
- b) Tree protection fencing must be in accordance with Australian Standard AS 4970-2009 (1.4.4).
- c) The project arborist (AQF5 qualified) must monitor the integrity of the tree protection methods, recording any modifications or alterations to the tree protection zone fencing for the duration of the construction period.
- d) The Project arborist (AQF5 qualified) must submit to the Principal Certifying Authority (PCA) a certification/statement confirming that all tree protection measures have been installed in accordance with this consent and the specific requirements of Australian Standard "Protection of Trees on Development Sites" (AS 4970-2009).
- e) All Tree Protection Zones must have a layer of wood-chip mulch installed prior to works commencing and must be maintained throughout the period of construction at a depth of 150mm – 300mm using material that complies with Australian Standard AS 4454.

**31. Fencing of Bushland**

The applicant is to ensure that a 1.8m high cyclone mesh fence shall be erected, prior to any on-site construction works along the northern boundary of the site to protect the native trees occurring outside the site.

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

All work on site (including demolition and earth works) must only occur between 7am and 5pm Monday to Saturday. No Excavation or rock sawing/breaking is to occur on Saturdays or between the hours of 12 pm and 1 pm weekdays. No work is to be undertaken on Sundays or public holidays.

**33. Construction Vehicles**

All construction vehicles associated with the proposed development are to be contained on site or in an approved "Work Zone" in Belair Close.

**34. 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.

**35. 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.

**36. Street Sweeping**

Street sweeping must be undertaken following sediment tracking from the site along Belair Close during works and until the site is established.

**37. Works Near Trees - Maintenance and Monitoring of Tree Protection**

- a) All required tree protection measures must be monitored by the appointed project arborist to ensure that they are maintained in good condition for the duration of the construction period.
- b) The project arborist must supervise and record all works on the subject or adjoining properties within 5 metres of any trees required to be retained.
- c) The project arborist must record the method(s) used to preserve the tree(s) T2, T3, T8-T26, T41-T51 for the duration of the proposed works and forms part of final certification documentation.

**38. 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.

**39. 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.

**40. 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.

**41. 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.

**42. 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.

**43. 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.*

#### **44. Fulfilment of BASIX Commitments**

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

#### **45. Sydney Water – s73 Certificate**

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

#### **46. 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.

#### **47. 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.

#### **48. 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.

#### **49. 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 including replacement planting have been satisfactorily completed in accordance with the approved Landscape plans and the following requirements:

- i) Tree plantings for must be located 4 metres or greater from the foundation walls of the approved development;

- ii) The pot size of the replacement trees must be a minimum 25 litres;
- iii) The replacement trees must be maintained until they reach the height of 3 metres;
- iv) The replacement trees must be native to Hornsby Shire and reach a mature height greater than 15 metres;
- v) All plant stock must meet the specifications outlined in 'Specifying Trees' (Ross Clark, NATSPEC Books); and
- vi) The planting methods must be current and meet the best practice industry standards at the time of planting.

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

#### **50. Retaining Walls**

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

#### **51. 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).*

#### **52. Installation of Privacy Devices**

The following devices must be installed to maintain an element of privacy between units within the development and adjoining sites:

- a) Opaque glazing or louvred privacy screens are to be installed to the kitchen and bedroom windows of Units LG.03-B, UG.06-B, 1.06-B, 2.06-B and 3.06-B to prevent/minimise a direct line of sight to units within the eastern adjoining development. 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.
- b) Louvred privacy screens are to be installed to eastern edge of the balcony of Units LG.03-B, UG.06-B, 1.06-B, 2.06-B and 3.06-B for the extent of the living room windows to minimise a direct line of sight to units within the eastern adjoining development. 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.
- c) Opaque glazing or louvred privacy screens are to be installed to the kitchen and bedroom windows of Units UG.03-A, 1.03-A, 2.03-A and 3.03-A to prevent/minimise a direct line of sight to units within the western adjoining development. 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.

- d) Louvred privacy screens are to be installed to western edge of the balcony of Units UG.03-A, 1.03-A, 2.03-A and 3.03-A for the extent of the living room windows to minimise a direct line of sight to units within the eastern adjoining development. 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.
- e) A louvred privacy screen is to be installed to bedroom window of Unit UG.03-B, to minimise a direct line of sight from the southern adjoining unit. The screen 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.

### **53. 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.

### **54. Waste Management Details**

The following waste management requirements must be complied with:

- a) The Principal Certifying Authority must obtain Council's approval of the waste and recycling management facilities provided in the development and ensure arrangements are in place for domestic waste collection by Council.  
*Note: Waste and recycling management facilities include but are not limited to the garbage chute system, volume handling equipment, bin lifter, motorised bin trolley or similar, recycling bin storage on each residential level, bin storage areas, bulky waste storage area, bin collection area and waste collection vehicle access.*
- b) The garbage rooms at the basement levels must include water or a hose for cleaning, graded floors with drainage to sewer, a robust door, sealed and impervious surface, adequate lighting and ventilation, and must be lockable.
- c) The waste facility rooms/cupboards at each residential level must include sealed and impervious surface, adequate lighting and ventilation.
- d) 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.
- e) 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.
- f) 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.*
- g) The bin carting routes must be devoid of any steps.  
*Note: Ramps between different levels are acceptable*
- h) The bin carting route between the bin holding bay/collection area and the truck parking position must be smooth, hard surface with gradient no steeper than 1:20 (5%).
- i) Access to the automatic waste volume handling equipment by unauthorised persons (including residents and waste collectors) must be prevented.  
*Note: Caging of the automatic volume handling equipment is acceptable.*

## **55. 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.*



## 56. 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) A restriction over the flow path for a 100 year average recurrence interval storm. The "Restriction on the Use of Land" over the affected lots is to prohibit the alteration of the final floodway shape and the erection of any structures, including fencing, in the floodway without the written permission of Council. The terms of this restriction must be obtained from Council.
- b) For the purpose of access for maintenance of the stormwater quality improvement device, 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 access for maintenance of the Council stormwater quality improvement device in Water Street must be granted to Council by the owner of the land. The easement shall have sufficient width to enable service vehicles to access the stormwater quality improvement device for maintenance.
- c) The creation of an appropriate "Positive Covenant" and "Restriction as to User" over the constructed on-site detention/retention systems, stormwater quality improvement devices 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 and stormwater quality improvement devices is to be clearly indicated on the title.
- d) To register the OSD easement, the restriction on the use of land "works-as-executed" details of the on-site-detention system and stormwater quality improvement devices 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.*

## 57. Preservation of Survey Marks

Prior to the issue of an occupation certificate, 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 the re-establishment of damaged, removed or displaced survey marks has been undertaken in accordance with the Surveyor General's Direction No.11 – **"Preservation of Survey Infrastructure"**.



**58. Unit Numbering**

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

**59. 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.*

**60. 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 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.

**61. Stormwater drainage works**

All stormwater drainage works must be completed in accordance with the conditions of this development consent.

**62. Driveway Works**

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

- a) The driveway to be designed in accordance with Condition 16 of this development consent;
- b) All parking areas and driveways are to be sealed to an all-weather standard, line marked and signposted;

- c) A minimum of 54 resident car spaces and 7 visitors car spaces are to be provided;
- d) Residential parking spaces are to be secure spaces with access controlled by card or numeric pad;
- e) 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) A minimum of 5 visitor and 9 resident bicycle parking spaces are to be provided in the basement. Bicycle parking spaces are to be designed in accordance with AS 2890.3-1993;
- g) Three motorcycle parking spaces are to be provided within the basement car park, designed in accordance with AS 2890.5-1993;
- h) All parking for people with disabilities is to comply with AS/NZS 2890.6:2009 Off-street parking for people with disabilities; and
- i) Garbage Truck access to the site be provided in accordance with the approved plans.

#### **63. Provision for National Broadband Network (NBN)**

Provision must be made for fibre ready passive infrastructure (pits and pipes) generally in accordance with NBN Co's pit and pipe installation guidelines to service the proposed development. A certificate from NBN Co or Telstra must be submitted to the PCA that the fibre optic cabling provided for the development complies with MDU Building Design Guides for Development.

<b>OPERATIONAL CONDITIONS</b>
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#### **64. 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.

#### **65. 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.

#### **66. Car Parking**

All car parking must be operated in accordance with Australian Standard AS/NZS 2890.1:2004 – Off-street car parking and Australian Standard AS 2890.2:2002 – Off-street commercial vehicle facilities and:

- 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) Visitors are to have access to the parking area at all times by an audio/visual intercom system located at the top of the ramped driveway.
- e) All vehicular entry on to the site and egress from the site shall be made in a forward direction.

**67. Waste Management**

A site caretaker must be employed and be responsible for moving bins where and when necessary, washing bins and maintaining waste storage areas, ensuring the chute system and related devices are maintained in effective and efficient working order, decanting the 240L garbage bins into 660L garbage bins, managing the communal composting area, managing the bulky item storage area, arranging the prompt removal of dumped rubbish, 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.

**68. 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*.

**69. Noise**

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

**70. 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.

**- 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](http://www.dialbeforeyoudig.com.au) for free information on potential underground pipes and cables within the vicinity of the development site.

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

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

### **Asbestos Warning**

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

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

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

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

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

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

### **House Numbering**

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

### **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".