

JOINT REGIONAL PLANNING PANEL (Sydney West Region)

JRPP No	2014SYW170
DA Number	DA/1447/2014
Local Government Area	Hornsby Shire Council
Proposed Development	Demolition of existing structures and construction of 3 x five storey residential flat buildings comprising 141 units with basement car parking
Street Address	Lots 30, 31, 32, 33, 34, 35, 36, 37 DP 12051, (Nos. 11 - 27) Cliff Road, Epping
Applicant/Owner	<p>Applicant - JBA Urban Planning Pty Ltd</p> <p>Owner - Hiten Narula</p> <p>Owners - Jin Kyu Song and Hye Rieem Yun</p> <p>Owners - Mark J. Anderson and Kathryn K. Anderson</p> <p>Owners - James F. Rockett and Patricia Rockett</p> <p>Owners - Christopher M. Dunkerley and Joy P. Dunkerley</p> <p>Owners - Timothy J. Coates and Christine A. Coates</p> <p>Owners - Jon B. Maher and Fiona L. Maher</p> <p>Owners - Shen Xin and Lan Lan Zhou</p>
Number of Submissions	Two submissions have been received
Regional Development Criteria (Schedule 4A of the Act)	Capital investment value over \$20 million (\$38.12 million)
List of All Relevant s79C(1)(a) Matters	<ul style="list-style-type: none"> • State Environmental Planning Policy No. 65 – Design Quality of Residential Flat Development • State Environmental Planning Policy (Building and Sustainability Index: BASIX) 2004 • State Environmental Planning Policy No. 32 – Urban Consolidation (Redevelopment of Urban land) • Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005 • Hornsby Shire Local Environmental Plan 2013

	<ul style="list-style-type: none"> • Hornsby Development Control Plan 2013 • Section 94 Contributions Plan 2012 - 2021
List all documents submitted with this report for the panel's consideration	<ul style="list-style-type: none"> • Locality Plan – 1 page • Survey Plan – 1 page • Site Plan – 1 page • Landscape Plan – 1 page • Floor Plans – 8 pages • Elevations and Section – 3 pages • Shadow Plans – 3 pages • Photomontage – 1 page • Height Study – 1 page • External Finishes Schedule – 1 page
Recommendation	Approval
Report by	Cynthia Dugan, Town Planner

ASSESSMENT REPORT AND RECOMMENDATION

EXECUTIVE SUMMARY

- The application proposes the demolition of existing dwellings and the construction of a five storey residential development comprising 141 units and basement car parking.
- The proposal generally complies with the provisions of *State Environmental Planning Policy No. 65, Residential Flat Design Code* and the *Hornsby Development Control Plan 2013*.
- Two submissions have been received in respect of the application.
- It is recommended that the application be approved as deferred commencement subject to the submission of MUSIC model.

RECOMMENDATION

THAT the Joint Regional Planning Panel (Sydney West Region) assume the concurrence of the Secretary of the Department of Planning and Environment pursuant to Clause 4.6 of the *Hornsby Local Environmental Plan 2013* and approve Development Application No. 1447/2014 for the demolition of existing dwellings and the construction of a five storey residential development comprising 141 units and basement car parking at Lots 30, 31, 32, 33, 34, 35, 36, 37 DP 12051, (Nos. 11 - 27) Cliff Road, Epping subject to the conditions of consent detailed in Schedule 1 of the subject Report for application No. 2014SYW170.

BACKGROUND

The site forms part of the Epping Urban Activation Precinct (Epping UAP).

On 14 March 2014, the Department of Planning and Environment finalised amendments to the *Hornsby Local Environmental Plan 2013* (HLEP 2013) to implement the Epping UAP via *State Environmental Planning Policy (Epping Town Centre) 2013* ("the SEPP Amendment").

The Epping Town Centre amendments to the HLEP 2013 involved rezoning of low density residential areas for the purpose of medium to high density residential and mixed use developments. The site is within the Cliff Road, Epping Precinct which was rezoned to R4 (High Density Residential) to permit five storey residential flat buildings.

Amendments to the HDCEP were consequently prepared by Council to translate design controls recommended by the Department of Planning and Environment and provided planning controls to be read in conjunction with the HLEP 2013 amendments. The DCP amendments were exhibited and endorsed by Council on 8 October 2014.

On 25 September 2014, a pre-lodgement meeting was held between Council officers and the applicant to discuss the development. Council raised concerns regarding setbacks, maximum floorplate dimensions, articulation, privacy, landscaping, housing choice, compliance with the key development principles and waste management.

On 20 November 2014, DA/1447/2014 was lodged with Council for a five storey residential development comprising 141 units with a mezzanine floor and basement car parking.

On 4 February 2015, the Sydney West Joint Regional Planning Panel was briefed regarding the development proposal. Concerns were raised by the Panel and Council Officers in relation to Design, Building Form and Separation, Deep soil landscaping, Communal open areas, Setbacks and Ground floor unit amenity. A request for additional information letter was sent to the applicant.

On 24 March 2015, the applicant submitted amended plans. These plans did not adequately address the concerns raised by the Panel and Council Officers as requested in the letter dated 4 February 2015.

On 26 March 2015, Council advised the applicant via email that the plans submitted did not adequately address the previous concerns raised by the Panel and Council Officers.

On 1 April 2015, a meeting was held at Council with the Applicant and Council Officers to discuss the amended plans.

On 20 April 2015, the applicant submitted amended plans in response to Council's concerns incorporating modulation to the design of the front facades, increased setbacks and deep soil landscaping and better provision for ground floor unit amenity.

SITE

The site has a consolidated area of 6822.7 square metres with a frontage of 145.305 metres to Cliff Road and a 6.5% diagonal cross fall to the south western corner of the site. The site is approximately 400 metres north east of Epping Railway Station and the Epping Town Centre.

The subject site comprises eight regular shaped allotments located on the southern side of Cliff Road, Epping. As well as running parallel to Carlingford Road, Cliff Road curves to the east at right angles and intersects with Carlingford Road.

The subject site currently accommodates eight detached residential dwellings and several associated outbuildings including garages and carports. There is a variety of exotic, native planted trees within the site and locally indigenous trees located within the site's frontage and neighbouring properties including Blackbutt *Eucalyptus pilularis*, Smooth-barked Angophora *Angophora costata* and Snow-in Summer *Melaleuca lineariifolia* and Broad-leaved Paperbark *Melaleuca quinquenervia*.

The immediate area surrounding the subject site is mainly characterised by low density residential dwellings. Commercial and retail developments are located on Beecroft Road, at least 165m south east of the site.

The site forms part of the 'Cliff Road, Epping Precinct' which is bounded by Carlingford Road, Kent Street, Kent Street Reserve and Beecroft Road. This Precinct is identified as having a desired future character of residential flat buildings of five storeys in garden settings, with parking in basements. Properties surrounding the subject site are therefore expected to be redeveloped in the future for higher density residential development.

PROPOSAL

The proposal is for the demolition of eight existing residential dwellings and associated structures and construction of three (3) five storey residential flat buildings comprising 141 dwellings over a joint one and a half level basement car park. Details of the residential flat development are provided below:

- 3 x five storey residential flat buildings are proposed (Block A, B and C).
- The overall unit mix would consist of 66 x 1 bedroom/studio, 57 x 2 bedroom and 18 x 3 bedroom units. All units would be accessed via a centrally located lift in each building and include balconies that face the front, rear and side property boundaries.
- The development would be accessed from Cliff Road via a driveway located between Block B and C. A total of 159 residential and 20 visitors parking spaces are proposed over one and a half basement levels.
- The proposal includes an integrated landscaping scheme linking the residential flat buildings with common open space areas and the street entries to the development.
- The proposed development would result in the removal of 38 existing trees on site. None of these trees are identified as significant.

ASSESSMENT

The development application has been assessed having regard to the '*A Plan for Growing Sydney*', the '*North Subregion (Draft) Subregional Strategy*' and the matters for consideration prescribed under 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 A Plan for Growing Sydney and (Draft) North Subregional Strategy

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

The NSW Government will 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 133 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 proposed development has been assessed having regard to the provisions of the *Hornsby Local Environmental Plan 2013 (HLEP)*.

2.1.1 Zoning of Land and Permissibility

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

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

The proposed development is defined as a “residential flat building” and is permissible in the zone with Council’s consent.

2.1.2 Height of Buildings

Clause 4.3 of the *HLEP* provides that the height of a building on any land should not exceed the maximum height show for the land on the Height of Buildings Map. The maximum permissible height for the subject site is 17.5 metres. The proposal is for buildings with heights of up to 17.96 metres which does not comply with this provision. This non-compliance is addressed below in Section 2.1.3.

2.1.3 Exceptions to Development Standards

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

The proposal exceeds the 17.5 metre maximum building height prescribed under Clause 4.3 Height of buildings of the *HLEP*, which seeks to permit building heights that are appropriate for the site constraints, development potential and infrastructure capacity of the locality.

The applicant has made a submission in support of a variation to the development standard in accordance with Clause 4.6 of the *HLEP*. The development application seeks to vary the development standard by up to 460mm within the north eastern corner of each building (Block A, B and C). The applicant states the proposed variation is considered to be consistent with the objectives of the control and is justified as follows:

- The variation to the building height has been driven by finding an appropriate balance in dealing with the significant slope of the site and the amenity of ground floor dwellings in the south western corner of each unit block. The application seeks to lift the entire building to improve solar access and ventilation to these ground floor units.
- The area of non-compliance occupies a very small portion of the site and has been further reduced by stepping back the mezzanine levels of each of the buildings, which ensures that the proposed variation will not contribute to additional or excessive bulk and scale when viewed from the Cliff Road frontage.

- As the immediate locality is undergoing a period of significant change and densification, the minor variance to the development standard is considered to be consistent with the development potential of the site and surrounding area.

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

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

The applicant's submission to vary the 'Height of buildings' development standard is considered well founded for the following reasons:

- As a result of the site's sloping topography, the additional height would not be perceptible when viewed from the Cliff Road frontage.
- The proposed RL's (115.52 for Block A, 112.66 for Block B and 111.68 for Block C) fall within the average heights of the approved residential flat development at No. 29 and 31 Cliff Road of RL 107.30 and the proposed residential flat development at No. 7-9 Cliff Road of RL 117.250 which conforms with the natural topography of the site. The minimal height variation would not exacerbate environmental impacts to adjoining properties or other impacts that would arise from the non-compliance.
- The site is within the Cliff Road, Epping Precinct which is currently undergoing transition to higher density development. The proposal is considered to achieve the height and scale identified within the desired future character of the growth precinct.
- The minor non-compliance is a result of the buildings being lifted up to provide better amenity for ground floor units which were previously up to 3 metres below natural ground level.
- The proposal is considered to be in the public interest as it achieves consistency with the objectives of the R4 High Density Residential Zone and the objective of the Height of buildings development standard.

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

2.1.4 Heritage Conservation

Clause 5.10 of the *HLEP* sets out heritage conservation provisions for Hornsby Shire. The site is located in the vicinity of Rosebank Avenue (Epping) Heritage Conservation Area. However, the proposed development would not have any negative impact on the heritage significance of the heritage conservation area as the site does not immediately adjoin the conservation area as it is separated by Cliff Road and located over 80 metres south west of the dwellings within the heritage conservation area. The application is assessed as satisfactory in this regard.

2.1.5 Earthworks

Clause 6.2 of the *HLEP* states that consent is required for proposed earthworks on site. Before granting consent for earthworks, Council is required to assess the impacts of the works on adjoining properties, drainage patterns and soil stability of the locality.

Council's assessment of the proposed works and excavation concludes that the proposal is satisfactory subject to conditions regarding submission of a dilapidation report assessing the impact of the excavation on the adjoining properties.

2.2 State Environmental Planning Policies

2.2.1 SEPP (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.

2.2.2 SEPP 32 – Urban Consolidation

The application has been assessed against the requirements of *State Environmental Planning Policy no. 32 (SEPP 32)*, which requires Council to implement the aims and objectives of this Policy to the fullest extent practical 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.

2.2.3 SEPP 55 – Remediation of Land

The application has been assessed against the requirements of *State Environmental Planning Policy no. 55 (SEPP 55)*. This Policy provides State-wide planning controls requiring 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 applicant addresses this requirement by the submission of a Report on Preliminary Investigation for Contamination which concludes that as the site that has been used for residential purposes, it is unlikely to be contaminated. In this regard, further assessment is not required.

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

The Policy provides for design principles to improve the design quality of residential flat development and for consistency in planning controls across the State.

The applicant has submitted a “Design Verification Statement” prepared by a qualified Architect stating how the proposed development achieves the design principles of *SEPP 65*. The design principles of *SEPP 65* and the submitted design verification statement are addressed in the following table.

Principle	Compliance
1. Context	Yes
<p>Comment:</p> <p>The site is located within a precinct planned for five storey residential flat buildings in close proximity to Epping Railway Station and the Epping Town Centre. The proposal responds to the desired future character of the precinct as envisaged by Council for residential flat buildings in landscaped settings with underground car parking.</p> <p>Once the development of the precinct is completed, the proposal would integrate with the surrounding sites and would be in keeping with the future urban form. The proposed building would contribute to the identity and future character of the precinct.</p>	
2. Scale	Yes
<p>Comment:</p> <p>The scale of the development is in accordance with the setbacks for the precinct prescribed within the <i>HDCCP</i>. The proposed height of buildings exceeds the required 17.5 metre height restriction as prescribed by the DCP however, the variation results in negligible impacts and the submitted Clause 4.6 is supported. Whilst the building footprints exceed the maximum floorplate of 35m as prescribed within the DCP, the proposed development provides well-articulated facades and internal building separations exceed the minimum requirements of the <i>HDCCP</i>. The development achieves a scale consistent with the desired outcome for well-articulated buildings that are set back to incorporate landscaping, open space and separation between buildings.</p>	
3. Built Form	Yes
<p>Comment:</p> <p>The proposed buildings achieve an appropriate built form for the site and its purpose, in terms of building alignments, proportions, and the manipulation of building elements. The buildings would appropriately contribute to the character of the desired future streetscape and include articulation to minimise the perceived scale.</p> <p>The proposed materials and finishes would add to the visual interest of the development.</p>	

Flat roof forms have been adopted with an increased top storey setback on the external facades to minimise bulk and height of the building as required by the <i>HDGP</i> .	
4. Density	Yes
<p>Comment:</p> <p>The <i>HLEP</i> does not incorporate floor space ratio requirements for the site. The density of the development is governed by the height of the building and the required setbacks. The proposed density is considered to be sustainable as it responds to the regional context, availability of infrastructure, public transport, community facilities and environmental quality and is acceptable in terms of density.</p>	
5. Resource, Energy and Water Efficiency	Yes
<p>Comment:</p> <p>The applicant has submitted a BASIX Certificate for the proposed development. In achieving the required BASIX targets for sustainable water use, thermal comfort and energy efficiency, the proposed development would achieve efficient use of natural resources, energy and water throughout its full life cycle, including demolition and construction.</p>	
6. Landscape	Yes
<p>Comment:</p> <p>The application includes a landscape concept plan which provides landscaping along the street frontages, side and rear boundaries and includes a 7m x 7m deep soil landscaped area between the buildings. The proposal has been designed to facilitate the retention of five significant trees numbered 45 <i>Eucalyptus pilularis</i> (Blackbutt), 46 <i>Angophora costata</i> (Sydney Red Gum), 53 <i>Syzygium smithii</i> (Lilly Pilly), 55 <i>Melaleuca quinquenervia</i> (Broad-leaved Paperbark) and 72 <i>Melaleuca lineariifolia</i> (Snow-in Summer). Trees numbered 45 and 46 and 55 are located at the front of the site or on Council's nature strip on Cliff Road. Tree numbered 53 is located at the rear boundary behind proposed Block B and tree numbered 72 is located on the boundary of the rear adjoining property at No. 28 Carlingford Road.</p> <p>Large trees are proposed along the street frontages intercepted by shrubs and hedges which would soften the appearance of the development when viewed from the streets. Deep soil areas that incorporate canopy trees are provided around the building envelope which would enhance the development's natural environmental performance and provide an appropriate landscaped setting.</p>	
7. Amenity	Yes

Comment: <p>The proposed units are designed with appropriate room dimensions and layout to maximise amenity for future residents. The proposal incorporates good design in terms of achieving natural ventilation, solar access and acoustic privacy. All units incorporate balconies accessible from living areas and privacy has been achieved through appropriate design and orientation of balconies and living areas. Storage areas have been provided within each unit and in the basement levels. The proposal would provide convenient and safe access via a central lift in each building connecting the basement and all other levels.</p>	
8. Safety and Security	Yes
Comment: <p>The design orientates the balconies and windows of individual apartments towards the street, rear and side boundaries, providing passive surveillance of the public domain and communal open space areas. Both the pedestrian and vehicular entry points are secured and visibly prominent from Cliff Road.</p> <p>The proposal includes an assessment of the development against crime prevention controls in the Statement of Environmental Effects (SEE). The SEE has regard to <i>Crime Prevention Through Environmental Design Principles (CPTED)</i> and includes details of surveillance, access control, territorial reinforcement and space management such as artificial lighting in public places; attractive landscaping whilst maintaining clear sight lines; security coded door lock or swipe card entry; physical or symbolic barriers to attract, channel or restrict the movement of people; security controlled access to basement car park; intercom access for pedestrians; and security cameras located at the entrance of the building. Appropriate conditions of consent are recommended to require compliance with the above matters.</p>	
9. Social Dimensions and Housing Affordability	Yes
Comment: <p>The proposal incorporates a range of unit sizes to cater for different budgets and housing needs. The development complies with the housing choice requirements of the Hornsby DCP by providing a component of adaptable housing and a mix of 1, 2 and 3 bedroom dwellings. The proposal responds to the social context in terms of providing a range of dwelling sizes with good access to social facilities and services as the site is located in close proximity to Epping railway station and shops within the Epping Town Centre.</p>	
10. Aesthetics	Yes
Comment: <p>The architectural treatment of the buildings include indentations and projections in the exterior walls with balcony projections to articulate the facades. The roof forms low pitched</p>	

to minimise building height and incorporate eaves which would cast shadows across the top storey wall. The articulation of the buildings, composition of building elements, textures, materials and colours would achieve built forms generally consistent with the design principles contained within the Residential Flat Design Code and the Hornsby DCP.

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

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

Residential Flat Design Code			
Control	Proposal	Requirement	Compliance
Deep Soil Zone	28%	25%	Yes
Communal Open Space	30%	25-30%	Yes
Ground Level Private Open Space	15.5m ² -53m ² Min Dimension 2m	25m ² Min Dimension 4m	No No
Minimum Dwelling Size	1 br – 50.5m ² -74.5m ² 2 br – 77.5m ² -91m ² 3 br – 95m ² -101m ²	1 br – 50m ² 2 br – 70m ² 3 br – 95m ²	Yes Yes Yes
Maximum Kitchen Distance	8.5m – 9m (for Units G.02, G.09, 1.01, 1.05, 1.06, 1.10, 2.01, 2.05, 2.06, 2.10, 3.01, 3.05, 3.06, 3.10 in Blocks A, B and C)	8m	No
Minimum Balcony Depth	2.5m	2m	Yes
Minimum Ceiling Height	2.7m	2.7m	Yes
Total Storage Area	1 bed – 1.62m ³ (Min) 2 bed – 1.3m ³ (Min)	1 bed - 6m ³ (Min) 2 bed - 8m ³ (Min)	Yes, but less than 50% accessible

	3 bed – 1.94m ³ (Min) 1235.45m ³ - Total basement storage	3 bed - 10m ³ (Min) 1032m ³ required with 50% accessible from the apartments	from apartments
Dual Aspect and Cross Ventilation	80%	60%	Yes
Adaptable Housing	30%	10%	Yes

As detailed in the above table, the proposed development complies with the prescriptive measures within the *Residential Flat Design Code (RFDC)* other than ground level open space, accessible unit storage and maximum kitchen distance. Below is a brief discussion regarding the relevant development controls and best practice guidelines.

2.3.1 Ground Floor Apartments and Private Open Space

The proposal does not comply with the *Code's* best practice for the 4 metre minimum width and minimum 25m² area requirements as 10 x ground floor units (Units AG.05, AG.06, AG.10, BG.01, BG.03, BG.06, BG.10, CG.01, CG.05 and CG.06) are undersized. However, the proposed ground floor open space areas are appropriate for the respective ground floor units in respect to dwelling size, unit configuration and amenity with a number of private yards proposed at the rear of the development.

Furthermore, the private open space areas have been designed in accordance with the requirements of Council's *HDCP*. The *HDCP* requires that the deep soil area within the setbacks of the development should be retained as communal open space. The objective of this control is to provide a landscape setting to the development. As such, the numerical non-compliance is considered minor and is acceptable.

2.3.2 Apartment Layout

The *RFDC* requires that not more than 10% of apartments (14 units) be south facing. The application provides 30 units (21%) with a south facing aspect. The proposal addresses this non-compliance by including living room windows on the eastern or western walls within the 4m x 4m building indentation of the buildings for all these south facing units. This would achieve enhanced cross ventilation for the units. Due to the east-west orientation of the site, it is inevitable that the centrally located units on the southern facades would not achieve the minimum 2 hour solar access requirement as required by the *HDCP*.

The *RFDC* requires that the back of a kitchen should be no greater than 8m from a window. A number of units contain kitchens where the back wall is over 8m to 9m from a window. These units offer an open layout with natural ventilation and accordingly, the non-compliance is acceptable with respect to residential amenity. Each unit is provided with a reasonable

sized living area, internal circulation space and balcony in accordance with the *HDCCP* requirements.

With consent conditions, the proposed apartment layouts are functional and satisfy the *RFDC* objectives for internal privacy, access to sunlight, natural ventilation and acoustic privacy. It is considered that the apartment layout and mix achieve the intent of the best practice requirements of the *RFDC* and are acceptable in this regard.

2.3.3 Internal Circulation

The proposed buildings, Block A, B and C include access to all floors via 2 x centrally located lifts located in each building. A total of 10 units are accessible from a single corridor on each floor which exceeds the *Code's* requirement of 8 units. However, the *Code* prescribes that exceptions may be allowed where developments can demonstrate a high level of amenity for common lobbies, corridors and units. The proposed buildings provide 4m x 4m indentions within each façade which result in units adjoining these indentions achieving a higher level of ventilation and solar access. In addition, skylights are provided at the top of each core which demonstrates a high level of natural sunlight and design amenity for shared lift lobbies.

The ground floor corridors also provide level access to the communal open space. The proposal is acceptable with respect to the accessibility requirements of the *RFDC*.

2.3.4 Acoustic Privacy

The internal layout of the residential units is designed such that noise generating areas would adjoin each other wherever possible. Circulation zones, communal areas or fire stairs would act as a buffer between units. Bedrooms and service areas such as kitchens, bathrooms and laundries would be grouped together wherever possible. The application included the submission of an acoustic report which demonstrates that the proposal is consistent with the *RFDC* for acoustic privacy.

2.3.5 Storage

The *RFDC* requires that 50% of storage areas are to be accessible from the apartments with a minimum of 6m³ for 1 bedroom units, 8m³ for 2 bedroom units and 10m³ for 3 bedroom units. The proposed development does not meet these requirements with some units containing less than 50% of storage areas accessible from within the apartments. To ensure that adequate storage areas are provided, condition No. 3 is recommended that all units are to provide storage areas which are accessible from either the hall or living area of at least 3m³ for 1 bedroom units, 4m³ for 2 bedroom units and 5m³ for 3 bedroom units. The balance of the required storage areas would be provided in the basement with conditions, the proposal is acceptable with regard to the storage requirements of the *RFDC*.

2.4 Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005

The application has been assessed against the requirements of *Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005*. This Policy provides general planning considerations and strategies to ensure that the catchment, foreshores, waterways and islands of Sydney Harbour are recognised, protected, enhanced and maintained.

Subject to the implementation of installation of sediment and erosion control measures and stormwater management to protect water quality, the proposal would have minimal potential to impact on the Sydney Harbour Catchment.

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

Clause 74BA of the *Environmental Planning and Assessment Act, 1979* states that a DCP provision will have no effect if it prevents or unreasonably restricts development that is otherwise permitted and complies with the development standards in relevant Local Environmental Plans and State Environmental Planning Policies.

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

2.6 Hornsby Development Control Plan 2013

The proposed development has been assessed having regard to the relevant desired outcomes and prescriptive requirements within the *Hornsby Development Control Plan 2013 (HDCP)*. The following table sets out the proposal's compliance with the prescriptive requirements of the Plan:

Hornsby Development Control Plan 2013			
Control	Proposal	Requirement	Compliance
Site Width	145.305m	30m	Yes
Height	5 storeys + Mezzanine – 17.96m	5 storeys – 17.5m	No
Lowest Residential Floor Above Ground	1.1m (NE corner of Block A) 1m (NE corner of Block B) 0.72m (NE corner of Block C)	1.5m	Yes
Maximum Floorplate	39m	35m	No

Dimension			
Building Indentation	At least 4m x 4m (for all facades for Blocks A, B and C)	4m x 4m	Yes
Height of Basement Above Ground	0.8m (NE corner Block A) 0.7m (NE corner Block B) 0.4m (NE corner Block C)	1m (max)	Yes Yes Yes
Front Setback	<i>Blocks A, B and C</i> 10m 8m for 8m building length 7m (balconies)	10m 8m for 1/3 of building length (1/3 x 36m = 12m) 7m (balconies)	Yes Yes Yes
Rear Setback	<i>Blocks A, B and C</i> 10m 8m for a length of 13.6m (>1/3 building length) 7m (balconies)	10m 8m for 1/3 of building length (1/3 x 39m = 13m) 7m (balconies)	Yes No Yes
Western Side Setback (Block A)	6m – 10m 4.885m for 12.5m building length	6m 4m for 1/3 of building length (1/3 x 33 = 11m)	Yes Yes, when averaged out
Eastern Side Setback (Block C)	6m – 10m 4.885m for 12.5m building length	6m 4m for 1/3 of building length (1/3 x 33 = 11m)	Yes Yes, when averaged out

Top Storey Setback from Ground Floor	>3m except for 0.5m – 1.5m setback within the building indentations	3m	Yes, with negligible encroachments within the building indentations
Underground Parking Setback	7m-front 7m-rear 3m - 6m-side (east) 3m - 6m-side (west)	7m-front 7m-rear 4m-side (east) 4m-side (west)	Yes Yes No No
Basement Ramp Setback	N/A (as accessway is in between Block B and C)	2m	N/A
Deep Soil Landscaped Areas	8m-front and rear 5.03m – 6m side (east) 5.03m – 6m side (west)	7m-front and rear 4m sides 4m sides	Yes Yes Yes
Private Open Space	1 br units – 10m ² to 53.5m ² 2 br units – 12m ² to 40m ² 3 br units – 30m ² to 60m ²	1 br units – 10m ² 2 br units – 12m ² 3 br units – 16m ²	Yes Yes Yes
Communal Open Space with Minimum Dimensions 4m	30%	25% (min)	Yes
Parking	179 car spaces 29 bicycle tracks 18 visitor bicycle	134 resident spaces + 20 visitor spaces = 154 car spaces 28 bicycle tracks	Yes Yes

	racks 4 motorbike space	14 visitor bicycle racks 4 Motorbike space	Yes Yes
Solar Access	99/141 = 70.2%	70%	Yes
Housing Choice	66 x 1 BR units = 47% 57 x 2 BR units = 40% 18 x 3 BR units = 13%	10% of each type (min)	Yes Yes Yes
Adaptable Units	30%	30%	Yes

As detailed in the above table, the proposed development generally complies with the prescriptive requirements within the *HDGP*. The matters of non-compliance are detailed below, as well as a brief discussion on compliance with relevant desired outcomes.

2.6.1 Desired Future Character

The proposed five storey residential flat development would be sited within the Cliff Road, Epping precinct in accordance with required key principles for the precinct, namely for well-articulated residential flat buildings of varying heights in garden settings with basement car parking.

The elevations of each building indicate a variety of materials including sandstone cladding, face brickwork, rendered and painted brickwork and metal cladding in a natural colour palette including brown, white, grey and sandstone. The balconies include a combination of rendered or glass balustrades, some including fixed aluminium louvres and planter boxes. The modern design of the building is in keeping with the desired future character of the area.

2.6.2 Site Requirements

The *HDGP* requires sites to have a minimum frontage of 30 metres. The subject site has a frontage of 145.3m to Cliff Road and complies with this requirement. The proposed development would not result in an isolated site or compromise development in accordance with the *HDGP*.

2.6.3 Height

The proposed five storey building marginally exceeds the 17.5m maximum building height development standard by up to 0.46m as previously discussed in Section 2.1.2 and 2.1.3 of this report. The mezzanine floor incorporated within the 5th storey is generally limited to a third of the floor space of each unit below. The proposed buildings involve excavation works

for the basement car park and for finished ground levels. The height of the lowest residential floor above ground level is less than 1m for Blocks B and C and 1.1m for Block A which complies with the 1.5m maximum requirement.

The roof design incorporates flat pitched roof without parapets and include wide eaves on all elevations as required by the *HDCP*. The proposal would be compatible with the built form envisaged for this redevelopment precinct. Accordingly, the proposed development is considered satisfactory in respect to five storey built form.

2.6.4 Setbacks

Southern Rear Setback

The *HDCP* allows the external walls of the buildings to be setback 8m for a maximum of 1/3 of the building width. The proposal incorporates a slight encroachment to this measure by incorporating a 8m setback for 13.6m of building width for Block A, B and C which exceeds the requirement by a building width of 0.6m for each building.

Despite the minor variation, the rear elevations do not face the public domain, are well-articulated incorporating numerous steps and indentations along the building façade and would meet the articulation objectives of the *HDCP*. In this regard, the proposed non-compliance is considered to be acceptable.

Eastern and Western Side Setbacks

The *HDCP* allows up to 1/3 of the building to be setback between 4m and 6m to a side boundary. The development does not fully comply as more than 1/3 of the external enclosing walls are setback at 4.89m. Notwithstanding, these encroachments include wrap around balconies which contribute to the articulation of the building. In addition, where the setback is less than 6m, the windows or balconies incorporate privacy screens or highlight windows to protect the amenity of the adjacent property. A set of ground fire stairs are located within both the eastern and western landscaped setbacks. However, these are open fire stairs without a roof and are not perceptible when viewed from the public domain.

As the development does not compromise the setback element objective of requiring well-articulated buildings that are setback to incorporate landscaping, open space, privacy and separation between buildings and is considered to be acceptable.

Basement Parking Setbacks

The *HDCP* requires a 7m setback for basements from front and rear boundaries and 4m from side boundaries to allow for deep soil landscaping. The proposed development generally complies with these requirements with the exception of a 3m setback from fire stairs located within both the eastern and western setbacks which does not fully comply with this control. Notwithstanding, the fire stairs are for a length of 5m and is located towards the front of the site. The landscape plan indicates that the proposal provides sufficient large canopy trees within the front and rear setbacks and condition No. 51 requires additional medium sized canopy trees to be provided within the side setbacks. With conditions, the non-compliance is supported as it does not compromise the setback element objective of requiring well-

articulated buildings that are setback to incorporate landscaping, open space, privacy and separation between buildings.

Top Storey Setback

The *HDCP* requires 5 storey residential flat buildings to incorporate a 3m additional setback for the top storey on all elevations. The top storey 3m setback is provided for each elevation on each building, except within the 4m x 4m building indentations. Within the building indentation of the front and rear elevations of each building, a 1.5m to 2m setback has been provided. Within the building indentation of the side elevations, a 0.4m setback has been provided for both eastern and western elevations of each building. This is in keeping with the intent of the top storey setback control to provide for a top storey that steps back from the walls below and reduce the maximum sheer vertical rise of the building to be limited to 4 storeys in accordance with the *HDCP*. In this regard, the proposed minor variations are considered to be acceptable.

2.6.5 Built Form and Separation

The building separation between proposed Block A and B and Block B and C range from 10 metres to 20 metres which exceeds the 9 metre minimum building separation required between buildings on larger sites. Whilst the wrap around balconies between each building on levels 1 to 3 does not comply with the minimum 12 metre building separation required by the *RFDC* for balconies, privacy mitigation measures are proposed by the implementation of privacy screens on the western side of Block B and Block C.

The subject site comprises eight allotments with a frontage of 146m to Cliff Road. Given the width of the site and taking into consideration minimum side boundary setbacks and building separation requirements, three buildings are proposed each with floorplate dimensions of 39m (E-W) and 31m (N-S) which does not comply with the maximum floorplate of 35m prescribed within the *HDCP*. However, the proposal incorporates a 4m x 4m indentation on each façade and the use of wrap-around balconies which has the effect of reducing the bulk and scale of the building by breaking up the built form. In addition, the front façade of each building has been treated differently, with a variety of materials and different architectural features which break up the massing and modulates the overall design when viewed from the streetscape. The proposal is satisfactory in achieving the desired outcome of the *HDCP* for building form and separation.

2.6.6 Landscaping

The site includes five significant trees numbered 45 *Eucalyptus pilularis* (Blackbutt), 46 *Angophora costata* (Sydney Red Gum), 53 *Syzygium smithii* (Lilly Pilly), 55 *Melaleuca quinquenervia* (Broad-leaved Paperbark) and 72 *Melaleuca lineariifolia* (Snow-in Summer). Trees numbered 45 and 46 and 55 are located at the front of the site or on Council's nature strip on Cliff Road. Tree numbered 53 is located at the rear boundary behind proposed Block B and tree numbered 72 is located on the boundary of the rear adjoining property at No. 28 Carlingford Road. The Arborist Report submitted indicates that all significant trees would be retained and appropriate tree protection measures would be erected around these trees. Conditions are recommended to ensure that these tree protection measures are implemented.

The submitted landscape plans includes a range of exotic and locally indigenous plant species within the front and rear including *Angophora costata* (Sydney Red Gum), *Corymbia maculata* (Spotted Gum), *Elaeocarpus reticulatus* (Blue berry ash) and *Banksia integrifolia* (Coastal Banksia) which are suitable canopy trees. However, the landscape plan indicates an insufficient provision of medium canopy trees along the side setbacks with only *Syzygium* (Cascade) trees which grow to a mature height of 2.5 metres along the side property boundaries which does not comply with the *HDCP* which requires the provision of canopy trees that would reach a mature height of 6 to 7 metres within the side setbacks. In this regard, condition No. 51 is recommended requiring additional canopy tree planting within the eastern and western side setbacks.

It is noted that the landscape plan is required to be updated to reflect DA111 Ground Floor Plan Rev R drawn by BKA Architects dated 17 April 2015. This is addressed in consent condition No. 3.

Subject to recommended conditions, the proposed landscaping meets the *HDCP* desired outcomes for landscaping.

2.6.7 Open Space

The proposed communal open space areas comply with the prescriptive area requirements and a principle communal open space area of at least 50 square metres with a minimum dimension of 4m has been provided at the front of the site for Block A and at the rear of the site for Blocks B and C. The principle communal open space areas for each Block would receive at least 2 hours of sunlight between 9am – 3pm during mid-winter and can be accessed from the foyer via the front and rear entry doors centrally located on each building which provides convenient access from all units. In addition, passive surveillance from rear facing balconies results in high visibility.

The proposed private open space areas comply with the required dimensions and areas in accordance with the *HDCP*. The majority of balconies exceed the minimum area requirements and would provide for adequate screened outdoor clothes drying areas.

2.6.8 Privacy and Security

The proposed development is appropriately designed for privacy with the majority of units having an external outlook. Appropriate privacy mitigation measures including privacy screens on balconies, planter boxes and highlight windows have been implemented on the façades where the building separation is less than the minimum 12 metres as required by the *RFDC*.

The proposed development would provide for casual surveillance of the public domain and communal open space areas. Appropriate conditions are recommended for security access and crime prevention.

Subject to conditions, the proposal complies with the requirements of the *HDCP*.

2.6.9 Sunlight and Ventilation

The proposed development is able to comply with the *HDCP* prescriptive measure for at least 70% of dwellings to receive 2 or more hours of sunlight to living room windows and private open space. The proposal complies with the requirement for at least 60% of dwellings to have dual aspect and natural cross ventilation.

The solar access diagrams submitted indicate the overshadowing impacts of the development to adjoining properties at 9am, 12pm and 3pm on June 22. The extent of overshadowing likely to occur would generally be consistent with that expected within the redevelopment precinct, if the development generally complies with the height and setback controls.

2.6.10 Housing Choice

The proposed buildings include a mix of one, two and three bedroom units that range in size and style. The proposal is for 66 x 1 bed, 57 x 2 bed and 18 x 3 bed units. The proposed housing mix complies with the *HDCP* requirement for at least 10% of each dwelling type. Adaptable dwellings are able to comply with the 30% required by the *HDCP*.

2.6.11 Vehicular Access and Parking

Vehicle access to Blocks A, B and C is proposed to the joint basement via a shared driveway off Cliff Road between Buildings B and C that varies in width from 6m adjacent to the road, to a 4m wide single laneway. The driveway is designed to accommodate Council's Small Rigid Vehicle garbage truck and complies with the Australian Standard for driveway widths and gradients. The proposal includes 179 car parking spaces to be utilised by residents and visitors, 29 bicycle tracks, 18 visitor bicycle racks and 4 motorbike spaces which exceeds the requirement of 134 resident spaces, 20 visitor spaces, 28 bicycle tracks, 14 visitor bicycle racks and 4 motorbike spaces as required by the *HDCP* and is considered to be acceptable.

2.6.12 Waste Management

Waste Management Plans for the demolition, construction stage and on-going use of the proposed development were submitted with the application. This has been assessed as satisfactory subject to recommended conditions of consent as detailed below.

For each building, a garbage chute and a recycling bin are provided on each level. For 141 dwellings, the development would require 12 x 660L garbage bins serviced twice weekly, 30 x 240L recycling bins serviced weekly and 3 x 660L cardboard/paper bin. The development will also require spare bins to use while the full bins are awaiting collection (an additional 3 x 660L garbage bins and 15 x 240L recycling bins). The plans indicate that the required number of bins has been provided.

A basement bin room is provided under each building resulting in a total of 3 bin rooms within the basement. The bin room for Blocks A, B and C are of sufficient size to house the required number of bins. A garbage chute and recycling bin cupboard are shown on the all levels. Except for the ground floor, these bin cupboards are of a sufficient size. The ground floor cupboard and a 660L bin is only 800mm deep so there may be problems with closing the cupboard door. In this regard, consent condition No. 11 is recommended requiring the ground floor cupboard depths to be at least 950mm in depth.

A bulky waste storage area of 21m² is shown on the plans in Building B near the ramp to building A which complies with Council's minimum requirement of at least 8m². All bin transfers between the waste facility on each level and the basement garbage are to be carried out by the site caretaker.

The proposed waste management system would require the Small Rigid Vehicle (SRV) waste collection vehicle to enter the basement and provide vehicular manoeuvres to exit in a forward direction. Vehicular swept paths were provided with the application and demonstrate that an SRV can enter and exit the basement in a forward direction.

The proposed system would also require a site caretaker to transfer the bins with a motorised trolley or similar via a bin carting route from the basement and vehicular ramp to the ground floor bin collection area.

The proposed waste management system is satisfactory in respect to the *HDCP* controls subject to recommended conditions.

2.6.13 Heritage

The proposed development is not within a site that contains a heritage listed item or a heritage conservation area. A heritage conservation area is within the vicinity of the site. This has been addressed in Section 2.1.4 Heritage Conservation of the report.

2.7 Section 94 Contributions Plans

Hornsby Shire Council Section 94 Contributions Plan 2012-2021 applies to the development as it would result in an additional 133 residential dwellings in lieu of the 8 existing residences. Accordingly, the requirement for a monetary Section 94 contribution is recommended as a condition of consent.

3. ENVIRONMENTAL IMPACTS

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

3.1 Natural Environment

3.1.1 Tree and Vegetation Preservation

The proposed development would necessitate the removal of 38 trees from the site (trees numbered 2, 11-15, 19, 20, 21, 23, 24, 28, 33, 35, 36, 38-41, 43, 47-52, 54, 57, 58, 59, 63, 64, 67-71 and 76) as identified on the Detail and Level Survey of Lots 30 to 37, REF: 6359, prepared by SDG Land Development Solutions, dated 5 August 2014. None of the trees to be removed are identified as 'significant trees' in accordance with the Tree and Vegetation provisions of the *HDCP*. The application has been supported by an arborist report that assesses existing trees and concludes that all 5 significant trees would be retained and the proposed development would not impact within the trees' full Tree Protection Zones. In addition, 13 large established exotic trees would also be retained and protected.

Council's assessment of the proposal included a detailed examination of the existing trees on site and does not raise objection to the proposed removal of exotic trees, subject to replacement planting in accordance with the submitted landscape plan and consent conditions requiring additional medium canopy trees to be planted within the eastern and western side setbacks. The landscape plan includes a range of locally native plant species to achieve canopy trees, shrub layer and ground covers within the front and rear setbacks. The landscaping of the site has been discussed in Section 2.6.6 of this report. Subject to conditions and on-going maintenance of the landscaped areas, the development would achieve a landscape setting and would be acceptable with respect to natural environment.

The proposal is acceptable in relation to the natural environment.

3.1.2 Stormwater Management

The application proposes to dispose of stormwater from the development by a stormwater and infiltration system via in-ground on-site detention (OSD) tanks with a storage capacity of 14m³ which are located adjacent to the eastern façade of each building to drain into Council stormwater drainage system in Cliff Road.

As the overall site area is greater than 2000m² the development is required to achieve the water quality targets in Table 1C.1.2(b) of the *HDCP*. The *HDCP* also requires that a Water Sensitive Urban Design (WSUD) Strategy and Model for Urban Stormwater Improvement Conceptualisation (MUSIC) model or equivalent is required to be submitted and assessed as part of the development application. As this was not provided with the application, deferred commencement condition No. 1a) is recommended, requiring the submission of a MUSIC model and engineering plans detailing the engineering works required to achieve the Water Quality targets as detailed in Councils DCP for the site.

Council's engineering assessment concludes that the proposed stormwater management system is satisfactory subject to recommended conditions of consent in Schedule 1.

3.2 Built Environment

3.2.1 Built Form

The proposed buildings would be located within a precinct identified with a future character of residential flat buildings of varying heights in garden settings with parking in basements. The built form would be consistent with the desired future character of the precinct.

3.2.2 Traffic

A traffic and parking assessment has been submitted with the proposal which estimates that the proposed development would generate an additional 20 vehicle trips per hour during the AM peak period and 15 vehicle trips per hour during the PM peak period which is considered negligible when compared with the traffic volumes on the adjacent road network for this development alone. However, the cumulative traffic impacts of all sites earmarked for redevelopment in the precinct would be significant. The cumulative impact has been considered in the strategic transport model for Epping Town Centre Urban Activation Precinct (ETCUAP). The NSW Government has committed funding to address short term (to 2016) regional traffic growth. The traffic study acknowledged that although the works identified

would assist traffic flows, strategies to manage demand by reducing car usage will be more critical than strategies to increase capacity of existing roads.

In this regard, Council's engineering assessment of the traffic impacts of the development concludes that the proposal is satisfactory.

3.3 Social Impacts

The residential development would improve housing choice in the locality by providing a range of house hold types. This is consistent with Council's Housing Strategy which identifies the need to provide a mix of housing options to meet future demographic needs in Hornsby Shire.

The location of the development is in close proximity to Epping Railway station and Epping Town centre which would provide a mix of recreational, health and education facilities for future residents.

3.4 Economic Impacts

The proposal would have a minor positive impact on the local economy via employment generation during construction and by generating an increase in demand for local services following completion of the development.

4. SITE SUITABILITY

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

The subject site is zoned for five storey residential development and the proposal involves 3 x five storey residential flat buildings. The subject site has not been identified as bushfire prone or flood prone land. The site is considered to be capable of accommodating the proposed development. The scale of the proposed development is consistent with the capability of the site and is considered acceptable.

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 14 January 2015 and 28 January 2015 in accordance with the Notification and Exhibition requirements of the HDCP. During this period, Council received two submissions. The map below illustrates the location of those nearby landowners who made a submission that are in close proximity to the development site.



NOTIFICATION PLAN

• PROPERTIES NOTIFIED	X SUBMISSIONS RECEIVED	 PROPERTY SUBJECT DEVELOPMENT	OF	

Two submissions objected to the development, generally on the grounds that the development would result in:

- Unacceptable noise and air pollution impacts during demolition and construction

The merits of the matters raised in community submissions are addressed by the following:

5.1.1 Demolition and construction impacts

Concerns were raised regarding unacceptable noise and air pollution impacts that would result from the demolition and construction of the proposed development. Consent condition No. 30 has been included to limit the hours of construction noise and consent condition No. 32 has been included to ensure that all demolition work is carried out in accordance with Australian Standard 2601-2001 – The Demolition of Structures. Where asbestos material is being removed, the demolition works must be undertaken by a contractor that holds an appropriate licence issued by WorkCover NSW.

5.2 Public Agencies

The development application was not referred to any Public Agencies for comment.

6. THE PUBLIC INTEREST

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

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

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

CONCLUSION

The application proposes the demolition of existing dwellings and the construction of 3 x five storey residential buildings comprising 141 units and joint basement car parking.

The proposed development is in accordance with the provisions of the *HLEP*, except for Clause 4.3 which prescribes the maximum building height of 17.5m for the site. In accordance with Clause 4.6 of the *HLEP*, the applicant made a submission in support of the height variation. Based on a detailed assessment of Clause 4.6 and the ‘five part test’ established by the Land and Environment Court, strict compliance with the development standard was found to be unreasonable and unnecessary in the circumstances of the case. Accordingly, the applicant’s Clause 4.6 submission is supported.

The proposal complies with the key principles for the Cliff Road, Epping precinct prescribed in the *HDCP*. Whilst the proposal does not comply with the numerical requirements for setbacks and floor plate dimensions as prescribed in the *HDCP*, the proposal meets the desired outcomes for each of the elements.

The proposed development is generally in accordance with the Design Quality Principles of SEPP 65m, the best practice requirements of the *Residential Flat Design Code*.

Two public submissions were received raising concerns regarding the air and noise pollution resulting from the demolition and construction of the development.

It is considered that the development is a reasonable response to the site and a genuine attempt has been made for the development to comply with the planning controls within the envisaged precinct. Subject to recommended conditions, the proposed development is considered to be acceptable.

The application is recommended for approval.

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

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Attachments:

1. Locality Plan

2. Survey Plan
3. Site Plan
4. Landscape Plan
5. Floor Plans
6. Elevations and Section
7. Shadow Plans
8. Photomontage
9. Height Study
10. External Finishes Schedule

SCHEDULE 1

GENERAL CONDITIONS

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

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

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

1. Deferred Commencement

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

- a) Submission of a MUSIC model and engineering plans detailing the engineering works required to achieve the Water Quality targets as detailed in the Hornsby Development Control Plan 2013.

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

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

2. Approved Plans and Supporting Documentation

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

Plan No.	Drawn by	Dated
Survey Plan	SDG Land Development Solutions	5/8/2014
DA101 Site Analysis Rev A	BKA Architects	20/11/2014
DA102 Site Plan Rev A	BKA Architects	20/11/2014
DA110 Basement Floor Plan Rev K	BKA Architects	17/4/2015
DA111 Ground Floor Plan Rev R	BKA Architects	17/4/2015
DA112 Level 1 Floor	BKA Architects	17/4/2015

Plan Rev O		
DA113 Level 2 Floor Plan Rev K	BKA Architects	17/4/2015
DA114 Level 3 Floor Plan Rev O	BKA Architects	17/4/2015
DA115 Level 4 Floor Plan Rev O	BKA Architects	17/4/2015
DA116 Mezzanine Floor Plan Rev O	BKA Architects	11/5/2015
DA117 Roof Plan Rev I	BKA Architects	17/4/2015
DA200 Elevations 01 Rev M	BKA Architects	17/4/2015
DA201 Elevations 02 Rev I	BKA Architects	17/4/2015
DA300 Sections Rev H	BKA Architects	17/4/2015
DA500 Deep Root Planting Calculations Rev D	BKA Architects	15/4/2015
DA501 Proposed Common Open Space Calculations Rev D	BKA Architects	15/4/2015
DA510 Site Setbacks Calculations Rev D	BKA Architects	15/4/2015
DA520 Height Study Rev C	BKA Architects	15/4/2015
DA800 External Finishes Schedule Rev F	BKA Architects	17/4/2015
DA812 Shadow Diagrams Rev D	BKA Architects	17/4/2015
DA850 Photomontage Rev D	BKA Architects	5/5/2015
LPDA15-141/1 Landscape Plan Rev E	Conzept Landscape Architects	April 2015
SP1-SP5 Swept Path Analysis	Transport and Traffic Planning Associates	Undated
HDA01/P1 to HDA07/P1 Stormwater Management Plans and	AJ Whipps Consulting Group	18/11/2014

Erosion and Sediment Control details		
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Document No.	Prepared by	Dated
Waste Management Plan	Elephants Foot Recycling Solutions	26/2/2015
Basix Certificate No. 590160M_02	Efficient Living P/L	18/5/2015
Clause 4.6 Submission	JBA Urban Planning P/L	April 2015
BCA Compliance Report	City Plan Services	20/11/2014
Access Report	City Plan Services	20/11/2014
Acoustic Planning Report	Resonate Acoustic	14/11/2014
Report on Preliminary Investigation for Contamination	Douglas Partners	Nov 2014
Geotechnical Report	Douglas Partners	Nov 2014
Assessment of Traffic and Parking Implications Rev E	Transport and Traffic Planning Associates	Nov 2014
Arborist Report	TLC Tree Solutions	18/11/2014
Statement of Environmental Effects	JBA Urban Planning P/L	Nov 2014
Quantity Surveyor's Report	Altus Page Kirkland	18/11/2014
Biodiversity Impact Assessment	Environmental Assessments P/L	Nov 2014

3. Amendment of Plans

The approved plans are to be amended as follows:

- a) All units are to provide storage areas which are accessible from either the hall or living area of at least 3m³ for 1 bedroom units, 4m³ for 2 bedroom units and 5m³ for 3 bedroom units.
- b) The Landscape Plan numbered LPDA15-141/1 Rev E drawn by Conzept Landscape Architects and Site Plan numbered DA102 Rev A drawn by BKA Architects dated 20/11/2014 are required to be updated to reflect the Ground Floor Plan numbered DA111 Rev R drawn by BKA Architects dated 17 April 2015.

4. Removal of Existing Trees

This development consent only permits the removal of tree(s) numbered 2,11-15, 19, 20, 21, 23, 24, 28, 33, 35, 38-41, 43, 47-52, 54, 57, 58, 59, 63, 64, 67-71 and 76 as identified on the Detail and Level Survey of Lots 30 to 37, REF:6359, prepared by SDG Land Development Solutions dated 05/08/2014.

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

5. Section 94 Development Contributions

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

Description	Contribution (4)
Roads	\$97,785.95
Open Space and Recreation	\$1,503,147.50
Community Facilities	\$209,600.80
Plan Preparation and Administration	\$6,212.40
TOTAL	\$1,816,746.65

being for 66 x 1 bedroom units, 57 x 2 bedroom units, 18 x 3 bedroom units and including a credit for 8 existing allotments.

- b) If the contributions are not paid within the financial quarter that this consent is granted, 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:

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

Where:

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

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

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

CPI_{DC} is the Consumer Price Index (Sydney – All Groups) for the financial quarter at the date of this Development Consent.

- c) The monetary contributions shall be paid to Council:

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

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

Council's Development Contributions Plan may be viewed at www.hornsby.nsw.gov.au or a copy may be inspected at Council's Administration Centre during normal business hours.

6. Construction Certificate

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

REQUIREMENTS PRIOR TO THE ISSUE OF A CONSTRUCTION CERTIFICATE
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7. Building Code of Australia

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

8. Contract of Insurance (Residential Building Work)

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

9. Notification of Home Building Act, 1989 Requirements

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

- a) In the case of work for which a principal contractor is required to be appointed:
 - i) The name and licence number of the principal contractor; and
 - ii) The name of the insurer by which the work is insured under Part 6 of that Act.

- b) In the case of work to be done by an owner-builder:
 - i) The name of the owner-builder; and
 - ii) If the owner-builder is required to hold an owner-builder's permit under that Act, the number of the owner-builder's permit.

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

10. Water/Electricity Utility Services

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

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

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

11. Waste Management Details

The following waste management requirements must be complied with:

- a) The approved on-going waste management system must not be amended without the written consent of Council.
- b) The access way (including ramp, vehicle turning area, loading bay and site entry/exit) to be used by waste collection vehicles, must be designed in compliance with Australian Standard AS2890.2-2002 Parking Facilities Part 2: Off-street Commercial Vehicle Facilities for small rigid vehicles.
- c) The depth of the paper/cardboard bin cupboards on the ground floor of each building must be no less than 950mm.

12. Sydney Water – Quick Check

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

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

13. Dilapidation Report

A 'Dilapidation Report' is to be prepared by a 'chartered structural engineer' detailing the structural condition of the following properties:

- a) 9 and 29 Cliff Road
- b) 16, 18, 20, 22, 24, 26-28 and 30 Carlingford Road

14. Adaptable Units

The details of all adaptable units must be provided with the Construction Certificate Plans.

15. Preservation of Survey Infrastructure

Prior to the issue of a construction certificate, a registered surveyor shall identify all survey marks in the vicinity of the proposed development. Any survey marks required to be removed or displaced as a result of the proposed development shall be undertaken by a registered surveyor in accordance with Section 24 (1) of the Surveying and Spatial Information Act 2002 and following the Surveyor General's Directions No.11 – "Preservation of Survey Infrastructure".

16. Construction Traffic Management Plan

A Construction Traffic Management Plan detailing construction vehicle routes, number of trucks, hours of operation, access arrangements and traffic control should be submitted to Council prior to the issue of a Construction Certificate.

17. Traffic Control Plan

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

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

18. Stormwater Drainage

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

- a) Connected to an existing Council piped drainage system/street gutter via an on-site detention system and treatment of water to achieve the target set put in table 1C.1.2(b) Urban Stormwater Quality Targets of Council DCP. Capacity of the street gutter is to be verified prior to discharging (to the gutter).

- b) Be designed by a Chartered Professional Engineer/Civil Engineer of the Institution of Engineers, Australia.
- c) A construction certificate application is to be submitted to Council for discharging stormwater to a Council pit.

19. 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) Storage capacity to accommodate volume from up to 20 years ARI (average recurrence interval) and a maximum discharge (when full) limited to 5 years pre development rate.
- 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.
- f) Detail calculations are to be shown in construction certificate plan.

20. Vehicular Crossing

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

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

21. Internal Driveway/Vehicular Areas

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

- a) Design levels at the front boundary must be obtained from Council;

- b) The driveway must be a rigid pavement;

REQUIREMENTS PRIOR TO THE COMMENCEMENT OF ANY WORKS
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22. Erection of Construction Sign

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

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

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

23. Protection of Adjoining Areas

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

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

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

24. Toilet Facilities

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

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

25. Erosion and Sediment Control

Erosion and sediment control measures must be provided and maintained throughout the construction period in accordance with the manual *'Soils and Construction 2004*

(Bluebook)', the approved plans, Council specifications and to the satisfaction of the principal certifying authority. The erosion and sediment control devices must remain in place until the site has been stabilised and revegetated.

Note: On the spot penalties may be issued for any non-compliance with this requirement without any further notification or warning.

26. Project Arborist

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

27. Tree Protection Barriers

Tree protection fencing must be erected around trees numbered [1](#), [22](#), [27](#), [39](#), [44](#), [45](#), [46](#), [53](#), [55](#), [65](#), [66](#), [73](#), [74](#), [75](#), [79](#) and [80](#) at the distances specified for Tree Protection Zones (TPZ) in the Arboricultural Impact Statement and Management Plan, Section 4 (Summary of Trees to be Retained) as indicated in Section 5 (Proposed Tree Protection Zones), prepared by Tony Lydon, TLC Tree Solutions, dated 18 November 2014.

The tree fencing must be erected in accordance with the requirements of Section 4 (Conduct of Tree Protection Zones) 4.1, specified in the Tree Management Plan, prepared by Tony Lydon, TLC Tree Solutions.

Within the public domain, fencing must facilitate pedestrian thoroughfare.

28. Tree Ground Protection

Protection of the designated Tree Protection Zones shall be in accordance with Section 7 (Additional Treatments within Tree Protection Zones), specified in the Tree Management Plan, prepared by Tony Lydon, TLC Tree Solutions.

29. Tree Canopy Pruning

All tree work must be carried out in accordance with the applicable provisions of the Hornsby Development Control Plan (HDCP) Section 1B.6, Tree and Vegetation Preservation.

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

REQUIREMENTS DURING DEMOLITION AND CONSTRUCTION

30. Construction Work Hours

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

31. Asbestos and Soil Contamination

Should the presence of asbestos or soil contamination, not recognised during the application process be identified during works, the applicant must immediately notify the principal certifying authority and Council.

32. 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.

33. 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.

34. Street Sweeping

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

35. Disturbance of Existing Site

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

36. Landfill

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

- a) All fill material imported to the site is to wholly consist of Virgin Excavated Natural Material (VENM) as defined in Schedule 1 of the *Protection of the*

Environment Operations Act 1997 or a material approved under the *Department of Environment and Climate Change's* general resource recovery exemption.

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

37. 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.

38. Works Near Trees

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

Existing soil grades within the fenced Tree Protection Zones of trees to be retained must be maintained.

Machinery must remain outside the fenced Tree Protection Zones.

Where any works must be undertaken within 7m of trees numbered 27, 39, 45, 46 & 73, it must be carried out under the following conditions:

39. Survey Report – Finished Floor Level

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

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

40. Project Arborist

Works must not reduce the useful life expectancy of the tree and be carried out under the direct supervision of the Project Arborist. The project arborist must assess the condition of tree/s and the growing environment and make recommendations for, and if necessary carry out remedial action to ensure the health and vigour the trees.

41. Excavation

Excavation to a depth of one metre (1m) to facilitate the construction of the basement and the stormwater shall be carried out by hand excavation ONLY.

42. Root Pruning

Tree roots greater than 300mm diameter must remain intact.

Tree roots less than 30mm diameter required to be severed for the purposes of this consent shall be cut cleanly by hand, by a qualified and experienced Arborist or Horticulturalist with minimum qualifications of Horticultural Certificate or Tree surgery Certificate (AQF 3). All pruning must be undertaken in accordance with the Australian Standard 'Pruning of Amenity Trees' (AS 4374-2007).

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

43. Work Zone

All demolition and construction vehicles must be contained wholly within the site or in an approved "Work Zone" in Cliff Road.

44. Council Property

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

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

45. Waste Management Details

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

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

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

REQUIREMENTS PRIOR TO THE ISSUE OF AN OCCUPATION CERTIFICATE

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

46. Consolidation of Allotments

All allotments contain in 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.

47. Fulfilment of BASIX Commitments

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

48. Sydney Water – s73 Certificate

A s73 Certificate must be obtained from Sydney Water.

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

49. Damage to Council Assets

Any damage caused to Council's assets as a result of the construction or demolition 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

50. Planter Boxes/On slab planting

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

51. Additional tree planting

Additional tree planting to the on-grade landscape setback areas must include:

- a) Eastern side boundary - four (4) x *Waterhousia floribunda* trees shall be installed at minimum 75 litre pot size.
- b) Western side boundary - three (3) x *Waterhousia floribunda* trees shall be installed at minimum 75 litre pot size.

52. Street Tree Plantings

All existing street trees except for existing tree number 1 (*Eucalyptus microcorys* Tallowood) on the landscape plan shall be removed from the front street verge outside of 11- 27 Cliff Road. Replacement planting to this front verge shall be ten (10) *Lophostemon confertus* (Brush box) at 15 metre spacing. Trees are to be located in mulched planted beds 1000m long and min 600mm wide, have 3 x hardwood stakes and be installed at minimum 200 Litre pot size. Trees are to be located to ensure safe sight lines for cars leaving driveways.

53. Completion of Landscaping

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

Note: Applicants are advised to pre-order plant material required in pot sizes 45 litre or larger to ensure Nurseries have stock available at the time of install.

54. Landscape Establishment

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

55. Safety and Security

- a) Fire exit doors to the development must be fitted with single cylinder locksets (Australia and New Zealand Standard – Lock Sets) to restrict unauthorized access to the development.
- b) Ground floor windows must be fitted with window locks that can be locked with a key.
- c) The basement car park entry must be secured by security gates/roller shutters. The access control to include an audio/visual intercom system to allow visitor access to the parking area.
- d) Lighting of pedestrian pathways throughout the development must comply with Australia and New Zealand Lighting Standard 1158.1 – Pedestrian.
- e) Sign posting and way finding signage to be clear and legible so that emergency services are able to clearly identify location of a unit and location of the unit block entry.
- f) Front fencing to be designed to allow casual surveillance at the frontage.
- g) Lobby access to be controlled by security card or similar.

56. Bio-Retention System

An engineer's certificate is required certifying that the constructed bio retention system will achieve the water quality targets as detailed in Councils DCP. The Certificate is to be issued prior to the issue of the Occupation Certificate.

57. Road Works

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

- a) The concrete footpath, kerb and gutter along frontage of the development are to be replaced. The existing road pavement to be saw cut a minimum of 300 mm from the existing edge of the bitumen and reconstructed.
- b) A construction certificate is to be submitted to Council for approval.

Note: Council is the only authority to approve works within Council roads.

58. 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 and on-site detention system.

59. Creation of Easements

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

- a) The creation of an appropriate "*Positive Covenant*" and "*Restriction as to User*" over the constructed on-site detention and bio retention systems and outlet works, within the lots in favour of Council in accordance with Council's prescribed wording. The position of the on-site detention and bio retention systems are to be clearly indicated in a plan.
- b) To register the OSD and bio retention positive covenant and the restriction on the use of land, "*works-as-executed*" details of the on-site-detention and bio retention systems must be submitted verifying that the required storage area and discharge rates and water quality will be achieved in accordance with the design requirements. The details must show the invert levels of the on-site detention system together with pipe sizes, grades and water quality treatment structures. 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.

60. Certificate of Preservation of Survey Marks

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**".

61. 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.

62. Waste Management Details

The following waste management requirements must be complied with:

- a) Prior to an Occupation Certificate being issued or the use commencing, whichever is earlier, 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 includes everything required for on-going waste management on the site. For example 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, waste collection vehicle access, etc.

- b) The bin storage room at the basement level must include water or a hose for cleaning, graded floors with drainage to sewer, a robust door, sealed and impervious surface, adequate lighting and ventilation, and must be lockable. The waste facility rooms/cupboards at each residential level must include sealed and impervious surface, adequate lighting and ventilation.
- c) 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.
- d) 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.
- e) 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.

- f) The bin carting routes must be devoid of any steps.
Note: Ramps between different levels are acceptable.
- g) A survey of the finished access way (including ramp, waste collection vehicle turning area, loading bay and site entry/exit) to be used by SRV waste collection vehicle, must be carried out by a registered surveyor and submitted to the principal certifying authority. Written confirmation must be submitted to the Principal certifying authority from a qualified Traffic Engineer, that this survey confirms the finished access way within the waste collection vehicle turning path was designed and constructed in compliance with Australian Standard AS2890.2-2002 Parking Facilities Part 2: Off-street Commercial Vehicle Facilities for small rigid vehicles.
- h) The 3.5 metre clearance height within the waste collection vehicle travel path must not be reduced by ducting, lights, pipes or anything else.
- i) Site security measures implemented on the property, including electronic gates, must not prevent access to the collection point by waste removal services.

OPERATIONAL CONDITIONS

63. Replacement Planting

- a) Planting shall be in accordance with the approved Landscape Plan
- b) Trees that fail to survive or do not exhibit normal health and vigour growth characteristics for their species prior to reaching a height greater than three metres (3m), must be replaced at the expense of the property owner.

Note: A certificate from suitably qualified and experienced Horticulturalist is to be submitted to the Principal Certifying Authority stating that all plant stock meet the specifications outlined in 'Specifying Trees' (Ross Clark, NATSPEC Books) and that the planting methods were current professional (best practice) industry standards at the time of planting.

64. Final Certification

The project arborist must assess the condition of trees and their growing environment and make recommendations for, and if necessary carry out remedial actions.

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.

65. 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.

66. Noise

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

67. 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*.

68. Car Parking

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

- 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 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) All vehicular entry to the site and egress from the site shall be made in a forward direction;
- e) Any proposed landscaping and/or fencing must not restrict sight distance to pedestrians and cyclists travelling along the footpath;

- f) Residential parking spaces are to be secure spaces with access controlled by card or numeric pad;
- g) Visitors must be able to access the visitor parking spaces in the basement car park at all times;
- h) All parking for people with disabilities is to comply with *Australian Standard AS/NZS 2890.6:2009 – Off Street Parking for People with Disabilities*;
- i) Bicycle parking spaces are to be designed in accordance with Australian Standard AS 2890.3:1993 – Bicycle Parking Facilities;
- j) Motorcycle parking spaces are to be designed in accordance with *Australian Standard AS 2890.5:1993*
- k) Access for garbage vehicles is to satisfy the requirements of Council's Waste Management Branch.

69. Waste Management

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

- a) A site caretaker must be employed and be responsible for moving bins where and when necessary, washing bins and maintaining waste storage areas, ensuring the chute system and related devices are maintained in effective and efficient working order, managing the communal composting area, managing the bulky item storage area, arranging the prompt removal of dumped rubbish, and ensuring all residents are informed of the use of the waste management system. The site caretaker must be employed for a sufficient number of hours each week to allow all waste management responsibilities to be carried out to a satisfactory standard.

70. Landscape Establishment

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

- 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 Preservation Order

In accordance with Clause 5.9 Hornsby Local Environment Plan (HLEP) a person must not ringbark, cut down, top, lop, remove, injure or wilfully destroy any tree or other vegetation to which any such development control plan applies without the authority conferred by a development consent or a permit granted by Council.

Fines may be imposed for non-compliance with both the HLEP and the HDCP.

Note: 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".

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.

Dial Before You Dig

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

Telecommunications Act 1997 (Commonwealth)

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

Asbestos Warning

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

www.environment.nsw.gov.au

www.nsw.gov.au/fibro

www.adfa.org.au

www.workcover.nsw.gov.au

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

House Numbering

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