

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

<b>JRPP No.</b>	2014SYW172
<b>DA Number</b>	DA/1440/2014 (Lodged 19/11/2014)
<b>Local Government Area</b>	Hornsby Shire Council
<b>Proposed Development</b>	Demolition of existing structures and construction of four, five-storey residential flat buildings comprising 76 units with basement car parking
<b>Street Address</b>	Lot B DP 358811, Lot 7 DP 663403, Lot 8 Sec 5 DP 758390 and Lot 1 DP 10511, Nos. 15, 17 and 19 Essex Street, Epping
<b>Applicant/Owner</b>	Applicant: Jinyan Development Management Pty Ltd Owners: Owen Michael Harrison and Patricia Elizabeth Harrison (Nos. 15 and 17) Keith Frudd and Jennifer Thomson (No. 19)
<b>Number of Submissions</b>	Ten (10)
<b>Regional Development Criteria (Schedule 4A of the Act)</b>	General Development Over \$20 Million Cost of Construction proposed = \$23.73 million
<b>List of All Relevant s79C(1)(a) Matters</b>	<ul style="list-style-type: none"> <li>• <i>Hornsby Local Environmental Plan 2013</i></li> <li>• <i>State Environmental Planning Policy No. 32 – Urban Consolidation</i></li> <li>• <i>State Environmental Planning Policy No. 55 – Remediation of Land</i></li> <li>• <i>State Environmental Planning Policy No. 65 – Design Quality Residential Flat Development</i></li> <li>• <i>Draft State Environmental Planning Policy No. 65 – Design Quality Residential Flat Development (Amendment No 3)</i></li> <li>• <i>State Environmental Planning Policy (Building Sustainability Index – BASIX) 2004</i></li> <li>• <i>State Environmental Planning Policy - Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005</i></li> <li>• <i>Hornsby Development Control Plan 2013</i></li> <li>• <i>Hornsby Section 94 Contributions Plan 2012-2021-</i></li> </ul>
<b>List all documents submitted with this report for the panel's consideration</b>	Locality Plan, Basement Levels 1-2, Levels 1–6, Roof Plan, Elevations, Sections, Landscape Plans, Shadow Diagrams, Solar Access Analysis
<b>Recommendation</b>	Deferred Commencement Approval
<b>Report by</b>	Kendal Mackay - Consultant Planner (DFP Planning Pty Ltd)

## **ASSESSMENT REPORT AND RECOMMENDATION**

### **EXECUTIVE SUMMARY**

1. The application proposes demolition of three existing dwellings and ancillary structures and the erection of four, five storey residential flat buildings comprising 76 units with basement parking for 83 cars.
2. The proposal generally complies with *Hornsby Local Environmental Plan 2013*.
3. The Applicant's justification for the proposed variation to the maximum building height development standard under clause 4.6 of the *Hornsby Local Environmental Plan 2013* is acceptable.
4. The proposal is considered to be generally consistent with *State Environmental Planning Policy No. 65 – Design Quality Residential Flat Development* and the minor non-compliances with building separation, ground level private open space, building depth, natural light and storage requirements of the Residential Flat Design Code are supportable in this instance subject to conditions of consent.
5. The proposal is generally consistent with the relevant requirements of the Hornsby Development Control Plan 2013 and the minor non-compliances with the height (storeys), setbacks, building separation (internal), façade articulation and motor cycle parking are supportable in this instance.
6. Ten (10) submissions have been received in respect of the application.
7. It is recommended that the application be approved as a Deferred Commencement consent subject to conditions, pending formalisation of a drainage easement.

### **RECOMMENDATION**

THAT the Joint Regional Planning Panel (Sydney West) assume the concurrence of the Secretary of the Department of Planning and Environment pursuant to Clause 4.6 of *Hornsby Local Environmental Plan 2013* and approve Development Application No. 1440/2014 for demolition of existing structures and the erection of four, five-storey residential flat buildings containing 76 units with basement parking for 83 cars at Nos. 15, 17 and 19 Essex Street, Epping being Lot B DP 358811, Lot 7 DP 663403, Lot 8 Sec 5 DP 758390 and Lot 1 DP 10511 as a deferred commencement pursuant to Section 80(3) of the *Environmental Planning and Assessment Act, 1979* subject to the conditions of consent detailed in Schedule 1 of this report.

### **HISTORY OF THE SITE**

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

On 22 August 2014, a pre-lodgement meeting was held with Council. Key issues included site isolation, tree retention, building length and design, solar access and ventilation, SEPP 65 and RFDC compliance, waste management, stormwater and access/car parking.

On 19 November 2014, the subject application was lodged with Council. This original design was for 80 apartments in three buildings, including a 48.5m wide building across the entire street frontage.

Between January and March 2015, Council requested additional information and amended plans in respect of various matters including site isolation, building floorplates, building separation and setbacks, top storey setbacks, communal open space, private open space, tree preservation and stormwater.

On 15 May 2015, the Applicant met with Council to discuss options for site consolidation or amending the proposal to address Council's concerns.

On 15 June 2015, the Applicant lodged preliminary amended plans in response to the matters raised by Council. These amended plans split the front building into two separate buildings and reduced the number of apartments to 78.

On 17 June 2015, Council emailed the Applicant highlighting concerns with the proposal in regard to internal building separation, external building separation/setbacks, top storey setbacks/articulation, tree preservation, stormwater and construction management.

On 22 June 2015, the Applicant lodged amended plans and additional information with Council in response to the matters raised by Council. These plans did not adequately address Council's concerns in regard to building setbacks, privacy impacts on eastern adjoining properties or non-compliances with the RFDC and HDCP, particularly those relating to dwelling sizes, private open space and façade articulation.

On 15 October 2015, the Applicant lodged amended plans and additional information with Council which are considered to adequately respond to the Council's concerns. These plans further reduced the number of apartments to 76.

On 4 November 2015, the JRPP was briefed on the proposed development and requested that the Applicant submit an amended landscape plan which included retention of Trees 34 and 35 within the front setback. On 11 November 2015, this amended landscape plan was received by Council including retention of these trees.

## **SITE**

The Site comprises three properties known as Nos. 15, 17 and 19 Essex Street, Epping. Each property contains a single storey dwelling house with a variety of outbuildings.

The Site has a combined area of 3,931m<sup>2</sup>, is trapezoidal in shape, with a frontage to Essex Street of 56.84 metres and a depth of between 60-75 metres. The Site slopes approximately

4 metres down from the north-western corner fronting Essex Street to the south-eastern corner adjoining No. 7A Norfolk Road, providing a gradient of approximately 6% (1 in 17.5).

This Site is within the Epping Town Centre Urban Activation Precinct (ETCUAP), is 350 metres from Epping Railway Station and in close proximity to a range of retail, commercial, education, open space and recreational facilities in and around the Epping Town Centre.

The Site is within an existing residential area with a mixture of single dwelling houses and townhouses to the north, east and south. To the west is Essex Street with development opposite the Site being three storey residential flat buildings.

The locality north, south and west is undergoing transition from a low density to a high density residential area being within the ETCUAP. However, the Site is on the eastern edge of the R4 High Density Residential Zone with land to the east being within the R2 Low Density Residential Zone and predominantly within the Epping East Heritage Conservation Area.

On 11 March 2015, Council approved DA 1110/2014 at Nos. 7-9 Essex Street (further to the north of the Site) for redevelopment involving a five storey residential flat building containing 32 apartments.

## **PROPOSAL**

The proposal involves demolition of all existing structures and removal of 35 trees within the Site. Of note, Tree 41 - a *Eucalyptus paniculata* (Grey Ironbark) in the rear of the Site - is to be retained as are Trees 9, 10, 34 and 35 in the front setback.

The Site is to be excavated to approximately 8 metres to allow for construction of basement car parking over two levels for 83 vehicles (including 12 visitors) with access from Essex Street in the south-western corner of the Site.

The proposal entails construction of four, five-storey (two buildings with upper level mezzanine) residential flat buildings over the common basement levels with 76 units comprising 43 x 1-bedroom (57%), 25 x 2-bedroom (33%) and 8 x 3-bedroom (10%) apartments. Multiple pedestrian access points are to be provided from Essex Street.

It is proposed to drain stormwater to an OSD tank located in the north-eastern corner of the basement, via an easement over No. 22 Rockleigh Way to Council's infrastructure in Rockleigh Way.

## **ASSESSMENT**

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

## **1. STRATEGIC CONTEXT**

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

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

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

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

The proposed development would be consistent with '*A Plan for Growing Sydney*', by providing 73 additional dwellings and would contribute to housing choice in the locality.

## **2. STATUTORY CONTROLS**

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

### **2.1 Hornsby Local Environmental Plan 2013**

The relevant provisions of the Plan are discussed below.

#### **2.1.1 Land Use Zones and Permissibility**

The Site is zoned R4 High Density Residential (the R4 Zone) under the *Hornsby Local Environmental Plan 2013 (HLEP)*. The objectives of the R4 Zone are:

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

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

### 2.1.2 Height of Buildings

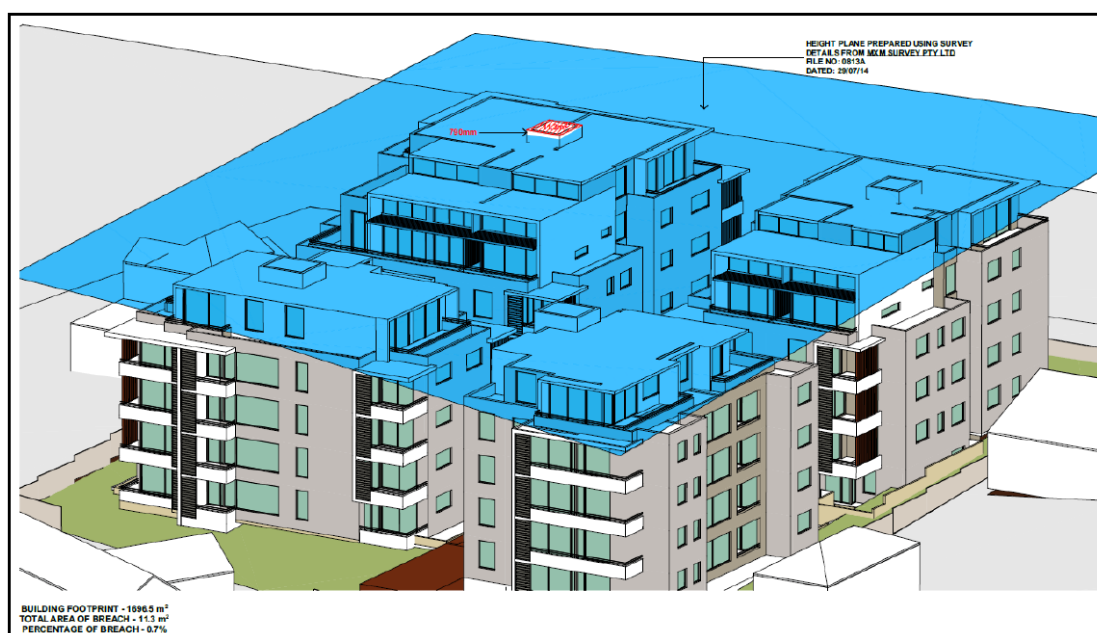
Clause 4.3 of the *HLEP* provides that the height of a building on any land is not to exceed the maximum height shown for the land on the Height of Buildings Map. The maximum permissible height for the Site is 17.5 metres.

The proposed development exceeds the maximum building height due to the lift overrun in Building B. The Applicant has submitted written justification for exceeding the 17.5 metre height limit, pursuant to Clause 4.6 – Exceptions to Development Standards and this is discussed in Section 2.1.3.

### 2.1.3 Exceptions to Development Standards

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

The Applicant has submitted an objection against Council's adherence to the development standard under Clause 4.3 of the *HLEP* for a maximum building height of 17.5 metres. The non-compliant part of the building is shown in the following illustration, which demonstrates that the lift overrun to Building B exceeds the maximum 17.5 metre building height limit by 790mm. Accordingly, the maximum building height is 18.29 metres to the top of this lift overrun.



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

The Applicant's justification for non-compliance with the 17.5 metre building height development standard relies upon the "5-part test" established by the NSW Land and Environment Court in *Winten Developments Pty Ltd v North Sydney Council* [2001] and

expanded upon in *Wehbe v Pittwater Council* [2007]. The “5-part test” can be summarised as follows:

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

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

- The building height control under HLEP is a development standard;
- The departure will have no negative consequences in terms of the proper management, development and conservation of natural and artificial resources, including agricultural land, natural areas, forests, minerals, water, cities, towns and villages for the purpose of promoting the social and economic welfare of the community and a better environment;
- The departure allows for the orderly and economic use of the site in a manner which otherwise achieves the outcomes and objectives of the relevant planning controls;
- The desired future character of the locality is achieved, as demonstrated at section 6.2 of the Statement of Environmental Effects accompanying the development application;
- Amenity is not compromised for the public domain in that the minor exceedences of the height control will not erode or diminish any public views, or result in excessive or unacceptable overshadowing of the public domain;
- Amenity is not compromised for adjacent or neighbouring residential sites. The minor exceedence of the height control will not erode or diminish any private view over the site, nor will it result in excessive or unacceptable overshadowing of the private open space or north facing living rooms;
- The objectives of the zone are achieved; and
- A "better planning outcome" is achieved as a height-compliant development would not result in any marked, and indeed, improved, outcome in environmental planning terms relates given that the breaches of the height standard are, in the context of the overall built form, nominal and associated only with ancillary elements of the building.

It is considered that the proposed development predominantly complies with the maximum 17.5 metre building height limit other than for a small part of one lift overrun and this non-compliance does not adversely impact on the bulk and scale of the development or its environmental amenity impacts on surrounding properties or the public domain. Accordingly,



the Applicant's justification for the non-compliance is considered to be well-founded although a condition is recommended to ensure that the building does not exceed the height specified on the plans to be approved (Condition 2).

#### **2.1.4 Heritage Conservation**

Clause 5.10 of the *HLEP* sets out heritage conservation provisions for Hornsby Shire and Schedule 5 of *HLEP* designates No. 9 Norfolk Road, located 25 metres to the east (and separated by two dwelling houses) as a heritage item (Item 386) and land generally fronting Norfolk Road and then further east and north as within the East Epping Heritage Conservation Area.

The Site is not within a conservation area nor contains any heritage items although the proposed buildings are likely to be visible from the public domain in Norfolk Road in the context of the nearby heritage item (see headings '*Built Environment*' and '*Heritage*' of this report). No further heritage assessment would be required on this instance.

#### **2.1.5 Earthworks**

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

The proposal involves excavation to approximately 8 metres below existing ground level and accordingly, the Applicant has submitted a geotechnical report prepared by Asset Geotechnical dated 13 September 2014 which indicates that the site comprises topsoil and filling to depths of 0.4 metres, underlain by residual silty and medium to high plasticity clay to depth of approximately 2 metres, Class 3-5 shale to approximately 5-7 metres and Class 3 sandstone to 7-8 metres.

The geotechnical report includes recommendations for excavation methods, vibration monitoring, groundwater monitoring and disposal (if encountered), permanent retaining walls, filling, foundation design and construction materials. A condition is recommended for the proposed development to be constructed in accordance with the recommendations of the geotechnical report (Condition 43).

Conditions of consent are also recommended requiring:

- a dilapidation assessment of adjoining properties (Condition 16); and
- use of rock saws only wherever practicable (Condition 18(g)) and that excavation is to not occur between 12-1pm Monday to Friday, Saturdays, Sundays or public holidays (Condition 32).

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

The application has been assessed against the requirements of SEPP 32, which requires Council to implement the aims and objectives of this Policy to the fullest extent practicable when considering development applications relating to redevelopment of urban land. The



application complies with the objectives of the Policy as it would promote the social and economic welfare of the locality and would result in the orderly and economic use of under-utilised land within the Shire.

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

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.

A search of Council's records and aerial images reveals that the property has been used exclusively for residential purposes with no record of any site contamination. Given this, the site would be suitable for the proposed use and no further assessment in relation to this *SEPP* is required.

It is also noted that due to the age of the existing fibro clad dwelling houses, there is potential for the existing building to contain asbestos. Appropriate conditions are included to require all asbestos to be removed from the site appropriately. Furthermore, taking into account the significant excavation required to accommodate the proposed basement car park, much of the existing soil would be removed from the site in any event. See conditions 34, 44 and 47.

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

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

It is noted that the DA was submitted on 19 November 2014, prior to gazettal of the amendments to SEPP 65 on 19 June 2015 and accordingly, is to be assessed in accordance with SEPP 65 and the RFDC as they existed at the date of lodgement of the DA.

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

The design principles of *SEPP 65* are stated hereunder together with and an assessment of the proposal.

### **2.4.1 Principle 1 – Context**

Design Principle 1 is as follows:

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

*Responding to context involves identifying the desirable elements of a location's current character or, in the case of precincts undergoing a transition, the desired future character*

*as stated in planning and design policies. New buildings will thereby contribute to the quality and identity of the area.*

### **Assessment**

The proposed development presents as a number of separate five storey buildings when viewed from Essex Street which is generally as envisaged by the HLEP and the proposed building separation and side boundary setbacks generally comply with the RFDC and Council's HDCP to provide a built form that is consistent with the desired future character expressed in the HDCP, being well-separated buildings providing for landscaped setbacks and opportunities for habitable areas on front, rear and side elevations.

#### **2.4.2 Principle 2 – Scale**

Design Principle 2 is as follows:

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

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

### **Assessment**

The proposal substantially complies with the overall height limit for the Site, substantially complies with the front, side and rear boundary setback requirements, includes vertically and horizontally articulated walls and landscaping within setbacks to minimise the bulk and scale and therefore be consistent with the desired future character of the locality.

#### **2.4.3 Principle 3 – Built Form**

Design Principle 3 is as follows:

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

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

### **Assessment**

As stated above, the proposal provides a building form which is consistent with the desired future character of the locality.

#### **2.4.4 Principle 4 – Density**

Design Principle 4 is as follows:

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

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

##### **Assessment**

The proposal has been amended on several occasions to increase the side and rear boundary setbacks, increase dwelling sizes and private open space and retain and embellish landscaping such that the current proposal is considered to be an appropriate density for the Site.

#### **2.4.5 Principle 5 – Resource, Energy and Water Efficiency**

Design Principle 5 is as follows:

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

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

##### **Assessment**

The proposal is acceptable with regard to resource, energy and water efficiency and the proposal has been amended on several occasions to minimise the number of apartments that receive no or limited direct solar access to living rooms and/or private open space between 9am and 3pm at midwinter.

#### **2.4.6 Principle 6 – Landscape**

Design Principle 6 is as follows:

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

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

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

### **Assessment**

The proposal has been assessed as being acceptable with regard to tree retention, tree removal and generally acceptable with regard to replacement landscaping although additional canopy trees between buildings are required as a condition of consent (Condition 3(a)(ii)).

In addition, the design of the proposed communal open space and surrounding landscaping has been modified to reduce the size of the elevated deck area, provide a 1.6m high privacy screen to its northern and eastern edges and increase screen landscaping within the rear setback to minimise the potential for adverse visual and acoustic privacy impacts for existing surrounding residents.

#### **2.4.7 Principle 7 – Amenity**

Design Principle 7 is as follows:

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

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

### **Assessment**

As detailed in this report, the proposal has been amended to comply with the dwelling size requirements of the RFDC and the private open space requirements of Council's HDCP and includes physical screens and screen landscaping in the setbacks to minimise potential acoustic and visual privacy impacts both internally and externally to the Site.

#### **2.4.8 Principle 8 – Safety and Security**

Design Principle 8 is as follows:

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

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

### **Assessment**

The proposal is considered to be acceptable in regard to safety and security subject to recommended conditions of consent.

#### **2.4.9 Principle 9 – Social Dimensions and Housing Affordability**

Design Principle 9 is as follows:

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

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

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

### **Assessment**

The Site is well located for a medium density residential development, the amended dwelling sizes and mix of housing comply with Council's requirements and therefore provide for an appropriate social outcome.

#### **2.4.10 Principle 10 – Aesthetics**

Design Principle 10 is as follows:

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

## Assessment

As discussed above, the proposal has been amended on several occasions to increase the side and rear boundary setbacks and to provide vertical and horizontal articulation to walls to side and rear boundaries, resulting in a building form which is now consistent with the desired future character of the locality.

### 2.5 SEPP 65 – Residential Flat Design Code

SEPP 65 also requires consideration of the *Residential Flat Design Code, NSW Planning Department 2002 (RFDC)*. The RFDC includes development controls and best practice benchmarks for achieving the design principles of the SEPP 65. The table below sets out the proposal's compliance with the RFDC and a discussion in regard to non-compliances follows the table.

Residential Flat Design Code					
Control	Requirement		Proposal		Compliance
Building Separation	4 storey	5-8 storey	4 storey	5-8 storey	
Habitable to habitable (north)	12m	18m	10-12m	13-21m	No (see below)
Habitable to habitable (east)	12m	18m	10.5-15m	n/a	No (see below)
Habitable to habitable (south)	12m	18m	10-12m	13-18m	No (see below)
Deep Soil Zone	25% of open space min. (245.7m <sup>2</sup> )		78% (1,308.32m <sup>2</sup> )		Yes
Communal Open Space	25-30% min. (982.75m <sup>2</sup> )		42% (1,663.21m <sup>2</sup> )		Yes
Ground Level / Podium Private Open Space	25m <sup>2</sup> min.		10-20m <sup>2</sup>		No (see below)
Adaptable Housing	20% min. (15 units)		31.6% (24 units)		Yes
Kitchen Distance	8m max.		8m		Yes
Dwelling Size	- 1 br – 50m <sup>2</sup> min. - 2 br – 70m <sup>2</sup> min. - 3 br – 95m <sup>2</sup> min.		- 50-69m <sup>2</sup> - 70-89m <sup>2</sup> - 95-107m <sup>2</sup>		Yes Yes Yes
Balcony Depth	2m min.		2m		Yes
Ceiling Height	2.7m min.		2.95m		Yes
Storage	- 1 br – 6m <sup>3</sup> min. - 2 br – 8m <sup>3</sup> min. - 3 br – 10m <sup>3</sup> min. - 50% internal		- Min. 8.5m <sup>3</sup> - Min. 8.9m <sup>3</sup> - Min. 11.2m <sup>3</sup> - 31-50%		Yes Yes Yes No (see below)
Natural Light	70% min. 3 hours (53)		59% (45)		No (see below)
Single Aspect	10% max. (8)		0% (0)		Yes

Residential Flat Design Code			
Control	Requirement	Proposal	Compliance
<b>Building Depth</b>	10-18m	11-24.5m	No (see below)
<b>Cross Ventilation</b>	60% min. (46)	80.26% (61)	Yes

As detailed in this table, the proposed development does not comply with several prescriptive measures of the RFDC and a brief discussion of the relevant development controls and best practice guidelines is provided below.

### 2.5.1 Building Separation

Refer to discussion regarding setbacks at Sections 2.10.3, 2.10.4, 2.10.5 and 2.10.7.

### 2.5.2 Ground Level Private Open Space

None of the ground level apartments comply with the requirement for 25m<sup>2</sup> of private open space although this is in part due to a Council request that the Applicant delete internal fencing at the ground floor levels to provide continuous communal open space around the Site's perimeter and accordingly, the proposal is supportable in this regard.

### 2.5.3 Storage

Only one apartment (Unit 509) does not provide for 50% of the required storage volume within the apartment however, this unit is provided with 15m<sup>3</sup> of storage total which exceeds the requirement for 8m<sup>3</sup> and is acceptable in this instance.

To ensure that all apartments are provided with basement/external storage area, a condition of consent is also recommended (Condition 14).

### 2.5.4 Natural Light

The proposal does not comply with the RFDC requirement for 70% of apartments to have 3 hours of direct solar access to living rooms and private open space. However, the proposal complies with Council's requirement for 70% of apartments to have 2 hours access and is therefore acceptable in this regard in this instance.

### 2.5.5 Building Depth

Three of the four proposed buildings exceed the building depth requirement under the RFDC although the proposal complies with Council's HDCP maximum floor plate of 25-35 metres. The majority of apartments are dual aspect and have cross ventilation and accordingly, the proposal is acceptable in this regard in this instance.



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

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

## **2.7 Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005**

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

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

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

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

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

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

### **2.9.1 Stormwater Management**

The proposed stormwater drainage system involves connection to Council's infrastructure in Rockleigh Way, to the east of the Site. This will require the Applicant to obtain an easement over No. 22 Rockleigh Way to the drainage infrastructure in the privately owned Rockleigh Way.

The Applicant has requested written agreement from the owner of No. 22 Rockleigh Way and the Neighbourhood Association of DP 285338. Consent has been provided by the owner of No. 22 although the Neighbourhood Association has yet to provide its consent.

Council's Development Engineers have advised that drainage to Rockleigh Way is supported although, without an easement to drain over the adjoining land, a Deferred Commencement consent is recommended, requiring the Applicant to provide evidence of a formal arrangement via a drainage easement to drain stormwater from the Site to a lawful point of discharge (Conditions A1, 20 and 60).

In addition, conditions are recommended to ensure that water quality measures are employed to meet the requirements of *HDCP* (Conditions 21 and 22).

### **2.9.2 Waste Management**

The waste management aspects of the proposed development, including demolition stage and construction stage Waste Management Plans have been assessed by Council's Waste Management Services Team.

The site will need a sufficient number of bins to contain the volume of waste expected to be generated. The site is to have 240 L garbage bins on each floor (instead of a garbage chute), which are to be decanted into 660 L garbage bins.

The number of 240 L garbage bins on each floor is 22. These garbage bins are to be decanted into 660 L bins of which the site will need 7 serviced twice per week.

Recycling bins – Building A and B will each require 6 of 240 L recycling bins, buildings C and D will each require one for each of 5 floors. The total recycling bins for the site is 22.

The site will also require one 1,100 L paper/cardboard bin for flattened removalist boxes, etc.

The waste facilities on each residential level are accessible by persons with a disability.

The bin storage room(s) need to be of sufficient size to comfortably house the required number of bins and allow for aisle space (1.5 m wide is recommended) to access and manoeuvre the bins. The bin room also requires space for a bin lifter and its operation. The basement bin storage room is only just large enough to carry out all these functions.

The waste collection area is only just large enough to place all of the bins for servicing. It is in an acceptable location behind the building line and is next to the truck loading bay.

Bulky waste storage area of more than 8 m<sup>2</sup> has been provided next to bin storage room in basement.

The sections of driveway / access way that will be used by waste collection vehicles have been designed for a small rigid vehicle in accordance with Australian Standard 2890.2 – 2002 Parking Facilities Part 2: Off-street commercial vehicle facilities. The maximum gradient for reverse travel is 1:8 – a section of driveway where the waste collection vehicle reverses has a gradient of 1:5 then 1:7.5 – these gradients are steep.

Council's Waste Management Team reviewed the proposal and considered the information submitted as sufficient. Suitable conditions of consent have been recommended.

### 2.9.3 Services and Lighting

The proposal includes pump and switch rooms in Basement 1 which will not be visible from the street and all waste/loading operations will be within the building envelope. In addition, allowance for a substation has been integrated into the street front landscape design.

A condition is recommended for external and security lighting in accordance with *AS4282- Control of the Obtrusive Effects of Outdoor Lighting* (Condition 57).

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

### 2.10 Hornsby Development Control Plan - Part 3 Residential

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

<b>Hornsby Development Control Plan</b> <b>Part 3.4 – Residential Flat Buildings (5 storeys)</b>			
<b>Control</b>	<b>Requirement</b>	<b>Proposal</b>	<b>Compliance</b>
<b>Site Frontage</b>	30m min.	56.84m	Yes
<b>Height</b>	5 storeys	6 storeys	No (see below)
<b>Isolation</b>	Demonstrate orderly and economic development	Reasonable Offer has been made and not accepted	Yes (see below)
<b>Roof Design</b>	Flat-pitched, without parapets, eaves to cast shadows across top-storey walls.	Flat roof, no parapets, upper level eaves	Yes
<b>Front Setback – Essex Street (Buildings A)</b>	- 10m min. - 8m up to 1/3 building width - 7m balconies - 7m basement/deep soil	- 7-10m - 8m for 44% - 7m - 7-10m	No (see below) Yes Yes
<b>Front Setback – Essex Street (Buildings B)</b>	- 10m min. - 8m up to 1/3 building width - 7m balconies - 7m basement/deep soil	- 7-10m - 8m for 55% - 7m - 7-8m	No (see below) Yes Yes
<b>Side Setback - North (Building A)</b>	- 6m min. - 4m up to 1/3 building width - 4m basement/deep soil	- 4-6m - <6m for 35% - 4-6m	No (see below) No (see below) Yes
<b>Side Setback - North (Building C)</b>	- 6m min. - 4m up to 1/3 building width - 4m basement/deep soil	- 4-6m - 4m for 39% - 4-6	No (see below) Yes
<b>Side Setback – South (Building B)</b>	- 6m min. - 4m up to 1/3 building width - 4m basement/deep soil	- 4-6m - <6m for 32% - 4-6m	Yes Yes

<b>Hornsby Development Control Plan</b>			
<b>Part 3.4 – Residential Flat Buildings (5 storeys)</b>			
<b>Control</b>	<b>Requirement</b>	<b>Proposal</b>	<b>Compliance</b>
<b>Side Setback – South (Building D)</b>	- 6m min. - 4m up to 1/3 building width - 4m basement/deep soil	- 4.2-6.8m - <6m for 43% - 3.5-5m	No (see below) No (see below)
<b>Rear Setback – East (Building C)</b>	- 10m min. - 8m up to 1/3 building width - 7m balconies - 7m basement/deep soil	- 7-12m - 8-10m for 58% - 7-11m - 6-10m	No (see below) Yes No (see below)
<b>Rear Setback – East (Building D)</b>	- 10m min. - 8m up to 1/3 building width - 7m balconies - 7m basement/deep soil	- 6-11.5m - 8-10m for 43% - 7-11.5m - 6-15m	No (see below) Yes No (see below)
<b>Top Storey Setback</b>	3m additional – Block A Block B Block C Block D	2-3.25m 2-6.5m 1.75-4m 1.5-5m	No (see below) No (see below) No (see below) No (see below)
<b>Floorplates</b>	35m max – Block A Block B Block C Block D 4x4m indent required 25-35m	24.5m 24.5m 21m 24.5m N/A	Yes Yes Yes Yes N/A
<b>Building separation</b>	9m min.	7.4-9m	No (see below)
<b>Façade Articulation</b>	- Vertical panels = 8m wide - At least two steps between ground level setback and penthouse façade across 50% of facade width to prevent sheer vertical planes taller than 2 or 3 storeys.	- 8.5-11.5m - 2-3 storeys	No (see below) Yes
<b>Private Open Space</b>	- 1 br = 10m <sup>2</sup> min. - 2 br = 12m <sup>2</sup> min. - 3 br = 16m <sup>2</sup> min. - Min. width 2.5m	- 10-36m <sup>2</sup> - 12-17m <sup>2</sup> - 16-35m <sup>2</sup> - 2m	Yes Yes Yes Yes
<b>Communal Open Space</b>	25% site area min. 2.5m width along boundaries	42% 3m	Yes Yes
<b>Principal Communal Open Space</b>	- 50m <sup>2</sup> min. - 4m min. dimension - 2 hours solar access - Landscaped for active/passive recreation	- 65m <sup>2</sup> - 5.5m - >2 hours - Landscaped	Yes Yes Yes Yes
<b>Sunlight</b>	70% min. 2 hours (53)	72% (55)	Yes
<b>Housing Choice</b>	- 1 br – 10% (8)	- 57% (43)	Yes

<b>Hornsby Development Control Plan</b> <b>Part 3.4 – Residential Flat Buildings (5 storeys)</b>			
<b>Control</b>	<b>Requirement</b>	<b>Proposal</b>	<b>Compliance</b>
	- 2 br – 10% (8) - 3 br – 10% (8) - 30% min. adaptable (24)	- 33% (25) - 10% (8) - 31% (24)	Yes Yes Yes
<b>Car Parking</b>	- Resident (total) = 77 0.75/1 bed (43) = 32.25 1/2 bed (25) = 25 1.5/3+ bed (8) = 12 1/10 visitor = 7.6 - 1/3 adaptable units to be provided with accessible car parking (8 required) - Motorcycle 1/25 cars = 3 - Bicycle (total) = 23 1/5 dwelling (resident) = 15 1/10 dwellings (visitor) = 8	- 83 (including 12 visitor)  - 9  - 2 - 28 (including 8 visitor)	Yes   Yes  No (see below) Yes

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

### 2.10.1 Height

A small part through the centre of Buildings A and B constitutes 6 storeys due to storage areas at Ground Level 1 with 5 residential levels above. As this part of the building is compliant with the overall height limit under HLEP and deletion of these small storage areas would not result in any discernible benefit in terms of the appearance of the building when viewed from the public domain, within the Site or from surrounding properties, the proposed minor non-compliance is considered acceptable in this instance.

### 2.10.2 Site Isolation

Concerns have been raised regarding isolation of the property positioned at the northern side of the development site namely No. 11 Essex Street. The Site Requirements in the *Hornsby DCP* are as follows:

- “b. Where a development proposal results in an adjoining site within the precinct with no street frontage or a primary street frontage of less than 30 metres, proponents should demonstrate that orderly and economic development of the site can be achieved under this DCP.
- c. Where a property is likely to be isolated by a proposed development and it cannot be demonstrated that the site can be developed to its full potential, applicants should provide documentary evidence that a genuine and

*reasonable attempt has been made to purchase an isolated site based on a fair market value."*

The proposed development will result in the isolation of No. 11 Essex (Lot A in DP 958825). No. 11 is an allotment of approximately 835.45 square metres in area with a frontage of 18.54 metres to Essex Street. A freestanding, single storey dwelling-house is currently sited on the land.

In accordance with the provisions of the *DCP*, the Applicant sought to resolve the isolation of No. 11 by making genuine and reasonable attempts to acquire the adjoining site at a fair market value at the time of lodgement of the application. Details of the attempts made to acquire No. 11 were submitted with the development application and include the letters and e-mails of offer sent by the landowner's real estate agent and a valuation of the property at No. 11 Essex Street, Epping prepared by CBRE Pty Ltd, dated 14 August 2014.

The attempts to acquire No. 11 were unsuccessful.

Council engaged a property valuator to undertake an independent valuation of the property. The report concludes that the Applicant made offers, which are consistent with market value rates at the time, although at the lower range.

The Applicant has submitted indicative concept plans for a four storey residential flat development on the isolated site. The concept plans demonstrate that the site could be developed generally in accordance with the objectives of *SEPP 65*, the *RFDC* and *HDCP* requirements in terms of height, setbacks and building separations, notwithstanding the non-compliance with the required 30 metre frontage.

Further to the above, Council was informed recently that the Applicant made further offers in an attempt to purchase the land at No. 11 with no success. The landowner confirmed that the developer had been in contact and had made an offer to purchase the site, however this offer was considered to be below expectations for the site.

Based on the above, the Applicant has made reasonable attempts to acquire the adjoining site in accordance with the Land and Environment Court principals and requirements of the Hornsby DCP.

### **2.10.3 Front Setbacks**

The proposal complies with the *HDCP* in regard to the main building alignment and balcony encroachments although the 8 metre encroachments of the building line are for more than 1/3 of the building widths. Notwithstanding, the proposal is high articulated on the front facades and the minor non-compliances are considered acceptable in this instance.

### **2.10.4 Side Setbacks**

Some parts of the proposed buildings do not meet the minimum side setback requirement of 6 metres although Council's *HDCP* permits incursions down to 4m for one third of the building width. Whilst the proposal slightly exceeds this one third rule on several elevations, the proposal has been drastically improved from earlier designs and the current proposal keeps the proposed buildings to a maximum width of 24m instead of the 35m permitted by the

HDCP which provides for greater visual relief. Accordingly, the proposal is considered to be consistent with the HDCP objectives to have 5-storey buildings within a landscaped setting and providing opportunities for mature tree growth between and around buildings to create visual and landscaped corridors.

The northern adjoining land at No. 11 Essex Street will be isolated by the proposed development and therefore its future development may be constrained to some extent by virtue of its limited site width. The minor setback non-compliances on this northern elevation are not considered to unreasonably exacerbate the difficulties for this site.

In regard to the southern adjoining site at No. 21 Essex Street, the proposed minor setback non-compliances are not considered to place an inequitable burden on that land and it is considered possible to design a future development that would comply with the relevant requirements for solar access, visual and acoustic privacy impacts.

#### **2.10.5 Rear Setback**

Some parts of the eastern elevations of Buildings C and D do not meet the minimum rear setback requirement of 10 metres although Council's HDCP permits partial incursions to 8m and balcony encroachments to 7 metres from the boundary where there is no impact on the achievement of daylight access, visual privacy and acoustic privacy for surrounding properties.

Whilst the eastern adjoining dwellings at No. 7A Norfolk Road, No. 22 and No. 24 Rockleigh Way have their living areas and private open space oriented to the west and north-west, the proposal, which substantially complies with the setback requirements and includes dense screen landscaping, is considered acceptable in regards to visual bulk and visual and acoustic privacy impacts in this instance.

It should also be noted that Nos. 22 and 24 Rockleigh Way are zoned R4 High Density Residential and as such, permit future 5-storey residential flat buildings.

#### **2.10.6 Top Storey Setbacks**

The proposal substantially complies with the 3 metre top storey setback requirement under the HDCP with the exception of:

- parts of western (street front) and southern (internal) facades of Buildings A;
- parts of the northern (internal) and western (street front) facades of Building B;
- the southern (internal) façade of Building C; and
- the western (internal) façade of Building D.

These minor areas of non-compliance would primarily be evident from within the proposed development and when viewed from upper levels and are not of themselves considered to compromise the aesthetics of the proposal.



### **2.10.7 Building Separation**

The proposal mostly complies with Council's HDCP requirement for buildings within the development to be separated at least 9 metres. Only minor areas between buildings do not comply and these are generally between habitable and non-habitable areas (including fire stairs) or screening is provided to protect privacy of future occupants.

### **2.10.8 Articulation**

Minor elements of the proposed building elevations include vertical panels which exceed the DCP requirement of "generally 8 metres" as follows:

- The northern façade of Building A includes 8.5m and 9m wide panels;
- The southern façade of Building B includes an 11.5m wide panel;
- The eastern façade of Building D includes a 10.5m wide panel.

Notwithstanding, these elevations are well-articulated with windows, materials and finishes and the proposal is acceptable in this regard.

### **2.10.9 Parking**

The proposal is deficient one (1) motorcycle parking space although there is ample opportunity to provide one additional space in the basement levels and a condition of consent is recommended to ensure compliance (Condition 3(b)).

### **2.11 Section 94 Contributions**

Hornsby Shire Council Section 94 Contributions Plan 2012-2021 applies to the development as it would result in the addition of 76 residential units in lieu of the three existing dwellings. Accordingly, a monetary contribution pursuant to the Section 94 Plan has been included as a condition of development consent (Condition 8).

## **3. ENVIRONMENTAL IMPACTS**

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

### **3.1 Natural Environment**

The proposal has been assessed by Council's Tree Management and Landscape Officers and has been deemed generally acceptable with regard to the trees to be retained, those to be removed and the proposed replacement plantings, subject to conditions regarding tree protection and landscape maintenance.

Of note, Tree 41 has been retained and built structures have been substantially limited to outside of the Tree Protection Zone (TPZ) of this tree. In addition, Trees 9, 10, 34 and 35 within the front setback are proposed to be retained. Furthermore, whilst the Applicant

proposed to retain Tree 11, Council's Tree Management and Landscape Officers have recommended that it be removed and replaced with one (1) *Angophora costata* (Smooth-barked Apple) planted as near as practicable to the removed tree location (Condition 3(a)).

Whilst the proposal includes landscaped areas around the periphery of the Site to soften the visual appearance of future built structures, there are no large canopy trees proposed between buildings as is required by Council's HDCP. Accordingly, a condition of consent is recommended requiring two additional canopy trees to be provided in deep soil between buildings (Condition 3(a)(ii)).

As discussed within this report, the proposal has also been assessed as being satisfactory with regard to stormwater quantity and quality subject to recommended conditions at Schedule 1.

### **3.2 Built Environment**

The Site is within an area earmarked and zoned for high density residential development and the proposal predominantly complies with the built form provisions of the RFDC and Council's HDCP with the minor non-compliances considered acceptable in this instance and unlikely to result in significant adverse visual bulk, visual or acoustic privacy impacts on surrounding properties. Furthermore, the proposal is considered to equitably provide for compliant future developments on land to the north and south.

### **3.3 Social Impacts**

The proposal will replace three existing dwellings with 76 units within a medium density apartment development thereby providing additional housing supply in the locality, in close proximity to public transport, employment opportunities and retail/commercial services. The proposal has been amended on several occasions at the request of Council Officers which has reduced the density of the development from 80 to 76 apartments and resulted in a development that is now considered unlikely to have an adverse social impact subject to conditions of consent as recommended herein.

### **3.4 Economic Impacts**

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

## **4. SITE SUITABILITY**

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

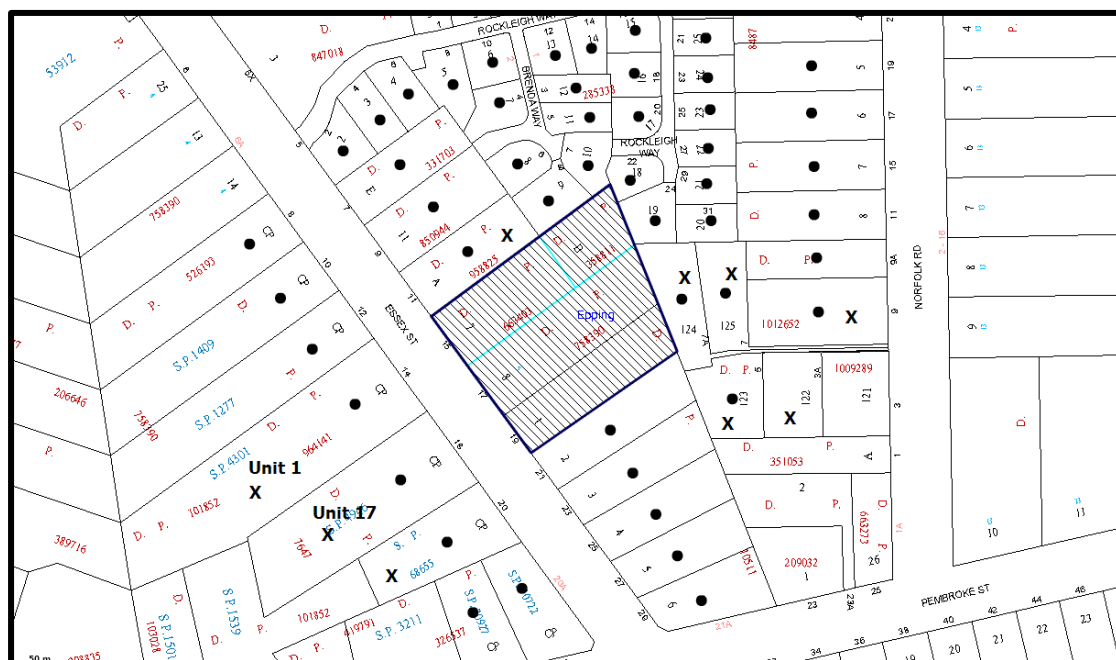
The Site has not been identified as bushfire prone or flood prone land and in these regards is considered to be capable of accommodating the proposed development.

## 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 21 January and 4 February 2015 and between 25 June and 9 July 2015 in accordance with the *HDCP* notification requirements. During these periods, Council received submissions from, or on behalf of, nine (9) surrounding landowners. The map on the following page illustrates the location of those nearby landowners who made a submission that are in close proximity to the development site.



#### NOTIFICATION PLAN

• PROPERTIES NOTIFIED	X SUBMISSIONS RECEIVED	 PROPERTY SUBJECT OF DEVELOPMENT	
ONE SUBMISSION/S RECEIVED OUT OF MAP RANGE			

Ten (10) submissions objected to the development, generally on the following grounds:

#### 5.1.1 Site Isolation

The owner of No. 11 Essex Street has objected to the proposal on the basis that it will isolate their land which will result in two 5-storey buildings either side of a single dwelling house, thereby impacting on their residential amenity. As indicated at Section 2.10.2, Council is

satisfied that the Applicant has made a reasonable offer to purchase No. 11 Essex Street and that offer has been rejected.

The owner of No. 11 has also requested that, should the proposed development be approved, Council agree to relax the planning controls for redevelopment of No. 11 Essex Street. Council cannot agree to such an approach and any future DA for No. 11 will be assessed on its merits in the context of the prevailing planning controls and existing and approved development on adjoining sites.

Furthermore, the owner of No. 11 has requested that if approved, the subject DA be conditioned requiring the Applicant to grant an easement for stormwater from No.11. Council cannot impose such a condition as it does not relate to the impacts of the proposed development and any future DA for redevelopment of No. 11 will be required to demonstrate a legal point of discharge for stormwater. This may require obtaining an easement over adjoining land.

#### **5.1.2 Height**

Several objections have been received in regard to building height and consequential adverse overlooking and overshadowing. As indicated in Section 2.1.2 and 2.1.3, the proposed development substantially complies with the Building Height development standard under HLEP and the minor exceedance of one lift overrun is considered acceptable in this instance.

Furthermore, the height of the buildings to the rear, whilst much higher than development to the east, have been setback in accordance with Council's requirements, include screening devices and will be screened with landscaping, thereby minimising the potential for adverse visual bulk and privacy impacts.

#### **5.1.3 Setbacks**

As discussed in Sections 2.10.3, 2.10.4, 2.10.5, 2.10.6 and 2.10.7 the proposal includes minor variations to the building separation requirements of the RFDC and side and rear boundary setback requirements of Council's HDCP. These non-compliances are considered to be acceptable as they are unlikely to restrict the potential for redevelopment of adjoining land or result in significant adverse visual bulk and privacy impacts on properties.

#### **5.1.4 Solar Access**

The proposed development will not have any adverse overshadowing impact on properties to the north due to orientation.

The proposal will result in minor overshadowing of the front yards of properties to the west (on the opposite side of Essex Street) at 9am at midwinter although this shadowing will not adversely impact on the living rooms or private open spaces of dwellings within those apartment buildings and will quickly diminish by mid-morning.

The proposal will result in very minor overshadowing of the rear yards of Nos. 5 and 7A Norfolk Road at 3pm at midwinter although these properties will maintain 3 hours solar access to living rooms and private open spaces between 9am and 3pm.

The proposal will result in minor overshadowing of Nos. 21 and 23 Essex Street to the south between 9am and 3pm at midwinter with the main affectation being between the early afternoon and 3pm. However, the amended proposal now substantially complies with the required southern side boundary setbacks and it is considered that there is ample opportunity for future development of the southern adjoining land to be designed to achieve adequate solar access to north-facing apartments such that they would be capable of achieving 2 hours solar access.

#### **5.1.5 Visual and Acoustic Privacy**

As discussed in Sections 2.10.1, 2.10.4, 2.10.5 and 2.10.7, the amended proposal now substantially complies with the side and rear boundary setback requirements of Council's HDCP and together with additional physical screens and screen landscaping, is considered acceptable in regard to visual bulk, visual and acoustic privacy impacts on surrounding properties.

The proposal includes a communal open space in the form of a raised timber deck at the rear of the Site, which was originally proposed to be within 2 metres of the boundary to the rear yard at No. 7A Norfolk Road. This deck area has now been amended to be a minimum of 4m from the boundary, a 1.6m high privacy screen is provided to its northern and eastern edges and screen landscaping along the boundary has been increased. Accordingly, the potential for adverse overlooking and acoustic impacts arising from this space is considered to have been adequately addressed.

#### **5.1.6 Tree Loss**

Council's Tree Management and Landscape Officers have reviewed the proposal and are satisfied that the proposal is acceptable with regard to the trees to be retained, those to be removed and the proposed replacement plantings, subject to conditions regarding tree protection, additional tree planting and landscape maintenance.

#### **5.1.7 Heritage**

As discussed at Section 2.1.4, the Site is in proximity to a Heritage Item at No. 9 Norfolk Road and the Epping East Heritage Conservation Area. The proposed buildings are likely to be visible from Norfolk Road (within the Conservation Area) and from the rear yard of No. 9 Norfolk Road. However, it is considered that any limited view of the proposed buildings in the context of the Heritage Item in particular, are not likely to be significant such that they would warrant refusal of the development application on heritage grounds.

#### **5.1.8 Fencing**

Several submissions requested that security fencing be erected to the rear boundary of the Site to prevent unsociable behaviour and potential access from the Site to the rear yards of properties with access to Norfolk Road and to limit noise impacts.

The proposal is for a 1.8 metre high paling fence to this rear boundary which will be sited 1.5-2m above the level of the rear yards of adjoining properties. Notwithstanding that the height of the proposed fence is considered acceptable; a condition of consent (Condition 56) is recommended requiring the fence to be lapped timber fencing to assist in minimising potential noise impacts.

#### **5.1.9 Waste Removal Operations**

Several objections raised concerns regarding waste removal practices including queuing of garbage vehicles on the street and collection of bins from the street frontage. The proposal includes a loading area at Level 2 wholly within the building envelope and all bins are to be serviced from this area. Council's Waste Management Officers have assessed the proposal and are satisfied with these arrangements subject to conditions of consent.

#### **5.1.10 Construction Impacts**

Several submissions raised concerns regarding the potential for adverse impacts during construction associated with construction cars and trucks, construction noise, construction hours, soil and sedimentation control, site security and removal of contaminated materials such as asbestos and lead.

The proposal has been assessed by Council's Environmental Protection Team and is considered to be satisfactory with regard to the proposed construction management practices subject to conditions of consent relating to erosion and sedimentation control (Condition 28), demolition and handling of contaminated materials (Condition 34), construction traffic management (Condition 18), street sweeping (Condition 36), landfill and excavated materials (Condition 44) and construction noise (Condition 73).

These conditions have been included at Schedule 1 along with conditions limiting construction hours (including demolition and earth works) to between 7am and 5pm Monday to Saturday (Condition 32) with no excavation or rock sawing/breaking to occur on Saturdays or between the hours of 12 pm and 1 pm weekdays and no work to be undertaken on Sundays or public holidays.

#### **5.1.11 Stormwater**

Several submissions raised concerns with the proposal with regard to stormwater drainage connections and potential for surface water draining over the rear boundary. This matter is discussed in Section 2.9.1 of this report where it has been concluded that the proposed development is acceptable with regards to stormwater drainage and detention subject to a

Deferred Commencement condition (Condition A1) requiring the Applicant to provide evidence of a formal arrangement via a drainage easement to drain stormwater from the Site to a lawful point of discharge in Rockleigh Way.

#### **5.1.12 Crime**

The development application was referred to the NSW Police for consideration of Crime Prevention through Environmental Design. The NSW Police provided comments indicating the proposal is considered satisfactory subject to various recommendations, which are addressed in the consent Condition No. 63.

### **5.2 Public Agencies**

The application was referred to the following Agencies for comment:

#### **5.2.1 NSW Police**

The development application was referred to the NSW Police for consideration of Crime Prevention through Environmental Design. The NSW Police provided comments that are considered to be adequately addressed in the recommended consent Condition No. 63.

## **6. THE PUBLIC INTEREST**

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

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

The proposed development is considered to satisfactorily address the key built form requirements of the RFDC and Council's HDCP and would provide a development outcome that, on balance, would result in a positive impact for the local community. Accordingly, it is considered that the approval of the proposed development is in the public interest.

## **7. CONCLUSION**

The application seeks approval for the demolition of existing structures and construction of four, five storey residential flat buildings comprising 76 units and basement car parking.

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

The proposal is considered to be consistent with the design principles of SEPP 65 and the minor non-compliances with the building separation, ground level private open space, building depth, natural light and storage provisions of the *Residential Flat Design Code* are



supportable in this instance as they are unlikely to result in significant adverse amenity impacts.

The proposed development predominantly complies with the relevant provisions of the *Hornsby DCP* and the minor non-compliances with the height (storeys), setbacks, building separation (internal), façade articulation and motor cycle parking development controls are supportable as these non-compliances will not result in significant adverse amenity impacts and the development is consistent with the desired future residential character of the locality.

Accordingly, the proposed development is recommended for a Deferred Commencement consent subject to conditions set out at Schedule 1.

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

**Attachments:**

1. Locality Plan
2. Floor Plans & Elevations
3. Landscape Plan
4. Shadow Diagrams
5. Shadow Impact Analysis

## SCHEDULE 1

### GENERAL CONDITIONS

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

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

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

### Part A – Deferred Commencement

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

#### 1. Downstream Drainage Easement

The proposed drainage easement over downstream Lots 1 and 18 DP 285338 connecting the subject site to a Council controlled drainage system must be registered with the *NSW Department of Lands*. A copy of the registered documents and plans shall be submitted to Council for information and confirmation prior to commencement of the DA.

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

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

### Part B – General Conditions

#### 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:

<b><i>Plan No.</i></b>	<b><i>Drawn by</i></b>	<b><i>Dated</i></b>
DA2000 Rev C Basement Level 2	JPR Architects Pty Ltd	1/10/2015
DA2001 Rev C Basement Level 1	JPR Architects Pty Ltd	1/10/2015
DA2002 Rev C Ground Floor Level 1	JPR Architects Pty Ltd	1/10/2015

<b>Plan No.</b>	<b>Drawn by</b>	<b>Dated</b>
DA2003 Rev C Level 2	JPR Architects Pty Ltd	1/10/2015
DA2004 Rev C Level 3	JPR Architects Pty Ltd	1/10/2015
DA2005 Rev C Level 4	JPR Architects Pty Ltd	1/10/2015
DA2006 Rev C Level 5	JPR Architects Pty Ltd	1/10/2015
DA2007 Rev C Level 6	JPR Architects Pty Ltd	1/10/2015
DA2008 Rev C Roof Plan	JPR Architects Pty Ltd	1/10/2015
DA2100 Rev C West (Essex St) Elevation	JPR Architects Pty Ltd	1/10/2015
DA2101 Rev C East (Rear) Elevation	JPR Architects Pty Ltd	1/10/2015
DA2102 Rev C North Elevation	JPR Architects Pty Ltd	1/10/2015
DA2103 Rev C South Elevation	JPR Architects Pty Ltd	1/10/2015
DA2104 Rev C Internal Elevations A & B	JPR Architects Pty Ltd	1/10/2015
DA2105 Rev C Internal Elevations F & H	JPR Architects Pty Ltd	1/10/2015
DA2106 Rev C Sections C-D	JPR Architects Pty Ltd	1/10/2015
DA2107 Rev C Section E-G	JPR Architects Pty Ltd	1/10/2015
DA2200 Rev C Deep Soil and Communal Open Space	JPR Architects Pty Ltd	4/11/2015
DA2202 Rev C SEPP 65, Parking and GFA Summary	JPR Architects Pty Ltd	1/10/2015
DA2230 Rev B Height Plane Diagram	JPR Architects Pty Ltd	16/06/2015
DA2500 Rev C External Finishes Schedule	JPR Architects Pty Ltd	1/10/2015
LP01 Rev A Landscape Plan Ground Floor Level 1 Plan	Site Design + Studios	9/11/2015
LP02 Rev A Landscape Plan Level 2 Plan	Site Design + Studios	9/11/2015
D01 Rev B Erosion and Sediment Control Plan & Details	Australian Consulting Engineers	10/11/2014
D02 Rev D Basement 2 Stormwater Drainage Plan & Details	Australian Consulting Engineers	16/06/2015
D03 Rev D Basement 1 Stormwater Drainage Plan & Details	Australian Consulting Engineers	16/06/2015

<b>Plan No.</b>	<b>Drawn by</b>	<b>Dated</b>
D04 Rev E Ground Floor (Level 1) Stormwater Drainage Plan	Australian Consulting Engineers	16/06/2015
D05 Rev D Level 2 Stormwater Drainage Plan	Australian Consulting Engineers	16/06/2015
D06 Rev E Stormwater Drainage Sections and Details	Australian Consulting Engineers	16/06/2015

<b>Document No.</b>	<b>Prepared by</b>	<b>Dated</b>
Design Verification Statement	JPR Architects Pty Ltd	16 November 2015
BASIX Certificate No. 586929M_03	BCA Energy Pty Ltd	16 November 2015
Building Energy Efficiency Certificate – Certificate No. 1008543769	Partners Energy Management	16 November 2015
Assessment of Traffic and Parking Implications Ref. 14182 Rev B	Transport and Traffic Planning Associates	November 2014
DA Acoustic Assessment Report Rev 0	Acoustic Logic	12/09/2014
Natural Ventilation Statement	WINDTECH Consultants	10/11/2014
Arboricultural Assessment Report	Jacksons Nature Works	11/11/2014
Arboricultural Impact Assessment Tree 41	Urban Forestry Australia	22/04/2105
Construction Management Plan	Pymont Pacific Pty Ltd	May 2015
Access Report Rev C	Ergon Consulting	12/11/2014
Geotechnical Investigation Ref. 2563-R1	Asset Geotechnical	13/09/2014
Stage 1 Preliminary Site Investigation Ref. 610.14279-R1	SLR Consulting	25/08/2014
Stormwater Quality Report Ref 140460.SQR Rev 3	Australian Consulting Engineers	16/06/2015

### 3. Amendment of Plans

Amended plans are required as follows:

- a) The approved Landscape Plans are to be amended as follows:

- i) Tree 11 is to be removed and replaced with one (1) *Angophora costata* (Smooth-barked Apple) planted as near as practicable to the removed tree location;
- ii) Two (2) large-canopy trees capable of reaching 10 metres in height at maturity (preferably indigenous species such as *Angophora costata* or *Syncarpia glomulifera*) are to be provided in deep soil between Buildings A and B and Buildings C and D;
- b) One (1) additional off-street motorcycle parking space is to be provided; and
- c) The sections of driveway/accessway that are to be used by the waste collection vehicle are to be amended to comply with AS 2890.2-2002 for a small rigid vehicle.

*Note: For the reverse manoeuvre, the maximum gradient must be reduced to 1:8. For forward manoeuvres, the maximum gradient is 1:6.5. The minimum vertical clearance is 3.5m.*

#### **4. Height of Buildings**

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

#### **5. Removal of Existing Trees**

This development consent permits the removal of tree(s) numbered 1A, 2A, 11, 12, 13, 14, 15, 16, 16A, 17, 18, 19, 20, 21, 22, 23, 23A, 24, 25, 26, 28, 31A, 31B, 32, 33, 36, 37, 38, 40, 42, 43, 43A, 44, 45, 45B, 48, 49, 50 & 51 as identified in the Landscape Plan (Drawings LP01 & LP02, Revision A), prepared by Site Design + Studios, dated 09/11/2015.

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

#### **6. Pruning Works**

This development consent only permits the pruning or of tree(s) numbered 41 as identified in the Landscape Plan (Drawings LP01 & LP02, Revision A), prepared by Site Design + Studios, dated 09/11/2015. Tree pruning must be carried out in accordance with the following:

- a) Direction and supervision by the Project Arborist (AQF5 qualified);
- b) Crown Modification of less than 10% as outlined in AS 4373-2007 (Section 92); and
- c) Works must be carried out by an Arborist holding an AQF level 3 certification in Arboriculture.

## 7. 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.

## 8. Section 94 Development Contributions

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

Description	Contribution (4)
Roads	\$54,571.20
Open Space and Recreation	\$795,584.05
Community Facilities	\$110,939.25
Plan Preparation and Administration	\$3,301.15
<b>TOTAL</b>	<b>\$964,395.65</b>

being for 43 x 1 bed, 25 x 2 bed and 8 x 3 bed units including a credit for 3 existing dwellings.

- b) The value of this contribution is current as at 16 November 2015. If the contributions are not paid within the financial quarter that this condition was generated, the contributions payable will be adjusted in accordance with the provisions of the Hornsby Shire Council Section 94 Development Contributions Plan and the amount payable will be calculated at the time of payment in the following manner:

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

Where:

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

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

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

$\text{CPI}_{\text{DC}}$  is the Consumer Price Index (Sydney – All Groups) for the financial quarter at the date applicable in this Development Consent Condition.

- c) The monetary contributions shall be paid to Council:
- (i) prior to the issue of the Subdivision Certificate where the development is for subdivision; or
  - (ii) prior to the issue of the first Construction Certificate where the development is for building work; or

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

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

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

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

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

**10. 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.

**11. Water/Electricity Utility Services**

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

- (a) *Ausgrid (formerly Energy Australia)* – a letter of consent demonstrating that satisfactory arrangements have been made to service the proposed development.
- (b) *Telstra* – a letter of consent demonstrating that satisfactory arrangements have been made to service the proposed development.

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

**12. Accessible Units**

The development is required to provide 24 units designed as adaptable housing pursuant to the requirements of 1C.2.2 of the Hornsby Development Control Plan. In this regard, eight (8) car parking spaces are to be designed for people with a disability and allocated to eight (8) adaptable units. The details of all adaptable units must be provided with the Construction Certificate plans.



**13. Letterboxes**

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

**14. Storage**

Each dwelling within the development must have a minimum area for storage (not including kitchen and bedroom cupboards) of 6m<sup>3</sup> for one bedroom units, 8m<sup>3</sup> for two bedroom units and 10m<sup>3</sup> for three bedroom units, where at least 50% is required to be located within the apartment and accessible from either the hall or living area except as otherwise indicated on the approved plans. Details must be submitted with the Construction Certificate plans.

**15. Sydney Water – Quick Check**

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

*Note: Refer to [www.sydneywater.com.au](http://www.sydneywater.com.au) or telephone 13 20 92 for assistance.*

**16. Dilapidation Report**

A 'Dilapidation Report' is to be prepared by a 'chartered structural engineer' detailing the structural condition of the adjoining properties at Nos. 11 and 21 Essex Street, Nos. 7 and 8 Brenda Way, Nos. 22 and 24 Rockleigh Way and No. 7A Norfolk Road, Epping.

**17. 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 existing kerb and gutter across the entire Essex Street frontage of the site shall be removed and Council's standard 150mm integral kerb and gutter to be constructed, together with matching of the adjacent road shoulder pavement;
- b) Council's standard 80 mm thick concrete footpath to be constructed within the road verge with the remaining area turfed;
- c) The existing road pavement to be saw cut a minimum of at least 1.0 m from the existing edge of the bitumen and reconstructed;
- d) The submission of a compaction certificate from a geotechnical engineer for any fill within road reserves, and all road sub-grade and road pavement materials; and

- e) Pursuant to s138 Roads Act 1993, Application shall be made to Hornsby Shire Council as Roads Authority for construction plan assessment, approval and compliance inspections of all works in the public road. The Applicant shall pay Council's fee in regard to these requirements prior to release of the Construction Certificate for the road works.

*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.*

## **18. Construction & Traffic Management Plan**

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

- a) A copy of the plans shall be submitted for consideration and written approval by Hornsby Shire Council's Manager of Traffic & Road Safety Branch prior to the release of the Construction Certificate.
- b) The plans shall detail the order of construction works and arrangement of all construction machines and vehicles being used at the same time during all stages;
- c) In order to prevent injury, accident and loss of property, no building materials, work sheds, vehicles, machines or the like shall be allowed to remain in the road reserve area without written consent of Hornsby Shire Council;
- d) The Plan shall be generally in compliance with the requirements of the Road and Traffic Authority's "Traffic Control at Worksites Manual 1998" and detailing:
  - i) Public notification of proposed works;
  - ii) Long term signage requirements;
  - iii) Short term (during actual works) signage;
  - iv) Vehicle Movement Plans, where applicable;
  - v) Traffic Management Plans; and
  - vi) Pedestrian and Cyclist access and safety;
- e) The plans shall indicate traffic controls including those used during non-working hours and shall provide pedestrian access and two-way traffic in the public road to be facilitated at all times;
- f) The Applicant and all employees of contractors on the site must obey any direction or notice from the Prescribed Certifying Authority or Hornsby Shire Council in order to ensure the above;

- g) The plan shall provide that during excavation works, rock removal must be undertaken by sawing instead of rock hammering, wherever practicable;
- h) The plan shall provide that construction works be undertaken in accordance with the "Interim Construction Noise Guidelines - 2009" published by DECCW and achieve compliance with the relevant noise levels; and
- i) The plan shall provide that the delivery times and vehicular movements related to demolition, excavation and construction works be restricted to the construction hours only.

#### **18A. 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. The Traffic Management Plan shall be submitted and approved by Council's Manager Traffic and Road Safety prior to the issue of a construction certificate. 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; and
- f) Pedestrian and cyclist access/safety.

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

The driveway and parking areas on site must be designed in accordance with *Australian Standards 2890.1, 2890.2, 2890.6 and 3727* and the following requirements:

- a) Design levels at the front boundary must be obtained from Council; and
- b) Curved ramps for cars only shall be designed and constructed in accordance with AS2890.1 s2.5.2. Commercial vehicle access, turning and manoeuvring areas shall be designed in accordance with AS2890.2.

#### **20. 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 directly to a Council pit, via an interallotment drainage system through downstream properties;
- b) The drainage system be piped to contain at least the 20 year Average Recurrence Interval storm event on the undetained upstream catchment; and

- c) An inter-allotment stormwater drainage system to service the proposed development with pits being cast in situ or pre-cast concrete pits being used.

## **21. On-Site Stormwater Detention and Water Quality System**

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

- a) Have a capacity of not less than 76 cubic metres, and a maximum discharge (when full) of 80 litres per second;
- b) Have a 900 mm x 600 mm minimum size 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) The system shall not be constructed in a location that would impact upon the visual or recreational amenity of residents; and
- e) Pursuant to HDCP2013 Section 1C.1.2.i, the water treatment system shall be designed and constructed generally in accordance with the approved plans.

## **22. Water Quality Treatment**

Stormwater quality treatment measures shall be designed in accordance with the MUSIC Model outlined in the Stormwater Quality Report No. 140460.SQR dated June by Australian Consulting Engineers to meet the stormwater quality targets outlined in Hornsby Council's Development Control Plan 2013.

## **23. 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 comply with Australian Standard AS2890.2-2002 Parking Facilities Part 2: Off-street Commercial Vehicle Facilities for small rigid vehicles.

*Note: AS2890.2-2002 includes a maximum gradient of 1:6.5 for forward travel, 1:8 for reverse travel and a minimum vertical clearance of 3.5 m.*

- c) The waste facility on each residential level (a garbage bin and a recycling bin in a small room/cupboard) must:
  - i) be accessible by persons with a disability;

- ii) comfortably house the 240 L garbage bin and 240 L recycling bin  
(Note: a 240 L bin is 600 mm wide by 750 mm deep; allow for ease around the bin – 75 mm is recommended); and
- iii) have a door opening of at least 1400 mm width.
- d) A bulky waste storage area of at least 8 square metres must be provided at the basement level.
- e) A *Waste Management Plan Section One – Demolition Stage* and *Section Three – Construction Stage*, covering the scope of this project and including the following details, is required to be submitted to Council:
  - i. An estimate of the types and volumes of waste and recyclables to be generated;
  - ii. A site plan showing sorting and storage areas for demolition and construction waste and the vehicle access to these areas;
  - iii. How excavation, demolition and construction waste materials will be reused or recycled and where residual wastes will be disposed;
  - iv. The total percentage (by weight) of demolition and construction waste that will be reused or recycled.

## **24. Tree Protection Requirements**

The Project Arborist must oversee and provide certification for the installation of all tree protection measures as specified in this consent and in accordance with Australian Standard AS 4970-2009 (1.4.4).

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

## **25. 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.*

## **26. 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.*

## **27. 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*.

## **28. 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.*

## **29. Project Arborist**

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

Details of the Project Arborist are to be submitted to Council and the PCA prior to the issue of a Construction Certificate

## **30. Tree Protection Zone Fencing (TPZ)**

- a) Tree protection fencing must be installed around trees numbered 8, 9, 10, 27, 29, 30, 34, 35, 39, 41, 45A, 46 & 47 at the distances determined by AS 4970-2009 Section 3.

- b) Where tree protection fencing cannot be located at the perimeter of the Tree Protection Zone, appropriate ground and crown protection must be provided in accordance with AS 4970-2009 Section 4.5 under the direction of the project arborist.
- c) Tree Protective Fencing must be installed in accordance with AS 4970-2009 Section 4.3 and 4.4.
- d) Maintenance of the Tree Protection Zones must be carried out in accordance with AS 4970-2009 Section 4.6 for the duration of this consent

### **31. Tree Protection Certification**

Certification must be provided by the Project Arborist to the Principal Certifying Authority stating that all required tree protection measures have been installed in accordance with AS 4970-2009 Section 5.3.2

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

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

### **33. Construction Vehicles**

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

### **34. Demolition**

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

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



**35. Environmental Management**

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

**36. Street Sweeping**

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

**37. Maintenance and Monitoring of Tree protection**

- a) All Tree Protection Zones must be monitored by the Project Arborist in accordance with AS 4970-2009 Section 5.4;
- b) Where works have been undertaken within the Tree Protection Zone of a tree the Project Arborist must assess the condition of tree(s) and the growing environment and make recommendations for, and carry out remedial actions where there is evidence of:
  - i) A general decline in health and vigour;
  - ii) Damaged, crushed or dying roots;
  - iii) Excessive (>10%) loss or dieback of roots, branches and foliage;
  - iv) Mechanical damage or bruising of bark and timber of roots, trunks and branches;
  - v) Yellowing of foliage or thinning of canopy uncharacteristic of the species;
  - vi) An increase in the amount of deadwood not associated with normal growth;
  - vii) Inappropriate increase in the development of epicormic growth and/or the presence of sucker growth on the trunk; and
  - viii) Branch drop, torn branches and stripped bark not associated with natural climate conditions.

**38. Works within Tree Protection Zones**

- a) All works must be approved by the Project Arborist;
- b) Root/ground protection must be provided in accordance with AS 4970-2009 Section 4.5.4;
- c) Underground services must be installed in accordance with AS 4970-2009 Section 4.5.5;
- d) The Structural Root Zone of any tree required to be retained must remain intact;

- e) Root pruning outside a trees Structural Root Zone must be carried out in accordance with AS 4970-2009 Sections 3.3.4, 4.5.4 and 4.5.5; and
- f) Activities within the Tree Protection Zone must comply with AS 4970-2009 Section 4.2.

**39. Certification**

The Project Arborist must provide to the Principal Certifying Authority certification for the monitoring and maintenance of Tree Protection Zones and documentation of the methods used to preserve the trees during construction.

**40. 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.

**41. 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.

**42. 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.

**43. Excavation Work**

All excavation work is to be undertaken in accordance with the recommendations included in the Geotechnical Investigation (Ref. 2563-R1) prepared by Asset Geotechnical and dated 13 September 2014. Works must be supervised by a geotechnical engineer.

**44. Excavated Material**

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

**45. 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.

**46. Waste Management**

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

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

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

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

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

**47. Site Remediation Verification**

The applicant must provide documentation from a suitably qualified environmental consultant verifying that the site has been remediated in accordance with the NSW Environment Protection Authority's Contaminated Sites – Guidelines for Consultants Reporting on Contaminated Sites, the Contaminated Sites- Sampling Design Guidelines Contaminated Sites – Guidelines for the NSW Site Auditor Scheme and the recommendations of the Stage 1 Preliminary Site Investigation prepared by SLR Consulting Pty Ltd, document number 610.14279-R1 dated 25 August 2014.

**48. Fulfilment of BASIX Commitments**

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

**49. Sydney Water – s73 Certificate**

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

**50. Damage to Council Assets**

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

**51. Works as Executed Plan**

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

**52. Planter Boxes / On Slab Planting**

Planters on slab supporting trees are to be extended to enable soil installed to 1 metre depth. A minimum 500mm depth of soil is required for shrubs and a minimum 1000mm for trees and palms, with 75mm mulch. All planters must include waterproofing, subsoil drainage (proprietary drainage cell, 50mm sand and filter fabric) and automatic irrigation.

**53. Replacement Planting**

- a) Shall be in accordance with the approved landscape plan; and
- b) A suitably qualified and experienced Horticulturalist must provide a certificate to the Principal Certifying Authority stating the above requirements have been met, that all plant stock meet the specifications outlined in '*Specifying Trees*' (Ross Clark, NATSPEC Books) and that the planting methods are current, professional (best practice) industry standards at the time of planting.

**54. Final Certification**

Following the final inspection and the completion of any remedial tree works, the Project Arborist must submit to the Principal Certifying Authority all certificates and documentation relating to the protection of trees, stating that the completed works have been carried out in compliance with the approved plans and the relevant conditions of consent.

**55. Retaining Walls**

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

## **56. Boundary Fencing**

Fencing must be erected along all property boundaries behind the front building alignment to a height of 1.8 metres and the fence along the eastern boundary is to be constructed of lapped and capped timber palings.

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

## **57. External Lighting**

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

## **58. 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, doors wide enough to fit the bin through, 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) "No Parking" signs must be installed to prevent cars parking in the loading bay;
- h) A report(s) must be prepared by a registered surveyor and submitted to the principal certifying authority prior to the issue of the Subdivision/Occupation Certificate, certifying that: The finished access way (including ramp, vehicle turning area, loading bay and site entry/exit) to be used by waste collection vehicles, complies with Australian Standard AS2890.2-2002 Parking Facilities Part 2: Off-street Commercial Vehicle Facilities for small rigid vehicles with minimum design vehicle dimensions of 6.4 metres overall length, width of 2.3 metres, with maximum gradient of 1:6.5 and minimum 3.5 metre clearance height;
- i) The 3.5 metre vertical clearance height within the truck travel path must not be reduced by ducting, lights, pipes or anything else;
- j) Site security measures implemented on the property, including electronic gates, must not prevent access to the collection point by waste removal services.

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

- k) An electric bin lifter must be provided in the basement garbage room to enable the site caretaker to safely decant the 240 L garbage bins from the waste facilities on each residential level into the 660 L garbage bins.
- l) A motorised bin cart, trolley or similar equipment must be provided to enable the site caretaker to safely cart the 660 L bins and 240 L bins between the basement garbage room and the level 2 waste collection/loading area.

**59. 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.*

**60. Creation of Easements**

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

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

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

**61. Unit Numbering**

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

**62. Consolidation of Allotments**

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



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

### **63. Safety and Security**

This site must include the following elements:

- a) An intercom system must be installed at any gate locations to ensure screening of persons entering the units.
- b) The entry doors to pedestrian foyers are to be constructed of safety rated glass to enable residents a clear line of site before entering or exiting the residential apartments.
- c) Lighting is to be provided to pathways, building foyer entries, driveways and common external spaces.
- d) Security gate access is to be provided to the car parking areas allowing residents only access to private car spaces.
- e) The communal open space, must be illuminated with high luminance by motion sensor lighting.
- f) The driveway and basement car parking must be illuminated with low luminance at all times.
- g) Security deadlocks are to be provided to each apartment door.
- h) Peep holes are to be provided to individual apartment doors to promote resident safety.

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

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

### **65. Sight Lines**

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

### **66. Car Parking**

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

- a) All parking areas and driveways are to be sealed to an all-weather standard, line marked and signposted;

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

**67. Allocation of Car Parking**

A minimum of 12 visitor and 71 resident car parking spaces are to be provided in the basement.

**68. Disabled Parking**

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

**69. Bicycle Parking**

- a) All bicycle parking spaces are to be designed in accordance with *Australian Standard 2890.3-1993 – Bicycle parking facilities*.
- b) A minimum of 8 visitor and 24 resident bicycle parking spaces are to be provided in the basement.

**70. Motorcycle Parking Spaces**

Three (3) motorcycle parking spaces are to be provided in the basement in accordance with AS 2890.5-1993.

**71. Waste Management**

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

- a) A site caretaker must be employed and be responsible for moving bins where and when necessary, washing bins and maintaining waste storage areas, decanting the 240 L garbage bins into the 660 L garbage bins, managing the communal composting area, managing the bulky item storage area, arranging the prompt removal of dumped rubbish, ensuring the loading bay is kept clear of parked cars and ensuring all residents are informed of the use of the waste management system. The site caretaker must be employed for a sufficient number of hours each week to allow all waste management responsibilities to be carried out to a satisfactory standard.

**72. 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*.

**73. 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).

**74. Fire Safety Statement - Annual**

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

**- END OF CONDITIONS -**

**ADVISORY NOTES**

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

**Environmental Planning and Assessment Act 1979 Requirements**

The Environmental Planning and Assessment Act 1979 requires:

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

**Long Service Levy**

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

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

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

### **Tree and Vegetation Preservation**

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

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

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

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

### **Disability Discrimination Act**

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

### **Covenants**

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

### **Dial Before You Dig**

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

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

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

### **Asbestos Warning**

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

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

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

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

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

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

### **House Numbering**

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

### **Occupation Certificate Requirements**

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

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