

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

JRPP No	2015SYW033
DA Number	DA/1629/2014 Lodged 23/12/2014
Local Government Area	Hornsby
Proposed Development	Demolition of existing structures and construction of seven, five-storey residential flat buildings comprising a total of 240 units with basement car parking provided within three separate basements. Cost (estimate): \$66,696,665
Street Address	42-50 Cliff Road, 44-52 Kent Street and 10-14 Hazlewood Place, Epping (Lots 42, 43, 44, 45 and 46 in DP 12051; Lots 1, 2, 3, 4 and 5 in DP 28934; and Lots 9, 10 and 11 in DP 28934)
Applicant/Owner	Australian Consulting Architects Pty Ltd
Number of Submissions	5
Regional Development Criteria (Schedule 4A of the Act)	Item 3 – Development with a Capital Investment Value greater than \$20 million.
List of All Relevant s79C(1)(a) Matters	<ul style="list-style-type: none"> • Hornsby Local Environmental Plan 2013 (HLEP) • Hornsby Development Control Plan 2013 (HDCP) • Hornsby Shire Council Section 94 Development Contributions Plan 2012-2021 • State Environmental Planning Policy No. 55 – Remediation of Land (SEPP 55) • State Environmental Planning Policy No. 65 – Design Quality of Residential Apartment Development (SEPP 65) • State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004 • State Environmental Planning Policy No. 32 – Urban Consolidation (Redevelopment of Urban Land) (SEPP 32) • State Environmental Planning Policy (Infrastructure) 2007 • Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005

	<ul style="list-style-type: none"> Sydney Regional Environmental Plan No. 20 Hawkesbury-Nepean River (No. 2 – 1997)
List all documents submitted with this report for the panel's consideration	<ol style="list-style-type: none"> 1. Locality Plan 2. Master Plan and Vegetation Plan 3. Site Plan and Calculations - 42-50 Cliff Road 4. Floor Plans - 42-50 Cliff Road 5. Elevations - 42-50 Cliff Road 6. Site Plan and Calculations - 44-52 Kent Street 7. Floor Plans - 44-52 Kent Street 8. Elevations - 44-52 Kent Street 9. Site Plan and Calculations - 10-14 Hazlewood Place 10. Floor Plans - 10-14 Hazlewood Place 11. Elevations - 10-14 Hazlewood Place 12. Shadow Plans - 42-50 Cliff Road 13. Shadow Plans - 44-52 Kent Street 14. Shadow Plans - 10-14 Hazlewood Place
Recommendation	Refusal
Report by	SJB Planning Pty Ltd on behalf of Hornsby Shire Council

ASSESSMENT REPORT AND RECOMMENDATION

EXECUTIVE SUMMARY

- Development application DA/1629/2014 was lodged with Hornsby Council on 23 December, 2014 and involves demolition of existing structures and construction of seven, five storey residential flat buildings comprising a total of 240 units with basement car parking provided within three separate basements.
- DA/859/2014 (lodged 1/8/2014) for demolition of existing structures and construction of three, five storey residential flat buildings comprising 89 units over basement car parking, was determined by Hornsby Council with granting of development consent subject to conditions, at 42-50 Cliff Road Epping, on 1 April 2015.

DA/859/2014 was subsequently modified under S.96(1A) of the EP&A Act (DA/859/2014/A), to delete condition 19(c) in relation to a basement access driveway being suitable for semi-rigid vehicle (SRV) access. The modification was approved by Council through modification to condition 19(c), on 29 June 2015.

DA/859/2014/B was lodged with Council on 3 July 2015, seeking to modify DA/859/2014 under Section 96(1A) of the EP&A Act, by the amendment of condition 28 in relation to approved construction working hours. At the time of preparing this report, DA/859/2014/B has not been determined.

The current development application relates to the whole site at 42-50 Cliff Road, 44-52 Kent Street and 10-14 Hazlewood Place, Epping including Stage 1/Buildings A, B and C (42-50 Cliff Road) which were the subject of DA/859/2014 and subsequent S.96 modifications. The application as it now stands will be considered and determined accordingly. If the applicant no longer wishes to include Stage 1/Buildings A, B and C, then it is recommended that the application be amended accordingly.

- The previous development application DA/859/2014 was assessed and determined by Council.
- The assessment report in respect of the current development application DA/1629/2014 has been prepared by independent consultant, SJB Planning.
- The proposal does not comply with *Hornsby LEP* building height controls, or DCP controls relating to setbacks, building separation, residential amenity (solar access, overshadowing, natural ventilation, acoustic amenity, dwelling layout and configuration), and landscape setback to the north.
- Issues of non-compliance were communicated to the applicant, who has submitted amended plans in response. It is considered that the amended plans have not satisfactorily addressed the non-compliances and concerns raised.
- Five submissions have been received in respect of the application.
- It is recommended that the application be refused.

RECOMMENDATION

THAT Development Application No. DA/1629/2014 for demolition of existing structures and construction of seven, five-storey residential flat buildings comprising a total of 240 units with basement car parking provided within three separate basements, at 42-50 Cliff Road, 44-52 Kent Street and 10-14 Hazlewood Place, Epping (Lots 42, 43, 44, 45 and 46 in DP 12051; Lots 1, 2, 3, 4 and 5 in DP 28934; and Lots 9, 10 and 11 in DP 28934) be refused subject to the “reasons for refusal” detailed in Schedule 1 of this report.

BACKGROUND

The subject land was rezoned from R2 Low Density Residential to R4 High Density Residential under State Environmental Planning Policy Amendment (Epping Town Centre) on 14 March 2014 which amended Hornsby Local Environmental Plan 2013. The rezoning followed the Epping Town Centre Study and the inclusion of Epping in the State Government’s Urban Activation Precincts.

The rezoning permits residential flat buildings on the subject land and a maximum building height of 17.5 metres.

On 1 August 2014, Development Application No. DA/859/2014 was lodged for demolition of existing structures and construction of three, five storey residential flat building comprising 89 units with basement car parking, at 42-50 Cliff Road Epping.

On 17 September 2014, Council raised a number of concerns with respect to the application. On 17 March 2015, the applicant forwarded the final set of amended plans addressing matters raised by Council. DA/859/2014 was determined by Council with granting of development consent (for the development now comprising 88 units) subject to conditions, on 1 April 2015.

DA/859/2014 was subsequently modified under S.96(1A) of the EP&A Act (DA/859/2014/A), to delete condition 19(c) in relation to a basement access driveway being suitable for SRV access. The modification was approved by Council through modification to condition 19(c), on 29 June 2015.

DA/859/2014/B was lodged with Council on 3 July 2015, seeking to modify DA/859/2014 under Section 96(1A) of the EP&A Act, by the amendment of condition 28 in relation to approved construction working hours. At the time of preparing this report, DA/859/2014/B has not been determined.

In summary, there is an existing development consent (DA/859/2014) over part of the subject site, for demolition of existing structures and construction of three, five storey buildings comprising 88 residential apartments at 42-50 Cliff Road, Epping. There is one application to modify that existing consent, under S.96(1A) of the EP&A Act, currently under consideration by Council.

The current development application that is the subject of this report (DA/1629/2014), was lodged with Council on 23 December, 2014. The DA is for demolition of existing structures

and construction of seven, five storey buildings comprising 240 residential apartments at 42-50 Cliff Road, 44-52 Kent Street and 10-14 Hazlewood Place, Epping.

SITE

The subject site occupies approximately 9,000 m² of land on the north east side of the intersection of Kent Street and Cliff Road, Epping. The site approximates a horseshoe shape, with a frontage to Kent Street of approximately 67 metres, approximately 58 metres to Cliff Road, and approximately 54 metres to Hazlewood Place on the inside of the horseshoe. Adjoining the site on its northern side is the Kent Street Reserve, a small area of remnant vegetation lining a small gully. The site has a gradual slope down towards the north from Cliff Road towards the Kent Street Reserve.

The site is one block north of Carlingford Road, a main arterial connecting Epping town centre with Pennant Hills Road at Carlingford. Epping town centre and railway station is situated approximately 200 metres south east of the site.

The site currently comprises 13 individual lots, each occupied by a single dwelling house with direct street access either to Cliff Road, Kent Street or Hazlewood Place. The surrounding landscape character is dominated by the intact corridor of vegetation in the Kent Street Reserve, and there is a secondary vegetation corridor generally established by the alignment of back yards to the properties in Kent Street, Cliff Road and Hazlewood Place that collectively make up the subject site.

Given the prevailing slope and topography, the site drains naturally toward the gully in Kent Street Reserve.

The Epping Town Centre Urban Activation Precinct, within which the subject site is located, is in a state of transition following the recent amendments to the *Hornsby LEP* planning controls to allow for increased height and density of development in the vicinity of the site. In March 2014 the Minister for Planning and Infrastructure approved the rezoning of this precinct from R2 (Low Density Residential) to R4 (High Density Residential).

Development adjoining to the west, on the opposite side of Kent Street, is a mix of single and two storey dwelling houses on single allotments of land that retains the R2 (Low Density Residential) zoning. No major developments or rezoning are currently proposed for this area.

To the east and south of the site, most land has also been rezoned from R2 (Low Density Residential) to R4 (High Density Residential), including a site at 29-31 Cliff Road (opposite the subject site), which is currently the subject of a development application for the development of a 39 unit, five storey residential flat building.

PROPOSAL

The 13 lots comprising the subject site have been incorporated into the proposed development for three stages of construction as summarised in the following table:

	STAGE 1 BUILDING A, B & C			STAGE 2 BUILDING D & E		STAGE 3 BUILDING F & G	
	42 Cliff Road			44-52 Kent Street		10-14 Hazlewood Place	
	Building A	Building B	Building C	Building D	Building E	Building F	Building G
	31 units	26 units	31 units	42 units	47 units	32 units	31 units
1 bedroom apartments	5	4	10	8	16	4	1
2 bedroom apartments	21	17	19	29	21	28	27
3 bedroom apartments	5	5	2	5	10	0	3
Sub Total	88			89		63	

Apartment Mix:

- Stage 1 – 22% one-bedroom; 64% two-bedroom; 14% three-bedroom
- Stage 2 – 27% one-bedroom; 56% two-bedroom; 17% three-bedroom
- Stage 3 – 8% one-bedroom; 87% two-bedroom; 5% three-bedroom
- Overall – 20% one-bedroom; 67% two-bedroom; 13% three-bedroom

Adaptable Dwellings:

The proposed development provides for a total of 31 adaptable dwelling units; being 8 one-bedroom units; 19 two-bedroom units; and 4 three-bedroom units.

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

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

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

Strategy will be reviewed and the Government will set housing targets and monitor supply to ensure planning controls are in place to stimulate housing development.

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

2. STATUTORY CONTROLS

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

2.1 Hornsby Local Environmental Plan 2013

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

2.1.1 Zoning of Land and Permissibility

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

- *To provide for the housing needs of the community within a high density residential environment.*
- *To 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 a residential flat building under the *HLEP*, and is permissible in the zone with Council's consent.

2.1.2 Height of Buildings

Clause 4.3 of the *HLEP* provides that the height of a building on any land should not exceed the maximum height shown for the land on the Height of Buildings Map. The maximum permissible height for the subject site is 17.5 m. The DA plans indicate that the proposal complies with this provision.

However, it is noted on all elevation drawings that the floor-to-floor heights between all floors in the development, including basement levels, is 3.0 m. Minimum floor-to-ceiling heights required under *SEPP 65* and the Residential Flat Design Code are 2.7 m. Council has communicated to the applicant that there is some doubt as to whether the minimum floor-to-ceiling height can be achieved throughout the development where the design allows 3.0 m floor-to-floor.

The applicant has responded that "based on our current experience with DA/859/2014 a ceiling height of 2.7 m per *SEPP 65* is achievable with 3.0 m floor to floor", but this has not been supported by any documentary evidence (eg engineering plans, slab dimensions etc.). If during construction the minimum floor-to-ceiling height cannot be achieved based on the current design, it may result in the addition of between 50 mm and 100 mm to the floor-to-floor dimension for each floor, which would then result in an increase in the overall height of

each building, of between 0.3 and 0.6 m. In Stages 2 and 3 of the development, this may result in a breach of the height limit.

Although minor in the overall context of the development, any breach of the height of buildings control is considered significant, for the following reasons:

- In the absence of a floor space ratio control, building height is a crucial tool in Council's ability to place reasonable limits on the bulk and scale of development.
- Particularly in a residential precinct, and especially where the site adjoins a low density residential area, it becomes increasingly important to control the bulk and scale of development for reasons of amenity, and scale and character of the locality.

2.1.3 Exceptions to Development Standards

No submission under clause 4.6 of the *HLEP 2013* to vary a development standard has been lodged or assessed in this instance. As indicated, concerns are raised as to whether the statutory height limit is achieved. On balance, there would be no overriding planning principle in support of non-compliance with the height of buildings development standard, in this instance.

2.1.4 Heritage Conservation

Clause 5.10 of the *HLEP* sets out heritage conservation provisions for Hornsby Shire. The site does not include a heritage item and is not located in a heritage conservation area. There are no heritage items in the vicinity of the subject site. Accordingly, no further assessment regarding heritage is necessary.

2.1.5 Earthworks

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

Council's assessment of the proposed works and excavation concludes that there are no relevant matters that would preclude the earthworks being undertaken, in the circumstances.

2.2 Draft Amendment to Hornsby Local Environmental Plan 2013

A number of planning strategies for Hornsby Shire have recently been gazetted which permit large scale high density development and encourage revitalisation of areas including the Epping Urban Activation Precinct. To guide the quality of new building stock, draft amendment No. 5 to the *HLEP* has been proposed which would include insertion of '*Clause 6.8-Design Excellence*'. The planning proposal has been exhibited, adopted by Council and forwarded to the Department of Planning and Environment to be made.

The draft Clause sets out matters for consideration to determine whether a proposed development exhibits a high standard of design. The Clause would apply to development proposals on land with a permitted height limit over 29.5m (10 storeys or more).

The applicable height limit in this instance is 17.5 m. Therefore, the draft amendment No. 5 does not apply to this development application.

2.3 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*. This Policy provides State-wide planning controls to promote and guide the achievement of energy efficiency and ecological sustainability in all new development.

The applicant has addressed this requirement through the preparation of BASIX Certificate No. 598750M, BASIX Certificate No. 598822M, and BASIX Certificate No. 598771M for the proposed units by Eco Certificates Pty Ltd. The Certificates are provided in the material supporting the development application, and the provisions of the SEPP are satisfied.

2.4 State Environmental Planning Policy No. 32 – Urban Consolidation (Redevelopment of Urban Land) (SEPP 32)

The proposed development supports the achievement of the objectives of *SEPP 32* in that it will promote urban consolidation close to the Epping Town Centre Urban Activation Precinct. Council has begun to implement its strategy of rezoning low-density residential land in close proximity to the Epping Town Centre, to take advantage of existing and planned improvements in public transport, and the increased levels of activity that will be generated in the locality. The proposed development is consistent with the policy and with the land use strategies being implemented by Council.

2.5 State Environmental Planning Policy No. 5 – Remediation of Land (SEPP 55)

SEPP 55 requires that Council must not consent to the carrying out of any development on land unless it has considered whether the land is contaminated or requires remediation before it is suitable for the proposed use.

The subject site has been continuously used for residential purposes since it was first developed, and the risk of contamination being present is low. No further assessment of potential land contamination is considered necessary in the circumstances.

2.6 State Environmental Planning Policy (Infrastructure) 2007

The *SEPP (Infrastructure) 2007* aims to identify matters relevant to the consideration of development applications adjacent to items of major infrastructure, and to provide for consultation with the relevant public authorities about certain development types during the development assessment process.

Access to the proposed development is located more than 90 metres from a classified road (Carlingford Road). Under the provisions of Clause 104 of the *SEPP – Traffic generating development*, referral of the development application to the RMS is not required.

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

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

The applicant has submitted a “Design Verification Statement” prepared by a qualified Architect stating how the proposed development achieves the design principles of *SEPP 65*. The design principles of *SEPP 65* and the submitted design verification statement are addressed in the following table (where the *SEPP* or *RFDC* are silent on a particular issue, the assessment has referred to controls under the *Hornsby DCP 2013*).

Principle	Compliance
1. Context	Yes
<p>Comment: The site is located within a precinct planned for five storey residential flat buildings in close proximity to Epping Railway Station and the Epping Town Centre. The proposal responds to the desired future character of the precinct as envisaged by Council for residential flat buildings in landscaped settings with underground car parking.</p> <p>Once the development of the precinct is completed, the proposal would integrate with the surrounding sites and would be in keeping with the desired future urban form. The proposed building would contribute to the identity and future character of the precinct.</p>	
2. Scale	No
<p>Comment: The scale of the development is generally in accordance with the height control (see comment in section 2.1.2 above in relation to <i>HLEP</i> clause 4.3).</p> <p>Building footprints generally comply with the maximum floorplate of 35m prescribed within the DCP. Buildings E (37 m), F and G (35.3 m) – exceed the control but are articulated with indentations of 4 m x 4 m (minimum) therefore are compliant.</p> <p>Proposed front, side and rear setbacks are variable and not all are compliant with the Hornsby DCP. Non-compliances are as follows:</p> <p>Stage 1 (A, B, C): front setback to Cliff Road (7930 mm); side setback to No. 40 Cliff Road (4055 mm)</p> <p>Stage 2 (D, E): side setback to Stage 1 (Building D) (3000 mm); rear setback Building E (zero setback); basement side setbacks D (3000 mm), E (3500 mm)</p> <p>Stage 3 (F, G): It is acknowledged that clear delineation of ‘front’, ‘rear’ and ‘side’ when referring to Stage 3 is not obvious. However, the setback to the reserve would reasonably be defined as ‘rear’ requiring 10 m minimum. The design achieves 6 m setback to building F, 6.6 m to building G – considered non-compliant. Basement setback to front (Hazlewood Pl) and to rear (Kent St Reserve) <7 m therefore non-compliant and do not provide sufficient space for deep soil landscaping.</p> <p>Building separation: all buildings max. 9 m separation do not comply with <i>SEPP 65/RFDC</i> minimum separation of 12 m (buildings up to 4 storeys/12 m height).</p> <p>The development does not achieve an acceptable scale. This development is (one of) the first high density developments in this part of Epping and will set a precedent, therefore it is critical that it establishes a suitable pattern in terms of its scale, built form and landscape</p>	

setting consistent with the DCP principles for the Cliff Road Epping Precinct.	
3. Built Form	No
<p>Comment: The proposed buildings do not achieve an appropriate built form for the site and its purpose, in terms of building alignments, proportions, and the manipulation of building elements. As referred to above the development is non-compliant with a number of key design controls and as a result is excessive in scale and bulk. Because this development will set a precedent for future developments in this precinct, it is critical that it establish a suitable built scale and form, in compliance with <i>SEPP 65</i> that later developments can follow.</p> <p>The proposed materials and finishes are acceptable, as are flat roof forms and top storey setbacks as required by the <i>Hornsby DCP</i>.</p>	
4. Density	No
<p>Comment: The <i>HLEP</i> does not incorporate floor space ratio requirements for the site. The density of the development is therefore governed by the height of the building and the required separations and setbacks. Because the proposed development does not achieve compliance with these controls, it results in excessive building density and would set an undesirable precedent in relation to the site's overall context, in terms of density.</p>	
5. Resource, Energy and Water Efficiency	Yes
<p>Comment: The applicant has submitted a BASIX Certificate for the proposed development. In achieving the required BASIX targets for sustainable water use, thermal comfort and energy efficiency, the proposed development would achieve efficient use of natural resources, energy and water throughout its full life cycle, including demolition and construction.</p>	
6. Landscape	Partial
<p>Comment: The application includes a landscape concept plan which provides landscaping along the street frontages, side and rear boundaries and includes a 7m x 7m deep soil landscaped area between the buildings. However as discussed above the development does not achieve full compliance with minimum basement setbacks hence deep soil planting areas will not meet the <i>HDGP</i> requirements.</p> <p>The proposal has been designed to facilitate the retention of 40 significant trees (Stage 1: 8 trees; Stage 2: 7 trees; Stage 3: 25 trees). An additional four trees within Stage 1 are proposed to be relocated.</p> <p>The landscape design provides no functional and useable communal open space areas with the development, as required in the <i>HDGP</i>.</p> <p>Large trees are proposed along the street frontages intercepted by shrubs and hedges which would soften the appearance of the development when viewed from the streets. Deep soil areas that incorporate canopy trees are provided around and between the</p>	

buildings which would enhance the development's natural environmental performance and provide an appropriate landscaped setting.

7. Amenity

No

Comment: Amended plans have not satisfactorily addressed questions of amenity relating to the design, layout and configuration of dwelling units. The design does not take full advantage of the extensive access to a northerly aspect, which affords excellent potential for solar access to the majority of dwellings. Corridor and hallway lengths remain excessive particularly for Stage 2 and 3 buildings, resulting in inefficient use of space which significantly reduces effective dwelling size and exacerbates other issues such as availability of natural cross ventilation.

Layout and configuration of private open space hinders maximum achievement of solar access, and does not take full advantage of the available northerly aspect. Achievement of the minimum 3 hours direct sunlight to 70% of dwellings within the development, between 9 am and 3 pm in mid-winter as required by the RFDC, is questionable. The RFDC allows relaxation to 2 hours minimum in 'dense urban areas', however the subject site is not considered to be a 'dense urban area' therefore full compliance should be achieved.

For a number of apartments the positioning of bedrooms adjoining boundary walls between apartments will provide poor acoustic amenity.

The majority of dwellings do not achieve satisfactory cross ventilation, which is also a consequence of the apartment layouts and configuration. Some bedrooms are provided with insufficient direct access to natural light, or none at all (eg units B.E9, G.E9, 1.E9 and 2.E9).

All units incorporate balconies accessible from living areas, however a number of balconies afford either poor solar access (particularly those on lower levels), or a loss of privacy owing to inadequate building separation. Some balconies are in deeply indented positions where little or no direct solar access will be achievable at any time of the year.

Storage areas have been provided within each unit and in the basement levels. The proposal provides convenient and safe access via central lifts connecting the basement car parks and all other levels.

8. Safety and Security

Yes

Comment: The design orientates the balconies and windows of individual apartments towards the street, rear and side boundaries, and towards internal circulation spaces between buildings, providing passive surveillance of the public domain and communal open space areas. Both the pedestrian and vehicular entry points are secured and visibly prominent from either Cliff Road, Kent Street or Hazlewood Place.

The proposal includes an assessment of the development against crime prevention controls in the Statement of Environmental Effects (SEE). The SEE has regard to *Crime Prevention Through Environmental Design Principles (CPTED)* and includes details of surveillance, access control, territorial reinforcement and space management such as artificial lighting in public places; attractive landscaping whilst maintaining clear sight lines; security coded door

lock or swipe card entry; physical or symbolic barriers to attract, channel or restrict the movement of people; security controlled access to basement car park; and intercom access for pedestrians. Appropriate conditions of consent may be recommended to require compliance with the above matters.

9. Social Dimensions and Housing Affordability

Partial

Comment: The proposal incorporates a range of unit sizes (see summary of dwelling mix above) to cater for different budgets and housing needs. The development complies with the required mix of 1, 2 and 3 bedroom dwellings under the *HDGP* (minimum 10% of each), but with only 31 adaptable dwellings (or 13%) it does not comply with the minimum requirement for 30% adaptable dwellings.

10. Aesthetics

No

Comment: The architectural treatment of the building incorporates indentations and projections in the exterior walls with balcony projections to articulate the facades. The roof is flat to minimise building height and incorporates eaves which would cast shadows across the top storey wall. These design elements are generally consistent with the design principles contained within the *Residential Flat Design Code* and the *HDGP*. However, owing to the deficiencies in the design identified elsewhere in this report, the desired aesthetic is let down by the excessive bulk and scale of the development, and visually this will translate as over-development of the site.

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

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

Residential Flat Design Code			
Control	Proposal	Requirement	Compliance
Deep Soil Zone	30%	25%	Yes
Communal Open Space	40%	25-30%	Yes
Ground Level Private Open Space	Min 10m ² ; most ground level apartments do not comply	25m ²	No
	Min Dimension	Min Dimension 4m	Yes

	4m		
Minimum Dwelling Size	1 br: 54.5m ² - 72m ²	1 br – 50m ²	Yes
	2 br – 76m ² - 92m ²	2 br – 70m ²	Yes
	3 br – 90.6m ² - 111m ²	3 br – 95m ²	No
Maximum Kitchen Distance to window	8m	8m	Yes
Minimum Balcony Depth	2m	2m	Yes
Minimum Ceiling Height	3m floor to floor all buildings all floors	2.7m	No. 3.1 m floor to floor recommended
Total Storage Area	1 bed – 8.94m ³ (Min)	1 bed - 6m ³ (Min)	Yes
	2 bed – 8.52m ³ (Min)	2 bed - 8m ³ (Min)	
	3 bed – 11.25m ³ (Min)	3 bed - 10m ³ (Min)	
		50% accessible from the apartments	No
Dual Aspect and Cross Ventilation	60%	60%	Yes
Adaptable Housing	13%	No minimum specified	Yes

As detailed in the above table, the proposed development generally complies with the prescriptive numerical measures within the *Residential Flat Design Code (RFDC)* other than the Minimum ground floor private open space area; the minimum dwelling size (for 3 bedroom apartments); and the 50% minimum accessible storage from within apartments. Below is a brief discussion regarding the relevant development controls and best practice guidelines.

2.8.1 Ground Floor Apartments and Private Open Space

Of the 49 apartments proposed at ground floor level across the development, only 21 or 43% are to be provided with the required minimum 25 m² of private open space. Of those that do not comply, nine ground floor apartments have been designed with less than 15 m² of private open space (the smallest being 10 m²), and a further 12 will have 20 m² of private open space or less.

Moreover, a number of these private courtyards and terraces are south- or west-facing, or in positions where they would be overshadowed for much of the day in mid-winter.

Given the size of the site, its location and topography, the non-compliance with this control, and the detrimental effect on the development's overall achievement of reasonable levels of amenity, is not considered to be acceptable. This issue could perhaps be resolved through trading off some of the communal open space of which there is, in total, more than the minimum required under *SEPP 65*, and converting some of this space to private open space. Other issues with the amenity of ground floor private open space areas, such as poor solar access, are a function of the overall scale of the proposed development, and the inadequate separation between buildings.

2.8.2 Apartment Layout

Council has previously raised with the applicant the issue of poor apartment layouts that "significantly reduce the effective dwelling sizes due to the need to provide extensive internal corridor areas." While some alterations have been made to overall apartment layouts, and the total number of apartments has been reduced (from 256 in the DA as originally lodged to 240), there remain a significant number of apartments in the proposed design with extensive internal corridors or hallways. Not only does this represent an inefficient use of space, it also gives some apartments internal layouts that are serpentine, and heightens the risk of acoustic privacy issues.

For example: apartment G.D1 is designed as a 2-bedroom dwelling with a total internal floor area of 94.8 m², of which approximately 16 m² is internal hallway, meaning that the useable floor area is less than 80 m². Further, there are living spaces of adjoining apartments on either side of the hallway.

Similarly, apartment G.E7 is designed as a 2-bedroom adaptable dwelling with a total internal floor area of 83.6 m², of which approximately 16 m² is internal hallway, resulting in just 68 m² of useable floor space.

2.8.3 Solar Access

SEPP 65 requires that new residential flat buildings achieve a minimum three hours direct sunlight to the living areas and private open space of at least 70% of dwellings, between 9 am and 3 pm in mid-winter. The *RFDC* allows relaxation of the standard to two hours (consistent with the *HDCP* control) minimum in 'dense urban areas'. However, the subject site is not considered to be a 'dense urban area' therefore full compliance should be achievable.

Assessment of the amended shadow diagrams provided by the applicant indicates that achievement of the minimum solar access requirement is questionable. This may be partly due to the inclusion on the shadow diagrams of other future residential flat building developments in the precinct, but it makes sense to include these future developments because they will have a long-term impact. However, the likely future development of adjoining sites only serves to heighten the importance of achieving good solar access to this development. As assessed, the proposal's non-compliance is not acceptable in particular given that the site has the optimum alignment for maximising the number of dwellings with a northerly aspect. There are no topographic or man-made constraints, and the site is sufficiently large for a sensitive design to achieve not only an economic dwelling yield, but to also achieve a high standard of amenity within a built form that satisfies other requirements of the *SEPP*, the *RFDC* and Council's DCP in regard to height, bulk, scale, and building separation.

2.8.4 Acoustic Privacy

The proposed dwelling layout reveals a number of examples of adjoining apartments having a spatial relationship that does little to promote acoustic privacy. For example:

- G.A1, G.A2: one apartment's hallway wraps around the other, with the living room of G.A1 directly adjoining the master bedroom in G.A2.
- G.B5, G.B6: as above, with a long common wall separating adjoining primary living and circulation areas.
- G.C1, G.C2: common wall issues, as well as a living area with direct access to a balcony that wraps around the bedroom of the adjoining apartment.
- G.D1, G.D8: long hallway and common wall separating adjoining primary living and circulation areas of adjoining dwellings.
- G.D5, G.D6: long hallway and common wall separating adjoining primary living and circulation areas of adjoining dwellings.
- G.E9, G.E10: long hallway and common wall, with the living room of G.E9 directly adjoining the master bedroom in G.E10.

Each of these layouts is repeated on the floors above in each respective building. There are also many instances of bathrooms or kitchens adjacent to common walls, in some cases with bedrooms on the other side, where the noise from water pipes, drains and flushing toilets would likely travel through the walls. Although apartment living necessarily involves some compromises in terms of acoustic privacy, the proposed design is considered to be unsatisfactory, showing a lack of consideration for these issues that has resulted in, and is a function of, poor dwelling layout.

2.9 Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005

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

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

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

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

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

2.11 Hornsby Development Control Plan 2013

The proposed development has been assessed having regard to the relevant desired outcomes and prescriptive requirements within the *Hornsby Development Control Plan 2013 (HDCP)*. It is noted however that where there are inconsistencies between the requirements of the *HDCP* and *SEPP 65* (and the *RFDC*), the provisions of *SEPP 65* will prevail.

The following table sets out the proposal's compliance with the prescriptive requirements of the Plan:

Hornsby Development Control Plan 2013			
Control	Proposal	Requirement	Compliance
Site Width	Stage 1: 97 m Stage 2: 84 m Stage 3: 96.25 m	30 m	Yes
Height	5 storeys-17.5 m	5 storeys-17.5 m	Questionable – see section 2.1.2 above
Lowest Residential Floor Above Ground	NA	NA	NA

Hornsby Development Control Plan 2013			
Control	Proposal	Requirement	Compliance
Maximum Floorplate Dimension	37 m (Bldg E)	35 m	No
Building Indentation	4 m x 4 m	4m x 4m	Yes
Height of Basement Above Ground	0 m	1m (max)	Yes
Front Setback	See Table under section 2.7 above	10 m	Partial
Rear Setback	See Table under section 2.7 above	10 m	Partial
Side Setback	See Table under section 2.7 above	6 m	Partial
Top Storey Setback from Ground Floor	3 m	3 m	Yes
Underground Parking Setback	See Table under section 2.7 above	7 m front 7 m rear 4 m side	Partial
Basement Ramp Setback	2 m	2 m	Yes
Deep Soil Landscaped Areas	See Table under section 2.7 above	7 m front and rear 4 m sides 7 m x 7 m between buildings	Partial

Hornsby Development Control Plan 2013			
Control	Proposal	Requirement	Compliance
Private Open Space	Min provided: 1 BR unit – 10 m ² 2 BR unit – 12 m ² 3 BR unit – 16 m ²	1 BR unit – 10 m ² 2 BR unit – 12 m ² 3 BR unit – 16 m ²	Yes
Communal Open Space with Minimum Dimensions 4m	40% of site area	25% of site area Min dimension 4 m	Yes
Parking	297 resident spaces (including 32 accessible) 46 visitor spaces (including 4 accessible) 91 bicycle racks 5 motorbike space	243 resident spaces (including 30 accessible) 34 visitor spaces 48 bicycle racks 24 visitor bicycle racks 7 Motorbike space	Yes No
Solar Access	See section 2.8.3 above	2 hrs direct sunlight to living areas in 70% of dwellings between 9am and 3pm in mid-winter	No
Housing Choice	20% 1-bedroom 67% 2-bedroom 13% 3-bedroom	10% of each type (min)	Yes
Adaptable Units	13%	30%	No

As detailed in the above table, the proposed development does not comply, or achieves only partial compliance with a number of prescriptive requirements within the *HDGP*. The matters

of non-compliance are detailed below, as well as a brief discussion on compliance with relevant desired outcomes.

2.11.1 Desired Future Character

In addition to the desired future character statement for localities that are zoned for 5 storey residential flat buildings, the *HDCP* (in section 3.4.14) sets key development principles for the Cliff Road, Epping precinct for landscaping and built form, which contribute to the desired future character for the precinct.

In general the proposal satisfies the *HDCP* desired future character statements, in respect of landscaped setbacks along street frontages, allocation of communal open space, and the articulation of buildings into pavilion forms. However, the design falls short of achieving its aims in some key areas, each of which then has a cumulative effect, detracting from the desired level of residential amenity that the development should comfortably be able to achieve.

Despite their articulated design and the variations in form produced by alternating windows, balconies and slab walls, the widths of the proposed facades along Cliff Road, Kent Street and Hazlewood Place are considered excessive. When viewed from the street, this creates a development that is out of scale with its surrounds. The perceived visual scale is further exaggerated when the buildings are viewed in perspective, which gives the appearance of a single, unbroken building mass taking up a significant proportion of the street. Given the narrow carriageways in all three streets (Cliff Road and Hazlewood Place in particular), the perceived scale of development will be further exaggerated.

As discussed elsewhere in this report, there are non-compliances with the *HDCP* and the *RFDC* in key areas such as building setbacks and separations. These are key controls in regulating the perceived bulk and scale of development for a development such as that proposed. These non-compliances trigger further non-compliances in respect of amenity such as the proposal's inability to satisfy minimum solar access requirements. Along with the scale of development and the size of the buildings, they also are factors in other aspects of the design discussed here, such as poor internal layouts and acoustic amenity.

2.11.2 Site Requirements

As previously discussed, the site suitable for development of medium density residential flat buildings, with good street access and excellent solar orientation. Existing lots are to be amalgamated, however the development as it is currently designed leaves two existing properties potentially isolated, being numbers 3 and 16 Hazlewood Place. Had these properties been integrated into the development, a better design outcome may have been achievable.

2.11.3 Height

See discussion in section 2.1.2, in relation to *HLEP* height controls.

2.11.4 Setbacks

See discussion in section 2.7 in relation to *SEPP 65* and *RFDC* requirements.

2.11.5 Built Form and Separation

See discussion in section 2.7 in relation to *SEPP 65* and *RFDC* requirements.

2.11.6 Landscaping

See discussion in section 2.7 in relation to *SEPP 65* and *RFDC* requirements.

2.11.7 Open Space

See discussion above in section 2.7 and 2.8 in relation to *SEPP 65* and *RFDC* requirements.

2.11.8 Privacy and Security

The proposed design is satisfactory in respect of *HDCP* controls relating to privacy and security.

2.11.9 Sunlight and Ventilation

See discussion above in section 2.7 and 2.8 in relation to *SEPP 65* and *RFDC* requirements.

2.11.10 Housing Choice

While the proposal provides an acceptable distribution of one, two and three-bedroom apartments in compliance with the *HDCP* controls, it does not comply with the adaptable dwelling minimum requirement of 30% of dwellings being adaptable. The proposal achieves only 13% of dwellings being adaptable.

2.11.11 Vehicular Access and Parking

The proposed design is satisfactory in respect of *HDCP* controls relating to vehicular access and parking.

2.11.12 Waste Management

The proposed design is satisfactory in respect of *HDCP* controls relating to waste management.

2.12 Section 94 Contributions Plans

Hornsby Shire Council Section 94 Contributions Plan 2012-2021 applies to the development as it would result in additional dwellings. Should the application be approved, Section 94 contributions would be levied as a condition of consent.

3. ENVIRONMENTAL IMPACTS

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

3.1 Natural Environment

3.1.1 Tree and Vegetation Preservation

The arborist's report accompanying the application concludes that the proposed development would necessitate the removal of 106 of the (approximately) 150 trees existing on the site. 40 trees are to be retained, and 4 trees are identified to be transplanted in the context of the proposed development.

Twelve trees were identified as being 'Retention Value A', and 68 were identified as being 'Retention Value B'. Eight of the former, and 28 of the latter, are to be retained in-situ as part of the development and the overall landscape plan.

3.1.2 Stormwater Management

A concept stormwater plan, prepared by Martens and Associates, was submitted as part of the application. The stormwater management plan has been prepared to satisfy the stormwater and drainage objectives outlined in the *HDCP*.

The application and design has however not satisfactorily addressed and mitigated the impact of the 100 year ARI recurrence storm and overland flow from the sag point in the road adjacent to 10 Hazelwood Place, Epping as required by Council's Design and Construction Specification 2005. The assessment of Council's development engineer has identified that the impact of the overland flow could result in flows occurring on the basement ramp and result in flood damage to the property.

3.2 Built Environment

3.2.1 Built Form

See discussion above in section 2.7 and 2.8 in relation to *SEPP 65* and *RFDC* requirements.

3.2.2 Traffic

A traffic and parking assessment, prepared by Varga Traffic Planning, has been submitted with the proposal. The proposal has sought to incorporate the entire car parking design requirements of the *HDCP*. The design is considered to achieve a satisfactory provision and allocation of resident, visitor, accessible, bicycle and motorbike parking within the development, which will be suitable in the context of the site's location in proximity to the Epping Town Centre and associated transport services.

Council's engineering assessment of the traffic impacts of the development concluded that the development is suitable for approval on traffic and parking grounds, subject to the imposition of certain conditions relating to access for service (such as garbage collection) vehicles.

3.3 Social Impacts

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

The location of the development is in close proximity to the Epping Town Centre and associated transport facilities and the development would therefore support council (and State

government) policies in relation to increased availability of a mix of housing types close to these types of facilities.

3.4 Economic Impacts

The proposal would have a positive impact on the local economy in conjunction with other new medium density residential development in the locality, by generating an increase in demand for local services.

4. SITE SUITABILITY

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

The subject site has not been identified as bushfire prone or flood prone land, although an existing overland flow path has been identified through the site, draining to the gully in the Kent Street Reserve. The site is considered to be capable of accommodating the proposed development. Notwithstanding matters raised in this assessment, the scale of the proposed development in general terms is consistent with the capability of the site and is considered acceptable.

The site is of sufficient size, and exhibits excellent natural attributes in terms of its topography and solar orientation, to accommodate a development of the type proposed.

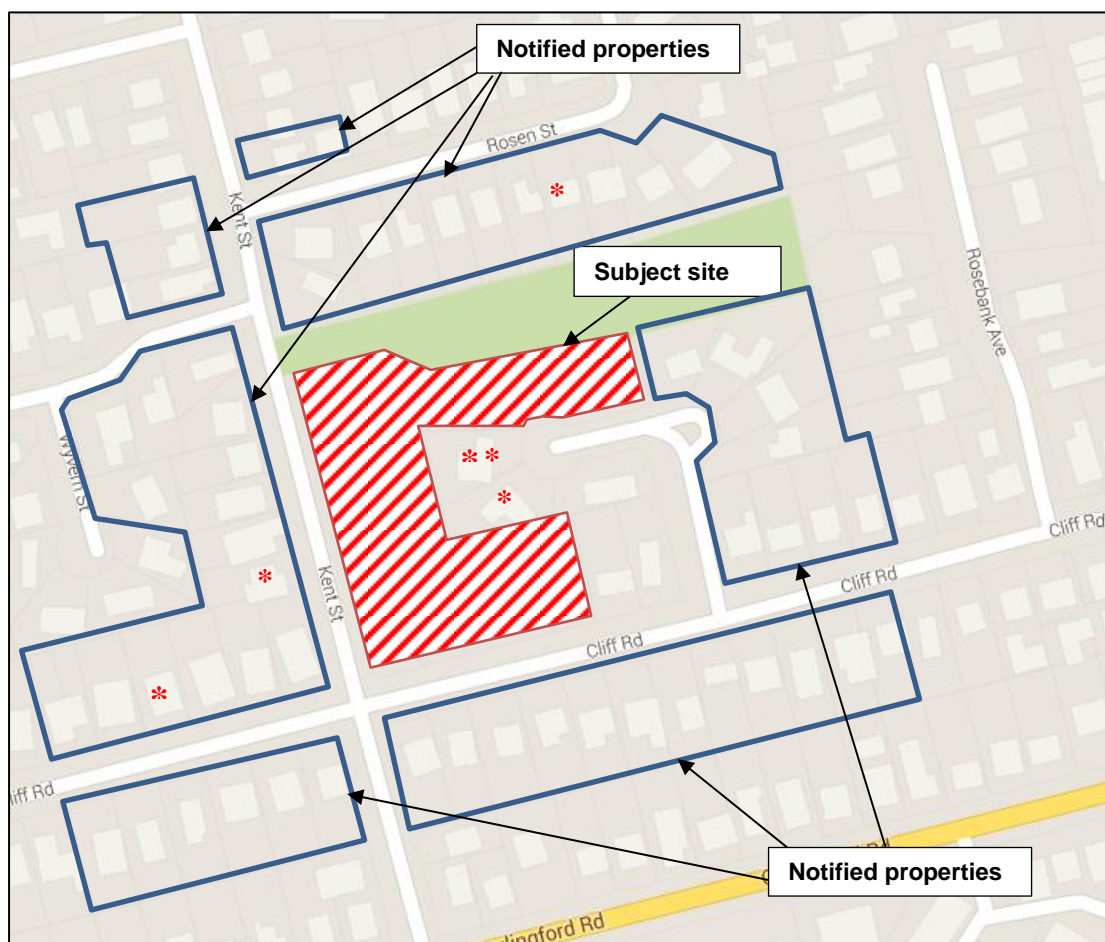
As discussed in section 2.11.2, the site’s suitability for the development would be further enhanced by the inclusion and integration into the site of the two (potentially isolated) properties at numbers 3 and 16 Hazlewood Place.

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 28 January 2015 and 11 February 2015, in accordance with the Notification and Exhibition requirements of the *HDCEP*. During this period, Council received 5 submissions. The map below illustrates the location of those nearby landowners who made a submission that are in close proximity to the development site.



* Submissions received

NOTIFICATION PLAN

Five submissions objected to the development, generally on the grounds that:

5.1.1 Isolation of properties

The owners of number 3 and number 16 Hazlewood Place have expressed concern that the development if approved will isolate these two properties which, because of their smaller area, will not be a viable development proposition in the R4 medium density zone. They have therefore requested that Council not grant approval to the subject development before a similar approval has been granted in respect of these two properties. It is noted that a separate development application has now been lodged with Council in respect of these two properties.

5.1.2 Boundary encroachment – 16 Hazlewood Place

The owner of 16 Hazlewood Place has raised a concern that the proposal “clearly shows a proposed encroachment onto the property known as 16 Hazlewood Place”, and has objected to any encroachment onto their land.

From a review of the site plans, it is not clear that there is an encroachment onto the property at 16 Hazlewood Place. However, prior to any granting of development consent, Council will ensure that the applicant has confirmed the location of cadastral boundaries and that the development is wholly within those boundaries. Further, if approved, a suitably worded condition of consent could be included to ensure that no encroachment occurs.

5.1.3 Non-compliances with Hornsby DCP

The objector has referred to Stage 3 of the proposed development (Buildings F and G) in an objection relating to non-compliances with *HDCP*. Specifically, the objector highlights apparent non-compliances to the *HDCP* in relation to front and side boundary setbacks, balconies encroaching within the required 7 metre boundary setback (for balconies), the 3 metre top storey setback, and building separation between floorplates.

The objector also questions the absence in the documentation of any details regarding fencing and the related issues of access between the subject site and the Kent Street Reserve, and likely impacts on flora and fauna in the reserve.

Lastly, in the opinion of the objector, the proposal represents an overdevelopment of the site.

Each of these matters is addressed as follows:

Non-compliances in relation to front/side boundary setbacks and building separation have been addressed in the relevant sections of this report, above.

The development has been assessed as complying with the required 3 metre top storey setback control.

With regard to balcony setbacks, section 3.4.5 of the *HDCP* states, in relation to setback encroachments:

“Balconies are able to encroach to within 7 metres of the front and rear boundaries provided there is no impact on the achievement of daylight access, visual privacy, and acoustic privacy.”

The *HDCP* therefore sets no minimum setback for balconies, provided that they satisfy the stated amenity requirements. In the circumstances, the balconies referred to by the objector are north-facing and therefore have little effect on daylight access. The assessment has further concluded that, owing to the site's location adjacent to the Kent Street Reserve, the balcony setbacks to the northern boundary would be acceptable in terms of visual and acoustic privacy.

With regard to fencing, access to the Kent Street Reserve and likely impacts on flora and fauna, it is a standard condition of development consent that if approved, Council will require the property to be fenced at the boundary. Further, it is noted that the *HDCP* specifically identifies maintenance of pedestrian access between Hazlewood Place and Kent Street Reserve (*HDCP* 3.4.14 Key Development Principles – Cliff Road, Epping Precinct) as a requirement associated with any adjoining development. Having regard to the objector's claims regarding the impact of increased useage on the reserve, it could also be argued that by formalising the access, impacts will be controlled, and that further surveillance by residents over the reserve would discourage anti-social behaviour.

5.1.4 Replacement of traditional low density residential development with high-density housing

Council's objectives in the planning initiatives to increase the density of residential development in the Cliff Road, Epping precinct have arisen out of a full and proper planning process, before becoming adopted as Council policy. The rezoning of the subject land from R2 Low Density Residential to R4 High Density Residential followed the Epping Town Centre Study and inclusion of Epping in the State Government's Urban Activation Precincts. These changes were supported and guided by State Environmental Planning Policy Amendment (Epping Town Centre), which facilitated the rezoning, gazetted on 14 March 2014, which amended Hornsby Local Environmental Plan 2013.

Further, the initiatives are entirely consistent with State government policies and strategies to promote development for higher residential densities around key transport nodes. With the opening of the Epping to Chatswood railway line, Epping Station has become a key node, and with the development of the North-West Metro, development pressure around Epping will only increase. It is essential that Council and the State government plan for this growth now, so that it can be managed over time in a pro-active rather than a reactionary manner.

5.1.5 The proposed high density design, bulk and scale of the development and its impact on the character of the local area

This assessment has addressed matters relating to the design of the proposed development, in relation to density and character of the locality, in the relevant sections above.

5.1.6 Location of Building D & E driveway

The objector has noted the proposed location of the driveway to Buildings D and E, which is opposite to the objector's property, as a potential source of noise and heavy traffic impacts. The objector suggests that most cars entering Kent Street do so from Rosen Street (to the north), and therefore it would make sense to relocate the Stage 2 driveway to the north of the development site, or between Buildings D and E. The objector also notes that relocation of the driveway would remove the need to relocate the electricity substation that is located in the nature strip of Kent Street adjacent to the rear of No. 50 Cliff Road.

In response, the location of driveways to a development such as proposed will not satisfy every adjoining resident. It is more important in the circumstances that the driveway location be considered in the context of the whole development, including the local road network and circulation patterns, as well as the likely impact on neighbouring residents. In planning terms, the proposed location of the Stage 2 driveway satisfies key considerations and also has been assessed as satisfactory by Council's traffic engineer. With regard to the electricity substation, any relocation (or upgrading) of this facility or other utilities and services that would result from the development, would be the responsibility of the proponent.

5.1.7 Construction noise and dust impacts

The objector raises concerns regarding construction noise and dust impacts, and argues that construction working hours should be restricted to weekdays only, between the hours of 8 am to 6 pm.

Council's standard conditions in relation to working hours on construction sites provide that under normal circumstances, works can take place between the hours of 7.00 am to 6.00 pm Monday to Friday, 8.00 am to 1.00 pm Saturday, with no work on Sundays or public holidays.

Council is aware of the need to balance construction imperatives with the needs and amenity of local residents. However, it is considered on balance that placing further restriction on construction hours would extend the duration of construction and therefore the duration of exposure to the types of impacts the objector is concerned about. There would appear to be no special circumstances applying to the subject site that would warrant further restriction on normal construction working hours, and standard hours are considered justified in the interests of having developments completed within the shortest reasonable time frame.

5.1.8 Boundary fence

It is considered to be a reasonable request that the applicant be required to construct the boundary fence at nil cost to the neighbouring property owner should the application be approved.

6. THE PUBLIC INTEREST

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

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

The application is considered to have not addressed Council's and relevant agencies' criteria satisfactorily, and would not provide a development outcome that, on balance, would result in a positive impact for the community. The primary reason that the proposed development is not considered to be in the public interest, is that it would set an undesirable precedent. The subject site is one of the first in the Cliff Road, Epping precinct to be developed for high density residential use, and it is essential that this development be seen to establish a high standard, not just in its compliance with the *HLEP*, the *HDGP* and *SEPP 65*, but in terms of its design and its relationship to the surrounding locality. It therefore needs to establish a suitable pattern in terms of its scale, built form and landscape setting consistent with the DCP principles for the Cliff Road Epping Precinct.

The public interest in this case demands the achievement of the high standards embodied in Council's objectives under the respective planning instruments. In its current form, the development exhibits too many non-compliances with the planning controls, and as a result it does not achieve these objectives.

Accordingly, it is considered that the approval of the proposed development would not be in the public interest.

CONCLUSION

The proposed development is for demolition of existing structures and erection of seven residential flat buildings to a height of five storeys, in three stages comprising 240 new dwellings over two levels of basement car parking, at 42-50 Cliff Road, 44-52 Kent Street and

10-14 Hazlewood Place, Epping. The proposal has been assessed against the provisions of the Hornsby LEP 2013, the *Hornsby DCP 2013*, and *SEPP 65* as the primary environmental planning instruments containing provisions relating to the subject development. The development has also been assessed against other related and subordinate planning instruments, as has been documented in this report.

The assessment of the proposed development as documented in this report has found that it does not comply with a number of key controls relating to the bulk and scale of development, and as a result the proposal would result in over-development of the site, and a development that is not supportive of the planning objectives for the locality, or sympathetic to the character of the surrounding streets. Of main concern are the non-compliances relating to boundary setbacks and building separation, which result in buildings having excessive bulk, in a development with a scale inappropriate to its setting. These issues have flow-on effects to the design of individual dwellings, wherein the internal floor layouts do not facilitate quality dwelling design. As a result, many of the proposed dwellings will offer poor amenity in terms of solar access, natural ventilation, and acoustic privacy. Further, poor layouts result in excessive space devoted to long corridors and hallways, reducing the effective floor space of habitable living areas.

The subject site occupies approximately 9,000 m² of land with sufficient width, and excellent topography and solar orientation, to achieve a quality residential development that would satisfy the key planning objectives as well as the statutory and non-statutory development controls. If Council were to approve this development in its current form, it would establish an undesirable precedent, to the detriment of the local area. The development in its current form is therefore not considered to be in the public interest, and cannot be supported.

Accordingly, it is recommended that development consent for the proposed development be refused.

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.

RECOMMENDATION

THAT Development Application No. DA/1629/2014 for Demolition of existing structures and construction of seven, five-storey residential flat buildings comprising a total of 240 units with basement car parking provided within three separate basements, at 42-50 Cliff Road, 44-52 Kent Street and 10-14 Hazlewood Place, Epping (Lots 42, 43, 44, 45 and 46 in DP 12051; Lots 1, 2, 3, 4 and 5 in DP 28934; and Lots 9, 10 and 11 in DP 28934) be refused subject to the “reasons for refusal” detailed in Schedule 1 of this report.

Attachments:

1. Locality Plan
2. Master Plan and Vegetation Plan
3. Site Plan and Calculations - 42-50 Cliff Road

4. Floor Plans - 42-50 Cliff Road
5. Elevations - 42-50 Cliff Road
6. Site Plan and Calculations - 44-52 Kent Street
7. Floor Plans - 44-52 Kent Street
8. Elevations - 44-52 Kent Street
9. Site Plan and Calculations - 10-14 Hazlewood Place
10. Floor Plans - 10-14 Hazlewood Place
11. Elevations - 10-14 Hazlewood Place
12. Shadow Plans - 42-50 Cliff Road
13. Shadow Plans - 44-52 Kent Street
14. Shadow Plans - 10-14 Hazlewood Place

SCHEDULE 1

1. The proposed development is unsatisfactory in respect to the provisions of Section 79C(1)(a)(i) of the *Environmental Planning and Assessment Act, 1979* as the proposal would be inconsistent with the design principles of *State Environmental Planning Policy No. 65 – Design Quality Residential Flat Development*, and to the requirements of the *Residential Flat Design Code* as follows:
 - 1.1 Minimum floor to ceiling heights.
 - 1.2 Allocation of private open space.
 - 1.3 Solar access and natural ventilation.
 - 1.4 Separation of buildings.
 - 1.5 Apartment layout and design and acoustic privacy.
2. The proposed development is unsatisfactory in respect to the provisions of Section 79C(1)(a)(iii) of the *Environmental Planning and Assessment Act, 1979* as the proposal does not meet the requirements of the *Hornsby Development Control Plan 2013* as follows:
 - 2.1 The proposal is contrary to Section 3.4.6 Building Form and Separation as the proposed facades do not meet the articulation requirements.
 - 2.2 The proposal is contrary to Section 3.4.10 Sunlight and Ventilation as the proposed units do not achieve the required solar access.
 - 2.3 The proposal is contrary to Section 3.4.11 Housing Choice as the proposal does not provide the required adaptable housing.
3. The proposed development is unsatisfactory in respect to the provisions of Section 79C(1)(b) of the *Environmental Planning and Assessment Act, 1979* as the applicant has not addressed and managed the impact of the year average recurrence interval storm overland flow from the sag adjacent 10 Hazlewood Place, Epping in accordance with Council's Design and Construction Specification 2005, exposing the development to potential flood damage.
4. The proposed development is unsatisfactory in respect to the provisions of Section 79C(1)(e) of the *Environmental Planning and Assessment Act, 1979* and the public submissions received in response to the proposal.

END OF REASONS FOR REFUSAL -