

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

JRPP No	2015SYW063
DA Number	DA/213/2015 Lodged 25/02/2015
Local Government Area	Hornsby
Proposed Development	Demolition of existing structures and construction of a part 13 and part 14 storey mixed use development comprising 76 units and commercial floor space, 94-98 George Street, Hornsby Cost (estimate): \$20,020,920
Street Address	94-98 George Street, Hornsby NSW 2077 (Lots 9-11 Section 6 DP 1880)
Applicant/Owner	L & C's Foundation Pty Ltd
Number of Submissions	42 submissions including one petition containing 165 signatures
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 (Infrastructure) 2007 • Sydney Regional Environmental Plan No. 20 Hawkesbury-Nepean River (No. 2 – 1997)
List all documents submitted with this report for the panel's consideration	1. Locality Plan 2. Site Survey 3. Site Photos

	4. Floor Plans 5. Elevations 6. Sections 7. Solar Access Diagrams 8. Landscape Plans 9. Design Verification Statement 10. Clause 4.6 – Exceptions to development standards – Height of buildings (Clause 4.3) 11. BASIX Certificate 12. Schedule of Materials and Finishes
Recommendation	Approval subject to conditions
Report by	SJB Planning Pty Ltd

ASSESSMENT REPORT AND RECOMMENDATION

EXECUTIVE SUMMARY

- On 25 February 2015 a Development Application was lodged with Hornsby Shire Council which sought consent for the demolition of existing structures and construction of a part 13 and part 14 storey mixed use development comprising 86 residential units, commercial floor space and 126 car parking spaces, provided by four levels of basement parking.
- On 14 April 2015 a request for additional information was issued by Hornsby Shire Council relating to the proposed Capital Investment Value (CIV), flood study and stormwater concept plan. Additional information regarding the CIV, stormwater and flooding provisions for the site was provided on 24 April 2015 and 2 July 2015 respectively.
- Issues of non-compliance were communicated to the applicant via a request for further information issued by Hornsby Shire Council on 6 July 2015. This letter raised issues relating to the following:
 - Site requirements;
 - Floor Space Ratio;
 - Floorplates;
 - Height;
 - Setbacks;
 - Open Space;
 - Deep Soil;
 - Solar Access;
 - Privacy;
 - Housing Choice;
 - Building Entry;
 - Car Parking; and
 - Materials, Colours and Finishes.
- On 25 August 2015 additional information and amended plans were submitted to Hornsby Shire Council by the applicant. The amended plans indicated demolition of existing structures and construction of a part 13 and part 14 storey mixed use development comprising 82 residential units and commercial floor space, with 4 levels of basement car parking.
- The amended proposal did not comply with *Hornsby Local Environmental Plan 2013 (HLEP)* in terms of maximum height of buildings and Floor Space Ratio controls, or with *Hornsby Development Control Plan (HDCP)* controls relating to residential amenity (solar access, overshadowing), site amalgamation, built form, setbacks, residential floorplate and communal open space.
- On 8 October 2015 the Sydney West Region Joint Regional Planning Panel (JRPP) were briefed at the site.
- Following the Sydney West Region JRPP briefing amended plans were submitted by the applicant on 30 October 2015. The amended plans indicated demolition of

existing structures and construction of a part 12 and part 13 storey mixed use development comprising 74 residential units and commercial floor space, with 4 levels of basement car parking.

- A further request for additional information relating to the amended design was issued by Hornsby Shire Council on 3 March 2016. This letter raised the following issues:
 - Private Open Space;
 - Proposed openings on northern façade;
 - Floor to Floor Height
 - Building Separation
 - Privacy; and
 - Adaptable housing.
- Amended plans responding to the above issues were submitted by the applicant on 30 March 2016.
- Further amended plans were submitted on 27 May 2016. The amended plans proposed a part 13 and part 14 storey mixed use development, with 76 residential units and three levels commercial floor space. These plans are the subject of this assessment.
- The amended proposal does not comply with the maximum building height control of 40m established for the site under the *HLEP*. A formal written request for variation was submitted pursuant to Clause 4.6 of the *HLEP* to provide justification for the variation. It is considered that the proposal will provide an appropriate transition in height between 90 George Street, to the immediate south and future development to the north.
- The amended development complies with both the overall and residential FSR controls applying to the site under Clause 4.4 of the *HLEP*.
- Outstanding issues with the *HDCEP* relating to residential amenity (solar access, overshadowing), site amalgamation, built form, setbacks, residential floorplate and communal open space have been resolved.
- It is considered that the amended plans, subject to the conditions outlined in Schedule 1, have satisfactorily addressed the non-compliances and concerns raised.
- It is recommended that the application be approved.

RECOMMENDATION

THAT Development Application No. DA/213/2014 for Demolition of existing structures and construction of a part 13 and part 14 storey mixed use development comprising 76 units and three levels of commercial floor space, at Lots 9-11 Section 6 DP 1880, Nos. 94-98 George Street, Hornsby be approved subject to the conditions of consent detailed in Schedule 1 of this report.

BACKGROUND

On 25 February 2015 a Development Application was lodged with Hornsby Shire Council which sought consent for the demolition of existing structures and construction of a part 13 and part 14 storey mixed use development comprising 86 residential units, commercial floor space and 126 car parking spaces, provided by four levels of basement parking.

The proposed development has been substantially amended from the initial design, with final plans submitted on 27 May 2016, which respond to issues raised by Hornsby Shire Council. The amended plans, which are the subject of this assessment report, indicate demolition of existing structures and construction of a part 13 and part 14 storey mixed use development comprising,

- Four levels of basement car parking, accessed from Hunter Lane;
- Three levels of commercial floor space on ground, Level 1 and Level 2; and
- 76 residential units over Levels 3 -12.

SITE

The subject site is located at 94-98 George Street within the Hornsby town centre. Hornsby railway station is located approximately 300m to the south-west of the site, on the opposite side of George Street.

The site comprises three individual lots and is legally described as Lots 9-11, Section 6, DP 1880.

The site is bound by 100-102 George Street to the north, 90 George Street to the south, George Street to the west and Hunter Lane to the east. It is generally rectangular in shape and has an approximate area of 1,843m² with the following frontages:

- 30.175m to George Street; and
- 30.175m to Hunter Lane.

The topography of the site falls significantly from west (George St) to the east (Hunter Lane) east, with an approximate fall of 4.54m.

The site is currently occupied by a two (2) to three (3) storey brick building which accommodates the Hornsby – Ku-ring-gai PCYC.

To the south of the site is 90 George Street which contains a 14 storey mixed-use development. This building was constructed to its northern boundary (i.e. the southern boundary of the subject site), with window openings and balconies provided on the northern façade (refer to site photos – Attachment 2). To the north the site is adjoined by 100-102 George Street to the north, which contains a one to two storey brick building. This building is constructed to its southern boundary (i.e. northern boundary of the site). However, as this site is subject to the same generous FSR and height controls it is therefore likely to come under increasing pressure for redevelopment.

The north precinct of the Hornsby town centre, within which the site is located, is in a state of transition. The HDCP envisages that the north precinct will provide an extension of the existing commercial centre and will accommodate a range of living employment and recreational activities.

PROPOSAL

The proposal seeks consent for the demolition of existing structures and construction of a part 13 and part 14 storey mixed use development comprising 76 residential units and commercial floor space with 4 levels of basement car parking.

Three (3) commercial floor levels are proposed, at ground, first and second floor level. 76 residential units are proposed above the commercial levels (i.e. levels 3-12). Communal open space is provided at ground level to the rear of the site fronting Hunter Lane and via a roof top terrace.

In addition, a community centre (23m²) is proposed at basement level 1 which can be accessed from the ground level communal open space.

The commercial element of the proposal comprises the following:

Commercial	No. of tenancies	Gross Floor Area
Ground floor	5 tenancies ranging from 51m ² – 128m ² , including two street frontage spaces suitable for retail.	477.3m ²
Level 1	8 tenancies ranging from 84m ² – 112m ² .	845.8m ²
Level 2	8 tenancies ranging from 80m ² – 108m ² .	807.1m ²

The residential element of the proposal comprises of the following dwelling mix:

Dwelling Mix	No. of units	Percentage
1 bedroom apartments	36	47.4%
2 bedroom apartments	32	42.1%
3 bedroom apartments	8	10.5%

Adaptable Dwellings:

The proposed development provides for a total of 24 (31.6%) adaptable dwelling units.

Vehicle Access and Car Parking Provision:

Vehicle access to the proposed loading dock and basement car park is via Hunter Lane. The proposed car parking provision comprises:

- 32 commercial spaces;
- 76 resident parking spaces plus 11 visitor spaces;
- 24 x resident bicycle spaces and 3 commercial bicycle spaces; and
- 3 x motorcycle spaces.

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 B4 Mixed Use under the *HLEP*. The objectives of the zone are:

- *To provide a mixture of compatible land uses.*
- *To integrate suitable business, office, residential, retail and other development in accessible locations so as to maximise public transport patronage and encourage walking and cycling.*

The proposal mixed-use development consists of “commercial premises” and “shop top housing”. The proposed uses are permissible in the B4 Mixed Use 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 40m. The proposal does not comply with this provision, with a maximum building height of 46.4m (RL220.15). This issue is discussed under 'Section 2.1.4 – Exceptions to Development Standards' of this report.

Floor-to-floor heights between all residential floors in the development are 3m, which is sufficient to allow the minimum floor-to-ceiling heights of 2.7 metres required under SEPP 65 and the *Residential Flat Design Code*.

It is noted that 4.5.4(i) of the *HDGP* establishes that development in the northern precinct of the Hornsby CBD should be a maximum of 12 storeys with a 3 storey commercial podium. The proposal is for a part 13 and part 14 storey development with a 3 storey commercial podium, resulting in a non-compliance with the *HDGP*. This variation is discussed in greater detail in Section 2.9 of this report.

2.1.3 Floor Space Ratio

Clause 4.4 of the *HLEP* provides that the FSR of a building should not exceed the maximum FSR shown for the land on the Floor Space Ratio Map. The maximum permissible FSR for the site is 5:1, with a maximum residential FSR of 3:1.

The proposal provides an overall FSR of 3.96:1, with a residential FSR of 2.99:1 in accordance with Clause 4.4 of the *HLEP*.

2.1.4 Exceptions to Development Standards

Clause 4.6 of the *HLEP* provides flexibility in the application of the development standards in circumstances where strict compliance with those standards would, in any particular case, be unreasonable or unnecessary or tend to hinder the attainment of the broad objectives of the Environmental Planning and Assessment Act or more specifically of the particular zone.

Maximum Building Height

A written request, in relation to the development's non-compliance with the building height development standard in accordance with Clause 4.6 (Exception to Development Standards) of *HLEP*, was submitted with the application. That request is discussed below.

The applicant considers compliance with the maximum building height development standard to be unreasonable and unnecessary for the following reasons:

"Clause 4.6(3)(a) of the LEP states that the consent authority may consider a request justifying the contravention of the development standard is the applicant can demonstrate that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case.

In this case the objectives of the zone and the building height control aim to provide for an appropriately sized building having regard to the capabilities of the site. Overarching this, the Sydney Metropolitan Plan (A Plan for Growing Sydney)

identifies Hornsby as a major centre. With Hornsby also having access to a heavy rail transport node, it is identified as worthy of higher density development to assist with meeting necessary housing targets. The subject site is located directly opposite the railway station.

The building is marginally lower than its southern neighbour, No. 90 George Street, which is also 13 storeys in height. Furthermore, it is well established that the 'character' of an area is not transformed by minor variations in building height. For instance, buildings of twelve to fourteen levels result in the same overall character. In this case, the character of the area is not compromised by the breach in building height.

This proposal could be brought into compliance by removing a residential or commercial level and by deleting the secondary communal open space at rooftop level. The only outcome this would achieve would be to reduce the number of dwellings below the maximum residential density permitted, or to reduce the commercial floorspace yielded on a highly capable development site, immediately adjacent a significant railway station, and/or to reduce available amenity to the intended occupants of the building. This response would be contrary to the objectives of the metropolitan strategy and illustrates that strict adherence to this control would be unreasonable and unnecessary in the circumstances, where the development is otherwise compliant with the maximum density permitted upon the site".

The variation has been considered against the matters set out in Clause 4.6 (3) of *HLEP* and the applicant's submission as well as the "five part test" established by the Land and Environment Court. The justification for variation provided by the applicant is considered to be well founded and worthy of support. As detailed in this report, it is considered that the proposed development would not result in adverse environmental impacts on the surrounding neighbourhood.

Acceptance of the applicant's arguments in favour of the proposed variation to the maximum height development standard is considered to be reasonable because:

- The site has a significant cross fall of approximately 4.54m from west to east. The proposed part 13 and part 14 storey building is considered an appropriate response to the sites topography. The height exceedance measured from the more critical George Street elevation is significantly less than at the rear of the site. To George Street, the maximum height is exceeded by approximately 0.7metres only which equates to approximately 1.75% variation.
- To the south, the site is adjoined by the 14 storey Avanti building at 90 George Street which has a maximum height of RL217.73 to the upper most roof which is 1.38 metres above that of the proposed development. It is considered that the proposed development will provide an appropriate transition between the Avanti building and future development to the north of the site which enjoys the same height controls under the *HLEP*.
- The non-compliance with the maximum building height is primarily attributable to the lift overrun, which is setback from the George Street frontage, and the rear T element

of level 12. The lift overrun provides access to the roof level communal open space and does not contribute to any adverse environmental impacts in terms of overshadowing, visual impacts or view loss. The removal of the lift overrun would be to the detriment of the amenity of the development and would not result in a public benefit. The rear T element of level 12 does not contribute to significant adverse environmental impacts in terms of overshadowing, visual impacts or view loss but provides 2 and 3 bed units in close proximity to public transportation links.

There are sufficient environmental planning grounds to justify contravening the development standard given that:

- The non-compliance with the standard does not contribute to adverse environmental impacts in terms of overshadowing, visual impacts or view loss;
- The proposal responds to the desired future character of the North Precinct providing an extension of the existing commercial centre and accommodating and facilitating a wide range of living, employment and recreational activities.
- The bulk and scale of the development is consistent and appropriate for the site and it generally complies with the built form controls of the *HLEP* and *HDCP*, in particular maximum floor space ratio and minimum boundary setbacks.
- The proposal will provide an appropriate transition between the Avanti building at No. 90 George Street and future development to the north of the site with the minor height variation being imperceptible in terms of its relationship with adjoining development;
- The proposed development provides additional housing and employment opportunities in close proximity to public transport (Hornsby Railway Station).

It is considered that the applicant's written submission has satisfactorily addressed the relevant matters under Clause 4.6 of *HLEP* and as such the proposal's non-compliance with the height development standard is considered acceptable. The contravention of the development standard does not raise any matter of significance for State and regional environmental planning, and that there is no public benefit in strictly maintaining the development standard in this case. The resultant development is clearly of a scale envisaged by the relevant planning controls, noting that notwithstanding the height variation, it remains well below the maximum permissible FSR allowed for the site. The balance achieved by the proposal between height, floor space and setbacks is considered worthy of support.

2.1.5 Heritage Conservation

Clause 5.10 of the *HLEP* sets out heritage conservation provisions for Hornsby Shire Council. The site does not include a heritage item and is not located in a heritage conservation area. However, the site is located within the immediate vicinity of heritage listed item No. 485 (SRA electricity plant and signal box – Hornsby Railway Station) and within the visual catchment of the Peats Ferry Road Precinct, West Side Hornsby Conservation Area (HCA), under the provisions of Schedule 5 of the *HLEP*.

Comments were provided by the Council's Manager Strategic planning Branch in relation to potential heritage impact as follows:

Curtilage and setting of the HCA

The visual setting of the HCA would be altered as the high rise building would be visible above the railway corridor. However, the physical separation and similar multi-storey

developments in the locality mitigates this impact. The proposed development would also be in keeping with the character of existing high rise development, such No.90 George Street, Hornsby.

Characteristics and Heritage values of the HCA

The Peats Ferry Road Precinct is significant for its association with the development of Hornsby as a railway town, its role within the old town centre, and is characterised by Federation/Inter-war period buildings.

The development is sufficiently separated physically from the conservation area and has a consistent appearance with existing high rise development adjacent, resulting in minimal impact on the character and significance of the HCA.

Construction Impact Report

The proposal is not directly adjacent to a conservation area or heritage item and a Construction Impact Report is not considered to be required on heritage grounds.

Development in the vicinity of a Heritage Item

The subject site is located opposite the heritage listed Hornsby railway station signal box and electricity plant building. However, the railway tracks, commuter car park and George Street separate the site from the heritage buildings. Whilst the new building would be visible from the heritage item site, the separation of the structures is such that no adverse impacts are considered to occur.

Summary

In summary, the proposed high rise building would have some visual impact, however, it is not considered to significantly impact on the heritage significance of the conservation area or heritage items in the vicinity.

RECOMMENDATION

That, no objections are raised to the proposal on heritage grounds.

2.1.6 Development on Land Intended to be Acquired for Public Purposes

The subject site is affected by land marked as SP2 Classified Road – Local Road (B3) within the B4 zone along the eastern boundary of the site fronting Hunter Lane. The SP2 land is required to facilitate the widening of Hunter Lane and a 4m dedication of land has been incorporated into the proposed design.

The proposal provides adequate setback provision from the eastern boundary and the future local road. Vehicle access to the site is proposed via Hunter Lane and the land dedication will ensure there is improved pedestrian and vehicular access for future occupants/owners.

In accordance with the provisions of Clause 5.1A any development consent at the site will require the dedication of the SP2 land to Council.

2.1.7 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 and appropriate conditions of consent can be imposed.

2.1.8 Design Excellence

A number of planning strategies for Hornsby Shire have recently been adopted which permit large scale high density development and encourage revitalisation of areas. To guide the quality of new building stock, *Clause 6.8–Design Excellence* was adopted under amendment No. 5 to the *HLEP* on 27 January 2016.

Clause 6.8 sets out matters for consideration to determine whether a proposed development exhibits a high standard of design. The Clause applies to development proposals on land with a permitted height limit over 29.5m (10 storeys or more), which includes the site and requires that development consent must not be granted to development to which this clause applies, unless, in the opinion of the consent authority, the proposed development exhibits design excellence.

To implement Clause 6.8, Council has established a panel of suitably qualified architecture and urban design professionals to undertake a review of the design quality of relevant developments.

In accordance with the above provisions, the application as originally submitted was referred to GM Urban Design and Architecture (GMU) to undertake an independent urban design review of the proposal. The report recommended two options for the site:

- Option 1 – A T-shaped tower; and
- Option 2 – Dual towers (one fronting George St and the other facing Hunter Lane).

The proposed development has been redesigned and now incorporates a T-Shaped tower element. This design responds to the recommendations of GMU's urban design review. The design is considered to display design excellence for the following reasons:

- The proposed building height will provide an appropriate transition between 90 George Street and future development to the north;
- The proposed development complies with the overall and residential FSR controls applying to the site under Clause 4.4 of the *HLEP*;
- The amended design provides a T-shaped tower as recommended in the Urban Design Review prepared by GMU thus improving solar access and cross ventilation opportunities for more units and ensuring compliance with the requirements of SEPP65 and the Residential Flat Design Code;
- The proposal responds to the desired future character of the North Precinct providing an extension of the existing commercial centre and accommodating and facilitating a wide range of living, employment and recreational activities.
- The architectural treatment of the building incorporates indentations and projections in the exterior walls with balconies to articulate the facades; and

- The combination of building materials will present a contemporary building of high street appeal.

2.2 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. 596601M_05, prepared by VIPAC Engineers. This certificate is provided in the material supporting the application, and the provisions of the SEPP are satisfied.

2.3 State Environmental Planning Policy No. 55 – 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.

A Preliminary Site Investigation (PSI) was submitted with the Development Application, which identifies the following areas of potential environmental concern at the site:

- Potential importation of uncontrolled fill that may contain various contaminants;
- Potential historical use of pesticides;
- Car park areas where leaks and spills from cars have potentially occurred;
- Former historical activities; and
- Potential asbestos-based building materials.

The PSI makes the following recommendations:

“The contaminants that may be present in some of these areas were considered to be of low to moderate significance in terms of risk to human and environmental receptors identified. Therefore a Detailed Site Investigation (DSI) is required to confirm the presence and extent of contamination in order to determine the suitability of the site for the proposed development application and to address the data gaps identified.

It is also recommended that a hazardous material assessment be undertaken followed by an asbestos clearance certificate.

Based on the information collected during this investigation and in reference to Clause 7 of SEPP 55, the site will be suitable subject to the completion of a Detailed Site Investigation (and after remediation and validation, if required) for the proposed high-density residential development, including four-level basement car parking”.

Council's environmental assessment raised no objections to the proposal. Nonetheless, based on the findings of the PSI a condition of consent is included that requires a detailed site investigation to be carried out and a Remedial Action Plan to be prepared should the detailed investigation reveal contamination exceeding criteria prescribed by the NSW Environmental Protection Authority's *Contaminated Sites – Guidelines for the NSW Site Auditor Scheme*.

2.4 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.

In accordance with the provisions of the *SEPP (Infrastructure) 2007* concurrence from the following public authorities is required:

- Sydney Trains – Clause 86 – Excavation in, above or adjacent to rail corridors; and
- Road and Maritime Services – Clause 104(3)(b)(ii) – Traffic-generating development

By letter dated 26 March 2015, Sydney Trains advised that the following issues be addressed in conditions of consent for the proposed development:

Noise and Vibration

“Sydney Trains is concerned that the future occupants of the development will encounter rail-related noise and vibration from the adjacent rail corridor. Rail noise and vibration can seriously affect residential amenity and comfort, jeopardise the structural safety of buildings, and this should be addressed early in the development process.

The Department of Planning has released the document titled “Development Near Rail Corridors and Busy Road – Interim Guidelines”. The document is available on the Department of Planning’s website.

Council is therefore requested to impose the condition of consent:

- *An acoustic assessment is to be submitted to Council prior to the issue of a construction certificate demonstrating how the proposed development will comply with the Department of Planning’s document titled “Development Near Rail Corridors and Busy Roads – Interim Guidelines”.*

Crane and Other Aerial Operations

“During construction, the use of cranes and other equipment capable of intruding into the airspace above the corridor and of operating over any overhead wiring or transmission lines must be strictly controlled. The developer must demonstrate to the satisfaction of Sydney Trains that all crane and other overhead operations are properly managed, and enter into an agreement with RailCorp for such operation. It is requested that Council include the following condition of consent:

- *Prior to the issuing of a Construction Certificate the Applicant is to submit to Sydney Trains a plan showing all craning and other aerial operations for the development and must comply with all Sydney Trains requirements. The Principal Certifying Authority shall not issue the Construction Certificate until written confirmation has been received from Sydney Trains confirming that this condition has been satisfied”.*

It is considered that both of the requirements can be met with routine construction techniques and management plans without any impact upon the final design of the development and therefore have been included as conditions of consent.

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

SEPP 65 was amended on 19 June 2015 following review of the policy by the Department of Planning and Environment. The amendments replace the *Residential Flat Design Guidelines* with the *Apartment Design Guide* which prevails in the event of any inconsistency with a Development Control Plan.

However, Clause 31 (Transitional provisions for *SEPP 65* – Amendment No. 3) states that “*If a development application or an application for the modification of a development consent has been made before the notification on the NSW legislation website of the making of State Environmental Planning Policy No. 65 — Design Quality of Residential Flat Development (Amendment No 3) and the application has not been finally determined before the commencement of that amendment, the application must be determined as if the amendment had not commenced.*”

Pursuant to the above provision, the Development Application has been assessed against the provisions of the *Residential Flat Design Code*.

SEPP 65 provides for design principles to improve the design quality of residential flat development and for consistency in planning controls across the State.

The applicant has submitted a “Design Verification Statement” prepared by a qualified Architect (Tony Owen of Tony Owen Partners Architects) 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 *HDCP*).

Principle	Compliance
1. Context	Yes
Comment: The site is located within the Hornsby North Precinct where it is planned for 12 storey mixed use buildings in close proximity to Hornsby Railway Station and the Hornsby Town Centre. The proposal responds to the desired future character of the North Precinct providing an extension of the existing commercial centre and accommodating and facilitating a wide range of living, employment and recreational activities. 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.	
2. Scale	Yes
Comment: As detailed in Section 2.1.2 a building height marginally in excess of the maximum allowable 40 metres resulting in non-compliance with Clause 4.3 of the <i>HLEP</i> . Nonetheless, it is considered that the variation is minor, leads to no particular impact and the proposed	

13/14 storey building will provide an appropriate transition in height from the Avanti Building at No. 90 George Street (14 storeys) and future development to the north of the site. The proposal is of an appropriate scale when judged against existing and future development.	
3. Built Form	Yes
<p>Comment:</p> <p>The proposed building achieves an appropriate built form for the site and having regard to the proposed uses it will accommodate. In terms of bulk and scale, setbacks, building alignments and proportions, the building will appropriately contribute to the character of the desired future streetscape and includes articulation and interest to the elevations to minimise the perceived scale.</p> <p>The issue of building bulk was raised in a number of submissions. However, the development has addressed issues raised by the GMU urban design report and provided appropriate setbacks to the south in order to maintain reasonable amenity and solar access for dwellings within 90 George Street.</p> <p>The proposed materials and finishes are acceptable, ensuring the proposal will present as contemporary building and contributing to the streetscape on George Street.</p>	
4. Density	Yes
<p>Comment:</p> <p>The proposal readily complies with the 5:1 overall FSR limit for the site set by the <i>HLEP</i>. In terms of its residential density, it also complies with the maximum 3:1 floor space allowable</p>	
5. Resource, Energy and Water Efficiency	Yes
<p>Comment:</p> <p>The applicant has submitted a BASIX Certificate for the proposed development. In achieving the required BASIX targets for sustainable water use, thermal comfort and energy efficiency, the proposed development would achieve efficient use of natural resources, energy and water throughout its full life cycle, including demolition and construction.</p>	
6. Landscape	Yes
<p>Comment:</p> <p>The application includes a landscape plan prepared by Formed Gardens. As illustrated in this plan the frontage to George Street is landscaped with two deep soil planter beds. In addition, three street trees are proposed in accordance with the requirements of Part 4.5.12 of the <i>HDCP</i>.</p> <p>To the rear of the site is a functional and usable 306m² area of landscaped communal open space area as required by the <i>HDCP</i>. This area provides a communal BBQ and dining area, large open lawn and perimeter planter boxes which will screen the vehicle access ramp to</p>	

the basement car park.

A deep soil strip is proposed to the east of the landscaped area, which includes native canopy trees, and will act as a vegetative buffer to Hunter Lane. The 4m wide land dedication to Hunter Lane is proposed as deep soil. However, it is noted that this area will eventually be redeveloped as part of the future road widening works to Hunter Lane. It should also be noted that a portion of the deep soil area is only 1.125m deep as it is located above basement level 02. These areas should not be included as part of the deep soil calculations. Nonetheless an area of deep soil of approximately 125m² is achieved which equates to 20.3% of the communal open space provided on the site. This is considered acceptable given the high density urban nature of the site and the stormwater management plan proposed for the site.

The proposed roof top terrace is provided with a 1m high perimeter planter box. In addition a communal BBQ area and dining area is proposed, adding to the residential amenity of the development.

No issues we raised with the proposed landscaped areas by Council's landscape officers.

7. Amenity	Yes
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Comment:

The submitted plans have satisfactorily addressed questions of amenity relating to the design, layout and configuration of dwelling units. Fifty four (54) of the proposed 76 dwellings (71%) achieve two hours of sunlight access on 22 June between 9am and 3pm, in accordance with the requirements of the *RFDC*.

The depths of balconies have been amended to comply with the requirements of the *RFDC*. In addition, the layout of a number of balconies has been reconfigured to maximise their usability. All units incorporate balconies directly accessible from the living areas of those units. The communal open space areas will further increase the amenity for future residents.

Storage areas have been provided within each unit with separate storage cages are provide for each unit within 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
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Comment:

Balconies and windows are orientated towards George Street and Hunter Lane to provide passive surveillance of the public domain and communal open space areas. Both the pedestrian and vehicular entry points are secured and visibly prominent from George Street and Hunter Lane.

9. Social Dimensions and Housing Affordability	Yes
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Comment:

The proposal incorporates a range of unit sizes (see summary of dwelling mix) to cater for

different budgets and housing needs. The development complies with the required mix of 1, 2 and 3 bedroom dwellings under the *HDCP* (minimum 10% of each).

10. Aesthetics

Yes

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. The combination of building materials and in particular a quite vivid colour scheme, will present a contemporary building of high street appeal. These design elements are generally consistent with the design principles contained within the Residential Flat Design Code and the *HDCP*.

2.6 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
Building Separation	90 George St – nil to 6m	12m – up to 4 storey 18m – 5 to 8 storey 24m – 9 storeys +	No, but acceptable
	100-102 George St – Nil to 6m	Non-habitable rooms: 6m – up to 4 storey 9m – 5 to 8 storey 12m – 9 storeys + Allow zero building separation in appropriate context	
Apartment building depth	27.35m	10m-18m	No. See comments in Section 2.6.2

Deep Soil Zone	125m ² (20.3%)	25%	No, but acceptable. There is a greater area of 'deep' soil but it is considered to be compromised by the basement below and the fact that some of it is within a future road widening corridor.
Communal Open Space	775.3m ² (42%)	25-30%	Yes
Minimum Dwelling Size	1 br: 50m ² - 52m ²	1 br – 50m ²	Yes
	2 br: 70.3m ² - 76.8m ²	2 br – 70m ²	Yes
	3 br: 95m ² - 102m ²	3 br – 95m ²	Yes
Maximum Kitchen Distance to window	Max: 8m	8m	Yes
Minimum Balcony Depth	1 BR unit – min: 0.8/2.4m 2BR unit – min: 1.8/3.595m 3 BR unit – min 1.9/2.4m	2m	Generally complies
Minimum Ceiling Height	3.0m residential floor to floor to allow minimum 2.7m floor to ceiling on all floors	2.7m	Yes

Total Storage Area	Appropriate storage provided	1 bed - 6m ³ (Min) 2 bed - 8m ³ (Min) 3 bed - 10m ³ (Min)	Yes
	Divided between basement and within dwellings	50% accessible from the apartments	Yes
Dual aspect	44 units (57.9%)	60%	No
Natural ventilation	40 units (52.6%)	60%	No
Solar Access	54 units (71%)	Living rooms and private open spaces for at least 70% of apartments should receive a minimum of 2 hours sunlight between 9am and 3pm in mid-winter	Yes
Adaptable Housing	24 adaptable units – 31.6%	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)*.

Below is a brief discussion regarding the relevant development controls and best practice guidelines.

2.6.1 Building Separation

Side boundary setbacks within the Hornsby Town Centre are prescribed by Section 4.5.5(f) of the *HDGP*, which establish that zero side boundary setbacks are required for both commercial and residential levels of development within the North Precinct. These setbacks are supported by the *RFDC* which permits a zero side setback where the desired character is for a continuous street frontage. The proposed development complies with the nil side setback requirements.

It is noted that to the rear of the Avanti building bedroom balconies are positioned to the site boundary. In addition, north facing living room windows are setback approximately 1.6m from

the northern boundary with the site. These balconies/windows do not comply with the requirements of the *HDCP*, however they are the result of a previous planning and assessment process.

As part of this current planning and assessment process, the applicant has amended the design in an attempt to minimise impacts to 90 George Street. These amendments include:

- The floorplates of units numbered Unit 0N01 on Levels 3-12 have been reduced and no longer abut the north facing balconies of No. 90 George Street;
- Removal of level 2 terraces;
- The south facing windows have been removed;
- Privacy louver screens have been incorporated to the east facing bedroom windows of units numbered Unit 0N01 on Levels 3-12;
- With the introduction of the T shaped floor plate, there is now a 6 metre setback provided from Level 3 up, between proposed units (numbered Unit 0N08) and the existing north facing balconies on the Avanti building. The southern elevation of these units is also a blank wall with only one bedroom window on an oblique angle towards the east, away from any direct line of sight onto the adjoining balconies.

The above amendments have substantially addressed Council's concerns. However, the proposed commercial tenancies on Levels 1 and 2 (C108 and C208) will abut windows and the balcony of an existing unit of 90 George Street. The balcony (RL 181.45) of the adjacent unit wraps around the side of the existing building of 90 George Street. The proposed commercial units C108 has an RL 179.65 and C208 has an RL 182.65. To further improve this amenity of the adjoining property, it is recommended that the commercial tenancies on Levels 1 and 2 (C108 and C208) be removed. Subject to this design amendment the proposed separation distances are considered satisfactory.

2.6.2 Apartment Building Depth

The proposal does not comply with the apartment building depth requirement of the *RFDC* having a depth of 27.35m. Notwithstanding, 71% of apartments achieve a minimum 2 hours of solar access, while 57.9% of units are naturally ventilated. It is therefore considered that the proposed units are provided with adequate residential amenity. In addition, the proposed development generally complies with the built form controls established for the site under the *HDCP*.

2.6.3 Minimum Dwelling Sizes

All apartments comply with the minimum dwellings sizes established under the *RFDC*.

2.6.4 Minimum Balcony Depth

Due to the modulation incorporated into the western façade, a number of balconies have varying depths, both greater and lesser than the 2 metre minimum requirement. On balance the proposed balconies generally comply with the objective of the 2m depth requirement established under the *RFDC* by providing usable outdoor open space for future occupants.

2.6.5 Dual Aspect and Cross Ventilated

The proposal includes 44 (57.9%) units that are naturally ventilated, while 40 units (52.6%) are dual aspect. Nonetheless, given the minor extent of this non-compliance, the proposed variation to this control is considered acceptable.

2.6.6 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 *HDCCP* control) minimum in 'dense urban areas'. The subject site is considered to be a 'dense urban area' and therefore the lesser standard of two hours sunlight is the more relevant control.

The amended plans are supported by an assessment of solar access prepared by Tony Owens + Partners that indicates that 71% of the dwellings achieve the required solar access of 2 hours. This improvement on the original scheme is due mainly to the reconfiguration of balconies and apartment layouts.

2.7 Sydney Regional Environmental Plan No. 20 – Hawkesbury – Nepean River

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

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

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

Section 74C(5)(b) of the *Environmental Planning and Assessment Act, 1979* states that a DCP provision will have no effect if it is incompatible or inconsistent with any provision of an environmental planning instrument. This is to ensure that a DCP does not prevent or unreasonably restrict 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. This needs to be considered in reference to the following section of the report that deals with the requirements of the *Hornsby Development Control Plan 2013*.

2.9 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
4.5.3 – Site Requirements			
Site Amalgamation	94-98 George Street amalgamated	94-106 to be amalgamate as one (1) site	No, but acceptable
4.5.4 – Scale			
FSR	Overall: 3.96:1 Residential: 2.99:1	<u>As per HLEP:</u> 5:1 – Overall 3:1 – Residential element	Yes Yes
Floorplates	Residential: 27.35m Commercial: 30.9m	Residential: 18m Commercial: 36m	No Yes
Height	Part 13 and part 14 storey Commercial: 3 storeys Residential: 10/11 storeys	North precinct: 12 storeys mixed use building Commercial podium – 3 storeys (12m) Residential – 9 Storeys	No Yes No
4.5.5 – Setbacks			
Commercial Floors and Basement Parking			
George Street	Basement – 5m	6m	No

Hornsby Development Control Plan 2013			
Control	Proposal	Requirement	Compliance
	Ground – 7.24m Level 1 & 2: 6.5m		Yes Yes
Hunter Lane	Approx. 37m	41m measured from George St frontage	Yes
Side boundary	Nil	Nil	Yes
Basement	Front: 5m Side: Nil Rear: 54.435	6m Nil 44m	No Yes No
Residential Setback			
George Street	Variable residential setbacks due to western façade articulation <u>Level 3</u> <i>Exl. Balconies:</i> Min:7.8m – Max: 9.52m <i>Incl. balconies:</i> 6m <u>Level 4 – 10</u> <i>Exl. Balconies:</i> Min:7.8m – Max: 9.595m <i>Incl. balconies:</i> Min 6m <u>Level 11 & 12</u> <i>Exl. Balconies:</i> Min: 7.8m – Max: 9.695m <i>Incl. balconies:</i> 6m	8.5m (2.5m balcony encroachment)	Generally complies
Hunter Lane	34.59m	26.5m measured from George St frontage	No

Hornsby Development Control Plan 2013			
Control	Proposal	Requirement	Compliance
Side Boundary	90 George St – nil to 6m	0m	Yes
	100-102 George St – Nil to 6m		Yes
4.5.6 – Open Space			
Private open space – minimum area	1 BR unit – min: 8.3m ²	1 BR unit – 10m ²	No
	2BR unit – min: 11.2m ²	2BR unit – 12m ²	No
	3 BR unit – min 10.4m ²	3 BR unit – 16m ²	No
Private open space – minimum width	1 BR unit – min: 0.8/2.4m	1 BR unit – 2.5m ²	No
	2BR unit – min: 1.8/3.595m	2BR unit – 2.5m ²	Yes
	3 BR unit – min 1.9/2.4m	3 BR unit – 2.5m ²	No
4.5.8 – Privacy and Security			
Building separation Side/rear boundaries	90 George St – nil to 6m 100-102 George St – Nil to 6m	Half of the building separation required SEPP 65:	No
4.5.9 – Sunlight and Ventilation			
Sunlight – public open space and plaza areas	Public open space to George Street – Min 2 hours	2 hours – 50% of area	Yes

Hornsby Development Control Plan 2013			
Control	Proposal	Requirement	Compliance
Sunlight dwellings	– 40/74 dwellings – 52.6%	70% of dwellings - 2 hours to half of living room windows	No, but complies with RFDC requirement
Sunlight Communal open space	– Min 2 hours achieved to roof top terrace	2 hours	Yes
Dual aspect	44 units (57.9%)	60%	No
Natural ventilation	40 units (52.6%)	60%	No
4.5.10 – Housing Choice			
Dwelling Mix	36 x 1 bed – 47.4% 32 x 2 bed – 42.1% 8 x 3 bed – 10.5%	Min 10% 1 bed Min 10% 2 bed Min 10% 3 bed	Yes Yes Yes
Adaptable units	24 adaptable units – 31.6%	30% - adaptable dwellings	Yes
Adaptable parking	8 accessible spaces 10.5%	10% of all units are to be provided with accessible parking.	Yes

As detailed in the above table, the proposed development complies with the majority but not all of the prescriptive requirements within the *HDCCP*. Those areas of non-compliance are detailed below, as well as a brief discussion on compliance with relevant desired outcomes.

2.9.1 Site Amalgamation

Section 4.5.3(d) of the *HDCP* requires development to be consistent with site amalgamation provisions for the northern precinct, which requires that 94-106 George Street be amalgamated into one site.

The proposed development does not comply with the amalgamation requirements for the northern precinct. However, the following documents have been provided by the applicant to illustrate that a genuine and reasonable attempt has been made to purchase an isolated site based on a fair market value.

- Valuation Report in respect of the site at 100-102 George Street, prepared by LandMark White and dated 19 November 2015;
- Valuation Report in respect of the site at 104-106 George Street, prepared by LandMark White and dated 10 November 2015;
- A formal offer (\$18,900,000.00) to purchase 100-106 George Street prepared by Maxwills Real Estate Pty Ltd on behalf of the applicant and dated 15 December 2015; and
- A formal response declining the offer to purchase 100-106 George Street prepared by Camelle Real Estate and dated 11 January 2016.

Following receipt of the above information BEM Property Consultants were engaged by Hornsby Council to undertake an independent assessment of the valuation advice submitted by the applicant. The findings of this assessment indicate that the applicant's offer of \$18,900,000 to be in excess of the current market value of 100-106 George Street, which is estimated to range between \$14,440,000 and \$15,400,000. Therefore, it is considered that the applicant has made a genuine and reasonable attempt, based on a fair market value, to purchase 100-106 George Street, Hornsby. In addition to these efforts, it is also considered that the resultant development site to the north, Nos. 100 – 106 will be suitable in its own right for future development. It has a frontage to George Street of 40 metres and an area of approximately 2000m² similar to the subject site.

2.9.2 Scale

Height

Section 4.5.4 of the *HDCP* establishes that mixed use buildings within the North Precinct are to incorporate a commercial podium height of 3 storeys (12m) with an overall height of 12 storeys.

A part 13/14 storey mixed use development with a three (3) storey commercial podium is proposed. The height in storeys of the proposed development is considered acceptable as:

- The proposal will present to George Street as a 12 storey structure and generally complies with the 40m height limit applying to the site. As discussed in section 2.1.2 and 2.1.4 of this report, the non-compliance with the height standard is primarily attributable to the lift overrun, which is setback from the George Street frontage and provides access to the roof top terrace;

- The additional floor is a consequence of the sloping nature of the site and consists of a basement level that will only be visible to the rear of the site;
- The proposed three (3) commercial levels will respond to the scale and form of development at 90 George Street.

Floorplates

Please refer to the apartment depth discussion provided under Section 2.6.2 of this report.

2.9.3 Setbacks

Basement Setbacks

The proposed basement setbacks to the east and western boundaries are considered acceptable as necessary deep soil planting is provided together with on-site detention and overland flow paths.

Commercial Setbacks

The commercial component of the proposed development is generally compliant with Part 4.5.5. A 6m setback is generally provided to George Street and the building is contained within the 41m maximum distance from the George Street frontage, thus allowing ample space to provide the required 4 metre land dedication for future road widening and a generous setback for open space. Nil side setbacks are provided to adjoining development to the north and south which in this high density urban environment is appropriate. However, as noted commercial tenancies C108 and C208 will abut windows/balconies of residential units of 90 George Street. These commercial units should therefore be removed. This is discussed in detail in Section 2.6.1 of the report. Subject to this design amendment the proposed commercial setbacks are considered satisfactory.

Residential Setbacks

Part 4.5.5 of the *HDCP* establishes an 8.5m residential setback requirement to George Street. Balconies adjacent to the street are able to encroach into the minimum residential building setback by 2.5m. The proposed development generally complies with this control, with some minor encroachments due to the modulation of the western façade. Nonetheless, the proposed residential setback to George Street is considered acceptable.

The *HDCP* establishes a residential setback to Hunter Lane through the imposition of a 26.5m depth of building measured from the George Street frontage. The proposed development does not comply with this control as the rear building line for the residential levels is approximately 37.585m from the George Street frontage. This is due to the introduction of a T shape floor plate, with the north and south elevations of the building being well within the requirement at a depth of approximately 23 metres.

A nil setback to the north and south property boundaries is proposed as the building fronts George Street, in accordance with Part 4.5.5 of the *HDCP*, contributing to the continuous street wall built form established for the North Precinct.

2.9.4 Open Space

Private Open Space

The proposal does not comply with the minimum requirements for private open space under the *HDCP*. Nonetheless, the proposed private open space does comply with the provisions of the *RFDC* and is therefore considered appropriate. Each residential unit has a balcony that is contiguous with the internal living areas and is well orientated and therefore will be useable and provide reasonable amenity.

Communal Open Space

Approximately 775m² of communal open space is proposed including:

- 306m² at ground floor to the east of the site; and
- 469m² at roof top level.

The proposed communal open space will receive a minimum of 2 hours of solar access and significantly exceeds the quantum of open space required under Part 4.5.7 of the *HDCP*.

2.9.5 Privacy and Security

Privacy

A number of submissions have raised the issue of visual and acoustic privacy

To the rear of the northern façade of 90 George Street, bedroom balconies have been positioned to the site boundary. In addition, north facing living room windows are setback approximately 1.6m from the northern boundary with the site. As discussed, these balconies/windows do not comply with the requirements of the *HDCP* and appear to arise from a previous planning and assessment process.

The applicant has amended the design on several occasions to respond to the concerns raised by Council relating to the interface between these balconies/windows and the proposed development. These amendments include:

- The floorplates of units Nos. 0N01 on levels 3-12 have been reduced and no longer abut the north facing balconies of No. 90 George Street;
- Removal of level 2 terraces;
- The south facing windows of units Nos. 0N01 on levels 3-12 have been removed;
- Privacy louvre screens have been incorporated to the east facing bedroom windows of units Nos. 0N01 on levels 3-12;
- Increase setbacks are provided between units Nos. 0N06 and the northern boundary.

It is considered that the above amendments have adequately addressed Council's concerns.

Security

The proposed development has been designed in a manner that will facilitate casual surveillance of both George Street and Hunter Lane. A Crime Prevention Strategy was

included with the development which assesses the potential for crime and safety risks associated with the proposed design. This report concludes as follows:

“The above report demonstrates that the architect has and can incorporate into his design of the building the 4 principles central to Crime Prevention through environmental design, which will meet all the principles set out in Councils DCP”.

It is noted that the residential lobby, which contains the residential lift core, provides access to commercial units G04 and G03 at ground floor level. To ensure security is maintained to residential levels a condition requiring tab access to the residential lifts is to be included as part of any consent under this DA.

Subject to this condition, the proposed design is considered to comply with the security requirements of Part 4.5.8 of the *HDCP*.

2.9.6 Dual aspect and natural cross ventilation

Please refer to the dual aspect and natural ventilation discussion provided under Section 2.6.5 of this report

2.9.7 Housing Choice/dwelling mix

The proposal provides an acceptable distribution of one, two and three-bedroom apartments and now complies with the requirement to provide a minimum of 10% of 3 bedroom dwellings.

The amended plans have increased the quantum of adaptable units provided under the application with 24 adaptable units (31.6%) now proposed in accordance with the provisions of the *HDCP*.

2.9.8 Parking and Access

Vehicular access to the site is proposed via Hunter Lane in accordance with the requirements of Part 4.5.11 of the *HDCP*.

The *HDCP* has a residential parking requirement of 0.75 space/dwelling for 0-1 bedroom units, 1 spaces/dwelling for 2 bedroom units and 1.5 spaces/bedroom for 3 or more bedroom units, and 1 visitor space per 7 units where the development is < 800 metres from a railway station. The *HDCP* has a commercial parking requirement of 1 per 48m² for business or office premises where the development is < 800 metres from a railway station.

In accordance with the above there is a requirement for 118 car parking spaces, being 71 residential, 11 visitor and 36 commercial car parking spaces.

The proposal provides 120 car spaces in the basement levels. It is noted that this proposed car parking does not distinguish between residential, visitor and commercial parking spaces. A condition of consent is recommended that details the allocation of car parking to be provided with the Construction Certificate.

Hornsby DCP 2013 requires that at least one third of adaptable units (i.e. 10% of all units) are to be provided with a parking space designed for people with a disability. 10 accessible parking spaces are proposed in accordance with the requirements of this control.

The *HDCP* has a requirement for bicycle parking at the rate of 1 space per 5 dwellings for residential use, giving a requirement for 15 residential bicycle spaces. Bicycle parking at the rate of 1 space per 10 dwellings is required for visitors, giving a requirement for 8 visitor bicycle spaces. Bicycle parking at a rate of 1 space per 600m² of commercial space is required giving a required of 3 commercial bicycle spaces. 21 bicycle parking spaces are illustrated on the architectural drawings, providing a shortfall of 5 bicycle spaces. A condition of consent is proposed requiring the provision of an additional 5 bicycle spaces.

2.10.7 Waste Management

The proposed design is satisfactory in respect of *HDCP* controls relating to waste management. The Level 1 basement contains a bulky waste room and garbage store rooms for the smaller individual bins

2.10 Section 94 Contributions Plans

Hornsby Shire Council Section 94 Contributions Plan 2014 – 2024 applies to the development. Should the development be approved, a condition of consent is recommended requiring the payment of contributions in accordance with the Plan.

3. ENVIRONMENTAL IMPACTS

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

3.1 Natural Environment

3.1.1 Tree and Vegetation Preservation

The proposed development does not require the removal of any trees or vegetation.

3.1.2 Stormwater Management

A stormwater management plan, prepared by C&M Consulting Engineers, 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*.

Council has assessed the engineering provisions which, subject to conditions, satisfy Council's requirements.

Built Environment

3.1.3 Built Form

See discussion above in section 2.5 and 2.6 in relation to *SEPP 65* and *RFDC* requirements. The proposed development has responded to the GMU urban design review and the requirements of Clause 6.8 of *HLEP* Design Excellence and the resultant built form is considered to be acceptable

3.2 Social Impacts

The proposed redevelopment of the site will result in the loss of the PCYC at the site. Nonetheless, the development does provide commercial floor space which can accommodate

other business, office and retail premises which will service the needs of the community. The PCYC is proposing to relocate to a new facility at Waitara Oval.

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 and is consistent with the decision to increase available residential density in this locality.

The location of the development is in close proximity to the Hornsby 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.

3.3 Economic Impacts

The proposal would have a positive impact on the local economy, by generating an increase in demand for local services and by increased employment opportunities within the commercial element of the development.

4. SITE SUITABILITY

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

The subject site has not been identified as bushfire prone or flood prone land. The site is not environmentally sensitive in any identifiable way. The site is considered to be capable of accommodating the proposed development in terms of the capacity of utility services and the sites access to services such as shopping and transport. The scale of the proposed development is consistent with the planning controls that have been put in place and the sites capability to accommodate the development and is therefore considered acceptable.

5. PUBLIC PARTICIPATION

Section 79C(1)(d) of the Act requires Council to consider *"any submissions made in accordance with this Act"*.

5.1 Community Consultation

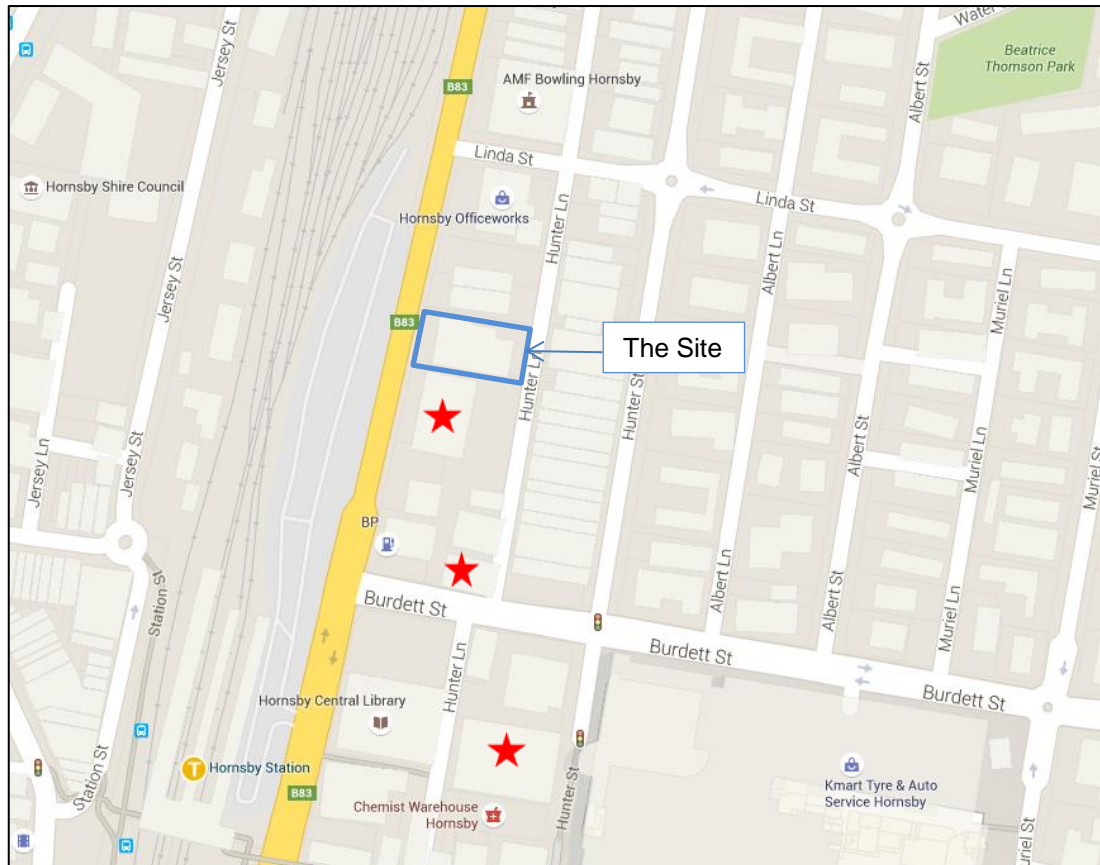
The proposed development was originally placed on public exhibition and was notified to adjoining and nearby landowners between 12 March 2015 and 26 March 2015, in accordance with the Notification and Exhibition requirements of the *HDCA*. During this period, Council received 21 submissions including a petition.

Following a request for further information, amended plans were submitted by the applicant and placed on public exhibition for the period of 3 September 2015 and 17 September 2015. 10 submissions were received in relation to the amended plans.

Further amended plans were submitted to Hornsby Council on 30 March 2016. These plans were placed on notification from 19 April 2016 to 3 May 2016. 7 submissions were received in relation to the amended plans.

Final amended plans were submitted to Hornsby Council on 30 May 2016. These plans were placed on notification from 31 May 2016 to 14 June 2016. 4 submissions were received in relation to the amended plans.

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

A total of 42 submissions were received in relation to the proposed development. The submissions raised the following concerns which have already been discussed throughout the body of this report:

- The site should be amalgamated with 100-106 George Street, Hornsby;
- The proposal does not comply with the maximum height and FSR development standards applying to the site;
- A shortfall of commercial levels are proposed;
- The proposal does not provide a commercial podium;
- The proposed development is bulky and does not comply with the residential floorplate requirement;

- Inadequate separation distances are proposed between the development and 90 George Street, Hornsby;
- The proposed development will adversely impact on 90 George Street. The identified impacts include overshadowing, loss of views/outlook, poor ventilation, loss of visual and acoustic privacy and increased security risk;
- The proposal will have an adverse traffic and parking impact on the surrounding road network;
- A lack of landscaping is proposed; and
- The site may be contaminated.

In addition to the above, the submissions raised the following concerns which are discussed under the respective headings below:

5.1.1 Building appearance and materials

A number of submissions objected to the design of the development, in particular the colour of materials proposed and the potential for glare.

The architectural treatment of the building incorporates indentations and projections in the exterior walls with balconies to articulate the facades. The combination of building materials will present a contemporary building of high street appeal. It is noted that the materials proposed include painted rendered concrete, glazing, glass balustrade and powder coated aluminium louvres. It is considered these materials will not result in excessive glare or reflectivity. It is acknowledged that the colour scheme may polarise opinion, but colour is not something that Council has attempted to control through the requirements of the *HDGP*.

5.1.2 Maintenance and water ingress

Owners of units at 90 George Street have raised concern that the nil side setback to the southern boundary will adversely impact upon the maintenance of the northern façade of the Avanti Building.

Council's engineers have not raised this issue as a concern. In addition, Part 4.5.5 of the *HDGP* establishes that a nil side setback for development on George Street. The proposed development complies with this control.

5.1.3 Impact on Property Prices

A number of submissions raised concern that the proposed development may negatively impact on the property prices of units in the Avanti building due to adverse amenity impacts. This is not an issue that can be quantified. It is considered that the proposed development has adequately addressed the issues of amenity for the neighbouring buildings. The location is a high density urban environment and as the precinct develops there will be some adjustment to the relationships between developments on adjoining sites.

5.1.4 Fire Safety

A number of residents of 90 George Street have raised an issue with the potential spread of fire between 94-98 George Street and the Avanti Building.

In accordance with the Condition No. 1 prior to the issue of a construction certificate all approved building work must be carried out in accordance with the relevant requirements of the Building Code of Australia, which includes Section C – Fire Resistance.

5.1.5 Precedent

A number of submissions raised concern that the proposed development would set a poor precedent for development within Hornsby.

As detailed within this report the development responds to the desired future character of the North Precinct providing an extension of the existing commercial centre and accommodating and facilitating a wide range of living, employment and recreational activities.

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, as amended, is now considered to have addressed Council’s and relevant agencies’ criteria satisfactorily, and would provide a development outcome that, on balance, would result in a positive impact for the community.

The development will be of a high quality and will be complementary to the emerging higher density urban environment in this locality. It is responding in a positive fashion to the emerging pattern in terms of its scale, built form and landscape setting, consistent with the DCP principles for the Hornsby North 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 suitable compliance with the planning controls and objectives.

Accordingly, it is considered that the approval of the proposed development would be in the public interest.

CONCLUSION

The proposed development is for the demolition of existing structures and construction of a part 13 and part 14 storey mixed use development comprising 76 units and commercial floor space, 94-98 George Street, Hornsby.

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 predominately complies with a number of key controls relating to the bulk and scale of development, although a minor variation to the maximum building height control is necessary. Notwithstanding this variation, the proposal would result in an appropriate scale of

development of the site, and a development that is generally supportive of the planning objectives for the locality. Boundary setbacks and building separation will generally result in buildings with a scale appropriate to their setting.

The design of individual dwellings within the building is acceptable. As a result, the proposed dwellings will offer good amenity in terms of solar access, natural ventilation, and privacy.

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

RECOMMENDATION

THAT Development Application No. DA/213/2015 for demolition of existing structures and construction of a part 13 and part 14 storey mixed use development comprising 76 units and commercial floor space at Lots 9-11 Section 6 in DP 1880, Nos. 94-98 George Street, Hornsby be approved subject to the conditions of consent detailed in Schedule 1 of this report.

Attachments:

1. Locality Map
2. Site Survey
3. Site Photos
4. Floor Plans
5. Elevations
6. Sections
7. Solar Access Diagrams
8. Landscape Plans
9. Design Verification Statement
10. Clause 4.6 – Exceptions to development standards – Height of buildings (Clause 4.3)
11. BASIX Certificate No. 596601M_05M
12. Schedule of Materials and Finishes

SCHEDULE 1

GENERAL CONDITIONS

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

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

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

1. Approved Plans and Supporting Documentation

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

Architectural Plans prepared by Tony Owen Partners

Plan No.	Revision No.	Plan Title	Dated
A099	Z	Basement 04 FL Plan	24.05.2016
A100	Z	Basement 03 FL Plan	24.05.2016
A101	Z	Basement 02 FL Plan	24.05.2016
A101	Z	Basement 01 FL Plan	24.05.2016
A103	Z	Ground FL Plan	24.05.2016
A104	Z	Level 1 FL Plan	24.05.2016
A105	Z	Level 2 FL Plan	24.05.2016
A106	Z	Level 3 FL Plan	24.05.2016
A107	Z	Level 4, 6, 8 & 10 Typical FL Plan	24.05.2016
A108	Z	Level 5, 7, 9 Typical FL Plan	24.05.2016
A109	Z	Level 11 FL Plan	24.05.2016

Plan No.	Revision No.	Plan Title	Dated
A110	Z	Level 12 FL Plan	24.05.2016
A111	Z	Roof FL Plan	24.05.2016
A200	Z	Section A-A	24.05.2016
A300	Z	George Street Elevation	24.05.2016
A301	Z	Hunter Street Elevation	24.05.2016
A302	Z	North Elevation	24.05.2016
A303	Z	South Elevation	24.05.2016
A350	Z	Adaptable Units	24.05.2016
A420		Schedule of Areas	25.5.2016
A502	Z	Ventilation Shaft Diagram	24.05.2016

Landscape Plans prepared by Formed Gardens

Plan No.	Revision No.	Plan Title	Dated
001	G	Landscape Works Basement Level	30/10/15
002	G	Landscape Works Ground Floor Plan	30/10/15
003	G	Landscape Works Communal Roof Terrace	30/10/15
004	G	Landscape Sections Details and Schedule	30/10/15

Stormwater Plans prepared by C & M Consulting Engineers

Plan No.	Revision No.	Plan Title	Dated
01310_110	01	General Notes & Legend	1/06/2015
01310_201	02	General Arrangement Plan – Basement Level 4	18/09/2015
01310_202	02	General Arrangement Plan –	18/09/2015

<i>Plan No.</i>	<i>Revision No.</i>	<i>Plan Title</i>	<i>Dated</i>
		Basement Level 3	
01310_203	02	General Arrangement Plan – Basement Level 2	18/09/2015
01310_204	02	General Arrangement Plan – Basement Level 1	18/09/2015
01310_205	02	General Arrangement Plan – Ground Floor	18/09/2015
01310_206	02	General Arrangement Plan – First Floor	18/09/2015
01310_621	02	On-Site Detention Tank Plan & Detail	18/09/2015

<i>Document title</i>	<i>Prepared by</i>	<i>Dated</i>
Noise and Vibration Assessment	Acoustic Logic Consultancy Pty Ltd	15/12/2014
BASIX Certificate No. 596601M_05	VIPAC Engineers	09 June 2016
Plan Showing Detail and Levels (Reference No. 76524 Sheets 1-4)	Rygate Surveyors	8/12/2014
FSR – Ground Floor Plan (Reference Drawing No. A450 Revision Z)	Tony Owen Partners	24.05.2016
FSR – Level 1 FL Plan (Reference Drawing No. A451 Revision Z)	Tony Owen Partners	24.05.2016
FSR – Level 2 FL Plan (Reference Drawing No. A452 Revision Z)	Tony Owen Partners	24.05.2016
FSR Typical FL Plan (Level 3 to Level 10) (Reference Drawing No. A453 Revision Z)	Tony Owen Partners	24.05.2016

<i>Document title</i>	<i>Prepared by</i>	<i>Dated</i>
Level 11 & 12 FL Plan (Reference Drawing No. A454 Revision Z)	Tony Owen Partners	24.05.2016
Typical Floor Plan Ventilation Diagram (Reference Drawing No. A500 Revision Z)	Tony Owen Partners	24.05.2016
Level 11 & 12 FL Plan Ventilation Diagram (Reference Drawing No. A501 Revision Z)	Tony Owen Partners	24.05.2016
Shadow Diagram (Reference Drawing No. A600-A602 Revision Z)	Tony Owen Partners	24.05.2016
Solar Diagram Level 3 FL Plan (Reference Drawing No. A605 Revision Z)	Tony Owen Partners	24.05.2016
Proposed Scheme Solar Diagram Level 4, 6, 8 & 10 Typical FL Plan (Reference Drawing No. A605 Revision Z)	Tony Owen Partners	24.05.2016
Proposed Scheme Solar Diagram Level 5, 7, 9 Typical FL Plan (Reference Drawing No. A605b Revision Z)	Tony Owen Partners	24.05.2016
Proposed Scheme Solar Diagram Level 11 FL Plan (Reference Drawing No. A606 Revision Z)	Tony Owen Partners	24.05.2016
Proposed Scheme Solar Diagram Level 12 FL Plan (Reference Drawing No. A607 Revision Z)	Tony Owen Partners	24.05.2016
Perspective 01 (Reference Drawing No.	Tony Owen Partners	24.05.2016

Document title	Prepared by	Dated
A700 Revision Z)		
Stormwater Management Plan (Reference: Report No. R01310-WQF)	C & M Consulting Engineers	September 2015
Sediment & Erosion Management Plan (Reference Drawing No. 01310_701 Revision 02)	C & M Consulting Engineers	18/09/2015
Sediment & Erosion Management Details (Reference Drawing No. 01310_702 Revision 01)	C & M Consulting Engineers	18/09/2015
Preliminary Site Investigation	Aargus	19 December 2014
External Finishes (Reference Drawing No. A800 Revision C)	Tony Owen Partners	04.12.2014
Waste Management Plan	Elephants Foot Recycling Solutions	December 2014

2. Removal of Existing Trees

- a) This development consent permits the removal of all trees from the site.

3. Amendment of Plans

- a) The approved plans are to be amended as follows:
- i) To maintain the amenity and solar access to dwellings within 90 George Street commercial tenancies C108 and C208, at first and second floor level, should be setback 6m from the southern boundary with 90 George Street.
 - ii) The proposed allocation of residential, visitor and commercial car parking spaces are to be specified on the Construction Certificate drawings.
 - iii) Five additional bicycle parking spaces are to be provided on the Construction Certificate drawings.
 - iv) The ensure security is maintained residential lifts are to restrict access through the use of fobs.
 - v) At the basement level, there must be sufficient space to place all of the residential bins within 6 m of the truck loading bay for servicing,

with sufficient aisle space (1.5 m wide) to access and manoeuvre the bins.

Note: If necessary, it is acceptable for there to be two collection areas for the residential bins, provided one is for all the garbage bins and the other for all the recycling and paper bins. The residential waste collection area(s) need to be large enough to comfortably place 6 of 660 L garbage bins, 11 of 240 L recycling bins and 2 of 660 L paper/cardboard bins at the same time. The 660L bins are 1400 mm wide by 800 mm deep, and 240 L recycling bins are 600 mm wide by 750 mm deep; allow for ease around the bin – 75 mm is recommended. Allow aisle space (1.5 m wide) to access and manoeuvre the bins.

- vi) The waste facility on level 11 North must have a door.
 - vii) The approved landscape Plans prepared by Formed Gardens (Reference Drawing Nos. 001-004 Issue G and dated 30 October 2015) must be amended in accordance with the approved architectural plans prepared by Tony Owen Partners and dated 24 May 2016.
 - viii) The approved Stormwater Plans prepared by C & M Consulting Engineers (Reference Drawing Nos. 01310_201 Issue 02 and dated 18 September 2015) must be amended in accordance with the approved architectural plans prepared by Tony Owen Partners and dated 24 May 2016.
- b) These amended plans must be submitted with the application for the Construction Certificate.

4. Construction Certificate

- a) A Construction Certificate is required to be approved by Council or a Private Certifying Authority prior to the commencement of any works under this consent.
- b) A separate Construction Certificate must be obtained from Council for all works within the public road reserve under S138 of the *Roads Act*.
- c) A separate Construction Certificate must be obtained from Council for all works within drainage easements vested in Council.
- d) The Construction Certificate plans must not be inconsistent with the Development Consent plans.

5. Section 94 Development Contributions

- a) In accordance with Section 80A(1) of the *Environmental Planning and Assessment Act, 1979* and the *Hornsby Shire Council Section 94 Development Contributions Plan 2014-2024*, the following monetary contributions must be paid to Council to cater for the increased demand for community infrastructure resulting from the development:

Description	Contribution (4)
Roads	\$156,170.60
Open Space and Recreation	\$711,213.35
Community Facilities	\$273,411.70
Plan Preparation and Administration	\$3,261.35
TOTAL	\$1,144,057.00

being for 36 x 1 bedroom units, 32 x 2 bedroom units, 8 x 3 bedroom units, Commercial GFA 1893.8m² and Retail GFA 183.20 m²

- b) The value of this contribution is current as at 28 June 2016. If the contribution is not paid within the financial quarter that this condition was generated, the contribution payable will be adjusted in accordance with the provisions of the Hornsby Shire Council Section 94 Development Contributions Plan and the amount payable will be calculated at the time of payment in the following manner:

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

Where:

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

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

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

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

- c) The monetary contribution must be paid to Council:
- prior to the issue of the Subdivision Certificate where the development is for subdivision; or
 - prior to the issue of the first Construction Certificate where the development is for building work; or
 - prior to issue of the Subdivision Certificate or first Construction Certificate, whichever occurs first, where the development involves both subdivision and building work; or
 - prior to the works commencing where the development does not require a Construction Certificate or Subdivision Certificate.

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

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

REQUIREMENTS PRIOR TO THE ISSUE OF A CONSTRUCTION CERTIFICATE

2. Building Code of Australia

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

3. Contract of Insurance (Residential Building Work)

Where 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, this contract of insurance must be in force before any building work authorised to be carried out by the consent commences.

4. Notification of Home Building Act, 1989 Requirements

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

- a) In the case of work for which a principal contractor is required to be appointed:
 - i) The name and licence number of the principal contractor; and
 - ii) The name of the insurer by which the work is insured under Part 6 of that Act.
- b) In the case of work to be done by an owner-builder:
 - i) The name of the owner-builder; and
 - ii) If the owner-builder is required to hold an owner-builder's permit under that Act, the number of the owner-builder's permit.

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

5. 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.

6. Sydney Water – Quick Check

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

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

7. Dilapidation Report

A 'Dilapidation Report' is to be prepared by a 'chartered structural engineer' detailing the structural condition of all adjoining properties at No. 90 George Street and 100-102 George Street, Hornsby.

- a) To record the structural condition of all properties adjoining the approved development, a dilapidation report must be prepared by a suitably qualified structural engineer for inclusion with the application of the Construction Certificate.

8. Site Investigation

A detailed investigation of the proposed development site must be prepared by a suitably qualified environmental consultant and submitted to Council prior to the issue of a construction certificate as proposed in the Preliminary Investigation prepared by Argus, document number ES6109, dated 19 December 2015. Such investigation must be undertaken in accordance with NSW Environment Protection Authority's Contamination Sites – Guidelines for Consultants reporting on Contamination Sites and Contamination Sites – Sampling Design Guidelines.

9. Car Parking and Deliveries

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

- a) All parking areas and driveways must be sealed to an all weather standard, line marked and signposted;
- b) Car parking, loading and manoeuvring areas must be used solely for nominated purposes;
- c) Vehicles awaiting loading, unloading or servicing must be parked on site and not on adjacent or nearby public roads; and
- d) All vehicular entry on to the site and egress from the site must be made in a forward direction.

10. Noise – Rail Corridor

The development must be carried out in accordance with the recommendations contained within the acoustic report submitted with the development application,

titled, prepared by Acoustic Logic and dated 15 December 2014 and the requirements of the Department of Planning's *Development Near Rail Corridors and Busy Roads – Interim Guideline* and RailCorp's *Interim Guidelines for Applicants*.

Note: The Department of Planning's document is available at www.planning.nsw.gov.au (development assessments). The RailCorp document is available at www.railcorp.nsw.gov.au/publications.

11. Crane and other aerial operations

Prior to the issuing of a Construction Certificate the Applicant is to submit to Sydney Trains a plan showing all craneage and other aerial operations for the development and must comply with all Sydney Trains requirements. The Principal Certifying Authority shall not issue the Construction Certificate until written confirmation has been received from Sydney Trains confirming that this condition has been satisfied.

12. Stormwater Drainage

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

- a) Connected directly to Council's piped drainage system in Hunter Lane via the on-site detention system.
- b) The Water Quality devices as recommended in the design C & M Consulting Engineers are to be incorporated in the stormwater drainage design.

13. On Site Stormwater Detention

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

- a) Have a capacity of not less than 38 cubic metres, and a maximum discharge (when full) of 17 litres per second.
- b) Have a surcharge/inspection grate located directly above the outlet.
- c) Discharge from the detention system to be controlled via 1 metre length of pipe, not less than 50 millimetres diameter or via a stainless plate with sharply drilled orifice bolted over the face of the outlet discharging into a larger diameter pipe capable of carrying the design flow to an approved Council system.
- d) Not be constructed in a location that would impact upon the visual or recreational amenity of residents.
- e) The OSD, being a "confined space" is to be located in an area which allows clear access and good ventilation.

14. Internal Driveway/Vehicular Areas

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

- a) Design levels at the front boundary must be obtained from Council;
- b) The driveway must be a rigid pavement;

15. Footpath

A footpath must be constructed along the full frontage of the subject site in George St in accordance Council's *Civil Works Design and Construction Specification 2005* and the following requirements:

- a) The existing footpath being removed.
- b) Construction of Claypave "Monarch Tan" pavers across the full frontage of the subject site. The pavers are to be laid in a herringbone pattern with header course.
- c) Any public utility adjustments to be carried out at the cost of the applicant and to the requirements of the relevant public authority.
- d) Prior to any works an approval under Section 138 of the Roads Act is to be obtained from Hornsby Shire Council.

16. Vehicular Crossing

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

- a) Any redundant crossings must be replaced with integral kerb and gutter;

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

17. Road Works (George St)

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 in George St is to be removed and reconstructed.
- b) A kerb, gutter and road pavement is to be constructed across the frontage of the site in Hunter lane. The alignment of the kerb and gutter is to match the existing kerb alignment to the south of the site. The work shall include the adjustment of services and any other works required to make the work effective.
- c) The existing road pavement to be saw cut a minimum of 300 mm from the existing edge of the bitumen and reconstructed.

- d) No work is to commence within the existing road reserve or future road reserve until such time as written approval is issued by Hornsby Shire Council under Section 138 of the Roads Act.

18. Road Works (Hunter Lane)

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

- a) The existing kerb and gutter is to be removed. A new kerb and gutter and road pavement is to be constructed across the frontage of the site in Hunter Lane. The alignment of the kerb and gutter is to match the existing kerb and gutter alignment (in Hunter lane) for the development at 88-90 George St.
- b) A concrete footpath to be constructed across the frontage of the site in Hunter lane.
- c) The existing road pavement to be saw cut a minimum of 300 mm from the existing edge of the bitumen and reconstructed.
- d) The submission of a compaction certificate from a geotechnical engineer for any fill within road reserves, and all road sub-grade and road pavement materials.

19. Minimum Floor Levels

The minimum floor level (MFL) of the ground floor units including the ground floor lobby is to have a MFL of 175.65 AHD. The driveway crest is to have a minimum level of 300mm above the 1% adjacent flood level. The loading dock (including the garbage collection area) is to have a minimum level of 300mm above 300mm above the 1% flood level. The finished surface levels are to be in accordance with the Stormwater Management Plan prepared by C & M Consulting Engineers Revision b dated Sep 2015.

20. 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 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;
 - 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 plans shall include the proposed truck routes to and from the site including details including the frequency of truck movements at the different stages of the development.
- g) 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.
- h) Hours of operation.
- i) If there is a requirement to obtain a Work Zone an application to Hornsby Shire Council is to be made prior to the issue the Construction Certificate.

21. Certification of Traffic Engineer

Prior to the issue of a Construction Certificate a Certificate from an appropriate qualified Traffic Engineer is to be submitted to the Principal Certifying Authority (PCA) certifying that the parking modules, loading areas and garbage collection areas comply with AS 2890.1, AS 2890.2 and the approved Development Consent plans and conditions.

22. 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) A bulky waste storage area of at least 8 square metres must be provided at the basement level.

- c) The chute system must include volume handling equipment (2x660L diverter or linear or similar, with no compaction) to automatically change the bin under the chute when it becomes full.
- d) Note: Consultation with the chute system supplier is required to ensure the chute service room dimensions are adequate, the selected volume handling equipment will be able to be installed and operated in the available space, and that access to all sections of the room is retained.
- e) The access way (including ramp, vehicle turning area, loading bay and site entry/exit) to be used by waste collection vehicles, must be designed in compliance with Australian Standard AS2890.2-2002 Parking Facilities Part 2: Off-street Commercial Vehicle Facilities for heavy rigid vehicles.

Note: AS2890.2-2002 includes a maximum gradient of 1:6.5 for forward travel and a minimum vertical clearance of 4.5 m.

- f) The waste facilities on each residential level (a garbage chute and recycling bin in a small room or cupboard) must be accessible by persons with a disability while comfortably housing the garbage chute and one 240 L recycling bin. The door(s) of each waste facility must be sufficiently wide to allow the recycling bin to easily pass through.

Note: a 240 L recycling bin is 600 mm wide by 750 mm deep; allow for ease around the bin – 75 mm is recommended). The chute system supplier must be consulted for chute space requirements.

- g) 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.

23. Preservation of Survey Marks

Prior to the issue of any construction Certificate, a Registered Surveyor shall identify all survey marks in the vicinity of the proposed development. Any survey marks required to be removed or displaced as a result of the proposed development shall be undertaken by a Registered Surveyor in accordance with Section 24 (1) of the

surveying and Spatial Information Act 2002 and the following the Surveyors General Directions No 11 – “**Preservation of Survey Infrastructure**”

24. Car Parking Design and Access

Prior to the issue of any construction Certificate, the plans shall demonstrate that:

- a) Residential parking spaces are secure spaces with access controlled by card or numeric pad.
- b) Visitors are able to access the visitor parking spaces in the basement car park at all times.
- c) All parking for people with disabilities complies with AS/NZS 2890.6:2009 Off-street parking for people with disabilities.
- d) Bicycle parking spaces are to be designed in accordance with AS 2890.3-1993 Bicycle parking facilities; and
- e) Motorcycle parking spaces are to be designed in accordance with AS 2890.5-1993.

25. Adaptable Units/Storage

The following details must be provided with the Construction Certificate plans.

- a) 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 2013*. In this regard, 8 car parking spaces are to be designed for people with a disability and allocated to 8 accessible units;
- b) Each dwelling within the development must have a minimum area for storage (not including kitchen and bedroom cupboards) for 6m³ for one bedroom units, 8m³ for two bedroom units and 10m³ for three bedroom units, where 50% is required to be located within the apartment and accessible from either the hall or living area.

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

- a) A sign must be erected in a prominent position on any site on which any approved work is being carried out:
 - i) Showing the name, address and telephone number of the principal certifying authority for the work;
 - ii) 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
 - iii) Stating that unauthorised entry to the work site is prohibited.

- b) The sign is to be maintained while the approved work is being carried out and must be removed when the work has been completed.

27. Protection of Adjoining Areas

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

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

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

28. Toilet Facilities

- a) To provide a safe and hygienic workplace, toilet facilities must be available or be installed 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.
- b) Each toilet must:
 - i) be a standard flushing toilet connected to a public sewer; or
 - ii) be a temporary chemical closet approved under the *Local Government Act 1993*; or
 - iii) have an on-site effluent disposal system approved under the *Local Government Act 1993*.

29. Erosion and Sediment Control

To protect the water quality of the downstream environment, 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.

REQUIREMENTS DURING DEMOLITION AND CONSTRUCTION
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30. Construction Work Hours

All work on site (including demolition and earth works) must only occur between 7am and 5pm Monday to Saturday (unless otherwise approved in writing by Council due to

extenuating circumstances). No work is to be undertaken on Sundays or public holidays.

31. Demolition

To protect the surrounding environment, 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 any building contain asbestos material, a standard commercially manufactured sign containing the words ‘DANGER ASBESTOS REMOVAL IN PROGRESS’ and measuring not less than 400mm x 300mm must be displayed in a prominent position visible from the street.

32. 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.

33. Street Sweeping

To protect the surrounding environment, Street sweeping must be undertaken following sediment tracking from the site along Hunter Lane during works and until the site is established.

The street cleaning services must undertake a street ‘scrub and dry’ method of service and not a dry sweeping service that may cause sediment tracking to spread or cause a dust nuisance.

34. Construction vehicle work zone

All construction vehicles associated with the proposed development are to be contained on site or in an approved “Work Zone” in Hunter Lane.

35. Waste Management Details

Waste management during the demolition and construction phase of the development must be undertaken in accordance with the approved Waste Management Plan. Additionally written records of the following items must be maintained during the

removal of any waste from the site and such information submitted to the Principal Certifying Authority within fourteen days of the date of completion of the works:

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

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

36. Council Property

To ensure that the public reserve is kept in a clean, tidy and safe condition during construction works, no building materials, waste, machinery or related matter is to be stored on the road or footpath.

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

37. 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 suitably qualified geotechnical engineer verifying that the specified compaction requirements have been met.
- c) A compaction certificate must be provided by a geotechnical engineer certifying any fill within road reserves, and all road sub-grade and road pavement materials.
- d) The compaction certificates must be included with the application for an occupation certificate.

38. Excavated Material

All excavated material removed from the site must be classified by a suitably qualified person 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 be reported to the principal certifying authority prior to the issue of an Occupation Certificate.

39. Survey Report – Finished Floor Level

To ensure that the approved development has been located at the setbacks and levels shown on the relevant plans and elevations, 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
- a) The finished floor level(s) are in accordance with the approved plans.
- b) Confirming that the waste collection vehicle standing area complies with AS2890.1 – 2004 and AS20890.2 – 2002 for small rigid vehicles (SRV).

40. Compliance During Construction Works

The development must be carried out in accordance with the following approved document:

- a) Construction Traffic Management Plan (CTMP).

41. Maintenance of Public Footpaths

Public footpaths must be maintained for the duration of works to ensure they are free of trip hazards, displacements, breaks or debris to enable pedestrians to travel along the footpath safely.

REQUIREMENTS PRIOR TO THE ISSUE OF AN OCCUPATION OR SUBDIVISION 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.

42. Road Widening – Hunter lane

The land that is identified as being required for Road Widening within Hunter Lane is to be dedicated as Public Road and registered with the Land Titles Office as a stratum lot. The stratum lot to be dedicated is to be unlimited in height and limited in depth to that level which is approximately 2 metres below the finished road pavement. In this regard a Subdivision Certificate is to be issued by Hornsby Shire Council.

43. Fulfilment of BASIX Commitments

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

44. Sydney Water – s73 Certificate

A s73 Certificate must be obtained from Sydney Water and submitted to the PCA..

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

45. Certification of WSUD Facilities

Prior to the issue of an Occupation Certificate a certificate from a Civil Engineer is to be obtained stating that the WSUD facilities have been constructed and will meet the water quality targets as specified in the Hornsby Shire Councils DCP.

46. Certification of Survey Marks

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

47. Certification of Minimum Floor Levels

A Certificate from a registered Surveyor is to be submitted to the Principal Certifying Authority that the minimum floor levels have been achieved.

48. Damage to Council Assets

Any damage caused to Council's assets as a result of the construction or demolition of the development must be rectified in accordance with Council's Civil Works Specifications.

49. Consolidation of Allotments

All allotments are to be consolidated under the one title.

50. Creation of Easements

The following easements are to be created on the title of the property under the provisions of the *Conveyancing Act 1919*:

- a) The creation of an appropriate "*Positive Covenant*" and "*Restriction as to User*" over the constructed on-site detention water sensitive urban design (WSUD) 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.
- b) To register the OSD easement and water quality facilities, the restriction on the use of land "*works-as-executed*" details of the on-site-detention system

and water quality facilities 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.

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. The plan(s) must be accompanied by a certificate from a registered surveyor certifying that all pipelines and associated structures lie wholly within any relevant easements.

52. Planter Boxes / On slab planting

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

6. Street Tree Plantings – George Street

Planting to the George Street verge shall be three (3) *Tritaniopsis laurina* ‘luscious’ (Water gums) as shown on the landscape plans. Trees are to be located in tree pits of dimension 6m long x 2m wide x 0.5m deep to enable a soil volume of 6m² per tree filled with structural soil. Tree pit openings with dimensions 2m long x 1m are to be created within the concrete slab and brick pavers of the pedestrian verge and covered with terrabond or equivalent. Trees are to be installed at minimum 200 litre pot size.

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

53. Completion of landscaping

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

54. Damage to Council Assets

To protect public property and infrastructure any damage caused to Council’s assets as a result of the construction or demolition of the development must be rectified by the applicant in accordance with Council’s Civil Works Specifications.

55. Retaining Walls

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

56. Installation of Air Conditioner

- a) To protect the amenity of adjacent properties, the condenser unit for any air conditioner must be sited a minimum of 3 metres from the property boundary of any adjoining residential premises.
- b) Alternatively, a certificate must be submitted to the PCA by a suitably qualified person confirming that the unit has been tested for heating and cooling on the highest settings and that the noise levels generated do not exceed 5 dB(A) above background noise levels when tested at the property boundary between 8 pm and 10 pm.

57. External Lighting

- a) To protect the amenity of adjacent premises, all external lighting must be designed and installed in accordance with *Australian Standard AS 4282 – Control of the Obtrusive Effects of Outdoor Lighting*.
- b) Certification of compliance with this Standard must be obtained from a suitably qualified person and submitted to the PCA with the application for the Construction Certificate.

58. 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.

59. 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 residential bin storage room and the commercial bin storage room at the ground 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.]\p>*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 two 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 erected to prohibit parking in the waste collection loading bay.

- h) A survey of the finished access way (including ramp, waste collection vehicle turning area, loading bay and site entry/exit) to be used by HRV waste collection vehicle, must be carried out by a registered surveyor and submitted to the principal certifying authority. Written confirmation must be submitted to the Principal certifying authority from a qualified Traffic Engineer, that this survey confirms the finished access way within the waste collection vehicle turning path was designed and constructed in compliance with Australian Standard AS2890.2-2002 Parking Facilities Part 2: Off-street Commercial Vehicle Facilities for heavy rigid vehicles.

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

- i) The 4.5 metre clearance height within the waste collection vehicle 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(s) by waste removal services.
- k) Access to the volume handling equipment by unauthorised persons (including residents, commercial tenants etc) must be prevented.

Note: Caging of the volume handling equipment or a separate lockable room is acceptable.

- l) The means must be in place to prevent Commercial tenants from using the residential bins and prevent residents from using the commercial bins.

Note: Separate lockable bin storage rooms/cages are acceptable.

60. Unit Numbering

All units are to be numbered consecutively commencing at No.1. The strata plan lot number is to coincide with the unit number, e.g. Unit 1 = Lot 1. The allocated of unit numbering must be authorised by Council prior to the numbering of each units in the development.

61. 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 any recommendations of any Remedial Action Plan prepared.

62. Construction of engineering works.

All engineering works identified in this consent are to be completed and a Compliance Certificate issued prior to the release of the Occupation Certificate or Subdivision Certificate

63. Provision for National Broadband Network (NBN)

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

64. Safety and Security

This site must include the following elements:

- a) An intercom system must be installed at gate locations to ensure screening of persons entering the units;
- b) The entry doors to the pedestrian foyer is 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) CCTV cameras must be installed at the entry and exit point and the around the mailbox;
- f) The communal open spaces within the site must be illuminated with high luminance by motion sensor lighting;
- g) The driveway and basement car parking must be illuminated with low luminance at all times;
- h) Security deadlocks are to be provided to each apartment door; and
- i) Peep holes are to be provided to individual apartment doors to promote resident safety.

OPERATIONAL CONDITIONS

65. Landscape Establishment

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

Any landscaping and/or fencing must not restrict sight distance to pedestrians and cyclists travelling along the footpath

66. Waste Management

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

- a) A site caretaker must be employed and be responsible for moving bins where and when necessary, washing bins and maintaining waste storage areas, ensuring the chute system and related devices are maintained in effective and efficient working order, managing the communal composting area, managing the bulky item storage area, arranging the prompt removal of dumped rubbish, ensuring the commercial waste and recycling is kept separate from the residential waste and recycling (and vice versa), ensuring all residents and commercial tenants are informed of the use of the waste management system, and managing the loading dock to ensure that it is sufficiently available for all necessary waste collection services to take place. 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.
- b) All commercial tenants must keep written evidence on site of a valid contract with a licensed waste contractor(s) for the regular collection and disposal of the waste and recyclables that are generated on site.
- c) The commercial tenants must have a sufficient number of bins to contain the volume of waste and recycling expected to be generated between collection services.

67. 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).

68. Car parking and Deliveries

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

- 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) All vehicular entry on to the site and egress from the site shall be made in a forward direction.

69. 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.

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.

Tenancy Fit-Out – Separate DA Required

This consent does not permit the fit-out of individual retail and commercial tenancies. A separate development application is required for the fit-out of individual tenancies prior to the occupation of the building.

Advertising Signage – Separate DA Required

This consent does not permit the erection or display of any advertising signs. Most advertising signs or structures require development consent. Applicants should make separate enquiries with Council prior to erecting or displaying any advertising signage.

Dial Before You Dig

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

Telecommunications Act 1997 (Commonwealth)

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

Asbestos Warning

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

www.environment.nsw.gov.au

www.nsw.gov.au/fibro

www.adfa.org.au

www.workcover.nsw.gov.au

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

Unit Numbering (Strata Units)

All units are to be numbered consecutively commencing at No1. The strata plan lot No is to coincide with the unit number. Eg Unit 1 = Lot 1.