

JOINT REGIONAL PLANNING PANEL
(Sydney West Region)

JRPP Number	2015SYW075
DA Number	DA/371/2015 (Lodged 7 April 2015)
Local Government Area	Hornsby
Proposed Development	Demolition of existing structures and concept proposal for a 25 storey mixed use development comprising 220 residential units, entertainment facility, retail and commercial floor space and 8 levels of basement car parking.
Street Address	Lots 18, 19, 20, 21 & 22, DP 13812, Lot 1, DP 114653, Lot 1, DP 1053591, Lot 1, DP 171959, Lot 1, DP 171958, Lot 1, DP 172708, Lot A, DP 325525, No.s 240 – 260 Peats Ferry Road, Hornsby.
Applicant/Owner	Ezzy Architects / P & L Properties Pty Ltd, Mr T Poulos and Estate Late Mr G Lorandos, Easty Pty Ltd, Gwynvill Properties Pty Ltd
Number of Submissions	24 submissions, including a petition with 465 signatures
Regional Development Criteria (Schedule 4A of the Act)	The DA is referred to the JRPP pursuant to Schedule 4A of the Environmental Planning and Assessment Act 1979, as amended. The Panel is authorised to exercise the consent authority functions of Council as the development proposed has a combined capital investment value of more than \$20 million Capital Investment value of the development - \$ 80,000,000
List of All Relevant s79C(1)(a) Matters	<ul style="list-style-type: none"> • State Environmental Planning Policy (State and Regional Development) • State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004 • State Environmental Planning Policy (Infrastructure) 2007 • State Environmental Planning Policy No. 55 – Remediation of Land • State Environmental Planning Policy No. 65 – Design Quality of Residential Flat Development • Sydney Regional Environmental Plan No. 20 – Hawkesbury – Nepean River • Hornsby Local Environmental Plan 2013 – B4 Mixed Use Zone • Draft Hornsby Local Environmental Plan 2013 Amendment No 5 – Design Excellence

	<ul style="list-style-type: none">• Hornsby Development Control Plan 2013• Hornsby Section 94 Development Contributions Plan 2012 - 2021
List all documents submitted with this report for the panel's consideration	<ul style="list-style-type: none">• Locality Plan• Site Plan• Architectural Plans• Elevations• Urban Design Assessment prepared by GMU dated 3 August 2015
Recommendation	Refusal
Report by	GLN Planning on behalf of Hornsby Shire Council

ASSESSMENT REPORT AND RECOMMENDATION

EXECUTIVE SUMMARY

1. In December 2014, Council approved amendments to the HLEP that are designed to increase residential and employment opportunities while preserving the heritage character of the Hornsby West Side Precinct. The most significant change is that development of buildings between 8 and 25 storeys are now permitted in the precinct. The HDCP was also amended to provide guidelines for development.
2. Council further resolved to prepare a detailed design for the public realm within the Hornsby Westside Precinct with an initial emphasis on Peats Ferry Road to seek to ensure that street trees and associated road works are in place along Peats Ferry Road within the Westside Planning Proposal Precinct by the end of 2015. Council has indicated a strong commitment to the revitalisation and development of the West Side Precinct.
3. The subject site is located within the area identified for 25 storey development.
4. The application proposes the demolition of existing buildings and concept proposal for a 25 storey mixed use development comprising 220 residential units, entertainment facility, retail and commercial units and 8 levels of basement car parking.
5. The major environmental assessment issues for this application are building height, creation of isolated sites, design quality and aesthetics of the proposed mixed use building, heritage streetscape and local character impacts, active street frontages, vehicular access and parking arrangement and relationship to public domain improvements.
6. The proposal does not adequately address the relevant local planning instruments and policies.
7. Twenty Four (24) submissions including one petition containing 465 signatures have been received of which 23 raised objections to the application.
8. It is recommended that the application be refused for the reasons set out in Schedule 1.

RECOMMENDATION

THAT Development Application No. 371/2015 for demolition of existing structures and concept proposal for a 25 storey mixed use development comprising 220 residential units, entertainment facility, retail and commercial units and 8 levels basement car parking at Lots 18, 19,20,21 & 22, DP 13812, Lot 1, DP 114653, Lot 1, DP 1053591, Lot 1, DP 171959, Lot 1, DP 171958, Lot 1, DP172708, Lot A, DP 325525, No.s 240 – 260 Peats Ferry Road, Hornsby, be refused for the reasons listed in Schedule 1 of this report.

BACKGROUND

In December 2014, Council, approved amendments to the *Hornsby Local Environmental Plan 2013* (HLEP) that are designed to increase residential and employment opportunities while preserving the heritage character of the area of Hornsby located west of the railway line. This area is known as the 'Hornsby West Side Precinct'. The most significant change is that development of buildings between 8 and 25 storeys are now permitted in the precinct. The *Hornsby Development Control Plan 2013* (HDCP) was also amended to provide guidelines for development.

A development application was lodged with Council on 7 April 2015 for demolition of existing structures and concept proposal for a 25 storey mixed use development comprising 220 residential units, entertainment facility, retail and commercial units and 8 levels of basement car parking.

On 29 May 2015, amended plans for an indicative building envelope were submitted to Council.

The amended plans were exhibited from 12 June to 26 June 2015.

The development application was presented to the Sydney West JRPP Briefing Meeting on 1 July 2015.

The JRPP was advised that the application involves a number of issues of non-compliance with *Hornsby Development Control Plan 2013* (HDCP) and that an urban design consultant had been engaged to comment on the proposal.

The internal and external referral comments received have either raised objections to the proposal sufficient to warrant refusal of the development application, or required significant areas of additional information to undertake an appropriate assessment.

GMU Urban Design has provided an Urban Design Assessment which does not support the proposed development.

As a direct result of the areas of significant non-compliance with the HLEP and HDCP, additional information has not been sought from the applicant.

SITE

The subject site is located in the suburb of Hornsby, within the Hornsby West Side Precinct, opposite Hornsby Station and to the north of Cenotaph Park.

The subject site comprises 11 allotments fronting Peats Ferry Road, Station Street and Coronation Lane. The site has a frontage of 65.572m to Peats Ferry Road, a splay of 5.78m at the intersection of Peats Ferry Road and Station Street, and 57.371m to Station Street. The overall site area is 1661.68m². The development site is generally triangular in shape. The subject site will result in the isolation of Lot 23, DP 13812, No 23 – 29 Station Street and No 262 Peats Ferry Road.

The site falls from Peats Ferry Road (RL 195.37) to Station Street (RL 187.42) and along Station Street away from the splay corner to RL 184.92.

The Hornsby West Side Precinct is the traditional centre of Hornsby and comprises a mix of retail/commercial, civic, educational and open space uses. The Main Northern Railway Line and George Street divides the West Side and East Side Precincts. The link between these 2 precincts that together form the Hornsby Town Centre is the existing pedestrian bridge at the railway station.

Existing development of the site is two and three storey buildings. In December 2014, Council approved amendments to the HLEP that are designed to increase residential and employment opportunities while preserving the heritage character of the area. The most significant change is that development of buildings between 8 and 25 storeys are now permitted in the precinct. HDCP was also amended to provide guidelines for development.

PROPOSAL

The proposal is for the demolition of the existing structures and a concept proposal for a 25 storey mixed use development.

The application was lodged as a 'staged development application' under section 83B of the *Environmental Planning and Assessment Act 1979* meaning that any development consent that was granted would be subject to a future development application or applications for construction.

The mixed use development for which concept approval is sought comprises:

Basement Car Parking

Vehicular access to Station Street is proposed from the north-eastern corner of the site to a circular driveway to access eight (8) levels of parking. Detailed design of the car parking layout has not been provided with this staged development application. The applicant has indicated that such details would be provided as part of a future development application.

Lower Ground Floor

A 400 seat theatre is proposed with access from Station Street. Loading and car parking will also be provided.

Ground Floor

The ground floor is designed as the foyer (330m²) to the residential tower. A 120m² restaurant and alfresco areas are proposed, including a partially covered winter garden located to the north of the tower.

First Floor

Commercial floor space (410m²) is proposed. A void is provided to the residential foyer below. Access is proposed via the central lifts which service the residential floors above.

Levels 2 – 24

220 residential units are proposed on the upper levels. The elliptical form of the ground and first floors is maintained to Level 5. Communal open space is proposed in the northern portion of Level 5 and includes a pool and gymnasium. Levels 6 to 24 are more rectangular in form. Floor plans vary amongst the levels with 5 to 11 units proposed at each level.

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 LGAs 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* in that it would provide both additional services to support a growing population, and additional dwellings that 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 Section 83B Staged Development Applications

The development application has been submitted pursuant to s.83B providing a concept for the development of the site. On the basis development consent was granted, this concept consent would be relied upon to provide further details by way of future development applications to Council for individual components of the development depending on market demand.

The Statement of Environmental Effects states that the Proponent seeks to rely on section 83B to provide flexibility for the future internal layout or functioning of the development based on future market demands. It is suggested that the future mix or internal layout of the units within the residential tower may be reconfigured to meet future housing demands of the market.

2.2 Hornsby Local Environmental Plan 2013

The primary environmental planning instrument applying to the site and the development is the HLEP.

2.2.1 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 proposed development is a mixed use development and defined as “commercial premises”, “shop top housing”, “food and drink premises” and “entertainment facility”. All the proposed uses are permissible in the zone with Council’s consent.

2.2.2 Demolition

Demolition of the existing structures is permissible with Council’s consent under clause 2.7 of the HLEP.

2.2.3 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 77.5m. The proposal does not comply with this provision.

The proposed building indicates an overall height of RL 264.5 to the underside of the uppermost ceiling. The level of the roof line is not indicated on the submitted architectural plans and is higher than RL 264.5. "Building height" (or "height of building") means the vertical distance between ground level (existing) and the highest point of the building, including plant and lift overruns, but excluding communication devices, antennae, satellite dishes, masts, flagpoles, chimneys, flues and the like. The building therefore has an overall greater height than RL 264.5.

For the purposes of calculating the height in the absence of a specific height measurement RL 264.5 has been adopted. As building height is measured from existing ground level, any portion of the building located where the existing ground level is below RL 187 will exceed the maximum height limit. The spot levels provided on the survey submitted indicates the Station Street frontage varies from RL 186.95 to RL 184.92. Spot levels are not provided within the subject site so it is not possible to ascertain the extent of the exceedance of the height control, other than to confirm that the proposal will exceed the 77.5m height control.

2.2.4 Floor Space Ratio

Clause 4.4 of the HLEP provides that the floor space ratio (FSR) on any land should not exceed the maximum FSR shown for the land on the Floor Space Ratio Map. The maximum FSR permitted is 3:1. The subject site is located in 'Area 8'. Under clause 4.4(2D) of the HLEP exceedance of the FSR is permitted for development for the purposes of shop top housing. This exceedance is subject to the development including land uses permitted in the zone other than residential accommodation, and that those land uses must comprise a FSR of at least 1:1.

The Statement of Environmental Effects (SEE) indicates that the proposed development has a non-residential FSR of 1.27:1 in compliance with the provisions of Clause 4.4. The SEE however was prepared in October 2014 prior to the architectural plans which are dated December 2014. There are discrepancies between the documentation as shown in the table below:

Non –residential Floor Areas	SEE	Architectural Plans
B1/B2 Theatre and Foyers	1290m ²	1170.25 m ²
Ground Floor Restaurant	120m ²	120m ²
1 st Floor Commercial	413m ²	412m ²
Total	1823m ²	1702.25m ²
FSR	1.09:1	1.02:1

The proposed theatre represents in excess 68% of the commercial floor space. The application is not supported by any analysis of need or demand for a theatre nor are any details provided to indicate the type of theatre proposed. Should a theatre prove to be uneconomic, alternative uses for the floor space, which is predominately located at basement level, would likely be limited. Similarly, the ground floor commercial floor space is limited in potential operation with 120m² available adjacent to the foyer to the residential tower. The underlying objective of the FSR control is to ensure the provision of a minimum level of employment uses within existing commercial centres and to prevent the construction of purely residential towers. The design and location of the commercial floor area is considered to be token in its design and potential operation and unlikely to be adaptable to a wide range of commercial uses permitted within the B4 Mixed Use zone.

2.2.5 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 objectives of the zone.

The proposal exceeds the maximum height of 77.5m under Clause 4.3 of the HLEP.

The applicant has not made a submission in support of a variation to the development standard in accordance with Clause 4.6 of the HLEP, accordingly approval cannot be granted.

2.2.6 Heritage Conservation

Clause 5.10 of the HLEP sets out heritage conservation provisions for Hornsby Shire. The property is located within the Peats Ferry Road precinct of the Hornsby West Side Heritage Conservation Area (HCA), under Schedule 5 of the HLEP.

The property is also located within the immediate vicinity of a number of HLEP items of environmental heritage, including the Odeon Cinema (155 Peats Ferry Rd – I502); War Memorial & Palms (Opposite Cinema – I503); Retail and commercial buildings (No's 165,169,173,175,183,185,187,193 Peats Ferry Road - I504, I505, I506, I507, I508, I509, I510, I511 & I512); Hornsby Railway Station (A51 & I485); Railway Station Cloakroom Buildings (A52 & I551) and SRA electricity plant and signal box (A50 & I485).

A Heritage Impact Statement (HIS) prepared by CoAssociates Pty Ltd has been submitted with the development application.

The Peats Ferry Road Precinct is significant for its association with the development of Hornsby as a railway town and role within the old town centre. The area is significant as an extant example of the earliest commercial precinct in Hornsby and contains one of the few surviving streetscapes of Federation and Inter-war period commercial buildings in Hornsby.

The HIS divides the site into three sections being the 'Corner' buildings, 'Middle' and 'Northern' buildings. The HIS notes the corner buildings have some heritage interest and if demolished should be recorded. However, the HIS does not adequately consider the contributory value of the three circa 1930's Inter-War Commercial buildings (the corner buildings No's 242, 244 and 246 Peats Ferry Road) have to the HCA. These buildings are not so modified that they are unrecognisable or beyond repair and although painted they are extant/tangible examples of the earliest commercial precinct in Hornsby. They retain original exterior fabric, form, design, scale, window openings, timber sash windows and parapets. The historic Photograph 7 on page 9 of the HIS shows the same corner building that is extant today on the corner of Station Street and Peats Ferry Road (Pacific Highway) opposite the war memorial.

It is agreed as stated in the HIS, the existing Middle and Northern buildings on the site do not have substantial heritage significance and their demolition is not objected to. However, redevelopment should retain the two storey character at street level, with any upper levels stepped back off the two storey level.

The proposal is not acceptable on heritage grounds, as discussed in greater detail below within the assessment of the proposal against the heritage provisions of the HDCP.

2.2.7 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.

The SEE indicates that further detail for site excavation will be provided in future development applications for construction.

2.2.8 Draft Hornsby Local Environmental Plan 2013 Amendment 5 - 'Design Excellence' amendments

Council at its meeting on 8 April 2015 resolved to forward the Design Excellence Planning Proposal attached to Group Manager's Report No. PL25/15 to the Minister for Planning for finalisation pursuant to Section 59 of the Environmental Planning and Assessment Act 1979. The Planning Proposal amends the HLEP by inserting new Clause 6.8. The making of this amending LEP is certain and imminent at the time of writing this report.

Clause 6.8 provides as follows:

Design excellence

- (1) *The objective of this clause is to deliver the highest standard of architectural and urban design.*
- (2) *This clause applies to development involving the erection of a new building or external alterations to an existing building, which will result in a building with a height of more than 29.6 metres.*
- (3) *Development consent must not be granted to development to which this clause applies unless the consent authority considers that the development exhibits design excellence.*
- (4) *In considering whether the development exhibits design excellence, the consent authority must have regard to the following matters:*
 - (a) *whether a high standard of architectural design, materials and detailing appropriate to the building type and location will be achieved,*
 - (b) *whether the form and external appearance of the development will improve the quality and amenity of the public domain,*
 - (c) *whether the development detrimentally impacts on view corridors,*
 - (d) *whether the development achieves transit-oriented design principles, including the need to ensure direct, efficient and safe pedestrian and cycle access to nearby transit nodes,*
 - (e) *the requirements of the Hornsby Development Control Plan,*
 - (f) *how the development addresses the following matters:*
 - (i) *the suitability of the land for development,*

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- (ii) *existing and proposed uses and use mix,*
 - (iii) *heritage issues and streetscape constraints,*
 - (iv) *the relationship of the development with other development (existing or proposed) on the same site or on neighbouring sites in terms of separation, setbacks, amenity and urban form,*
 - (v) *bulk, massing and modulation of buildings,*
 - (vi) *street frontage heights,*
 - (vii) *environmental impacts and factors such as sustainable design, overshadowing and solar access, visual and acoustic privacy, noise, wind, reflectivity, water and energy efficiency and water sensitive urban design,*
 - (viii) *the achievement of the principles of ecologically sustainable development,*
 - (ix) *pedestrian, cycle, vehicular and service access and circulation requirements,*
 - (x) *the impact on, and any proposed improvements to, the public domain,*
 - (xi) *achieving appropriate interfaces at ground level between the development and the public domain,*
 - (xii) *integration of landscape design, including the configuration and design of communal access and communal recreation areas, to incorporate exemplary and innovative treatments and to promote an effective social atmosphere.*

Council further resolved to establish a Design Excellence Referral Panel, to enable the referral of development applications at or over 10 storeys in height to suitably qualified consultants. This development application was referred to GMU – Urban Design and Architecture in accordance with Council's adopted policy.

GMU has undertaken an Urban Design Assessment, a copy of the report dated 3 August 2015 is attached.

The GMU report concludes that the proposal will result in a number of adverse outcomes for the precinct, the conservation area, local character and Council's future landscape and public domain plans. GMU strongly recommends that the proposal be amended to address the issues discussed throughout this report before any consideration for approval. The issues identified by GMU are summarised below:

- Departure from the existing character and lack of contextual fit with the contributory elements to the existing local character
- Introduction of varying setbacks at the ground floor
- Introduction of an anomalous footprint to the existing street edge alignment

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- Lack of a defined street wall height
 - Fundamental change to the built form character of the block and of the precinct
 - Failure to respond to the existing 'fine grain' character of the site and the street
 - Erosion of the continuity of the pedestrian experience that currently exists along all edges of the block
 - Creation of an unbalanced streetscape dialogue with the 2 storey heritage buildings across the street
 - Introduction of a monolithic point form tower without a defined base, main body and top that displays:
 - Overwhelming bulk and scale to the street
 - Lack of adequate setbacks,
 - Poor proportions
 - Increased building depths
 - Inconsistent depth throughout
 - Perception of over-development
 - Contravention of recommended separation distances
 - Increased perception of bulk and scale and visual impact from short, medium and long distance views
 - Erosion of view and light corridors
 - The perception of a continuous wall of development
 - The lack of a recognisable roof form and a contribution to the skyline
 - Potential site isolation at No. 23-29 Station Street
 - Adverse outcomes to the public domain and to Council's future public domain improvement plans
 - Erosion of the containment around Cenotaph Park and the predominant street alignment
 - Large vehicle entrance and elevated frontages
 - Overshadowing of the public open space to the south of the site during lunch hours
 - Potential 'wind wash' effect to the proposed winter garden to the north of the tower and surrounding public domain.
 - Uncharacteristic vehicular driveway and under-croft arrangement
 - Potential pedestrian-vehicle conflicts across the station
 - Inability to meet the objective of Council's Design Excellence control, which is to "deliver the highest standard of architectural and urban design" as the proposal has poorly addressed the following design aspects considered under Clause 6.8 –Design Excellence:
 - "street frontage heights" (4), (f), vi

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- “appropriate interfaces at the ground level between the development and the public domain” (4), (f), xi
 - “bulk, massing and modulation of buildings” (4), (f), v
 - “the form and external appearance of the development ” (4), b
 - “impacts on view corridors” (4), c
 - “relationship with other development (existing or proposed) on the same site or on neighbouring sites in terms of separation, setbacks, amenity and urban form” (4), (f), vii .
 - “impact on, and any proposed improvements to, the public domain” (4), (f), x
 - “environmental impacts” such as “overshadowing ...wind” (4), (f), vii; and
 - “vehicular and service access” (4), (f), ix.

Due to the proposal’s inability to meet the objective of Council’s Design Excellence criteria and the number of adverse urban design and built form outcomes, GMU concludes that only a complete redesign of the proposal will address the issues discussed above and throughout this report.

2.3 State Environmental Planning Policy (State and Regional Development)

State Environmental Planning Policy (State and Regional Development) requires that the Regional Panel exercises the consent authority functions for general development with a capital investment value of more than \$20 million. The proposed development has an estimated capital investment value of \$80 million. Therefore, the Sydney West Joint Regional Planning Panel (JRPP) is the consent authority for the determination of this application.

2.4 State Environmental Planning Policy (Building Sustainability Index – BASIX) 2004

The development application has been submitted as a concept proposal. The plans submitted with the application provide typical floor plans for the residential unit layout and configuration within the residential tower. The final mix of units and layout is proposed to be the subject of a future application. Accordingly, the applicant is seeking to rely upon Clause 70A of the Environmental Planning and Assessment Act Regulation 2000 and submit a BASIX certificate within a future development application.

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

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

SEPP 32 has been identified as outdated and included within the State Environmental Planning Policy Review 2015, exhibited in June 2015 which proposes the repeal of SEPP 32.

2.6 State Environmental Planning Policy (Infrastructure) 2007

The application has been assessed against the requirements of *State Environmental Planning Policy (Infrastructure) 2007*. This Policy provides State-wide planning controls for various infrastructure proposals and for traffic generating development.

The applicant has advised that at concept plan stage the quantum of car parking spaces have not been determined and that it is anticipated that the application will be referred to the Roads and Maritime Services (RMS) for comment.

By letter dated 4 June 2015, RMS advised that additional information would be required to be provided prior to determination of the application:

1. A detailed traffic and parking study for the concept development application considering the cumulative impacts of the traffic distribution and assignment on the road network. In particular the distribution of trips generated by the development and their impacts on crucial locations such as the Coronation Street/Peats Ferry Rd, Station Street/High St and Pacific Highway/George St intersections. The increased traffic generation will add pressure at these intersections and likely result in an increase in queuing and delay at the intersections.
2. The traffic generation and impacts as a result of the development are to be considered in light of the Hornsby West Side Traffic Study prepared by Bitzios Consulting date 1 May 2013.
3. The Hornsby West Side Traffic Study identifies several network upgrade requirements in the locality to accommodate additional traffic from the West Side Planning Proposal. RMS note that the proposed floor area is significantly greater than that identified in the Hornsby West Side Traffic Study and it is likely that additional traffic management options/improvements for the road network may need to be considered by the applicant
4. Additional information of the connection of the proposed vehicle access arrangement to Station St to clarify what amendments to the Street Network Plan are planned.

As the development application has significant areas of non-compliance with the provisions of the HLEP and HDCP, the above additional information has not been requested to be submitted.

2.7 State Environmental Planning Policy No. 55 – Remediation of Land

State Environmental Planning Policy No.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 for the proposed use. The land has been used for retail and commercial purposes and is unlikely to be contaminated. No further investigations are required for the purposes of this development application as a concept plan application.

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

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

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.

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, this amendment would not apply to the subject application and the previous version (Amendment 2) of the SEPP is the version of the instrument that is relevant in this case.

2.8.1 Design Principles

The applicant has not submitted a “Design Verification Statement” prepared by a qualified Architect stating how the proposed development achieves the design principles of SEPP 65. As the Development Application is for a concept proposal, the applicant is seeking to rely on the provisions of Clause 70B of the EPAA Regulations and submit an assessment of the proposal under SEPP 65 in a future development application.

The design principles of SEPP 65 are addressed in the following table. The provisions of SEPP 65 have direct implications for the design and planning of residential flat buildings all of which will impact upon the resultant form of the building.

Principle	Compliance
1. Context	No
Comment: The site is located within the West Side Precinct planned for ten to twenty five storey residential flat buildings in close proximity to Hornsby Railway Station and the Hornsby Town centre. The proposal responds poorly to the desired future character of the precinct as envisaged by Council within the HLEP and HDCP.	
2. Scale	No
Comment: The scale of the development does not accord with the height control and setbacks for the precinct prescribed within the HDCP. The building footprints fail to comply with the maximum	

Principle	Compliance
floorplates for residential and commercial development as prescribed within the HDCP.	
3. Built Form	No
Comment: The proposed building does not achieve an appropriate built form for the site and its purpose, in terms of building alignments, proportions, and the manipulation of building elements. The building fails to appropriately contribute to the character of the desired future streetscape as detailed in the Urban Design Assessment report prepared by GMU to address the HLEP's Design Excellence provisions.	
4. Density	No
Comment: The HLEP does not incorporate floor space ratio requirements for the overall development. The density of the development is governed by the building height and setback controls. The proposed density is considered to be excessive as it fails to provide sufficient detail to indicate that the proposed development responds favourably to the regional context, availability of infrastructure, public transport, community facilities and environmental quality.	
5. Resource, Energy and Water Efficiency	No
Comment: The applicant has not 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.	
6. Landscape	No
Comment: The development application does not include a landscape plan. Indicative landscaping and green roof and green walls are suggested.	
7. Amenity	No
Comment: The level of detail provided with the application does not enable an adequate assessment to be undertaken. The submitted plans indicate that only 50 of the 220 units will be provided with balconies of sufficient area and dimensions to meet the HDCP's minimum requirements for private open space.	
8. Safety and Security	No
Comment: The proposal does not include an assessment of the development against crime prevention controls.	
9. Social Dimensions and Housing Affordability	No
Comment: Whilst the proposal incorporates a range of unit sizes to cater for different budgets and housing needs, the development fails to comply with the housing choice requirements of the HDCP by not providing details of the proposed number of adaptable housing units.	
10. Aesthetics	No
Comment: The overall design and architectural merit of the proposed building has been considered in the urban design assessment prepared by GMU and in the assessment of the development against the provisions of the HLEP and HDCP.	

2.8.2 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'). 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:

Control	Proposal	Requirement	Compliance
Deep Soil Zone	0%	25%	No
Communal Open Space	14% - pool and fitness centre	25-30%	No
Minimum Dwelling Size	Studio: 40 m ² -49 m ² 1 br: 50m ² -64m ² 2 br: 75m ² -93m ² 3 br: 99m ² - 143m ²	1 br – 50m ² 2 br – 70m ² 3 br – 95m ²	Yes Yes Yes
Maximum Kitchen Distance	Floor plans not submitted	8m	Not determined
Minimum Balcony Depth	2m	2m	Yes
Minimum Ceiling Height	3.1m floor to floor	2.7m	Yes
Total Storage Area	Floor plans not submitted	1 bed - 6m ³ (Min) 2 bed - 8m ³ (Min) 3 bed - 10m ³ (Min) 50% accessible from the apartments	Not determined
Dual Aspect and Cross Ventilation	Floor plans not submitted	60%	Not determined
Adaptable Housing	Floor plans not submitted	10%	Not determined

As detailed in the above table, the proposed development indicates compliance with some of the prescriptive measures in the Code. The application seeks to rely upon the operation of Clause 70B of the EPAA Regulations 2000 and submit the detailed design of the proposal in a future development application for construction. Accordingly, as the detailed floor plans have not been provided it is not possible to ascertain compliance with either the provisions of the RFDC or the intent of the provisions.

2.9 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 be capable of compliance with the requirements of the Policy.

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

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

The principal purpose of a development control plan is to provide guidance on the aims of any environmental planning instrument that applies to the development; facilitate development that is permissible under any such instrument; and achieve the objectives of land zones. The provisions contained in a plan 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.

The proposal presents a number of non-compliances with the relevant development control plan, as discussed below.

2.11 Hornsby Development Control Plan 2013

The proposed development has been assessed having regard to the relevant desired outcomes and prescriptive requirements in the HDCP.

The proposed development does not appropriately address the HDCP controls for the West Side Precinct. Compliance of the proposal in respect to the HDCP controls are detailed below, as well as a brief discussion on compliance with relevant desired outcomes.

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

Control	Proposal	Requirement	Compliance
Site Requirements	23 – 29 Station Street and 262 Peats Ferry Rd not included within site amalgamation resulting in isolated sites.	Consistent with site amalgamations	No
FSR – Area 8	1.27:1	3:1 (Area 8 variation to	Yes

Control	Proposal	Requirement	Compliance
		FSR) 1:1 min commercial floor space	Yes
Maximum Floorplate Dimension	47.15m	18m	No
Residential	34.5m floor space	35m	No
Commercial	52m including void		
Height	25 storeys – > 77.5	25 storeys -77.5m	No
Commercial Podium	No podium proposed	2 -5 storeys – 8.5- 17.5m	No
Ground Floor Peats Ferry Rd Setback	0m – 7m variable on an elliptical curve	0m (min)	No
Ground Floor Station St Setback	0m-15m variable	0m (min)	No
Upper Floor Peats Ferry Rd Setback	0m – 10m variable	6m (min)	No
Upper Floor Station St Setback	0m - 15m variable	0 – 3m (min)	No
Private Open Space with Minimum Dimensions 2.5m	50 units of 220 units total indicate private open space to meet minimum requirements	0-1 Bed -10m ² 2 Bed - 12m ² 3 + Bed - 16m ²	No
Communal Open Space with Minimum Dimensions 6m	119.85m ² outdoor and pool area 121.30m ² fitness centre	50m ²	Yes
Minimum separation between buildings	Nil from levels 7 and above	To unscreened habitable rooms POS and balconies -24m Side or rear boundaries of undeveloped sites ½ of building separation under SEPP 65	No
Sunlight and	Not specified in Concept	Public open space and	Insufficient detail

Control	Proposal	Requirement	Compliance
Ventilation	Plans	plazas – 2 hours 70% of dwellings – 2 hours Communal Open Space 60% Cross Ventilated Units	submitted to determine compliance
Housing Choice	33 Studio (15%) 104 x 1 bedroom (47%) 71 x 2 bedroom (32%) 12 x 3 bedroom (5.4%)	10% of each type (min)	No
Adaptable Units	None identified	30%	No
Preferred Access Point	Station St	Coronation Lane	No
Street Trees	Diagrammatic representation of street trees to Peats Ferry Road and Station Street	Street Trees to Peats Ferry Rd Only	No
Pedestrian Links	No awnings proposed within footpaths	3m width, 4.5m Height Peats Ferry Rd and Station St	No
Outdoor Dining	Outdoor dining areas indicated in northern wintergarden and circulation space of the building in favour of any other form of retail development	Provided in areas with appropriate amenity	No
Traffic Management	No details provided and proposed access is contrary to the Street Network Plans	Series of traffic management improvements to facilitate traffic movements and improve access to buses and trains and increase parking	No
Parking	8 Basement parking	See comments below	Insufficient detail

Control	Proposal	Requirement	Compliance
	levels		provided to determine compliance

As detailed in the above table, the proposed development does not comply with a number of other requirements within the HDCP. The matters of non-compliance are detailed below, as well as a brief discussion on compliance with relevant desired outcomes.

2.11.1 Desired Future Character

HDCP requires developments to be compatible with the Desired Future Character Statement. The Desired Future Character of the West Side Precinct is:

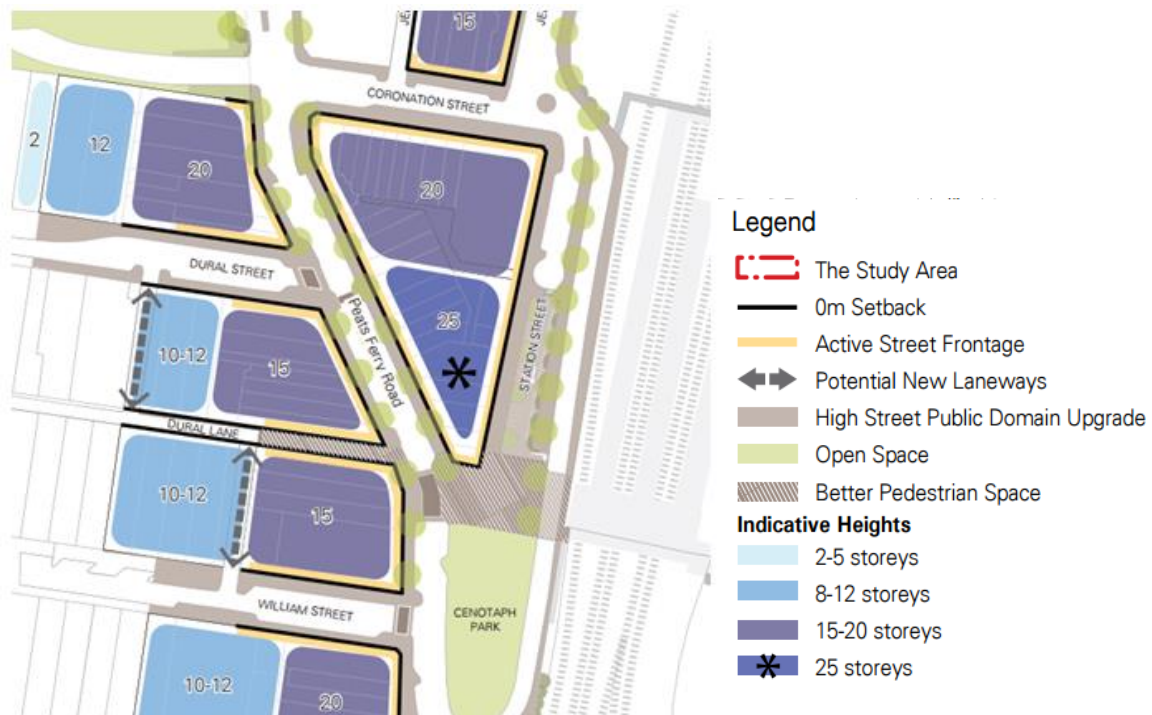
“The West Side precinct is the traditional heart of Hornsby. The precinct will be a mixed use, street based centre that provides a range of housing, retail and commercial offices, food outlets, entertainment and employment opportunities to support the larger centre and service the working and residential populations in the area. Improvements in the public domain including reconnecting Cenotaph Park to the precinct through a new public plaza that will be a gateway to Hornsby by creating a formal entry from the Rail Station through to the Pacific Highway, pedestrianising parts of Dural Lane, development of new lanes for vehicular access, footpath paving and widening, installation of bollards, provision of seating, installation of street furniture and traffic calming measures. Development along the Pacific Highway and Coronation Street should strengthen the ‘main street’ shopping and dining character of the precinct and should preserve high value heritage buildings and facades that enhance the streetscape and contribute to the overall sense of place of the precinct. New buildings should reinforce the traditional shopping centre character of the precinct through well scaled podium forms, a consistent street wall height, active frontages and continuous awnings to primary streets that together contribute to the pedestrian experience. Tower elements should be set back from the podium and be located at prominent locations to provide focal points and enclosure to the public realm.”

In support of the West Side Precinct, Council has resolved in December 2014 to undertake a detailed design of the public realm seeking to complete the street trees and associated road works along Peats Ferry Road by the end of 2015.

Specifically, the proposed building fails to reinforce the traditional shopping centre character of the precinct through well scaled podium forms, a consistent street wall height, active frontages and continuous awnings to primary streets that together contribute to the pedestrian experience. Further the tower element is not set back from the podium.

The prescriptive measures are designed to achieve compliance with the desired future character statement. To the extent that the concept plans allow assessment to be undertaken, the proposal fails to meet the key elements sought by Council in the redevelopment and revitalisation of the West Side Precinct.

The Structure Plan (figure 4.5(f)) extracted below sets out the primary guiding principles for the built form controls



Extract of Figure 4.5(f) – HDCP

Approval of the development application would have the following results inconsistent with the structure plan:

- Isolation of Nos. 23 – 29 Station Street which would prevent redevelopment of that site to realise the development potential envisaged under the HLEP and HDCP.
- Active streetscapes are not provided along the length of the frontages.
- Zero setbacks to adjoining roads are not provided.
- Loss of the opportunity to access the site via Coronation Lane.

The key principles diagram (Figure 4.5(g)) in the HDCP indicates principles in relation to public frontages, built form, landscaping and public domain and servicing.



Extract of Figure 4.5(g) – HDCP – Key Principles Diagram

The proposed development fails to address the following requirements of the Key Principles diagram:

- Podium level not provided to the frontages of Peats Ferry Road and Station Street.
- Tower form not located in a way that reflects the public domain and existing street pattern; and
- Reduction in on street parking and reduced opportunity for the provision of a taxi rank on Station Street adjacent to Hornsby Station.

2.11.2 Site Requirement

The HDCP states that buildings are to be located on consolidated development sites that achieve desired outcomes and efficient use of land to avoid the creation of isolated sites.

The subject site includes all lands within the 77.5m height limit with the exception of 23 - 29 Station Street and 262 Peats Ferry Rd which adjoins the northern boundary of the site. In order to vary the site requirements, demonstration is required that orderly and economic development of the isolated site can be achieved under HDCP. Further, documentary evidence is required that a genuine and reasonable attempt has been made to purchase the isolated site.

The development application is not supported by any details addressing the site requirements provisions of HDCP, and therefore the proposed development does not represent orderly and economic development of land within West Side Precinct. Further, the form of the proposed development will compromise the intentions of the planning controls within West Side Precinct.

2.11.3 Scale

As previously discussed, the proposal exceeds the maximum permissible height limit for the site under the HLEP. No details have been provided that justify the height variation. The height variation therefore should not be supported.

The form of the building is addressed in detail within the GMU Urban Design Assessment, which recommends refusal of the application.

2.11.4 Setbacks

To encourage active street frontages within West Side Precinct, a nil setback is required for Peats Ferry Road and Station Street. A podium is required of 5 storeys to the Station Street and the corner element of Peats Ferry Road. The northern portion of Peats Ferry Road requires a 2 storey podium. Tower elements are to be setback 6m to Peats Ferry Road.

The elliptical form of the ground floor does not conform to the required setback, nor does the building provide a podium level that reflects the setback controls. As is stated within the GMU Urban Design report, the proposal deliberately departs from the existing character and ignores the contributory elements to the streetscape. Variation of the setback provisions is not supported.

2.11.5 Open Spaces

The requirements of the HDCP relate to public open spaces, namely Cenotaph Park, open space within the development accessible by the public, communal open space and private open space.

The GMU report addresses the poor quality of the proposed ground floor wintergarden area and adverse impacts of the proposed development through it overshadowing of Cenotaph Park during lunchtime hours.

Resident (communal) open space is proposed on Level 5 on the northern side of the building and is capable of meeting minimum requirements. Private open space is insufficient for 170 of the proposed units.

The proposed development fails to meet the HDCP's desired outcomes for open spaces and cannot be supported.

2.11.6 Landscaping

The landscape detail provided for concept application is diagrammatic and does not address the specific requirements of HDCP.

2.11.7 Privacy and Security

The setbacks from Level 7 and above would not allow the development to meet the recommended separation distance as per the Residential Flat Design Code. The GMU report details that development potential of the subject site is maximised at the expense of No 23 – 29 Station Street by

the borrowing of amenity over a site for which it appears development potential will not be able to be achieved.

The proposal does not comply with Clause 4.5.8 of HDCP. The proposal is not of sufficient merit nor has sufficient detail been provided to justify and warrant any variations being granted.

2.11.8 Housing Choice

The concept development proposal does not provide at least 10% of each of the 1, 2 and 3 bedroom dwelling types. No details of adaptable units are provided. The proposal does not satisfy the requirements of Clause 4.5.10 in respect of housing choice.

2.11.9 Vehicular Access, Parking and Public Domain

The development generates a requirement for 292 car parking spaces under the HDCP. These spaces are required to meet the demand of all uses proposed on the site. Of these spaces 22 are required to be designed for people with a disability. Developments containing more than 50 units are to provide a car share space in addition.

HDCP has a requirement for bicycle parking at the rate of 1 space per 5 dwellings for residential use, giving a requirement for 44 bicycle spaces.

HDCP also has a requirement for motorcycle parking at the rate of 1 space per 50 car parking spaces, or part thereof, giving a requirement for 7 motorcycle spaces.

The concept plans indicate 8 levels of basement parking will be provided. Plans and layouts for parking and vehicular access have not been submitted. The development application is not supported by a traffic and parking assessment. It cannot be ascertained from the indicative basement plans submitted with the application that the basements are functional or capable of providing sufficient quantum of parking to meet the demands of the proposed development and requirements of the HDCP.

Access to the proposed development will be from a driveway within the proposed shared zone on Station Street.

The Hornsby West Side Precinct Structure Plan proposes that vehicular access to developments in the block bounded by Station Street, Peats Ferry Road and Coronation Street is to be from a new roundabout in Station Street at Coronation Lane. This was designed to allow access to all developments within this precinct. The lane will have to be widened to accommodate the traffic generated from all developments.

The DA has proposed an access off Station Street south of the HDCP required roundabout. The location of the driveway would result in right in right out traffic movements only, and would impact on the proposed Station Street shared zone.

HDCP indicates the preferred access to the site is from Coronation Lane. The proposed development site does not include Nos 23- 29 Station Street and therefore access from Coronation Lane cannot be achieved. The resultant driveway proposed from Station Street would have significant impacts upon on street parking and ability to provide public domain improvements, including a taxi rank. The

impact of the proposed driveway upon the public domain requirements for the West Side, have not been adequately addressed in the documents submitted with the DA.

HDCP requires submission of a Framework Travel Plan for development in the West Side Precinct. The Travel Plan submitted is incomplete and does not fully address the requirements.

The submitted details are insufficient to determine if compliance with the requirements of HDCP can be accommodated within the site. Further, the proposed development fails to address the proposed public domain improvements proposed and contained within HDCP for traffic and access within the vicinity of the site.

2.11.10 Waste Management

The development application does not provide any details regarding waste management. To appropriately service the site a considerable amount of space will be required to store the waste generated and onsite access for a HRV with forward ingress and egress must be provided.

The provision of facilities sufficient to meet Council's requirements would have considerable impacts upon the operation and layout of the basement levels. Additional detail is required to ensure compliance with all requirements can be achieved.

2.11.11 Design Details

As discussed in Section 2.2.8 the design merit of the proposal is not supported in respect to the design excellence principle adopted by Council in December 2014. The proposed development in its current form would undermine the underlying urban design intent of the HLEP and HDCP as they apply to the Hornsby West Side Precinct and the ability of Council to implement public domain improvements in the manner anticipated by the recently adopted planning control amendments.

2.11.12 Heritage

The applicant's HIS has addressed the requirements of HDCP Part 9 – Heritage.

The Peats Ferry Road Precinct is significant for its association with the development of Hornsby as a railway town and role within the old town centre. The area is significant as an extant example of the earliest commercial precinct in Hornsby and contains one of the few surviving streetscapes of the Federation and Inter-war period commercial buildings in Hornsby. Parts 9.3 and 9.3.4 of the HDCP state that development should respect the significant characteristic of the Conservation Area and that the demolition of characteristic buildings should be avoided.

The HIS divides the site into three sections being the 'Corner' buildings, 'Middle' and 'Northern' buildings. The HIS notes the corner buildings have some heritage interest and if demolished should be recorded. The HIS does not adequately consider the contributory value of the three circa 1930's Inter-war commercial buildings (the "corner buildings" No's 242, 244 and 246 Peats Ferry Road) have to the Conservation Area. These buildings are not so modified that they are unrecognisable or beyond repair and although painted they are extant/tangible examples of the earliest commercial precinct in Hornsby. They retain original exterior fabric, form, design, scale, window openings, timber sash windows and parapets.

The site is within the West Side Precinct identified within Part 4 – ‘Business’ of the HDCP. Section 4.5.1 includes in the description that development ‘*should preserve the high value heritage buildings and facades that enhance the streetscape and contribute to the overall sense of the place of the precinct*’. It is acknowledged that the Corner buildings are not specifically identified as heritage items or significant facades or part of a continuous façade group. However, they are extant characteristic buildings from the Inter-war period. The scale and facades of the Corner buildings contribute to the character of the streetscape and the precincts overall sense of place. Whilst redevelopment is permitted, the heritage requirements of the HDCP state that demolition of characteristic buildings in a conservation area should be avoided and retained where possible. Complete removal is not supported on heritage grounds, as the opportunity exists for the incorporation of at least the facades through sympathetic design and setbacks.

The proposed new building does not reasonably respect or compliment the heritage listed and contributory early 20th century commercial buildings within the site or the Conservation Area. In particular, the following elements of the proposal do not achieve the heritage requirements of the HDCP:

- The loss of the contributory Corner buildings, negatively impacts on the setting and heritage values of the Conservation Area.
- The building does not provide a podium level that complements the massing, scale and built form of the historic streetscape or respects the architectural character.
- The built form does not provide a consistent street wall height or encourage a well scaled pedestrian environment at street level.
- The tower form is not setback from a podium level to reduce the visual scale and dominance from the streetscape.
- The external materials and finishes, at least at the lower levels, do not complement the early 20th century character of the streetscape, the heritage items in the vicinity, or the setting of the place. For example, the large areas of glass are out of character.
- The upper level setbacks from the corner and street front boundaries proposed do not retain the two storey scale and character of the Conservation Area.
- The fine grained shopfront pattern and scale of the Conservation Area is significantly altered.
- In accordance with the Burra Charter, new work should respect the significance of a place through consideration of its siting, bulk, form, scale, character, colour, texture and material. Imitation is not sought, however, the current form of the development particularly at the two storey (podium level) is not supported because of the adverse impacts on the significance and character of the place.

The heritage items in the vicinity of the site date from the significant characteristic Federation and Inter-war periods of the Conservation Area. The proposed development’s form, scale and detailing do not respect, adequately interpret or maintain the setting of the heritage items in the vicinity.

2.12 Section 94 Contributions Plans

Hornsby Shire Council Section 94 Contributions Plan 2012 – 2021 applies to the development. There is insufficient detail in the development application to enable a reasonable contribution to be calculated. However, suitable section 94 conditions could be imposed on any subsequent development approvals once precise details are known about the number and size of dwellings.

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”*.

Most of the environmental impacts have been discussed in previous sections of this report. The following section addresses impacts that have not been previously discussed.

3.1.1 Natural Environment

The site is located within an existing urban area, there are no significant natural features of the site that will be impacted upon as a result of redevelopment of the site.

3.1.2 Stormwater Management

The application is not supported by any hydraulic details.

3.1.3 Social and Economic Impacts

The social impacts of the development potential of the revitalisation and redevelopment of Hornsby West Side Precinct have been considered in the development of the recent amendments to the HLEP and HDCP. It is likely that the community would benefit from the development in terms of the significant additional dwellings that would be available for the local population.

On the other hand, the proposed development has been designed with little regard to the applicable planning controls and, as a result, is unlikely to contribute in a positive sense to the overall quality of Hornsby West Side Precinct.

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 been identified as suitable for high rise development within the recent amendments to the HLEP and HDCP. The site is considered to be capable of accommodating a development of the type proposed. However, the current proposal has little regard for the aims and objectives of the provisions adopted for the revitalisation of Hornsby West Side Precinct.

The proposed development excludes land on the same street block that has a 77.5m height limit, and effectively prevents that land from achieving anything approaching an equivalent yield.

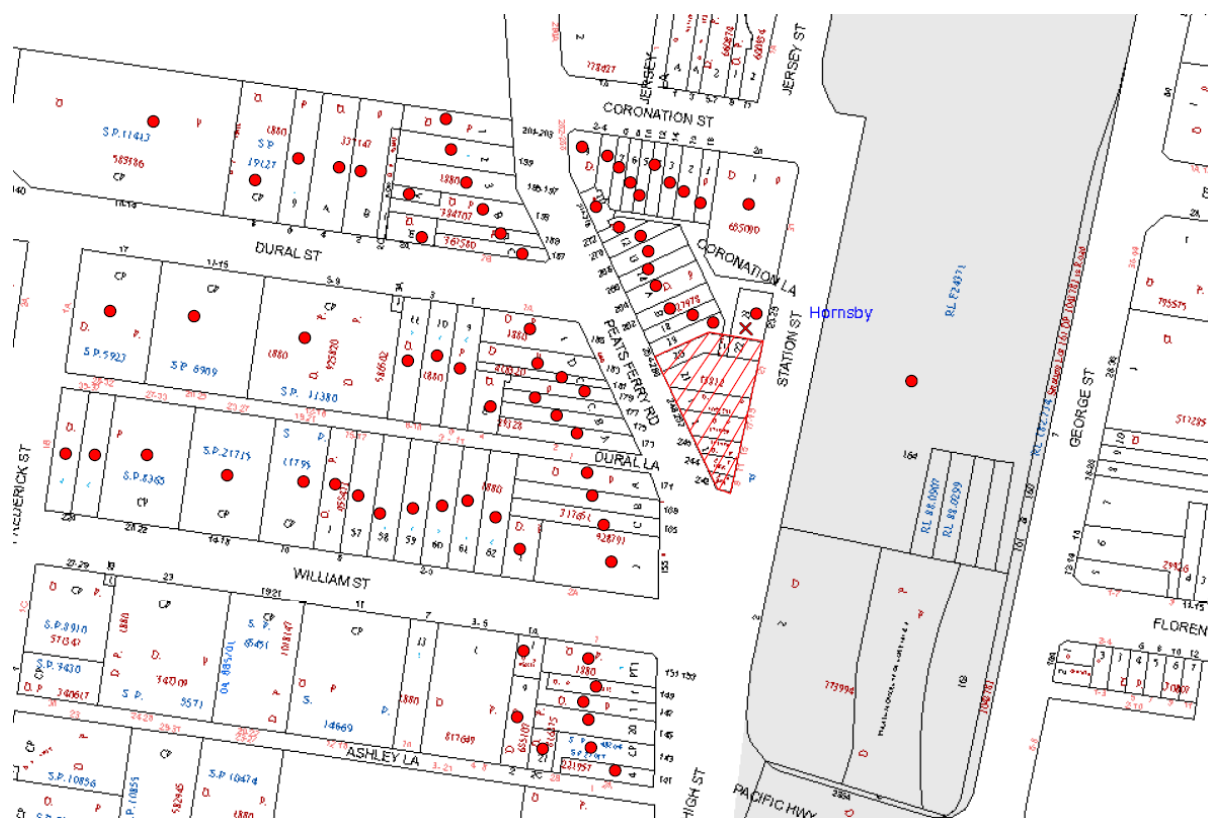
The scale of the proposed development is inconsistent with the capability of the site and provides insufficient detail to warrant variation of the adopted planning controls.

5. PUBLIC PARTICIPATION



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

5.1 Community Consultation

The proposed development was placed on public exhibition and was notified to adjoining and nearby landowners between 12 June and 26 June 2015 in accordance with the Notification and Exhibition requirements of the HDCP. During this period, Council received 24 submissions, including a petition with 465 signatures. The map below illustrates the location of those nearby landowners who made a submission that are in close proximity to the development site.



NOTIFICATION PLAN

<ul style="list-style-type: none"> PROPERTIES NOTIFIED 	X SUBMISSIONS RECEIVED	 PROPERTY SUBJECT OF DEVELOPMENT	
23 SUBMISSIONS RECEIVED OUT OF MAP RANGE			

Twenty three (23) submissions objected to the development, generally on the grounds that the development would result in an overdevelopment of the site. One submission supported both the

development and the redevelopment of the West Side Precinct as a vibrant and cosmopolitan community creating jobs and contributing to the economy.

The matters raised by the objectors are discussed as follows:

5.1.1 Creation of an isolated site

As previously discussed, the development site does not include No.s 23 - 29 Station Street, which adjoins the subject site to the north. Failure to include No.s 23 - 29 Station Street has considerable effects particularly in the achievement and realisation of the objectives of the Hornsby West Side amendments. It is noted that No 262 Peats Ferry Road, which similarly permits development to a maximum height of 77.5m is also excluded from the proposed site.

Documentation to address the exclusion of these sites from the proposed development site has not been submitted by the applicant. In accordance with the provisions of HDCP in relation to isolated sites and the principles set down in decisions of the Land and Environment Court, it is considered that the proposed development does not represent the economic and orderly development land.

5.1.2 Lack of architectural detail to support the application

The application has been submitted as a concept application. Insufficient detail has been provided to adequately ensure the standard of the development will meet the aims and objectives of the HLEP and HDCP.

5.1.3 Failure to comply with SEPP 65 requirements, including amenity of residential units including solar access, cross ventilation and balcony areas

A detailed assessment of the proposed development against the provisions of SEPP 65 has not been submitted nor can an assessment be undertaken. Only 50 of the proposed 220 units are provided with private open space areas sufficient in area and dimensions to meet the minimum requirements of HDCP.

5.1.4 Excessive height of the building and non-compliance with the HLEP

The proposed building exceeds the 77.5m height limit established by the HLEP. The consent authority does not have the authority to approve the application as a clause 4.6 variation has not been submitted with the development application.

5.1.5 Adverse impacts upon public amenity

The proposed development, as a result of areas of non-compliance with the provisions of the HLEP and HDCP, will give rise to adverse impacts upon the amenity of the area in respect of streetscape, heritage, and vehicular access, and would limit the opportunity to realise the development scheme for the Hornsby West Side precinct that has been determined in consultation with the local community.

5.1.6 Pressure on community facilities

Redevelopment of Hornsby West Side precinct has been anticipated in the recent amendments to the HLEP and HDCP. The proposed development however is not proposed to be developed in the form anticipated by the controls. Provided development is undertaken in accordance with those provisions and contributions levied under section 94 are properly applied by Council, it is unlikely that the development would give rise to pressure on community facilities. The proposed development however does not satisfy the controls contained in the HLEP and HDCP.

5.1.7 Impacts upon heritage value of Hornsby West Side

The proposal has been assessed against the heritage provisions of the HLEP and HDCP and has been found to be inconsistent with the relevant provisions.

5.1.8 Excessive scale of the development

The proposed building exceeds the maximum height control of 77.5m. In addition, the staged development application has not provided sufficient information to enable a detailed assessment of the proposal against the provisions of SEPP 65, the HLEP and HDCP. As a result it is not possible to determine all of the likely impacts of the development. In the absence of any supporting arguments as to the appropriate scale and extent of the development, the concept plan cannot be supported.

5.1.9 Traffic congestion, including pick-up / drop-off zones, taxi rank and bus zone and pedestrian safety

The proposed vehicular driveway and the failure to consolidate the subject site with No. 23 – 29 Station Street, impacts upon the ability to realise the public domain improvements anticipated by the Hornsby West Side Precinct controls. The proposed location of the access driveway in close proximity of Coronation Lane and Station Street intersection will reduce parking opportunities and increase the potential for conflicts between pedestrians and vehicles.

5.1.10 Insufficient parking provided

Detailed parking layouts have not been prepared. The application as a staged development application seeks to defer detailed consideration of traffic and parking to a future development application. A determination of whether adequate car parking and access is provided cannot be determined on the basis of the information submitted.

5.1.11 Need for improved commuter infrastructure

The public domain improvements planned for the West Side Precinct identify the need for improvements to the access arrangements for bus, taxis and cars in and around Hornsby Station. The proposed development site which does not incorporate No 23 – 29 Station Street would prevent the implementation of the vehicular access improvements anticipated within HDCP.

5.1.12 Section 94 - need for Council to be accountable and transparent in allocation of funds

This is not a matter of relevance to the consideration of the current application. The disbursement of Section 94 funds is required in accordance with Council's adopted Section 94 Contributions Plan.

5.1.13 Impacts during construction

Due to the proximity and isolation of Nos 23 – 29 Station Street, it is anticipated that the construction of the proposed development would have a considerable adverse impact on the amenity of, and operations within, the adjoining site.

5.1.14 Effectiveness of Green Walls

Due to the limited detail submitted with the development application, it is not possible to determine the effectiveness of the proposed green walls and roof.

5.1.15 Creation of Wind Tunnels

The application is supported by a preliminary wind assessment, without any wind tunnel testing that is to be undertaken and submitted with a future development application. The wind assessment report recommends a number of design modifications which have not been incorporated within the architectural details.

5.1.16 Proposal does not reflect community attitudes to the West Side Precinct redevelopment

The recent planning amendments have been the subject of community consultation to ensure the revitalisation of the West Side Precinct. In that the development does not address the planning controls as adopted by Council or provide sufficient detail to justify departures from those controls, the development proposal is inconsistent with community expectations.

5.1.17 Future slum development

Council has developed detailed development controls for implementation under the HLEP and HDCP. In association with the requirements of SEPP 65, these controls attempt to create appropriate levels of residential amenity. However, due to the limited information submitted with the concept development application and variations proposed, compliance cannot be guaranteed nor can the standard of the overall development.

5.2 Public Agencies

The development application was referred to the following agencies for comment:

5.2.1 Transport for NSW

Transport for NSW request that a detailed Traffic and Parking Study be carried prior to the determination of the development application. A Traffic and Parking Study is required to assess the impacts on the Hornsby Railway Station bus interchange.

5.2.2 Sydney Water

Sydney Water advice has been provided as to connection points for servicing the proposed development. Further consideration will be required by Sydney Water prior to the issue of a Section 73 certificate.

5.2.3 Roads and Maritime Services

RMS has requested the submission of further information prior to determination of the development application. The information requested is a Traffic and Parking Study and specific matters to be addressed. The applicant's SEE indicates that it is not intended to submit a Traffic and Parking Study for this concept application.

5.2.4 Sydney Trains

Sydney Trains would grant concurrence to the proposed development subject to recommended conditions.

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 built outcomes that adequately respond to, and respect the intentions expressed in, environmental planning instruments and development control plans applying to the land.

The application is considered to have failed to satisfactorily address Council's and relevant agencies' planning intentions. Approval of the application in its current form would result in a development outcome with an overall net negative impact for the community. Accordingly, it is considered that the approval of the proposal would not be in the public interest.

CONCLUSION

The application is for a concept plan to develop a mixed use building comprising 220 residential units, basement, ground and first floor commercial / retail floor space for commercial offices, restaurants and entertainment facility and 8 levels of basement parking.

The proposed building has been developed in response to Council's recent amendments to the HLEP and HDCP to provide for redevelopment and revitalisation of the Hornsby West Side Precinct, which enables development of buildings to 77.5m and 25 storeys upon the site.

The development scheme has been designed with limited regard for the provisions of the HLEP and HDCP specifically in relation to:

- Height
- Building form and relationship to adjoining development
- Design excellence

- Heritage
- Site consolidation
- Traffic and parking
- Public domain improvements.

In addition, the concept nature of the application means that it is deficient in the level of information required to consider all of the likely impacts on the locality. In light of the level of additional detail required to be submitted and the significant extent of non-compliance, additional information has not been requested and the application is recommended for refusal.

The reasons for refusal are listed in Schedule 1 to this report.

Attachments:

1. Locality Plan
2. Survey Plan
3. Site Plan
4. Floor Plans
5. Building Envelope and Building Footprint
6. GMU Urban Design Assessment

SCHEDULE 1

1. The proposed development is unsatisfactory in respect to the provisions of Section 5(a)(i) of the *Environmental Planning and Assessment Act, 1979* as the proposal would not result in the orderly and economic use and development of land in a manner that is consistent with the applicable local planning controls.
2. The proposed development is unsatisfactory in respect to the provisions of Section 79C(1)(a)(i) of the *Environmental Planning and Assessment Act, 1979* as the proposal would exceed the maximum building height permitted on the land pursuant to Clause 4.3 of *Hornsby Local Environmental Plan 2013*.
3. The proposed development is unsatisfactory in respect to the provisions of Section 79C(1)(a)(i) of the *Environmental Planning and Assessment Act, 1979* as the proposal would be inconsistent with the design principles of *State Environmental Planning Policy No. 65 – Design Quality of Residential Flat Development*.
4. The proposed development is unsatisfactory in respect to the provisions of Section 79C(1)(a)(ii) of the *Environmental Planning and Assessment Act, 1979* as the proposal would be inconsistent with the *Draft Hornsby Local Environmental Plan 2013 Amendment No. 5* provisions for design excellence and would result in unacceptable urban design impacts as follows:
 - 4.1 Overwhelming bulk and scale.
 - 4.2 Inadequate setbacks.
 - 4.3 Inadequate separation distances from adjoining sites.
 - 4.4 Inappropriate public / private interface at ground level.
 - 4.5 Overshadowing of public spaces.
5. The proposed development is unsatisfactory in respect to the provisions of Section 79C(1)(a)(iii) of the *Environmental Planning and Assessment Act, 1979* as the proposed development does not meet with the requirements of the *Hornsby Development Control Plan 2013* as follows:
 - 5.1 The proposal is contrary to Section 4.5.3 Site Requirements as the proposal would result in an isolated site at Nos. 23-29 Station Street, Hornsby.
 - 5.2 The proposal is contrary to Section 4.5.5 Setbacks for the West Side Precinct Podium Heights and Upper Floor Setbacks.
 - 5.3 The proposal is contrary to Section 4.5.11 Vehicle Access and Parking West Side Precinct – Vehicular Access Plan.
 - 5.4 The proposal is contrary to Section 4.5.12 Public Domain and Traffic Management Works required for Station Street.
 - 5.5 The proposal is contrary to Section 4.5.13 Design Details for West Precinct Facades, West Precinct Heritage Considerations, Gateway Areas, Feature Points and Views and Vistas.

6. The proposed development is unsatisfactory in respect to the provisions of Section 79C(1)(b) of the *Environmental Planning and Assessment Act, 1979* as the applicant has not adequately demonstrated whether the proposed traffic generation, vehicle access and parking demand can be adequately managed.
7. The proposed development is unsatisfactory in respect to the provisions of Section 79C(1)(e) of the *Environmental Planning and Assessment Act, 1979* and the public submissions received in response to the proposal.

- END OF REASONS FOR REFUSAL -