

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

JRPP No	2015SYW162
DA Number	DA/526/2015 (Lodged 13 May 2015)
Local Government Area	Hornsby Shire Council
Proposed Development	Demolition of existing structures and construction of a 22 storey mixed use building comprising 56 residential units, 57.75m ² of retail space and basement car parking for 67 cars
Street Address	Lot 2 in DP 519703, No. 35 Oxford Street, Epping
Applicant/Owner	Applicant: MKD Architects Pty Ltd Owners: Mrs B Quinn, Ms R McLean and Mr R Lincoln
Number of Submissions	Six (6)
Regional Development Criteria (Schedule 4A of the Act)	General Development Over \$20 Million Cost of Construction proposed = \$20,362,457
List of All Relevant s79C(1)(a) Matters	<ul style="list-style-type: none"> • <i>Hornsby Local Environmental Plan 2013</i> • <i>State Environmental Planning Policy No. 32 – Urban Consolidation</i> • <i>State Environmental Planning Policy No. 55 – Remediation of Land</i> • <i>State Environmental Planning Policy No. 65 – Design Quality Residential Flat Development</i> • <i>Draft State Environmental Planning Policy No. 65 – Design Quality Residential Flat Development (Amendment No 3)</i> • <i>State Environmental Planning Policy (Building Sustainability Index – BASIX) 2004</i> • <i>State Environmental Planning Policy - Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005</i> • <i>Hornsby Development Control Plan 2013</i> • <i>Hornsby Section 94 Contributions Plan 2012-2021</i>
List all documents submitted with this report for the panel's consideration	Locality Plan, Basement Levels 1-2, Levels 1–6, Roof Plan, Elevations, Sections, Photomontage, Landscape Plans, Shadow Diagrams, Solar Access Analysis
Recommendation	Deferred Commencement Approval
Report by	Kendal Mackay - Consultant Planner (DFP Planning Pty Ltd)

ASSESSMENT REPORT AND RECOMMENDATION

EXECUTIVE SUMMARY

1. The application proposes demolition of existing structures and the erection of a 22 storey mixed use building comprising 56 residential units, 57.75m² of retail space and basement car parking for 67 cars.
2. The proposal generally complies with the *Hornsby Local Environmental Plan 2013*.
3. The proposal is considered to be generally consistent with *State Environmental Planning Policy No. 65 – Design Quality Residential Flat Development* and the minor non-compliances with building separation, deep soil zone and podium level private open requirements of the Residential Flat Design Code are supportable in this instance subject to conditions of consent.
4. The proposal is generally consistent with the relevant requirements of the Hornsby Development Control Plan 2013 and the non-compliances with site width, floorplates, front and side setbacks, active street frontage and housing choice provisions are supportable in this instance.
5. Six (6) submissions have been received in respect of the application.
6. It is recommended that the application be approved as a Deferred Commencement consent subject to conditions, pending formalisation of drainage work details, a right of access for the adjoining land at No. 33 Oxford Street, Epping and plan modifications to address unit mix resulting in a reduction of 2 units.

RECOMMENDATION

THAT the Joint Regional Planning Panel (Sydney West) approve Development Application No. 526/2015 for demolition of existing structures and the erection of a 22-storey shop top housing development containing 54 units, ground floor retail space and basement parking at No. 35 Oxford Street, Epping being Lot 2 DP 519703 as a deferred commencement pursuant to Section 80(3) of the *Environmental Planning and Assessment Act, 1979* subject to the conditions of consent detailed in Schedule 1 of this report.

HISTORY OF THE SITE

On 14 March 2014, the subject land was re-zoned from Business B (Special) to B2 Local Centre as part of the Epping Town Centre Urban Activation Precinct.

On 13 May 2015, the subject application was lodged with Council. This original design was for a 24 storey building with 58 apartments and ground floor retail with a tower element located central to the Site over a 2-storey podium. The cost of construction of this scheme was approximately \$18 million and the DA was at that stage to be determined by Council. This original proposal did not comply with numerous provisions of SEPP 65 / RFDC and

Council's LEP and DCP including site isolation, building height, building setbacks, building separation, minimum lot width, private open space and natural light.

The original proposal was assessed by Council Officers, consultant planner and urban designer to have significant adverse impacts on the ability of adjoining land to be developed in a compliant manner, including the isolation of land at No. 33 Oxford Street (albeit that the Applicant had offered to purchase that land).

Whilst the proposed building was considered to have architectural merit, the proposal was considered to be an unacceptable design outcome when considered in the context of future development on adjoining land and the desired future character of the Epping Town Centre.

Accordingly, the Applicant was advised by Council to undertake further discussions with the land owner of the southern adjoining site at No. 33 Oxford Street with a view to purchasing that land and developing the two parcels in conjunction with one another.

In addition, Council Officers advised that, notwithstanding the outcomes of those discussions, the Applicant should give consideration to a building form premised on a zero southern side boundary setback, envisaging that future development of the southern adjoining land could be developed separately in the future with a zero northern side setback, thereby optimising the development potential of that land and allowing an appropriate transition in height away from the heritage item located further to the south at No. 31 Oxford Street. However, Council advised that any such redesign should seek to comply with all other key development provisions of either the RFDC or ADG and Council's LEP and DCP.

On 21 September 2015, the Applicant lodged amended plans which include a zero side setback to No. 33 Oxford Street. The Applicant also advised that the amended proposal now had a Capital Investment Value (CIV) in excess of \$20 million and accordingly, the DA would be determined by the JRPP.

On 8 October 2015, the JRPP was briefed on the proposed development. The JRPP took into account the Church's position in relation to No. 33 Oxford Street and advised that it expected the DA to be reported to the JRPP for determination at the meeting on 3 December 2015 and that the Church was to be requested to provide a definitive decision prior to this meeting regarding its willingness to sell No. 33 Oxford Street.

On 4 November 2015, the Applicant lodged further amended plans which reduced the internal floor area of some apartments in order to comply with the 4.5:1 FSR limit under HLEP.

SITE

The Site comprises one property known as No. 35 Oxford Street, Epping, which contains a single storey brick office building with a driveway from Oxford Street in the south-eastern corner providing access to a garage in the rear south-western corner of the Site. The existing building has no particular architectural merit.

The Site has a frontage to Oxford Street of 23.47 metres, an area of 972m² and is generally rectangular in shape, save for a small splay in the north-western corner of the Site. The Site slopes approximately 6% (1 in 17) from the south-eastern corner (Oxford Street) to the north-western corner (rear).

Vegetation with the Site comprises a number of small trees and shrubs within the front setback and along the rear boundary.

This Site is within the Epping Town Centre Urban Activation Precinct (ETCUAP), approximately 240 metres from Epping Rail Station and in close proximity to a range of other retail, commercial, education, open space and recreational facilities in an around the Epping Town Centre.

The Epping Town Centre is comprises of a range of multi-storey office buildings, retail shops, medium density residential development, schools, places of public worship and other ancillary uses.

To the north, No. 37-41 Oxford Street contains a 3 storey office building over basement car parking with ancillary car parking and a tennis court to the rear of the Site. No. 37-41 was subdivided in 2014 from a larger landholding extending through to Cambridge Street and Chester Street – now known as No. 20-28 Cambridge Street. This latter property is further north-west of the Site and is the subject of an undetermined development application including two x 22 storey and one x 6 storey towers comprising 501 residential apartments and approximately 1,000m² of retail/commercial floor space.

To the east, on the opposite side of Oxford Street is Arden School which contains predominantly two storey buildings and to the north and south of the school are three storey residential apartments. To the south-east along Oxford Street are shops, offices, residential apartments.

To the south, No. 33 contains a single storey brick building which is the presbytery for the adjoining 'Our Lady Help of Christians' church at No. 31 Oxford Street. The church building is a heritage item under HLEP. The Church and presbytery are part of a larger group of properties extending further south and west to Cambridge Street, which form the Our Lady Help of Christians Primary School.

Further south along Oxford Street, development generally comprises more traditional two storey retail/commercial shops.

Notwithstanding the existing character described above, the locality has been identified as having a future character being high density mixed use buildings consistent with the objectives of the B2 Zone under the HLEP.

PROPOSAL

The proposal involves demolition of all existing structures, removal of trees and excavation to approximately 10-12 metres to allow for construction of basement car parking over three

levels for 67 vehicles (including visitors) with access from Oxford Street via a 6.6 metre wide driveway at the southern side of the Site.

The proposal entails construction of a 22 storey building over the basement levels. The building will comprise a three storey podium built to all boundaries and a tower above built to the southern boundary.

A single retail tenancy with a floor area of 57.75m² is to be provided in the north-eastern corner of the Site fronting Oxford Street at the ground floor level. A continuous awning is to be provided across the Site frontage over the Oxford Street footpath.

The upper two floors of the podium and the tower will contain the residential component of the development including 56 apartments comprising 16 x 1 bedroom (29%), 37 x 2 bedroom (66%) and 3 x 3 bedroom (5%) apartments. Resident pedestrian access is proposed to be from Oxford Street via a central entry foyer.

It is proposed to drain stormwater to Council's existing infrastructure in Oxford Street although this is yet to be resolved to Council's satisfaction (see Section 2.9.1).

ASSESSMENT

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

1. STRATEGIC CONTEXT

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

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

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

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

The proposed development would be consistent with 'A Plan for Growing Sydney', by providing 56 additional dwellings contributing to housing choice in the locality as well as a small quantum of retail floor space.

2. STATUTORY CONTROLS

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

2.1 Hornsby Local Environmental Plan 2013

The relevant provisions of the Plan are discussed below.

2.1.1 Land Use Zones and Permissibility

The Site is zoned B2 Local Centre (the B2 Zone) under the *Hornsby Local Environmental Plan 2013 (HLEP)*. The objectives of the B2 Zone are:

- *To provide a range of retail, business, entertainment and community uses that serve the needs of people who live in, work in and visit the local area.*
- *To encourage employment opportunities in accessible locations.*
- *To maximise public transport patronage and encourage walking and cycling.*

The proposed development is defined as 'shop-top housing' under the *HLEP* as all proposed dwellings are located above the uppermost part of the ground floor retail floor space and accordingly, the proposal is permissible in the B2 Zone with consent.

2.1.2 Height of Buildings

Clause 4.3 of the *HLEP* provides that the height of a building on any land is not to exceed the maximum height shown for the land on the Height of Buildings Map. The maximum permissible height for the Site is 72 metres.

The proposed development has a maximum building height of 71.35m which complies with the LEP limit.

2.1.3 Heritage Conservation

Clause 5.10 of the *HLEP* sets out heritage conservation provisions for Hornsby Shire and Schedule 5 of *HLEP* designates land to the south at No. 31 Oxford Street (Our Lady Help of Christians Church) and land to the south-east at No. 48 Oxford Street (former house) as being heritage items.

The Site is therefore in close proximity to two heritage items and the proposed development will be viewed from the public domain in the context of these items. Both the original and amended proposals were referred to Council's Heritage Officer for review and the following summarises the Officer's comments:

- The original proposal was not supportable on heritage grounds due to the unreasonable impact on the setting and context of the heritage item at 31 Oxford Street in terms of the proposed materials, finishes, landscaping and external form;
- An initial amended proposal, incorporating some design amendments suggested by the Applicant's heritage consultant and Council's Heritage Officer was not considered to be acceptable and the Applicant was requested to make further amendments to simplify the external façade design and minimise the palette of materials and finishes (including deletion of the proposed street art to the southern elevation) to provide a more cohesive architectural design;
- The current proposal demonstrates a cohesive design of the north, east and south facades such that the proposal provides a contemporary development to complement the new urban context of the heritage items within the streetscape and a concept design solution to develop the isolated site has been provided and considered acceptable;
- However, it is considered that approval of the proposal will be a compromised outcome allowing construction of half a building adjacent to a heritage item with an outstanding isolated site. Should the southern adjoining site not be developed, a zero setback and flat 22 storey party wall would have a severe impact on the heritage listed church (31 Oxford Street) by not having a sympathetic interface or transition in built form, massing and height to the new development.

As detailed in this report, the Applicant has attempted to purchase the southern adjoining site without success and whilst the southern adjoining owner is prepared to enter into negotiations with the Applicant, it is considered that the current proposal provides for ample opportunity for the southern adjoining land to be developed in a complementary manner in the future. Given that the Site cannot be readily amalgamated with other surrounding land due to the size of the parcel to the north, it is considered that refusal of the proposal would unnecessarily complicate the orderly and economic use of the land.

2.1.4 Earthworks

The proposal involves excavation to approximately 10-12 metres below existing ground level and accordingly, the Applicant has submitted a desktop geotechnical study prepared by Asset Geotechnical dated 11 May 2015 which indicates that the site is likely to comprises soil to approximately 1 metre underlain by residual moderately plastic clay and black to dark grey shale. Furthermore, Acid Sulfate Soils (ASS) and groundwater are not expected to be encountered.

The geotechnical study includes recommendations for excavation methods, vibration monitoring, groundwater monitoring and disposal (if encountered), excavation support for Oxford Street, foundation design and construction materials. A condition is recommended for the proposed development to be constructed in accordance with the recommendations of the geotechnical report and construction impact report (Condition 38).

Conditions of consent are also recommended requiring:

- a dilapidation assessment of adjoining properties (Condition 13); and

- use of rock saws only wherever practicable (Condition 20(ix)) and that excavation is to not occur between 12-1pm Monday to Friday, Saturdays, Sundays or public holidays (Condition 30).

2.1.5 Design Excellence

To guide the quality of new high density building stock, amendment No. 5 to the HLEP includes insertion of 'Clause 6.8–Design Excellence' in the LEP.

The Clause 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. The Clause states 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 enable the implementation of 'Clause 6.8-Design Excellence' in the HLEP, 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 original proposal and amendments were referred to Johannsen and Associates Architects to undertake an independent urban design review. The assessment undertaken by the urban designer raised a number of concerns regarding the design of the original proposal and the various non-compliances with RFDC and HDCP requirements relating to setbacks, podium design, building articulation and internal layout.

With regard to the amended proposal, the urban designer's comments can be summarised as follows:

- The built envelope and expression of the facades are highly important to the streetscape from a design excellence perspective and potential for ground level activation and future permeability will assist the evolution of this precinct and adjacent properties;
- The proposed zero setback on the southern boundary helps overcome the setback issues that result from a restricted site size and frontage and the simplified floor plate of the tower steps back progressively, which improves the overall built form by diminishing its perceived bulk and addresses various SEPP 65 and amenity issues;
- The partial intrusion into the 12m front setback zone is acceptable providing some relief to a potential street wall effect and helping to establish a potential relationship for the adjacent site when it is developed;
- The podium height equivalent to 3 storeys establishes a suitable parapet height as envisaged in the DCP and has been modified to be more sculptured with punched openings for a base and a 'monolithic' quality complementary to the heritage listed Church at 31 Oxford Street;
- The core for lift, stairs and services has been relocated from the northern façade to the centre of the building providing a much more efficient floor plate requiring less internal

circulation to access units and providing access for upper level lobbies to natural light and ventilation and also visual relief for residents;

- Notwithstanding the 'non-habitable' presentation to the northern façade, all units affected still have east or west orientation that enables the required solar access to be achieved and visual connections to the surrounds; and
- Achieving the best possible development outcomes for solar access and ventilation, view sharing and unit amenity within the podium and tower on a constricted site is dependent on the provision for zero side setback on a shared boundary. Indication of how this approach can allow future development of the adjacent site appears reasonable, and as such avoids it being compromised as a remnant property.

Accordingly, the amended proposal is considered to be an improvement from the original scheme and provides for a building form generally envisaged by Council's planning controls as well as providing for a reasonable design outcome for the southern adjoining land as part of a separate development in the future, but one that can be read in conjunction with the proposed building.

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

The application has been assessed against the requirements of SEPP 32, which requires Council to implement the aims and objectives of this Policy to the fullest extent practicable when considering development applications relating to redevelopment of urban land. The application complies with the objectives of the Policy as it would promote the social and economic welfare of the locality and would result in the orderly and economic use of under-utilised land within the Shire.

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

State Environmental Planning Policy No. 55 (SEPP 55) requires that consent must not be granted to the carrying out of any development on land unless it has considered whether the land is contaminated or requires remediation for the proposed use.

A search of Council's records and aerial images reveals that the property has been used exclusively for residential and office purposes. The proposed development includes the demolition of existing buildings and a number of associated outbuildings/structures and substantial excavation works.

Conditions of consent are recommended regarding the handling of materials during demolition and the site disposal of excavated material and building waste (Conditions 32, 37 and 43).

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

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

It is noted that the DA was submitted on 13 May 2015, prior to gazettal of the amendments to SEPP 65 on 19 June 2015 and accordingly, is to be assessed in accordance with SEPP 65 and the RFDC as they existed at the date of lodgement of the DA.

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

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

2.4.1 Principle 1 – Context

Design Principle 1 is as follows:

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

Responding to context involves identifying the desirable elements of a location's current character or, in the case of precincts undergoing a transition, the desired future character as stated in planning and design policies. New buildings will thereby contribute to the quality and identity of the area.

Assessment

The proposed development responds to the topography of the Site by stepping down toward the rear at the upper levels to comply with the statutory height limit. The proposal also responds to the built environment and desired future character of the locality by providing for a zero side boundary setback, thereby optimising the potential for a complementary building on the southern adjoining land and providing an opportunity for a singular vehicular access to both allotments.

Whilst the proposed design has a sheer vertical southern elevation when considered in isolation of a proposal for the southern adjoining site, the Applicant's concept for that land demonstrates that an appropriate urban form can be achieved that responds to the context of the heritage item further to the south.

The proposal also provides for setbacks and separation distances to the north and west that are substantially compliant with the RFDC and accordingly, the proposal provides for equitable development opportunities on land adjoining in these directions.

2.4.2 Principle 2 – Scale

Design Principle 2 is as follows:

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

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

Assessment

The Site has been zoned to permit the height and form of development as proposed and must be considered in this transitional context whereby existing one, two and four storey buildings are to be replaced with buildings up to 22 storeys with 2-3 storey podiums. Accordingly, the proposal is considered consistent with this desired future character.

2.4.3 Principle 3 – Built Form

Design Principle 3 is as follows:

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

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

Assessment

The Applicant has amended the design on several occasions to respond to the concerns of Council's Planning, and Heritage Officers and reviews by the consultant planner and urban designer. These revisions have provided for a building form that more appropriately responds to the HDCP controls for an active street frontage, a three storey podium and presentation of retail uses to the north-eastern corner adjoining the location of a future shared way on the northern adjoining site.

The tower element has been modified to relocate the lift and stair core to the centre of the building instead of being a dominant element on the northern façade and this has enabled the unit layouts and private open spaces to contribute to the articulation of the eastern façade in particular, which is the dominant façade in terms of streetscape context as well as providing for maximisation of distant views and protecting the privacy of future development that may occur to the north.

2.4.4 Principle 4 – Density

Design Principle 4 is as follows:

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

Appropriate densities are sustainable and consistent with the existing density in an area or in precincts undergoing a transition, are consistent with the stated desired future

density. Sustainable densities respond to the regional context, availability of infrastructure, public transport, community facilities and environmental quality.

Assessment

The proposal has been amended to comply with the 4.5:1 FSR limit for the Site which has seen a minor reduction of units over that which was originally proposed. Given the substantial compliance of the proposal with the front, northern side and rear boundary setbacks and the high degree of building articulation and modulation on the eastern and western facades, the proposal is considered to be an appropriate density for this Site.

2.4.5 Principle 5 – Resource, Energy and Water Efficiency

Design Principle 5 is as follows:

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

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

Assessment

The proposal complies or is capable of complying with all statutory and Council requirements in respect of resources, energy and water efficiency and provides for a high degree of solar access for future residents.

2.4.6 Principle 6 – Landscape

Design Principle 6 is as follows:

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

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

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

Assessment

The proposal provides an appropriate level of podium landscaping for a Site in a dense urban environment as is envisaged for the Epping Town Centre and this landscaping will be visible from both within the Site and from the public domain in Oxford Street.

2.4.7 Principle 7 – Amenity

Design Principle 7 is as follows:

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

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

Assessment

The proposed apartment layouts provide for a high degree of solar penetration and cross ventilation and the variety of apartment sizes and orientations provides for a diversity of dwelling opportunities to suit an array of future prospective residents, including those with mobility impairments.

2.4.8 Principle 8 – Safety and Security

Design Principle 8 is as follows:

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

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

Assessment

The proposed development will provide for secure access arrangements to the pedestrian lobby and the basement car parking and subject to recommended conditions regarding lighting and security systems, is considered acceptable in this regard.

2.4.9 Principle 9 – Social Dimensions and Housing Affordability

Design Principle 9 is as follows:

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

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

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

Assessment

The proposal provides for a range of different apartment sizes and typologies. The development does not comply with the unit mix provisions within the HDCP as the application proposes three 3-bed apartments which equates to 5% of units which is notably below the minimum of 10% prescribed in the HDCP. While the building has a small floor plate, the development is readily capable of complying with the unit mix control by converting two 1-bed units at the rear of the building on Levels 9 to 13 to a 3-bed unit. In this location Units 13.02 and 13.03 have a combined internal floor area of 100m² and balcony area of 27m². If this applied to two storeys of the building, it would result in the net loss of four 1-bed units and gain of two 3-bed units. This would result in an amended unit mix of 12 x 1 bed units (22%), 37 x 2-bed units (68%), and 5 x 3bed units (10%), with a total of 54 units on the site. This is recommended as a deferred commencement consent condition.

2.4.10 Principle 10 – Aesthetics

Design Principle 10 is as follows:

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

Assessment

The proposal has been refined by the Applicant in consultation with Council's Heritage Officer and consultant urban designer to provide for an appropriate building form in the Site's context which is somewhat transitional due to the proximity of the heritage item at No. 31 Oxford Street and therefore the restricted development capacity of No. 33 Oxford Street. Whilst approval of the proposal may result in a short term large vertical wall to the southern elevation, the proposed design allows for a complementary building to be erected on the southern adjoining land which would not otherwise be the case if the proposal was setback from this common boundary (due to building separation requirements under the RFDC). In addition, materials and colours to be used on this façade have been modified to be simpler and to relate more sympathetically to the "monolithic" form of the nearby heritage item.

2.5 SEPP 65 – Residential Flat Design Code

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

Residential Flat Design Code							
Control	Requirement			Proposal			Compliance
Building Separation	4 st	5-8 st	9+ st	4 st	5-8 st	9+ st	No (see below)
Habitable to habitable	12m	18m	24m	12m Rear	18m Rear	18-24m Rear	
Habitable to non-habitable	9m	13m	18m	12.5m North	12.5m North	18m North	
Non-habitable to non-habitable	6m	9m	12m	0m South	0m South	0m South	
Deep Soil Zone	25% min of open space			0%			No (see below)
Communal Open Space	25-30% min. (243-292m ²)			26% (255m ²)			Yes
Ground Level / Podium Private Open Space	25m ² min.			18-41m ²			No (see below)
Adaptable Housing	20% min.			30% (17 units)			Yes
Kitchen Distance	8m max.			8m			Yes
Dwelling Size	- 1 br – 50m ² min. - 2 br – 70m ² min. - 3 br – 95m ² min.			- 50-51m ² - 72-85m ² - 117.5m ²			Yes Yes Yes
Balcony Depth	2m min.			2m+			Yes
Ceiling Height	- 3.3m min. ground and first floor - 2.7m min. all other residential floors			- 4.4m ground floor 3.3m first floor - 2.7m			Yes Yes Yes
Storage	- 1 br – 6m ³ min. - 2 br – 8m ³ min. - 3 br – 10m ³ min. - 50% internal			- 6-10m ³ - 8-18.5m ³ - 15-25m ³ - 50% or more			Yes Yes Yes Yes
Natural Light	70% min. (41)			86% (48)			Yes
Single Aspect	10% max. (6)			0% (0)			Yes
Building Depth	10-18m			15.5m			Yes
Cross Ventilation	60% min. (35)			71% (40)			Yes

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

2.5.1 Building Separation

The proposal does not fully comply with the building separation requirements of the RFDC, specifically in regard to the practice of providing 50% of the building separation within the Site to permit the remaining 50% to be provided on adjoining development sites. The non-compliances are as follows:

- Northern side setback – the proposal includes non-habitable rooms with highlight windows only in the northern elevation. Assuming that a future development on the northern adjoining site was to provide habitable rooms facing the proposed development, the required setback for each development would be 50% of 13 metres at Level 5-8. The proposed development has a setback of only 6 metres, although this very minor non-compliance is not considered to compromise the development potential of the northern adjoining property or result in any adverse amenity impacts;
- Southern side setback – the proposal is for a zero side setback to the southern boundary which does not strictly accord with the separation requirements of the RFDC. Notwithstanding, the RFDC does permit “*zero building separation in appropriate contexts, such as in urban areas between street wall building types (party walls)*”. As discussed in Section 2.10.1 of this report, given the inability of the Applicant to acquire the southern adjoining parcel, Council is of the opinion that an appropriate form of development on this Site is to provide for a zero southern side boundary setback, thereby permitting a similar zero northern side setback for a future development on No. 33 Oxford Street to the south. In this way, both developments would be capable of reading as a composite development, sharing vehicular access and optimising the development potential of both parcels.
- Western rear setback – A small part of the north-western corner of the proposed building at Levels 8-13 is a minimum of 21 metres from a compliant theoretical building envelope on the western adjoining land at Nos. 37-41. Assuming that future development included habitable rooms in its south-eastern corner, the separation distance required by the RFDC would be 24 metres. However, this is a small part of the entire development and the view angle is offset rather than direct and to provide a greater degree of privacy, a condition of consent is recommended requiring movable privacy screens with fixed horizontal louvres to the western edge of the units in this part of the building from Levels 9-13 (Condition 2(iv)).

2.5.2 Deep Soil Zone

The proposal provides no deep soil zone and this is as a consequence of the Site being within an area where dense urban development is envisaged by Council’s controls and where a boundary to boundary podium is encouraged. Notwithstanding, landscaping is to be provided at the podium level and a condition of consent has been recommended regarding planting on slabs (see Condition 46).

2.5.3 Ground / Podium Level Private Open Space

Only Unit 303 at the podium level does not comply with the 25m² minimum private open space required by the RFDC, having only 18m² of balcony space. This minor non-compliance for one apartment at a podium level in a dense urban area is considered acceptable in this instance.

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

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

2.7 Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005

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

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

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

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

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

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

2.9.1 Stormwater Management

The proposed stormwater drainage system involves an on-site detention tank discharging to Council's existing drainage infrastructure in Oxford Street.

However, the Site drains naturally to the west towards Cambridge Street and Council requested the Applicant to undertake further engineering analysis of the drainage infrastructure in Oxford Street to ascertain the viability of the proposed connection to accept

the unanticipated stormwater load of stormwater from the proposal. The details received remain insufficient to determine the viability of this connection as they appear to indicate that flows will exceed the pipe capacity in Oxford Street. The alternate would be to obtain easements for drainage over one or more properties to the west to discharge in Cambridge Street, although no such details have been provided by the Applicant.

Accordingly, Council's Development Engineers have advised that without certainty as to the extent of works involved to drain to Oxford Street (e.g. pipe upgrades) a Deferred Commencement consent is recommended, requiring the Applicant to provide engineering design detailing the required upgrade of the Oxford Street drainage system to accommodate the additional stormwater flows generated from the proposed development, including a detailed catchment analysis of the Oxford Street catchment and a detailed hydraulic analysis of the proposed and affected pipelines (Conditions A1).

2.9.2 Waste Management

The waste management aspects of the proposed development, including demolition stage and construction stage Waste Management Plans have been assessed by Council's Waste Management Services Team which concludes that the proposal is generally acceptable subject to the following:

- The residential chute service room at the ground level is odd-shaped and will not be capable of accommodating a 4 x 660L carousel. In order to fit a 3 x 660L linear there will need to be an offset of over 5m which is not workable as the chute gradient will not be steep enough for the garbage to fall into the bin under gravity alone. Accordingly, the chute service room will need to be extended into the residential lobby in order to fit a linear with a reasonable offset (see Condition 2(vi));
- Whilst the proposal is for servicing of the Site by a Medium Rigid Vehicle only, vehicle turning paths have been provided demonstrating that an 11m-long Heavy Rigid Vehicle can turn which is acceptable for Council's waste vehicles only;
- The proposal does not include any travel path from the residential lifts to the residential bin storage room at the Ground Floor or for cyclists using the bicycle parking spaces at Ground, B1, B2 or B3 levels. Transferring garbage to the bins store via the footpath or cyclists using the ramp are not acceptable and this can be remedied by having at least one of the lifts open to the loading bay area (see Condition 2(vii)). This can be accommodated by relocating the garbage volume handling equipment as discussed above;
- No information has been provided as to how No. 33 Oxford Street is to be serviced for waste collection and the terms of a right-of-way usually prevent vehicles being parked on the right-of-way which would prevent the servicing of bins from No. 33 Oxford Street. As no turning paths have been provided to indicate whether or not the HRV waste collection vehicle can turn into the neighbouring site, it is recommended that the right-of-way extend into the loading bay within No. 35 to enable the waste collection vehicle for No. 33 Oxford Street to turn around (see Conditions 52 and 53(d));

Hornsby Development Control Plan Part 4.6 – Epping Town Centre (East Precinct)			
Control	Requirement	Proposal	Compliance
Building separation	<ul style="list-style-type: none"> - Up to 3 storeys = 12m - 4-8 storeys = 18m - 9+ storeys = 24m 	See Section 2.6.1 above.	No (see Section 2.5.1 above)
Active Site Frontage	<ul style="list-style-type: none"> - 90% of frontage to be shop/ office windows and building entrances at street level - Maximise activities for pedestrian interest/interaction - Minimise fire escapes, service doors, plant and basement entries - Driveway entrances and service entries are not permitted on active frontages, unless it is demonstrated that there is no alternative 	<ul style="list-style-type: none"> - 70% shop window and residential entry 	No (see below)
Wind Effects	<ul style="list-style-type: none"> - Analysis required for buildings greater than 40m - Wind effects not to exceed: * 10m/sec for active frontages (Oxford St) 	- Analysis submitted	Yes
		* Generally <10m/sec	Yes
Reflectivity	<ul style="list-style-type: none"> - Analysis required for taller buildings - Light reflectivity from building materials not to exceed 20% 	- Analysis submitted	Yes
		- 20% max.	Yes
Private Open Space	<ul style="list-style-type: none"> - 1 br = 10m² min. - 2 br = 12m² min. - 3 br = 16m² min. - Min. width 2.5m 	12.5-32m ²	Yes
		12.2-41m ²	Yes
		58m ²	Yes
		2m+	Yes
Communal Open Space	<ul style="list-style-type: none"> - Located on podium - 50m² min. - 6m min. dimension - 2 hours sunlight between 9am and 3pm (22 June) - Landscaped - Protect amenity of surrounding dwellings 	- On podium	Yes
		- 255m ²	Yes
		- 6m	Yes
		- 3-4hours	Yes
Sunlight and Ventilation	<ul style="list-style-type: none"> - Public open space areas and plaza areas = 2 hours sunlight between 9am and 3pm (22 June) to at least 50% of area - Dwellings = 70% to receive 2+ hours of unobstructed sunlight to at least half of principal living room windows and principal private open space area between 9am and 3pm (22 June) - 60% dwelling to have dual aspect and cross ventilation 	- Landscaped	Yes
		- Some landscaping	No (see below)
		- >2 hours	Yes
		- 86%	Yes
Housing Choice	<ul style="list-style-type: none"> - 1 br – 10% (6) - 2 br – 10% (6) - 3 br – 10% (6) - 30%min. adaptable units (17) 	- 71%	Yes
		- 29% (16)	Yes
		- 66% (37)	Yes
		- 5% (3)	No (see below)
		- 30% (17)	Yes

The Applicant has made several offers to purchase No. 33 and although these offers have not been formally rejected, they have not been accepted. Whilst the owner of No. 33 has very recently indicated that it is prepared to enter into negotiations with the Applicant for the joint development of these two allotments, the proposal has been amended such that it can be considered the first stage of a multistage development across both lots.

This has been achieved by providing a building form with a zero southern side boundary setback that would allow a similar or complementary building to be erected on No. 33 in the future, thereby resulting in a composite building form that reflects a more cohesive development across both sites, rather than two narrow and suboptimal building forms.

In addition, the Applicant proposes to grant a right-of-carriageway over the Site benefitting No. 33 Oxford Street so that the proposed basement driveway can be shared by both sites, thereby providing for reduced vehicular crossings/entries off Oxford Street and increased opportunity for an active street frontage. Notwithstanding, no details of this right of access have been submitted and a deferred commencement condition is recommended requiring these details to be submitted to Council (Condition A2).

It is also noted that Council has engaged an independent land valuer to undertake a desktop assessment of the offers of purchase made by the Applicant to the owner of No. 33 Oxford Street. Council's assessment is that whilst the latest offer was at the lower end of the market value (at the date of the offer), the development potential of No. 33 Oxford Street is affected by its built environment constraints such that it may not be capable of achieving the maximum FSR of 4.5:1. Accordingly, the offer was not "unreasonable".

2.10.2 Floorplates

The residential floorplates slightly exceed the maximum required by the HDCP by 1 metre although this is not considered to compromise the utility of the unit layouts or the amenity of future residents.

2.10.3 Front Setbacks

The proposal encroaches upon the 12 metre front boundary setback above the podium although this encroachment is for only one third of the building width, is in accordance with guidance provided by Council Officers and is not considered to be detrimental to the future streetscape character as envisaged by Council's HDCP controls.

2.10.4 Side Setbacks

As indicated above, the proposal includes a zero side boundary setback to the southern adjoining property at No. 33. Whilst this is a technical noncompliance with the RFDC and Council's DCP, it is considered that it provides the opportunity for a more appropriate composite future building form across both sites. Until such time as the southern adjoining site is developed, the proposal includes variable materials and colours to the southern façade.

2.10.5 Active Street Frontage

Council's DCP requires that 90% of the site frontage be active frontage involving retail/commercial shopfronts and/or residential entries. Given the limited site width and the lack of any other vehicular access except from Oxford Street, this control cannot be met. Notwithstanding, the amended proposal has increased the active frontage to 50% by relocating services within the building and the proposed right-of-carriageway to the benefit of No. 33 Oxford Street will maximise the active frontage for that site, thereby reducing the need for two separate vehicular access points.

2.10.6 Communal Open Space

The proposal provides for a communal open space area at the podium level which complies with the HDCP numerical requirements, although the location of the balcony to Unit 3.03 adjacent to this communal open space may give rise to adverse privacy impacts. Accordingly, a condition of consent is recommended requiring moveable privacy screens to be provided to the northern and eastern edges of this balcony (Condition 2(v)).

2.10.7 Housing Choice

The proposal does not comply with the 10% minimum requirement for 3 bedroom apartments under the HDCP. As previously discussed at 2.4.9 of this report it is recommended that four 1-bed units be converted into two 3-bed units as a deferred commencement condition. This would result in an amended unit mix of 12 x 1 bed units (22%), 37 x 2-bed units (68%), and 5 x 3bed units (10%).

2.10.8 Parking

The proposal provides for a total of 67 car parking spaces which complies with the total requirement under HDCP. However, the proposal is deficient in regard to motorcycle parking and accordingly, a condition of consent is recommended requiring that two (2) car spaces are to be converted to motorcycle parking space to bring the proposal into compliance with Council's control (Condition 2(iii)).

The proposal also incorporates two pairs of tandem car parking spaces at Basement 3. No objection is raised to these spaces however, a condition of consent is recommended to ensure that each pair of tandem spaces is allocated to the same residential unit (Condition 63).

2.11 Section 94 Contributions

Hornsby Shire Council Section 94 Contributions Plan 2012-2021 applies to the development as it would result in the addition of 56 residential units and 57.75m² of retail floor space in lieu of the 435m² of existing commercial floor space. Accordingly, a monetary contribution pursuant to the Section 94 Plan has been included as a condition of development consent (Condition 5).

3. ENVIRONMENTAL IMPACTS

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

3.1 Natural Environment

The proposal has been assessed by Council's Landscape Officers and has been deemed generally acceptable with regard to the proposed landscaping treatments, subject to conditions regarding streetscape works, planting on slabs and landscape maintenance.

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

3.2 Built Environment

The Site is within an area earmarked and zoned for high density residential development and the proposal predominantly complies with the built form provisions of the RFDC and Council's HDCCP with the non-compliances considered acceptable in this instance as they promote the orderly and economic development of the Site and adjoining land to the north and south without any significant adverse visual bulk, visual or acoustic privacy or streetscape impacts.

3.3 Social Impacts

The proposal will replace an existing single storey commercial building with a mixed use development comprising 56 dwellings and a retail tenancy at the ground level. Accordingly, the proposal will result in a decrease in retail/commercial floor space but an increase in residential accommodation. Whilst the reduction in retail/commercial floor space is not ideal, the proposal complies with the definition of shop top housing and is permissible with development consent. In addition, the Applicant has amended the proposal at Council's request to comply with the requirement for an adaptable floor-to-ceiling height at the first floor level of the podium should this floor level ever warrant conversion to commercial floor space. Furthermore, the proposal will provide additional housing supply in the locality which will have positive social impacts.

Subject to conditions recommended herein, the proposal is also considered to be satisfactory with regard to security and safety.

3.4 Economic Impacts

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

4. SITE SUITABILITY

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

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

5. PUBLIC PARTICIPATION


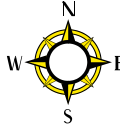
Section 79C(1)(d) of the Act requires Council to consider *“any submissions made in accordance with this Act”*.

5.1 Community Consultation

The proposed development was originally placed on public exhibition and was notified to adjoining and nearby landowners between 20 May 2015 and 10 June 2015 in accordance with the Notification and Exhibition requirements of the HDCP. During this period, Council received 2 submissions. The applicant then amended the plans to redesign the building to include a party wall on the southern façade and the application was renotified from 19 October 2015 to 4 November 2015. During the notification of the amended plans, Council received 4 submissions from or on behalf of three surrounding landowners and one submission from the Epping Civic Trust. The map below illustrates the location of nearby landowners who made a submission that are in close proximity to the development site.



NOTIFICATION PLAN

• PROPERTIES NOTIFIED	X SUBMISSIONS RECEIVED	 PROPERTY SUBJECT OF DEVELOPMENT	
ONE (1) SUBMISSION RECEIVED OUT OF MAP RANGE			

Six (6) submissions objected to the development, generally on the following grounds:

5.1.1 Site Isolation

The owner of No. 33 Oxford Street has objected to the proposal on the basis that it will isolate their land between a heritage item and a 22-storey building and thereby limit its development potential. As indicated at Section 2.10.1, Council is satisfied that the Applicant has made a reasonable offer to purchase No. 33 Oxford Street and although that offer has not been rejected, neither has it been accepted.

Furthermore, the proposed development has been designed such that a complementary building can be developed on No. 33 Oxford Street with a zero northern side boundary setback, thereby optimising the potential development yield of that site, which would otherwise be highly constrained due to its narrow frontage and location immediately adjacent to the heritage item at No. 31 Oxford Street.

5.1.2 Building Height and Setback Non-Compliances

The proposal has been amended to fully comply with the LEP Building Height development standard and the proposed setbacks and separation distances have been discussed in Sections 2.5.1, 2.10.1, 2.10.3 and 2.10.4 of this report where it has been concluded that the proposed development is acceptable as it substantially complies with the requirements of the RFDC and HDCP and provides for a complementary building to be constructed on the southern adjoining site in the future, rather than two slender and suboptimal building forms on these two sites.

The concepts submitted by the Applicant for the southern adjoining land and assessed by Council's Heritage Officer and consultant urban designer also demonstrate that an appropriate transition in height and setbacks can be achieved to limit the potential impact on the heritage significance of the Church further to the south.

Furthermore, the amended design has had specific regard to the separation distances of the land to the north and together with recommended conditions of consent regarding privacy screening to the west (Condition 2(iv)), the development potential of that site is not considered to be detrimentally impacted upon by the proposal.

5.1.3 Minimal Retail Floor Space.

This matter is discussed in Section 3.3 of this report where it is concluded that, whilst the reduction in employment generating floor space is not ideal, the proposal complies with the definition of shop top housing and is therefore permissible with development consent. Furthermore, there are no statutory or non-statutory numerical requirements in this regard and the small loss of employment generating floor space from this one site is not of such significance that would warrant refusal of the development application.

5.1.4 Overlooking

The proposal orients all habitable spaces primarily to the east and west and substantially complies with the separation distances and setbacks required by the RFDC and HDCP respectively. Whilst there is likely to be some very distant view from the edges of residential balconies toward the school site to the south-west, such view angles do not afford such overlooking with the naked eye that would warrant refusal of the Development Application, which must be considered in the context of the desired future character of the locality.

5.1.5 Construction Impacts

As discussed in this report, conditions of consent are recommended to minimise disturbance and/or damage to surrounding properties as follows:

- Dilapidation Reports (Condition 13);
- Construction and Traffic Management Plan (Condition 20);

- Traffic Control Plan (Condition 21);
- Hours of Work (Condition 30); and
- Construction Vehicles (Condition 31).

In respect of construction work hours, it is recommended that wherever practicable, no heavy vehicles service the Site during the morning and afternoon school pickup/drop-off periods.

5.2 Public Agencies

The application was not required to be referred to any Agencies for comment.

6. THE PUBLIC INTEREST

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

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

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

7. CONCLUSION

The application seeks approval for the demolition of existing structures and construction of a 22 storey building comprising 56 units, a small ground floor retail tenancy and basement car parking. Conditions of consent will reduce the number of approved units to 54.

The proposal is considered to be consistent with the design principles of SEPP 65 and the minor non-compliances with the building separation, deep soil zone and ground level private open space provisions of the *Residential Flat Design Code* are supportable in this instance as they are unlikely to result in significant adverse amenity impacts.

The proposed development predominantly complies with the relevant provisions of the *Hornsby DCP* and the minor non-compliances with the site frontage, active frontage, front and side setbacks, floorplates, and motor cycle parking development controls are supportable as these non-compliances will not result in significant adverse amenity impacts and the development is consistent with the desired future residential character of the locality. The proposed non-compliance with the unit mix control is addressed by consent condition resulting in a reduction of 2 units.

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

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

Attachments:

1. Locality Plan
2. Site Plan
3. Floor Plans
4. Elevations and Sections
5. Landscape Plans
6. Shadow Diagrams

SCHEDULE 1

GENERAL CONDITIONS

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

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

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

Part A – Deferred Commencement

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

1. Drainage Design Details

The submission of an engineering design detailing the required upgrade of the Oxford St drainage system to accommodate the additional stormwater flows generated from the proposed development. The plans shall provide for a detailed catchment analysis of the Oxford St catchment and a detailed hydraulic analysis of the proposed and affected pipelines. Furthermore the plans are to detail all works required to make the construction effective. The plans are to be prepared in accordance with Council's Civil Works Specification and Australian Rainfall and Runoff.

2. Right of Access Details

Details of the location of a right of access benefitting Lot 23 Sec 1 DP 758390 being No. 33 Oxford Street, Epping to facilitate vehicular access, waste and recycling removal over the proposed vehicular entry and ramp and loading bay at the Ground Floor Level.

3. Amended Plans for Unit Mix

The submission of amended floor plans and elevations to convert four 1-bed units on Levels 9 to 13 to two 3-bed units. This would result in an amended unit mix of 12 x 1 bed units, 37 x 2-bed units, and 5 x 3bed units (10%).

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

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

Part B – General Conditions

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:

<i>Plan No.</i>	<i>Drawn by</i>	<i>Dated</i>
A-2.01 Rev H Basement Plans 1	MKD Architects	April 2015
A-2.02 Rev H Basement Plans 2	MKD Architects	April 2015
A-2.03 Rev J Ground Floor Plan	MKD Architects	April 2015
A-2.04 Rev J Level 1 Floor Plan	MKD Architects	April 2015
A-2.05 Rev J Level 2 Floor Plan	MKD Architects	April 2015
A-2.06 Rev J Level 3 Floor Plan	MKD Architects	April 2015
A-2.07 Rev J Level 4-7 Floor Plans	MKD Architects	April 2015
A-2.08 Rev J Level 8 Floor Plan	MKD Architects	April 2015
A-2.09 Rev J Level 9-13 Floor Plans	MKD Architects	April 2015
A-2.10 Rev J Level 14-18 Floor Plans	MKD Architects	April 2015
A-2.11 Rev J Level 19-21 Floor Plans	MKD Architects	April 2015
A-2.12 Rev H Adaption Plans 1	MKD Architects	April 2015
A-2.13 Rev H Adaption Plans 2	MKD Architects	April 2015
A-3.01 Rev J Oxford Street Elevation	MKD Architects	April 2015
A-3.02 Rev J North Elevation	MKD Architects	April 2015
A-3.03 Rev J West Elevation	MKD Architects	April 2015
A-3.04 Rev K South Elevation	MKD Architects	April 2015
A-3.05 Rev K Streetscape Elevation	MKD Architects	April 2015
A-4.01 Rev J Sections	MKD Architects	April 2015
A-4.01 Rev J Sections	MKD Architects	April 2015
E08 Rev A Erosion and Sediment Control Plans & Details	MKD Architects	April 2015
SS15-3020 000 Rev C Cover Sheet	Site Image	23/09/2015
SS15-3020 101 Rev C Landscape Plan Level 1	Site Image	23/09/2015
SS15-3020 102 Rev C Landscape Plan Level 3	Site Image	23/09/2015
SS15-3020 103 Rev C Landscape Plan Level 8	Site Image	23/09/2015
SS15-3020 201 Rev C Landscape Elevations	Site Image	23/09/2015
SS15-3020 202 Rev C Landscape Elevations	Site Image	23/09/2015

Plan No.	Drawn by	Dated
SS15-3020 501 Rev C Landscape Details	Site Image	23/09/2015
SS15-3020 502 Rev C Indicative Plant Schedule & Specification Notes	Site Image	23/09/2015

Document No.	Prepared by	Dated
Design Verification Statement	MKD Architects	13/11/2015
BASIX Certificate No. 628546M_03	Efficient Living	16/11/2015
BASIX Stamped Plans – Certificate No. 14733464	Tracey Cools	16/11/2015
Arboricultural Impact Assessment	Urban Forestry Australia	April 2015
DA Noise Impact Assessment Rev 2	Acoustic Logic	15/04/2015
Wind Assessment Ref. 8457	Cermak Peterka Petersen	23/09/2015
Landscape Report	Site Image	25/09/2015
Construction Impact Report Ref. 150113.CIR1	Australian Consulting Engineers	28/09/2015
Access Assessment Report	Building Code Assistance	23/09/2015
Compliance Assessment Report	Building Code Assistance	23/09/2015
Geotechnical Study Ref. 3098-P1	Asset Geotechnical	11/05/2015

2. Amendment of Plans

The approved plans are to be amended as follows:

- i) To convert four 1-bed units on Levels 9 to 13 to two 3-bed units as approved by Part A Condition 3.
- ii) Sight lines for pedestrians are to be provided in accordance with the Australian Standard AS2890.1 - a 2.5m x 2.0m splay shall be provided on the exit side of the driveway to satisfy this requirement;
- iii) Motorcycle Spaces Nos. MS-02 and MS-03 at Basement Levels 1, 2 and 3 are to be deleted (i.e. 6 spaces total) and two (2) car spaces to be converted into eight (8) motorcycle parking spaces which must be accessible directly from a parking aisle;
- iv) Moveable privacy screens with horizontal louvres are to be erected along the western edge of the balconies to Units 8.02, 9.02, 10.02, 11.02, 12.02, 13.02 to minimise a direct line of sight to units within a future western adjoining building. The screens must be affixed between the top of the balustrade wall to the underside of the slab above and have no individual openings more than 30mm wide and have a total of all openings less than 30% of the surface area of the screen;
- v) Moveable privacy screens with horizontal louvres are to be erected along the northern and eastern edges of the balconies to Unit 3.03 to minimise a direct line of sight into the private open space of that unit and the communal open

space adjacent. The screens must be affixed between the top of the balustrade wall to the underside of the slab above and have no individual openings more than 30mm wide and have a total of all openings less than 30% of the surface area of the screen;

- vi) The residential chute service room (in which the garbage chute terminates) must have:
 - i) sufficient space for a 3x660L bin linear (or carousel) and to load/unload the bins;
 - ii) a door wide enough to fit the 660L bins through; and
 - iii) the chute offset (being the distance between the garbage chute and the bin into which the garbage drops) minimised. The chute offset must be no more than 45 degrees from vertical;

Note: Consultation with the chute system supplier is required to ensure the chute service room dimensions are adequate and an acceptable offset is achieved.

- vii) At least one of the residential lifts must have a rear opening to the loading dock area (for carting recycling bins to the bin storage room/waste collection area and direct access for residents to the bicycle parking spaces).

3. Height of Buildings

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

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

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

Description	Contribution (4)
Roads	\$33,391.25
Open Space and Recreation	\$697,640.65
Community Facilities	\$97,286.80
Plan Preparation and Administration	\$2,651.50
TOTAL	\$830,970.20

being for 12 x 1 bed, 37 x 2 bed, 5 x 3 bed units and 58m² of retail floor space and credit for 435m² of existing commercial floor space.

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

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

Where:

- $\text{\$C}_{PY}$ is the amount of the contribution at the date of Payment
- $\text{\$C}_{DC}$ 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 contributions shall be paid to Council:
- (i) prior to the issue of the Subdivision Certificate where the development is for subdivision; or
 - (ii) prior to the issue of the first Construction Certificate where the development is for building work; or
 - (iii) prior to issue of the Subdivision Certificate or first Construction Certificate, whichever occurs first, where the development involves both subdivision and building work; or
 - (iv) prior to the works commencing where the development does not require a Construction Certificate or Subdivision Certificate.

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

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

REQUIREMENTS PRIOR TO THE ISSUE OF A CONSTRUCTION CERTIFICATE
--

6. Building Code of Australia

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

7. Contract of Insurance (Residential Building Work)

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

8. 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.

9. Accessible Units

The development is required to provide 17 units designed as adaptable housing pursuant to the requirements of 1C.2.2 of the Hornsby Development Control Plan. In this regard, 17 car parking spaces are to be designed for people with a disability and allocated to 17 adaptable units. The details of all adaptable units must be provided with the Construction Certificate plans.

10. Letterboxes

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

11. Storage

Each dwelling within the development must have a minimum area for storage (not including kitchen and bedroom cupboards) of 6m³ for one bedroom units, 8m³ for two bedroom units and 10m³ for three bedroom units, where at least 50% is required to

be located within the apartment and accessible from either the hall or living area except as otherwise indicated on the approved plans. Details must be submitted with the Construction Certificate plans.

12. Sydney Water – Quick Check

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

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

13. Dilapidation Report

A 'Dilapidation Report' is to be prepared by a 'chartered structural engineer' detailing the structural condition of adjoining properties 33 Oxford Street and 37-41 Oxford Street.

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.

14. Identification of Survey Marks

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

15. 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 Oxford Street. The stormwater drainage plans shall detail all works required to provide drainage for the subject site including the upgrading of the drainage system in Oxford Street and be generally in accordance with the approved Deferred Commencement stormwater drainage plan. All drainage works within Oxford Street will need to be separately approved by Hornsby shire Council under Sec 138 of the Roads Act.

16. 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 10.9 cubic metres, and a maximum discharge (when full) of 30 litres per second;

- b) Have a surcharge/inspection grate located directly above the outlet. The surcharge from the OSD system is to provide a surcharge to the councils drainage system for the 1 in 20 year un-detained storm event;
- c) Discharge from the detention system must 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; and
- d) Not be constructed in a location that would impact upon the visual or recreational amenity of residents.

17. Internal Driveway/Vehicular Areas

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

- a) Design levels at the front boundary shall be obtained from Council if a private accredited certifier is engaged to obtain a construction certificate for these works. These levels are to be used to design the internal driveway from the property boundary to the basement car park; and
- b) The driveway be a rigid pavement.

18. Council Verge – Oxford Street

- a) The existing footpath is to be removed;
- b) Any public utility adjustments to be carried out at the cost of the applicant and to the requirements of the relevant public authority;
- c) Replacement footpath design plans are to be approved by Hornsby Shire Council in accordance with Sec 138 of the Roads Act and are to be in accordance with the Oxford Street: “Village Street” street typology in Council’s *Epping Town Centre Public Domain Guidelines* and *technical specifications* as follows:
 - i) a 6.0 metre wide fully paved verge with granite pavement works including
 - Paver: Granite Flagstone Pavers;
 - Colour: Adelaide Black, as supplied by Sam the Paving Man or equivalent;
 - Size 600 x 450 x 50mm;
 - Setout: Lay commencing from Perpendicular to the kerb;
 - Installation: laid with mortar bedding on reinforced slab, 10-12mm separation joints against kerb and site building / boundaries with expansion joint and sealant bead to match stone colour, jointing between pavers to be 3mm, raked to a depth of 4mm;

- Bollards: Stainless steel removable;
- Bollards able to be relocated to accommodate outdoor dining or vehicle parking;
- ii) Removal of the existing concrete kerb and install of a concrete spoon drain to define the edge of the bitumen road pavement;
- iii) Construction of transition kerb and spoon drain to the north and south of the development site. This shall include:
 - a concrete spoon drain connection to the existing kerb extension on the southern end of the frontage of 33 Oxford Street; and
 - a transition treatment of kerb realignment to link to the existing kerb line to the north.
- iv) Construction of vehicle access area, parking bays and pedestrian pavement areas with Granite flagstone pavers laid over a reinforced concrete slab, extending from the back of the concrete spoon drain to the property boundary;
- v) One tree planted in the parking bay lane, species *Cupaniopsis anacardioides* (Tuckeroo) minimum 200 Litre pot size with a tree grate occupying 2.0m x 1.5m area and with sandstone wheel stops; and
- vi) Tree pit to include subsoil drainage connected to the existing stormwater drainage system, topsoil volume minimum 7m³ utilising Stratacell or approved equivalent structural support pavement above the tree pit area.

19. Road Works

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

- a) The existing road pavement to be saw cut a minimum of 300mm from the existing lip of the kerb and reconstructed;
- b) Road works are to be designed in accordance with the Epping Town Centre Public Domain Guidelines. The design plans are to be approved by Hornsby Shire Council in accordance with Sec 138 of the Roads Act.

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:-

- i) 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.

- ii) 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;
- iii) The CTMP plans shall be in accordance with the approved Development Application plans and the Development Consent conditions;
- iv) 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;
- v) The Plan shall be generally in compliance with the requirements of the Road and Traffic Authority's "Traffic Control at Worksites Manual 1998" and detailing:
 - i) Public notification of proposed works;
 - ii) Long term signage requirements;
 - iii) Short term (during actual works) signage;
 - iv) Vehicle Movement Plans, where applicable;
 - v) Traffic Management Plans; and
 - vi) A Pedestrian Access Management Plan (PAMP) detailing how pedestrian movements will be changed and managed during various stages of development, particularly during any partial or total closure of footpaths on Epping Road and Crandon Road. Council will review the PAMP, agree any modifications with the proponent and enforce the PAMP during construction;
- vi) 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;
- vii) The plans shall include the proposed truck routes to and from the site including details of the frequency of truck movements at the different stages of the development. The plan shall also include details of parking arrangements for all employees and contractors;
- viii) 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;
- ix) The plan shall provide that during excavation works, rock removal must be undertaken by sawing instead of rock hammering, wherever practicable;
- x) 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; and
- xi) If there is a requirement to obtain a Work Zone, partial Road Closure or Crane Permit an application to Hornsby Shire Council is to be made prior to the issue the Construction Certificate.

21. Traffic Control Plan

A Traffic Control Plan (TCP) must be prepared by a qualified traffic controller in accordance with the *Roads & Traffic Authority's Traffic Control at Worksites Manual 1998* and *Australian Standard 1742.3* for all work on a public road. The Traffic Management Plan shall be submitted and approved by Council's Manager Traffic and Road Safety prior to the issue of a construction certificate. The TCP must detail the following:

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

22. Waste Management Details

The following waste management requirements must be complied with:

- i) The approved on-going waste management system must not be amended without the written consent of Council;
- ii) A bulky waste storage area of at least 8 square metres must be provided at the basement level;
- iii) The chute system must include volume handling equipment (3x660L linear or similar, with no compaction) to automatically change the bin under the chute when it becomes full;
- iv) 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 no less than 11 m long.

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

- v) The waste facilities on each residential level (a garbage chute and recycling bin in cupboards) must be accessible by persons with a disability while comfortably housing the garbage chute and one 240 L recycling bin. The door(s) to the recycling cupboard 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.

- vi) 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. 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.

REQUIREMENTS PRIOR TO THE COMMENCEMENT OF ANY WORKS
--

24. 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.

25. Protection of Adjoining Areas

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

- a) Could cause a danger, obstruction or inconvenience to pedestrian or vehicular traffic.
- b) Could cause damage to adjoining lands by falling objects.

- c) Involve the enclosure of a public place or part of a public place.

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

26. 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*.

27. Erosion and Sediment Control

Erosion and sediment control measures must be provided and maintained throughout the construction period in accordance with the manual '*Soils and Construction 2004 (Bluebook)*', the approved plans, Council specifications and to the satisfaction of the principal certifying authority. The erosion and sediment control devices must remain in place until the site has been stabilised and revegetated.

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

28. Tree Protection Requirements

All works are to be undertaken in accordance with the recommendations of the Arboricultural Impact Assessment prepared by Urban Forestry Australia dated April 2015.

REQUIREMENTS DURING DEMOLITION AND CONSTRUCTION
--

29. Construction Traffic Management Plan Compliance

The development must be carried out in accordance with the submitted and approved Construction Traffic Management Plan.

30. Construction Work Hours

- a) 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).

- b) No Excavation or rock sawing/breaking is to occur on Saturdays or between the hours of 12 pm and 1 pm weekdays.
- c) No work is to be undertaken on Sundays or public holidays.
- d) Wherever practicable and in order to prevent conflicts with local school drop-off and pickup periods, no heavy vehicle movements servicing the site are to be made between 8:00am and 9:30am or between 2:30pm and 4:00pm weekdays.

31. Construction Vehicles

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

32. Demolition

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

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

33. Environmental Management

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

34. Street Sweeping

Street sweeping must be undertaken following sediment tracking from the site along Oxford Street, Epping 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.

35. Disturbance of Existing Site

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

36. Landfill

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

- a) All fill material imported to the site is to wholly consist of Virgin Excavated Natural Material (VENM) as defined in Schedule 1 of the *Protection of the Environment Operations Act 1997* or a material approved under the *Department of Environment and Climate Change's* general resource recovery exemption.
- b) A compaction certificate is to be obtained from a geotechnical engineer verifying that the specified compaction requirements have been met.

37. Excavated Material

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

38. Excavation Work

All excavation work is to be undertaken in accordance with the recommendations included in the Geotechnical Investigation Ref. 3098-P1 prepared by Asset Geotechnical and dated 11 May 2015 and the Construction Impact Report Ref. 150113.CIR1 prepared by Australian Consulting Engineers and dated 28 September 2015 except as modified by conditions of this consent, which prevail in the event of any inconsistency.

39. Swimming Pool Requirements

The construction and operation of the swimming pool must comply with the provisions of the *Swimming Pool Act 1992*, the *Swimming Pool Regulation 1998 Australian Standards 1926.1-3 – Swimming Pool Safety* and the following requirements:

- a) All waste water from the pool's filtration system must be piped to *Sydney Water's* sewer system. In the event that *Sydney Water's* sewer system is not provided, a filtration system that does not require backwashing must be provided; and
- b) The filtration motor and pump, or spa heater and blower unit must be housed in a soundproofed structure. Sound from the equipment must not exceed 5(dBA) above ambient noise levels at any residential property boundary.

40. Council Property

During construction works, no building materials, waste, machinery or related matter is to be stored on the road or footpath.

41. Survey Report – Finished Floor Level

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

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

42. Waste Management

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

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

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

REQUIREMENTS PRIOR TO THE ISSUE OF AN OCCUPATION CERTIFICATE

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

43. Vehicle Movement Restrictions

A 'No Left Turn - vehicles over 8m long' sign shall be installed near the driveway exit.

44. Fulfilment of BASIX Commitments

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

45. Sydney Water – s73 Certificate

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

46. 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.

47. Completion of Landscaping

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

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

48. Retaining Walls

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

49. External Lighting

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

50. 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;
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 no less than 11.0 m long;

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.

51. 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.

52. Garbage Collection Easement to benefit 33 Oxford Street

For the purpose of waste collection, an easement entitling Council, its servants and agents and persons authorised by it, and commercial waste collection service providers, to enter upon the subject land and to operate thereon, vehicles and other equipment for the purposes of garbage collection from 33 Oxford Street, Epping must be granted to 33 Oxford Street, Epping 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, and commercial waste collection service providers, to collect garbage against liability in respect of any such claims made by any person whomsoever.

53. Creation of Easements

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

- a) A right of access and easement for Council to facilitate waste and recycling removal, using terms available from Council;
- b) The creation of an appropriate "*Positive Covenant*" and "*Restriction as to User*" over the constructed on-site detention/retention systems and outlet works, within the lots in favour of Council in accordance with Council's prescribed wording. The position of the on-site detention system is to be clearly indicated on the title; and
- c) To register the OSD easement, the restriction on the use of land "*works-as-executed*" details of the on-site-detention system must be submitted verifying that the required storage and discharge rates have been constructed in accordance with the design requirements. The details must show the invert levels of the on-site system together with pipe sizes and grades. Any variations to the approved plans must be shown in red on the "*works-as-executed*" plan and supported by calculations.
- d) The creation of the right of access benefitting Lot 23 Sec 1 DP 758390 being No. 33 Oxford Street, Epping in accordance with the approval under Part A Condition 2.

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

54. 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.

55. Preservation of Survey Marks

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

56. 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

57. 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.

58. Unit Numbering

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

59. Safety and Security

This site must include the following elements:

- a) An intercom system must be installed at any gate locations to ensure screening of persons entering the units.
- b) The entry doors to pedestrian 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) The communal open space, must be illuminated low luminance by motion sensor lighting.
- f) The driveway and basement car parking must be illuminated with low luminance at all times.
- g) Security deadlocks are to be provided to each apartment door.
- h) Peep holes are to be provided to individual apartment doors to promote resident safety.

OPERATIONAL CONDITIONS

60. 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.

61. Sight Lines

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

62. Car Parking

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

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

63. Allocation of Car Parking

A minimum of six (6) visitor (including one (1) space signed as “Visitor or Car Share” space), two (2) retail and 57 resident car parking spaces are to be provided in the basement.

Tandem Car Spaces CS-01 and CS-03 at Basement 3 are to be allocated to an individual unit as are tandem Car Spaces CS-02 and CS-04.

64. Disabled Parking

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

65. Bicycle Parking

- a) All bicycle parking spaces are to be designed in accordance with *Australian Standard 2890.3-1993 – Bicycle parking facilities*; and
- b) A minimum of 6 visitor and 56 resident bicycle parking spaces are to be provided in the basement.

66. Motorcycle Parking Spaces

Eleven (11) motorcycle parking spaces are to be provided in the basement in accordance with AS 2890.5-1993.

67. Maximum Vehicle Size

Vehicle access to the site shall be limited to Medium Rigid Vehicle (MRV) 8.8m long with Council's waste collection vehicles excepted. All heavy vehicles shall exit the site by right turn only.

68. 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; and
- 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.

69. Maintenance of Wastewater Device

All wastewater and stormwater treatment devices (including drainage systems, sumps and traps) must be regularly maintained in order to remain effective. All solid and liquid wastes collected from the device must be disposed of in accordance with the *Protection of the Environment Operations Act 1997*.

70. 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).

71. Fire Safety Statement - Annual

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

- END OF CONDITIONS -

ADVISORY NOTES

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

Environmental Planning and Assessment Act 1979 Requirements

The Environmental Planning and Assessment Act 1979 requires:

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

Long Service Levy

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

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

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

Tree and Vegetation Preservation

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

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

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

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

Disability Discrimination Act

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

Covenants

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

Dial Before You Dig

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

Telecommunications Act 1997 (Commonwealth)

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

Asbestos Warning

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

www.environment.nsw.gov.au

www.nsw.gov.au/fibro

www.adfa.org.au

www.workcover.nsw.gov.au

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

House Numbering

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