

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

<b>JRPP No</b>	2015SYW162
<b>DA Number</b>	DA/526/2015 (Lodged 13 May 2015)
<b>Local Government Area</b>	Parramatta City Council
<b>Proposed Development</b>	Amended proposal for demolition of existing structures, construction of a 22 storey mixed use building comprising 54 residential units, 57.27m <sup>2</sup> of retail space and basement car parking for 67 cars, stratum and strata subdivision.
<b>Street Address</b>	Lot 2 in DP 519703, No. 35 Oxford Street, Epping
<b>Applicant/Owner</b>	Applicant: MKD Architects Pty Ltd Owners: Mrs B Quinn, Ms R McLean and Mr R Lincoln
<b>Number of Submissions</b>	Six (6) – Original Proposal Three (3) - Amended Proposal #1 Three (3) - Amended Proposal #2
<b>Regional Development Criteria (Schedule 4A of the Act)</b>	General Development Over \$20 Million  Cost of Construction proposed = \$20,362,457
<b>List of All Relevant s79C(1)(a) Matters</b>	<ul style="list-style-type: none"> <li>• <i>Hornsby Local Environmental Plan 2013</i></li> <li>• <i>State Environmental Planning Policy No. 32 – Urban Consolidation</i></li> <li>• <i>State Environmental Planning Policy No. 55 – Remediation of Land</i></li> <li>• <i>State Environmental Planning Policy No. 65 – Design Quality Residential Flat Development</i></li> <li>• <i>Draft State Environmental Planning Policy No. 65 – Design Quality Residential Flat Development (Amendment No 3)</i></li> <li>• <i>State Environmental Planning Policy (Building Sustainability Index – BASIX) 2004</i></li> <li>• <i>State Environmental Planning Policy - Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005</i></li> <li>• <i>Hornsby Development Control Plan 2013</i></li> <li>• <i>Hornsby Section 94 Contributions Plan 2012-2021</i></li> </ul>
<b>List all documents submitted with this report for the panel's consideration</b>	Basement Levels 1-3, Ground Floor Plan, Levels 1–21, Elevations, Sections, Façade Sections
<b>Recommendation</b>	Approval subject to Conditions at Schedule 1
<b>Report by</b>	Kendal Mackay - Consultant Planner (DFP Planning Pty Ltd)

## ADDENDUM ASSESSMENT REPORT #2 AND RECOMMENDATION

### EXECUTIVE SUMMARY

1. The application to develop a 22 storey mixed-use building was initially reported to the JRPP on 2 December 2015. The scheme at that time involved a party wall along the southern boundary. The Panel determined to defer the development application to enable negotiation between the Applicant and the Catholic Church Parish in relation to pursuing a potential joint development with the southern adjoining site at 33 Oxford Street. The applicant subsequently indicated that the Church was unwilling to sell 33 Oxford Street to the applicant or undertake a joint venture but generally agreed to a minimal southern boundary setback. The Church suggested that they did not intend to develop their land beyond a maximum height of 4 storeys.
2. An amended application was reported to the JRPP on 26 May 2016. The amended scheme abandoned the previous southern party wall scheme and moved the tower towards the northern boundary by 1.5m to 3m at the upper levels. The proposal was recommended for refusal, primarily due to the insufficient demonstration that the Site was isolated and due to design quality inadequacies.

At the JRPP Meeting, the Church's representative verbally confirmed that the Church did not intend to develop their land beyond a maximum height of 4 storeys. In addition, the representative for the owner of the northern adjoining property at 37-41 Oxford Street (Goodman) indicated that they were unwilling to sell that land to the Applicant due to an inadequate offer and furthermore, that they were not prepared to purchase the Site as it may prejudice an existing option over the Goodman land.

The JRPP therefore resolved that the Site was isolated and that the application should be deferred to allow the applicant to make design amendments, particularly to the southern façade, to address the design concerns expressed in the assessment report.

3. Further amended plans were received on 7 June 2016. The amended application proposes demolition of existing structures and the erection of a 22 storey mixed use building comprising 54 residential units, 57.27m<sup>2</sup> of retail space and basement car parking for 67 cars. The amendments primarily relate to urban design resolution and some minor operational matters.
4. The amended proposal generally complies with the *Hornsby Local Environmental Plan 2013* and the design amendments are now considered to provide for design excellence in the Epping Town Centre and are therefore, consistent with clause 6.8 of the LEP. In addition, the amended proposal is considered to be satisfactory with regard to its relationship to the nearby heritage item at No. 31 Oxford Street and is therefore consistent with clause 5.10.
5. The amended proposal is generally consistent with *State Environmental Planning Policy No. 65 – Design Quality Residential Flat Development* and based on the JRPPs determination that the Site is isolated and cannot be reasonably developed in

conjunction with adjoining land to the north or the south, the non-compliances with the building separation requirements of the Residential Flat Design Code are considered supportable in this instance.

6. The amended proposal is generally consistent with the relevant requirements of the Hornsby Development Control Plan 2013 and on the basis of the JRPPs determination that the Site is isolated, the non-compliances with side setback requirements are supportable in this instance.
7. Three (3) submissions have been received in respect of the further amended application.
8. It is recommended that the application be approved subject to the Conditions at Schedule 1.

## **RECOMMENDATION**

THAT the Joint Regional Planning Panel (Sydney West) approve Development Application No. 526/2015 for demolition of existing structures, 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.

### **1.0 HISTORY OF THE SITE & SUBJECT DA**

On 13 May 2015, the subject application was lodged with Council. The development application entailed a 24 storey building with 58 apartments and ground floor retail, with a tower element centrally located over a 2 storey podium. This 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 proposal was considered to be an unacceptable design outcome.

In July 2015, the applicant was advised to undertake further discussions with the land owners of the southern adjoining site at No.33 Oxford Street with a view to purchasing land and developing the two parcels in conjunction with one another. In addition, the application should demonstrate why the site is unable to be consolidated with the adjoining property to the north.

On 21 September 2015, the Applicant lodged amended plans for a 22 storey mixed use building comprising a 3 storey podium and a zero side setback for the tower element to No.33 Oxford Street, the Church Presbytery site. This envisaged that future development on the adjoining land to the south could be developed separately in the future with a zero northern side setback.

On 9 November 2015 the Church made a submission on the application advising that:

*"I am now able to advise Council that the Parish is open to considering and pursuing a potential joint development of 33 and 35 Oxford Street, including the potential sale of 33 Oxford Street to the owners of 35 Oxford Street... The parish wishes to explore the creation of community, commercial and retail spaces at the lower levels of the amalgamated development."*

On 2 December 2015, the JRPP considered the subject DA and resolved as follows:

*"The panel unanimously determined to defer the development application as described in Schedule 1 pursuant to section 80 of the Environmental Planning and Assessment Act 1979 and considers that a better urban design outcome would be achieved if the site was developed in conjunction with the adjacent property 33 Oxford Street, Epping. The application is deferred until the meeting to be scheduled in March 2016 to enable negotiation between the applicant Luxcon and the Catholic Church Parish in relation to pursuing a potential joint development with 33 Oxford Street as suggested by the Catholic Parish of Epping of Carlingford in their letter dated 9 November 2015."*

Refer to the attached JRPP Assessment Report dated 2 December 2015 for the site and detailed DA history prior to December 2015.

On 3 March 2016, the Applicant submitted amended plans which abandoned the previous southern party wall scheme and moved the tower towards the northern boundary by 1.5m to 3m at the upper levels.

On 26 May 2016, the JRPP considered the amended DA. At the JRPP Meeting, the Church's representative verbally confirmed that the Church did not intend to develop their land beyond a maximum height of 4 storeys. In addition, the representative for the owner of the northern adjoining property at 37-41 Oxford Street (Goodman) indicated that they were unwilling to sell that land to the Applicant due to an inadequate offer and furthermore, that they were not prepared to purchase the Site as it may prejudice an existing option over the Goodman land.

The JRPP therefore resolved as follows:

*"The Panel concludes that this is an isolated site.*

*The Panel unanimously determined to defer the development application for amendments to be undertaken to the plans and in particular to the southern façade based on the suggestions articulated on pages 9 and 10 of the Council Assessment Report noting the agreement of the adjoining southern owner to a zero boundary setback for the first four floors and then amendment to the higher southern façade based on the principle of:*

- 1. The façade treatment respecting the heritage item,*

2. *Avoidance of unreasonable overlooking of the school, and the building which attractively integrates into the planned future character of the Epping Urban Activation Area.”*

On 7 June 2016, the Applicant submitted amended plans.

Between 9 June 2016 and 23 June 2016 the DA was renotified. Three (3) submissions were received.

## **2.0 THE AMENDED PROPOSAL**

The following summarises key aspects of the amended proposal compared with the proposal considered by the JRPP on 26 May 2016:

- Provision of a zero side southern setback at Level 3 by conversion of one x 2-bedroom unit into a 3-bedroom unit with the front portion being internal floor space (8m<sup>2</sup>) and the rear portion being outdoor private open space;
- Retention of the nil southern, northern, eastern and western setbacks at the Ground Level and Levels 1-2 (i.e. the podium);
- Retention of the 1.5 metre southern setback above the podium at Levels 4-7 and 3 metres at Levels 8-21;
- Retention of the 4.5 metre northern setback above the podium at Levels 3-7 and 6 metres at Levels 8-21;
- The southern façade has been modified as follows:
  - Mesh screening with growing vines deleted;
  - The diagonal cut-outs and triangular panels have been deleted and replaced with a more orthogonal design;
  - 50mm deep score lines have been added to the concrete panels with the score line to be painted black which will contrast with the lighter tone of the main facades. These score lines increase in separation width toward the upper levels;
  - Highlight bay windows have been provided windows at Levels 8-21 through the centre of the tower;
  - Rectangular openings with fixed vertical screens have been provided to the southern edge of balconies at Levels 14-21;
- The northern façade has been modified as follows:
  - Mesh screening with growing vines deleted;
  - 50mm deep score lines have been added to the concrete panels with the score line to be painted black which will contrast with the lighter tone of the main facades. These score lines increase in separation width toward the upper levels;
  - The mid tower trapezoidal form has been deleted and replaced with a more subtle trapezoidal form extending from the podium to the roof;
  - Highlight bay windows have been provided windows at Levels 8-21 through the centre of the tower;
  - Fixed external curtain to screen northern balconies.
- The podium and mid tower levels now incorporate a combination of darker face brick and timber elements to relate more sympathetically to the nearby heritage item;

- Provision of an accessible toilet to the outdoor common open space at Level 3, enlargement of the outdoor shower and disabled access to the swimming pool;
- Retention of approximately 57m<sup>2</sup> of retail floor space at the Ground Level;
- Retention of 67 basement car parking spaces including 4 visitor spaces, 1 car share space, 60 residential spaces (including 17 disabled spaces) and 2 retail spaces; and
- Retention of the proposed right of carriageway in the basement to provide for future access to the southern adjoining 33 Oxford Street.

### **3.0 ASSESSMENT**

The amended development application has been assessed having regard to the relevant matters for consideration prescribed under section 79C of the *Environmental Planning and Assessment Act 1979* (the Act).

The following sections only relate to matters that are relevant to the amended proposal and should be read in conjunction with the Assessment Report dated 26 May 2016.

#### **3.1 Hornsby Local Environmental Plan 2013**

##### **3.1.1 Permissibility**

The amended proposal continues to constitute 'shop-top housing' which is permissible with development consent in the B2 Local Centre Zone (the B2 Zone) under the *Hornsby Local Environmental Plan 2013* (HLEP).

##### **3.1.2 Subdivision**

The original DA sought approval for a stratum and strata subdivision of the proposed building and draft plans of subdivision were lodged with the original DA. However, no amended plans have been lodged to reflect the amended building layout and accordingly, development consent cannot be granted to this aspect of the DA. A condition of consent to this effect is included in Schedule 1.

##### **3.1.3 Building Height**

The amended proposal has a maximum height of 71.7 metres which complies with clause 4.3 of HLEP which provides for a maximum permissible height on the Site of 72 metres.

##### **3.1.4 Floor Space Ratio**

The amended proposal has a maximum FSR of 4.49:1 which complies with clause 4.4 of HLEP which provides for a maximum FSR on the Site of 4.5:1.

##### **3.1.5 Heritage**

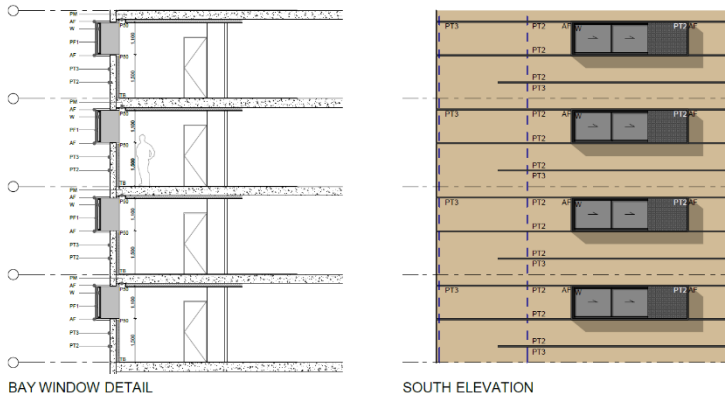
In respect of clause 5.10 of the HLEP which sets out heritage conservation provisions, Council's Heritage Officer has considered the design amendments and is now supportive of the use of face brick to the podium and street front elevation, revised colour scheme, the

inclusion of a top hamper to the Oxford Street shopfront and inclusion of a non-transparent awning with a dark recessive colour scheme.

### 3.1.6 Design Excellence

In respect of clause 6.8 of the *HLEP* which relates to Design Excellence for buildings over 29.5 metres in height, Council's independent urban design advisor Johannsen and Associates Architects previously advised that the proposal did not constitute design excellence, primarily due to the overly complicated and unresolved aesthetics, particularly the southern façade. The 26 May 2016 Assessment Report to the JRPP included 12 dot points which detailed the design amendments that would be required to achieve design excellence. The following table provides an assessment of the amended proposal's adherence to those required design amendments:

Design Amendment Required	Assessment
<ul style="list-style-type: none"> <li><i>The overall design aesthetic should be simplified by removal of the diagonal grids on the northern and southern facades to provide a more relaxed expression;</i></li> </ul>	<ul style="list-style-type: none"> <li>- There is a more harmonious composition of the facades to all elevations with the elevations better resolved and the reduction of tapered elements helps achieve a more complementary and cohesive relationship around the perimeter of the envelope.</li> <li>- On the south elevation the inclusion of louvred openings to balconies from Level 14–21 lightens the envelope expression and will help enliven the tower.</li> </ul>
<ul style="list-style-type: none"> <li><i>There should be a gradual transition of built form from solid with punched openings to lighter expressions with more open and recessive appearance further up the tower;</i></li> </ul>	<p>The amended building design reads as three distinct forms comprising a more solid podium with punched openings, a dark toned mid tower with a high level of articulation and a lighter upper tower with smaller articulation devices in the form of the highlight bay windows and widening concrete panel score lines.</p>
<ul style="list-style-type: none"> <li><i>A 4<sup>th</sup> level podium along the southern side of the tower at Level 3 should be included to match the potential form of a 4 storey development on the southern adjoining land. This podium level should be set back 9 metres from the Oxford Street and 12 metres from the rear boundary;</i></li> </ul>	<p>The proposal now provides an adjusted podium that can relate better to the Oxford Street frontage with a zero setback on the southern façade up to 4 storeys, set back from both Oxford Street and the rear boundary.</p>
<ul style="list-style-type: none"> <li><i>The podium levels should be face brick (dark toned) material to complement the character and setting of the circa 1930s Church building and brick banding and/or patterns could also be included;</i></li> </ul>	<ul style="list-style-type: none"> <li>- The podium and floor plans up to Level 8 utilise a dark brown face brick to create a dialogue with the heritage listed church at 31 Oxford Street and the main walls of Levels 3-8 excluding grounding of the main frame, are face brick.</li> <li>- Timber screens have been provided to the Ground Floor and Podium levels.</li> <li>- A non-transparent top hamper has also been introduced to the Ground Floor shop front.</li> </ul>
<ul style="list-style-type: none"> <li><i>Revised materials and finishes are recommended to include</i></li> </ul>	<ul style="list-style-type: none"> <li>- Levels 3-7 now incorporate face brick (Bowral 'Gertrudis Brown') which is a dark and recessive colour and creates a dialogue with</li> </ul>

<p>face brick, stone, and timber to provide a sympathetic and visually recessive backdrop to the nearby heritage item;</p>	<p>the Church.</p> <ul style="list-style-type: none"> <li>- The main colour of pre-cast concrete frame wrapping around the entire building is to be Dulux 'Kahlua Milk'.</li> </ul>
<ul style="list-style-type: none"> <li>• The facades of Level 3-7 should incorporate darker, brick or stone coloured materials or finishes;</li> </ul>	<ul style="list-style-type: none"> <li>- The amended plans include typical facade sections including balcony and concrete upturn details, bay window details and podium facade details all of which are considered to satisfy the design intent expressed by Council's Heritage Officer and the consultant urban designer.</li> <li>- Due to the rather sombre expression of the podium to Oxford Street, the Blackbutt screens to the balconies at Levels 1 and 2 fronting Oxford Street (annotated as 'PS' on the approved plans) are to be replaced with white louvre panels (annotated as 'PS2' on the approved plans).</li> </ul>
<ul style="list-style-type: none"> <li>• Highlight windows should be introduced at Levels 8-18 in the southern elevation to the kitchen/main bathroom of units on the southern side of the building to provide greater horizontal articulation in this façade. These windows should be fixed, obscure glazed and acoustically treated to minimise potential acoustic and visual privacy impacts for any future development on the southern adjoining land;</li> </ul>	<p>Highlight bay windows have been incorporated up the entire extent of both the northern and southern facades with detailing as shown below to prevent adverse acoustic and privacy impacts:</p> <div style="display: flex; justify-content: space-around; align-items: flex-end;">  </div> <p>Conditions of consent are recommended requiring some of these windows to be fixed (Levels 3-7) and all windows to be acoustically treated.</p>
<ul style="list-style-type: none"> <li>• Horizontal brick or stone banding should be incorporated extending from the outer edges of the additional highlight windows to the eastern and western edges of the southern façade;</li> </ul>	<p>The proposal includes 50mm deep score lines painted black in the precast concrete panels which are to be coloured lighter - Dulux 'Kahlua Milk'. This is considered to achieve the intent of the suggested design amendment.</p>
<ul style="list-style-type: none"> <li>• At Levels 8-13, the solid blade walls on the southern edge of the balconies to units in the southern side of the building could be replaced with appropriately designed horizontally louvred screens to provide visual relief to the edges of this façade whilst preventing adverse overlooking down to the southern adjoining site;</li> </ul>	<p>The solid blade walls have been retained although the other materials, colours and articulation amendments are considered to satisfactorily address the vastness of the previously proposed mid-tower southern wall and the privacy of the southern adjoining neighbour is maintained through this design solution.</p>



<ul style="list-style-type: none"> <li>• <i>The diagonal cut-outs to balconies at the upper levels on the southern façade should be removed and replaced with orthogonal balcony elements and horizontal screens;</i></li> </ul>	<p>The diagonal cut-outs have been removed and rectangular screens are proposed to be fixed to prevent adverse overlooking to the southern neighbour.</p>
<ul style="list-style-type: none"> <li>• <i>Levels 19-21 of the southern elevation should be set back further from the southern boundary, have horizontal articulation and have a darker toned material/colour scheme to reduce the visual bulk and scale of the development when viewed from the south in the context of the heritage item; and</i></li> </ul>	<p>The amendments to the overall aesthetic of the southern façade inclusive of materials, colours and articulation have satisfactorily addressed the perceived bulk and scale of the upper part of the tower such that it now reads as a more integral part of the tower as a whole. Accordingly, the suggested setback at the upper levels is not considered necessary.</p>
<ul style="list-style-type: none"> <li>• <i>The trapezoidal form of the northern façade should be removed and screens to balcony edges extended to the upper levels where setbacks do not meet the minimum ADG/HDCP requirements, similar those used on lower levels.</i></li> </ul>	<ul style="list-style-type: none"> <li>- The northern façade continues to incorporate a moderate trapezoidal form although it is less severe than previously proposed and now reads as a more cohesive element of the overall building design as the wall plane extends across all levels of the upper tower. This outcome is acceptable.</li> <li>- Balcony screens extend up to where required to mitigate privacy impacts to the north.</li> </ul>

In summary, Council's independent urban design advisor Johannsen and Associates Architects advised that, taking into account the JRPP's determination that the proposal can now be dealt with as an isolated site, the proposal can meet the expected level of design excellence, with minor adjustments via consent conditions.

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

The design principles of *SEPP 65* are stated in the following table together with an assessment of the amended proposal.

SEPP 65 – Design Principles	
Design Principle	Assessment
<p><i>Principle 1: Good design responds and contributes to its context. Context can be defined as the key natural and built features of an area.</i></p> <p><i>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</i></p>	<p>The amended proposal has simplified the form and rationalised the treatments to the northern and southern facades in accordance with the design suggestions outlined in the previous Assessment Report and is now considered to appropriately respond to the setting within the Epping Town Centre and proximity to heritage items.</p>

SEPP 65 – Design Principles	
Design Principle	Assessment
<i>to the quality and identity of the area.</i>	
<p><i>Principle 2: Good design provides an appropriate scale in terms of the bulk and height that suits the scale of the street and the surrounding buildings.</i></p> <p><i>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.</i></p>	The Site has been zoned to permit the height and general form of development as proposed and although the amended proposal continues to be non-compliant with side setback and building separation provisions, this is considered acceptable on the basis of the JRPP previous decision that the Site is isolated as it cannot be reasonably amalgamated with either the northern or southern adjoining parcels.
<p><i>Design Principle 3: 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.</i></p> <p><i>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.</i></p>	The amended proposal introduces greater articulation to both the northern and southern elevations in the form of highlight bay windows and screened balconies which have a vastly improved and acceptable relationship with the future development envisaged for the locality.
<p><i>Design Principle 4: Good design has a density appropriate for a site and its context, in terms of floor space yields (or number of units or residents).</i></p> <p><i>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.</i></p>	The amended proposal complies with the 4.5:1 FSR limit for the Site.
<p><i>Design Principle 5: Good design makes efficient use of natural resources, energy and water throughout its full life cycle, including construction.</i></p> <p><i>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.</i></p>	The amended 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.
<i>Design Principle 6: 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.</i>	The amended proposal continues to provide 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

SEPP 65 – Design Principles	
Design Principle	Assessment
<p><i>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.</i></p> <p><i>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.</i></p>	Site and from the public domain in Oxford Street.
<p><i>Design Principle 7: Good design provides amenity through the physical, spatial and environmental quality of a development.</i></p> <p><i>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.</i></p>	The amended proposal does not significantly alter the previous apartment layouts which were considered to be acceptable with regard to solar penetration, cross ventilation and diversity of dwelling opportunities.
<p><i>Design Principle 8: Good design optimises safety and security, both internal to the development and for the public domain.</i></p> <p><i>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.</i></p>	The amended proposal continues to 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.
<p><i>Design Principle 9: Good design responds to the social context and needs of the local community in terms of lifestyles, affordability, and access to social facilities.</i></p> <p><i>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.</i></p>	The amended proposal provides for a range of different apartment sizes and typologies and continues to comply with the unit mix provisions within HDCP.

SEPP 65 – Design Principles	
Design Principle	Assessment
<i>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.</i>	
<i>Design Principle 10: 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.</i>	The amended proposal incorporates alternate façade treatments to the northern and southern elevations which are considered consistent with the design direction outlined in the previous Assessment Report which the Panel resolved to have amended by the Applicant. Council's Heritage Officer and consultant urban designer are now satisfied that the amended proposal demonstrates design excellence and will have a positive streetscape impact, particularly when viewed in the context of the nearby heritage item.

### 3.3 SEPP 65 – Residential Flat Design Code

The proposed development was lodged prior to the amendments to SEPP 65 and commencement of the Apartment Design Guide (ADG). Accordingly, this assessment must be in accordance with those provisions that existed at the date of lodgement of the DA, including the RFDC. Notwithstanding, the ADG has also been considered in this assessment.

There has been no change to the compliance assessment set out in the previous Assessment Report as the design amendments are primarily aesthetic in nature. Accordingly, the compliance table has not been reproduced herein but can be referred to in the attached Assessment Report if required.

Notwithstanding, the following subsections provide a brief commentary in respect of the main areas of non-compliance.

#### 3.3.1 Building Separation / Setbacks

As outlined in the previous Assessment Report, the proposal did not fully comply with the building separation requirements of the RFDC and the amended proposal does not alter this situation.

Notwithstanding, that previous Assessment Report indicated that if the Site were to be considered isolated and if further design modifications to the aesthetics of the northern and southern façade were undertaken, the proposal could be supported.

As detailed within this report, the proposed design amendments accord with the design suggestions and intended outcomes expressed in the previous Assessment Report and accordingly, on the basis of the JRPP previous decision that the Site is to be considered isolated, the proposal is considered acceptable in this particular instance.

### **3.3.2 Storage**

As detailed in the previous Assessment Report, Units 1102 and 1202 do not comply with the 10m<sup>3</sup> minimum storage requirement (for three bedroom apartments) of the RFDC, having 6m<sup>3</sup> of storage each. It is considered that this minor non-compliance can reasonably be rectified by a condition of consent as recommended at Schedule 1.

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

The amended proposal was accompanied by an amended BASIX Certificate which is considered to be satisfactory.

### **3.5 Hornsby Development Control Plan 2013 (HDCP)**

#### **3.5.1 Stormwater Management**

The proposed stormwater drainage system involves an on-site detention tank discharging to Council's existing drainage infrastructure in Oxford Street. However, due to insufficient information and certainty as to the extent of works involved to drain to Oxford Street (e.g. pipe upgrades), Council's Development Engineers previously recommended a Deferred Commencement condition of consent.

The Applicant has now provided additional details and Council's Development Engineer has advised that the proposal is acceptable subject to conditions of consent.

#### **3.5.2 Waste Management**

As detailed in the previous Assessment Report, the assessment of Council's Waste Management Services Team has been that the proposal is generally acceptable although conditions of consent should be imposed requiring enlargement of the residential chute service room and providing for more direct pedestrian access for residents from the lifts to the residential bin room and also to bicycle parking spaces at this level (i.e. rather than having to exit through the lobby and walk down the car park ramp).

The previously amended proposal realigned the bin within the chute room which negated the need to enlarge the chute room. However, the amended design continues to preclude a double-sided lift as it would conflict with the structure of the waste storage room and/or a car parking space. However, a more direct pedestrian access to the residential bin room can be provided by reducing the size of the commercial bin room, which is oversized, and providing for a connection from the lift lobby to the service path along the northern side of the ground floor level. Alternatively, the structure of the waste room could be revised to provide for a double-sided lift. Accordingly, conditions of consent are recommended at Schedule 1 to achieve these outcomes.

The original assessment report recommended a deferred commencement condition requiring further details of the easement benefitting No. 33 Oxford Street to provide for vehicular access and waste servicing. The Applicant has submitted a written draft Section 88B Instrument in this respect however, a plan clearly showing the extent of the area subject to the easement has not been submitted and thus Council's Engineers have not been able to be

satisfied that the adequate room is to be provided for Council's garbage truck to manoeuvre to access the adjacent site. Accordingly, a modified deferred commencement condition is recommended in this regard. In addition, a condition of consent is recommended requiring a non-loading bearing wall in the southern side of the loading bay at the ground floor level.

### **3.5.3 Part 4.6 Epping Town Centre**

There has been no change to the compliance assessment in respect of the prescriptive measures within *Part 4.6 – Epping Town Centre* of HDCP as set out in the previous Assessment Report as the design amendments are primarily aesthetic in nature. Accordingly, the compliance table has not been reproduced herein but can be referred to in the attached Assessment Report if required.

The following sections only relate to matters that are relevant to the amended proposal and should be read in conjunction with the Assessment Report dated 26 May 2016.

#### **3.5.3.1 Housing Choice**

The amended proposal has increased the number of 3-bedroom units by one to a total of 6 units (11%) and decreased the number of 2-bedroom units by one to a total of 36 units (67%). The proposal continues to comply with HDCP.

#### **3.5.3.2 Parking**

The amended proposal continues to provide for a total of 67 car parking spaces which complies with the total requirement under HDCP of 61 car parking spaces. However, three of the proposed motorcycle parking spaces are not compliant with regard to access arrangements as they are not directly accessible from an aisle. Accordingly, a condition of consent is recommended at Schedule 1 requiring deletion of the non-compliant motorcycle parking spaces and conversion of 1 car parking space into four motorcycle parking spaces.

The amended proposal also continues to incorporate two pairs of tandem car parking spaces at Basement 3. No objection is raised to these spaces however, a condition of consent is recommended at Schedule 1 requiring that each pair of tandem spaces is allocated to the same residential unit.

### **3.6 Section 94 Contributions**

Hornsby Shire Council Section 94 Contributions Plan 2014-2024 applies to the development as it would result in the addition of 56 residential units and 57.75m<sup>2</sup> of retail floor space in lieu of the 435m<sup>2</sup> of existing commercial floor space. Accordingly, a condition of consent is recommended at Schedule 1 requiring a monetary contribution pursuant to the Section 94 Plan and this has been adjusted to account for the amended unit mix.

## **4.0 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”*.

### **4.1 Natural Environment**

The amended proposal has been assessed by Council’s Landscape Officers who have indicated that the deletion of the green walls on the northern and southern facades is an appropriate outcome and subject to conditions of consent with regard to podium level and street landscaping, the proposal is considered acceptable.

As discussed within this report, the amended proposal has now satisfactorily responded to the previously proposed Deferred Commencement condition relating to stormwater and more standard conditions of consent in respect of stormwater are now recommended.

### **4.2 Built Environment**

The Site is within an area earmarked and zoned for high density residential development of design excellence. As discussed within this report, the minimal southern side boundary setback and non-compliant northern side setback are acceptable in this instance on the basis that the Site has been deemed isolated and the amendments to the façade detailing, colours and materials is now considered acceptable with regard to the visual and heritage impacts in the context of the desired future character of the Epping Town Centre streetscape.

Furthermore, the highlight windows to the northern and southern facades are considered unlikely to result in adverse overlooking impacts as they are primarily to kitchens, bathrooms and bedrooms and windows are to be fixed and tinted at the lower levels on the southern elevation, thereby protecting the amenity of existing and potential future 4-storey development on that site. Conditions of consent are recommended in this regard.

### **4.3 Social Impacts**

The proposal will replace an existing single storey commercial building with a mixed use development comprising 54 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 amended proposal continues 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 in accordance with the housing mix requirements of HDCCP 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.

#### **4.4 Economic Impacts**

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

#### **5.0 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.

#### **6.0 PUBLIC PARTICIPATION**

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



##### **6.1 Community Consultation**

The amended proposal was placed on public exhibition between 9 and 23 June 2016 and during this period, Council received 3 submissions. The map below shows the location of 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	
<b>One (1) SUBMISSION RECEIVED OUT OF MAP RANGE –from Epping Civic Trust</b>			

Three (3) submissions have been received in response to the exhibition of the amended plans. The submissions object to the development, generally on the following grounds (NB: these submissions are in addition to those reported in the previous assessment reports):

#### 6.1.1 Setback Non-Compliances

As discussed in this report, on the basis of the decision of the Panel that the Site is isolated and there are no reasonable prospects for amalgamation with the northern or southern adjoining parcels, the proposed setbacks and separation distances are considered supportable in this instance as the design amendments provide for a building aesthetic which is now aligned with the desired future character of the Epping Town Centre and relates more sympathetically to the nearby heritage item. Furthermore, the introduction of tinted highlight windows is considered unlikely to give rise to significant adverse overlooking impacts.

### **6.1.2 Desired Future Character, Streetscape, Heritage and Public Interest**

These matters have been addressed in Sections 3.1.5, 3.1.6, 3.3.1, 4.2 and 7.0 of this report where it is concluded that on balance, the proposal is likely to have positive streetscape and heritage impacts as a consequence of the design amendments made to the northern and southern elevations in particular.

### **6.1.3 Privacy and Overlooking**

The submission by The Catholic Parish of Epping and Carlingford Diocese of Broken Bay offered general support for the proposal subject to:

- “1. That the windows on the southern façade from levels 4 – 8 inclusive are non-openable.*
- 2. That the windows on the southern façade from levels 4 – 8 have sill heights of 1.8m.*
- 3. That the windows on the southern façade are double glazed and appropriately acoustically treated, acknowledging the school playground area on our site.”*

The amended proposal includes non-operable, tinted black windows at Levels 3-7 (4-8 storeys) and operable, tinted black and partially screened windows at Levels 8-21 (9-22 storeys). These highlight windows are to have a sill height of 1.5m above the floor level which, in combination with the tinting, partial screening is considered acceptable in this instance. Conditions of consent are recommended ensuring these aspects of the design are constructed and also requiring acoustic treatment to all windows in the southern elevation.

## **6.2 Public Agencies**

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

## **7.0 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.

On the basis that the Site is considered isolated by virtue of the inability for it to be reasonably developed in conjunction with either the southern or northern adjoining parcels, the amended proposal is now considered to be of design excellence as required under HLEP and satisfactorily addresses the requirements of the RFDC and Council's HDCP.

Accordingly, the amended proposal will provide a development outcome that, on balance, would result in a positive streetscape and visual impact and approval of the proposed development is considered to be in the public interest.

## 8.0 CONCLUSION

The amended application seeks approval for the demolition of existing structures and construction of a 22 storey building comprising 54 units, a small ground floor retail tenancy and basement car parking.

The amended proposal is permissible pursuant to the *Hornsby Local Environmental Plan 2013* and complies with the Height of Buildings and Floor Space Ratio development standards under the LEP. In addition, the amended proposal is now considered to provide for design excellence in the Epping Town Centre and is therefore consistent with clause 6.8 of the LEP. Furthermore, the design amendments to the southern and eastern facades are considered to more appropriately relate to the heritage item at No. 31 Oxford Street and the proposal is considered to be consistent with clause 5.10 of the LEP.

The amended proposal is now consistent with the design principles of SEPP 65 and the non-compliances with the building separation requirements of the *Residential Flat Design Code* are supportable in this instance on the basis that the Site is deemed to be isolated with the owner of the southern adjoining land at No. 33 Oxford Street indicating that it is not intended to develop that land for more than 4 storeys and no reasonable opportunity being available for amalgamation with the southern or northern adjoining parcels.

The amended proposal predominantly complies with the relevant provisions of the *Hornsby DCP* and the non-compliances with the side setback controls are supportable in this particular instance as the Site is deemed to be isolated and the design amendments to the facades now achieve a building aesthetic that is inconsistent with the desired future character of the locality.

Accordingly, the proposed development is recommended for approval subject to the Conditions stated 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. Amended Architectural Plans
4. Amended Landscape Plans
5. Report to JRPP of 26 May 2016
6. Report to JRPP of 2 December 2015

## SCHEDULE 2 – CONDITIONS OF CONSENT

### 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. Right of Access Details

A plan showing the extent of the 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.

Such information shall be submitted within twenty four (24) 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:

<b><i>Plan No.</i></b>	<b><i>Drawn by</i></b>	<b><i>Dated</i></b>
A-2.01 Rev M Basement Plans 1	MKD Architects	June 2016
A-2.02 Rev M Basement Plans 2	MKD Architects	June 2016
A-2.03 Rev M Ground Floor Plan	MKD Architects	June 2016
A-2.04 Rev M Level 1 Floor Plan	MKD Architects	June 2016
A-2.05 Rev M Level 2 Floor Plan	MKD Architects	June 2016
A-2.06 Rev M Level 3 Floor Plan	MKD Architects	June 2016
A-2.07 Rev M Level 4-7 Floor Plans	MKD Architects	June 2016

<b>Plan No.</b>	<b>Drawn by</b>	<b>Dated</b>
A-2.08 Rev M Level 8 Floor Plan	MKD Architects	June 2016
A-2.09 Rev M Level 9-12 Floor Plans	MKD Architects	June 2016
A-2.10 Rev M Level 13 Floor Plan	MKD Architects	June 2016
A-2.11 Rev M Level 14-18 Floor Plans	MKD Architects	June 2016
A-2.12 Rev M Level 19-21 Floor Plans	MKD Architects	June 2016
A-2.13 Rev M Adaption Plans 1	MKD Architects	June 2016
A-2.14 Rev M Adaption Plans 2	MKD Architects	June 2016
A-3.01 Rev M Oxford Street Elevation	MKD Architects	June 2016
A-3.02 Rev M North Elevation	MKD Architects	June 2016
A-3.03 Rev M West Elevation	MKD Architects	June 2016
A-3.04 Rev M South Elevation	MKD Architects	June 2016
A-3.05 Rev M Streetscape Elevation	MKD Architects	June 2016
A-4.01 Rev M Sections	MKD Architects	June 2016
A-6.01 Rev M Façade Section 1 – Podium	MKD Architects	June 2016
A-6.02 Rev M Façade Section 2 – Concrete Balustrades	MKD Architects	June 2016
A-6.03 Rev M Façade Section 3 – Bat Window	MKD Architects	June 2016
SS15-3020 000 Rev D Cover Sheet	Site Image	14/06/2016
SS15-3020 101 Rev D Landscape Plan Level 1	Site Image	14/06/2016
SS15-3020 102 Rev D Landscape Plan Level 3	Site Image	14/06/2016
SS15-3020 103 Rev D Landscape Plan Level 8	Site Image	14/06/2016
SS15-3020 501 Rev D Landscape Details	Site Image	14/06/2016
SS15-3020 502 Rev D Indicative Plant Schedule & Specification Notes	Site Image	14/06/2016
150113 D00 Rev B Stormwater Drawing Cover Sheet	Australian Consulting Engineers	07/03/2016
150113 D01 Rev C Stormwater Basement Level 3	Australian Consulting Engineers	01/12/2015
150113 D02 Rev C Stormwater Basement Level 2	Australian Consulting Engineers	01/12/2015
150113 D03 Rev C Stormwater Basement Level 1	Australian Consulting Engineers	01/12/2015

<b>Plan No.</b>	<b>Drawn by</b>	<b>Dated</b>
150113 D04 Rev B Basement Stormwater Drainage Details	Australian Consulting Engineers	21/09/2015
150113 D05 Rev E Ground Level Stormwater Drainage Plan	Australian Consulting Engineers	04/03/2016
150113 D06 Rev D Level One Stormwater Drainage Plan	Australian Consulting Engineers	07/03/2016
150113 D07 Rev E OSD Section and Site Stormwater Drainage Details	Australian Consulting Engineers	07/03/2016
150113 D08 Rev B Erosion and Sediment Control Plan	Australian Consulting Engineers	07/03/2016
150113 D10 Rev B OSD to Existing Pit Longitudinal Section	Australian Consulting Engineers	07/03/2016

<b>Document No.</b>	<b>Prepared by</b>	<b>Dated</b>
Design Verification Statement	MKD Architects	13/11/2015
BASIX Certificate No. 628546M_07	Efficient Living	15/06/2016
BASIX Stamped Plans – Certificate No. 14733464	Tracey Cools	15/06/2016
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
Catchment Analysis Report	Australian Consulting Engineers	07/03/2016

In the event of any inconsistency, the abovementioned architectural plans will prevail over other plans or documentation.

## 2. Plans not Approved

This development consent does not include approval for the stratum or strata subdivision of the proposed development.

## 3. Amendment of Plans

The approved plans are to be amended as follows:

- a) 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;

- b) Motorcycle Spaces No. MS-03 at Basement Levels 1, 2 and 3 are to be deleted (i.e. 3 spaces total) and one (1) car space is to be converted into four (4) motorcycle parking spaces which must be accessible directly from a parking aisle;
- c) 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;
- d) 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;
- e) The proposed Blackbutt screens to the balconies at Levels 1 and 2 fronting Oxford Street (annotated as 'PS' on the approved plans) are to be replaced with white louvre panels (annotated as 'PS2' on the approved plans);
- f) The highlight windows in the southern elevation at Levels 3-7 are to be non-operable, tinted black and are to be acoustically treated as required by Condition 13.
- g) The highlight windows in the southern elevation at Levels 8-7 are to be tinted black and are to be acoustically treated as required by Condition 13.
- h) 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.*

- i) The commercial bin room is to be reduced in size to provide for a pedestrian access from the lift lobby to the service walkway along the northern edge of the ground floor level for carting recycling bins to the bin storage room/waste collection area and to provide more direct access for residents to the bicycle

parking spaces at the ground floor level or alternatively, at least one of the residential lifts must have a rear opening to the loading dock area.

#### 4. Height of Buildings

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

#### 5. 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.

#### 6. 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 2014-2024*, 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	\$19,754.40
Open Space and Recreation	\$564,490.15
Community Facilities	\$217,006.90
Plan Preparation and Administration	\$1,837.10
<b>TOTAL</b>	<b>\$803,088.55</b>

being for 12 x 1 bed, 36 x 2 bed, 6 x 3 bed units and 57m<sup>2</sup> of retail floor space and credit for 435m<sup>2</sup> of existing commercial floor space.

- a) The value of this contribution is current as at June 2016. 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
- $\text{CPI}_{PY}$  is the latest release of the Consumer Price Index (Sydney – All Groups) at the date of Payment as published by the ABS.
- $\text{CPI}_{DC}$  is the Consumer Price Index (Sydney – All Groups) for the financial quarter at the date applicable in this Development Consent Condition.

- b) The monetary contributions shall be paid to Council:
  - i) prior to the issue of the Subdivision Certificate where the development is for subdivision; or
  - ii) prior to the issue of the first Construction Certificate where the development is for building work; or
  - iii) prior to issue of the Subdivision Certificate or first Construction Certificate, whichever occurs first, where the development involves both subdivision and building work; or
  - iv) prior to the works commencing where the development does not require a Construction Certificate or Subdivision Certificate.

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

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

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

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

## **8. 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.

## **9. 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.

## **10. 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.

## **11. 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.

## **12. Storage**

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

## **13. Acoustic Report**

The approved Acoustic Report by Acoustic Logic dated 15 April 2015 is to be updated to reflect the approved plans (as amended). The mitigation measures proposed within the report are to be applied to the development to ensure achievement of the following noise goals, being that the following LAeq levels are not exceeded:

- a) In any bedroom in the building – 35bD(A) at any time between 10pm and 7am.
- b) Anywhere else in the building (other than a garage, kitchen, bathroom or hallway) – 40bD(A) at any time.

This is to address noise from the playground of the adjacent school to the windows on the south facing elevation.

**14. Sydney Water – Quick Check**

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

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

**15. 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.

**16. 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**".

**17. 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 the kerb line in Oxford Street. The stormwater drainage plans shall detail all works required to provide drainage for the subject site 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 the Local Government authority under Sec 138 of the Roads Act.

**18. 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.

#### **19. 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.

#### **20. 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 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 7m<sup>3</sup> utilising Stratacell or approved equivalent structural support pavement above the tree pit area.

## **21. 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 Council in accordance with Sec 138 of the Roads Act.

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

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

- a) A copy of the plans shall be submitted for consideration and written approval by Council prior to the release of the Construction Certificate.
- b) The plans shall detail the order of construction works and arrangement of all construction machines and vehicles being used at the same time during all stages;

- c) The CTMP plans shall be in accordance with the approved Development Application plans and the Development Consent conditions;
- d) 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 Council;
- e) 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;
- f) 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;
- g) 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;
- h) The Applicant and all employees of contractors on the site must obey any direction or notice from the Prescribed Certifying Authority or Council in order to ensure the above;
- i) The plan shall provide that during excavation works, rock removal must be undertaken by sawing instead of rock hammering, wherever practicable;
- j) The Applicant and all employees of contractors on the site must obey any direction or notice from the Prescribed Certifying Authority or Council in order to ensure the above; and
- k) If there is a requirement to obtain a Work Zone, partial Road Closure or Crane Permit an application to Council is to be made prior to the issue the Construction Certificate.

### **23. 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.

## **24. Waste Management Details**

The following waste management requirements must be complied with:

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

- e) 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.*

- f) 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.

## **25. 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.

## **26. Structural Design**

The structural design must incorporate a non load-bearing wall to the southern side of the loading bay at the Ground Floor Level to enable a future vehicular connection to the southern adjoining land at No. 33 Oxford Street.

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

## **27. 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.

## **28. 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.*

**29. 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*.

**30. 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.*

**31. 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.

<b>REQUIREMENTS DURING DEMOLITION AND CONSTRUCTION</b>
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**32. Construction Traffic Management Plan Compliance**

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

**33. 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.

#### **34. 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.

#### **35. 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.

#### **36. 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.

#### **37. 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.

#### **38. 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.

**39. 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.

**40. 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.

**41. 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.

**42. 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.

**43. Council Property**

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

#### **44. 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.

#### **45. 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.*

#### **46. Vehicle Movement Restrictions**

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

#### **47. Fulfilment of BASIX Commitments**

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

**48. Sydney Water – s73 Certificate**

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

**49. 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.

**50. 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.*

**51. Retaining Walls**

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

**52. 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.

**53. 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.*

#### **54. 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.*

#### **55. 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.*

## **56. 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 1.

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

## **57. 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.

## **58. 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"**.

## **59. 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



**60. 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.

**61. Unit Numbering**

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

**62. 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.

**63. Certification – Acoustic Engineer**

An Acoustic Engineer must submit to the Principal Certifying Authority documentation stating that the completed works have been carried out in compliance with the approved documents and the relevant conditions of consent including Condition 13.

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

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

**65. Sight Lines**

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

**66. Car Parking**

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

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

**67. Allocation of Car Parking**

A minimum of 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.

**68. Disabled Parking**

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

**69. Bicycle Parking**

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

**70. Motorcycle Parking Spaces**

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

**71. 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.

**72. 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.

**73. 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*.

**74. 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).

## **75. 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 Council.

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

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

### **Tree and Vegetation Preservation**

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

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

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

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

### **Disability Discrimination Act**

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

### **Covenants**

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

### **Dial Before You Dig**

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

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

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

### **Asbestos Warning**

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

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

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

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

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

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

### **House Numbering**

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