

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

<b>JRPP No</b>	2015SYW179
<b>DA Number</b>	DA/1381/2015
<b>Local Government Area</b>	Parramatta City Council
<b>Proposed Development</b>	Demolition of existing structures, retention of a heritage item and construction of a seventeen storey mixed-use development comprising ground floor retail over basement carpark and shop-top housing comprising 254 units in two residential towers
<b>Street Address</b>	Lot A DP 354692, Lots 1A and 1B DP 102387 and Lot C DP 389716 Nos. 30 – 42 Oxford Street, Epping
<b>Applicant/Owner</b>	Applicant -Grocon Developments Group Pty Ltd Owner - Zhengtang Epping Holdings Pty Ltd
<b>Number of Submissions</b>	Four submissions from three residents
<b>Regional Development Criteria</b>	Capital investment Value - \$99,502,438 (> 20 million)
<b>List of All Relevant s79C(1)(a) Matters</b>	<ul style="list-style-type: none"> <li>• Hornsby Local Environmental Plan 2013</li> <li>• State Environmental Planning Policy No. 32 – Urban Consolidation</li> <li>• State Environmental Planning Policy No. 55 – Remediation of Land</li> <li>• State Environmental Planning Policy No. 65 – Design Quality Residential Flat Development (Amendment 3)</li> <li>• State Environmental Planning Policy (Infrastructure) 2007</li> <li>• State Environmental Planning Policy (Building Sustainability Index – BASIX) 2004</li> <li>• Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005</li> <li>• Hornsby Development Control Plan 2013</li> <li>• Hornsby Section 94 Contributions Plan 2012-2021</li> </ul>
<b>List all documents submitted with this report for the panel's consideration</b>	Locality Plan, Survey Plan, Site Plan, Basement plans, Floor Plans, Elevations and Sections, Photomontage, Landscape Plans, Shadow Diagrams, Solar Access and Cross Ventilation, Details and finishes
<b>Recommendation</b>	Approval as a deferred commencement
<b>Report by</b>	Aditi Coomar - Senior Town Planner (Hornsby Shire Council)

## ASSESSMENT REPORT AND RECOMMENDATION

### EXECUTIVE SUMMARY

- The application involves demolition of existing structures, retention of a heritage item and construction of a seventeen storey mixed-use development comprising ground floor retail over basement carpark and shop-top housing comprising 254 units in two residential towers.
- The applicant has made a submission in accordance with Clause 4.6 'Exceptions to development standards' of the *Hornsby Local Environmental Plan 2013* to vary Clause 4.3 "Height of Building". The submission is considered well founded and is supported.
- The proposal is generally consistent with Clause 6.8 Design Excellence of the Hornsby Local Environmental Plan 2013, the objectives of *State Environmental Planning Policy No. 65 – Design Quality of Residential Flat Development*, the *Apartment Design Guidelines* and the *Hornsby Development Control Plan*.
- Four submissions have been received in respect of the application from residents of three properties.
- It is recommended that the application be approved as a deferred commencement subject to the creation and registration of an easement to drain via the adjoining downstream property.

### RECOMMENDATION

THAT the Sydney West Joint Regional Planning Panel assume the concurrence of the Secretary of the Department of Planning and Environment pursuant to Clause 4.6 of the *Hornsby Local Environmental Plan 2013* and approve Development Application No. 1381/2015 for demolition of existing structures, retention of a heritage item and adaptive reuse and construction of a seventeen storey mixed-use development comprising ground floor retail over basement carpark and shop-top housing comprising 254 units in two residential towers at Lot A DP 354692, Lots 1A and 1B DP 102387 and Lot C DP 389716 Nos. 30 – 42 Oxford Street, Epping 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

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## **BACKGROUND**

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

On 31 July 2015, the applicant lodged PL/96/2015 requesting pre-DA advice from Council with regarding the redevelopment of the site. The initial proposal presented at the meeting comprised a single long residential tower at the rear of the existing heritage listed building at No. 38 Oxford Street. Council raised concerns regarding the initial design of the development and provided urban design advice from an independent consultant.

Several meetings were held between Council officers, the applicant and the Council appointed independent urban designer to discuss a suitable outcome for the site.

On 22 October 2015, the subject application was lodged with Council. The application initially proposed retention of the heritage building and construction of a seventeen storey mixed-use development with ground floor retail premises and shop-top housing in the form of two residential flat buildings comprising 279 units over basement carpark. The application was referred to an independent urban design consultant for review.

Upon the initial assessment of the proposal Council sent a letter to the applicant on 13 January 2016, raising concerns regarding the non-compliance with height, the design excellence clause, heritage provisions, car parking and waste provisions.

On 24 February 2016, Council briefed the Joint regional Planning Panel regarding the development application. The Panel raised concerns regarding the non-compliance with the height and the appropriateness of the submitted Clause 4.6 variation in addition to the departure from the Design Excellence clause.

Following Council's initial assessment of the proposal and the comments from the Joint Regional Planning Panel, a meeting was held between the applicant and Council officers in March 2016 to discuss possible amendments.

On 16 May 2016, amended plans were lodged by the applicant, which sought to address Council's concerns by proposing the following:

- 254 units over basement carpark;
- Amendments to the design of the podium level to address concerns raised by Council's heritage planner;
- Amendments the unit layouts and the overall floor plans for both the towers to provide improved building separation and reduced overshadowing impacts;
- A Clause 4.6 variation to justify the departure to the height; and
- Improved elevations for both the residential towers by introducing lightweight elements at the top levels and including a distinct top, middle and base.

The amended plans were re-notified until 8 June 2016.

On 27 June 2016, further amended plans were lodged with Council to include additional parking, provide appropriate height clearance for waste collection vehicles and a waste collection area. The amended plans are the subject of this report.

## **SITE**

The irregular shaped site comprises four allotments known as No. 30, Nos. 32 – 36, No. 38 and No. 42 Oxford Street, Epping. The subject site has a frontage to Oxford Street of 60.32m, a consolidated area of 5,170m<sup>2</sup> and average cross fall of 5% to the north-eastern corner (rear).

Existing improvements on the site include the following:

- No. 30 Oxford Street: A two storey shop along the street frontage with at grade carpark at the rear;
- No. 32 – 36 Oxford Street: A single storey shop and medical centre at the front with two storey residential flat building with 8 x 2-bedroom units, a gravel car park and grassed area at the rear;
- No. 38 Oxford Street: A two storey brick shop with metal roof; and
- No. 42 Oxford Street: A church complex.

No. 38 Oxford Street is listed as a heritage item (No. 804 - House/Shop) of local heritage significance under the provisions of Schedule 5 (Environmental Heritage) of the *Hornsby Local Environmental Plan 2013 (HLEP)*.

Vegetation within the site includes a mix of native and exotic trees located along the rear setbacks of the existing allotments.

This site is within the Epping Town Centre Urban Activation Precinct (ETCUAP), approximately 125 metres north-east of Epping Rail Station and in close proximity to a range of other retail, commercial, education, open space and recreational facilities in an around the Epping Town Centre. The Epping Town Centre comprises of a range of multi-storey office buildings, retail shops, medium density residential development, schools, places of public worship and other ancillary uses.

The site adjoins the St. Albans Anglican Church and ground at Nos. 3 – 5 Pembroke Street along the southern and eastern boundaries of Nos. 32 – 36 and No. 42 Oxford Street. Medium density residential developments fronting Essex Street also adjoin the rear (eastern) boundary of No. 42 Oxford Street.

The southern boundary of No. 30 Oxford Street adjoins a residential complex (Raymond Terrace) accommodating two storey residential flat buildings with intermediate open spaces. A number of units within this complex have balconies and openings orientated towards the site. Development along the opposite Oxford Street generally comprises more traditional two storey retail/commercial shops.

Notwithstanding the existing character described above, the locality has been identified as having a future character of high density mixed use buildings. The site adjoins R4 High Density Residential zone to the rear (east) and part of the southern boundary.

The site is now part of Parramatta City Council following the proclamation on 12 May 2016 that created a number of New Council entities, formed through mergers and boundary changes.

## **PROPOSAL**

The proposal involves the following:

- Retention of the heritage item at No. 38 Oxford Street and adaptive reuse as a two storey commercial building;
- Demolition of all remaining structures;
- Provision of a mixed use development in two, seventeen storey towers with ground floor retail/commercial fronting Oxford Street and fifteen levels of shop-top housing;
- Tower A would front Oxford Street and Tower B would be located at the rear;
- A total of 254 residential units are proposed comprising a unit mix of 46 x 1 bedroom, 182 x 2 bedroom and 26 x 3 bedroom units. Balconies fronting the front, side and rear setbacks are proposed for the units;
- Construction of three levels of common basement car park servicing all components of the site with 292 car spaces for residents, visitors and the commercial component, bicycle and motorbike parking spaces accessed via a 6.5m wide driveway along the northern boundary of the site;
- Tower A would include a two storey podium (8m high) with shop-top housing, comprising fifteen levels of residential development accommodating 131 units;
- The ground floor of the podium for Tower A would include retail floor space, a café within the heritage building with direct access from Oxford Street and the pedestrian foyer for the residential levels above. The foyer would be accessed via a plaza along the northern side of the heritage building. Two centralised lifts located in this foyer would provide access to the upper levels;
- The first floor of the podium would comprise 7 residential units and the upper level of the existing heritage listed commercial building on the site;
- Tower B comprises seventeen levels of residential units only (123 units in total), being accessed via a foyer at the ground level with two lifts providing access to the upper levels;
- Ground floor units for Tower B would include large private courtyards extending to the site boundaries;
- The residential tower levels for both the towers would be divided into two sections connected by a common service core with the lift, foyer area and garbage collection area at each residential level;

- Balconies to all units for both towers would face the front, rear and the side property boundaries;
- The ground level of the site would also include the following:
  - a) A covered walkway from Oxford Street along the northern side of the heritage building and a covered access from the undercroft of Tower A to the Tower B entry foyer;
  - b) An open air café and public plaza at the north-western edge of the site adjoining the driveway entry. This area is proposed to be landscaped with the inclusion of a water feature;
  - c) A continuous awning along the building frontage to Oxford Street with planting along the nature strip and on-street car parking provision;
  - d) Landscaped lawn areas along the side boundaries (both the northern and southern sides) forming pockets of communal open space including an open air gym for the residents;
  - e) An outdoor extension to the commercial/retail floor space on the eastern side of the podium separated from the communal open spaces by a fence;
  - f) A further retail tenancy at the rear (northern side) of the site, being access via the covered walkway connecting the two Towers;
  - g) A pedestrian walkway along the southern boundary of the site;
  - h) A deep soil landscaped area at the rear (eastern) end of the site; and
  - i) An on-site detention tank and bio retention area within the rear deep soil landscaped area.
- The upper basement level of the development would include the common garbage bin rooms for the commercial and residential components. A garbage loading bay capable of accommodating a Heavy Rigid Vehicle and associated turning areas are also proposed at this level; and
- The site is proposed to drain to an existing Council stormwater system in Essex Street via an existing easement within the adjacent downstream property at No. 14 Essex Street, Epping.

## ASSESSMENT

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

### 1. STRATEGIC CONTEXT

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

*A Plan for Growing Sydney* has been prepared by the NSW State Government to guide land use planning decisions for the next 20 years. The Plan sets a strategy for accommodating Sydney's future population growth and identifies the need to deliver 689,000 new jobs and

664,000 new homes by 2031. The Plan identifies that the most suitable areas for new housing are in locations close to jobs, public transport, community facilities and services.

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

The proposed development would be consistent with ‘*A Plan for Growing Sydney*’, by providing additional dwellings that would contribute to housing choice in the locality by providing 246 additional dwellings and additional services to support a growing population.

## **2. STATUTORY CONTROLS**

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

### **2.1 Hornsby Local Environmental Plan 2013**

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

#### **2.1.1 Zoning of Land and Permissibility**

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

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

The B2 zone permits ‘*shop-top housing*’ but prohibits any other form of “*residential accommodation*”. The *HLEP* defines “shop-top housing” as follows:

**‘shop-top housing** means one or more dwellings located above ground floor retail premises or business premises’.

The proposed development within Tower A is defined as ‘shop-top housing’ under the *HLEP* as all proposed dwellings are located above the uppermost part of the ground floor retail floor space.

The proposed development within Tower B does not comply with the definition of “*shop-top housing*” as majority of the ground floor includes “*residential accommodation*”. In this regard, the proposal relies on the provisions of Clause 5.3 of the *HLEP* (Development near zone boundaries). This matter is discussed below in Section 2.1.2 of this report.

#### **2.1.2 Development near zone boundaries**

The application was reviewed against the objectives of Clause 5.3 in terms of permissibility. Clause 5.3 states the following:

*'The objective of this clause is to provide flexibility where the investigation of a site and its surroundings reveals that a use allowed on the other side of a zone boundary would enable a more logical and appropriate development of the site and be compatible with the planning objectives and land uses for the adjoining zone.'*

*This Clause applies to so much of any land that is within the relevant distance of a boundary between any 2 zones. The relevant distance is 20 metres.'*

The ground floor for Tower B includes residential units which is a prohibited landuse within the B2 zone (being 'residential accommodation').

The application relies on the provisions of Clause 5.3 of the HLEP that allow appropriate development to be located within 20m of the adjoining zone. The site adjoins the R4 – Residential High Density zone to this rear (east) and part of the southern boundary (rear section). The proposed ground floor units are to be located within 20m of the adjoining R4 zone. The application is supported by Legal Advice which states the following:

*"In the current circumstances Clause 5.3 may apply to the land because:*

- i) *The rear boundary of the land adjoins land zoned R4; and*
- ii) *The R4 High Density Residential zone, permits residential flat buildings, dwelling houses and shop top housing with development consent."*
- *In our opinion the Proposal perfectly fits the circumstances in which Clause 5.3 can be utilised as it will result in a more logical and appropriate development of the site and is compatible with the planning objectives and land uses to the R4 zone.*
- *The residential use is consistent with the objectives of both the B2 and R4 zones.*
- *The provision of residential uses at ground floor and the rear of the land is a better and more appropriate planning outcome than ground floor business or retail uses at that location due to the fact that:*
  - a) *Retail uses will be provided at the Oxford Street frontage which is the preferred location for such uses;*
  - b) *Business and retail uses at the rear of the site will not have the benefit of active street frontages and are likely to be unviable and difficult to lease for those purposes.*
  - c) *Residential use at the rear of the site is compatible with adjoining land uses of residences and church use.*
- *The proposal in our view would also meet infrastructure capacity requirements which are evident by the NSW Government's endorsement of the Epping Town Centre as a Priority Precinct.*



Additionally the applicant submits that the residential development at the ground floor of Tower B should be supported due to the following reasons:

- *The proposed use of 'shop-top housing' is appropriate on Oxford Street frontage as ground floor commercial uses activate the street frontage and provide essential services to the local community. It is however noted that in nominating such a use within the zone, the depth of sites was not specifically taken into account;*
- *The subject site is approximately 117m deep at its deepest dimension from Oxford Street. The portions of the site that do not have direct frontage to the street are not suitable for ground level commercial uses as they would not receive sufficient passing trade to ensure viability. Strict compliance with the definition of shop-top housing would potentially result in untenanted commercial floor space at the rear that would be inactive and hazardous external public spaces contrary to the intention of shop-top housing.*
- *The provisions of Clause 5.3 allow flexibility and therefore are applicable at this instance. The zone to the east is R4 which is a logical use of the site at the rear, and is one which is currently in use, on parts of the site.*

**Comment:** The intent of Clause 5.3 is to provide for orderly, logical development in circumstances where required.

Clause 5.3(4) further states;

*Development consent may be granted to development of land to which this clause applies for any purpose that may be carried out in the adjoining zone, but only if the consent authority is satisfied that:*

- a) the development is not inconsistent with the objectives for development in both zones, and*
- b) the carrying out of the development is desirable due to compatible land use planning, infrastructure capacity and other planning principles relating to the efficient and timely development of land.*

The proposed residential units would not be inconsistent with the objectives of both the zones. The use of the land would be compatible with the adjoining R4 zone with appropriate building separation. The applicant's submission is supported in that the commercial developments at ground level for Tower B would have limited viability due to the lack of street frontage and distance from the main entry to the site. The location of such developments would also increase the risk of inactive spaces within the site which are not envisaged in the precinct.

While the Metropolitan Strategy identifies Epping as a Town Centre, 'A Plan of Growing Sydney' does not identify the Epping town centre as one of the strategic centres of Sydney. Part 4 of the *HDCCP* identifies the role of Epping Town Centre within Hornsby Shire to be to be predominantly a village that should be the preferred location for small and medium scale commercial/retail uses that serve the local community with limited office use and dwellings on the upper levels, as per the "*Structure Plan of the Epping Urban Activation Precinct*". The development in its current form reinforces this role and the additional residential dwellings would not contradict the function of the role and function of the centre.

Accordingly, the proposed residential use on the ground level at the rear of the site is acceptable due to compatible landuse planning and efficient use of land. The use of the land would not result in a negative impact on the anticipated infrastructure capacity of the area.

The proposal is acceptable in this regard.

### **2.1.3 Height of Buildings**

Clause 4.3 of the *HLEP* provides that the height of a building on any land is not to exceed the maximum height shown for the land on the Height of Buildings Map. The maximum permissible height for the site is 48 metres. The proposal would result in a maximum height of 51.3m to the roof of the buildings and 52.8m to the lift overruns which does not comply with this provision. The applicant has made a submission in accordance with Clause 4.6 'Exceptions to development standards' of the *HLEP* to vary Clause 4.3 "Height of Building". The submission is addressed below in Section 2.1.5 of this report.

### **2.1.4 Floor Space Ratio**

Clause 4.4(2) of the *HLEP* provides that the floor space ratio (FSR) on any land is not to exceed the maximum shown for the land on the Floor Space Ratio Map. The maximum permissible FSR for the precinct in accordance with the map is 4.5:1. The development proposes a FSR of 4.5:1 and complies with this provision.

### **2.1.5 Exceptions to Development Standards**

The application has been assessed against the requirements of Clause 4.6 of the *HLEP*. This clause provides flexibility in the application of certain development standards to a particular development to achieve better outcomes by allowing flexibility in particular circumstances.

The proposal exceeds the 48 maximum building height prescribed under Clause 4.3 of the *HLEP*. The objective of the development standard is:

- *to permit building heights that are appropriate for the site constraints, development potential and infrastructure capacity of the locality.*

The applicant has made a submission in support of a variation to the development standard in accordance with Clause 4.6 of the *HLEP*. The development application seeks to vary the development standard by a maximum of 4.8m, the highest point of the lift overruns being at RL 155.00 for Tower A and RL 156.1m for Tower B. The application proposes a seventeen storey high development in lieu of the fifteen storey development stipulated by the *Hornsby Development Control Plan 2013*. The restriction on the number of storeys is provided to ensure that the lift overrun, plant rooms and any basement projections above ground can be fitted within the prescribed height limit of 48m. The non-compliance with the height results in one additional residential level above the 48m height limit. The applicant states the proposed variation is considered to be consistent with the objectives of the control and is justified as follows:

- *The site possesses unique characteristics. Particularly in its northern portion, the site is relatively deep for its width. When considered in the context of its zoning and permissible uses, this deep portion of the site presents specific challenges and opportunities with regard to its orderly development. Conventional development of this deep portion of the site with a street wall to Oxford Street would result in*

*significant remnant ground level space behind the street and isolation of retail spaces at the rear of the site.*

- *The two-storey shopfront and residence at No.38 Oxford Street is listed in Schedule 5 to the Hornsby LEP, 2013 as an Item of Local Heritage Significance. In accordance with the submitted Heritage report, the building has always been an isolated element along the Oxford Street frontage and the side elevation (being a wall) is exposed to view pedestrians and vehicles on the street. It is assessed as a moderate contributory element to the heritage significance of the Item.*
- *In order to address the constraints of the site due to its depth and to retain and enhance the western (shopfront) and northern facades of the heritage item, no structures are proposed on the northern side of the heritage item to open up the ground level at this point.*
- *The corresponding gross floor area (GFA) has been transferred to the additional level at the top (1073 sqm).*
- *By opening up the northern portion of the site to Oxford Street and transferring the available GFA to the upper levels of the two proposed towers, three substantial benefits are realised:*
  - i) *A high quality public plaza is created in a key location within a short walking distance of the Epping rail station;*
  - ii) *The heritage listed shopfront on the site is retained in its current presentation to Oxford Street and enhanced with an open, useable address;*
  - iii) *Potentially unviable retail GFA at ground level is replaced with additional high quality housing at the top of the towers.*
- *With respect to conservation of the unique heritage values of the site, the proposed plan for the ground floor is a significant improvement on the alternative of a continuous street wall to Oxford Street.*
- *The open area at the ground level adjoining the heritage building would provide free public access.*
- *Impacts with regard to bulk, scale and privacy have been addressed by ensuring consistency of the proposal with the site separation guidelines in the SEPP 65 Apartment Design Guide.*
- *Shadow diagrams illustrate that the additional height will result in no appreciable change to overshadowing impacts when compared to a development of a compliant height.*
- *The relatively modest additional height proposed contributes to the delivery of a high quality development on this site by transferring ground level GFA that may have negative impacts with regard to heritage and ground level activity and converting this to high quality residential GFA that provides additional housing stock and housing choice. The proposed height variation realises the development potential of the site and provides a higher quality outcome than the alternative solution.*

- *Given that the proposal as varied will not result in additional GFA over and above the permissible amount for the site, it is clear that there is sufficient infrastructure capacity in the locality to address the additional demands generated by the proposal.*
- *The submitted Clause 4.6 document provides strong evidence that the proposed height variation would have clear positive outcomes including provision of a high quality public domain, protection and enhancement of identified heritage values specific to the site and provision of high quality housing that would contribute to housing choice in the locality. These outcomes are all consistent with the aims of the Epping Priority Precinct Plan to revitalize the area through provision of additional commercial and residential floor space in a high quality public domain within a 400m radius of the Epping rail station.*
- *The development is consistent with the zone objectives and would be in the public interest due to the following reasons:*
  - i) *It would allow for new street level retail space supported by a new public plaza;*
  - ii) *It would provide employment opportunities delivered as a result of the variation would be enhanced by the provision of retail space supported by the proposed public plaza; and*
  - iii) *It would contribute to substantial opportunities for public transport patronage, walking and cycling through new retail and public domain initiatives that would positively benefit public transport users, walkers and cyclists.*

**Comment:** The proposed height variation and the submitted Clause 4.6 variation have been assessed against the established principle in the case of *Four2Five Pty Ltd v Ashfield Council [2015] NSWLEC 1009*, by the Land and Environment Court. The judgement established that *“To accept a departure from the development standard, the context of the site should be considered and it should be demonstrated that the development promotes the proper and orderly development of land as contemplated by the controls applicable to the zone of the land, which is an objective of the Act (s 5(a)(ii)) and which it can be assumed is within the scope of the “environmental planning grounds” referred to in cl 4.6(4)(a)(i) of the LEP”*. In accordance with the views expressed in this decision, sufficient environmental planning grounds, unique to a site, must be demonstrated by the applicant for the Clause 4.6 variation request to be upheld.

In this context, the submitted Clause 4.6 document is considered well founded due to the following reasons:

- The site includes a heritage item of local significance pursuant to the provisions of the *Hornsby Local Environmental Plan 2013* which forms a unique characteristic in addition to the irregular shape with a substantially greater depth compared to the width of the site;
- The proposal retains the heritage item and proposes adaptive reuse rather than demolition of the item to facilitate a compliant development on the site;

- The proposal respects the contributory facades (being the northern and western facades of this item) and provides an open space/partial public plaza at the ground level in lieu of a two storey podium extending between the side boundaries of the site;
- The development proposes a 2-storey podium rather than a 3-storey podium as required by the *Hornsby Development Control Plan 2013 (HDCP)* to be consistent with the heritage item;
- Detailed analysis submitted with the document identifies the potential loss of gross floor area at the podium levels and levels 2 and 3 of the development for Tower A due to the proposed design when compared to a compliant development on the site;
- The gross floor area added to the development above the stipulated 48m height equals the loss of floor area at the ground and podium levels;
- Although the proposal would result in transferring of commercial floor space at the ground floor to residential floor space on the upper level, the ground floor area would be utilised as an open café and public plaza. Therefore, the additional residential floor space is not gained by deleting commercial floor space at the ground level. As prescribed in the desired future character for the “*Epping Town Centre Core – East Precinct*” in the *HDCP*, the development will continue to provide traditional main street activities of Epping Town Centre while servicing the residential population in the area;
- Additional outdoor areas are proposed as an extension to the retail space on the eastern side of Tower A at ground level. Therefore, loss of traditional commercial floor space has been partially replaced by providing open areas that can be used for various purposes;
- The proposal could have attained additional floor space at the ground level in the form of additional retail/commercial uses on the northern and southern boundaries at the rear of the podium. However, the applicant proposes open landscaped plazas at the ground level between the two towers in lieu of such an extensive podium to create a landscaped corridor between two slender towers that would allow solar access to the residential units and facilitate cross ventilation;
- It is agreed that a compliant scheme would result in retail frontage between the boundaries of the site and isolate any retail or commercial uses at the rear for such a deep site. In its current form the development provides an open public plaza in front with a direct connection to a retail tenancy at the rear of the site;
- Considering the unique characteristics and context of the site, the proposal achieves a better environmental outcome and design excellence for the site in lieu of a design that would be compliant with the prescribed controls within the *HLEP* and the *HDCP*; and
- The proposal would provide a public benefit by creating a well-designed public plaza which is otherwise absent in the area forming a suitable curtilage around the heritage building.

Given the above, it is considered that the development in its current form achieves compliance with the objectives of the development standard “height”, complies with the zone

objectives and achieves the principle established by the Land and Environment Court with regard to Clause 4.6.

Based on this assessment, it is considered that compliance with the development standard would be unreasonable and unnecessary in the circumstances of the case. Accordingly, the proposed variation to the permissible height standard for the site is supported by Council in this instance.

#### **2.1.6 Heritage Conservation**

Clause 5.10 of the *HLEP* sets out heritage conservation provisions for Hornsby Shire.

The existing building at No.38 Oxford Street is listed as a heritage item No. 804 (House/Shop) of local heritage significance under the provisions of Schedule 5 (Environmental Heritage) of the *HLEP*.

The site is also located within the vicinity of the following heritage items:

- No. 393 ("School of Arts" and garden) – 9 Oxford Street;
- No. 392 (Shops) - 10-16 Oxford Street;
- No. 393 (Our Lady Help of Christians Church) – 31 Oxford Street;
- No. 394 (House) – 48 Oxford Street; and
- No 399 (St. Albans Anglican Church and ground) - Nos. 3 – 5 Pembroke Street.

The site is located within the identified buffer zone for the Barren Hills Sawing Establishment (c1821-1831), identified in the Archaeological Report prepared by Archaeology and Heritage Pty Ltd (February 2013) for the Department of Planning and Infrastructure NSW. The report concluded that it is highly likely that archaeological remains are located on the site, although the exact location of remains is not known.

The application proposes the following works in relation to the existing heritage item on the site:

- Partial demolition of the single storey components at the rear of No. 38 Oxford Street;
- Partial demolition of the northern wall to insert a new opening at the ground level;
- Demolition of a section of the floor at the rear to reinstate internal stair access;
- Conservation works in relation to the heritage item; and
- Adaptive reuse as a two storey commercial building with a ground floor café.

The application is supported by a Statement of Heritage Impact (October 2015) and an Archaeological Impact Assessment report.

Council has conducted a detailed assessment of the proposal with regard to retention of the heritage item, adaptive reuse, treatment of the façade and the archaeological significance of the site. The details of the assessment are provided below.

#### *Refurbishment works*

The new refurbishment works would include an opening on the northern wall. No heritage concerns are raised in this regard as the proposal would establish an activated use for the building and integrate the building with the open courtyard. The proposal would also retain the current context of the isolated historic terrace by providing a feature of the blank party wall.

Conditions of consent recommend the submission of detailed plans of the proposed conservation works prior to the issue of a construction certificate (condition No. 25).

#### *New retail shop façade treatment*

The façade treatment for the two storey podium provides a design that complements the heritage listed building. The incorporation of brick at the 'balcony mid-level' relates well to the heritage item. The proposed vertical and horizontal rhythm of the six new vertical fin walls is sympathetic to the heritage significance of the item.

A vertical fin wall has not been provided at the southernmost section of the podium due to a double width opening at mid-level. In this regard, a condition of consent recommends the provision of another vertical fin wall at the southern end of the two storey podium to achieve continuity and harmony along the street frontage (Condition No. 5a).

#### *New retail and residential building*

The building presents as a cohesive architectural element that would complement the new urban development within the precinct and the existing buildings within the streetscape. The forecourt is well designed to engage the heritage item within the development complex, whilst retaining an element of separation by retention of the existing party wall to be visible and interactive to the streetscape. Accordingly, no heritage concerns are raised regarding the proposed tower or forecourt components of the new retail and residential development.

#### *Materials and Finishes*

The submitted drawings illustrate a sympathetic awning (non-glazed), retention of un-painted face brick work, upper timber windows and sympathetic shopfront (dark receive colour scheme) to the heritage item. The proposed materials and finishes for the Oxford Street podium are acceptable.

#### *Archaeological Impact*

The basement excavation for the proposed development would eliminate any archaeological remains that may be connected to the sawmilling camp within the subject site, with the exception of those within the footprint of the heritage building at No. 38 Oxford Street.

However, redevelopment of the site is considered to be acceptable from a heritage perspective given the changing urban context resulting from the rezoning of the Epping Town Centre. Conditions of consent recommend that redevelopment should be preceded by a

programme of archaeological testing to record any remains beforehand as recommended in the Archaeological Impact Report submitted with the application (Condition No. 33 and 34).

#### *Heritage items in the vicinity*

The proposal would be designed in accordance with the requirements of the *Apartment Design Guide* and the prescriptive controls within *Hornsby Development Control Plan 2013*. The proposal would maintain a suitable landscaped buffer from the St. Alban's site adjoining the southern boundary and would not have any additional impacts on the heritage items in the near vicinity.

In summary, the proposal would provide a contemporary development consistent with Council's vision and desired future character for the precinct and would advantageously reconnect the isolated heritage item with the adjacent shop buildings within Oxford Street. The proposal is acceptable on heritage grounds.

#### **2.1.7 Earthworks**

The proposal involves excavation to approximately 10-12 metres below existing ground level and accordingly, the applicant has submitted a desktop geotechnical study prepared by Douglas Partners.

The geotechnical study includes recommendations for excavation methods, vibration monitoring, groundwater monitoring and disposal (if encountered), excavation support for Oxford Street, foundation design and ground floor slab design. A condition is recommended for the proposed development to be constructed in accordance with the recommendations of the geotechnical report (Condition No. 47).

Conditions of consent are also recommended requiring:

- a dilapidation assessment of adjoining properties (Condition 13a);
- use of rock saws only wherever practicable (Condition 22 and 47) and that excavation is not to occur between 12-1pm Monday to Friday, Saturdays, Sundays or public holidays (Condition 37).

#### **2.1.8 Design Excellence**

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

To assist the implementation of 'Clause 6.8-Design Excellence' in the *HLEP*, Council has established a panel of suitably qualified architecture and urban design professionals to undertake a review of the design quality of relevant developments.



In accordance with the above provisions, the original proposal and amendments were referred to *Architects Johannsen and Associates* to undertake an independent urban design review. The assessment of the initial proposal undertaken by the urban designer raised a number of concerns regarding the design of the towers, the style and appearance of the towers, various non-compliances with the *Apartment Design Guide* and *HDGP* requirements relating to setbacks, podium design, building articulation and internal layout.

The proposal has been amended responding to the concerns raised by the urban design consultant. The amended proposal has been reviewed and the urban design comments are summarised below:

- The architectural expression is based on two distinct tower envelopes that have a consistent and complementary architectural language expressive of the base, middle and top, and of individual residential units.
- The enlarged space between Towers A and B, while not fully compliant with the *Apartment Design Guide*, is acceptable and assists in improving the overall massing, with reduced overshadowing issues for St Albans site to the south and east when compared to the original proposal.
- The amended floor plans for both Tower A and B would minimise impacts of the larger floor plates, augment natural light and ventilation, and create a more acceptable bulk and massing in conjunction with the façade detail changes.
- Configuration of the towers and their relationship to adjacent sites would not create any major view loss impacts, and future development of adjacent sites would have scope for generous view corridors to the surrounding district.
- The facade expression includes simplified horizontal bands on the upper levels and a more elegant roof profile. This resolution of horizontal and vertical elements with façade recesses assist reduce overall visual bulk, and provide a consistent overall language with articulation that defines the living units.
- The proposed podium along Oxford Street incorporates bedroom windows to first floor units and will assist street activation with potential for street views and surveillance. Acceptable resolution of the street elevation has also been achieved in relation to the heritage building and overall streetscape. Ground level activation adjacent to the heritage building is coherent, with legible access to the residential foyers of both Towers A and B.
- The podium level façade treatment provides an improved streetscape expression, and will set a quality precedent for future development along Oxford Street.
- For Tower A fronting Oxford Street, a reduced impact of visual bulk is successfully achieved by articulation of the façade within the reduced setback provision.
- Potential visual and acoustic issues within the buildings and the interface of communal and public space at ground level have been addressed appropriately through site planning.

- Provision for landscaping and deep soil planting is generous around the whole site, and includes scope for planting to the perimeter of the forecourt, and visual treatment on a pergola over the car park ramp to soften the visual impact of this service space
- The development has scope for a strong and positive contribution to the quality and amenity of the Epping Town Centre public domain. The forecourt detail is now better explained and presented in a manner that promotes the potential of this communal and public plaza.
- The proposal exceeds the 48m height control limit to achieve maximum FSR of 4.5:1. However, it achieves design quality outcomes that are desirable for the precinct. The massing of the buildings and associated setback provisions within the amended proposal have resulted in various improvements that demonstrate design excellence, and should be considered to support the case for additional height.
- Located within 150m of the Epping railway station, the development would make a strong contribution to increased residential density and amenities close to transport links as well as retail, workplace and educational activities. Provision for bicycle parking has been adequately considered.
- This key Oxford Street site, while capable of development, has an awkward title configuration that presents challenges in the planning. A wide street frontage presents a major opportunity to provide public domain benefits to both the community as well as residents. However, it is considered that the St Albans precinct will be dominated by the new development as expected during the transition period for the new zoning.

In summary, it is concluded that the amended proposal is a substantial improvement over the original scheme and provides for a building form generally envisaged by Council's planning controls as well as providing an appropriate design outcome for the site considering the site constraints.

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

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

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

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

The application is supported by a preliminary site contamination investigation report prepared by Douglas Partners. The report identifies the following sources of contamination for the site:

- Potential contaminants such as heavy metals, TRH, BTEX, PAH, PCB, OCP, OPP, phenols and asbestos in locations where imported fill material may have been used; and
- Weathering of hazardous building materials in current structure (such as lead-based paints and building products containing asbestos).

The report concludes that the site has low to moderate potential to be contaminated and a further site contamination investigation is recommended to determine the amount, contamination status and waste classification of the fill across the site. However, a detailed investigation of the site cannot be undertaken unless the existing buildings are demolished. Accordingly, it is recommended that detailed site contamination assessment and any required remediation measures be carried out, subject to Council's approval, after the demolition of the buildings and prior to the issue of the construction certificate for any other building works on the site.

Conditions of consent, listed in Schedule 1 of this report, have been recommended accordingly (Condition No. 34 and 50).

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

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

The applicant has submitted a "Design Verification Statement" prepared by a qualified Architect stating how the proposed development achieves the design principles of *SEPP 65*. The design principles of *SEPP 65* and the submitted design verification statement are addressed in the following table.

Principle	Compliance
<b>1. CONTEXT AND NEIGHBOURHOOD CHARACTER</b>	<b>Yes</b>
<p><b>Comment:</b> The subject site and surrounding area form part of the Epping Urban Activation Precinct and is subject to substantial urban renewal for high density housing and mixed use developments in the future. The site is located within the Pembroke Street, Epping Precinct of the <i>Hornsby Development Control Plan 2013 (HDCP)</i> adjoining sites with permitted height limits of 48m. The proposal responds to the desired future character of the precinct as envisaged by Council for fifteen storey mixed use developments with podiums, peripheral landscaping and basement car parking.</p> <p>Once the development of the precinct is completed, the proposal would integrate with the surrounding sites and would be in keeping with the future urban form. The proposed building would contribute to the identity and future character of the precinct.</p>	
<b>2. BUILT FORM AND SCALE</b>	<b>Yes</b>

**Comment:** The site has been zoned to permit the height and form of development as proposed and must be considered in this transitional context whereby existing one and two and storey buildings are to be replaced with buildings between 15 - 22 storeys with 2-3 storey podiums.

As discussed in Section 2.1.8 of this report, the amended built form appropriately responds to the *HDCP* controls for a 2 – 3 storey high podium with a tower element that is well articulated to reduce the overall visual bulk of the development. The additional height of the development does not add to the visual bulk of the development due to the setbacks at the top level. The development achieves a scale consistent with the desired outcome for the precinct. The non-compliance with the height has been addressed in Section 2.1.4 of this report.

### 3. DENSITY

**Yes**

**Comment:** The proposal complies with the FSR requirements of the site pursuant to the *HLEP*. The proposed density is considered to be sustainable as it responds to the regional context, availability of infrastructure, public transport, community facilities and environmental quality and is acceptable in terms of density.

### 4. SUSTAINABILITY

**Yes**

**Comment:** The application includes good sustainable design including the use of natural cross ventilation and sunlight for amenity and liveability of residents.

The applicant has submitted a BASIX Certificate for the proposed development. In achieving the required BASIX targets for sustainable water use, thermal comfort and energy efficiency, the proposed development would achieve efficient use of natural resources, energy and water throughout its full life cycle, including demolition and construction.

### 5. LANDSCAPE

**Yes**

**Comment:** The application includes a landscape concept plan which provides landscaping along the street frontage in the form of street trees, and as lawn areas with shrubs and trees along the side and rear boundaries.

Canopy trees are proposed along the eastern and southern boundaries of the site intercepted by shrubs and hedges which would soften the appearance of the lower levels of the development when viewed from the adjoining residential zones.

### 6. AMENITY

**Yes**

**Comment:** The proposed units are designed with appropriate room dimensions and layout to maximise amenity for future residents. The proposal incorporates good design in terms of achieving natural ventilation, solar access and acoustic privacy. All units incorporate balconies accessible from living areas and privacy has been achieved through appropriate design and orientation of balconies and living areas. Storage areas have been provided within each unit and in the basement levels. The proposal would provide convenient and safe access via central lifts connecting the basement and all other levels for both the

towers.	
<b>7. SAFETY</b>	<b>Yes</b>
<p><b>Comment:</b> The design orientates the balconies and windows of individual apartments towards the street, rear and side boundaries, providing passive surveillance of the public domain and communal open space areas. Both the pedestrian and vehicular entry points are secured and visibly prominent from Oxford Street.</p> <p>The proposal includes an assessment of the development having regard to <i>Crime Prevention Through Environmental Design Principles (CPTED)</i> and includes details of surveillance, access control, territorial reinforcement and space management such as artificial lighting in public places; attractive landscaping whilst maintaining clear sight lines; security coded door lock or swipe card entry; physical or symbolic barriers to attract, channel or restrict the movement of people; security controlled access to basement car park; intercom access for pedestrians; and security cameras located at the entrance of the building. Appropriate conditions of consent are recommended to require compliance with the above matters.</p>	
<b>8. HOUSING DIVERSITY AND SOCIAL INTERACTION</b>	<b>Yes</b>
<p><b>Comment:</b> The proposal incorporates a range of unit sizes to cater for different budgets and housing needs. The development complies with the housing choice requirements of the <i>HDCCP</i> by providing a component of adaptable housing and a mix of 1, 2 and 3 bedroom dwellings. The proposal responds to the social context in terms of providing a range of dwelling sizes with good access to social facilities and services as the site is located in close proximity to Epping railway station and shops. The communal open spaces along the northern, southern and rear boundaries would provide opportunities for social interaction amongst residents.</p>	
<b>9. AESTHETICS</b>	<b>Yes</b>
<p><b>Comment:</b> The architectural treatment of the building incorporates indentations and projections in the exterior walls with balcony projections to articulate the facades. The roof is flat to minimise building height and incorporates eaves which would cast shadows across the top storey wall. The articulation of the building, composition of building elements, textures, materials and colours would achieve a built form generally consistent with the design principles contained within the <i>Apartment Design Guide</i> and the <i>HDCCP</i>.</p>	

## 2.5 State Environmental Planning Policy No. 65 – Apartment Design Guide

*SEPP 65* was amended on 19 June 2015 following review of the policy by the Department of Planning and Environment. The amendments replace the *Residential Flat Design Code* with the *Apartment Design Guide* which prevails in the event of any inconsistency with a Development Control Plan. Given that the development application was lodged on 22 October 2015, the provisions of the amended *SEPP 65* apply.

Amendment No. 3 of the *SEPP 65* requires consideration of the *Apartment Design Guide*, NSW Department of Planning and Environment 2015. The Guide includes development controls and best practice benchmarks for achieving the design principles of *SEPP 65*. The following table sets out the proposal's compliance with the Guide:

<b>Apartment Design Guide</b>			
<b>Control</b>	<b>Proposal</b>	<b>Requirement</b>	<b>Compliance</b>
<b>Deep Soil Zone</b>	9.5%	7% of site area	Yes
<b>Communal Open Space</b>	30%	25%	Yes
<b>Ground Level Private Open Space</b>	>15m <sup>2</sup> Min Depth of 3m	15m <sup>2</sup> Min Depth of 3m	Yes Yes
<b>Solar Access (Living rooms and private open space areas)</b>	70.4% (179/254)	2 hours for 70% of units	Yes
<b>No Solar Access allowable for units</b>	5.9%	15% of units (max)	Yes
<b>Natural Cross Ventilation (upto 9 storeys)</b>	60.6% (91/150)	60%	Yes
<b>Minimum Dwelling Size</b>	1 br – 50m <sup>2</sup> - 57m <sup>2</sup> 2 br – 75m <sup>2</sup> - 86m <sup>2</sup> 3 br – 95m <sup>2</sup> - 121m <sup>2</sup>	1 br – 50m <sup>2</sup> 2 br – 70m <sup>2</sup> 3 br – 90m <sup>2</sup> + 5m <sup>2</sup> for additional bathrooms	Yes Yes Yes Yes
<b>Habitable room depth from a window for open plan layout</b>	6m to 8.1m	8m from a window (max)	No
<b>Minimum Ceiling Height</b>	2.7m (min)	2.7m (habitable rooms) 2.4m (non-habitable rooms)	Yes
<b>Minimum Balcony Size (minimum depth 2m – 2.4m)</b>	1 bedroom 8 - 18m <sup>2</sup> 2 bedroom 10 - 24m <sup>2</sup> 3 bedroom 15 - 56m <sup>2</sup>	1 bedroom 8m <sup>2</sup> 2 bedroom 10m <sup>2</sup> 3 bedroom 12m <sup>2</sup>	Yes Yes Yes
<b>Maximum Number of Units on a Single Level</b>	6 units	8 units off a circulation core	Yes

<b>Total Storage Area</b>	1 bed - 6m <sup>3</sup> (Min)	1 bed - 6m <sup>3</sup> (Min)	Yes
	2 bed - 8m <sup>3</sup> (Min)	2 bed - 8m <sup>3</sup> (Min)	Yes
	3 bed - 10m <sup>3</sup> (Min)	3 bed - 10m <sup>3</sup> (Min)	Yes
	50% accessible from the apartments	50% accessible from the apartments	Yes

As detailed in the above table, the proposed development generally complies with the prescriptive measures within the *Apartment Design Guide (ADG)* other than the habitable room depth. Below is a brief discussion regarding the relevant development controls and best practice guidelines.

### 2.5.1 Solar Access and Natural Ventilation

The applicant has submitted a shadow analysis demonstrating that 70% of the units would receive two hours of direct solar access between 9am and 3pm during Winter Solstice. The application is acceptable in this regard.

The applicant has also submitted shadow diagrams to demonstrate that the overshadowing impact of the development on the adjoining southern properties would be comparable to that anticipated in the Epping Town Centre shadow study. Being a redevelopment precinct, this is considered acceptable.

The *ADG* requires that 60% of the apartments be naturally cross ventilated in the first nine storeys of the building. Apartments at ten storeys or greater are deemed cross-ventilated unless the balconies are enclosed. As stated in the above table, 60.6% of the units in the first nine storeys are designed to be naturally cross-ventilated and comply with the above requirement.

In addition to achieving compliance with the 60% requirement, it is proposed that a further 34 units within Tower B be cross ventilated by drawing air from the service corridors through above ceilings ducts. However, no details of such ventilation methods have been provided to Council and therefore this is not accepted.

### 2.5.2 Apartment Size and Layout

The proposed residential flat building incorporates a mix of single aspect and corner units comprising of one, two and three bedroom apartments. The majority of apartments would be well ventilated with some corner units provided with dual aspect balconies.

The proposed layout of all units consist of open plan living/dining rooms that have a minimum width of 3.6m for one bedroom units and a minimum width of 4m for two and three bedroom units and all window areas in habitable rooms are greater than 10% in compliance with the *ADG*. The proposal includes windows to habitable rooms so that the depth of the majority of the units is restricted to 8m.

Only 6 units within Tower A would have a living room depth of 8.1m when measured from a window, which does not comply with the *ADG* requirements. The depth exceeds the 8m when the kitchen area is added. The depth of the main living area up to the front of the kitchen would be well within the 8m requirement. The relevant units would have a northern aspect

and the habitable areas would receive sufficient natural light and ventilation. The unit layout complies with the design objectives of the *ADG* and the minor numerical non-compliance does not warrant refusal of the application in this instance.

The *ADG* also prescribes that master bedrooms have a minimum size of 10m<sup>2</sup> with a minimum dimension of 3m excluding wardrobes and all other bedrooms to have a minimum size of 9m<sup>2</sup> with a minimum dimension of 2.8m. The proposed bedroom sizes comply with these requirements. Conditions of consent are recommended to ensure that the wardrobes are sized in accordance with the requirements of the *ADG* (Conditions 23e and 23f).

The proposed outdoor living areas comply with the minimum dimensions required by the *ADG* on all floors and are readily accessible from the primary living areas.

The independent urban design consultant recommends that the balustrade capping detail for balconies should be such that it precludes placement of bottles or glasses with minimal visual impact. This is recommended as a condition of consent (No. 5f).

The unit layouts are assessed as satisfactory subject to the above conditions of consent.

### **2.5.3 Visual Privacy**

The *ADG* includes the following setback requirements for windows and balconies from the side and rear boundaries to maintain “Visual Privacy” between adjoining residential flat buildings:

- Up to 12m (4 storeys): 6m for habitable rooms and balconies and 3m for non-habitable rooms
- Up to 25m (5 – 8 storeys): 9m for habitable rooms and balconies and 4.5m for non-habitable rooms
- Over 25m (9+ storeys): 12m for habitable rooms and balconies and 6m for non-habitable rooms

The northern, eastern and southern boundaries of the site have the potential to adjoin residential flat buildings up to a height of 48m in the future. The permissible height of the buildings adjoining the development to the east (rear) would be 17.5m (5-storeys). Therefore, the visual privacy would not be applicable to all levels above level 5 for Tower B. The proposed setbacks are discussed below in the light of the above requirements and context.

#### *Northern Boundary*

- The development maintains a setback of 9m to windows and balconies for both the towers to the northern boundary to a height of 25m (up to 8 storeys).
- A minimum 12m setback is provided to windows and balconies on all levels above the prescribed 25m height limit.
- The floor plan for Level 8 (the 9<sup>th</sup> storey) shows that living room and bedroom windows have been placed at a minimum distance of 12m, but terraces encroach within the prescribed setbacks to be 9m from the boundary. This does not comply with the *ADG* requirements. Accordingly, a condition of consent (No. 5b) requires that these north-facing balconies be setback 12m from the boundary and the residual areas be treated as non-trafficable roof space only.



Subject to the implementation of the above condition, the proposal is acceptable with regard to visual privacy on the northern side.

#### *Southern boundary Tower A*

- A zero setback has been provided to the podium level (Level 1) in accordance with the *HDGP* which requires that a continuous street frontage be maintained via a 2 – 3 storey podium. The development incorporates a blank wall to the south till the 1<sup>st</sup> floor level;
- A setback of 6m has been provided to windows and balconies on levels 2 and 3 (up to 4<sup>th</sup> storey);
- The building then maintains a continuous setback of 6m – 7.5m from the southern boundary up to the 16<sup>th</sup> floor. Majority of this south facing façade would be treated as a blank wall to comply with the visual privacy requirement of the *ADG*. However, to provide visual relief to the façade, window openings have been provided to three bedrooms at each level.
- The location of all south facing windows above level 3 would not be compliant with the “Visual Privacy” requirements of the *ADG*.
- Each of these bedrooms have an alternative window facing the east or west (on a perpendicular wall) that would provide daylight and ventilation. Thus, the primary purpose of the south facing windows is for aesthetic purposes.
- It is considered that provision of windows along the southern façade is a better design outcome than a 51m high blank wall. To achieve the “visual privacy” requirements, a condition of consent recommends that these windows be unopenable and have obscure glass (Condition No. 5g). This would ensure that the windows act as design features without impacting on the privacy of the adjoining development.
- Similarly the side elevation of the balconies to corner units within Tower A would encroach within the prescribed setbacks above level 4. The applicant proposes vertical privacy screens that would restrict any views to a future development on the southern side. Given that the balconies have alternate aspect to the east or west, the provision of screens is acceptable.

#### *Southern Boundary Tower B*

- A consistent setback of 9m to windows and balconies has been proposed on the southern side of Tower B;
- The tower then steps back to provide a setback of 12m to the southern boundary from level 9 (10<sup>th</sup> storey).
- Terraces on Level 8 (9<sup>th</sup> storey) would encroach within the prescribed 12m setback. Accordingly, conditions of consent recommend that the terraces be reduced in size to have a minimum setback of 12m from the boundary (Condition 5c).

#### *Rear Boundary*

Tower A maintains a minimum setback of 14m from the rear boundary.

Tower B maintains a setback varying between 6m to 19m to the rear boundary up to level 4 (5<sup>th</sup> storey).

In accordance with the *ADG*, Tower B should be set back 9m from the eastern boundary from level 4 and then increasing to 12m from level 8.

In its current form, the proposed design of Tower B includes balconies and living rooms windows for two units on each level up to Level 7 at a setback of 6m from a section of the eastern boundary that adjoins the St Albans site. The remaining section of the building at 6m setback includes ventilation to a corridor and a duct. The proposed setbacks to the living rooms and balconies on the eastern side would not comply with the *ADG* requirements regarding visual privacy. Addition of privacy screens and highlight windows would impact on the amenity of the future residents and are not considered to be acceptable solutions at this location. The non-compliance relates to about 17m of the building length.

The site adjoining this section of the building accommodates a heritage item, St. Albans Anglican Church and ground at Nos. 3 – 5 Pembroke Street. The proposal relies on the location of the heritage item (St Alban's church) on this site to provide a lesser setback for this portion of the building as it is highly unlikely that this site would be developed as a 48m high residential flat building in the future.

The applicant submits that the proposal complies with the *HDGP* requirements of 6m setback to the side and rear boundaries for Tower B. However, the *ADG* requirements prevail over the *HDGP* requirements in regard to building separation and setbacks.

Notwithstanding, the non-compliance is supported due to the following reasons:

- Reduction of the setbacks on the eastern side relying on the existing heritage item at St Albans site is considered to be an acceptable outcome for the site. The retention of the St Albans church site and provision of an appropriate heritage curtilage from this site has been identified in the Key Principles Diagram for "Pembroke Street, Epping precinct" within the *HDGP*. Should the heritage item be retained, the visual privacy controls would not apply and the proposed setbacks would be applicable.
- Council's heritage assessment has not raised concerns regarding the proposed setbacks subject to the implementation of the landscaping provisions along the common boundary.
- Shadow analysis submitted by the applicant show that the resultant overshadowing due to the proposed location of the towers is comparable to the shadow analysis conducted within the Epping Town Centre Shadow Study (prepared in May 2013).
- The design of Tower B is reliant on the irregular shape of the site, the gross floor area requirements of the draft *HDGP* and the building separation requirements on the northern/ southern boundaries as well as internally within the site.
- The width of the tower has been reduced along the east-west axis to maintain a minimum setback of 9m – 12m from the southern boundary. Strict compliance with *ADG* would result in further stepping of the tower along the north-south axis on the upper levels compromising the amenity of the units/unit sizes requiring deletion of two units on each of the upper floors.

- The adjoining site fronts Pembroke Street and shares an irregular common boundary with the subject site. Assuming that the site would be developed in the future as a 48m high residential flat building, the majority of the units would face the front and rear and it is highly unlikely that a building would be built at the north-western corner due to the shape of the site at this location. The view angle would also be offset rather than direct to provide a greater degree of privacy. Given that there is no scope of windows to be located directly opposite this section of the building, the proposed non-compliance is acceptable.

The proposed setbacks to the rear provide a balanced outcome for the site and would not have a negative impact on the adjoining heritage item or a potential future development on the adjoining site to the south-east.

#### *Internal separation*

The development proposes a separation of 12m between windows of habitable rooms and balconies up to level 3 (4<sup>th</sup> storey).

Windows and balconies have been offset on level 4 (5<sup>th</sup> storey) to avoid overlooking opportunities. Only a small section of two balconies would encroach within the prescribed 18m separation. To avoid any overlooking opportunity, the balustrade height for the balcony to the relevant unit within Tower B (Unit 2L.10 on level 4) is recommended to 1.5m high via a condition of consent (No. 5d).

The prescribed 18m building separation is provided between levels 5 and 7 increasing to 18m - 24m on level 8. Encroachments are noted on each level. However, these non-compliances relate to secondary windows of the living areas and are considered acceptable.

Direct lines of sight for windows and balconies have been avoided wherever possible on all floors.

The proposal is assessed as satisfactory with regard to internal building separation within the site.

#### **2.5.4 Internal Circulation**

The ADG prescribes that units accessible from a single core/corridor should be limited to eight. The development is proposed to be designed to have two service cores connected by a central service core/foyer with two lifts. Each core would provide access to a maximum of 6 units.

The internal corridors of Tower B are well ventilated and are assessed as satisfactory up to Level 7. Above Level 8, the corridors are not proposed to be naturally ventilated. The ADG provides design guidance that internal corridors be naturally ventilated to improve the amenity of the common circulation areas where the corridors are long. However, the number of units access off each core above Level 8, vary between 2 to 4. Therefore, the common areas can be described as foyer areas rather than the conventional corridors and the non-compliance does not warrant refusal of the application.

#### **2.5.5 Acoustic Privacy**

The internal layout of the residential units is designed such that noise generating areas would adjoin each other wherever possible. Circulation zones, communal areas or fire stairs would act as a buffer between units. Bedrooms and service areas such as kitchens, bathrooms and laundries would be grouped together wherever possible. It is noted that bedrooms would adjoin the balcony of the adjoining dwelling in certain sections of the building (rear). Solid walls are proposed as buffers in these areas to retain acoustic privacy for future occupants.

The proposal is assessed as satisfactory with regard to acoustic privacy.

#### **2.5.6 Storage**

The proposed buildings include resident storage areas for the apartments. In addition, storage cages are provided in the basement for each unit. It is noted that storage areas are not clearly marked on all units within Towers A and B. Accordingly, condition No. 23d is recommended that each dwelling within the development must have a minimum area for storage 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 provided in addition to bedroom and kitchen cupboards.

In summary, the proposed residential flat buildings have been designed in accordance with the design principles of *SEPP 65* and generally comply with the design objectives of the *Apartment Design Guide* subject to the imposition of appropriate conditions of consent. It is considered the proposal would achieve appropriate residential amenity and contribute to the desired future character of the precinct.

### **2.6 State Environmental Planning Policy (Infrastructure) 2007**

The application has been assessed against the requirements of State Environmental Planning Policy (Infrastructure) 2007. This Policy contains State-wide planning controls for developments adjoining busy roads and railways and traffic generating development. The following matters are required to be considered pursuant to the SEPP.

#### **2.6.1 Traffic Generating Developments**

The development is classified as a Traffic Generating Development in accordance with Clause 104 and Schedule 3 of *SEPP (Infrastructure)* as it would result in a development that would have ancillary parking accommodation of more than 200 vehicles.

A Traffic Impact Assessment Report has been submitted with the proposal which estimates that the proposed development would generate 63(AM) – 52 (PM) vehicle trips per peak hour.

Although this additional traffic may appear to be negligible when compared with the traffic volumes on the adjacent road network for this development alone, the cumulative traffic impacts of all sites earmarked for redevelopment in the precinct would be significant. The cumulative impact has been considered in the strategic transport model for Epping Town Centre Urban Activation Precinct. The State Government has committed funding to address short term (to 2016) regional traffic growth. The recommended road works have been identified in the “*Traffic Management Improvement Plan*” within Section 4.6 of the *HDGP*. The traffic study acknowledged that although the works identified would assist traffic flows,

strategies to manage demand by reducing car usage will be more critical than strategies to increase capacity of existing roads.

The development complies with the minimum number of car spaces required to be provided on-site pursuant to the Roads and Maritime Services guidelines. The proposal was referred to RMS for concurrence. No objections have been raised subject to the submission of a Construction Traffic Management Plan (Condition No. 20).

### **2.6.2 Impact of Noise**

Assessment of the impact of road noise on a residential use is required pursuant to Clause 102 of *SEPP Infrastructure* where a development fronts a road with an annual average daily traffic volume of more than 40,000 vehicles. The average daily traffic volume on Oxford Street in the vicinity of the site does not exceed 40,000 vehicles and therefore, this clause does not apply to the proposal.

Notwithstanding, the application includes an Acoustic Report. The report demonstrates that the development is capable of achieving reasonable amenity and acoustic privacy subject to the implementation of recommended specifications for glazing, construction materials and finishes.

Recommended conditions of consent (Condition No. 23c) ensure that the development is capable of achieving reasonable amenity and acoustic privacy in accordance with the recommendations within the submitted Acoustic Report.

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

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

### **2.8 Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005**

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

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

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

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

The principal purpose of a development control plan is to provide guidance on the aims of any environmental planning instrument that applies to the development; facilitate development

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

## 2.10 Hornsby Development Control Plan 2013

The proposed development has been assessed having regard to the relevant desired outcomes and prescriptive requirements within the *Hornsby Development Control Plan 2013* (HDCP). The following table sets out the proposal's compliance with the prescriptive requirements of the Plan:

<b>Hornsby Development Control Plan 2013</b>			
<b>Control</b>	<b>Proposal</b>	<b>Requirement</b>	<b>Compliance</b>
<b>Site Width</b>	60m	30m	Yes
<b>Height</b>	17 storeys – 52.8m	15 storeys - 48m	No
<b>Floor Space Ratio</b>	4.5:1	4.5:1	Yes
<b>Podium Height</b>	2 storeys (8m)	3 storeys (12m)	Yes
<b>Front Setback</b>			
<b>Podium</b>	0m	0m (max)	Yes
<b>Tower</b>	9m – 12m	12m	No
<b>Balconies</b>	1m projection for 50% of the facade	600mm projection for 50% of the facade	No
<b>Rear Setback</b>	Min 6m	6m	Yes
<b>Side Setbacks</b>			
<b>Podium</b>	0m – 26m	0m	Yes
<b>Tower</b>	Min 9m	6m	Yes
<b>Floorplates</b>	17m – 21m	18m (max)	No

<b>Basement Ramp Setback</b>	2m	2m	Yes
<b>Communal Open Space</b>	50m <sup>2</sup> (min) 6m min. dimension	50m <sup>2</sup> (min) 6m min. dimension	Yes Yes
<b>Parking</b>	228 resident spaces 51 visitor spaces 13 retail spaces 254 bicycle racks 44 visitor bicycle racks 2 commercial bike racks 31 motorbike space	256 resident spaces 37 visitor spaces 13 retail spaces 254 bicycle tracks 26 visitor bicycle racks 2 commercial bike racks 40 Motorbike space	No Yes Yes Yes Yes Yes No
<b>Housing Choice</b>	1br – 18% 2br – 72% 3br– 10%	10% of each type (min)	Yes
<b>Adaptable Units</b>	30%	30%	Yes

As detailed in the above table, the proposed development does not comply with a number of prescriptive requirements within the *HDCP*. It should be noted that draft amendments to the *HDCP* that are currently being exhibited. The *draft HDCP* amendments include major amendments to the floorplate design and setbacks for buildings within the Epping Town Centre.

The matters of non-compliance are detailed below, as well as a brief discussion on compliance with relevant desired outcomes having regard to the *HDCP* and the draft amendments.

#### 2.10.1 Site Requirements

The *HDCP* requires sites to have a minimum frontage of 30 metres. The subject site complies with this requirement. The development would not result in isolation of any site.

#### 2.10.2 Height

The *HDCP* requires that developments on the subject site be restricted to fifteen storeys (48m height limit). The proposal does not comply with the permissible height limit of 48m, applicable to the site and proposes a seventeen storey mixed use development.

The matter has been discussed in Section 2.1.5 of this report and the height non-compliance is supported.

### 2.10.3 Floorplates

As stated in the above table, the residential floorplate for Tower A would exceed the requirements of the *HDCP* although this is not considered to compromise the utility of the unit layouts or the amenity for future residents.

In this regard, the proposal has been designed in accordance with the *draft HDCP* controls as per the guidance of Council officers. The *draft* controls requires that “*Residential floorplates above the podium should have a GFA of 700 sqm. Balconies and terraces may project beyond this maximum*”.

Both the towers have been designed to have a gross floor area of approximately 750sqm reducing to be less than 700sqm on the upper levels. The design of the floorplates is consistent with the desired future character of the area as envisaged in the *draft HDCP* controls.

### 2.10.4 Setbacks

The side and rear setbacks for the development are guided by the Apartment Design Guide and are discussed in Section 2.5.3 of this report.

The front setback for Tower A varies between 9m – 12m which does not comply with *HDCP* controls. In this regard, the *draft HDCP* controls state that “*The tower element of buildings on Oxford Street may encroach within the 12 metre front setback to a minimum of 9 metres for up to 1/3 of the tower width*”.

The development has been designed to be consistent with the above requirement of the *draft HDCP*. Approximately 13m (being <1/3 of the building length of 44m) has a setback of 9m to Oxford Street. The remaining building is setback 12m to the street frontage.

The minor numerical non-compliance in relation to balcony projection would not be perceivable from the public domain, given the overall scale of the development and is acceptable.

### 2.10.5 Design Details

The design of the development is consistent with the prescriptive measures set out in the *HDCP* as follows:

- Buildings are designed with external appearances that provide for a distinctive base, middle and a top;
- Tower forms appear simple, yet elegant, with slim and slender proportions and a delineated top to visually terminate the building;
- The podium maintains a consistent building line except the northern boundary where an open space around the heritage item has been provided;
- Facades above the podium include large openings avoiding large expanses of blank walls;
- A balance between horizontal and vertical elements has been provided; and
- A continuous awning has been provided at the street level above the retail premises.



### **2.10.6 Active frontage**

The *HDCP* requires that 90% of the site frontage be active frontage involving retail/commercial shopfronts and/or residential entries. The proposal complies with this requirement by proposing shopfronts, cafes and public plazas along the entire frontage of the site at ground level.

### **2.10.7 Wind Effects and Reflectivity**

The *HDCP* states that wind effects caused by a development over 40m in height should not exceed 10m/s for active frontages, and 16m/s for all other streets. The proposal does not include an analysis in this regard. The applicant states that wind tunnelling would be controlled by landscaping and tree planting.

Council has received Wind Effects Reports accompanying DA/526/2015 at No. 35 Oxford Street, Epping and DA/681/2015 at Nos. 20 – 28 Cambridge Street, Epping in the near vicinity of the site. The applications involve the construction of 15 – 22 storey towers above 2 – 3 storey podiums. The reports state that various wind related data in Sydney demonstrates that such high rise developments would not be able to meet the active frontage criterion specified in the *HDCP*. Notwithstanding, both the reports conclude that wind conditions along Oxford Street/Cambridge Street and Chester Street will remain similar to existing conditions after addition of the developments and continue to be suitable for use as a main pedestrian access from a comfort perspective, and pass the Lawson safety criterion (The guideline to determination of the wind environment of a building).

The reports recommend that planned awnings along the street frontage, planting of mature trees along the side boundaries, evergreen trees along the street frontage would shield pedestrians from vertical wind flow generated by downwash. Further, porous side walls should be included to balconies to improve wind conditions at the corners.

Given the location of the site and the proposed form of development, the conclusions of the above reports can be utilised in the assessment of this application. The proposal includes a continuous awning along the street frontage and peripheral landscaping with canopy trees to shield wind effects. Further, porous walls (screens) have been provided to the corner balconies at upper levels. The application is assessed as satisfactory with regard to Wind Effects.

The *HDCP* requires that light reflectivity from building materials used on facades should not exceed 20%. A condition of consent is recommended that all materials and finishes have a reflectivity less than 20% (Condition No. 27).

### **2.10.8 Open Space**

The proposed private open space areas comply with the *ADG* requirements and are acceptable. The ground floor private open space areas for Tower B are proposed to extend to the southern and eastern boundaries. Common landscaped areas should be provided along the periphery of a high density development in lieu of extending the private courtyards. Accordingly, a condition of consent recommends that a minimum 5m wide common landscaping strip be maintained along the periphery on the southern and eastern sides of

Tower B and the courtyard fences be relocated to provide the common landscaped area (Condition No. 5i). The amendments to the fencing location would not have any impacts on the minimum ground floor private open space requirements of the ADG.

The primary communal open space is proposed to be located in a plaza at the ground level on the northern boundary of the site. The area would receive sufficient sunlight and be subject to passive surveillance from the two towers. An extension to the communal open space is also proposed at the rear of the site. The proposal is assessed as satisfactory in this regard.

#### **2.10.9 Housing Choice**

As stated in the above table, the proposed development includes a mix of one, two and three bedroom units, including adaptable units complying with the prescriptive measures of the HDCP.

#### **2.10.10 Vehicular Access and Parking**

The proposal includes three levels of basement carpark access via a 6.5m wide driveway off the northern boundary of Oxford Street. The driveway is designed to facilitate Council's Heavy Rigid garbage truck (HRV) access within the upper basement level of the site with forward ingress/egress in compliance with the Australian Standard in terms of gradients, widths and height clearance.

As noted in the above table, resident parking provision within the three levels of basement is less than with the minimum number of car spaces prescribed by the HDCP. In this regard, the proposal relies on the parking rates within the RMS publication "*Guide To Traffic Generating Developments (GTTGD)*" which includes a residential parking requirement of 0.6 spaces/dwelling for 0-1 bedroom units, 0.9 spaces/dwelling for 2 bedroom units and 1.4 spaces/bedroom for 3 or more bedroom units, and 1 visitor space per 5 units.

In accordance with this requirement, the proposal would require 228 residential parking spaces and 51 visitors' car spaces to be provided on site. The proposal complies with this requirement and is consistent with the *Apartment Design Guide* which states that "*for developments within 800m of a railway station, the minimum car parking requirement for residents and visitors is set out in the GTTGD, or the car parking requirement prescribed by the relevant Council, whichever is less*".

The proposal would also provide 31 motorcycle spaces in lieu of the 40 spaces required by the HDCP. The RMS does not include any guidelines for motorcycle spaces in this form of development. As such, the proposal includes provisions for 300 bicycles at the basement level in accordance with the HDCP requirements. Council's traffic assessment in this regard considers this to be a minor numerical non-compliance which does not warrant refusal of the application.

The basement levels include storage areas for residents, bicycle/motor cycle parking areas and accessible car spaces.

#### **2.10.11 Waste Management**

The proposal includes a waste management plan with details of waste management during the demolition phase and the construction phase of building works. The site will require 6 x

1100L garbage bins serviced three times per week plus 4 x 1100L recycling bins serviced twice weekly, plus 2 x 1100L paper/cardboard bins for the residential component of Tower A. Tower B would require 5 x 1100L garbage bins serviced three times per week plus 3 x 1100L recycling bins serviced twice weekly, plus 2 x 1100L paper/cardboard bins.

A garbage chute room is proposed on each residential level of both towers. For the residential component an e-diverter chute system is proposed for both garbage and recycling, with all bins being 1100L.

The chutes would terminate in the residential chute service rooms at the upper basement level. The individual rooms need to accommodate volume handling equipment to automatically change the bin under the chute and provide at least 2 days bin capacity under the chute and space to load and unload bins. Compaction would not be necessary. The chute rooms include sufficient space to store the volume handling equipment. Concerns are raised regarding the distance of chute offset above each room. The applicant submits that detailed technical information regarding the e-diverter and the required chute offset to the recycling bins would be provided at the Construction certificate stage demonstrating compliance with the requirements of the appointed chute supplier. A condition of consent (No. 24) recommends that the e-diverter chute system for each building be designed such that the chute gradient is no less than the minimum gradient recommended by the chute manufacturer. Such details are to be provided prior to the issue of the Construction Certificate.

A residential garbage room has been proposed at the upper basement level to store the bins. The bin room is of sufficient size to store the required number of bins. A site caretaker would use motorised bin carting equipment to cart bins from chute rooms to garbage rooms.

The commercial component of the development would be serviced by for 5 x 1100L garbage bins and 5 x 1100L recycling bins. The bin room is proposed to be located at the upper basement level. A goods lift is proposed to carry commercial garbage from the ground level to the basement level.

A bulky waste storage area of 16m<sup>2</sup> has been provided at the upper basement level and is considered acceptable.

The site would be serviced by a HRV for garbage collection. A loading bay with a temporary bin collection area is proposed on the northern side of the basement. The proposed truck access path, vertical head clearance and collection mechanism have been assessed as satisfactory.

#### **2.10.12 Pembroke Street, Epping Precinct**

The strategy for the redevelopment of this precinct is to incorporate predominantly fifteen storey buildings accommodating residential flats, offices, business or retail premises, serviced by basement parking. Redevelopment should accommodate existing community, education facilities and heritage items.

The proposal is consistent with this strategy by proposing a mixed-use development serviced by basement car parking and accommodating the heritage item. The non-compliance with the height is addressed elsewhere in the report.

The Key Principles Diagram for the precinct identifies the following under “Servicing”:

- *“Provide a new laneway linking Oxford Street and Pembroke Street as part of the redevelopment of the site in order to provide additional street frontages.*
- *The detailed design of the street including the width, direction + intersection treatments are to be determined in consultation with Council and supported by a Traffic Impact Assessment.*
- *Provide access to basements + retail service areas from the shareway and Pembroke Street*
- *Limit vehicle access from Oxford Street.”*

Currently an existing laneway provides access to the rear of a number of allotments to the south of the subject site, from Pembroke Street. The above strategy intends to extend this laneway and connect it to Oxford Street.

**Comment:** The proposal responds to this strategy by proposing a pedestrian connection along the southern boundary of this site with an opportunity to be connected to any future redevelopment site to the south.

Council’s assessment in this regard concludes that the “*Access and Movement*” Section of the “*Structure Plan for Epping Urban Activation Precinct*” identifies a pedestrian link between Pembroke and Oxford Street. The proposed pedestrian link meets the intent of this pathway identified in the Structure Plan and translated in the Key Principles Diagram of *the HDCP*. Should the site on the southern boundary be redeveloped in the future a pedestrian access way would be provided along the common boundary and provide a wider pedestrian walkway (combined width) connecting to the rear laneway.

The development would provide a landscaped setting and a built form that is consistent with the desired future outcome for the Epping Town Centre – East precinct.

## **2.11 Section 94 Contributions Plans**

Hornsby Shire Council Section 94 Contributions Plan 2012-2021 applies to the development as it would result in an additional 254 residential dwellings in lieu of the 8 existing residences in addition to 630sqm of additional retail floor space instead of the existing 306sqm of commercial space. Accordingly, the requirement for a monetary Section 94 contribution is recommended as a condition of consent (Condition No. 7). The adaptive reuse of the heritage building would not result in levying of Section 94 contributions.

## **3. ENVIRONMENTAL IMPACTS**

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

### **3.1 Natural Environment**

### **3.1.1 Tree and Vegetation Preservation**

The site includes a mix of native and exotic vegetation. The application is supported by an Arborist Report which identifies three trees on the site that would be located within the building footprint and therefore require removal. Two of the trees that are proposed to be removed are identified as individually significant, being *Eucalyptus microcorys* (Tree No. 2) and *Lophostemon confertus* (Tree No. 1). However, the retention of the trees would severely compromise the location of Tower A and the basement. Given the zoning of the site and the desired future character of the area, removal of the trees is supported.

A further tree (Tree No. 4) located on the common boundary between the site and the St Alban's Church is proposed to be retained by using tree sensitive construction techniques.

The application proposes to retain the four existing street trees along Oxford Street frontage of the site. A landscape plan has been submitted with the application that includes replacement planting with a range of large and medium canopy trees with a mix of small and medium shrub layers and ground covers along the side and rear boundaries.

Subject to conditions requiring the on-going maintenance of the landscaped areas, the development would achieve a landscape setting and would be acceptable with respect to the natural environment.

### **3.1.2 Stormwater Management**

The stormwater from the proposed development would be connected to the Council controlled drainage system at Essex Street via an existing drainage easement within the adjacent downstream property at No. 14 Essex Street, Epping. Existing allotments at Lots 1A and 1B DP 102387 and Lot A DP 354692 (Nos. 30 – 38 Oxford Street) do not currently have rights to drain over this property. Accordingly, approval of the proposal is recommended as deferred commencement requiring the creation and registration of an easement to drain water from the above properties over the downstream property at No. 14 Essex Street, Epping.

The stormwater concept plan incorporates a water quality treatment system in the form of a bio-retention basin at the rear of the site. The details of the system and the associated MUSIC model, prepared by an accredited person, have been submitted and assessed as satisfactory, subject to the implementation of recommended conditions of consent.

## **3.2 Built Environment**

### **3.2.1 Built Form**

The building would be located within a precinct identified for future mixed use developments of varying heights with a network of open spaces, continuous podiums and underground car parking.

As discussed in this report, the resultant built-form would be consistent with the desired future character of the precinct. The proposal is assessed as satisfactory with regard to its impact on the built environment of the locality.

### **3.2.2 Traffic**

The impact of the proposal on local traffic network is discussed in Section 2.6.1 of this report.

### **3.3 Social Impacts**

The proposal will replace existing single storey commercial buildings and a two storey residential flat building comprising 8 dwellings with a mixed use development comprising 254 dwellings and retail tenancy at the ground level. Accordingly, the proposal will result in an increase in both retail/commercial floor space and residential accommodation when compared to the existing development. Furthermore, the proposal will provide additional housing supply in the locality which will have positive social impacts.

Given the above, it is considered that the proposal would have a positive social impact.

### **3.4 Economic Impacts**

The proposed development would result in a minor increase in the total retail floor space within the Epping town centre. The proposal will not give rise to any adverse economic impacts and will create employment opportunities during the construction of the development.

## **4. SITE SUITABILITY**

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

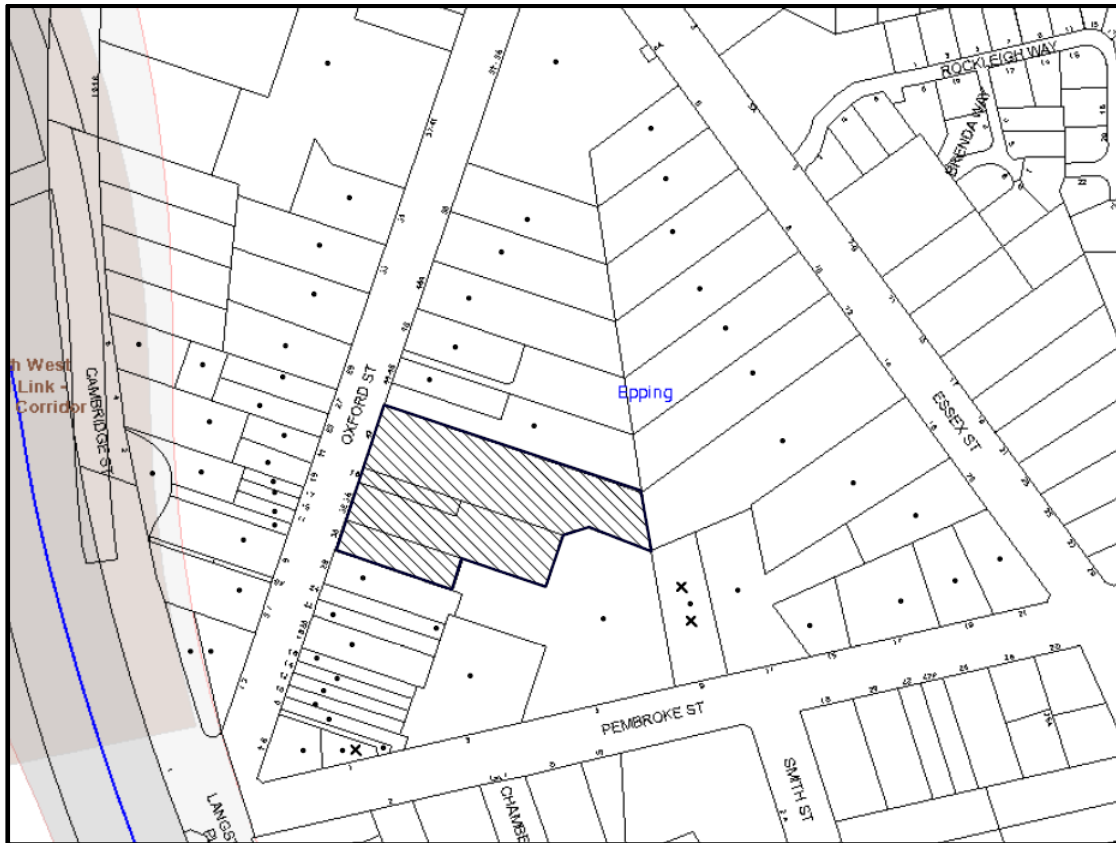
The subject site has not been identified as bushfire prone or flood prone land. The site is considered to be capable of accommodating the proposed development due to the reasons discussed in this report. The scale of the proposed development is consistent with the capability of the site and is considered acceptable.

## **5. PUBLIC PARTICIPATION**


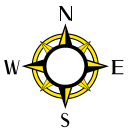
Section 79C(1)(d) of the Act requires Council to consider *“any submissions made in accordance with this Act”*.

### **5.1 Community Consultation**

The proposed development was placed on public exhibition and was notified to adjoining and nearby landowners between 5/11/2015 and 19/11/2015 in accordance with the Notification and Exhibition requirements of the *HDGP*. During this period, Council received three submissions. Amended plans for the proposal were re-advertised between 25/05/2016 and 8/06/2016. During this period Council received one submission. The map below illustrates the location of those nearby landowners who made a submission that are in close proximity to the development site.



### NOTIFICATION PLAN

• PROPERTIES NOTIFIED	X SUBMISSIONS RECEIVED	 PROPERTY SUBJECT OF DEVELOPMENT	OF 
One submission was received with no address			

Four submissions object to the development, generally on the following grounds:

#### 5.1.1 Capacity of drainage pipe

The capacity of the drainage pipe within Rockleigh Way would not be able to accommodate the stormwater from all high rise developments in the area including the current proposal. Further works should be undertaken by Council on Rockleigh Way to increase the drainage capacity.

**Comment:** The proposed development would drain to the existing drainage system within Essex Street and is assessed as satisfactory subject to conditions. The matters in relation to existing size and capacity of drainage infrastructure in Epping have been reviewed during the rezoning of the sites. The above objection relates to the infrastructure provisions and the

capacity of Council's drainage system and is not a relevant matter of assessment under Section 79(c) of the *Environmental Planning and Assessment Act 1979*.

#### **5.1.2 Unacceptable traffic on local streets**

The proposal would result in a high density development that would increase traffic congestion on Oxford Street. Increasing the height limit by two additional storeys would further increase traffic on the streets.

**Comment:** While the development would add residential units on the additional level above the permitted height limit, it would also result in a reduction in commercial/retail floor space at the ground and podium levels that would otherwise be permissible on the site. No increase to the permissible FSR has been proposed. The proposal seeks to relocate the ground level floor space on the top storey to retain a heritage item and maintain a curtilage around the building. Further the proposal accommodates the required number of car spaces on site and therefore would not impact on on-street car parking.

As stated in this report, the ground level includes a considerable expanse of open space which could have otherwise been utilised as commercial floor space resulting in more traffic generation. Given the traffic generation rates and the provision of on-site parking, it is not considered that the additional height would contribute to traffic congestion on Oxford Street and the surroundings.

The cumulative impacts of traffic generation have been considered in the strategic transport model for Epping Town Centre Urban Activation Precinct. The State Government has committed funding to address short term (to 2016) regional traffic growth. The recommended road works have been identified in the "*Traffic Management Improvement Plan*" within Section 4.6 of the *HDGP*. The traffic study acknowledged that although the works identified would assist traffic flows, strategies to manage demand by reducing car usage will be more critical than strategies to increase capacity of existing roads.

#### **5.1.3 The removal of two significant trees**

The proposal would result in the removal of large trees within Nos. 38 and 40 Oxford Street. In addition a number of trees within the St Albans site would be removed.

**Comment:** It is acknowledged the proposal would remove two significant trees. However, the desired future character of the redevelopment precinct is required to be considered in conjunction with the objectives of the objectives of the *Environmental Planning and Assessment Act 1979* which requires co-ordination of orderly and economic use of land.

The trees would be located within the development footprint and the basement. Retention of the two trees would significantly constrain redevelopment of the site in accordance with the objectives of the B2 zone in the Epping Town Centre. Therefore, retention of the trees would not achieve a reasonable outcome for the site and is not considered suitable at this instance.

The proposal does not remove any trees within the adjoining St Alban's site.

#### **5.1.4 Non-compliances with the HLEP**

- The development does not include any commercial space on the ground floor;



- The development fails to demonstrate design excellence;
- The development does not respect the heritage building;
- The streetscape along the western side of Oxford Street would be destroyed due to this development; and
- The development results in excessive height.

**Comment:** The proposal involves shop-top housing with retail floor space on the ground level along Oxford Street. Residential floor space is proposed at the ground level of Tower B relying on the provisions of Clause 5.3 of the *HLEP*. As discussed in section 2.1.2 of this report, the proposal is supported in this regard.

The proposed increase in height is supported by Council given that the proposal complies with the permissible FSR for the site and retains a heritage item, as discussed in Section 2.1.4 of this report.

The proposal retains the heritage building on the site and respects the heritage significance of the building by proposing an open plaza on the northern side and adaptive reuse of the building.

Council's urban designer has assessed the proposal and confirms that the development is an appropriate design outcome for the site in accordance with the "Design Excellence" clause of the *HLEP* and would result in a development that would enhance the streetscape and the future character of the area.

#### **5.1.5 Lack of car parking**

The proposal does not include any visitors' car parking provisions on the site. The access from Oxford Street would degrade the streetscape.

**Comment:** The proposal has been amended to include visitors' car spaces at the upper basement level. The site does not have an alternate point of access as the only frontage of the site is to Oxford Street. The proposed vehicular access is well designed to integrate with the plaza and enhance the streetscape.

#### **5.1.6 Archaeological Management Plan**

The applicant has not formulated an Archaeology Management Plan for the Barren Hills Convict Sawing Establishment Site as recommended by the heritage consultant for the Department of Planning.

**Comment:** Conditions of consent recommend that redevelopment should be preceded by a programme of archaeological testing to record any remains beforehand as recommended in the Archaeological Impact Report submitted with the application.

#### **5.1.7 Retention of the church**

The existing Church on the site should be retained and reused as a museum/café and commercial centre.

**Comment:** The *HDCP* does not include any provisions for the retention of the existing church on the site. It does not constitute a heritage listed item and has not been identified as a significant building in the Structure plan for redevelopment of the area. Accordingly, no concerns are raised regarding the demolition of this building.

## **5.2 Public Agencies**

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

### **5.2.1 Roads and Maritime Services**

As discussed in Section 2.6 of this report, the RMS have reviewed the proposal and raised no objections subject to conditions requiring the submission of a construction management plan (Condition No. 81).

## **6. THE PUBLIC INTEREST**

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

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

The application is considered to have satisfactorily addressed Council’s and relevant agencies’ criteria and would provide a development outcome that, on balance, would result in a positive impact for the community. Accordingly, it is considered that the approval of the proposed development would be in the public interest.

## **CONCLUSION**

The application seeks approval for the demolition of existing structures and construction of a 17-storey mixed use development comprising 254 units in two residential towers, 750sqm of ground floor retail tenancy and basement car parking.

The site is constrained in that it includes a heritage item worthy of retention and is also substantially deep. The proposal has been amended substantially as per Council’s guidance by replacing a long single tower by two slender towers located over a street level podium with active street frontage. The proposed tower at the rear includes residential development at the ground level relying on the provisions of the adjoining R4 zone. This is considered to be appropriate in the circumstances as the site is substantially deep and commercial development at the rear would have limited viability.

The proposal is considered an appropriate design outcome by Council’s urban designer as it provides a built form that responds appropriately to the site context and achieves design excellence. The development would provide an additional residential level over the permitted height limit on the site to compensate the loss of floor space at the ground level due to the creation of a public plaza and an open space maintaining a curtilage around the heritage building. Generous open spaces have been created in between the towers at the ground level providing outdoor spaces for the retail use and communal open spaces for the residents.

The proposal is considered to be consistent with the design principles of *SEPP 65* and the non-compliances with the visual privacy, internal circulation and apartment layout provisions of the *Apartment Design Guide* are supportable in this instance as they are unlikely to result in significant adverse amenity impacts.

The proposed development predominantly complies with the relevant provisions of the *draft Hornsby DCP* and the minor non-compliances with the front and side setbacks, floorplates, and motor cycle parking development controls are supportable as these non-compliances will not result in significant adverse amenity impacts and the development is consistent with the desired future residential character of the locality.

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

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

## SCHEDULE 1

### 1. 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:

- a) The registration and creation of an easement to drain water from Lot 1A DP 102387, Lot 1B DP 102387 and Lot A DP 354692 over the downstream property (SP 4301).

Such information must be submitted within 24 months of the date of this notice.

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

### CONDITIONS OF APPROVAL

#### 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.*

### 2. 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:

Plan No.	Issue	Plan Title	Drawn by	Dated
DA1.01	D	Basement L3 Floor Plan	Marchese Partners	24/06/2016
DA-1.02	D	Basement L2 Floor Plan	Marchese Partners	24/06/2016
DA-1.03	G	Basement L1 Floor Plan	Marchese Partners	24/06/2016
DA-1.04	H	Ground Floor Plan	Marchese Partners	24/06/2016
DA-1.05	E	Level 1 Floor Plan	Marchese Partners	03/05/2016

DA-1.06	E	Level 2 - 3 Floor Plan	Marchese Partners	03/05/2016
DA-1.07	E	Level 4 Floor Plan	Marchese Partners	03/05/2016
DA-1.08	E	Level 5 - 7 Floor Plan	Marchese Partners	03/05/2016
DA-1.09	E	Level 8 Floor Plan	Marchese Partners	03/05/2016
DA-1.10	E	Level 9 - 12 Floor Plan	Marchese Partners	03/05/2016
DA-1.11	E	Level 13 - 14 Floor Plan	Marchese Partners	03/05/2016
DA-1.12	E	Level 15 - 16 Floor Plan	Marchese Partners	03/05/2016
DA-1.13	C	Level Roof Floor Plan	Marchese Partners	03/05/2016
DA-2.01	D	West Elevation Tower A	Marchese Partners	03/05/2016
DA-2.02	B	West Elevation Tower B	Marchese Partners	03/05/2016
DA-2.03	E	North Elevation	Marchese Partners	02//06/2016
DA-2.04	D	South Elevation	Marchese Partners	20/06/2016
DA-2.05	D	East Elevation Tower A	Marchese Partners	03/05/2016
DA-2.06	D	East Elevation Tower B	Marchese Partners	03/05/2016
DA3.01	B	Section	Marchese Partners	03/05/2016
DA3.02	B	Section	Marchese Partners	03/05/2016
DA3.03	B	Section	Marchese Partners	03/05/2016
DA-5.01	B	Adaptable Unit Plan 01	Marchese Partners	03/05/2016
DA-5.02	B	Adaptable Unit Plan 02	Marchese Partners	03/05/2016
DA-5.03	B	Adaptable Unit Plan 03	Marchese Partners	03/05/2016
DA-5.04	B	Typical Plan Tower A	Marchese Partners	03/05/2016
DA-5.05	B	Typical Plan Tower B	Marchese Partners	03/05/2016
DA-7.01	C	Oxford Street Podium Facade	Marchese Partners	03/05/2016
DA-7.02	B	Heritage Façade Detail	Marchese Partners	03/05/2016
DA-7.03	B	Detail façade Section	Marchese Partners	03/05/2016
DA-7.04	B	Detail Driveway Ramp Section	Marchese Partners	03/05/2016
LA01	D	Landscape Elements	Marchese Partners	24/06/2016
LA02	G	Landscape Concept Plan	Marchese Partners	24/06/2016
LA03	D	Landscape Ground Level Planting Plan	Marchese Partners	24/06/2016

LA04	D	Landscape Site Sections	Marchese Partners	24/06/2016
C001	P1	Drawing Register and Construction Notes	Bonacci Group	19/02/2016
C002	P2	Soil and Water Management Plan	Bonacci Group	19/02/2016
C003	P2	Soil and Water Management Details	Bonacci Group	19/02/2016
C005	P2	Stormwater Drainage Connection Plan	Bonacci Group	19/02/2016
C006	P3	Stormwater drainage Site Plan and Sections	Bonacci Group	19/02/2016
C007	P1	Stormwater Drainage Longitudinal Section	Bonacci Group	19/02/2016
C008	P1	Stormwater drainage details	Bonacci Group	19/02/2016

<b>No.</b>	<b>Issue</b>	<b>Plan/Document Title</b>	<b>Prepared by</b>	<b>Dated</b>
DA-0.00	C	Cover Sheet	Marchese Partners	29/06/2016
DA-0.01	B	Aerial Photo	Marchese Partners	03/05/2016
DA-0.02	B	Survey Plan	Marchese Partners	02/04/2016
DA-0.03	B	Site Analysis	Marchese Partners	03/05/2016
DA-0.04	B	Site Plan	Marchese Partners	03/05/2016
DA-4.01	C	Shadow Study Mid-Winter - 01	Marchese Partners	03/05/2016
DA-4.02	C	Shadow Study Mid-Winter – 01	Marchese Partners	03/05/2016
DA-4.03	B	Solar Access 01	Marchese Partners	24/06/2016
DA-4.04	B	Solar Access 02	Marchese Partners	24/06/2016
DA-4.05	B	Solar Access 03	Marchese Partners	24/06/2016
DA-4.06	B	Cross Ventilation 01	Marchese Partners	24/06/2016
DA-4.07	B	Cross Ventilation 02	Marchese Partners	24/06/2016
DA-6.01	B	Perspective Views	Marchese Partners	03/05/2016
DA-6.02	B	Perspective Views	Marchese Partners	03/05/2016
		SEPP 65 Design	Marchese Partners	04/05/2016

		Verification Statement		
	E	ESD Report	Cundall	9/05/2016
667264 M	04	BASIX Certificate	Cundall	9/05/2016
1407001 1		NatHERS Certificate	Cundall	9/05/2016
-	-	BCA Report	Group DLA	22/10/2015
-	-	Waste Management Plan	Wasteaudit	June 2016
	02	Description of Building Services	Floth	21/10/2015
	P7	Access Review	MGAC	21/10/2015
16S0062 000	-	Transport Impact Assessment	GTA Consultants	2/10/2015 and 4/05/2016
-	-	Crime risk Assessment	Cardno	13/10/2015
-		Statement of Environmental Effects	Cardno	October 2015
-	0	Preliminary Geotechnical Investigation Report	Douglas Partners	4/08/2015
-	1	Preliminary Site Investigation Report	Douglas Partners	4/08/2015
-	-	Archaeological Impact Assessment	Casey and Lowe Pty Ltd	September 2015
-	-	Statement of Heritage Impact	GB and A Associates	21/10/2015
-	-	DA Noise Assessment	Acoustic Logic	16/10/2015
-	-	Arboricultural Impact Assessment	Arboreport	20/10/2015
		Clause 4.6 Variation	Cardno	4/05/2016
2021653 A	1	Civil Report	Bonacci Group	22/02/2016

### 3. Removal of Existing Trees

- a) This development consent permits the removal of trees numbered 1, 2 and 3 as identified on *DA-0.02 Issue B, Survey Plan* prepared by *Marchese Partners* dated 02/04/2016.

- b) The removal of any other trees requires separate approval in accordance with the Tree and Vegetation Chapter 1B.6 Hornsby Development Control Plan (HDCP).

#### 4. **Project Arborist**

A Project Arborist is to be appointed in accordance with *AS 4970-2009* (1.4.4) to provide monitoring and certification throughout the development process. The details of the appointed Arborist are to be provided to Council and the PCA prior to the issue of the construction certificate.

#### 5. **Amendment of Plans**

The approved plans are to be amended as per the following list marked in red on the approved plans:

- a) The southern end of the podium façade, as identified on the plan no. *DA7.01 issue C, Oxford St Podium façade - dated 03/05/2016*, is to be amended by adding an additional vertical fin wall to divide the southernmost panel into two equal halves and maintain a consistent rhythm.
- b) All north-facing terraces on the Level 8 floor plan for Towers A and B in *DA 1.09 Issue E* dated 3/05/2016 are to have a minimum setback of 12m from the northern boundary. Any encroachment is to be in the form of non-trafficable roof space only.
- c) All south-facing terraces on the Level 8 floor plan for Tower B in *DA 1.09 Issue E* dated 3/05/2016 are to have a minimum setback of 12m from the northern boundary. Any encroachment is to be in the form of non-trafficable roof space only.
- d) The balcony for Unit 2L.10 in Level 4 of Tower B as identified in *DA-1.07 Issue E* dated 03/05/2016 is to have a balustrade height of 1.5m above the finished floor level and be provided with an obscure or opaque material of finish.
- e) A window is to be added to the study room identified in unit 1L.02 in *DA-1.05 Issue E* dated 3/05/2016.
- f) The balustrade capping details should be such that it precludes placement of bottles or glasses to prevent any hazard.
- g) The proposed pedestrian passageway along the southern boundary of the site is to be extended to the rear boundary.
- h) All windows on the southern wall of Tower A between level 2 and level 16 are to be unopenable (fixed glass) and include obscure glass only.
- i) A minimum 5m wide communal landscaped strip is to be provided along the southern and eastern boundaries of Tower B. The courtyard fences for the ground floor units should be relocated to accommodate the common landscaped area.



- j) These amended plans must be submitted with the application for the Construction Certificate.

## 6. 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.

## 7. Section 94 Development Contributions

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

Description	Contribution (4)
Roads	\$ 180,891.45
Open Space and Recreation	\$ 2,582,859.65
Community Facilities	\$ 1,020,050.30
Plan Preparation and Administration	\$ 8,317.20
<b>TOTAL</b>	<b>\$3,792,118.60</b>

being for 254 residential units comprising a unit mix of 46 x 1 bedroom, 182 x 2 bedroom and 26 x 3 bedroom units with a credit of exiting 8 x 2-br units and 324sqm of additional retail space

- b) The value of this contribution is current as at 1 July 2016. If the contribution is not paid within the financial quarter that this condition was generated, the contribution payable will be adjusted in accordance with the provisions of the Hornsby Shire Council Section 94 Development Contributions Plan and the amount payable will be calculated at the time of payment in the following manner:

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

Where:

\$CPY is the amount of the contribution at the date of Payment

\$CDC is the amount of the contribution as set out in this Development Consent

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

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

- c) The monetary contribution must be paid to Council:
- 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.

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

Council's Development Contributions Plan may be viewed at [www.hornsby.nsw.gov.au](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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**8. Building Code of Australia**

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

The design of the buildings must comply with the recommendations of Alternative Solutions in the *Building Code of Australia Capability Statement* prepared by Group DLA dated 22/10/2015. All plans must be certified by a suitably qualified Fire Safety Engineer.

**9. Contract of Insurance (Residential Building Work)**

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

10. **Notification of Home Building Act, 1989 Requirements**

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

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

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

11. **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.

12. **Sydney Water – Approval**

This application must be submitted to Sydney Water for approval to determine whether the development would affect any Sydney Water infrastructure, and whether further requirements are to be met.

*Note: Building plan approvals can be obtained online via Sydney Water Tap in through [www.sydneywater.com.au](http://www.sydneywater.com.au) under the Building and Development tab.*

13. **Dilapidation Report**

- a) A 'Dilapidation Report' is to be prepared by a 'chartered structural engineer' detailing the structural condition of adjoining properties at Nos. 44 – 46 Oxford Street, No. 28 Oxford Street, Epping, No. 14 Essex Street, Epping and No. 5 Pembroke Street, Epping.

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

**14. 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.

**15. 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**".

**16. Stormwater Drainage**

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

- a) Connected directly to Council's street drainage system in Essex Street generally in accordance with the approved stormwater plans listed in Condition 2 of this development consent.
- b) The proposed 375mm diameter pipeline is to be located under the existing kerb line in Essex Street and the kerb and gutter is to be reconstructed.

**17. 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 80 cubic metres, and a maximum discharge (when full) of less than or equal to the pre development 1 in 5 year ARI flows;

- b) Have a surcharge/inspection grate located directly above the outlet;
- 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;
- d) Not be constructed in a location that would impact upon the visual or recreational amenity of residents.

**18. Vehicular Crossing**

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

- a) Design levels at the front boundary must be obtained from Council for the design on the internal driveway;
- b) Any redundant crossings must be replaced with Monarch Tan pavers to the same standard and layout as the adjoining footpath and dish drains;
- c) Approval must be obtained from all relevant utility providers that all necessary conduits be provided and protected under the crossing.

*Note: An application for a vehicular crossing can only be made to one of Council's Authorised Vehicular Crossing Contractors.*

**19. Internal Driveway/Vehicular Areas**

The driveway and parking areas on site must be designed issued in accordance with the approved plans listed in Condition 2 of this development consent, *Australian Standards 2890.1, 2890.2, 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.

**20. Construction Traffic Management Plan**

In order to enable unencumbered movement of traffic in the public road during construction works, a Construction Management Plan, including a Traffic Management Plan and scaled construction plans prepared by a suitably Chartered and Qualified Chartered Civil Engineer and Qualified Worksite Traffic Controller shall be prepared and submitted to Council for approval 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) 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 the 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;
  - vi) Pedestrian and Cyclist access and safety;
- 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) 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.

## 21. **Pedestrian Management Plan**

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. The PAMP must be submitted to Council for approval.

## 22. **Construction Management Plan**

A Construction Management Plan (CMP), prepared by a suitably qualified consultant, must be submitted for approval by Council. The CMP must include, but not be limited, details of the following:

- a) Noise attenuation measures be implemented along the northern, eastern and southern boundaries of the site;
- b) During excavation works, rock removal must be undertaken by sawing instead of rock hammering, wherever practicable;
- c) The construction works must be undertaken in accordance with the “Interim Construction Noise Guidelines – 2009” published by DECCW and achieve compliance with the relevant noise levels; and
- d) The delivery times and vehicular movements related to demolition, excavation and construction works must be restricted to the construction hours only.

#### 23. **Acoustics/Adaptable Units/Letter Boxes/Storage**

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

- a) The development is required to provide 76 units designed as adaptable housing pursuant to the requirements of 1C.2.2 of the *Hornsby Development Control Plan 2013*. In this regard, 26 car parking spaces are to be designed for people with a disability and allocated to 26 accessible units;
- b) The letter boxes must be located as shown on the approved plan DA1.04 Issue H;
- c) The recommendations within the DA Noise Assessment Report prepared by *Acoustic Logic* dated 16/10/2015 must be incorporated in the Construction Certificate plans;
- d) Each dwelling within the development must have a minimum area for storage (not including kitchen and bedroom cupboards) for 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 50% is required to be located within the apartment and accessible from either the hall or living area;
- e) All bedrooms must include wardrobes with a minimum length of 1.5m; and
- f) The wardrobe dimension for the master bedroom must equal to 1.8m (length x 0.6m (depth) x 2.1m (high).

#### 24. **Waste Management Details**

The following waste management details must be provided with the Construction Certificate Plans:

- a) The e-diverter chute system for each building must be designed such that the chute gradient is no less than the minimum gradient recommended by the chute manufacturer. Each chute system must include volume handling equipment (linear tracks and/or carousels that automatically change the bin under the chute when it becomes full, with no compaction) fitted with no less than a total of 5 x 1100L garbage bins and 2 x 1100L recycling bins for Tower A, and with no less than a total of 4 x 1100L garbage bins and 2 x 1100L recycling bins for Tower B. There must be sufficient space in each chute

service room to enable the 1100L bins to be loaded and unloaded from the volume handling equipment.

*Note: to achieve sufficient chute gradient, each chute will most likely require additional space at the ground level. The chute system supplier must be consulted in the design of the chute system.*

- b) Support columns within the chute service rooms must be positioned such that they do not interfere with the installation and operation of the volume handling equipment (linear(s) and carousel) required for each e-diverter chute system.
- c) Storage space must be provided for all equipment required for the operation of the waste management system, including motorised bin carting equipment (such as a ride-on cart) used to safely transport the 1100L bins around the site.
- d) All waste and bin carting routes must be no less than 2.0 m wide. No bin carting routes must include any steps.

*Note: waste and bin carting routes include, but are not limited to, from each chute service room to the residential bin storage room, from the bin storage rooms to the bin collection room, from the bulky waste storage room(s) to the loading bay, from each commercial/retail unit to the commercial bin storage room.*

- e) The vertical clearance along the Heavy Rigid Vehicle waste collection vehicle's entire travel path on site must be no less than 4.5 m;
- f) A bulky waste storage area of at least 16m<sup>2</sup> must be provided at the basement level.
- g) The waste facilities on each residential level (a garbage chute and recycling bin in a room) must be accessible by persons with a disability.
- h) 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; and
  - iv) The total percentage (by weight) of demolition and construction waste that will be reused or recycled.

**25. Detailed survey of Heritage item and the site**

- a) The following details in regard to the heritage item at No. 38 Oxford Street are to be submitted to Council for approval:



- i) A detailed fabric survey to identify original significant fabric and internal elements that should be retained and conserved;
  - ii) Detailed plans of the demolition works related to the site at No. 38 Oxford Street;
  - iii) Detailed plans of the proposed changes to the interior and exterior, conservation works and schedule of materials and finishes; and
  - iv) Details of the forecourt paving colour and material.
- b) An archival photographic record of the Church at No.42 Oxford St, Epping must be undertaken by a suitably qualified professional. The record should be undertaken generally in accordance with the Office of Environment and Heritage, Heritage Branch guidelines and two (2) complete copies of the documentation is to be submitted to Council.

**26. 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
    - a. Paver: Granite Flagstone Pavers;
    - b. Colour: Adelaide Black, as supplied by Sam the Paving Man or equivalent;
    - c. Size 600 x 450 x 50mm;
    - d. Setout: Lay commencing from Perpendicular to the kerb;
    - e. 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;
    - f. Bollards: Stainless steel removable;
    - g. Bollards able to be relocated to accommodate outdoor dining or vehicle parking (if applicable);
  - ii) 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.

**27. Reflectivity Report**

A Reflectivity Report must be submitted with analysis of solar glare from the proposed building to demonstrate that the light reflectivity from the building materials does not exceed 20%.

<b>REQUIREMENTS PRIOR TO THE COMMENCEMENT OF ANY WORKS</b>
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**28. 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.

**29. Protection of Adjoining Areas**

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

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

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

**30. 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*.

**31. Erosion and Sediment Control**

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

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

**32. Tree Protection Barriers**

- a) To safeguard the natural environment during the approved development works, tree protection fencing must be erected around tree No. 4 identified on *DA-0.02 Issue B, Survey Plan* prepared by *Marchese Partners* dated *02/04/2016*.
- b) All trees proposed to be retained (whether or not within the subject site and including street trees) must have tree protection measures for the ground, trunk and canopy installed in accordance with the Australian Standard 'Protection of Trees on Development Sites (AS 4970-2009) and the *Arboricultural Impact Assessment Report* prepared by *Arboreport Services* dated *26/10/2015*.
- c) All Tree Protection Zones must have a layer of wood-chip mulch installed prior to works commencing and must be maintained throughout the period of construction at a depth of 150mm – 300mm using material that complies with Australian Standard AS 4454.
- d) A certificate from the Project Arborist must be submitted to the Principal Certifying Authority and Council stating compliance with the relevant tree protection conditions of this consent.

**33. Archaeology requirements**

- a) A S140 application under the Heritage Act 1977 must be made to the Heritage Division, Office of Environment and Heritage to allow archaeological testing to determine if substantive archaeological remains belong to the Barren Hills Sawmilling Establishment are present within the site.
- b) A copy of the Archaeological Impact Statement prepared by Casey & Lowe to be submitted to the Heritage Division, Office of Environment and Heritage as part of the S140 application.
- c) A Research Design and detailed proposed archaeological methodology prepared by a suitably qualified archaeologist is to be submitted to the

Heirtage Division, Office of Environment and Heritage as part of the S140 application.

**34. Requirements prior to the disturbance of ground and any excavation works**

- a) Demolition works up to the GROUND LEVEL ONLY can commence on the site subject to the issue of the Construction Certificate and the compliance with condition Nos. 1 – 32 of this development consent.
- b) No demolition works below the ground level that may result in excavation or disturbance of ground, must occur prior to the compliance with the following conditions of consent:

**i) Archaeology**

Issue of a Section 140 approval for archaeological testing in accordance with Condition No. 33 of this development consent;

All testing on the site should be conducted by suitably qualified Archaeologists;

The results of the archaeological testing to be recorded in a report with recommendations for future action submitted to Council and the Heirtage Division, Office of Environment and Heritage; and

Any artefacts collected during testing to be catalogued and securely stored by the client after the completion of the archaeological program.

**ii) Detailed Site Investigation**

A detailed investigation of the proposed development site must be prepared by a suitably qualified environmental consultant. Such investigation must be undertaken in accordance with NSW Environment Protection Authority's Contaminated Sites – Guidelines for Consultants Reporting on Contaminated Sites and Contaminated Sites – Sampling Design Guidelines.

**iii) Remedial Action Plan**

Should the preliminary/detailed investigation reveal contamination exceeding criteria prescribed by the NSW Environment Protection Authority's Contaminated Sites – Guidelines for the NSW Site Auditor Scheme, a Remedial Action Plan (RAP) must be prepared by a suitably qualified environmental consultant and submitted to Council for approval.

<b>REQUIREMENTS DURING DEMOLITION AND CONSTRUCTION</b>
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**35. Demolition works below ground and excavation works**

All demolition works below ground, disturbance of ground and excavation works must comply with the following:

- a) S140 approval obtained for archaeological testing and any further S140 approvals that may be required as a result of subsequent archaeological testing.
- b) The site has been remediated in accordance with the approved Remedial Action Plan.

**36. Stopping work**

In the event that remnants or artefacts not anticipated in the archaeological assessment are found during the progression of works on site, all works on site are to cease and the appointed archaeologist is to attend site and advise further action.

**37. Construction Work Hours**

All works on site, including demolition and earth works, must only occur between 7am and 5pm Monday to Saturday.

Excavation is not to occur between 12-1pm Monday to Saturdays.

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

**38. Demolition**

To protect the surrounding environment, all demolition work must be carried out in accordance with "*Australian Standard 2601-2001 – The Demolition of Structures*" and the following requirements:

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

**39. 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.

**40. Street Sweeping**

To protect the surrounding environment, Street sweeping must be undertaken following sediment tracking from the site along Oxford Street 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.

**41. Works Near Trees**

- a) To protect trees to be retained, all required tree protection measures are to be maintained in good condition for the duration of the construction period.
- b) Any scaffolding must be erected outside the tree protection zone of all trees to be retained on site in accordance with Section 4.5.6 of AS4970 – 2009.
- c) Approved works within the nominated Tree Protection Zones of tree No. 4 as identified on the *DA0.02 Survey Plan dated 03/05/2016* must be carried out in accordance with the methods listed in the *Arboricultural Impact Statement* prepared by *Bradshaw Tree Services* dated *September 2013* and the following requirements:
  - i) All works must be approved by the Project Arborist.
  - ii) Root/ground protection/root pruning outside the structure root zone of a tree and underground services installation must be provided in accordance with AS 4970-2009 (Clause 4.5.4 and clause 4.5.5);
  - iii) The Structural Root Zone of any tree required to be retained must remain intact;
  - iv) Activities within the Tree Protection Zone must comply with AS 4970-2009 (Clause 4.2); and
  - v) Installation of services must be undertaken using sensitive methods such as directional drilling or in manually excavated trenches;
  - vi) Machinery other than hand held must not enter or carry out works on public land.
- d) The Project Arborist must monitor and record any necessary remedial actions for maintaining tree health and condition required for tree numbered 4 as identified on the *DA0.02 Survey Plan dated 03/05/2016*;
- e) The appointed Project Arborist must monitor and record all changes or modifications required regarding tree protection measures for the period of construction; and
- f) A certificate must be submitted to the principal certifying authority by the Project Arborist detailing the method(s) used to preserve these tree(s) during the course of construction.

*Note: Except as provided above, the applicant is to ensure that no excavation, filling or stockpiling of building materials, parking of vehicles or plant, disposal of cement*

*slurry, waste water or other contaminants occurs within 4 metres of any tree to be retained.*

**42. Council Property**

During construction works, no building materials, waste, machinery or related matter is to be stored on the road or footpath. The public reserve must be kept in a clean, tidy and safe condition at all times.

**43. Waste Management Details**

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

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

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

**44. Landfill**

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

- a) Prior to fill material being imported to the site, a certificate shall be obtained from a suitable qualified environmental consultant confirming the fill wholly consists of Virgin Excavated Natural Material (VENM) as defined in Schedule 1 of the *Protection of the Environment Operations Act, 1997* or material approved under the *Department of Environment and Climate Change's* general resource recovery exemption.
- b) A compaction certificate is to be obtained from a suitably qualified geotechnical engineer verifying that the specified compaction requirements have been met.
- c) These certificates must be included with the application for an occupation certificate.

**45. Excavated Material**

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

**46. Survey Report**

A report(s) must be prepared by a registered surveyor and submitted to the principal certifying authority:

- a) Prior to the pouring of concrete at each level of the building certifying that:
  - i) The building, retaining walls and the like have been correctly positioned on the site; and
  - ii) The finished floor level(s) are in accordance with the approved plans.
- b) Confirming that the waste collection vehicle turning area and head height complies with AS2890.1 – 2004 and AS20890.2 – 2002 for Heavy rigid vehicles (HRV).

**47. Compliance during Construction works**

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

- a) Traffic Control Plan (TCP);
- b) Construction Traffic Management Plan (CTMP);
- c) Construction Management Plan (CMP);
- d) Pedestrian Access Management Plan (PAMP); and
- e) The recommendations within the Section 5 Geotechnical Investigation Report prepared by Douglas Partners dated 4/08/2015 regarding Ground vibration. Excavation conditions, Excavation Support, Groundwater control, Foundations and ground slabs.

**48. Maintenance of public footpaths**

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

**49. Construction Work Zones**

- a) All construction vehicles associated with the proposed development are to be contained on site or in a "Works Zone" approved by the Local Traffic Committee (LTC);
- b) The site supervisor is to be advised that the Works Zone will be deemed to be in effect, and fees will apply, between the dates nominated by the



supervisor, or when parking spaces are managed for the sole use of construction vehicles associated with the site;

- c) The Works Zone signs shall be in effect only for the times approved by Council, and the time is to be noted on the sign. Eg: 'Works Zone Mon – Sat 7am – 5pm';
- d) The applicant is required to supply a sign posting installation plan for referral to the Local Traffic Committee, noting on it the duration of the Works Zone; and
- e) The Works Zone is only to be used for the loading and unloading of vehicles. Parking of workers' vehicles, or storage of materials, is not permitted.

#### **REQUIREMENTS PRIOR TO THE ISSUE OF AN OCCUPATION OR SUBDIVISION CERTIFICATE**

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

#### **50. Site Remediation Verification**

The applicant must provide documentation from a suitably qualified environmental consultant verifying that the site has been remediated in accordance with the NSW Environment Protection Authority's Contaminated Sites – Guidelines for Consultants Reporting on Contaminated Sites, the Contaminated Sites- Sampling Design Guidelines Contaminated Sites – Guidelines for the NSW Site Auditor Scheme and the recommendations of the approved *Remedial Action Plan*.

#### **51. Fulfilment of BASIX Commitments**

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

#### **52. Sydney Water – s73 Certificate**

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

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

#### **53. Water Saving Urban Design**

- a) A Water Saving Urban Design (WSUD) is to be constructed generally in accordance with the engineering report and plans approved in Condition No. 2 of this development consent prepared by the Bonacci Group. The Water Quality Targets as detailed within the report and Hornsby Shire Councils DCP are to be achieved in the design and supported by a MUSIC model.
- b) The water tank as required by the WSUD design prepared by Bonacci Group Consulting Engineers and listed in Condition 2 of this development consent is

to be constructed and the water tank is to be connected to all internal toilets, washing machines and external taps (For external landscape water).

**54. Certification of WSUD Facilities**

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

**55. 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.

The public reserve must not sustain any damage or be at risk of damage as a result of the works associated with this consent.

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

**56. Car Parking and Vehicular Areas**

All vehicular areas within the site and the car parking must be constructed in accordance with *Australian Standard AS 2890.1 – 2004 – Off Street Car Parking* and *Australian Standard 2890.2 - 2002 – Off Street Commercial* and the following requirements:

- a) The driveway to be designed in accordance with Condition 19 of this development consent;
- b) The waste collection vehicle (HRV) turning area and height clearance must comply with the approved plans;
- c) All parking areas and driveways are to be sealed to an all-weather standard, line marked and signposted;
- d) Residential parking spaces are to be secure spaces with access controlled by card or numeric pad;
- e) Fifty one (51) visitors' spaces are to be provided at the basement level. 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) Thirteen spaces dedicated to the retail users are to be provided at the basement level. The retail users must have access to the spaces at all times.
- g) Three hundred (300) bicycle spaces (resident, visitor and commercial) are to be provided in the basement car park. Bicycle parking spaces are to be designed in accordance with AS 2890.3-1993;
- h) Thirty-one (31) motorcycle parking space is to be provided within the basement car park, designed in accordance with AS 2890.5-1993;

- i) All parking for people with disabilities is to comply with AS/NZS 2890.6:2009 Off-street parking for people with disabilities; and
- j) The location of the driveway must maintain sight lines for the pedestrians.

**57. Creation of Easements**

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

- a) The creation of an appropriate "*Positive Covenant*" and "*Restriction as to User*" over the constructed on-site detention/WSUD systems and outlet works, within the lots in favour of Council in accordance with Council's prescribed wording. The position of the on-site detention system and WSUD facilities is to be clearly indicated on the title;
- b) To register the OSD and WSUD easement, the restriction on the use of land "*works-as-executed*" details of the on-site-detention system and WSUD 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;

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

**58. 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.

**59. Consolidation of Allotments**

All allotments the subject of this consent must be consolidated into one allotment.

*Note: The applicant is recommended to submit the plan of subdivision to consolidate allotments to the NSW Department of Lands at least 4-6 weeks prior to seeking an occupation certificate.*

**60. 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**".

**61. 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

**62. Provision for National Broadband Network (NBN)**

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

**63. Council verge – Oxford Street**

The applicant is to undertake and complete construction works to the Oxford Street verge in front of the development site in accordance with Council's *Epping Town Centre Public Domain Guidelines*.

**64. Completion of Landscaping**

A certificate must be submitted to the PCA 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 and the following requirement:

- a) The planted trees are to be located 1000mm long and min 600mm wide mulched plant beds, have three hardwood stakes with a minimum 200 litre pot size during plant establishment;
- b) All replacement tree planting within the site must be native to Hornsby Shire and must reach a mature height greater than 9 metres;
- c) The replacement tree(s) must be maintained until they reach the height of 3 metres;
- d) All tree stock must meet the specifications outlined in '*Specifying Trees*' (Ross Clark, NATSPEC Books);
- e) Planting methods must meet professional (best practice) industry standards; and
- f) On slab planter boxes including the ground cover above the on-site detention tank and the paved areas along the north-western boundary of the site must include waterproofing, subsoil drainage (proprietary drainage cell, 50mm sand and filter fabric) automatic irrigation, minimum 300mm planting soil for grasses and ground covers, 500mm planting soil for shrubs and minimum 1000mm planting soil for trees and palms and 75mm mulch to ensure sustainable landscape is achieved.

*Note: Advice on suitable species for landscaping can be obtained from Council's planting guide 'Indigenous Plants for the Bushland Shire', available at [www.hornsby.nsw.gov.au](http://www.hornsby.nsw.gov.au).*

*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.*

65. **Retaining Walls**

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

66. **Boundary Fencing**

Fencing must be erected along all property boundaries behind the front building alignment to a height of 1.8 metres.

*Note: Alternative fencing may be erected subject to the written consent of the adjoining property owner(s).*

67. **Installation of Air Conditioner**

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

68. **Unit Numbering**

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

69. **External Lighting**

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

70. **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.*

## 71. **Waste Management**

The following waste management requirements must be complied with:

- a) The residential chute service rooms and the commercial bin storage room at the basement level must include water or a hose for cleaning, graded floors with drainage to sewer, sealed and impervious surface, adequate lighting and ventilation, and must be lockable. The residential bin storage room and the bin collection room must include sealed and impervious surface, adequate lighting and ventilation, a robust door, and must be lockable.
- b) 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.
- c) Each unit must be provided with an indoor waste/recycling cupboard for the interim storage of waste with two separate 20 litre containers for general waste and recyclable materials.
- d) 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.*
- e) A bulky waste storage area of at least 16m<sup>2</sup> is to be identified and marked with paint and signage.

- f) The bin carting routes must be devoid of any steps and must be no less than 1.5m wide.

*Note: Ramps between different levels are acceptable.*

- g) 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.
- a) "No parking" signs must be erected to prohibit parking in the waste collection loading bay.
- h) Motorised bin carting equipment must be provided to assist the site caretaker in the safe transfer of 1100litre garbage bins at the basement level.
- i) The waste facilities on each residential level must be accessible by persons with a disability.
- j) 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. The survey is to include dimensions, gradients and vertical clearance. 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 of 9.7 m length with 5.85 m wheelbase.
- k) The 4.5 metre clearance height within the waste collection vehicle travel path must not be reduced by ducting, lights, pipes or any other services.
- l) Site security measures implemented on the property, including electronic gates, must not prevent access to the collection point by waste removal services.
- m) Signage with illustrated instructions on the use of the e-diverter chute system by residents for separate disposal of recycling and garbage are to be installed above or next to each chute entry hopper on each residential level.
- n) The volume handling equipment on the residential chute systems must not include compaction.
- o) The residential component and non-residential component of the development must have separate and self-contained waste management systems, including separate bin storage rooms. Commercial tenants must be prevented (via signage, locked doors and other means) from using the residential waste/recycling bins and vice versa.

## **72. Final Certification – Tree Protection**

Following the final inspection and the completion of any remedial works, the project Arborist must submit to the Principal Certifying Authority documentation stating that the completed works have been carried out in compliance with the approved plans conditions of development consent and specifications for tree protection as above and AS 4970-2009.

**73. Final Certification – Acoustics**

Following the final inspection a qualified Acoustic Consultant must provide certification that the building has been constructed in accordance with the recommendations of the submitted *DA Noise Assessment Report* prepared by *Acoustic Logic*.

**74. Final Certification – Reflectivity**

A certificate must be provided by a suitably qualified expert certifying that the reflectivity of the materials is in accordance with the approved Reflectivity report.

**75. Safety and Security**

This site must include the following elements:

- a) A clear demarcation of the public plaza, the outdoor space dedicated to the retail use on the eastern side of Tower A, the pedestrian passageway and the communal open space areas for the residents at the ground level as per the approved DA1.04 Ground Floor Plan Revision H must be provided on the site in the form of fences and gates as per the approved elevations and sections;
- b) An intercom system must be installed at gate locations to ensure screening of persons entering the units;
- c) The entry doors to the pedestrian foyer is to be constructed of safety rated glass to enable residents a clear line of site before entering or exiting the residential apartments;
- d) Lighting is to be provided to pathways, building foyer entries, driveways and common external spaces;
- e) Security gate access is to be provided to the car parking areas allowing residents-only access to private car spaces;
- f) Retail users must have access to the upper level carpark at all times;
- g) CCTV cameras must be installed at the entry and exit point and the around the mailbox;
- h) The communal open spaces within the site must be illuminated with high luminance by motion sensor lighting;
- i) The driveway and basement car parking must be illuminated with low luminance at all times;
- j) Security deadlocks are to be provided to each apartment door; and



- k) Peep holes are to be provided to individual apartment doors to promote resident safety.

<b>OPERATIONAL CONDITIONS</b>
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**76. 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).

**77. 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.

**78. 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 limited to watering, weeding, replacement of failed plant material and promoting the growth of plants through standard industry practices.

**79. Car Parking/Sight lines and Deliveries**

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

- a) All parking areas and driveways are to be sealed to an all-weather standard, line marked and signposted at all times.
- b) Car parking, loading and manoeuvring areas to be used solely for nominated purposes.
- c) Vehicles awaiting loading, unloading or servicing shall be parked on site and not on adjacent or nearby public roads;
- d) All vehicular entry on to the site and egress from the site shall be made in a forward direction;
- e) Minimum sight lines for pedestrian safety are to be provided at the driveway; and
- f) Any proposed landscaping and/or fencing must not restrict sight distance to pedestrians and cyclists travelling along the footpath.

**80. 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, and ensuring cars do not park in the loading bay and that all residents are informed of the use of the waste management system.
- b) The approved on-going waste management practise for the site must not be amended without consent from Council.
- c) The commercial tenants must cart their waste and recycling to the commercial bin storage room along routes that are wholly within the site. Use of the public footpath and vehicular entry to cart waste and recycling is not permitted.
- d) 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.

#### **GENERAL CONDITIONS OF CONCURRENCE – ROADS AND MARITIME SERVICES**

The following conditions of consent are from the nominated State Agency pursuant to Section 79B of the *Environmental Planning and Assessment Act 1979* and must be complied with to the satisfaction of that Agency.

#### **81. Construction Traffic Management Plan**

A Construction traffic Management Plan detailing construction vehicle routes, number of trucks, hours of operation, access arrangements and traffic control should be submitted to the Roads and Maritime Services through Council for approval prior to the issue of the Construction Certificate.

**- END OF CONDITIONS -**

#### **ADVISORY NOTES**

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

#### **Environmental Planning and Assessment Act 1979 Requirements**

The Environmental Planning and Assessment Act 1979 requires:

- The issue of a construction certificate prior to the commencement of any works. Enquiries can be made to Council's Customer Services Branch on 9847 6760.
- A principal certifying authority to be nominated and Council notified of that appointment prior to the commencement of any works.

- Council to be given at least two days written notice prior to the commencement of any works.
- Mandatory inspections of nominated stages of the construction inspected.
- An occupation certificate to be issued before occupying any building or commencing the use of the land.

### **Long Service Levy**

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

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

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

### **Tree and Vegetation Preservation**

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

### **Tenancy Fit-Out – Separate DA Required**

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

### **Advertising Signage – Separate DA Required**

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