

## SYDNEY NORTH PLANNING PANEL

<b>JRPP No</b>	2016SYW046
<b>DA Number</b>	DA/1676/2015
<b>Local Government Area</b>	Hornsby
<b>Proposed Development</b>	Demolition of community centre and child care centre and construction of two x five storey residential flat buildings containing 92 units above basement car parking
<b>Street Address</b>	Nos. 18 – 22 Lords Avenue and Nos. 421-425 Pacific Highway, Asquith  Lot 27 DP 12901, Lot 28 DP 12901, Lot 29 DP 12901, Lot 3 DP 136220, Lot 13 DP 653870, Lot 2 DP 136220
<b>Applicant/Owner</b>	Northern Group Pty Ltd
<b>Number of Submissions</b>	Two
<b>Regional Development Criteria (Schedule 4A of the Act)</b>	CIV>\$5 Million  Cost (estimate): \$19,679,674  The site was previously owned by Council
<b>List of All Relevant s79C(1)(a) Matters</b>	<ul style="list-style-type: none"> <li>• Hornsby Local Environmental Plan 2013 (HLEP)</li> <li>• Hornsby Development Control Plan 2013 (HDCP)</li> <li>• Hornsby Shire Council Section 94 Development Contributions Plan 2014-2024</li> <li>• State Environmental Planning Policy No. 55 – Remediation of Land (SEPP 55)</li> <li>• State Environmental Planning Policy No. 65 – Design Quality of Residential Apartment Development (SEPP 65)</li> <li>• State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004</li> <li>• State Environmental Planning Policy (Infrastructure) 2007</li> <li>• Sydney Regional Environmental Plan No. 20 Hawkesbury-Nepean River (No. 2 – 1997)</li> </ul>
<b>List all documents submitted with this report for the panel's consideration</b>	<ol style="list-style-type: none"> <li>1. Locality Plan</li> <li>2. Site Plan</li> <li>3. Landscape Plans</li> </ol>

	4. Floor Plans 5. Elevations and Sections 6. Shadow Diagrams 7. Height Plane Plans 8. Materials and Finishes 9. Perspectives 10. Clause 4.6 Exception to Development Standards
<b>Recommendation</b>	Approval
<b>Report by</b>	GLN Planning Pty Ltd on behalf of Hornsby Shire Council

## ASSESSMENT REPORT AND RECOMMENDATION

### EXECUTIVE SUMMARY

- The application involves demolition of an existing community centre and child care centre and construction of two x five storey residential flat buildings containing 92 units above basement car parking.
- The site was previously owned by Hornsby Shire Council. In accordance with Council's adopted Policy '*Proposed Council Developments*' an independent assessment of the development application has been undertaken by GLN Planning.
- The proposal complies with the development standards and controls of the *HLEP 2013* with the exception of the 17.5m height limit for which variation under Clause 4.6 is sought. 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 the Building Height development standard. The submission is considered well founded and is supported.
- Two submissions have been received in respect of the application.
- It is recommended that the application be approved, subject to conditions of consent.

### RECOMMENDATION

THAT the 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. DA/1676/2015 for demolition of an existing community centre and child care centre and construction of two x five storey residential flat buildings containing 92 units above basement car parking at Nos. 18-22 Lords Avenue and Nos. 421-425 Pacific Highway Asquith, Lots 27, 28, 29 DP 12901, Lots 2 and 3 DP 136220 and Lot 12 DP 653870 be approved subject to the conditions of consent detailed in Schedule 1 of this report.

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## **BACKGROUND**

The subject land was rezoned from Residential A (Low Density) to R4 (High Density Residential) on 2 September 2011 as part of Council's Housing Strategy.

## **SITE**

The site has an area of 4,133m<sup>2</sup> with a frontage of 47.425m to the eastern side of Lords Avenue and 47.725m to the Pacific Highway. The site is trapezoidal in shape with a depth of approximately 90m.

The site is located approximately 300m south of Asquith Park which includes an oval and sporting facilities.

The site was previously used for a community centre and a 70 place child care centre with frontage to Lords Avenue and the Pacific Highway. The site was previously owned by Hornsby Shire Council. The sites adjoining to the south and north have predominately been approved for high density residential development. No. 419 Pacific Highway is a single dwelling house which is listed as a heritage item under *HLEP*. The western side of Lords Avenue is a low density residential area with single and two storey dwelling houses. The Main Northern Railway Line is located to the east of the site adjacent to the Pacific Highway. The site is located approximately 300m north of Asquith Railway Station and Commercial centre.

## **PROPOSAL**

The proposal is for the demolition of existing structures and construction of two x five storey residential flat buildings comprising 92 units and basement car park over two levels for 125 vehicles.

The proposed units include 12 x 1 bedroom units, 70 x 2 bedroom units and 10 x 3 bedroom units.

Each building has a street frontage, Building A to the Pacific Highway and Building B to Lords Avenue. Vehicular access to both buildings is proposed for resident and visitors from Lords Avenue. Access for Council's waste vehicles only would be available from the Pacific Highway.

## **ASSESSMENT**

The development application has been assessed having regard to the '*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 and actions for accommodating Sydney's future population growth and identifies dwelling targets to ensure supply meets demand. 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, Mosman, North Sydney, Ryde, Northern Beaches and Willoughby to form the North District. The Greater Sydney Commission has realised the draft North District Plan which includes priorities and actions for the Northern District for the next 20 years. The identified challenge for Hornsby Shire will be to provide an additional 4,350 dwellings by 2021 with further strategic supply targets to be identified to deliver 97,000 additional dwellings in the North District by 2036.

The proposed development would be consistent with '*A Plan for Growing Sydney*', by providing additional dwellings and would contribute to housing choice in the locality.

## **2. STATUTORY CONTROLS**

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

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

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

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

The subject land is zoned R4 High Density Residential under the *HLEP*. The objectives of the zone are:

- a) *To provide for the housing needs of the community within a high density residential environment.*
- b) *To provide a variety of housing types within a high density residential environment.*
- c) *To enable other land uses that provide facilities or services to meet the day to day needs of residents.*

The proposed development is defined as 'residential flat building' and is permissible in the zone with Council's consent.

#### **2.1.2 Height of Buildings**

Clause 4.3 of the *HLEP* provides that the height of a building on any land should not exceed the maximum height shown for the land on the Height of Buildings Map. The maximum permissible height for the subject site is 17.5m. The proposal has a maximum height of 17.95m and does not comply with this provision as discussed below.

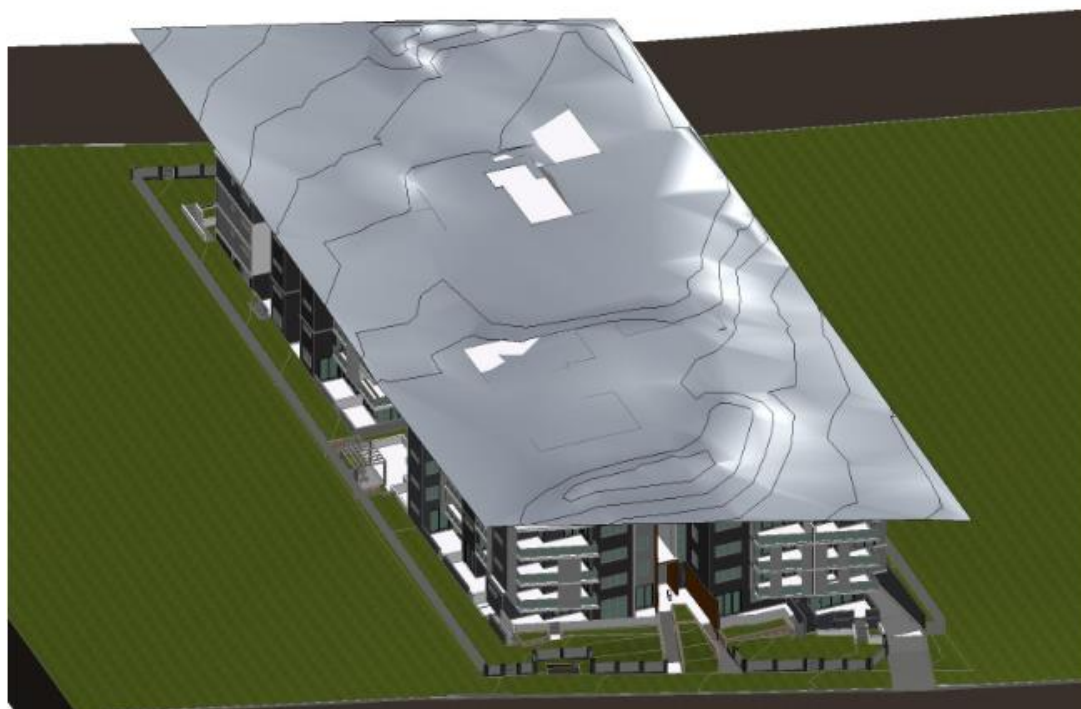
### 2.1.3 Exceptions to Development Standards

The application has been assessed against the requirements of Clause 4.6 of the HLEP. This clause provides flexibility in the application of the development standards in circumstances where strict compliance with those standards would, in any particular case, be unreasonable or unnecessary or tender to hinder the attainment of the objectives of the zone.

The proposal exceeds the Height of Buildings development standard.

The objective of the Height of Buildings control is to permit a height of building that is appropriate for the site constraints, development potential and infrastructure capacity of the locality.

The height of a building is defined under *HLEP* as from existing ground level to the uppermost point of the building. The site has been the subject to previous earthworks in order to construct the existing community centre, childcare buildings and associated landscaping. As a result of the prior site works, the levels centrally within the site do not directly reflect the natural ground levels which exist on the boundaries of the site. The applicant has prepared a 3D height plane to illustrate the extent of the non-compliance. The analysis of the height variation as submitted by the applicant does not accurately indicate the extent of the variation sought. The applicant states the extent of the variation as 170mm above the 17.5m height limit, in the areas highlighted white.

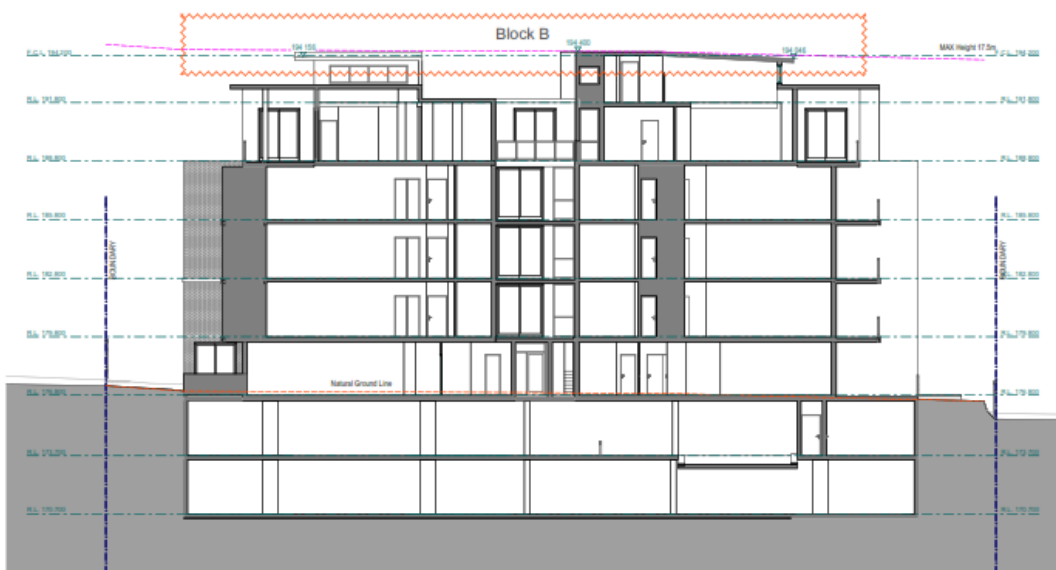


Height Plane 3D

To achieve greater compliance with the height limit, the plans have been amended to provide for a raked and stepped roof forms to reduce the maximum height variations of up to 450mm as indicated in the extracted Sections below to 170mm as calculated by the applicant.



1 Section 5  
Scale 1:150 @ A1  
Scale 1:300 @ A3



2 Section 6  
Scale 1:150 @ A1  
Scale 1:300 @ A3

The amended roof form has the effect of achieving greater compliance with the height control. It being noted that the areas of non-compliance are within the roof forms of the proposed mezzanine level. The proposed stepping of the roof form has the effect of reducing the floor to ceiling heights of portions of the mezzanines to less than 2.4m, which fails to satisfy the ADG requirements for habitable rooms.

Additionally, the height plane as presented by the applicant does not indicate the existing levels of the land, but instead adopts the floor levels of the existing buildings from which the height is calculated. Where the floor levels of the existing buildings have been adopted as

existing ground level, the actual existing ground level would be approximately 200mm lower, thereby increasing the variation of the height control by 370mm. The definition of height of buildings adopts the existing ground level and it is anticipated that if an extrapolated natural ground level was used the extent of the variation of the height limit would be in the order of 170mm. This issue often arises where there have been previous site works and in the example of where there has been a previous basement excavation, it would be unreasonable to adopt a height control relative the existing “excavated” ground level.

At the side boundaries and relative to the adjoining development, the proposed development achieves compliance with the 17.5m maximum height of buildings. The variation is sought within the central components and associated with the mezzanine levels and lift overruns, not the external walls of the proposed buildings. As a result, the height variation sought would not be discernible when viewed from the adjoining streets and properties and would not contribute to additional overshadowing from that associated with a complying development.

The reduction of the height by stepping and raking of the roof forms to achieve greater compliance with the height control is considered to result in a negative impact upon the future amenity of the proposed mezzanine levels and it is recommended that the roof forms be amended to ensure all mezzanines achieve 2.4 minimum floor to ceiling heights despite resulting in a greater variation to the maximum height of buildings control of 17.5m.

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 up to 450mm. The applicant states the proposed variation is consistent with the objectives of the control and is justified as follows:

- a) *The development proposal will align with the desired future character of the area and the vast majority of the built form is within the height control and presents a 5 storey form as desired under the HDCP;*
- b) *The proposed built form relates to the context in terms of scale and topography, with the upper levels being recessed from the building edge to downplay visual dominance, ensuring that the very minor encroachment will not be visually detectable or noticeable when viewed at street level;*
- c) *The increased height does not increase development yield, relating to only a minor portion of the roof, noting that the building height could be reduced through a reduction in floor to ceiling heights however this would reduce amenity to the residential dwellings with no discernible benefit given the additional height does not result in unreasonable amenity impacts to adjoining properties or result in an inappropriate visual scale for the site; and*
- d) *A variation of 170mm at the top of a 5 storey building is incapable of being visually appreciated and is inconsequential in terms of impact on the street and skyline.*



State Government Guidelines on varying development standards recommend considering the provisions of Clause 4.6 of the *HLEP* and the 'five part test' established by the Land and Environment Court as follows:

1. *the objectives of the standard are achieved notwithstanding noncompliance with the standard;*
2. *the underlying objective or purpose of the standard is not relevant to the development and therefore compliance is unnecessary;*
3. *the underlying object of purpose would be defeated or thwarted if compliance was required and therefore compliance is unreasonable;*
4. *the development standard has been virtually abandoned or destroyed by the council's own actions in granting consents departing from the standard and hence compliance with the standard is unnecessary and unreasonable;*
5. *the compliance with development standard is unreasonable or inappropriate due to existing use of land and current environmental character of the particular parcel of land. That is, the particular parcel of land should not have been included in the zone.*

The applicant's submission to vary the Height of Building development standard is considered well founded for the following reasons:

- The proposal is limited to 5 residential storeys, the mezzanine level is primarily located below the 17.5m height limit;
- The site contains particular constraints including the altered topography for the existing development, frontage to a State road that are unique to the subject site;
- The development satisfies Part 1 of the test as the objective of the Building Height standard to limit the scale of development is achieved notwithstanding non-compliance with the development standard;
- The proposal would not set an unacceptable precedent for the precinct, taking into account that the excess height is a result of existing ground level variations and driveway access limitations; and
- Notwithstanding the building height non-compliance, the application is a reasonable outcome for the site and achieves the aims of the *HLEP* and *Hornsby DCP*.

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 Clause 4.6 submission is supported in relation to the western pavilion which is 5 residential storeys above a basement.

#### **2.1.4 Heritage Conservation**

Clause 5.10 of the *HLEP* sets out heritage conservation provisions for Hornsby Shire. The site does not include a heritage item and is not located in a heritage conservation area. The site is located adjacent to No. 419 Pacific Highway (House) which is listed as a heritage item of local significance under Schedule 5 (Environmental Heritage) of the *HLEP*. Council's

heritage assessment of the proposal notes that *“the proposed five storey residential flat buildings are a contemporary style characteristic of the development permitted in the zone. However, the design does not complement the scale and style of the single storey Inter-war heritage listed dwelling located on the southern side of the development site. Whilst the setting of the item would be affected, the allotment space and views to the item are retained. The side boundary setbacks proposed would enable evergreen screen planting to be provided along the southern boundary to screen and reduce the impact of the development. Trees removed at the front of the site are proposed to be replanted with similar large trees.”*

It is concluded that the proposal would have an impact on the visual setting and context of the heritage item. However, this impact would be reduced if substantial evergreen screen planting is provided along the southern boundary. A condition requiring additional screen planting to the southern boundary of the site adjacent to No. 419 Pacific Highway has been included and is consistent with the Key Principles Diagram for properties adjoining heritage items.

### **2.1.5 Earthworks**

Clause 6.2 of the HLEP states that consent is required for proposed earthworks on site. Before granting consent for earthworks, Council is required to assess the impacts of the works on adjoining properties, drainage patterns and soil stability of the locality.

Council's assessment of the proposed works and excavation concludes that the impact of the proposed work is acceptable.

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

The application has been assessed against the requirements of State Environmental Planning Policy No. 55 – Remediation of Land. This Policy provides State-wide planning controls for describe .under which consent must not be granted to the carrying out of any development on land unless the consent authority has considered whether the land is contaminated or requires remediation for the proposed use.

A search of Council's records indicated that land use history of the subject site has been for community building use purposes. The site is unlikely to be contaminated.

The proposed development includes the demolition of existing buildings and substantial excavation works which would remove any potential for contamination. A condition of consent is recommended regarding the disposal of demolished building waste. No further assessment is considered necessary in this regard.

## **2.3 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</b>	<b>Yes</b>
<p><b>Comment:</b> The site is located within a precinct planned for five storey residential flat buildings in close proximity to Asquith Railway Station and the Asquith commercial centre. The proposal responds to the desired future character of the precinct as envisaged by Council for residential flat buildings in landscaped settings with underground 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>
<p><b>Comment:</b> The scale, bulk and height of the development are appropriate for the desired future character of five storey development within the precinct. The proposed building generally complies with the height, setbacks and maximum floor-plate dimension prescribed within the HDCP, however proposes a minor variation to the height limit as a result of existing site conditions. The development achieves a scale consistent with the desired outcome for well-articulated buildings that are set back to incorporate landscaping, open space and separation between buildings. The proposal incorporates high quality facades with a balanced composition of varied building elements including a defined base, middle and top of the building and achieves an appropriate built form for the site and its purpose, in terms of building alignments, proportions, and the manipulation of building elements. Flat roof forms have been adopted with an increased top storey setback on the external facades to minimise the bulk and height of the building as required by the HDCP.</p>	
<b>3. DENSITY</b>	<b>Yes</b>
<p><b>Comment:</b> The <i>HLEP</i> does not incorporate floor space ratio requirements for the site. The density of the development is governed by the height of the building and the required setbacks. 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.</p>	
<b>4. SUSTAINABILITY</b>	<b>Yes</b>
<p><b>Comment:</b> The application includes sustainable design including the use of natural cross ventilation and sunlight for amenity, liveability of residents.</p> <p>The applicant has submitted a BASIX Certificate for the proposed development. In achieving the required BASIX targets for sustainable water use, thermal comfort and energy efficiency, the proposed development would achieve efficient use of natural resources, energy and water throughout its full life cycle, including demolition and construction.</p>	

<b>5. LANDSCAPE</b>	<b>Yes</b>
<p><b>Comment:</b> The application includes a landscape concept plan which provides landscaping along the street frontages, side and rear boundaries and includes a 7m x 7m deep soil landscaped area between the buildings. The proposal has been designed to facilitate the retention of significant trees. Within and adjoining the site there are 4 trees subject to the tree preservation order, two of the trees are within the building footprint, a Tallowwood and Queensland Brush Box. A Lemon Scented Tea Tree is located on the north western corner of the site, within the Lords Avenue setback and positioned within the driveway access. Originally access was proposed from Pacific Highway, due to RMS requirements resident and visitor access would be from Lords Avenue. Due to the requirement of the vehicle access from Lords Avenue, this specimen is not able to be retained.</p> <p>Large trees are proposed along the street frontages intercepted by shrubs and hedges which would soften the appearance of the development when viewed from the streets. Deep soil areas that incorporate canopy trees are provided around the building envelope which would enhance the development's natural environmental performance and provide an appropriate landscaped setting.</p>	
<b>6. AMENITY</b>	<b>Yes</b>
<p><b>Comment:</b> 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 a central lift connecting the basement and all other levels.</p>	
<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 Lords Ave and Pacific Highway.</p> <p>The proposal includes an assessment of the development against crime prevention controls in the Statement of Environmental Effects (SEE). The SEE has 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>
<b>Comment:</b> The proposal incorporates a range of unit sizes to cater for different demographics, living needs and household budgets. The development complies with the housing choice requirements of the HDCP 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 Asquith Railway Station and commercial centre. The communal open space located centrally within the site with seating arrangements and lawn areas provides opportunities for social interaction amongst residents.	
<b>9. AESTHETICS</b>	<b>Yes</b>
<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 ( <u>or</u> low pitched) 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 Residential Flat Design Code and the Hornsby DCP.	

## 2.4 State Environmental Planning Policy No. 65 - Apartment Design Guide

SEPP 65 also 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*:

Apartment Design Guide			
Control	Proposal	Requirement	Compliance
Deep Soil Zone	24%	7%	Yes
Communal Open Space	27%	25%	Yes
Ground Level Private Open Space	15m <sup>2</sup>	15m <sup>2</sup>	Yes
	Min Dimension 3m	Min Dimension 3m	Yes

<b>Solar Access (Living rooms and private open space areas)</b>	> 2 hours for 70% of units	2 hours for 70% of units	Yes
<b>No Solar Access allowable for units</b>	23 Units 25% of units	15% of units (max)	No
<b>Natural Cross Ventilation</b>	64%	60%	Yes
<b>Minimum Dwelling Size</b>	1 br – 50.63m <sup>2</sup> - 54.15m <sup>2</sup> 2 br – 75.7m <sup>2</sup> - 81.62m <sup>2</sup> 3 br – 95.3m <sup>2</sup> - 112.67m <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
<b>Habitable room depth from a window for open plan layout</b>	<10m from a window	8m from a window (max)	No
<b>Minimum Ceiling Height</b>	2.7m Ground to Level 5 <2.4m mezzanine	2.7m (habitable rooms) 2.4m (non-habitable rooms)	No, proposed condition requiring mezzanines to 2.4m
<b>Minimum Balcony Size (minimum depth 2m – 2.4m)</b>	1 bedroom 8m <sup>2</sup> 2 bedroom 10m <sup>2</sup> 3 bedroom 12m <sup>2</sup> Depths compliant with ADG	1 bedroom 8m <sup>2</sup> 2 bedroom 10m <sup>2</sup> 3 bedroom 12m <sup>2</sup>	Yes
<b>Maximum Number of Units on a Single Level</b>	9 units off a circulation core	8 units (max) off a circulation core	No
<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) 3 bed - 10m <sup>3</sup> (Min)	2 bed - 8m <sup>3</sup> (Min) 3 bed - 10m <sup>3</sup> (Min)	
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As detailed in the above table, the proposed development generally complies with the prescriptive measures within the Apartment Design Guide (ADG) except the minimum ceiling height, maximum number of units of a circulation core, solar access and ceiling height. Below is a brief discussion regarding the relevant development controls and best practice guidelines.

#### 2.4.1 Ground Floor Apartments and Private Open Space

The proposal complies with the Code's best practice for the 3 metre minimum width dimension for ground floor open spaces. The proposed ground floor terraces and balconies are considered appropriate for the respective ground floor units in respect to dwelling size, aspect, unit configuration and amenity. The building meets the requirement of the HDCP for communal open space to provide a landscape setting for the development

#### 2.4.2 Solar Access

As stated in the table, 70% of the units would receive two hours of direct solar access with 25% achieving no solar access between 9am and 3pm during Winter Solstice. Shadow diagrams have also been included to demonstrate that the proposed development would provide two hours of direct solar access between 9am and 3pm during Winter Solstice to the adjoining five storey development on the southern side.

The proposal complies with the ADG requirement for number of units to receive 2 hours solar access, but does vary the 15% guidelines. 25% of units do not receive 2 hours solar access. This is a result of primarily the long east west orientation of the site and the desire to appropriately address both Lords Avenue and the Pacific Highway. In addition, the consolidation pattern established has resulted in an overall site width in excess of 45m.

The ADG identifies that in some circumstances achieving the design criteria may not be possible on some sites. This is the result with the current proposal, as the streets and common open space areas are the desired view lines, as well as the east/west orientation of the site.

Despite the non-compliance with this numerical control the development satisfies the objective of clause 4A-1 of the Apartment Design Guide as follows:

- The development satisfies the primary control for solar access being that 70% of the total units receive 2 hours of solar access in mid winter between 9am and 3pm.
- Future residents would have access to well embellished ground level common open space areas that receive appropriate solar access in mid winter.



- Units that receive no direct sunlight have appropriate access to daylight that would reduce reliance on artificial illumination.

The development substantially complies with the building envelope controls contained in *HDCP* that in conjunction with the east west orientation of the site leads to the increased percentage of dwellings that do not receive any solar access in midwinter.

Therefore, strict compliance is unreasonable on this site when having regard to context, *HDCP* controls and site orientation. The application is acceptable in this regard

The proposal complies with the requirement for at least 60% of dwellings to have dual aspect and natural cross ventilation.

#### **2.4.3 Apartment Size and Layout**

The proposed development includes a mix of single aspect and corner units including one, two and three bedroom apartments. All units would be well ventilated and some corner units would be provided with dual aspect balconies.

Located centrally within the site and at the rear of each of the buildings on Levels 1 to 4 are proposed one bedroom units which are sited within the 4m x 4m indentations. These units whilst not providing for solar access are functional in size and meet the *ADG* requirements in terms of the size, and configuration.

The proposed apartment layouts are functional and generally satisfy the *ADG* requirements for internal privacy, access to sunlight, natural ventilation and acoustic privacy. The apartment layout and mix achieves the intent of the best practice requirements of the *ADG* and is acceptable in this regard.

#### **2.4.4 Internal Circulation**

The proposed development includes access to all floors via a lift. The internal corridors marginally exceed the *ADG* requirements for the number of units accessed (less than 8) and design for amenity. A maximum of 9 units are located on each floor, with each building being served by two corridors of the central lift, avoiding multiple entries off a common corridor. The ground floor foyer also provides direct, level access to the communal open space at the rear of the site. The proposal is acceptable with respect to the requirements of the *ADG* for internal circulation.

#### **2.4.5 Acoustic Privacy**

The internal layout of the residential units is designed such that noise generating areas would adjoin each other wherever possible. Storage or circulation zones would act as a buffer between units. Bedrooms and service areas such as kitchens, bathrooms and laundries would be grouped together wherever possible. The proposal is consistent with the *ADG* for acoustic privacy.

#### **2.4.6 Maximum Depth of Open Plan Units**



A number of units provide for an overall depth of 10m exceeding the maximum of 8m. All units are of open plan design and it is not anticipated that the minor variation would give rise to adverse amenity impacts.

#### **2.4.7 Ceiling Height**

The floor to ceiling heights of residential apartments meet the minimum 2.7m as required by the ADG. However, the applicant has lowered portions of the mezzanine roof areas to achieve compliance with the 17.5m maximum height of buildings. As discussed above, it is considered more appropriate to ensure the mezzanine levels are provided with floor to ceiling heights of 2.4m in accordance with the ADG. The variation to the height control is discussed within Section 2.1.3 above and a suitable condition contained in Schedule 1.

#### **2.4.8 Storage**

The proposed building includes resident storage areas for all units within the building and storage areas would be located within the basement levels. A condition of consent is recommended to ensure the proposed storage areas are allocated in accordance with the size requirements of the Code for the respective units.

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

The application has been assessed against the requirements of State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004. The submitted BASIX Certificate for the proposed units is satisfactory.

### **2.6 Sydney Regional Environmental Plan No. 20 – Hawkesbury – Nepean River**

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

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

### **2.7 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. The development is located immediately adjoining a classified road corridor (Pacific Highway) and rail corridor. The following matters are required to be considered pursuant to the SEPP.

#### **2.7.1 Excavation Adjacent to Rail Corridors**

Clause 86 of SEPP Infrastructure applies to developments that involve the penetration of ground to a depth of at least 2 metres within 25 metres of a rail corridor. The site is not

located within 25m of the rail corridor. Accordingly, no further assessment in this regard is necessary.

### **2.7.2 Development with Frontage to a Classified Road**

The proposal has been assessed against the requirements of Clause 101 as the site has frontage to the Pacific Highway.

The objective of this Clause is:

- a) to ensure that new development does not compromise the effective and ongoing operation and function of classified roads, and
- b) to prevent or reduce the potential impact of traffic noise and vehicle emission on development adjacent to classified roads. The compliance of the proposal with the objectives of this Clause is discussed below.

### **2.7.3 Frontage to Classified Road**

The site has a frontage to the Pacific Highway. However, access other than waste vehicles to the site is provided off a local road. The proposed development was referred to the NSW Roads and Maritime Services (RMS) for concurrence under Section 138 of the Roads Act 1993. Initial objections were raised regarding the proposed driveway location from the Pacific Highway, as the site currently obtains all vehicular access from Lords Avenue. Alternative access arrangements were examined, however access to the site for waste vehicles from Lords Avenue was not practical, due to the grades required within the basement and relationship to Lords Avenue. An alternative, limited access to the site from the Pacific Highway to waste vehicles has been examined and deemed appropriate subject to conditions of consent.

A Traffic and Parking Impact Assessment submitted with the proposal estimates the traffic generation from the existing site and proposed development using Roads and Maritime Services (RMS) traffic generation rates. The net traffic generation is estimated to be 28 vehicle trips per hour in the AM and PM peak hours, which is negligible when compared with the traffic volumes on the adjacent road network. In the vicinity of the development site, the Pacific Highway has two vehicular lanes per direction. In terms of carriageway capacity, this equates to 3,800 vehicles per hour. Based on the observed traffic flows, the estimated volume to capacity ratio (the degree of congestion) of the Pacific Highway has been established to be less than 0.50 which is less than 50% of nominal capacity. It is considered that the proposed development would not have any adverse impact on the safety, efficient and ongoing operation of the Pacific Highway.

### **2.7.4 Impact of Vehicle Emissions**

The proposed development would have frontage to a State Road and the impact of vehicle emissions on sensitive land uses is required to be considered. The current improvements on the site include community buildings that are impacted upon by vehicle emission and airborne dust particles due to the current traffic flow. The rezoning of the land to R4 High Density

Residential pursuant to Council's Housing Strategy has been the subject of consultation with the RMS and endorsed by the Department of Planning, who has not raised concern with regard to air quality in this area. The proposed development includes setbacks, landscaping, deep soil zones generally in accordance with the requirements of the *Hornsby Development Control Plan* which would ameliorate the impacts of noise and emissions.

The proposed development would yield a traffic generation of 28 vehicles during peak hours and therefore, the additional impact due to vehicle emission would be negligible. The submitted Traffic Assessment did not consider the existing traffic associated with the community centre and child care centre and is not a net increase but the generation of the proposed use. All vehicular access to the site is obtained from Lords Avenue, which would be maintained. Given that the proposed development does not significantly alter the current traffic conditions, no further assessment in this regard is necessary. As such, the design of the development responds to the site context, being in the vicinity of a busy road and is designed in accordance with the recommendations with the document "Development Near Rail Corridors and Busy Roads – Interim Guidelines 2008". This includes setbacks, landscaping and deep soil zones that would ameliorate the impacts of noise and emission related impacts.

The application is assessed as satisfactory in this regard.

#### **2.7.5 Impact of Road 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 Traffic and Parking Report submitted by the applicant states that the section of the Pacific Highway fronting the site had an annual average daily traffic volume of approximately 19,000 vehicles in 2005 and that the traffic volume has not changed significantly since then. Accordingly, based on traffic generation along this section of the Pacific Highway, the SEPP does not apply. Notwithstanding, the applicant has submitted a detailed Acoustic Assessment report. The report provides details of construction techniques and measures to attenuate road and rail noise and vibration. The report concludes that the development would not exceed the specified noise criteria and LAeq levels within Clause 102 of the SEPP (Infrastructure) subject to adherence to the recommendations. The Construction Certificate Plans would be required to demonstrate compliance with the recommendations of the acoustic report through the use of appropriate materials for glazing and construction.

#### **2.7.6 Traffic Generating Development**

The development is not classified as a Traffic Generating Development in accordance with Clause 104 and Schedule 3 of SEPP (Infrastructure) as it would not result in more than 75 dwellings fronting a classified road as vehicular access is obtained from Lords Avenue for all vehicles with the exception of waste vehicles. The application was referred to the RMS for the consideration of access for waste vehicles, from the Pacific Highway. No objections have

been raised by RMS with regard to traffic generation subject to restriction of the use of the driveway to Pacific Highway for waste vehicles only.

## 2.8 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 would 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.

## 2.9 Hornsby Development Control Plan 2013

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

Hornsby Development Control Plan 2013			
Control	Proposal	Requirement	Compliance
Site Width	47m	30m	Yes
Height	5 storeys + Mezzanine – 17.95m	5 storeys – 17.5m	No
Maximum Dimension	Floorplate 35m	35m	Yes
Building Indentation	Building A North 4m x 4m Building A South	4m x 4m	Yes  N/A

	4m x 4m Building B North 4m x 4m Building B South 4m x 4m		Yes N/A
<b>Height of Basement Above Ground</b>	<1 m	1m (max)	Yes
<b>Front Setback</b>	Pacific Highway 10m 8m < 1/3rd bldg. Balc 7m Lords Ave 10m 8m < 1/3rd bldg. Balc 7m	10m 8m < 1/3rd bldg. Balc 7m	Yes  Yes
<b>North Side Setback</b>	Building A North Building B North	6m 4m < 1/3rd bldg. 6m 4m < 1/3rd bldg	No – 37% of building at 4m Yes
<b>South Side Setback</b>	Building A South Building B South	6m 4m < 1/3rd bldg. 6m 4m < 1/3rd bldg	Yes No – 37% of building at 4m
<b>Top Storey Setback from Ground Floor</b>	3m with minor variations within internal indentations	3m	No

<b>Underground Parking Setback</b>	7m-front	7m-front	Yes
	7m-front	7m-front	Yes
	4m-side (south)	4m-side (south)	Yes
	4m-side (north)	4m-side (north)	Yes
<b>Basement Ramp Setback</b>	2m	2m	Yes
<b>Deep Soil Landscaped Areas</b>	7m-front and rear	7m-front and rear	Yes
	4m-side (north)	rear	Yes
	4m-side (south)	4m sides	Yes
<b>Communal Open Space with Minimum Dimensions 4m</b>	24.4%	25%	No
<b>Parking</b>	94 resident spaces	97 resident spaces	Yes
	14 visitor spaces	14 visitor spaces	Yes
	19 bicycle racks	19 bicycle racks	Yes
	9 visitor bicycle racks	9 visitor bicycle racks	No
	2 motorbike space	3 Motorbike space	No
<b>Solar Access</b>	70%	70%	Yes
<b>Housing Choice</b>	1 bed – 12 (14%)	10% of each type (min)	Yes
	2 bed – 70 (76%)		
	3 bed – 10 (10%)		
<b>Adaptable Units</b>	11%	30%	No

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

### **2.9.1 Desired Future Character**

The proposed five storey residential flat development is of appropriate design in respect to the aspects of the site within the Lords Avenue, Asquith Precinct. The proposed building is sited over a basement car park in a garden setting. The proposed built form, façade treatment, materials and finishes are in accordance with the prescriptive measures for the desired future character of the area

### **2.9.2 Site Requirements**

The consolidated site comprising six existing allotments is generally of regular shape with a width in excess of 47m, in compliance with the *HDCP* minimum 30m site width requirement. The proposed development would maintain an orderly pattern of development for adjoining properties in accordance with the *HDCP* site requirements and would not result in an isolated site.

### **2.9.3 Height**

The proposed five storey building has a maximum height of 17.95m which exceeds the *HDCP* height requirement for five storey buildings with a maximum height of 17.5m. The variation to the height control has been considered in Section 2.13 and a Clause 4.6 variation submitted seeking variation of the height standard. Support of the Clause 4.6 variation is considered warranted in the circumstances of the case.

### **2.9.4 Setbacks**

The proposed building is stepped to the angular front boundaries to Lords Avenue and Pacific Highway and complies with the *HDCP* front and rear setback requirements. Front setbacks have been applied to both the Pacific Highway and Lords Avenue frontages to maintain consistency with other adjoining developments.

The building generally provides for the 5<sup>th</sup> storey setback and a further 3m from the fourth floor, with the exception of points where indentations are provided within the lower levels. The buildings all provide for a 4 level rise to the elevations with the upper level setback.

It is considered that the proposal complies with the intent of the prescriptive measures of the *HDCP* which is to provide for landscaping, open space and separation between buildings.

### **2.9.5 Built Form and Separation**

The proposed building is well articulated in compliance with the *HDCP* prescriptive measures with appropriate façade treatment and elements to break the massing of the building.

The proposed building complies with the required 4m x 4m indentation where the building exceeds 25m in dimension and includes appropriate treatment to create the appearance of

separate building pavilions. The northern elevation of Building B and southern elevation of Building A do not provide for the required 4m x 4m indentations, however the elevations each are less than 25m in keeping with the intent to ensure wall lengths are not excessive. The elevations of each of the buildings provides for considerable amounts of indentation and the majority of each of these elevations are located on a 6m setback with small portions located on a 4m setback.

The southern elevation of Building B and northern elevation of Building A provide the required 4m x 4m indentation and marginally more than 1/3 of the buildings are located on 4m setbacks. It is not anticipated that the minor variation would be discernible due to the extent of indentations provided to each of the elevations. The portions of the building located on the 4m setback are bedrooms and highlight windows have been proposed to ensure privacy of the adjoining developments would not be impacted.

The proposed building is designed with regard to the angular shape of the site. The proposed setbacks would allow development of adjoining sites in accordance with the *HDGP* setback requirements.

The proposed built form is satisfactory in meeting the desired outcome of the *HDGP* for building form and separation.

#### **2.9.6 Adaptable Units**

The *HDGP* requires 10% (10 units) to be provided as adaptable units. The application provides for 20 (21.7%) as silver level liveable Housing Guideline Units, of which 10 units (11%) are designed as adaptable. The proposal meets the requirements of *HDGP*.

#### **2.9.7 Privacy and Security**

The proposed development is appropriately designed for privacy with all of the units having an external outlook. The northern and southern boundaries of the site adjoin land for which buildings have been approved and constructed for five-storey buildings and a heritage listed dwelling. The proposal is generally consistent with the separation requirements of the *ADG* and the *HDGP*. Additional landscape screening is to be provided to the heritage listed dwelling at 419 Pacific Highway. As a result, the development would not compromise the privacy of future occupants or adjoining neighbours.

#### **2.9.8 Sunlight and Ventilation**

The applicant has submitted solar access diagrams demonstrating compliance of individual units with solar access requirements. As the site is located within a redevelopment precinct, the solar access analysis has taken into account the overshadowing impacts five storey developments on adjoining sites. The applicant submits that 70% of the units would receive a minimum 2 hours solar access between 9am and 3pm during the Winter Solstice. Based on Council's assessment, the proposal would comply with the sunlight access requirements for units under the *HDGP* and is acceptable in this regard. The solar access diagrams submitted with the application demonstrate the overshadowing impacts of the development to adjoining properties at 9am, 12pm and 3pm on June 21.



### **2.9.9 Housing Choice**

The proposed development includes a mix of one, two and three bedroom units which complies with the housing mix prescriptive measures. The proposal meets to *HDCP* desired outcome for housing choice.

### **2.9.10 Vehicular Access and Parking**

The proposed car parking complies with the required spaces for residents and visitor spaces and provides for 2 motor cycle space. The proposed basement car park is over two levels and is accessed via a 6.1m wide driveway from Lords Avenue. The driveway width, ramp gradients and aisle widths are assessed as satisfactory. The proposal was amended to enable garbage vehicle access from the Pacific Highway. The basement level includes storage areas for residents and bicycle/motor cycle parking areas. The proposal is deficient by one space for motor cycle parking, a condition is contained in Schedule 1 to achieve compliance.

Subject to recommended conditions, the proposal is considered satisfactory in respect to the *HDCP* requirements for vehicle access and parking.

### **2.9.11 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 requires 8 of 660L garbage bins, 20 of 240L recycling bins (plus 10 spare 240L recycling bins so that there is a recycling bin on each residential level of each building on collection days), and one 1100L or two 660L paper/cardboard bins. Since this site is to have garbage bins on each floor instead of a garbage chute, the site would also require 20 of 240L garbage bins).

The site has been designed for the SRV waste collection vehicle to drive on site from the Pacific Highway. The plans for SRV access are in accordance with AS2890.2. Suitable conditions with respect to waste management are contained in Schedule 1.

### **2.10 Section 94 Contributions Plans**

Hornsby Shire Council Section 94 Contributions Plan 2012-2021 applies to the development as it would result in an additional 86 residential dwellings in lieu of the 6 existing lots. Accordingly, the requirement for a monetary Section 94 contribution is recommended as a condition of consent.

## **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, Landscaping and Vegetation Preservation**

The proposed development would necessitate the removal of 2 significant non-locally indigenous trees from the site. The application has been supported by an arborist report that identifies redevelopment of the site would require removal of existing vegetation and trees and replacement with more suitable plantings. The existing site is essentially cleared of locally indigenous vegetation and comprises mainly shrubs and lawn areas for the community use of the site.

The proposed deep soil landscaping areas comply with *HDCP* requirements within the setback areas. The application includes a landscape concept plan which provides landscaping along the street frontages, side and rear boundaries and includes a 7m x 7m deep soil landscaped area between the buildings.

A landscape plan has been submitted that proposes extensive landscaping around the site. As a result, there would be a significant increase in indigenous trees on the site. Subject to recommended conditions the proposed landscaping is acceptable.

### **3.1.2 Stormwater Management**

The development proposes to connect to Council's drainage system located in Lords Avenue via two above ground on-site detention (OSD) systems located at the front of the site to control the discharge of water from the site. Council's engineering assessment concludes that subject to conditions recommended in Schedule 1, the OSD and stormwater management system would minimise the effects of flooding and maintain natural environmental flows. Additionally, subject to sediment and erosion control measures being implemented on site during construction, the proposal would comply with the desired outcomes of the *HDCP*.

## **3.2 Built Environment**

### **3.2.1 Built Form**

The buildings would be located within a precinct identified with a future character of five storey residential flat buildings in a landscaped setting with underground car parking. The built form of the proposal would be consistent with the desired future character of the precinct.

### **3.2.2 Traffic**

A traffic and parking assessment has been submitted with the proposal which estimates that the proposed development would generate commuter peak hour movements of 28 vehicles. The impact of the traffic generated by this proposal upon the local road network has been discussed in Section 2.8 of this report. The application is assessed as satisfactory in this regard.

Council has undertaken an assessment of the overall traffic impact of the redeveloped precinct on the locality. A Traffic Management Improvement Plan is included in the *HDCP* relating to the Asquith precinct. This includes the extension of Wattle Street and Lords Avenue and restriction of left in, left out movements from Amor Street to Pacific Highway. These improvements have been included in the Works Schedule in Council's Section 94

Development Contributions Plan for implementation. These works would accommodate the increase in traffic in the area and ease traffic flows within the existing network.

### **3.3 Social Impacts**

The residential development would improve housing choice in the locality by providing a range of household types. This is consistent with Council's Housing Strategy which identifies the need to provide a mix of housing options to meet future demographic needs in Hornsby Shire.

The location of the development is in close proximity to Asquith Railway station and Asquith commercial centre, recreational, health and education facilities for future residents.

### **3.4 Economic Impacts**

The development would result in a positive economic impact on the locality via employment generation during construction and minor increase in demand for local services following completion 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"*.

There is no known hazard or risk associated with the site with respect to landslip, subsidence, flooding and bushfire that would preclude development of the site. For the reasons detailed in this report, it is considered that the site is suitable to accommodate the development.

## **5. PUBLIC PARTICIPATION**



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

### **5.1 Community Consultation**

The proposed development was placed on public exhibition and was notified to adjoining and nearby landowners between 17 February 2016 and 17 March 2016 in accordance with the Notification and Exhibition requirements of the *HDCP*. During this period, Council received two submissions. 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	
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Two submissions objected to the development, generally on the grounds that:

#### 5.1.1 Compliance with 17.5m height limit

A minor variation to the maximum 17.5m height limit is proposed. A request to vary the control has been prepared and submitted under Clause 4.6 of HLEP. The variation is considered to be minor and acceptable and is discussed within Section 2.1.3 of this report.

#### 5.1.2 Six storey building proposed

This objection queries the proposed variation to the maximum height of the building and the additional height enabling an additional storey. The proposal provides for 5 storey plus mezzanine level buildings. Council has permitted mezzanine levels where the floor space of the mezzanine is less than 30% of the lower level and the mezzanine floor level is open to a void over the floor below.

The plans as originally submitted provided for mezzanine levels in excess of 30% of the level 5 floor space and did not provide sufficient openings to the floor below. The plans have been amended to address this non-compliance and the form of the mezzanines is consistent with that of other developments approved by Council in the past.

The concerns that the building would appear as a 6 storey development is not supported, as the building meets the *HDCP* requirements for a for storey rise and the fifth storey being setback. The proposed mezzanines are generally within the 17.5m maximum height limit and as discussed within Section 2.12, the extent of the variation is largely a result of the existing site conditions being varied in the past from natural ground level. The maximum height of buildings does not exceed 17.5m at the external walls of the development and therefore the minor height variation would not be discernible when viewed from the adjoining roads or properties.

### **5.1.3 Compliance with setbacks**

The proposed building is generally consistent with the required setbacks under *HDCP*. There are minor variations in terms of the amount of the building permitted at a reduced setback of 4m. As discussed above, the extent of the variation is approximately 4% of the building length and the result of locating bedrooms on the lesser setback with highlight windows. The minor variation sought would not impact upon the privacy of adjoining buildings.

### **5.1.4 Relationship to adjoining development at 14 – 16 Lords Ave**

Setbacks have been provided to achieve general compliance with the *HDCP* and *ADG* setbacks. Adjacent to Nos. 14 -16 Lords Ave, there is a minor increase in the length of the building located on a 4m setback, exceeding the 1/3 of the building length. The portions of the building located on the 4m setback have all been provided with highlight windows, thereby providing a greater setback to all other windows than the minimum requirement. The building is articulated to ensure the minor variation would not be readily discernible. It is not anticipated that there would be any amenity impacts as a result of the variation to either future or adjoining residents.

## **5.2 Public Agencies**

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

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

The application was referred to Roads and Maritime Services for concurrence in accordance with Section 138 of the *Road Act, 1993*. The application was originally considered by the RMS as unacceptable as vehicular access for the development was proposed from the Pacific Highway. Concurrence has been issued after the proposal was amended to limit the proposed vehicular crossing on Pacific Highway to the driveway to be used by Council's garbage collection vehicles only (no access for general vehicles from Pacific Highway/within the site car park), and the conditions being included in any consent issued. Conditions as required have been included in accordance with the RMS advice. The RMS requests the imposition of conditions upon any development consent issued. The conditions are included within Schedule 1 of this report.

## **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.

## **7. CONCLUSION**

The application seeks approval for the demolition of existing structures and construction of a 4 x five storey residential flat building comprising a total of 92 units with basement car parking.

The proposed development is generally in accordance with the development controls for the 'Lords Avenue, Asquith' Precinct of the Hornsby Development Control Plan and would contribute to the future desired five storey residential character of the precinct. The minor non-compliance with prescriptive measures for height, solar access, setbacks, and communal open space are considered acceptable. The proposal complies with the design principles of *SEPP 65* and the *Apartment Design Guide*. The proposal would result in a development that would be in keeping with the desired future character of the precinct. Approval of the application is recommended.

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

### **Attachments:**

1. Locality Plan
2. Site Plan
3. Landscape Plans
4. Floor Plans
5. Elevations and Sections
6. Shadow Diagrams
7. Height Plane Plans
8. Materials and Finishes
9. Perspectives
10. Clause 4.6 Exception to Development Standards

## SCHEDULE 1

### GENERAL CONDITIONS

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

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

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

### 1. Approved Plans and Supporting Documentation

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

Architectural Plans prepared by Zhinar Architects

<b>Plan No.</b>	<b>Issue</b>	<b>Plan Title</b>	<b>Dated</b>
8433 DA F00	F	Cover Page	October 2016
8433 DA F03	F	Basement 1	October 2016
8433 DA F04	F	Basement 2	October 2016
8433 DA F05	F	Ground and Site Plan	October 2016
8433 DA F06	F	First Floor Plan	October 2016
8433 DA F07	F	Second Floor Plan	October 2016
8433 DA F08	F	Third Floor Plan	October 2016
8433 DA F09	F	Fourth Floor Plan	October 2016
8433 DA F10	F	Mezzanine Floor Plan	October 2016
8433 DA F11	F	Roof Plan	October 2016
8433 DA F24	F	Section 1	October 2016
8433 DA F25	F	Section 2	October 2016
8433 DA F26	F	Section 3	October 2016
8433 DA F27	F	Section 4	October 2016

8433 DA F28	F	Elevation 1	October 2016
8433 DA F29	F	Elevation 2	October 2016
8433 DA F30	F	Elevation 3	October 2016
8433 DA F31	F	Material 1 Bldg A	October 2016
8433 DA F32	F	Material 2 Bldg B	October 2016
8433 DA F33	F	Material 3 Building B	October 2016
8433 DA F34	F	Material 4 Bldg B	October 2016
8433 DA F35	F	Solar Study 1	October 2016
8433 DA F36	F	Solar Study 2	October 2016
8433 DA F37	F	Shadow Diagram	October 2016
8433 DA F38	F	Roof Height Plane	October 2016
8433 DA F39	F	Height Compliance 3D View	October 2016
8433 DA F40	F	Street Perspective 1	October 2016
8433 DA F41	F	Street Perspective 2	October 2016

Landscape Plans prepared by Paul Schrivener

<b>Plan Nos.</b>	<b>Revision</b>	<b>Dated</b>
15/1829, Sheets 1, 2 and 3	E	31/08/16

Stormwater Management Plan prepared by Quantam Engineers

<b>Plan Nos.</b>	<b>Revision</b>	<b>Dated</b>
D1-D8	C	7/07/2016

<b>Document No.</b>	<b>Prepared by</b>	<b>Dated</b>
Survey Plan Ref 6807	SDG	11/08/2015
Arborist Report 1549.1	Redgum Horticultural	28 June 2016
BASIX Certificate No 693924M	Building Sustainability Assessments	18/12/2015
Waste Management Plan Job No 8433	Zhinar	Undated
Acoustic Report	Acoustic Logic	25/11/2015



Access Report	Certified Building Specialists	18/12/2015
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## 2. Amendment of Plans

- a) To comply with Councils requirement in terms of [insert details], the approved plans are to be amended as follows:
  - i) A total of 3 motorcycle parking spaces are to provide in the basement level.
  - ii) All mezzanine floor to ceiling heights are to be increased to but not exceed 2.4m. The mezzanine floor levels of Block A are not to exceed RL 190.900 and Block B 191.800.
  - iii) The landscape plan prepared by Paul Schrivener (Reference: Drawing Nos. 15/1829 Issue E Sheets 1 and 3) must be amended to provide additional screen planting to the southern boundary of the site adjacent to No. 419 Pacific Highway, Asquith.
- b) These amended plans must be submitted with the application for the Construction Certificate.

## 3. Height of Buildings

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

## 4. Construction Certificate

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

## 5. Section 94 Development Contributions

- 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	\$36,939.60
Open Space and Recreation	\$933,246.10
Community Facilities	\$358,767.60
Plan Preparation and Administration	\$3,010.40
<b>TOTAL</b>	<b>\$1,331,963.70</b>

being for 12 x 1 bedroom units, 70 x 2 bedroom units and 10 x 3 bedroom and a credit of 6 existing allotments.

- b) The value of this contribution is current as at 30 November 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:

- $\$C_{PY}$  is the amount of the contribution at the date of Payment  
 $\$C_{DC}$  is the amount of the contribution as set out in this Development Consent  
 $CPI_{PY}$  is the latest release of the Consumer Price Index (Sydney – All Groups) at the date of Payment as published by the ABS.  
 $CPI_{DC}$  is the Consumer Price Index (Sydney – All Groups) for the financial quarter at the date applicable in this Development Consent Condition.

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

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

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

**6. Appointment of a Project Arborist**

- a) A project arborist (AQF Level 5) must be appointed to provide monitoring and certification throughout the development process.
- b) Details of the appointed project arborist must be submitted to the PCA and Council for registration with the approved construction certificate.

**7. Removal of Trees**

- a) This development consent permits the removal of tree(s) numbered 2, 3, 4, and E1-E16 as identified revised Arboricultural Impact Assessment prepared by Red Gum Horticultural dated 28 June 2016.

*Note: The removal of any other trees from the site requires separate approval by Council in accordance with Part 1B.6 Tree and Vegetation Preservation of the Hornsby Development Control Plan, 2013 (HDCP).*

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

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

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

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

**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
  - iii) 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 – Quick Check**

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

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

#### 13. **Dilapidation Report**

A 'Dilapidation Report' is to be prepared by a 'chartered structural engineer' detailing the structural condition of all adjoining properties.

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

#### 14. **Letterboxes**

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

15. **Storage**

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

16. **Air Conditioning Plant**

One air conditioning plant unit may be provided for each apartment sited on the floor of the balcony. Where the approved adjacent balcony balustrade is glass, is to be constructed of opaque glass to obscure views to the plant from the property boundaries. Details must be submitted with the Construction Certificate plans.

17. **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**".

18. **Stormwater Drainage**

The stormwater drainage system for the development must be designed for an average recurrence interval (ARI) of 20 years and be gravity drained via an on-site detention and water quality treatment facility in accordance with the following requirements:

- a) Connected directly to Roads and Maritime Service (RMS)/Council drainage pit.
- b) The section of the open drain in front of the property fronting Pacific Highway shall be replaced by a pipe of minimum 375mm diameter. All works are to be carried out to RMS's requirements.
- c) Be designed by a Chartered Professional Civil/ Hydraulic Engineer of the Institution of Engineers, Australia.
- d) A construction certificate is to be submitted to Council for works within Pacific Highway with stamped approved plans by RMS.
- e) A Road Occupancy permit is to be obtained from RMS.

19. **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) Storage capacity to accommodate volume from up to 50 years ARI (average recurrence interval) storms and a maximum discharge (when full) limited to 5 years pre development rate. The storage volume shall not be less than 52 m<sup>3</sup> and maximum permissible discharge 96 litres per second.
- b) Have a surcharge/inspection grate located directly above the outlet. Discharge from the detention system to be controlled via 1 metre length of pipe, not less than 50 millimetres diameter or via a stainless plate with sharply drilled orifice bolted over the face of the outlet discharging into a larger diameter pipe capable of carrying the design flow to an approved Council system.
- c) Where above ground system is proposed and the average depth is greater than 0.3 metres, a 'pool type' safety fence and warning signs to be installed
- d) Not be constructed in a location that would impact upon the visual or recreational amenity of residents.
- e) Detail calculations are to be shown in construction certificate plan.
- f) An overflow/escape path shall be incorporated in the design.

## 20. **Water Quality Treatment System**

- a) Stormwater discharging from the development site is to be treated to achieve the quality specified in Council's Development Control Plan 2012 (table 1C.1.2(b) Urban Stormwater Quality Targets. MUSIC model and Hornsby Shire Council Music- link parameters are to be used in the model.
- b) Prior to occupation of the premises, a Chartered Civil/Hydraulic Engineer of the Institution of Engineers, Australia is to certify that works have been completed in accordance with the approved construction plan and the measures would achieve the targets specified in the condition.

## 21. **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 integral kerb and gutter;
- c) The footway area must be restored by turfing;

- d) 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. You are advised to contact Council on 02 9847 6940 to obtain a list of contractors.*

## 22. **Internal Driveway/Vehicular Areas**

The driveway and parking areas on site must be designed, constructed and a Construction Certificate issued in accordance with *Australian Standards 2890.1, 2890.2, 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.
- b) The driveway be a rigid pavement.
- c) Conduit for utility services including electricity, water, gas and telephone be provided. All existing overhead assets including electricity and telecommunications cabling shall be relocated underground at no cost to Council. A certificate from an appropriately licensed contractor shall be submitted to the principal certifying authority certifying that the service conduits have been installed in accordance with the relevant utility provider and Australian Standards.
- d) Longitudinal sections along both sides of the access driveway shall be submitted to the principal certifying authority in accordance with the relevant sections of AS 2890.1. The maximum grade shall not exceed 1 in 4 (25%) with the maximum changes of grade of 1 in 8 (12.5%) for summit grades and 1 in 6.7 (15%) for sag grades. Any transition grades shall have a minimum length of 2 metres. The longitudinal sections shall incorporate the design levels obtained by Council.

## 23. **Disabled Parking**

All parking for people with disabilities is to comply with AS/NZS 2890.6:2009 Off-street parking for people with disabilities.

## 24. **Bicycle Parking**

All required bicycle parking spaces are to be designed in accordance with AS 2890.3-1993 Bicycle parking facilities.

## 25. **Motorcycle Parking**

Three motorcycle spaces are required to be provided. Motorcycle parking spaces are to be designed in accordance with AS 2890.5-1993.

## 26. Road Works

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

- a) The existing footpath along Lords Avenue and Pacific Highway are to be replaced with new ones. The works along Pacific Highway is to be done in accordance with the requirements of Roads and Maritime Service (RMS). The nature strip is turfed.
- b) Existing kerb and gutter along Pacific Highway is to be replaced in accordance with RMS's requirements.
- c) The existing road pavement to be saw cut a minimum of 300 mm from the existing edge of the bitumen and reconstructed.
- d) The submission of a compaction certificate from a geotechnical engineer for any fill within road reserves, and all road sub-grade and road pavement materials.
- e) No work is to commence within the road reserve until approval under Section 138 of the Roads Act is obtained from Hornsby Shire Council. In this regard a construction certificate application is to be submitted to Council with approved stamped plans from RMS for works within Pacific Highway. .
- f) A Road opening permit is to be obtained from RMS to carry out works along Pacific Highway.

## 27. 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 Hornsby Shire Council for approval according to the following requirements:-

- a) A copy of the plans shall be submitted for consideration and written approval by Hornsby Shire Council prior to the release of the Construction Certificate.
- b) The plans shall detail the order of construction works and arrangement of all construction machines and vehicles being used at the same time during all stages.
- c) The CTMP plans shall be in accordance with the approved Development Application plans and the Development Consent conditions.



- d) In order to prevent injury, accident and loss of property, no building materials, work sheds, vehicles, machines or the like shall be allowed to remain in the road reserve area without the written consent of Hornsby Shire 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 Hornsby Shire 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 Hornsby Shire Council is to be made prior to the issue the Construction Certificate.

## 28. **Waste Management Details**

The following waste management requirements must be complied with:

- a) The approved on-going waste management system must not be amended without the written consent of Council.
- b) A bulky waste storage area of at least 8 square metres must be provided at the basement level.
- c) There must be sufficient vertical clearance to operate the bin lifter in the bin room at the basement level.
- d) Storage space must be provided for all equipment required for the operation of the waste management system, including a bin lifter.

- e) Each bin cupboard on each residential level with less than 8 dwellings, must have internal dimensions of no less than 1.5 m wide by 0.9 m deep, and double doors of total width no less than 1.4 m. Each bin cupboard on each residential level with 8 or more dwellings, must have internal dimensions of no less than 2.1 m wide by 0.9 m deep, and double doors of total width no less than 2.0 m. Each bin cupboard must be accessible by persons with a disability. There must be a bin cupboard on each residential level of each building. The doors must be wide enough and positioned so that the bins can fit through.

*Note: Internal dimensions do not include wall thickness, door thickness, ventilation ducting etc, which must be added. AS 1428.1 requires at least 800 mm clear doorway opening for wheelchair access.*

- f) The access way (including ramp, vehicle turning area, loading bay and site entry/exit) to be used by waste collection vehicles, must be designed in compliance with Australian Standard AS2890.2-2002 Parking Facilities Part 2: Off-street Commercial Vehicle Facilities for small rigid vehicles.

*Note: AS2890.2-2002 includes a maximum gradient of 1:6.5 for forward travel and a minimum vertical clearance of 3.5 m. Encroachments of the small rigid vehicle turning path and low speed manoeuvring clearance (300 mm both sides) into parking spaces cannot be tolerated.*

- g) A Waste Management Plan Section One – Demolition Stage and Section Three – Construction Stage, covering the scope of this project and including the following details, is required to be submitted to Council:

- i) An estimate of the types and volumes of waste and recyclables to be generated;
- ii) A site plan showing sorting and storage areas for demolition and construction waste and the vehicle access to these areas;
- iii) How excavation, demolition and construction waste materials would be reused or recycled and where residual wastes would be disposed;
- iv) The total percentage (by weight) of demolition and construction waste that would be reused or recycled.

## 29. **Certification of Traffic Engineer**

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

<b>REQUIREMENTS PRIOR TO THE COMMENCEMENT OF ANY WORKS</b>
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**30. 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.

**31. 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.*

**32. 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*.

### 33. **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.*

### 34. **Installation of Tree Protection**

- a) All trees retained on site 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).
- b) Tree protection fencing must erected around trees numbered 1 as specified in the tree protection zones in the revised Arboricultural Impact Assessment provided by Red Gum Horticultural dated 28 June 2016.

### 35. **Tree Protection Zone Ground Protection**

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.

### 36. **Tree Protection Certification**

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.

## **REQUIREMENTS DURING DEMOLITION AND CONSTRUCTION**

### 37. **Construction Work Hours**

All work on site (including demolition and earth works) must only occur between 7am and 5pm Monday to Saturday (unless otherwise approved in writing by Council due to extenuating circumstances). No work is to be undertaken on Sundays or public holidays.

### 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 Lords Avenue and Pacific Highway 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. **Council Property**

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

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

#### 42. **Disturbance of Existing Site**

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

**43. 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.

**44. 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.

**45. 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 complies with AS2890.1 – 2004 and AS20890.2 – 2002 for small rigid vehicles (SRV).

**46. Traffic Control Plan Compliance**

The development must be carried out in accordance with the submitted Traffic Control Plan (TCP).

**47. Works Near Trees**

- a) The project arborist must monitor and record any necessary remedial actions for maintaining tree health and condition required for tree numbered 1.

- b) The appointed project arborist must monitor and record all changes or modifications to required tree protection measures for the period of construction.

**48. Building materials and Site Waste (minor/major)**

The filling or stockpiling of building materials, the parking of vehicles or plant, the disposal of cement slurry, waste water or other contaminants must be located outside the tree protection zones as prescribed in the conditions of this consent or the prescriptive measures of Part 1B.6.1 Tree Preservation of the Hornsby Development Control Plan, 2013, of any tree to be retained.

**49. Works near trees certification**

The project arborist must submit to the principal certifying authority on a monthly a certificate that the works have been carried out in compliance with the approved plans and specifications for tree protection. Certification should include a statement of site attendance, the condition of the retained trees, details of any deviations from the approved tree protection measures and their impacts on trees. Copies of monitoring documentation may be required.

**50. 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:

- b) The identity of the person removing the waste.
- c) The waste carrier vehicle registration.
- d) Date and time of waste collection.
- e) A description of the waste (type of waste and estimated quantity).
- f) Details of the site to which the waste is to be taken.
- g) 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).
- h) Whether the waste is expected to be reused, recycled or go to landfill.

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

## REQUIREMENTS PRIOR TO THE ISSUE OF AN OCCUPATION CERTIFICATE

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

### 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. Works as Executed Plan

A works-as-executed plan(s) must be prepared by a registered surveyor and submitted to Council kerb & gutter, footpath, on-site detention and water quality treatment systems. The plan(s) must be accompanied by a certificate from a registered surveyor certifying that all pipelines and associated structures lie wholly within any relevant easements.

### 54. 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 and water quality treatment 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 water quality treatment system is to be clearly indicated on the title.
- b) To register the positive covenant and the restriction on the use of land, "*works-as-executed*" details of the on-site-detention system and water quality treatment system must be submitted verifying that the required storage and discharge rates and water quality treatment measures 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 and details of water quality treatment measures. Any variations to the approved plans must be shown in red on the "*works-as-executed*" plan and supported by calculations.



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. Rectification works must be undertaken prior to the issue of an Occupation Certificate, or sooner, as directed by Council.

56. **Preservation of Survey Infrastructure**

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

57. **Completion of Works and Compliance Certificate**

All engineering works identified in this consent are to be completed and a Compliance Certificate issued prior to the release of occupation permit.

58. **Planter Boxes / On slab planting**

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

59. **Deep Soil Area**

The 7m x 7m deep soil area between the buildings is partially covered with hard paving. Hard paving over the 7m x 7m deep soil area between the buildings is to be replaced with a permeable surface such as timber decking or permeable paving.

60. **Planting – Public Verge**

Street tree plantings of 2 x *Tristaniopsis laurina* 'Luscious' (Water Gum) are required to the Lords Avenue verge and 2 x *Tristaniopsis laurina* 'Luscious' (Water Gum) are required to the Pacific Highway verge. Trees are to be 200 litre pot size, installed in mulched beds with staking and ties for a period of establishment.

61. **Completion of landscaping**

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

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

**62. Maintain Canopy Cover**

- a) To provide a positive environmental outcome replacement planting in the form of 5 trees and must be species selected from the Council's Indigenous species listing located in the Hornsby Shire DCP Tree Preservation Measures 1B.6 Table 1B.6(b) such as *Angophora costata*, *Angophora floribunda* and *Banksia integrifolia*.
- b) Location and Size of Plantings
  - i) Replacement Trees for must be located in front or rear setbacks and setback 4 metres or greater from the foundation walls of the approved development.
  - ii) The pot size of the replacement tree(s) must be a minimum 25 litres and replacement tree(s) must be maintained until they reach the height of 3 metres.
  - iii) The replacement trees must reach a mature height greater than 10 metre.
  - iv) All tree stock must meet the specifications outlined in '*Specifying Trees*' (Ross Clark, NATSPEC Books).
  - v) Planting methods must meet professional (best practice) industry standards
- c) The suitably qualified person holding a certificate III in Horticulture must submit to the principal certifying authority a statement confirming all landscaping requirements has been completed in accordance with approved landscape plans and conditions of consent.

**63. Final Certification Arborist**

- a) The Project supervisor must submit to the principal certifying authority all relevant certificates with the application for the occupation certificate stating compliance with all the conditions of this consent.
- b) The Project arborist must submit to the principal certifying authority a certificate that all the completed works have been carried out in compliance with the approved plans and specifications for tree protection. Certification must include a statement of overall site attendance, the condition of the retained trees, details of any deviations from the approved tree protection measures and their impacts on trees. Copies of monitoring documentation may be required.

**64. Retaining Walls**

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

**65. Boundary Fencing**

The exact location, design and costing for the erection of boundary fencing are to be the subject of negotiation and agreement in accordance with the relevant requirements of the Dividing Fences Act, 1991.

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).*

**66. 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.

**67. 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.*

**68. Waste Management Details**

The following waste management requirements must be complied with:

- a) Prior to an Occupation Certificate being issued or the use commencing, whichever is earlier, the Principal Certifying Authority must obtain Council's approval of the waste and recycling management facilities provided in the

development and ensure arrangements are in place for domestic waste collection by Council.

*Note: Waste and recycling management facilities includes everything required for on-going waste management on the site. For example the garbage chute system, volume handling equipment, bin lifter, lift to ground level bin store, garbage chute and recycling bin storage on each residential level, bin storage areas, bulky waste storage area, bin collection area, waste collection vehicle access, doors wide enough to fit the bin through, etc, as applicable to the development.*

- b) The garbage 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 waste facility (garbage bin and recycling bin cupboards) on each residential level, must include sealed and impervious surface, adequate lighting and ventilation, a robust door(s).
- c) A report must be prepared by an appropriately qualified person, certifying the following:
  - i) A comparison of the estimated quantities of each waste type against the actual quantities of each waste type.  
  
Note: Explanations of any deviations to the approved Waste Management Plan is required to be included in this report.
  - ii) That at least 60% of the waste generated during the demolition and construction phase of the development was reused or recycled.  
  
Note: If the 60% diversion from landfill cannot be achieved in the Construction Stage, the Report is to include the reasons why this occurred and certify that appropriate work practices were employed to implement the approved Waste Management Plan. The Report must be based on documentary evidence such as tipping dockets/receipts from recycling depots, transfer stations and landfills, audits of procedures etc. which are to be attached to the report.
  - iii) All waste was taken to site(s) that were lawfully permitted to accept that waste.
- d) Each unit must be provided with an indoor waste/recycling cupboard for the interim storage of waste with two separate 20 litre containers, one each for general waste and recyclable materials.
- e) There must be a bulky waste storage area of at least 8 square metres at the basement level.
- f) 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.*

- g) The bin carting routes must be devoid of any steps.

*Note: Ramps between different levels are acceptable.*

- h) The waste facilities (garbage bin(s) and recycling bin in a cupboard or room) on each residential level must be accessible by persons with a disability while comfortably housing one 240 L garbage bin (for levels with less than 8 dwellings) or two 240 L garbage bins (for levels with 8 or more dwellings), and one 240 L recycling bin (on all levels).

*Note: 240 L recycling and garbage bins are 600 mm wide by 750 mm deep; allow for ease around the bin – 75 mm is recommended). The door(s) need to be wide enough and positioned so that the bins can fit through.*

- i) Motorised bin lifting equipment must be provided to assist the site caretaker in the safe decanting of the 240 L garbage bins into the 660 L garbage bins.
- 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 SRV 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 small rigid vehicles.

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

- k) The 3.5 metre clearance height within the waste collection vehicle travel path must not be reduced by ducting, lights, pipes or anything else.
- l) “No parking” signs must be erected to prohibit parking in the waste collection loading bay and turning area
- m) Site security measures implemented on the property, including electronic gates, must not prevent access to the collection point by waste removal services.
- n) The access from Pacific Highway must be designed and used by SRV waste collection vehicles only.

**69. Safety and Security**

- a) Fire exist doors to the development must be fitted with single cylinder locksets (Australia and New Zealand Standard – Lock Sets) to restrict unauthorized access to the development.
- b) Ground floor windows must be fitted with window locks that can be locked with a key.
- c) A graffiti management plan must be incorporated into the maintenance plan for the development for graffiti to be removed within a forty-eight hour period.
- d) The basement car park entry must be secured by security gates/roller shutters and controlled by secure access located at the top of the driveway. The access control to include an audio/visual intercom system to allow visitor access to the parking area.
- e) In order to prevent tail-gating on entry to the basement car park the timing of the security door closing is to be a maximum of 10 seconds. Signage is to be erected instructing drivers to wait until the roller door fully closes prior to proceeding.
- f) Lighting of pedestrian pathways throughout the development must comply with *Australia and New Zealand Lighting Standard 1158.1 – Pedestrian*.
- g) Front fencing to be designed to allow casual surveillance at the frontage.
- h) The entry foyer door is to be a security door with access being restricted to an intercom, code or card lock system.
- i) The street number of the building is to be readily identifiable from Citrus Avenue.
- j) Quality mail box doors and non-tamper proof locks must be fitted to the mail boxes.
- k) The bicycle racks are to have secure locking loops bolted into the concrete flooring.
- l) Storage cages are to be constructed of quality steel mesh, welded to a sturdy metal frame and provided with a total of 3 hinges and 3 locking points. A secure locking loop bolted into the concrete floor is also required to be provided to enable use of padlocks.
- m) The internal portions of the basement are to be illuminated in accordance with the AS1158.1, AS1680 and AS2890.1.

**70. 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.*

**71. 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.

**72. 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.

<b>OPERATIONAL CONDITIONS</b>
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**73. Landscape establishment**

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

**74. 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, decanting the 240 L garbage bins into the 660 L garbage bins, managing the communal composting area(s), managing the bulky item storage area(s), arranging the prompt removal of dumped rubbish, ensuring the waste collection vehicle travel path and parking area are kept clear of parked cars, and ensuring all residents are informed of the use of the waste management system. The site caretaker must be employed for a sufficient number of hours each week to allow all waste management responsibilities to be carried out to a satisfactory standard.
- b) The approved on-going waste management practise for the site must not be amended without consent from Council.

**75. Noise – Plant and Machinery**

The level of total continuous noise emanating from operation of all the plant, including air conditioning units and processes in all buildings (LA10) (measured for at least 15 minutes) in or on the above premises, must not exceed the background level by more than 5dB(A) when measured at all property boundaries.

**76. 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.

**77. Garbage Collection Vehicles**

The access from Pacific Highway is to be used by Council's garbage collection vehicles only (no access for general vehicles from Pacific Highway and from within the car park to Pacific Highway).

**GENERAL TERMS OF APPROVAL – ROADS AND MARITIME SERVICE**

The following conditions of consent are General Terms of Approval from the nominated State Agency pursuant to Section 91A of the Environmental Planning and Assessment Act 1979 and must be complied with to the satisfaction of that Agency.

**78. Roads and Maritime has previously resumed and dedicated a strip of land as road along the Pacific Highway frontage of the subject property, as shown by grey colour on the attached Aerial-"X".**

Therefore, all buildings and structures, together with any improvements integral to the future use of the site are to be wholly within the freehold property (unlimited in height or depth), along the Pacific Highway boundary.

The redundant driveway on the Pacific Highway shall be removed and replaced with kerb and gutter to match existing. The design and construction of the kerb and gutter crossing on Pacific Highway shall be in accordance with Roads and Maritime requirements. Details of these requirements should be obtained from Roads and Maritime Services, Manager Developer Works, Statewide Delivery, Parramatta (telephone 8849 2138).

Detailed design plans of the proposed kerb and gutter crossing are to be submitted to Roads and Maritime for approval prior to the issue of a Construction Certificate and commencement of any road works.

A plan checking fee (amount to be advised) and lodgement of a performance bond may be required from the applicant prior to the release of the approved road design plans by Roads and Maritime.



79. The proposed gate on the Pacific Highway must be setback to cater for a garbage vehicle to stand in front of the gate without blocking the through traffic while waiting for the gate to be opened.
80. Turnaround facilities should be provided on site to allow garbage vehicles to manoeuvre within the site and enter/exit the site on Pacific Highway in a forward direction. In this regard, a swept path plan should be provided in accordance with AUSTROADS and submitted to Council for approval which shows that the proposed development complies with this requirement.

The developer is to submit design drawings and documents relating to the excavation of the site and support structures to Roads and Maritime for assessment, in accordance with Technical Direction GTD2012/001.

The developer is to submit all documentation at least six (6) weeks prior to commencement of construction and is to meet the full cost of the assessment by Roads and Maritime Service.

The report and any enquiries should be forwarded to: Project Engineer, External Works

Sydney Asset Management  
Roads and Maritime Services  
PO Box 973 Parramatta CBD 2124.  
Telephone 8849 2114  
Fax 8849 2766

If it is necessary to excavate below the level of the base of the footings of the adjoining roadways, the person acting on the consent shall ensure that the owner/s of the roadway is/are given at least seven (7) days notice of the intention to excavate below the base of the footings. The notice is to include complete details of the work.

81. Detailed design plans and hydraulic calculations of any changes to the Roads and Maritime's stormwater drainage system are to be submitted to Roads and Maritime for approval, prior to the commencement of any works.

Details should be forwarded to:  
The Sydney Asset Management  
Roads and Maritime Services  
PO Box 973 Parramatta CBD 2124.

A plan checking fee would be payable and a performance bond may be required before Roads and Maritime approval is issued. With regard to the Civil Works requirement please contact the Roads and Maritime Project Engineer, External Works Ph: 8849 2114 or Fax: 88492766

82. The developer shall be responsible for all public utility adjustment/relocation works, necessitated by the above work and as required by the various public utility authorities and/or their agents.
83. A construction zone would not be permitted on Pacific Highway.
84. Any proposed landscaping and/or fencing must not restrict sight distance to pedestrians and cyclist travelling along the footpath of Pacific Highway.
85. All works/regulatory signposting associated with the proposed development are to be at no cost to Roads and Maritime.

**- END OF CONDITIONS -**

**ADVISORY NOTES**

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

**Environmental Planning and Assessment Act 1979 Requirements**

The Environmental Planning and Assessment Act 1979 requires:

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

**Long Service Levy**

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

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

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

**Tree and Vegetation Preservation**

In accordance with Clause 5.9 of the Hornsby Local Environmental Plan 2013 a person must not ringbark, cut down, top, lop, remove, injure or wilfully destroy any tree or other vegetation

protected under the *Hornsby Development Control Plan 2013* without the authority conferred by a development consent or a permit granted by Council.

*Notes: A tree is defined as a long lived, woody perennial plant with one or relatively few main stems with the potential to grow to a height greater than 3 metres.*

*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 would provide consideration under the *Building Code of Australia*, however, the development may not comply with the requirements of the *Disability Discrimination Act*. This is the sole responsibility of the applicant.

### **Covenants**

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

### **Dial Before You Dig**

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

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

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

### **Asbestos Warning**

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

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

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

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

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

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

### **House Numbering**

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

### **Occupation Certificate Requirements**

An Occupation Certificate application is required to be lodged, with a copy to Council, containing the following information:

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