

## SYDNEY NORTH PLANNING PANEL

<b>Panel Reference</b>	2017SNH030
<b>DA Number</b>	DA/227/2017
<b>LGA</b>	Hornsby Shire Council
<b>Proposed Development</b>	Concept development application for a twelve-storey seniors living development
<b>Street Address</b>	Lot 78 DP3250 No. 18 Waitara Avenue, Waitara
<b>Applicant</b>	The Vasey Housing Association, NSW
<b>Owner</b>	The Vasey Housing Association, NSW
<b>Date of DA Lodgement</b>	15 March 2017
<b>Number of Submissions</b>	Twelve submissions from eleven residents
<b>Recommendation</b>	Approval
<b>Regional Development Criteria (Schedule 4A of the EP&amp;A Act)</b>	CIV > 20million (\$47,595,000)
<b>List of All Relevant s79C(1)(a) Matters</b>	<ul style="list-style-type: none"> <li>• State Environmental Planning Policy No. 55 - Remediation of Land</li> <li>• State Environmental Planning Policy (Housing or Seniors and People with a Disability) 2004</li> <li>• State Environmental Planning Policy No.65 – Design Quality of Residential Flat Building</li> <li>• Sydney Regional Environmental Plan No. 20 - Hawkesbury Nepean (No. 2 - 1997)</li> <li>• Hornsby Local Environmental Plan 2013</li> <li>• Hornsby Shire Council Section 94 Development Contributions Plan 2014 - 2024</li> </ul>
<b>List all documents submitted with this report for the panel's consideration</b>	Locality Plan, Survey Plan, Concept building envelope plans, Comparative analysis of Building envelopes, Concept floor layout plans, Concept Landscape Plan, Shadow diagrams, Concept 3D image, Clause 4.6 variation
<b>Report prepared by</b>	Aditi Coomar, Senior Town Planner
<b>Report date</b>	27 September 2017

### Summary of s79C matters

Have all recommendations in relation to relevant s79C matters been summarised in the Executive Summary of the assessment report? **Yes**

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### Legislative clauses requiring consent authority satisfaction

Have relevant clauses in all applicable environmental planning instruments where the consent authority must be satisfied about a particular matter been listed, and relevant recommendations summarized, in the Executive Summary of the assessment report? **Yes**

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### Clause 4.6 Exceptions to development standards

If a written request for a contravention to a development standard (clause 4.6 of the LEP) has been received, has it been attached to the assessment report? **Yes**

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### Special Infrastructure Contributions

Does the DA require Special Infrastructure Contributions conditions (S94EF)? **No**

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### Conditions

Have draft conditions been provided to the applicant for comment? **Yes**

*Note: in order to reduce delays in determinations, the Panel prefer that draft conditions, notwithstanding Council's recommendation, be provided to the applicant to enable any comments to be considered as part of the assessment report*

## ASSESSMENT REPORT AND RECOMMENDATION

### EXECUTIVE SUMMARY

- The application is for a concept development application for a twelve-storey seniors living development comprising independent living units with associated on-site support services at the ground floor, under Section 83B of the *Environmental Planning and Assessment Act 1979*. The applicant submits that a subsequent application for proposed works within the building envelope would to authorise demolition and construction works on the site.
- The proposed development is defined as 'Seniors Housing.' Seniors Housing is prohibited under the *Hornsby Local Environmental Plan 2013 (HLEP)* in the R4 zone. The proposal is permitted pursuant to Clause 4 of *State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004* where land is zoned for urban purposes and where residential development is permitted. The provisions of *State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004* prevail to the extent of any inconsistency with the *HLEP*.
- The proposal does not comply with *State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004* with regard to *Clause 26(2) (Distance to public transport)*. A submission to vary the development standard has been made in accordance with *Clause 4.6 of the HLEP* and is considered well-founded.
- The proposal would result in a twelve storey residential development which would exceed the maximum permissible height shown for the land on the "Height of Buildings" map of the *HLEP*. The proposed height and density are acceptable as the development would result in an affordable seniors living development with significant public benefits and a built form which is consistent with the desired future character of the area.
- The proposal complies with the design principles of *State Environmental Planning Policy No. 65* and the *Apartment Design Guide*.
- Clause 7 of *SEPP 55* states that Council must not consent to carrying out of any development unless it has considered if the land is contaminated and if so whether it is suitable or can be suitable (after remediation) for the proposed use. The site has been used extensively for residential activities without any evidence of contamination.
- The site is within the catchment of the Hawkesbury-Nepean River. As such the land is subject to the provisions of *SREP 20*. The proposal is satisfactory having regard to the general planning considerations and the specific planning policies and recommended strategies listed in the instrument.
- The geotechnical report submitted with the application provides details of recommendations to be complied with during building works under future development applications.
- The application is supported by a Traffic Impact Assessment Report which concludes that the traffic generated by the development would not have any adverse impact on the local road network.

- The site is not identified as a bushfire prone land or flood prone land. The site is considered to be suitable for the development.
- Twelve submissions from eleven residents have been received in respect of the application.
- It is recommended that the application be approved.

## **RECOMMENDATION**

THAT Council 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. 227/2017 for a concept development application for a seniors living development at Lot 78 DP3250 No. 18 Waitara Avenue, Waitara subject to the conditions of consent detailed in Schedule 1 of this report.

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## **BACKGROUND**

The subject application was lodged with Council on 15 March 2017 and was publicly notified till 20 April 2017.

Following an assessment of the application, Council sent a letter to the applicant on 11 May 2017 raising concerns regarding the height of the proposed building, built form strategy.

In response additional plans were lodged on 19 June 2017.

On 27 June 2017 Council officers met with the applicant to discuss the proposed amendments. At the meeting Council advised the applicant that the application cannot be supported on the basis of a judgement passed by the NSW Court of Appeal regarding staged development applications.

On 18 July 2017, the applicant submitted additional information to address Council's concerns regarding the height of the building and requested additional time to address the issue regarding staged development.

On 15 August 2017, the applicant provided legal advice to Council stating that the recent amendments to Section 83B of the *Environmental Planning and Assessment Act 1979* would allow the assessment of the application in its current form as a concept development application.

## **SITE**

The site comprises one allotment, Lot 78 in DP 3250 located at the corner of Park Lane and Waitara Avenue. The allotment has a trapezoidal shape with frontage of 67.06m to Park Lane (north) and 49.61 metres to Waitara Avenue (west). The subject site has an area 4,430m<sup>2</sup> and an average downward cross fall of 4.9% from the south-western corner to north-eastern corner (Park Lane frontage).

The current improvements on the site include a 2-storey seniors living development with basement, named the *Parkview Retirement Village*, operated by Vasey Housing Association.

The facility has existed on the site since 1963 and accommodates 52 self-contained one-bedroom apartments and 3 self-contained studios.

The buildings comprise parallel wings of residential apartments with common balcony areas, intercepted by courtyards and open spaces. The buildings are well screened from both roads by dense screen planting along the frontages. Vehicular access to the site is provided from Waitara Avenue. Pedestrian access to the site is provided via the main reception area from Waitara Avenue and via two entrances from Park Lane.

Adjoining developments to the south and east comprise older style three storey residential flat buildings. The Hornsby PCYC facility, comprising an indoor sports and community facility complex under construction, is located on the opposite side of Park Lane, to the north of the site. Vehicular access to this facility is provided via Park Avenue. Nine and ten storey residential flat buildings are located on the opposite side of Waitara Avenue, on the western side of the subject site. Waitara Park (Mark Taylor Oval) adjoins the northern side of the PCYC facility and extends for a distance of 300m with frontage to Edgeworth David Avenue to the north.

Waitara Avenue ends in a cul-de-sac with no vehicular connection to Edgeworth David Avenue, about 350m, north of the site. Pedestrian connection to the road is provided via footpaths. On street parking exists along Waitara Avenue catering to the local users and the Mark Taylor oval users. Sherbrook Road runs perpendicular to Edgeworth David Avenue, opposite the intersection with Waitara Avenue. This intersection is signalised to allow safe pedestrian access to the northern side.

The subject site is located within 100m of Waitara Railway station to the south, high density residential precincts with varying height limits to the east and west and the Asquith Leagues Club. Bus services to Hornsby Macquarie Park and the city are located in Edgeworth David Avenue, approximately 330m north of the site. The site is also located 750 metres east of Westfield shopping centre, banks and medical services with pedestrian and vehicular connectivity to local shops, amenities and services.

## **PROPOSAL**

The application seeks approval of a Concept development application for a twelve-storey seniors living development comprising independent living units with associated facilities, under Section 83B of the *Environmental Planning and Assessment Act 1979*. The applicant submits that a subsequent development application would be lodged for details of the works within the proposed building envelope.

The development specifics are provided below:

- A defined building envelope comprising a single storey podium at the ground level with an L-shaped eleven-storey tower along the two frontages;
- Vehicular access to a basement car park would be provided from Waitara Avenue;
- An ambulance bay, waste collection areas and garbage truck access is proposed from Park Lane;

- Car parking for the development would be provided in a basement car park comprising three basement levels accommodating up to 159 car spaces;
- The podium level would accommodate the ancillary services including a multi-purpose hall, administrative offices, entrance foyer, waste collection services, health consulting services, hair dresser and beauty salon;
- The proposal may incorporate a future neighbourhood shop at the ground level;
- The tower level would accommodate up to 117 independent living units. Details of unit mix and layouts would be provided in a future development application. However, the submitted plans include concept layouts for each floor level which indicate that a maximum of 11 - 13 units would be proposed on each of the typical levels and a maximum of seven units would be proposed on the two upper levels;
- The potential unit mix would be 17 x 1bd units, 90 x 2-bd units (including 2b + s) and 10 x 3bd units; and
- Communal open space is proposed at the first floor level above the podium.

## **ASSESSMENT**

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

### **1. STRATEGIC CONTEXT**

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

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

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

The proposed development would be consistent with '*A Plan for Growing Sydney*', by providing additional dwellings 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 Environmental Planning and Assessment Act 1979 (The Act)**

The development application was lodged on 15 March 2017 and sought approval for a staged development approval for a seniors living development under the provisions of Section 83B of the Act. During the assessment of the development application, the NSW Court of Appeal handed down a judgement in the Court case of *Bay Simmer Investments Pty Ltd v State of New South Wales [2017] NSWCA 135*. In the judgement, the Court of Appeal held that consent for a single stage DA approval was invalid. The Court considered that a subject application was not a staged development application because it did not propose a concept for detailed proposals for separate parts of the site. On the basis of the above judgement, Council considered that the submitted application was invalid in its current form.

As a result of the judgement, the Environmental Planning and Assessment Act 1979 was recently amended to include new provisions regarding concept development applications which would allow the application to be assessed and determined in its current form. The application is supported by a legal advice confirming the recent legislative changes. The relevant matters are discussed below.

### **2.1.1 Section 83B – Concept Development Applications**

Section 83B of the Act states the following:

*(1) For the purposes of this Act, a concept development application is a development application that sets out concept proposals for the development of a site, and for which detailed proposals for the site or for separate parts of the site are to be the subject of a subsequent development application or applications.*

*(2) In the case of a staged development, the application may set out detailed proposals for the first stage of development.*

*(3) A development application is not to be treated as a concept development application unless the applicant requests it to be treated as a concept development application.*

*(4) If consent is granted on the determination of a concept development application, the consent does not authorise the carrying out of development on any part of the site concerned unless:*

*(a) consent is subsequently granted to carry out development on that part of the site following a further development application in respect of that part of the site, or*

*(b) the concept development application also provided the requisite details of the development on that part of the site and consent is granted for that first stage of development without the need for further consent.*

*The terms of a consent granted on the determination of a concept development application are to reflect the operation of this subsection.*

*(5) The consent authority, when considering under section 79C the likely impact of the development the subject of a concept development application, need only consider the likely impact of the concept proposals (and any first stage of development included in the*



application) and does not need to consider the likely impact of the carrying out of development that may be the subject of subsequent development applications.

*Note. The proposals for detailed development of the site will require further consideration under section 79C when a subsequent development application is lodged (subject to subsection (2)).*

**Comment:** The application has been lodged in accordance with Section 83B(1) of the Act. The applicant submits that a subsequent development application would be lodged for detailed works within the site. The current development application, seeks consent for the building envelope and the general location of the facilities only.

In accordance with Clause (5), this assessment report can only consider the likely impact of the concept proposal. Accordingly, detailed assessment of the proposal against the provisions of *State Environmental Planning Policy No. 65* and the *Apartment Design Guidelines* has not been undertaken. The impact of the built form on the locality has been assessed against the design principles within the *Urban Design Guidelines for Infill Seniors Housing Developments*.

### **2.1.2 Section 83D - Status of concept development applications and consents**

Section 83D states the following:

*(1) The provisions of or made under this or any other Act relating to development applications and development consents apply, except as otherwise provided by or under this or any other Act, to a concept development application and a development consent granted on the determination of any such application.*

*(2) While any consent granted on the determination of a concept development application for a site remains in force, the determination of any further development application in respect of the site cannot be inconsistent with the consent for the concept proposals for the development of the site.*

**Comment:** A condition of consent is recommended to ensure that any subsequent development applications are consistent with the current approval.

### **2.1.3 Schedule 6 – Savings, transitional and other provisions**

Part 27 (145) of the Savings and Transitional provisions of the Act states the following:

*(1) A staged development application that, immediately before the commencement of the amending Act, was pending under Division 2A of Part 4 of this Act (as in force before the substitution of that Division by the amending Act) is, on and from that substitution, taken to be a concept development application under that Division (as so substituted), and may be dealt with accordingly.*

*(2) A consent granted to a staged development application under Division 2A of Part 4 of this Act (as in force before the substitution of that Division by the amending Act) is, on and from that substitution, taken to be a consent granted to a concept development application under that Division (as so substituted), and has effect accordingly.*

**Comment:** The Act was amended during the assessment of the application to include provisions for Concept development applications. In accordance with the above provisions,



the development application can be assessed against the current provisions which substitute the previous requirements of Section 83B.

## **2.2 Hornsby Local Environmental Plan 2013**

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

### **2.2.1 Zoning of Land and Permissibility**

The subject land is zoned R4 under the *HLEP*. The proposed development is defined as 'Seniors Housing.' Seniors Housing is prohibited under the *HLEP* in the R4 zone. Notwithstanding, the proposal is permitted pursuant to Clause 4 of *State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004* where land is zoned for urban purposes and where residential development is permitted. The provisions of *State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004* prevail to the extent of any inconsistency with the *HLEP*.

The submitted documentation indicates that a "neighbourhood shop" may be proposed at the grounds level. This is a permissible use within the R4 zone.

### **2.2.2 Height of Buildings**

Clause 4.3 of the *HLEP* provides that the height of a building on any land is not to exceed the maximum height shown for the land on the Height of Buildings Map. The maximum permissible height for the site is 32.5m (10 storeys). The proposal does not comply with this provision and proposes a maximum height of 39.3m above ground (12 storeys). The matter has been discussed in section 2.3 of this report.

### **2.2.3 Heritage Conservation**

Clause 5.10 of the *HLEP* sets out heritage conservation provisions for Hornsby Shire Council. The site does not include a heritage item and is not located in a heritage conservation area. The property is located within the vicinity of a heritage listed shop at No. 11-37 Alexandria Parade (Item No. 773) and a heritage listed park, Mark Taylor Oval at No. 20X Waitara Avenue (Item No. 783) identified to be of local significance under Schedule 5 (Environmental heritage) of the *HLEP*.

The proposed development is located in an R4 High Density zone. It adjoins the heritage listed Mark Taylor Oval to the north, 10-storey residential flat buildings to the west, Asquith Rugby League Club to the south-west and similar R4 zoned land to the south and east.

Mark Taylor Oval (to the north) dates from the 1900s and has a long association with providing recreational facilities/space for the residents of Hornsby. It is currently under development with construction of new tennis courts to the north and a two storey recreation building for the PCYC adjacent to Park Lane. The heritage listed shop is owned and built around by the Asquith Leagues Club, yet retains its prominent corner position when viewed from the public domain.

The site is surrounded by comparable high rise development and/or potential building sites. Accordingly, the proposal with the two additional storeys would have no adverse impact on

the setting, prominence or significance of the heritage listed items in the vicinity. The bulk and scale of the proposal would be compatible with the future desired character of surrounding the area.

As such, the subject application is for the building envelope only. Submission of elevations and plans showing the desired articulation of the building and landscape features within the site would be assessed under a subsequent development application.

#### **2.2.4 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.

Whilst the current proposal is for a concept building envelope only, it is noted that the future building works require excavation below ground up to 10m. The application is supported by a Geotechnical Investigation Report which includes recommendations for excavation methods, wall and pile details, ground anchors, vibration monitoring, foundation design, floor slab design and excavation support.

Any future development application for building works would need to be constructed in accordance with the recommendations of the geotechnical report.

#### **2.2.5 Design Excellence**

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

The application, being for a Concept development approval for a building envelope, is supported by an Urban Design Assessment Report prepared by GMU Architects. The report states that the proposed 12-storey built form achieves design excellence due to the following reasons:

- The proposed built form envelope aligns with the street boundary, the west and north. The envelope adopts an L shaped configuration that allows a consolidated area of communal open space for residents at level 1;
- The 11-storey tower built form includes seniors living dwellings above a ground floor area containing community facilities, administration areas, health consulting rooms and smaller commercial components primarily servicing the needs of the residents;
- Basement car parking to serve the needs of residents and personnel;
- Maximum 25m built form depth is proposed with allowance for building articulation;
- Site boundaries have generous setbacks to the envelope to allow for landscape buffers to the adjacent lots. Vehicular entry is located to the south-western corner of the site, on Waitara Avenue, close to the current vehicular site access point;

- The development would create a contemporary and elegant development on approach to Waitara Railway Station to compliment the streetscape and the neighbourhood character;
- The built form provides appropriate front setbacks to the street and laneway and generous landscaped areas to the public domain interface;
- The development provides a high quality contemporary design to enhance the residential character of the area and defines a clear building base and horizontal articulation to reduce bulk;
- The proposed built form strategy locates the massing towards the streetscape to minimise bulk impacts to neighbours, defines the building top by expression of the top floors and is a sympathetic response to the topography and the sloping terrain; and

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

In accordance with the above provisions, the original proposal and amendments were referred to *DEM (Aust) Pty Ltd* to undertake an independent urban design review. The assessment of the initial proposal undertaken by the urban designer raised a number of concerns regarding the additional two storeys above the permissible height limit and non-compliances regarding setbacks with the *Hornsby Development Control Plan 2013 (HDCP)*. *The Urban Designer advised that* the two additional storeys can only be supported if a comparative analysis of the overshadowing impacts on the precinct be submitted in addition to demonstrated compliance with the *Apartment Design Guide* and *HDCP* requirements relating to setbacks, podium design, building articulation and internal layout. In this regard a comparative analysis of the twelve storey tower and ten storey tower were requested. The applicant responded to the request as follows:

A comparative analysis of the compliant building footprint (as per the *HDCP*), the developable area footprint (as per the Precinct concept plan in the *HDCP*) and the proposed building footprint were provided in addition to a 3D massing model for the precinct; and

A comparative analysis of the approved building lengths in the precincts and the proposed building lengths were submitted.

**Comment:** An assessment of the submitted documents has been conducted and the following is concluded:

- The submitted built form analysis demonstrated that the proposed built form would not result in a development with an excessive bulk and scale when compared to the compliant built envelope on the site;
- An overshadowing analysis has been submitted to demonstrate that the additional shadow due to the height would not impact on the neighbouring properties to the south;

- The proposal is required to be assessed against the provisions of *State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004* which does not include a permissible height limit for developments in the R4 zone. Accordingly, the proposed height is assessed against the merits of the proposal later in this report.

Given the above, it is considered that the proposed built form would not have an adverse impact on the built environment of the locality. However, a detailed assessment of the proposal against the Design Excellence Clause can only be conducted under a future development application for building works on the site.

In accordance with the requirements of Section 83D of the Act, assessment of the proposal against the provisions of the *Apartment Design Guide* can only be conducted when a future development application is lodged.

The proposed concept built form strategy is assessed as satisfactory against the relevant provisions of the *State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004* as discussed later in this report.

#### **2.2.6 Clause 4.6 – Exceptions to Development Standards**

The application has been assessed against the requirements of Clause 4.6 of the *HLEP*. This Clause provides for a degree of flexibility in applying development standards to achieve better planning outcomes and applies to standards under the *HLEP* or any other planning instrument.

The applicant has made a submission in support of a variation to the development standard for distance to access and facilities within Clause 26 of the *State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004* in accordance with Clause 4.6 of the *HLEP*.

The development is located adjacent to bus routes 575 and 594 along Edgeworth David Avenue from Hornsby town centre to Turramurra and the Macquarie Centre or the City. Waitara Railway Station is within 170 metres from the development site. Additionally, bus routes 589 and M60 on the Pacific Highway, approximately 230-370 metres from the development site provide access to Hornsby, Thornleigh, Sydney Adventist Hospital while the M60 continues to Parramatta.

The westbound bus stop on Edgeworth David Avenue is located within 398m of the site and complies with the requirements of Clause 26. The topography of pedestrian footpath along the route to the bus stops provide a very moderate 1:25 gradient up to a maximum of 1:8 for kerb ramps to satisfy clause 26(3). However, the following numerical non-compliances are noted with regard to compliance with Clause 26(2) and (4) of the SEPP HSPD:

- The eastbound bus stop on Edgeworth David Avenue is 434 metres from the subject site which marginally exceeds the 400 metres specified in Clause 26(2) of the *SEPP HSPD*; and

- The existing stairway access to Waitara Station and the bus routes 589 and M60 on the Pacific Highway is not wheelchair accessible and does not fully satisfy Clause 26(4) of the *SEPP HSPD*.

The applicant has made a submission in accordance with Clause 4.6 'Exceptions to development standards' of the *Hornsby Local Environmental Plan 2013* to vary Clause 26(2) of the *SEPP HSPD*. The applicant states the proposed variation is considered to be consistent with the objectives of the control and is justified as follows:

- *There is no specifically stated purpose or object of the development standards expressed in Clause 26. However, it can be inferred that the object of the standard is to ensure that residents have access to all facilities and services they reasonably require by means that are appropriate. The SEPP HSPD applies to all land in NSW zoned for urban purposes or adjoining land zoned for urban purposes. It seeks to encourage the provision of housing for seniors in areas where this form of housing is not otherwise permissible. The site is located at Waitara in an area that is highly urbanised and that cannot be considered to be isolated, or an excessive distance from facilities and services or transport to those services;*
- *The site is 170 metres from the Waitara Station platforms which provides a high level of train services to metropolitan Sydney. Currently there is no lift access to the platforms and consequently this access does not fully comply with the requirements of clause 26 of the SEPP HSPD. It is apparent that Waitara Railway Station is programmed for an "accessibility upgrade" that would include lift access;*
- *The proposal complies with the distance to the westbound bus stop. The additional 34 metres to the bus stop on the opposite side of the road is at a signalised intersection and causes no adverse impact upon future residents of the development;*
- *The degree of non-compliance is considered minor and less than 10%;*
- *The development involves the demolition of an outdated seniors housing and its replacement with improved housing and additional housing to meet the needs of seniors;*
- *The proposed development would provide a high level of access to public transport for those residents who are ambulant and can walk up the stairway to access the train services. Additional bus services are available on the Pacific Highway on the other side of the station. These facilities will cater for some of the needs of the development;*
- *The proposed development would itself include additional services such as rooms to be used by doctors and other allied health practitioners who would visit the site to provide services to residents. This would be managed by Vasey and the operators of the village;*
- *Provision has been made in the design of the ground floor for a convenience store on the ground floor level, a resident's cinema, hairdresser, consulting suites, meeting rooms and multipurpose rooms for resident activities. Details will be provided as part of the subsequent development application;*

- *The managers of the facility, being a not for profit operation, would be present on site to monitor resident needs and provide or arrange support as required. This includes access to home care and support and access to public transport in the form of taxis and lift sharing;*
- *The development facilitates an increase in the provision of important seniors housing in the area which has a significant social benefit;*
- *The development is both well designed and well located such that it is capable of meeting the needs of seniors who are independent, mobile and active as well as those who are frail, and other people with a disability regardless of their age. The non-compliance does not give rise to any significant adverse environmental impacts.*

**Comment:** A number of Land and Environment Court Cases including *Simon vs Hornsby Council NSWLEC 10525* established that the requirements of Clause 26 of the *SEPP HSPD* are development standards and therefore Clause 4.6 can be applied to vary the standard.

The proposed variation and the submitted Clause 4.6 variation have been assessed against the established principle in the case of *Four2Five Pty Ltd v Ashfield Council [2015] NSWLEC 1009*, by the Land and Environment Court. In accordance with the views expressed in this decision, sufficient environmental planning grounds, unique to a site, must be demonstrated by the applicant for the Clause 4.6 variation request to be upheld.

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

- The application proposes redevelopment of a site which already accommodates a seniors living development. The proposal upon completion would provide an improved form of seniors housing with the on-site support services that would reduce the need for the residents to use public transport;
- The location of one bus stop complies with the 400m distance as required by Clause 26(2) of the *SEPP HSPD*. The bus stop on the opposite side is located at a distance of 434m, on the opposite side of Edgeworth David Avenue.
- Currently, Waitara Avenue ends in a cul-de-sac and does not directly connect to Edgeworth David Avenue, only pedestrian access is provided via suitable footpaths. This measure controls traffic along the classified road and allows on-street parking along Waitara Avenue in association with the oval. Sherbrook Road runs perpendicular to Edgeworth David Avenue, opposite the intersection with Waitara Avenue. This intersection is signalised to allow safe vehicular access on to Sherbrook Road and pedestrian access to the children's park at the north-western corner of the two classified roads.
- The bus stop on the northern side of Edgeworth David Avenue is located a safe distance to the west of this signalised intersection to avoid conflict between the vehicles and the bus standing bay.
- Thus, the additional 34m increases the safety of the pedestrians and users of this bus stop. The additional distance would not be discernible by the users and therefore it is



considered that this non-compliance would not result in any adverse impact on the accessibility of the site;

- Alternate modes of transport are available within 400m of the site that would be compliance with the requirements of Clause 26 subject to potential upgrades in the future; and
- The proposal would provide a significant public benefit by providing affordable seniors housing in the locality which is otherwise unavailable; and
- Given that the facility already exists on the site and that this proposal would improve the existing facilities, the minor non-compliance with the accessibility provisions is acceptable;.

Given the above, it is considered that the development in its current form achieves compliance with the objectives of the development standard and the principle established by the Land and Environment Court with regard to Clause 4.6.

Based on this assessment, it is considered that compliance with the development standard would be unreasonable and unnecessary in the circumstances of the case. Accordingly, the proposed variation to the accessibility criteria in Clause 26 of the *SEPP HSPD* is accepted.

### **2.3 State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004**

The *State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004 (SEPP HSPD)* is the overriding planning instrument for the development of housing for aged and disabled people in NSW and provides for hostels, residential care facilities (nursing homes) self-contained dwellings and multi-storey buildings. *SEPP HSPD* is comprehensive in scope including land use planning provisions, design principles, development standards and standards specifically to meet the housing needs of aged and disabled people. *SEPP HSPD* also includes design guidelines for infill development. The assessment of the proposal in accordance with the relevant requirements of *SEPP HSPD* is provided as follows:

#### **2.3.1 Clause 13 – Self Contained Dwellings**

The *SEPP HSPD* includes the following definitions for “Self-contained dwellings”:

*“General term: “self-contained dwelling*

*In this Policy, a self-contained dwelling is a dwelling or part of a building (other than a hostel), whether attached to another dwelling or not, housing seniors or people with a disability, where private facilities for significant cooking, sleeping and washing are included in the dwelling or part of the building, but where clothes washing facilities or other facilities for use in connection with the dwelling or part of the building may be provided on a shared basis.*

*Example: “in-fill self-care housing”*

*In this Policy, in-fill self-care housing is seniors housing on land zoned primarily for urban purposes that consists of 2 or more self-contained dwellings where none of the following services are provided on site as part of the development: meals, cleaning services, personal care, nursing care.”*



For the purposes of assessment against *SEPP HSPD*, the proposed development is defined as 'in-fill self-care housing' comprising a maximum of 117 'self-contained dwellings'.

### **2.3.2 Clause 26 – Location and Access to Facilities**

The *SEPP HSPD* includes mandatory standards for accessibility and useability of self-contained dwellings to ensure wheelchair accessibility throughout the development and to a public road. Mandatory standards also apply for access to public transport, medical services and shops. The applicant submitted a report prepared by *Accessibility Solutions*, which includes a detailed assessment of the subject site and the proposed development, concerning compliance with the mandatory standards. The relevant matters are discussed below.

#### *Local Shopping Centre Access*

The site is located approximately 850 metres of Westfield shopping centre and to up to 1.4 kms to the remainder of the Hornsby retail/commercial precinct, which provides a wide variety of shops and services.

#### *Public Transport Access*

The eastbound bus stop on Edgeworth David Avenue is 434 metres from the subject site which marginally exceeds the 400 metres specified in Clause 26(2) of the *SEPP HSPD*.

The applicant has made a submission in accordance with Clause 4.6 'Exceptions to development standards' of the *Hornsby Local Environmental Plan 2013* to vary Clause 26(2) of the *SEPP HSPD*. The submission is considered well founded and is supported.

The matter is discussed in Section 2.2.6 of this report.

### **2.3.3 Clause 30 – Site Analysis**

The application includes a Site Analysis plan in accordance with the requirements of the *SEPP HSPD*. The proposal is assessed as satisfactory in this regard.

### **2.3.1 Clause 40 – Development Standards**

The site has an area of 4,430m<sup>2</sup> and complies with the standard in respect to the site area being greater than the minimum 1,000m<sup>2</sup>. The site frontage is approximately 67.06m to Park Lane (north) and 49.61 metres to Waitara Avenue (west) and complies with the minimum frontage of 20m at the building line.

Clause 40(4) specifies height requirements in zones where residential flat buildings are not permitted. However, "Residential flat buildings" are permissible in the R4 High Density Residential zone and therefore Clause 40(4) is not applicable. Consequently, it is evident that the suitability of the proposed height of a building should be assessed on its merits and in relation to the context of the site.

A 32.5m height control (10-storeys) applies to the site as specified in Clause 4.3 of the *HLEP* and the *HDCP*. The proposed building would result in a 39.3m high (12-storey) building which would not comply with this control. Council initially raised concerns regarding the appropriateness of the height exceedance and that it would create an undesirable precedent for the locality. The applicant submits the following in support of the proposed height:

- *Vasey Housing (the applicant) is a registered charity and not-for-profit organisation. The proposed development, upon completion, would offer affordable accommodation for members of the community over 55 years and to the Defence Community. The remaining stock would be offered to the service community (Police, Fire Brigade, Ambulance etc.);*
- *The residential accommodation will be provided in accordance with the Retirement Villages Act and all units will be offered for sale under a loan licence arrangement at a 15% discount to market value.*
- *Vasey Housing is a direct provider of housing to seniors through the retirement villages Act;*
- *This development would provide a substantial social and affordable housing benefit to the Hornsby Shire Local Government Area;*
- *The two additional floors which add to the height exceedance would accommodate approximately 14 units or 0.37:1 additional floor space ratio which would make a considerable contribution to affordable accommodation for seniors in the community with the target demographic being returned service people and immediate families and retired key workers.*
- *In accordance with the requirements of the SEPP HSPD, the built form is required to be compatible with the streetscape character, not to be identical to the existing developments. The proposed built form responds to the prominent location with a slender taller form providing containment to the sporting facility and the green space extending to the north over a distance of approximately 300m;*
- *The bulk and scale of the proposed built form is consistent with existing developments along Waitara Avenue and potential future developments in the precinct. The two upper levels are set back from the perimeter of the tower to emphasise the slender proportions of the taller built form and minimise impacts to adjoining properties. The smaller tower footprint ensures reduction in the perceived bulk from public domain areas and therefore appropriately offset the additional height of the building;*
- *The urban design report demonstrates that the 35m x 35m building footprint requirement of the HDCP would result in an outcome that would be contrary to the best practise principles and would result in a deep and bulky building. The current built form responds to the Apartment Design Guide (ADG) building depth and would provide a site specific built form; and*
- *Alternatively, two 10-storey towers could be proposed on this site. However, that would significantly compromise the relationship of a future building with the adjoining properties.*

**Comment:** Council's assessment in this regard concludes the following:

- *In accordance with Clause 45(1) of the SEPP HSPD, the provisions of "Vertical Villages" which allow for seniors housing in the form of a residential flat building*

would apply to the subject site as residential flat buildings are permitted in R4 zone pursuant to the *HLEP*. Clause 45(2) includes bonus floor space ratio provisions should 10% of the dwellings for the accommodation of residents in the proposed development be affordable places and on-site support services for residents be provided (Clause 45(6)).

- The intent of the “Vertical Villages” provision is to provide bonus floor space to all service providers that propose affordable housing for seniors in the high density residential precincts.
- However, the application seeks approval for concept development consent for “*self-contained dwellings*” under Clause 15 of the *SEPP HSPD*. The applicant submits that the provisions of “Vertical Villages” have not been applied in this case as the site is not subject to a Floor Space Ratio provision pursuant to *Clause 4.4 of HLEP* and rental accommodation is not proposed.
- Notwithstanding the above, it is noted that Vasey organisation was originally established to provide independent living units for women over the age of 60 who were either a relative of ex-service personnel, or who served in the Defence Force themselves. As per the documentation submitted with the application, the proposed development, upon completion, would provide seniors housing accommodation at 15% below the market value. Staff would be available on site to provide on-site support services such as meals, health consulting and services which are generally in accordance with the definition of “on-site support services” in the *SEPP HSPD*.
- Whilst there is no direct nexus between the current development and Clause 45 “Vertical Villages”, it is agreed that the form of development is similar to a “vertical village” as it provides housing to retired service providers of the community at discounted rates and therefore the bonus FSR provision can be applied to this development, in principle.
- *HLEP* provides a maximum building height control for the sites within R4 zone and floorplate controls within the *HDCP*. The “Height” development standard in conjunction with the building envelope guidelines, control the bulk and scale of a development, being consistent with the objectives of the “floor space ratio” development standard. Based on this principle, a comparison of the likely floor space generated by a compliant 10-storey building on the site and the maximum floor area generated by the proposed 12-storey development has been undertaken.
- Council’s calculations based on the building footprint diagrams submitted with the urban design report conclude the following regarding floor space generated by the development:
  - a) Floor area generated by a compliant envelope (35m x 35m): 11,482sqm which equates to 2.6:1 FSR (approximately considering that the upper levels would have reduced footprint);

- b) Floor area generated by the proposed envelope: 13,971sqm which equates to 3.15:1 FSR (approximately excluding ground level on-site support services as required by the *SEPP HSPD*).
- The above figures indicate that the proposal would result in a maximum additional FSR of 0.5 on the site. Given an application for a vertical village would have allowed a bonus FSR of 0.5:1 on the site with the affordable housing provisions, the above form of development is consistent with the objectives and intent of the *SEPP HSPD*. In the absence of FSR provisions, the proposed built form has translated the floor space in the form of additional height.
  - The submitted planning report states that the proposal would result in 14 additional units with FSR of 0.37:1. However, all the units would be sold at affordable rates and therefore the additional yield would result in significant social benefit to the community.
  - The submitted urban design report demonstrates that the proposed built form would address the street frontages appropriate by creating articulation zones and setting the two upper levels back, so that they are not discernible from the public domain.
  - The additional height would not notably increase the overshadowing impacts on adjoining properties. The proposed built form would ensure that appropriate setbacks are maintained from the adjoining residential properties notwithstanding the additional height.
  - The additional height provides a significant public benefit in the locality by providing seniors housing at affordable rates for the service community and Defence force.
  - The approval of the additional height would not result in an undesirable precedent for the locality as the proposal is unique in its context and does not propose a residential flat building development which would be otherwise proposed on the adjoining sites.

Due to the above reasons, the proposed height of the building is supported.

### **2.3.1 Clause 31 – Design of In-Fill Self-Care Housing**

In determining a development application for *in-fill self-care housing*, a consent authority must take into consideration (in addition to any other matters that are required to be, or may be, taken into consideration) the provisions of *Seniors Living Policy: Urban Design Guideline for Infill Development* published by the Department of Planning and Environment.

The merits of the proposal in meeting the *SEPP HSPD* design principles and the *Seniors Living Policy Urban Design Guidelines for Infill Development* are discussed in the following sections of this report.

### **2.3.2 Clause 33 – Neighbourhood Amenity and Streetscape**

The subject site is located in a high density residential precinct. The site adjoins land zoned R4 to the east and south with applicable height limits of 32.5m. To the north, the site adjoins the PCYC sports facility and the Mark Taylor Oval. Nine-storey residential flat buildings (approximately 26.5m) are located to the west on the opposite side of Waitara Avenue

extending between Edgeworth David Avenue (north) and Alexandria Parade (south). The locality is undergoing change due to substantial number of residential flat buildings being constructed nearby. The impacts of the proposed built form on the neighbourhood and streetscape have been considered in the context of the existing developments, the desired future character of the area, the visual privacy requirements of the *Apartment Design Guide* (ADG) and the following local development controls under the that apply to the site:

- *10m setback to Waitara Avenue and Park Lane (front) that may be reduced to 8m for 1/3 frontage;*
- *9m setback to the sides that may be reduced to 7m for 1/3 frontage;*
- *32.5m height control (10 storeys) specified in the HLEP and the HDCP; and*
- *35m maximum building length (when measured between the opposing walls).*
- *Buildings should be stepped as required by the ADG and provide a distinct top, middle and base.*

The proposed built form strategy relies on the built-form envisaged in Section 3.5 of the *HDCP*, especially the Key Development Principles Diagram for “Park Avenue, Waitara precinct” and proposes a single storey podium that would generally be consistent with the developable area footprint. The tower element proposed an L-shaped 11-storey building over the podium with about 47.5m (+ articulation zone) building length fronting Park Lane and 38m (+articulation zone) bending length fronting Waitara Avenue. The setback to Park Avenue is proposed to be 9m that can be reduced to 7m.

The setbacks to the south and east are not fully compliant with the *HDCP* setback requirements and the articulation zones exceed 1/3 of the building length on the eastern side. The height of the building varies between 37m – 39.8m.

Council’s urban design assessment initially raised concerns regarding the non-compliance of the proposed setbacks with the *HDCP* controls and advised that the proposed building lengths plus the two additional do not result in a better design outcome for the site when viewed from the public domain and the streetscape.

The applicant submitted a revised urban design response to address Council’s concerns in the following ways:

- The submitted built form analysis demonstrates that the buildings along the western side of Waitara Avenue have an average building length of 37m – 50m. In this regard, the proposed 50m building along the Park Lane frontage would not be inconsistent with the neighbourhood.
- The proposal has been amended to provide a building envelope with the following setbacks at the tower level:
  - a) 10m setback to Park Lane with articulation zones at 8m and 7m to balcony;
  - b) 10m setback to Waitara Avenue with articulation zones at 8m including balconies;

- c) 7m minimum setback to the eastern boundary increasing to 34m and 6m to balconies;
  - d) 6m minimum setback to the southern boundary increasing to 42m up to level 9;
  - e) The two upper levels are proposed to be setback with 3m additional setback on all sides including the southern boundary where the setbacks are proposed to be increased to 12m for the building line with articulation zone up to 10m and 9m setback for balconies;
  - f) The two upper levels along the eastern elevation of the tower would be setback 13m with an articulation zone at a setback of 11m and 10m to balconies; and
  - g) The proposed building envelope would retain the 6m for the tower on the southern side up to level nine and would not incorporate any balconies to alleviate privacy impacts on future neighbours.
- The basement level setbacks comply with the *HDGP* requirements.
  - The single storey podium would have a setback of 10m to Park Lane, 10m – 13m to Waitara Avenue and 6m – 7m to the side boundaries complying with the *HDGP* and the *ADG* setback requirements for residential flat buildings.
  - In terms of the impact of the additional height on the precinct, the urban design report states that the proposed built form response is sensitive to the adjoining residential developments and consistent with the *ADG* building depth requirements (18m) to maximise solar access, ventilation and minimise overshadowing. The two upper levels have been recessed and would not be perceived from the public domain. Given the shape of the building and the reduced bulk, the additional height would not have an unreasonable impact on the streetscape and the built environment of the locality.
  - The building is located at a prominent location and would be highly visible from Edgeworth David Avenue public domain as well due to the open space in between. The proposed building envelope and concept design of facades appropriately respond to the location and context of the site in relation to the character of the neighbourhood and the streetscape.

**Comment:** Council's assessment in this regard concludes that the proposed building envelope of the seniors living development would fit into the existing character of the locality and would not have an unreasonable impact on the neighbourhood and streetscape due to the following reasons:

- The proposed building length along the two road frontages exceeds the 35m building length requirement as required by the *HDGP* which provides guidance to the developments in the precinct. However, the prescriptive measure requires the building to be 35m long when measured between any two opposing walls. This control can be interpreted in various ways and may result in a much longer overall building length by proposing well-articulated facades that comply with 35m length between opposing walls at any point. The proposed tower, however, provides a defined built form which is generally consistent with the approved building lengths along Waitara Avenue and is located within the developable area as marked in the



“Key Development Principles Diagram” for the precinct. The concept plans and 3D sketches demonstrate that the facades would be well articulated with indents and a variety of finishes and materials, details of which have been provided. The articulated facades would not have an unreasonable impact on the streetscape, due to the exceedance in length. As such, the building would be perceived as a slender tower when viewed from the public domain along Alexandria Parade and partly along Balmoral Street. The L-shaped built form significantly reduces the overall building depth and the impact of the bulk on the public domain. Consequently, the proposed building lengths are acceptable subject to detailed assessment of the design elements in the future.

- The proposed setbacks are generally consistent with the *ADG* regarding Visual privacy.
- It is noted that *ADG* requires a minimum setback of 12m from the boundaries for all habitable rooms and balconies located 25m (9+ storeys) above the ground level. In this regard, the proposed setback of 9m to the southern boundary and 10mm – 11m to the eastern boundary would not be compliant.
- A detailed assessment of this impact cannot be conducted at the Concept stage due to lack internal layouts. The *ADG* allows 12-storey buildings to have a setback of 6m to the boundary, should balconies and habitable room windows be eliminated. The future design may incorporate design features to comply with this requirement.
- The articulation zones are not fully compliant with the 1/3 building length requirement of the *HDCP*. However, this can be assessed in detail and on its merits upon lodgement of the detailed development application.
- The *HDCP* requirements do not include a podium for the subject site, however, the inclusion of a podium would clearly define the top, middle and base and is assessed as satisfactory.
- Accordingly, it is concluded that the building envelope and the setbacks would generally be consistent with the requirements of *SEPP 65* and the *ADG* which provide guidelines for maintaining acceptable levels of visual privacy to neighbouring buildings. The details of the impact on adjoining residential buildings would be assessed in detail under a future development application for building works on the site.
- As discussed in this report, the additional height is supported due to the proposed form of development on the site, the objectives of the *SEPP HSPD* and the public benefits.

### **2.3.3 Clause 34 – Visual and Acoustic Privacy**

The proposed dwellings are designed with regard to visual privacy to avoid overlooking on to neighbouring residents. This coupled with the landscape details and setbacks results in adequate space for the effective landscape settings along the boundaries of the development and separation between neighbouring buildings.



The integration of the individual private open space areas proposed with the living areas of the dwellings having regard to acoustic privacy would be assessed under a future development application. However, the concept layouts indicate that adequate acoustic privacy between dwellings can be maintained.

The development is to be used for seniors living and therefore, would be a low noise generating development. The proposal would not have any unreasonable acoustic impact on the surroundings.

The proposed communal open space area at the first floor level would be subject to overlooking opportunities from the surrounding properties, however given the location of the site this would be unavoidable. The proposed built form maintains appropriate level of privacy to the future residents which is considered to be satisfactory.

#### **2.3.4 Clause 35 – Solar Access and Design for Climate**

The details of solar access to individual units within the development cannot be assessed at the Concept stage. However, the concept layouts indicate that 80% of units on each of the typical levels and 100% of the units on the two upper levels would receive in excess of 2 hours solar access between 9am and 3pm during winter solstice, complying with the requirements of the *ADG* and *SEPP HSPD*.

The submitted shadow diagrams provide a comparative analysis of the shadows cast by a compliant building envelope and the proposed building. The diagrams demonstrate that the additional shadow cast by the development would be negligible compared to the shadow cast by a 10-storey compliant building. Further, it is also noted that the shadows on the south-eastern side would be significantly reduced due to the proposed L-shaped built form.

The proposed built-form strategy appropriately responds to the provisions of solar access and is acceptable in this regard.

#### **2.3.5 Clause 36 – Stormwater**

The application is supported by a Hydraulic Infrastructure Assessment summary which indicates that Council's controlled drainage system and associated infrastructure exists along the northern side of Park Lane and Waitara Avenue to the west. Given the slope of the land, post development stormwater could be connected to Council's drainage system.

Details of the stormwater system would be assessed under a further development application for building works. A condition of consent recommend that a future stormwater system to be designed and constructed in accordance with Council's *Civil Works – Design and Construction Specification 2005* and incorporate an on-site detention system and water quality treatment measures.

#### **2.3.6 Clause 37 – Crime Prevention**

The accessway design, pedestrian linkages and orientation of dwellings ensures casual surveillance of the development and separation of public and private areas. The concept proposal is satisfactory in respect to crime prevention.

#### **2.3.7 Clause 38 – Accessibility**

The concept envelope diagrams demonstrate that the development can be designed to be fully accessible in accordance with the applicable standards of the *Building Code of Australia* and the *Disability Discrimination Act*.

Conditions of consent are recommended requiring all parking spaces within the basement comply with the provisions of AS2890.6.

### **2.3.8 Clause 39 – Waste Management**

The submitted concept ground floor layout includes a centralised garbage room for residential waste at the basement level. A waste lift is proposed to transfer bins to the loading area at the ground level. A waste loading area is proposed at the front setback facing Park Lane. Swept path analysis has been provided to demonstrate that a 12.5m long garbage truck (heavy rigid vehicle) can stand within the frontage of the site adjoining the loading bay, collect garbage and egress along Park Lane to the east. The loading bay dimensions and turning areas comply with AS2890.2. It is noted that a loading bay/ambulance parking bay would be located immediately to the west of the waste loading area. Further information provided with the application indicates that the truck standing area would not obstruct the use of the ambulance bay.

The concept layout for each residential level includes an area for waste facility comprising a garbage chute and recycling bin in a small room or cupboard. The garbage chute would terminate into the garbage bin room located at the basement level.

Given that the plans are concept only, the proposed waste servicing facilities and design are considered acceptable.

Council's assessment in this regard concludes that bins for residential use are required at a rate of 110L/dwelling/week for garbage and 50L/dwelling/week for recycling. Garbage is collected three times per week and recycling is collected twice per week. Garbage bins can be 660L or 1100L whereas recycling bins can be 240L or 360L. Conditions of consent recommend that appropriate space be provided within the garbage room to accommodate the above number of bins.

Upon completion of the PCYC building and works pursuant to Waitara Park Plan of Management 2015, Park Lane would be an eastbound one-way road. The proposed truck movements would not conflict with the plan of management.

The ground floor layout does not include a separate waste collection area for the on-site support services. Conditions of consent recommend that a future development application incorporate 16m<sup>2</sup> of bulky goods storage space and a commercial waste collection area.

### **2.3.9 Clause 41 – Standards Regarding Accessibility and Useability**

This clause requires developments to comply with development standards contained within Schedule 3 of *SEPP HSPD* to ensure an adequate level of access for people with disabilities. Whilst the application includes an Access report assessing the proposal against the requirements of Schedule 3, it is considered that a detailed assessment having regard to compliance with the controls would be conducted under future development applications on the site for detailed building works.

As such, the proposal includes an accessible pedestrian entry to the building and a lift providing access to all levels. No further assessment is required at this stage of the development.

### 2.3.10 Clause 50 – Standards That Cannot be Used to Refuse Development Consent for Self-Contained Dwellings

The *SEPP HSPD* includes non-discretionary development standards whereby compliance cannot be used to refuse development consent. The proposal is for a concept development only. Accordingly, detailed assessment of the proposal against the requirements of Clause 50 cannot be undertaken. Notwithstanding the following table is provided as a guide to set out the proposal's compliance with these standards.

Clause	Control	Proposal	Requirement	Compliance
50(a)	<b>Building Height</b>	39.5m	8m	No
50(b)	<b>Density and Scale</b>	3.15:1	0.5:1	No.
50(c)	<b>Landscaped Area</b>	50.7%	30%	Yes
50(d)	<b>Deep Soil Percentage</b>	30%	15%	Yes
50(e)	<b>Solar Access</b>	76.9%	70%	Yes
50(f)	<b>Private open Space</b> <b>Ground level units</b> <b>Minimum dimension</b> <b>Upper level units</b> <b>Minimum dimension</b> <b>upper level</b>	15m <sup>2</sup> 3m >10 m <sup>2</sup> 2m	15m <sup>2</sup> (min) 3m 10 m <sup>2</sup> (min) 2m	Yes Yes Yes Yes
50(h)	<b>No. of car spaces</b>	159	148.5 ( bedrooms @ minimum of 0.5 car spaces per bedroom and considering study rooms to be 1 bedroom in the absence of detailed layouts)	Yes

The relevant matters and compliance of the proposal with Clause 50 of the *SEPP HS&PD* are discussed below.

#### 2.3.10.1 Building Height and Density

Given that the proposed building is to be located in a high density residential precinct, compliance with the above standards is unreasonable. The proposed building form and density are acceptable as discussed previously in this report.

### **2.3.10.2 Landscaping and Deep Soil Zones**

The proposed concept landscaping is satisfactory in providing for streetscape amenity and pockets of communal open space areas. The areas of deep soil planting, in particular along the periphery would provide for a high density development in a landscaped setting. The width of the deep soil planting areas complies with the HDCP requirements. The details of planting and street trees would be assessed under a future development application.

The design of the community garden at the first floor level and the scattered resting areas promote interaction in providing useable meeting and resting places.

It is noted that the site is a corner allotment and therefore the standard regarding provision of 2/3 of the deep-soil zone at the rear does not apply.

### **2.3.10.1 Car Parking**

The proposal includes satisfactory number of car spaces within the basement, as per the concept layouts. Conditions of consent would recommend that all future car spaces comply with the provisions of AS2890.6.

### **2.3.10.2 Solar Access**

The above solar access calculations are based on the concept floor plans only. Detailed assessment would be conducted under a future development application.

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

The Policy provides for design principles to improve the design quality of residential flat development and for consistency in planning controls across the State. The proposal is for a concept building envelope of a twelve storey seniors living development.

In accordance with Clause 70B of the *Environmental Planning and Assessment Regulation 2000* a design verification statement is not required as details of the first stage of the development are not included in the application. In accordance with Section 83B of *the Act*, an assessment of the proposal against the design principles of SEPP 65 has been conducted as a guide and addressed in the following table.

<b>Principle</b>	<b>Compliance</b>
<b>1. CONTEXT</b>	<b>Yes</b>
<b>Comment:</b> The site is located within a precinct planned for a 12-storey residential flat buildings of varying heights in close proximity to Waitara Railway Station and the Hornsby Town 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.	

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.	
<b>2. BUILT FORM AND SCALE</b>	<b>Yes</b>
<b>Comment:</b> The scale, bulk and height of the development are appropriate for the desired future character within the precinct as discussed in Section 2.3 of this report.	
<b>3. DENSITY</b>	<b>Yes</b>
<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 provides significant public benefit via affordable seniors living development on the site. The matter is discussed in detail in Section 2.3 of this report.	
<b>4. SUSTAINABILITY</b>	<b>Yes</b>
<b>Comment:</b> The concept layouts of the typical floors demonstrate that the dwellings would receive natural cross ventilation and sunlight for amenity, liveability of residents.  A subsequent development application on the site would be supported by a BASIX Certificate.	
<b>5. LANDSCAPE</b>	<b>Yes</b>
<b>Comment:</b> The application includes a landscape concept plan which provides landscaping along the street frontages, side and rear boundaries. Additionally a large communal open space is proposed above the ground level podium.	
<b>6. AMENITY</b>	<b>Yes</b>
<b>Comment:</b> The concept floor plans demonstrate that the units can achieve natural ventilation, solar access and acoustic privacy, incorporate balconies accessible from living areas. Privacy can be achieved through appropriate design and orientation of balconies and living areas. The matter would be assessed in detail under a future development application.	
<b>7. SAFETY</b>	<b>Yes</b>
<b>Comment:</b> The matter is discussed in Section 2.3.7 of this report.	
<b>8. HOUSING DIVERSITY AND SOCIAL INTERACTION</b>	<b>Yes</b>
<b>Comment:</b> The proposal responds to the social context in terms of providing a range of dwelling sizes for seniors and people with a disability with good access to social facilities and services as the site is located in close proximity to Waitara Railway Station and Hornsby town centre. The communal open space with seating arrangements and lawn areas provides opportunities for social interaction amongst residents.	
<b>9. AESTHETICS</b>	<b>Yes</b>
<b>Comment:</b> The submitted concept diagrams of architectural treatment of the building	

incorporate indentations and projections in the exterior walls with balcony projections to articulate the facades. The aesthetics of the building would be assessed in detail under a future development application.

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

Clause 28(2)(c) of *SEPP 65* requires the consent authority to take into consideration the *Apartment Design Guide (ADG)* when determining a development application for a residential flat building. Whilst the development is a seniors housing, the built form is similar to a residential flat building. Accordingly, an assessment of the development is required to be undertaken against the design guidelines within the ADG.

The proposal is a Concept development application only and a detailed assessment against the ADG cannot be undertaken until an application for the first stage of building works is lodged. However, the proposed building envelope generally complies with the design guidelines relating to visual privacy, solar access, deep soil zones and communal open space as discussed in Section 2.3 of this report.

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

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

A search of Council's records and aerial images reveals that the property has been used exclusively for residential purposes with no record of any site contamination. The application is supported by a preliminary site contamination investigation report. The report concludes that the site is unlikely to be contaminated. Given this no further assessment is required.

### **2.6.1 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 Section 94 Contributions Plans**

Hornsby Shire Council Section 94 Contributions Plan 2014 - 2024 would apply to the development as it would result in additional dwellings on the site. The requirement for a monetary Section 94 contribution would be levied under a subsequent development application for a detailed building on the site.

## **3. ENVIRONMENTAL IMPACTS**

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

### **3.1 Natural Environment**

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

The site does not accommodate any significant vegetation. The proposed concept development application would not necessitate the removal of any trees from the site.

Council's assessment of the proposal included a detailed examination of the existing trees on site and the adjoining properties and concludes that the proposal would not have adverse impact on any significant vegetation in the locality.

The application is assessed as satisfactory having regard to its impact on the natural environment.

### **3.2 Built Environment**

#### **3.2.1 Built Form**

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

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

#### **3.2.2 Traffic**

The existing road hierarchy in the near vicinity of the subject site includes the following:

- *Edgeworth David Avenue*: a secondary road owned by Roads and Maritime Services (RMS), that generally runs in an east-west direction, and carrying an Annual Average Daily Traffic (AADT) in the order of 22,000 vehicles in both directions.
- *Alexandria Parade*: A local road that generally runs in an east-west direction, linking between Millewa Avenue in the east and Pattison Avenue in the west.
- *Waitara Avenue*: A local road that generally runs in a north-south direction, providing pedestrian and vehicular access to frontage properties. It is closed off at its northern end and does not directly link to Edgeworth David Avenue.
- *Park Lane*: A service road running parallel to Alexandria Parade.

A Traffic Impact Assessment Report prepared by *Traffix* was submitted with the application. The report submits that Roads and Maritime Guide to Traffic Generating Developments (Technical Direction TDT 2013/04a) recommends application of a PM peak hour traffic generation rate of 0.4 trips per dwelling for housing for aged and disabled persons. Further, Roads and Maritime Services (RMS) does not recommend any trip generation rate for the



ancillary uses of the senior living houses including hair dresser, convenience store and professional consulting rooms.

Consequently, the report has utilised vehicular trip generation rates for commercial developments to estimate the traffic generated by the on-site support services. The Report estimates that the proposed development would potentially result in a nett traffic generation of 33 to 59 vehicle trips per hour (vtph) during peak periods, based on the above.

Council's assessment in this regard concludes that the proposed uses on the ground floor would provide on-site support services to the seniors living development and therefore the traffic generation should not be considered separately, as per RMS guidelines. The details of the traffic generation would be considered during the assessment of the further development applications for building works on the site, when the uses are defined at the ground floor level and the number of units is specified. However, the anticipated future development would generate less traffic than a residential flat building which is a permissible use of the land.

The local road network has sufficient capacity to cater for the development on the site. Although peak hour traffic generation may appear to be negligible when compared with the traffic volumes on the adjacent road network for this development alone, the cumulative traffic impacts of all sites earmarked for redevelopment in the precinct will be significant. The cumulative impact has been considered in the strategic transport model for the housing strategy. The adopted traffic management strategy for the area includes signalisation of Alexandria Parade and Waitara Ave junction and removal of the marked pedestrian crossing of Alexandria Parade in the future. The required traffic management improvements have been included in the S94 contributions plan.

Conditions of consent would recommend that the driveway include vehicular crossings as per Council's standards and sight lines for pedestrians in accordance with AS2890.1.

Council's traffic assessment concludes that subject to recommended conditions, the proposal would have minimal impacts on the existing local road network and is considered to be acceptable in this regard.

### **3.3 Social Impacts**

The development would make a positive social contribution to the local community by providing housing for older persons and persons with disabilities.

### **3.4 Economic Impacts**

The proposal would have a minor positive impact on the local economy in conjunction with other residential type development in the locality by generating an increase in demand for local services.

## **4. SITE SUITABILITY**

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

The subject site has not been identified as bushfire prone or flood prone land. The site is considered to be capable of accommodating the proposed development in its current form as

it is zoned for high density residential developments. The scale of the proposed development is consistent with the capability of the site. The proposal would result in two additional storeys when compared to the adjoining developments in the precinct. However, the proposed use is for seniors living development, of which a certain percentage would be for affordable seniors housing. Given the social and public benefits of the use and the L-shaped built form, which reduces impacts of bulk and overshadowing, the built form and height are considered acceptable.

The suitability of the design of the development would be assessed in detail under future development applications for building works on the site.

## 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 6/04/2017 and 5/05/2017 in accordance with the Notification and Exhibition requirements of the *HDCP*. During this period, Council received twelve submissions from eleven residents including one from a tenant of the existing seniors housing on the site. 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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Twelve submissions objected to the development, generally on the following grounds:

- The development proposes a height of twelve storeys which exceeds the permissible height;
- Unacceptable traffic on Park Lane due to waste vehicle loading area, service vehicle movements and ambulance access;
- Park Lane is proposed to be utilised as a shared area under the Waitara Park Management Plan and this use conflicts with the use of the road;
- The development does not complement Park Lane streetscape;
- The development does not achieve a high quality design that enhances the character of the area;
- The applicant states that the design would promote casual surveillance along Park Lane which implies that there would be danger along Park Lane due to this proposal;
- The width of Park Lane is not wide enough to accommodate the service vehicles;
- The location of the service entry is opposite the bus bay for PCYC and therefore there would be a vehicular conflict when both the areas operate together;
- Park Lane would be unsafe for pedestrians;
- The building would overshadow the existing buildings to the east;
- The facades to the side boundaries should not include blank walls;
- The waste collection area would have adverse odour impacts on the adjoining neighbours;
- The geotechnical report submitted with the application indicates that a further report would be required after demolition of the existing building; therefore the report is incorrect;
- The yellow sign notifying the adjoining neighbours was not displayed in an appropriate location; and
- Vasey Housing has applied to NCAT to terminate contracts of two existing residents. In this regard a court hearing is pending. The application cannot progress prior to the decision regarding termination of contracts and vacating the premises.

The merits of the matters raised in the community submissions are discussed below.

#### **5.1.1 Height**

The proposed height has been assessed as satisfactory due to reasons discussed earlier in this report.

#### **5.1.2 Park Lane use and impacts**

Access for garbage and service vehicles to the site is proposed from Park Lane, which is a one way road from Waitara Avenue to Park Avenue. The Waitara Park Plan of Management proposes that Park Lane would be paved as a Shared Zone from Waitara Avenue for approximately 65m from the Waitara Avenue kerb line. The eastern end of the Shared Zone would be about in the centre of the proposed driveway to the service area of the proposed development. Subject to consultation and approval of the Hornsby Local Traffic Committee, the shared zone would read to be extended to the eastern boundary of the development site. Council's Traffic assessment raises no concerns with regard to minor adjustment to the shared zone. The associated roadwork adjustments can be assessed in detail under the future development application for building works on this site.

The proposal does not utilise the lane way to park trucks or ambulances. This road would be utilised for one way traffic movement of garbage trucks and ambulances to facilitate efficient traffic movement in the locality and to utilise the traffic signals at the intersection of Park Avenue and Edgeworth David Avenue, as Waitara Avenue ends in a cul-de-sac. Given that the road is not designed for pedestrian access only, the use is consistent with the use of any other public road within the locality. The use of the service entry is not for cars, therefore, no vehicular movement is activated apart from the garbage collection times (3 times per week) or loading, unloading associated with commercial uses.

Council's traffic Assessment concludes that the width of the laneway is sufficient for truck movements. The location of the bus bay would not be in conflict with the use of the site as this entry would be heavily used.

#### **5.1.3 Safety along Park Lane**

Whilst the proposed service entry to the site is from Park Lane, the 3D image shows that the frontage to Park Lane would be activated via proposed variety of uses. Accordingly, no criminal activities due to this development is envisaged along Park Lane

#### **5.1.4 Odour Impact**

The waste collection area would be located within the building and therefore would not impact on the adjoining properties in terms of odour.

#### **5.1.5 Geotechnical Report**

Given that the proposal is concept only, a further detailed investigation report would be required prior to building works on the site.

#### **5.1.6 Built Form**

The built form strategy indicates that the building would enhance the streetscape along both frontages and would appropriately articulate the facades. A detailed assessment of the building design would be undertaken as part of a future development application.

#### **5.1.7 Yellow Sign**

The photo of the yellow sign has been submitted by the application and no concerns are raised regarding the location.

#### **5.1.8 Termination of contract**

The owner of the site is Vasey Housing and Council has received acceptable owner's consent to lodge the development application. The contractual agreement between the company and the residents is not a matter of assessment under Section 79C of *the Act*.

#### **5.1.1 Overshadowing Impacts**

The development assumes a scenario where the adjoining blocks would be redeveloped to the maximum heights in accordance with the desired future character for the precinct to compare the built form with the adjoining developments. The shadow diagrams consider the current scenario and demonstrate that the overshadowing would be consistent with that perceived for the redevelopment precinct.

### **5.2 Public Agencies**

The development application was not referred to any Public Agencies for comment.

## **6. THE PUBLIC INTEREST**

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

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

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

## **CONCLUSION**

The Concept development application is for a twelve-storey seniors living development comprising independent living units with associated on-site support services at the ground floor, under Section 83B of the *Environmental Planning and Assessment Act 1979*. The applicant submits that a subsequent application for proposed works within the building envelope would be submitted for authorising demolition and construction works on the site.

The use is prohibited in the R2 zone pursuant to the *Hornsby Local Environmental Plan 2013*. The proposed development is permissible under *State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004* and generally complies with the

objectives and controls contained in the Policy. The development would provide affordable housing for seniors and therefore result in significant public benefits to the locality.

The proposal does not comply with *State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004* with regard to *Clause 26(2) (Distance to public transport)*. A submission to vary the development standard has been made in accordance with *Clause 4.6 of the HLEP* and is considered well-founded.

The proposal is assessed as satisfactory with regard to the matters for consideration pursuant to Section 79C of the *Environmental Planning and Assessment Act 1979*. The concept building envelope is generally designed to retain the neighbourhood amenity and enhance the streetscape character. The additional two storeys above the permissible building height in the precinct are acceptable.

Detailed assessment of the impact of the development on the natural and built environment of the locality would be considered under a future development application for building works within the approved building envelope on the site.

Having regard to the circumstances of the case, 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.

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## 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*

<b>Plan No.</b>	<b>Rev</b>	<b>Drawing Name</b>	<b>Drawn by</b>	<b>Dated</b>
B-001	B	Building Envelope Basement	GMU Urban Design	14/07/2017
B-002	B	Building Envelope Ground Floor	GMU Urban Design	14/07/2017
B-003	B	Building Envelope Level 1	GMU Urban Design	14/07/2017
B-004	B	Building Envelope Levels 2- 3	GMU Urban Design	14/07/2017
B-005	B	Building Envelope Levels 4-9	GMU Urban Design	14/07/2017
B-006	B	Building Envelope Levels 10 - 11	GMU Urban Design	14/07/2017
B-006	B	Building Envelope Sections A and B	GMU Urban Design	14/07/2017
B-007	B	Building Envelope Sections C and D	GMU Urban Design	14/07/2017
-	A	Landscape Concept Plan	Arcadia Landscape	March 2017



			Architecture	
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*Supporting Documentation*

<b>Plan No.</b>	<b>Re v</b>	<b>Drawing Name</b>	<b>Drawn by</b>	<b>Dated</b>
Sheet 1		Comparative Site Analysis – Built Form	GMU Urban Design	July 2017
Sheets 2, 3 and 4		Comparative Analysis – Building Envelopes and Setbacks	GMU Urban Design	July 2017
Sheet 5		Comparative Analysis – Recent Development Approval	GMU Urban Design	July 2017
Sheet 6 and 7		Comparative Analysis – Building Form Bulk and Scale	GMU Urban Design	July 2017
Sheet 8		Comparative Analysis – Sun Eye Diagrams	GMU Urban Design	July 2017
Sheet 9		Comparative Analysis – Revised Building Envelope Diagrams	GMU Urban Design	July 2017
	C	Stage 1 DA Architectural Report	GMU Urban Design	13/03/2017
A-000	H	Cover Page	GMU Urban Design	10/03/2017
A-004	H	Indicative Basement 2 - 3	GMU Urban Design	10/03/2017
A-005	H	Indicative Basement 1	GMU Urban Design	10/03/2017
A-006	H	Indicative Ground Floor	GMU Urban Design	10/03/2017
A-007	H	Indicative Level 1	GMU Urban Design	10/03/2017
A-008	H	Indicative Levels 2 - 3	GMU Urban Design	10/03/2017
A-009	H	Indicative Levels 4 - 9	GMU Urban Design	10/03/2017

A-010	H	Indicative Level 10	GMU Urban Design	10/03/2017
A-011	H	Indicative Level 11	GMU Urban Design	10/03/2017
A-012	H	Indicative Section A-A	GMU Urban Design	10/03/2017
A-013	H	Indicative Section B-B	GMU Urban Design	10/03/2017
A-014	H	Indicative Section C-C	GMU Urban Design	10/03/2017
-	A	Landscape Planting Palette	Arcadia Landscape Architecture	March 2017
	001	Existing Infrastructure Assessment Hydraulic Services	Harris Page and Associates	13/03/2017
Sheets 1 - 2		Comparative Building Envelope analysis	GMU Urban Design	5/06/2017
	A	Overshadowing diagram	GMU Urban Design	5/06/2017
		Street view massing	GMU Urban Design	5/06/2017
15-292	-	Statement of Environmental Effects and Addendums	BBC Planning	March 2017, 15 June 2017, 13/07/2017, 5/09/2017
5245	-	Survey Plan	Mepstead and Associates	13/10/2014
16.481	3	Traffic Report	Traffix	13/03/2017, 1/06/2017
GEOTLCOV 25172AA-AC		Preliminary Assessment of Waste Classification	Coffey	27/11/2014
		Access Report	Accessibility Solutions	12/03/2017, 15/06/2017
		Tree Location Plan and report	Arboreport	18/11/2014

		Clause 4.6 Variation	BBC Planning	March 2017
		Geotechnical Investigation Report	Coffey	27/11/2014

## 2. **Development consent**

- a) This development consent does not permit any demolition or construction works on the site, or the removal of any trees. The approved development is concept only. Separate development applications are required to be submitted for any building/drainage/infrastructure/tree removals works within the site.
- b) The development approves a maximum of 117 dwellings to be used for the purpose of “seniors housing” within the meaning of *State Environmental Planning Policy (Housing for Seniors and People with a Disability) 2004*, with three basement levels.
- c) On-site support services must be provided at the ground level. No residential development is permitted at this level.
- d) The driveway to the basement is to be located at the approved location.
- e) The service entry is to be from Park Lane.

## 3. **Restriction on Occupation – Housing for Seniors or People with a Disability**

A future development application must comply with the following:

A restriction as to user must be created under s88B of the *Conveyancing Act, 1919* and registered, requiring the dwellings approved under this consent to be solely used for the accommodation of:

- a) Seniors (55+ age) or people with a disability and belonging to the Defence Community and other community service providers such as police, nurse;
- b) People who live within the same household as seniors or people with a disability;
- c) Staff employed to assist the administration and provision of services to housing provided under *SEPP (Housing for Seniors or People with a Disability) 2004*.

*Note: The restriction must nominate Council as the authority to release, vary or modify the restriction.*

## 4. **Building Envelope**

- a) The floor plans for the future development application on the site must incorporate the setbacks approved in the Building Envelope diagrams B001-B007 prepared by GMU Urban Design dated 14/07/2017.

- b) The maximum height of the building is permitted to be 39.3m or 12-storeys as marked in the approved plans listed in Condition 1 of this development consent.

**THE FOLLOWING INFORMATION (REFERRED TO IN CONDITIONS 7 – 14) ARE TO BE SUBMITTED WITH A FUTURE DEVELOPMENT APPLICATION FOR BUILDING WORKS ON THE SITE ASSOCIATED WITH THIS CONSENT**

**5. Geotechnical Report**

A detailed geotechnical Investigation Report is to be submitted to Council.

**6. Acoustics**

An acoustic report is to be prepared by a suitably qualified acoustic consultant detailing the predicted noise levels to be emitted from the noise of the vehicles, mechanical plants and the carpark and any proposed noise attenuation measures must be implemented so that background levels are not exceeded to comply with the *EPA's NSW Industrial Noise Policy (2000)*, *Hornsby Shire Council Policy and Guidelines for Noise and Vibration Generating Development (Acoustic Guidelines V.5, 2000)* and the *DEC's Noise Guide for Local Government (2004)*.

**7. Internal Driveway/Vehicular Areas**

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

- a) All car parking spaces within the basement level are to comply with AS2890.6.
- b) The number of car parking spaces to be provided must comply with the requirements of *State Environmental Planning Policy (Housing for Seniors and People with a Disability) 2004*.
- c) All service areas are to comply with AS2890.2.
- d) A heavy rigid vehicle (HRV) standing area is to be provided within the site along the Park Lane frontage.
- e) Ambulance access is to be in accordance with the requirements of *ASNSW Ambulance Access which can be found at <http://www.ambulance.nsw.gov.au/Media/docs/access-ea9412eb-1280-4dfa-a0ae-ba55d0ec0969-0.pdf>*.

**8. Stormwater Drainage**

- a) The stormwater drainage system for the development must be designed in accordance with Council's *Civil Works – Design and Construction Specification 2005* and be connected directly to Council's street drainage system.

- b) The proposed development must incorporate water sensitive urban design into the stormwater drainage design.
- c) *Note: The design of the stormwater management system must be supported with a MUSIC model.*

**9. On Site Stormwater Detention**

An on-site stormwater detention system must be designed by a Chartered Civil Engineer.

**10. 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 must be prepared and submitted to Hornsby Shire Council for approval according to the following requirements:

- a) The plans must detail the order of construction works and arrangement of all construction machines and vehicles being used at the same time during all stages.
- b) The Plan must 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;
- c) The plans must indicate traffic controls including those used during non-working hours and provide details of methods of providing pedestrian access and two-way traffic in the public road at all times.
- d) 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.

**11. Traffic Control Plan**

A Traffic Control Plan (TCP) must be prepared by a qualified traffic controller in accordance with the Roads & Traffic Authority's Traffic Control at Worksites Manual

1998 and Australian Standard 1742.3 for all work on a public road. The TCP must detail the following:

- a) Arrangements for public notification of the works;
- b) Temporary construction signage;
- c) Permanent post-construction signage;
- d) Vehicle movement plans;
- e) Traffic management plans; and
- f) Pedestrian and cyclist access/safety.
- g) The sign is to be maintained while the approved work is being carried out and must be removed when the work has been completed.

## 12. **Waste Management**

- a) A Waste Management Plan Section One – Demolition Stage and Section Three – Construction Stage, covering the scope of this project and including the following details, is required to be submitted to Council:
  - i) An estimate of the types and volumes of waste and recyclables to be generated;
  - ii) A site plan showing sorting and storage areas for demolition and construction waste and the vehicle access to these areas;
  - iii) How excavation, demolition and construction waste materials will be reused or recycled and where residual wastes will be disposed;
  - iv) The total percentage (by weight) of demolition and construction waste that will be reused or recycled.
- b) A bulky waste storage area of at least 8 square metres must be provided at the ground level.
- c) The waste facilities (a small room housing the garbage chute and 240L recycling bin) on each residential level must be accessible by persons with a disability while comfortably housing the garbage chute and one 240 L recycling bin.
- d) The waste collection facility at the basement must accommodate the bins as per the following rates:
  - i) Bins for residential use are required at a rate of 110L/dwelling/week for garbage and 50L/dwelling/week for recycling.
  - ii) Garbage is collected three times per week and recycling is collected twice per week.
  - iii) Garbage bins can be 660L or 1100L whereas recycling bins can be 240L or 360L.

- e) For the waste collection areas at the ground level:
  - i) The waste collection area must be at the same level as the driveway; and
  - ii) The gradient of the driveway must not exceed 1:20 for the first 6 m of the driveway; and
  - iii) A waste collection lift must be provided as marked on the concept building envelope plans.
- f) A separate waste collection area must be provided at the ground level for the commercial uses proposed.
- g) The waste vehicle standing area must not block the Ambulance Bay at any time.

### 13. 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.

#### 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 lodgement and approval of a development application prior to any development on the site.

#### Tree and Vegetation Preservation

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

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

*Tree protection measures and distances are determined using the Australian Standard AS 4970:2009, "Protection of Trees on Development Sites". Fines may be imposed for non-compliance with both the Hornsby Local Environmental Plan 2013 and the Hornsby Development Control Plan 2013.*



### **Disability Discrimination Act**

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