

SYDNEY NORTH PLANNING PANEL

Panel Reference	2018SNH014
DA Number	DA/201/2018
LGA	Hornsby Shire Council
Proposed Development	Demolition of existing structures, site remediation, vegetation removal, relocation of a heritage building, retention of heritage facades, construction of a shop-top housing development comprising retail and commercial floorspace including provision for a centre-based child care facility, 231 apartments in two towers and basement parking for 362 cars
Street Address	187-203 Peats Ferry Road & 2-6 Dural Street, Hornsby
Applicant	Jacobs Australia Pty Ltd
Owner	Dural Nominees Pty Ltd, Habitat Australasia Pty Ltd, Liot Pty Ltd and May Harlow Pty Ltd
Date of DA Lodgement	6 March 2018
Number of Submissions	130
Recommendation	Approval
Regional Development Criteria (Schedule 4A of the EP&A Act)	General development with a CIV of over \$30 million
List of All Relevant s4.15(1)(a) Matters	<ul style="list-style-type: none"> • State Environmental Planning Policy No. 19 – Bushland in Urban Areas • State Environmental Planning Policy No. 55 – Remediation of Land • State Environmental Planning Policy No. 65 – Design Quality of Residential Apartment Development • State Environmental Planning Policy (Building Sustainability Index – BASIX) 2004 • State Environmental Planning Policy (Infrastructure) 2007 • State Environmental Planning Policy (State and Regional Development) 2011 • State Environmental Planning Policy (Educational Establishments and Child Care Facilities) 2017 • State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017 • Sydney Regional Environmental Plan No. 20 – Hawkesbury-Nepean River (No 2 – 1997)

	<ul style="list-style-type: none"> • Hornsby Local Environmental Plan 2013 • Hornsby Development Control Plan 2013 • Hornsby Section 7.11 Development Contributions Plan 2014-2024 • EP&A Regulation cl92(1)(b) – AS2601 – Demolition of Structures
List all documents submitted with this report for the panel's consideration	<ol style="list-style-type: none"> 1. Conditions of Consent 2. Design Excellence Panel Report 3. Proposed Architectural Plans 4. Proposed Landscape Plans 5. Clause 4.6 Written Request – Height of Buildings 6. RMS Referral Comments 7. RFS Referral Comments 8. Ausgrid Comments 9. Public Submissions
Report prepared by	Kendal MacKay – Partner – DFP Planning Pty Ltd
Report date	30 October 2019

Summary of s4.15 matters

Have all recommendations in relation to relevant s4.15 matters been summarised in the Executive Summary of the assessment report? **Yes**

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**

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**

Special Infrastructure Contributions

Does the DA require Special Infrastructure Contributions conditions (S7.22)? **No**

Note: Certain DAs in the Western Sydney Growth Areas Special Contributions Area may require specific Special Infrastructure Contributions (SIC) conditions

Conditions

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



planning consultants

Development Assessment Report

Council Ref: DA/201/2018

Panel Ref: 2018SNH014 DA

Demolition of existing structures, site remediation, vegetation removal, relocation of a heritage building, retention of heritage facades, construction of a shop-top housing development comprising retail and commercial floor space including provision for a centre-based child care facility, 231 apartments in two towers and basement parking for 362 cars

187-203 Peats Ferry Road & 2-6 Dural Street, Hornsby

Prepared for: Hornsby Shire Council & Sydney North Planning Panel
October 2019

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Abbreviations

AS	Australian Standard
BCA	Building Code of Australia
CIV	capital investment value
Council	Hornsby Shire Council
DA	development application
DCP	development control plan
DEP	Design Excellence Panel
DFP	DFP Planning Pty Limited
DPIE	NSW Department of Planning, Industry and Environment
EP&A Act	<i>Environmental Planning and Assessment Act 1979</i>
EP&A Regulation	<i>Environmental Planning and Assessment Regulation 2000</i>
ESD	ecologically sustainable development
FSR	floor space ratio
GFA	gross floor area
LEP	local environmental plan
LGA	local government area
REP	regional environmental plan
RFS	NSW Rural Fire Service
RL	reduced level
RMS	NSW Roads and Maritime Services
SEE	Statement of Environmental Effects
SEPP	state environmental planning policy

Executive Summary

1.1 Application Description

Panel Reference	2018SNH014 DA
DA Number	DA/201/2018
Local Government Area	Hornsby Shire Council
Proposed Development	Demolition of existing structures, site remediation, vegetation removal, relocation of a heritage building, retention of heritage facades, construction of a shop-top housing development comprising retail and commercial floorspace including provision for a centre-based child care facility, 231 apartments in two towers and basement parking for 362 cars Capital Investment Value (CIV) = \$170.6 million (approx.)
Street Address	187-203 Peats Ferry Road & 2-6 Dural Street, Hornsby
Applicant	Jacobs Australia Pty Ltd
Owners	Dural Nominees Pty Ltd, Habitat Australasia Pty Ltd, Liot Pty Ltd and May Harlow Pty Ltd
Number of Submissions	130
Regionally Significant Development Criteria (s4.5(b) of the Act)	General development with a CIV of over \$30 million
List of All Relevant s4.15(1)(a) Matters	<ul style="list-style-type: none"> • <i>State Environmental Planning Policy No. 19 – Bushland in Urban Areas</i> • <i>State Environmental Planning Policy No. 55 – Remediation of Land</i> • <i>State Environmental Planning Policy No. 65 – Design Quality of Residential Apartment Development</i> • <i>State Environmental Planning Policy (Building Sustainability Index – BASIX) 2004</i> • <i>State Environmental Planning Policy (Infrastructure) 2007</i> • <i>State Environmental Planning Policy (State and Regional Development) 2011</i> • <i>State Environmental Planning Policy (Educational Establishments and Child Care Facilities) 2017</i> • <i>State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017</i> • <i>Sydney Regional Environmental Plan No. 20 – Hawkesbury-Nepean River (No 2 – 1997)</i> • <i>Hornsby Local Environmental Plan 2013</i> • Hornsby Development Control Plan 2013 • Hornsby Section 7.11 Development Contributions Plan 2014-2024 • EP&A Regulation cl92(1)(b) – AS2601 – Demolition of Structures
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Recommendation	Approval

Executive Summary

1.2 Summary

1. The development application (DA) proposes demolition of some existing structures, relocation of one heritage building, retention of existing heritage facades and excavation of the Site to provide four levels of basement car parking accommodating 362 cars with vehicular access via Dural Street. Loading facilities will be provided at Lower Ground level with access via Dural Street.
2. The proposal involves the construction of a mixed-use building comprising a 1-3 storey podium for non-residential uses and two residential towers above.
3. The podium accommodates retail and business premises and capacity for a future child care facility. In addition, the existing heritage item will be relocated closer to the Dural Street frontage for re-use in conjunction with the future child care facility.
4. One residential tower is 20 storeys (including rooftop amenities) above the podium (77.5m above ground level) and the other is 12 storeys (including rooftop amenities) above the Lower Ground loading facilities (45.9m above ground level). The towers will contain a total of 231 residential apartments.
5. The DA is reported to the Sydney North Planning Panel (the Panel) for determination pursuant to s4.5(b) of the EP&A Act as the proposed development has a Capital Investment Value (CIV) of approximately \$170.6 million. The development is therefore deemed to be regionally significant development pursuant to Schedule 7(2) and Schedule 7(5) of *State Environmental Planning Policy (State and Regional Development) 2011* (the SRD SEPP).
6. The proposed development is permissible with consent in the B4 Mixed Use Zone pursuant to *Hornsby Local Environmental Plan 2013* (the LEP), is consistent with the objectives of that zone, complies with the floor space ratio (FSR) development standard and is consistent with most other relevant provisions of the LEP.
7. The proposed development does not comply with the Height of Buildings development standard under the LEP. A written request to vary this development standard pursuant to cl4.6 of the LEP has been prepared by the Applicant. It is considered that the cl4.6 written request adequately demonstrates that:
 - (a) The height of buildings control is a development standard and is not excluded from the operation of cl4.6;
 - (b) Compliance with the development standard is unreasonable and unnecessary in this instance;
 - (c) There are sufficient environmental planning grounds to justify contravening the development standard; and
 - (d) The proposal is in the public interest because it is consistent with the objective of the height of building development standard and the objectives of the B4 Mixed Use Zone

Accordingly, the Panel may assume the concurrence of the Secretary of the Department of Planning, Industry and Environment and grant consent to the development application.

8. The proposal has been assessed as being consistent with the Design Quality Principles of *State Environmental Planning Policy No. 65 – Design Quality of Residential Apartment Development* (SEPP 65) and generally consistent with the design criteria of the Apartment Design Guide (ADG) with the minor non-compliance relating to internal building separation considered acceptable in this instance.
9. The proposal complies with the relevant provisions of *State Environmental Planning Policy No. 19 – Bushland in Urban Areas* (SEPP 19), *State Environmental Planning Policy No. 55 – Remediation of Land* (SEPP 55), *State Environmental Planning Policy (Building Sustainability Index – BASIX) 2004* (SEPP BASIX), *State Environmental*

Executive Summary

Planning Policy (Infrastructure) 2007 (SEPP Infrastructure), State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017 (SEPP Vegetation) and Sydney Regional Environmental Plan No. 20 – Hawkesbury-Nepean River (No 2 – 1997) (SREP 20).

10. Whilst the proposal can readily comply with the higher order requirements of *State Environmental Planning Policy (Educational Establishments and Child Care Facilities) 2017 (SEPP Education)*, insufficient information has been provided to fully assess all operational aspects of the child care facility. Accordingly, consent cannot be granted to that use at this time and a condition of consent requiring a further development application for the occupation of that part of the building is recommended.
11. The proposal is considered to be generally consistent with Hornsby Development Control Plan 2013 (the DCP) with the non-compliances considered acceptable as follows:
 - (a) The exceedance of the building floorplate control is minor and on average, the proposal complies with the control. Furthermore, the proposal has been assessed by the Design Excellence Panel as achieving the objective of the control to provide for tall slender built forms;
 - (b) The exceedance of the height in storeys control relates to one storey and the overall height of buildings has been assessed as acceptable in this instance; and
 - (c) The non-compliances with the setback controls are minor, do not occur on parts of the building that adjoin private land and will not result in significant adverse amenity impacts.
12. The DA has been referred to the NSW Roads and Maritime Services (RMS), the NSW Rural Fire Services and Ausgrid pursuant to the EP&A Act and SEPP Infrastructure. The RMS did not object to the proposal and matters suggested to be conditioned are considered within this assessment report. The RFS has provided General Terms of Approval which must be included as conditions of consent. Ausgrid responded with standard requirements for electricity supply works.
13. 130 public submissions have been received in respect of the DA with those submissions objecting to the proposal for a wide array of reasons with the key concerns relating to traffic, height, infrastructure capacity, heritage and character. It is considered that on balance, the proposal is worthy of approval as it generally accords with the intent of the prevailing development controls and the impacts are manageable via conditions of consent and proposed or planned infrastructure upgrades in the locality.
14. It is recommended that the DA be approved subject to conditions as the proposal is considered to satisfactorily respond to the development controls for this part of the Hornsby West Side town centre and minimises significant adverse environmental impacts.

1.3 Recommendation

THAT the Sydney North Planning Panel assume the concurrence of the Secretary of the Department of Planning, Industry and Environment pursuant to cl4.6 of *Hornsby Local Environmental Plan 2013* and grant Consent to Development Application No. DA/201/2018 for demolition of existing structures, site remediation, vegetation removal, relocation of a heritage building, retention of heritage facades, construction of a shop-top housing development comprising retail and commercial floorspace, 231 apartments in two towers and basement parking for 362 cars at 187-203 Peats Ferry Road & 2-6 Dural Street, Hornsby, being Lots C, D & E DP 367580, Lots A & B DP 384707, Lots 1, 2, 3 & 9 Sec 1 DP 1880, Lots A & B DP 337147 and Lot 1 DP 951409, pursuant to Section 4.16(1)(a) and 4.16(4)(b) of the *Environmental Planning and Assessment Act, 1979* subject to the conditions of consent detailed at **Appendix 1** to this report.

1 Background

The following summarises the background to planning controls, development consents on nearby land and the events pre and post lodgement of the DA:

September 2013	Hornsby LEP 2013 came into force.
October 2013	Hornsby DCP 2013 came into force.
December 2014	<p>The Hornsby West Side Precinct Planning Proposal was finalised which amended LEP 2013 to increase building height and floor space ratio (FSR) limits on land in the B4 Zone within the Precinct, including the following amendments specific to the Site:</p> <ul style="list-style-type: none">• Height increased from part 12m and part 16m to part 8.5m, part 38.5m and part 62.5m; and• Base FSR remained at 3:1 although this can be exceeded if the development is for:<ul style="list-style-type: none">- shop top housing; and- any other permissible land use (other than residential accommodation) with an FSR of at least 1:1.
March to November 2017	A number of Pre-DA meetings were held with Council.
6 March 2018	<p>The DA was lodged with Council and generally included:</p> <ul style="list-style-type: none">• a 1-3 storey podium;• two towers of 13 storeys and 21 storeys above the podium;• a maximum height of 78m;• 249 residential apartments;• 5,575m² of non-residential GFA; and• 582 basement car parking spaces over 6 levels.
22 March to 4 April 2018	The DA was publicly notified (see Section 4.5.1).
20 April 2018	<p>The DA was considered by the Hornsby Council Design Excellence Panel (DEP). The DEP's comments are attached at Appendix 2 and can be summarised as follows:</p> <ul style="list-style-type: none">• the relative bulk of the built form was of concern, particularly when viewed from the east and west;• unrealised potential to establish a more harmonious relationship with the surrounding streetscapes;• the number of non-compliances with the ADG results in development seeking to maximise yield without sufficient returns on urban design quality and civic potential;• tower heights may be acceptable in more slender forms, with floorplates needing to be reduced to the maximum GFA of 700m² as per the DCP;• the ground floor plaza could be improved with more transparent and direct connection to the surrounding public domain;• child care access should be via Dural Street and internally rather than just through the lower ground foyer;

1 Background

- further analysis of the potential loss of solar access to neighbouring buildings south and east of the site is required;
- the design of the vehicular access and retail along Dural Street should be modified to maximise activation and access; and
- the ground floor podium uses should be set back from the northern and eastern boundaries to permit greater activation with the street.

June 2018	The Applicant forwarded concept amended plans to Council for discussion to address the concerns of the DEP. The key amendments generally entailed reduction in the height of both towers by 1 storey and a reduction in floorplate size.
27 July 2018	The concept amended plans were considered by the DEP (see Appendix 2) although the DEP considered that the towers continued to be overly bulky in appearance and there remained concerns with the achievement of ADG controls and the potential for improvements to the ground floor interfaces with the public domain.
17 September 2018	DEP considered further proposed plans (see Appendix 2) and assessed that although there was still some improvement required to the podium expression and other minor matters, the proposal was acceptable in design terms such that formal amended plans could be lodged.
24 October 2018	The Applicant forwarded Amended Plans to Council.
2-16 November 2018	The Amended DA was publicly notified (see Section 4.5.1).
7 November 2018	Council briefed the Panel on the proposed development.
November 2018 to April 2019	The Applicant forwarded various minor amended plans and additional information to Council to address matters by Council Officers.
February 2019	DFP was engaged by Council to undertake an independent planning assessment of the DA due to the Council's former ownership of part of the Site (i.e. 6 Dural Street).
May 2019	The Applicant met with Council Officers and DFP to discuss concerns arising from the preliminary independent planning assessment of the DA relating to the cl4.6 Variation Request, extent of car parking and various minor matters regarding operational characteristics.
July 2019	The Applicant forwarded amended plans and additional information to Council to address the concerns raised by DFP.

It is also noted that Council has commenced the Hornsby Town Centre Review which will develop a strategic framework to facilitate the revitalisation of the Hornsby Town Centre, comprising land on both the East and West sides of Hornsby Railway Station. The aim of the review is to make it a more liveable, green, and accessible centre for the community by strengthening the economic, employment and housing capacities of the Hornsby Town Centre and enhancing its public domain, liveability, accessibility, safety, environmental sustainability and visual appeal through quality design and landscape outcomes.

Councillors are currently developing Visioning and Guiding Principles for the review for consultation with detailed technical studies scheduled to commence in late-2019.

2 Site Context

2.1 Location

The Site is located within the Hornsby West Side Precinct being within 150m walking distance of the western entrance to Hornsby Railway Station (see **Figure 1**).

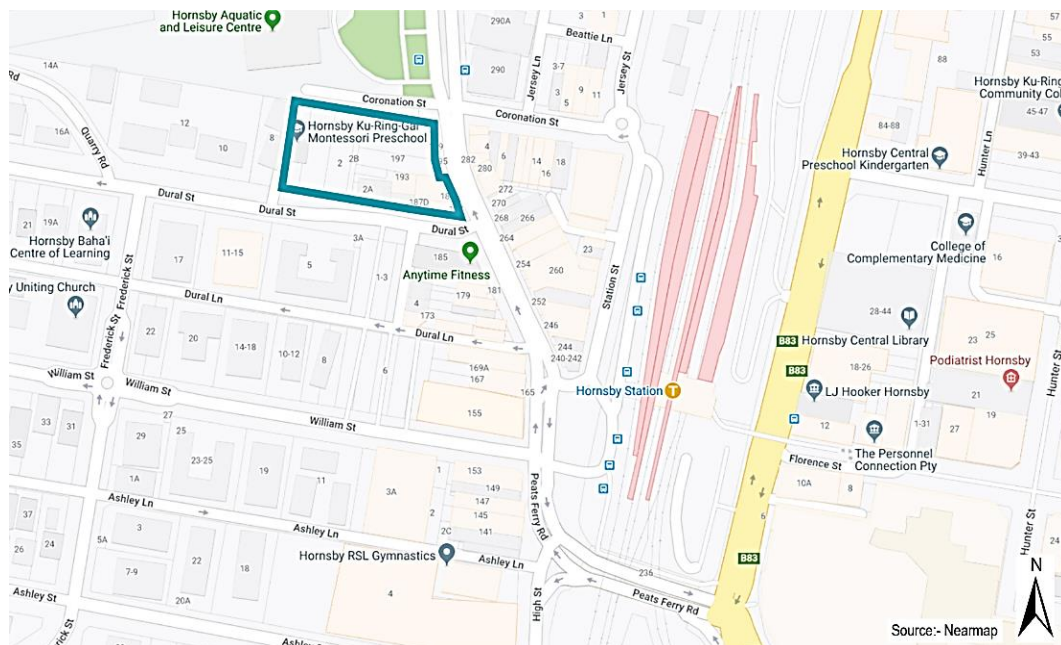


Figure 1 Site Location

2.2 Site Description

The site comprises 12 allotments as described in **Table 1** and shown in **Figures 2-6**.

Table 1 Site Description		
Property Address	Lot / DP	Description
187 Peats Ferry Road	Lot C DP 367580	A part 1 and part 2 two storey brick building with high parapet displaying Interwar features identified as a Heritage Item under the LEP. To the rear along Dural Street is a more recent and unsympathetic infill addition. The building contains commercial uses.
189 Peats Ferry Road	Lot D DP 367580	A two storey brick commercial building with high parapet and footway awning which appears to be an infill development in place of an earlier building.
193 Peats Ferry Road	Lot B DP 384707	A part 1 and part 2 storey former bank building with high parapet identified as a Heritage Item under the LEP used for business purposes.
195-197 Peats Ferry Road	Lot 3 Sec 1 DP 1880 Lot A DP 384707	Vacant land
199 Peats Ferry Road	Lot 2 Sec 1 DP 1880	Vacant land
201-203 Peats Ferry Road	Lot 1 Sec 1 DP 1880	Vacant land
2 Dural Street	Lot B DP 337147	Vacant land
2A Dural Street	Lot E DP 367580	Single storey brick building containing a restaurant.
2C Dural Street	Lot 1 DP 951409	Vacant land
4 Dural Street	Lot A DP 337147	Vacant land
6 Dural Street	Lot 9 Sec 1 DP 1880	A cottage built c1914 for 'Norwood College and Primary School', currently used as a child care centre and identified as a Heritage Item under the LEP.

2 Site Context

The Site has an eastern frontage to Peats Ferry Road of approximately 55m and a southern frontage to Dural Street of approximately 100m and an area of 4,601m².

The Site slopes down considerably from the Peats Ferry Road frontage at approximately RL 184-185 to the western boundary at approximately RL 176, providing an average gradient of approximately 1 in 12.

There is minimal vegetation within the Site with the exception of several mature trees toward the centre of the Site and small trees and shrubs around the child care facility on 6 Dural Street. There are however, several mature street trees adjacent to the Site including two heritage listed *Angophora costata* trees in Dural Street.



Figure 2 Aerial photograph of the Site and surrounding locality.



Figure 3 The Site viewed from Peats Ferry Road (opposite Dural Street) looking north-west.

2 Site Context



Figure 4 The Site viewed from Peats Ferry Road (at the corner of Coronation Street) looking south-west.



Figure 5 The Site viewed from Hornsby Park looking south.



Figure 6 The western-most portion of the Site viewed from Dural Street looking north-west.

2 Site Context

2.3 Surrounding Development

The character of the surrounding locality comprises a mixture of commercial, residential, public infrastructure and public recreation land uses although building forms and styles are varied. Along Peats Ferry Road in the vicinity of the Site, development primarily comprises traditional two storey terrace style shops with all land within approximately 140m to the north and south of the Site along Peats Ferry Road identified as a Heritage Conservation Area.

To the north is the Hornsby Aquatic Centre and Hornsby Park (a public reserve) which are located on Crown Land zoned RE1 Public Recreation (RE1 Zone). The Aquatic Centre building is set back approximately 45m from and substantially below the level of Peats Ferry Road whilst the public reserve runs along the street frontage and is primarily occupied by lawns, mature trees and garden beds (see **Figure 7**). Hornsby Park and the landscaped median within Peats Ferry Road to the north of Coronation Street are identified as a Landscape Heritage Items under the LEP.



Figure 7 To the north, the Hornsby Aquatic Centre

The driveway into the Aquatic Centre runs along the northern boundary of the Site and between the boundary and this driveway are located a small memorial wall, hydrant boosters for the aquatic centre and terraced landscaping (see **Figure 8**).



Figure 8 To the north, the driveway into the Hornsby Aquatic Centre.

2 Site Context

Further north along Peats Ferry Road is Hornsby TAFE and further north-west is a vast expanse of land within the RE1 Zone containing Old Man's Valley and the former Hornsby Quarry, which has been earmarked for major rehabilitation works to create a public park.

To the east is Peats Ferry Road which intersects with Coronation Street and the Aquatic Centre driveway at the north-eastern corner of the Site. Opposite the Site, development primarily comprises two storey brick buildings from the late Victorian era used for variety of commercial purposes (see **Figure 9**) within the B4 Mixed Use Zone (the B4 Zone). Approximately 100m further to the east is Hornsby Station on the Northern Railway Line.



Figure 9 Commercial development to the east along Peats Ferry Road.

To the north-east, development along Peats Ferry Road comprises a two storey brick building containing a post office and a real estate agency (see **Figure 10**) and further north is a telephone exchange, the Hornsby Police Station, Hornsby Courthouse and the Hornsby Council Administration building.



Figure 10 Commercial development to the north-east along Peats Ferry Road.

2 Site Context

To the south, on the corner of Peats Ferry Road (No. 185) and Dural Street, is a part 3-storey and part 4-storey brick building in the B4 Zone, which was a former bank and has undergone extensive additions to the rear and upper levels and contains a mix of commercial and residential uses (see **Figure 10**).



Figure 11 To the south, mixed commercial and residential development at 185 Peats Ferry Road.

To the south along Dural Street is an at-grade public carpark owned by Hornsby Council and several 3-storey residential flat buildings within the R4 High Density Residential Zone (the R4 Zone) (see **Figure 12**). Street trees within Dural Street to the west of 4 Dural Street are identified as a Landscape Heritage Item under the LEP.



Figure 12 To the south, development along Dural Street

2 Site Context

To the west, is a part 3-storey and part 4-storey residential flat building within the R4 Zone (see **Figure 13** and **Figure 14**) with the lower storey of this building comprising garaging. Further west are several more 3-4 storey residential flat buildings and then low density housing in the R2 Low Density Residential Zone (the R2 Zone).



Figure 13 To the west, the driveway into the residential flat development at 8 Dural Street.



Figure 14 To the west, the residential flat development at 8 Dural Street, viewed from Hornsby Park.

3 Proposed Development

3.1 Summary of Proposed Development

The key development statistics of the development are detailed in **Table 2**.

Table 2 Development Statistics	
Site Area	4,601m ²
Residential Apartments:	231 Total
- Studio	- 19 (8.2%)
- 1 bedroom	- 51 (22.1%)
- 2 bedroom	- 135 (58.5%)
- 3 bedroom	- 26 (11.2%)
Residential Floor Space (FSR)	20,768m ² (4.51:1)
Retail Floor Space (FSR)	3,406m ² (0.74:1)
Commercial (Non-retail) Floor Space (FSR)	2,127m ² (0.46:1)
Child Care Floor Space (FSR)	464m ² (96m ² within 'Norwood') (0.1:1)
Total GFA (FSR)	26,765m ² (5.81:1)
Residential Parking	188 car spaces (including 33 visitor and 27 accessible) 2 car wash bays 96 bicycle parking spaces
Non-Residential Parking	172 car spaces (119 retail, 45 commercial and 8 childcare (includes 12 accessible)) 16 motorcycle parking spaces 16 bicycle parking spaces
Car Share	2 car spaces
Total Car Parking	362 car spaces

The following subsections provide a more detailed description of the proposed development.

3.2 Built Form

3.2.1 Overview

The proposal involves demolition of existing structures with the exception of the heritage facades to 187 and 193 Peats Ferry Road and the heritage listed 'Norwood' cottage within 6 Dural Street.

The non-original structures to the rear of 'Norwood' which have no heritage significance will be removed and the cottage will be either relocated around the site during construction or relocated off-site for its protection. The cottage will then be reinstated closer to Dural Street after completion of the main building.

All trees and other vegetation within the Site are to be removed. No trees on adjoining public or private land are required to be removed.

With the exception of the land below the heritage facades on the corner of Peats Ferry Road and Dural Street, a small area in the south-western corner of the Site and the land identified for road acquisition in the north-eastern corner of the Site, the Site is to be excavated to between 9.5m (western boundary) and 16.6m (eastern frontage) below existing ground level for construction of basement car parking over four (4) levels for 362 cars and a fifth (Lower Ground) level for loading facilities, supermarket and child care facility floor space.

The western extent of this Lower Ground level will be the alignment of the existing eastern boundary of 6 Dural Street.

The building to be constructed over the basement comprises:

3 Proposed Development

- A podium with a height of approximately 11m along Peats Ferry Road with setbacks of 0-2.5m at the ground level and a height ranging from 6.5-14m along Dural Street with a zero setback at the ground level. The podium will contain 16 retail tenancies and a central plaza at the Ground Floor, 17 commercial tenancies at Level 2 and 18 residential apartments across 3 levels (Ground, Mezzanine Level 1 and Level 2) at the western end of the building;
- two residential towers of 12 storeys (Tower A) and 20 storeys (Tower B) above the podium containing a total of 231 residential apartments.

Vehicular access is proposed via two separate driveways off Dural Street, with one for service vehicles and one for light vehicles, and a new substation between the driveways.

Pedestrian access is available via multiple locations as follows:

- All retail floor space at the Ground Level will be accessible via retail laneways along the northern boundary and close to the southern boundary, both connecting to Peats Ferry Road, direct from Peats Ferry Road, or direct from Dural Street;
- The relocated 'Norwood' will have direct access from Dural Street or from within the Lower Ground supermarket/child care entry lobby;
- Tower A will have pedestrian access via a lobby located along the northern side of the building with links to Peats Ferry Road and Dural Street via the central plaza;
- Tower B will have access via a lobby directly off Peats Ferry Road.

It is proposed to drain stormwater to Council's infrastructure in Dural Street via a large On-Site Detention (OSD) Tank located above the basement ramp on the southern side of the building.

3.2.2 Podium Uses and Relocated Heritage Item

Lower Ground Floor Retail (Supermarket)

The Lower Ground floor level of the podium will primarily contain a large retail tenancy of 1,323m² retail area intended for use as a supermarket, the fit-out and operation of which will be subject to a future DA. This tenancy will be accessible from the Ground Floor central courtyard above by escalators and lifts and from car parking at Basement 1 and Basement 2 below by travelators and lifts. The back-of-house and waste rooms for the supermarket will have direct access to a dedicated loading bay.

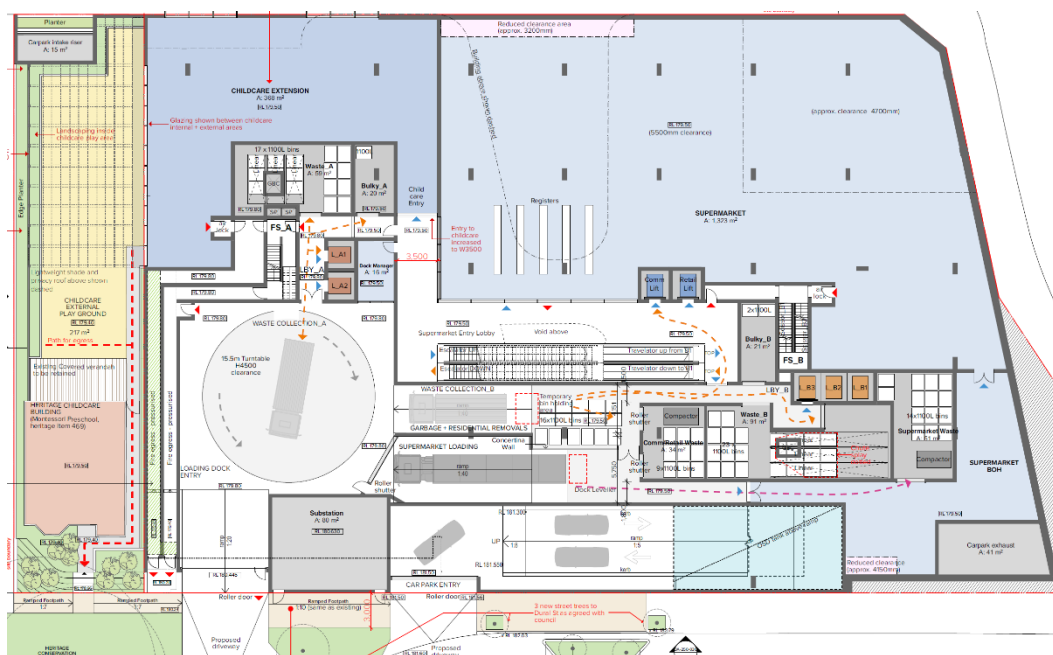


Figure 15 Extract of the Lower Ground Floor plan (Source: Turner Architects)

3 Proposed Development

Lower Ground Floor Centre-based child care facility

The north-western corner of the podium is identified as being for a future child care facility, with the western elevation of the podium opening out onto the rear of 6 Dural Street, which is intended for use as outdoor play space.

The relocated 'Norwood' will be sited toward the Dural Street frontage is also proposed to be used for a child care use, although at this stage it has yet to be determined whether this building will be capable of meeting current child care regulatory requirements for play space or whether it will be used primarily for administration purposes.

'Norwood' will have direct pedestrian access from Dural Street via steps up from the frontage and a pathway along the eastern side of the cottage will provide pedestrian access to the rear and the podium component. The podium component will have access from within the main building via escalators and lifts from the Ground Floor central courtyard above and via travelators and lifts from the car parking below. Dedicated drop-off and pickup car parking spaces are to be provided at Basement 1 immediately adjacent to the commercial lifts in Tower B and the travelators up to the supermarket/child care lobby.

The DA material does not contain definitive details with regard to the operation of the child care facility although the noise impact report assesses the proposal on the basis of a maximum of 35 children and the traffic report assesses the proposal on the basis of a maximum of 30 children. Notwithstanding this inconsistency, the external unencumbered place play space proposed equates to 217m² which would only permit a maximum of 31 children and accordingly, the traffic, parking and noise assessments undertaken for this DA are considered to satisfactorily assess these aspects of a future child care operation.

Ground Floor Retail Premises

The Ground Floor contains 16 retail tenancies with one of these located within the existing heritage building on the corner of Peats Ferry Road and Dural Street, one behind the former bank heritage façade, two others located along Peats Ferry Road and three others along Dural Street. The remainder will be oriented around the central courtyard creating a retail plaza. Internal fit-out and use of all of these spaces will be subject to future development applications (if required).

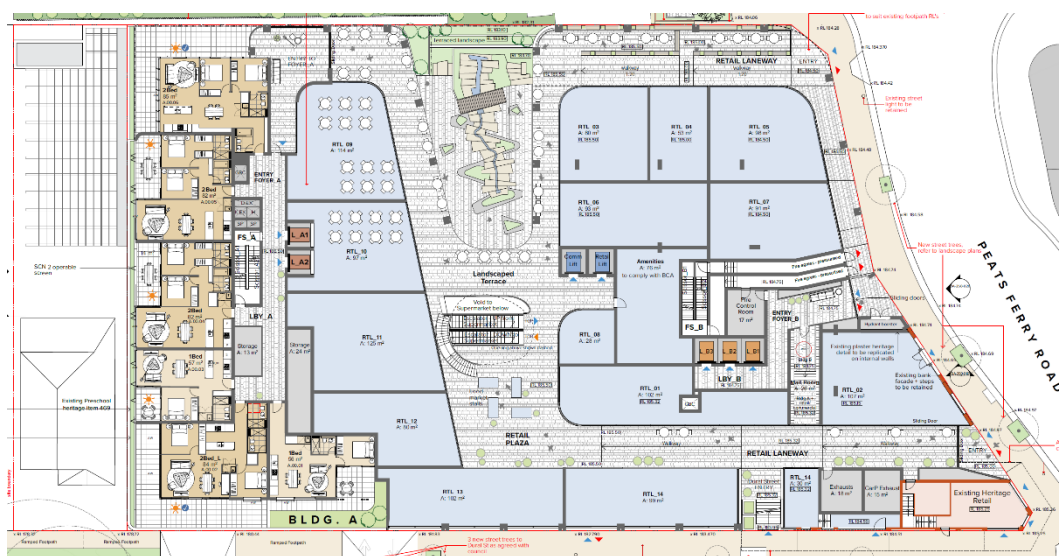


Figure 16 Extract of the Ground Floor plan (Source: Turner Architects)

3 Proposed Development

Commercial Premises

Level 2 contains 17 tenancies intended for use as office and/or business premises, all accessible from an central commercial lobby off the Tower B core. Internal fit-out and use of all of these spaces will be subject to future development applications (if required).

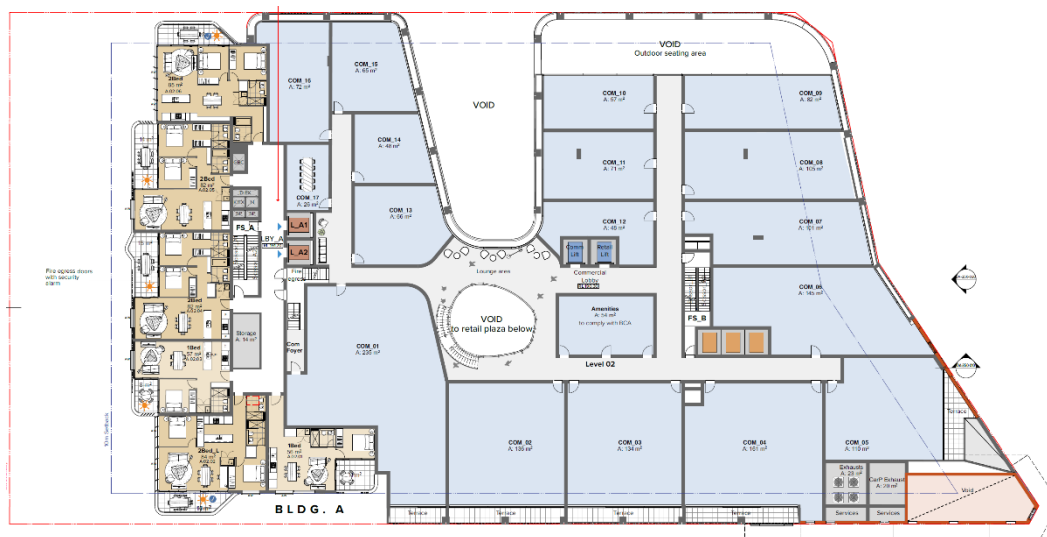


Figure 17 Extract of the Level 2 plan (Source: Turner Architects)

3.2.3 Residential Apartments

The proposed 231 residential apartments are contained within two towers on the eastern and western sides of the Site (see **Figure 18**).

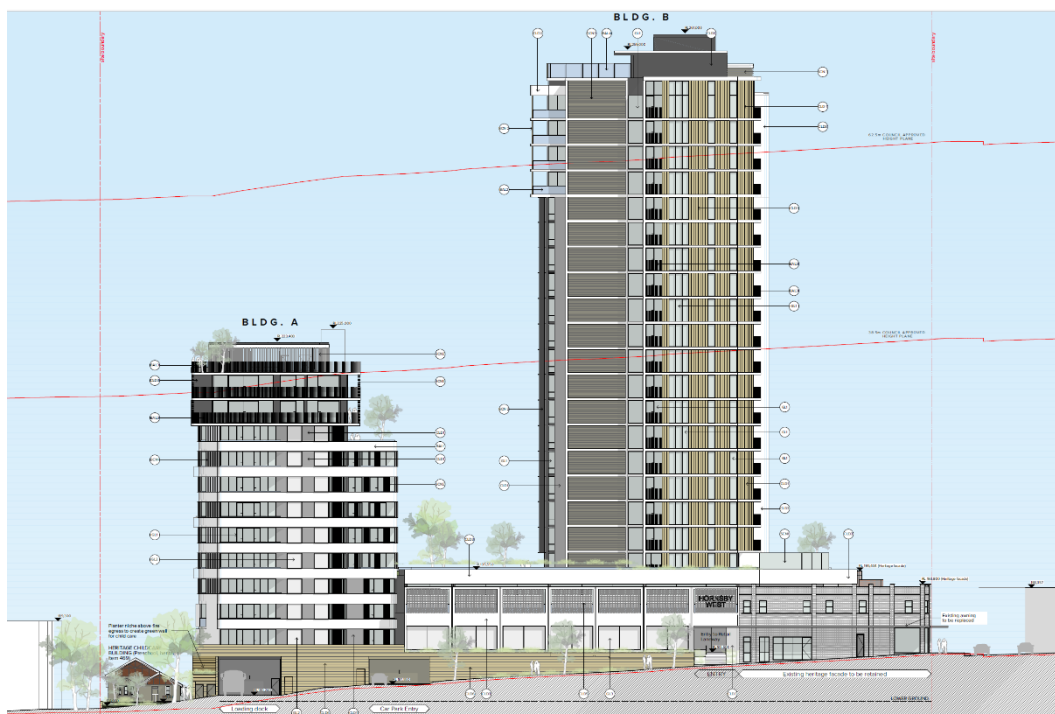


Figure 18 Extract of South Elevation (Dural Street) (Source: Turner Architects)

Tower A is located to the west and rises 12 storeys above the Lower Ground loading bay to a height above ground level of 45.9m to the top of the roof over the common open space amenities and roof top plant room (RL 223.4), 45.4m to the top of the lift overrun (RL 225) and 44.7m to the centre of the western edge of the rooftop balustrading (RL 221.1). Tower A contains 73 residential apartments as well as a rooftop communal outdoor open space.

3 Proposed Development

- Tower A rooftop communal open space comprising paved courtyards, timber decking, cabanas, BBQ/outdoor kitchen facilities, tables and chairs, raised seating, outdoor gym and planters for trees and shrubs;
- Tower B rooftop communal open space comprising a swimming pool, timber decking, cabanas, BBQ/outdoor kitchen facilities, outdoor dining area, raised seating and planters for trees and shrubs;



Figure 20 Extracts of rooftop communal open spaces (Tower A left, Tower B right) (Source: Turner Architects)

3.4 Vehicular Access, Car Parking and Loading

All vehicular access will be via Dural Street with separate service vehicle and light vehicle driveways provided.

Car parking, motorcycle parking and bicycle parking is provided within the four basement levels and some additional bicycle parking is also proposed on Dural Street near the retail pedestrian entry. The basement levels are accessed via a two way ramp running along the Dural Street side of the Site and then internal two way circulation aisles and ramps.

Car parking to cater for the future child care use is provided at Basement 1 immediately adjacent to the commercial lift core and travelators. Two car share bays are also provided close to the entry/exit to this level. The remainder of Basement 1 and all of Basement 2 is provided for retail and commercial car parking.

Basement 3 and Basement 4 provide all residential and residential visitor car parking and these levels will be secured at the base of the ramp to Basement 3 by a boom gate system.

The service driveway will provide for access to the Site for 12.5m long heavy rigid vehicles associated with the supermarket and 8.8m medium rigid vehicles associated with removalists and waste services. The loading area incorporates a vehicle turntable to enable manoeuvring to/from the loading bays and so that all vehicles enter and exit the Site in a forward direction.

3.5 Subdivision

The DA does not propose subdivision although it is recommended that a condition of consent be imposed on any development consent requiring the existing lots to be amalgamated.

4 Environmental Planning Assessment

The proposed development has been assessed in respect of the relevant matters for consideration under Section 4.15 of the *Environmental Planning and Assessment Act, 1979* (EP&A Act).

The key environmental planning issues associated with the proposed development are:

- Compliance with relevant planning policies and controls;
- Built Form and Streetscape; and
- Transport, Traffic and Parking.

An assessment of these issues is provided in the following subsections.

4.1 Strategic Context

4.1.1 Greater Sydney Region Plan

The Greater Sydney Region Plan is built on a vision “*where most residents live within 30 minutes of their jobs, education and health facilities, services and great places*” and seeks to transform Greater Sydney into a metropolis of three cities. Hornsby is located within the Eastern Harbour City and the North District and is identified as a Strategic Centre.

The Planning Proposal is consistent with the Greater Sydney Region Plan as it will facilitate:

- greater housing supply in a Strategic Centre within 30 minutes of jobs, health facilities, retail and commercial services and multiple modes of public transport; and
- provide short term construction jobs as well as long term employment opportunities.

4.1.2 North District Plan

The North District Plan sets out more details with respect to the anticipated growth in housing and employment in the North District including an increase in housing of 4,350 in the Hornsby LGA between 2016-2021 and an increase in 3,700 jobs in the Hornsby Strategic Centre between 2016 and 2036.

The North District Plan states the following Action with respect to the Hornsby Strategic Centre:

43. *Strengthen Hornsby through approaches that:*
 - a. *encourage revitalisation of the commercial core*
 - b. *better integrate Westfield Hornsby into the centre and make the area more attractive*
 - c. *attract mixed-use development west of the railway line, encourage a stronger integration with the centre, and encourage the development of a lively eat street and restaurant precinct*
 - d. *unlock development potential of strata-constrained areas east of the centre*
 - e. *support health-related land uses and infrastructure around Hornsby-Ku-ring-gai Hospital*
 - f. *improve walking and cycling connections between Hornsby Station and the Hospital*
 - g. *reduce the impact of traffic movements on pedestrians*
 - h. *promote walking, cycling and public transport to and within the centre*
 - i. *prioritise public domain upgrades, place-making initiatives and a new civic space.”*

It is considered that the proposed development will facilitate the matters identified at a., c., h. and i. above as it will provide more housing and employment close to public transport, contribute to the creation of a lively food precinct and includes appropriate public domain improvement works along the Site frontages.

4 Environmental Planning Assessment

4.2 Statutory Controls

The following subsections assess the proposal against the relevant provisions of applicable Environmental Planning Instruments (EPIs), Draft EPIs, Development Control Plans (DCPs), Planning Agreements and matters prescribed by the Regulation in accordance with Section 4.15(1)(a) of the EP&A Act.

4.2.1 State Environmental Planning Policy No. 19 - Bushland in Urban Areas

SEPP 19 applies to the Site as it is land adjoining bushland that is zoned or reserved for public open space.

Clause 9(2) of SEPP 19 requires a consent authority, when proposing to grant development consent to development on land adjoining land zoned or reserved for public open space, to take into account:

- (c) *the need to retain any bushland on the land,*
- (d) *the effect of the proposed development on bushland zoned or reserved for public open space purposes and, in particular, on the erosion of soils, the siltation of streams and waterways and the spread of weeds and exotic plants within the bushland, and*
- (e) *any other matters which, in the opinion of the approving or consent authority, are relevant to the protection and preservation of bushland zoned or reserved for public open space purposes.*

It is considered that the proposed development satisfactorily responds to the matters for consideration in cl9(2) as there is currently no bushland within the Site and hence none to be removed. All stormwater will drain to Council's infrastructure in Dural Street rather than to the adjoining land within the RE1 Zone to the north. The proposal does not include any works that would impede access to or use of the northern adjoining land in the RE1 Zone for public recreation or open space purposes.

4.2.2 State Environmental Planning Policy No 55 – Remediation of Land

SEPP 55 requires that consent must not be granted to the carrying out of any development on land unless the consent authority has considered whether the land is contaminated or requires remediation for the proposed use.

A Detailed Site Investigation has been submitted with the DA which indicates that whilst the Site has generally had a history of retail and residential land uses, there has previously been use of the Site for a service station, mechanics garage and dry cleaners.

Furthermore site observations and testing of soils and groundwater indicates that the site contains contamination comprising:

- waste building materials (including asbestos sheeting fragments);
- heavy metals exceeding Ecological Investigation Levels (EILs);
- Total Recoverable Hydrocarbons and Polycyclic Aromatic Hydrocarbons exceeding Ecological Screening Levels (ESLs);
- exceeding Health Investigation Levels (HILs);
- exceeding Management Limits.

The presence of this contamination and uncertainty relating to potential underground storage tanks associated with the former service station use preclude the use of the Site for the proposed land uses without remediation, for which consent is sought as part of this DA.

Accordingly, a Remedial Action Plan (RAP) has been submitted to Council which is considered to be satisfactory and a condition of consent is recommended to ensure that works are undertaken in accordance with this RAP.

4 Environmental Planning Assessment

4.2.3 State Environmental Planning Policy No. 65 – Design Quality of Residential Apartment Development

SEPP 65 includes Design Quality Principles against which the design quality of residential apartment development is to be assessed.

The Applicant has submitted a “Design Verification Statement” prepared by a qualified Architect stating that the proposed development achieves the Design Quality Principles and **Table 3** provides an assessment in this regard.

Table 3 Assessment against the Design Quality Principles of SEPP 65		
Provision	Assessment	Consistent
Principle 1: Context and neighbourhood character Good design responds and contributes to its context. Context is the key natural and built features of an area, their relationship and the character they create when combined. It also includes social, economic, health and environmental conditions. Responding to context involves identifying the desirable elements of an area's existing or future character. Well designed buildings respond to and enhance the qualities and identity of the area including the adjacent sites, streetscape and neighbourhood. Consideration of local context is important for all sites, including sites in established areas, those undergoing change or identified for change.	The Proposal satisfactorily responds to the existing neighbourhood character by retaining the important heritage facades and relocating Norwood to the Dural Street frontage, whilst responding to the future character anticipated by the planning controls which comprises a high density mixed use development of the Site and surrounding land. Furthermore, the design provides active frontages to both streets and the public reserve to the north and includes substantial lower level retail and business premises to serve the growing population in this part of the town centre.	Yes
Principle 2: Built form and scale Good design achieves a scale, bulk and height appropriate to the existing or desired future character of the street and surrounding buildings. Good design also achieves an appropriate built form for a site and the building's purpose in terms of building alignments, proportions, building type, articulation and the manipulation of building elements. Appropriate built form defines the public domain, contributes to the character of streetscapes and parks, including their views and vistas, and provides internal amenity and outlook.	The built form and scale of the proposed development has been assessed by Council's independent Design Panel as achieving design excellence and appropriately responding to surrounding development at street level and at the upper levels.	Yes
Principle 3: Density Good design achieves a high level of amenity for residents and each apartment, resulting in a density appropriate to the site and its context. Appropriate densities are consistent with the area's existing or projected population. Appropriate densities can be sustained by existing or proposed infrastructure, public transport, access to jobs, community facilities and the environment.	The proposal complies with the FSR development standard applicable to the Site, provides a high level of amenity for future residents through generous apartment sizes, increased floor-to-ceiling heights and substantial open space. Furthermore, the siting of the development in the town centre, along with on-site bicycle and end of trip facilities promotes the use of sustainable travel.	Yes
Principle 4: Sustainability Good design combines positive environmental, social and economic outcomes. Good sustainable design includes use of natural cross ventilation and sunlight for the amenity and liveability of residents and passive thermal design for ventilation, heating and cooling reducing reliance on technology and operation costs. Other elements include recycling and reuse of materials and waste, use of sustainable materials and deep soil zones for groundwater recharge and vegetation.	The proposal complies with the requirements of the ADG with respect to solar access and ventilation and whilst minimal deep soil zones are provided, this is as consequence of the town centre location and the site topography. Notwithstanding, significant landscaped communal open spaces are provided at podium and roof levels with capacity for trees and shrubs.	Yes
Principle 5: Landscape Good design recognises that together landscape and buildings operate as an integrated and sustainable system, resulting in attractive developments with good amenity. A positive image and contextual fit of well	The proposed landscaping elements within the Site have been assessed as acceptable for a development of this nature and subject to recommended conditions of consent, additional street	Yes

4 Environmental Planning Assessment

Table 3 Assessment against the Design Quality Principles of SEPP 65

Provision	Assessment	Consistent
<p>designed developments is achieved by contributing to the landscape character of the streetscape and neighbourhood.</p> <p>Good landscape design enhances the development's environmental performance by retaining positive natural features which contribute to the local context, co-ordinating water and soil management, solar access, micro-climate, tree canopy, habitat values and preserving green networks.</p> <p>Good landscape design optimises useability, privacy and opportunities for social interaction, equitable access, respect for neighbours' amenity and provides for practical establishment and long term management.</p>	<p>trees will also be provided that will contribute to the amenity of the locality.</p>	
<p>Principle 6: Amenity</p> <p>Good design positively influences internal and external amenity for residents and neighbours. Achieving good amenity contributes to positive living environments and resident well being.</p> <p>Good amenity combines appropriate room dimensions and shapes, access to sunlight, natural ventilation, outlook, visual and acoustic privacy, storage, indoor and outdoor space, efficient layouts and service areas and ease of access for all age groups and degrees of mobility.</p>	<p>The proposed residential apartments comply with the spatial requirements of the ADG and communal private and public spaces within the development provide for a high degree of amenity for future users of the Site as well as for surrounding premises.</p>	Yes
<p>Principle 7: Safety</p> <p>Good design optimises safety and security within the development and the public domain. It provides for quality public and private spaces that are clearly defined and fit for the intended purpose. Opportunities to maximise passive surveillance of public and communal areas promote safety.</p> <p>A positive relationship between public and private spaces is achieved through clearly defined secure access points and well lit and visible areas that are easily maintained and appropriate to the location and purpose.</p>	<p>The proposed design provides for clear delineation of public and private spaces with secure residential lobbies and secure access to the loading facility and the intended future child care facility.</p>	Yes
<p>Principle 8: Housing diversity and social interaction</p> <p>Good design achieves a mix of apartment sizes, providing housing choice for different demographics, living needs and household budgets.</p> <p>Well designed apartment developments respond to social context by providing housing and facilities to suit the existing and future social mix.</p> <p>Good design involves practical and flexible features, including different types of communal spaces for a broad range of people and providing opportunities for social interaction among residents.</p>	<p>The proposal complies with Council's DCP requirements for apartment mix, provides for a range of smaller studio apartments and a range of 1, 2 and 3 bedroom apartments that are typically larger than the minimum ADG requirements.</p> <p>In addition, the proposed communal open spaces provide for a range of passive recreational areas for residents where social interaction can occur.</p>	Yes
<p>Principle 9: Aesthetics</p> <p>Good design achieves a built form that has good proportions and a balanced composition of elements, reflecting the internal layout and structure. Good design uses a variety of materials, colours and textures.</p> <p>The visual appearance of a well designed apartment development responds to the existing or future local context, particularly desirable elements and repetitions of the streetscape.</p>	<p>The Design Excellence Panel has assessed the aesthetics of the proposed development to be of design excellence.</p>	Yes

SEPP 65 also requires consideration of the Apartment Design Guidelines (ADG). The ADG includes Design Criteria and Design Guidance for achieving the Design Principles of SEPP 65. **Table 4** includes an assessment of the proposed development against the relevant provisions of the ADG.

4 Environmental Planning Assessment

Table 4 Assessment against Relevant Provisions of the ADG

Provision	Assessment	Consistency/ Compliance
3A Site Analysis 3A-1 Design Guidance - Each element in the Site Analysis Checklist should be addressed	The documentation submitted with the DA adequately addresses the requirement for a Site Analysis.	Consistent
3B Orientation 3B-2 Design Guidance - Solar access to living rooms, balconies and private open spaces of neighbours should be considered - Where an adjoining property does not currently receive the required hours of solar access, the proposed building ensures solar access to neighbouring properties is not reduced by more than 20% - If the proposal will significantly reduce the solar access of neighbours, building separation should be increased beyond minimums contained in section 3F Visual privacy	See Section 4.3.4.	Consistent (see Section 4.3.4)
3D Communal Open Space 3D-1 Design Criteria 1. Minimum area equal to 25% of the site area; 2. Minimum of 50% direct sunlight to the principal usable part of the communal open space for a minimum of 2 hours between 9 am and 3 pm on 21 June (midwinter) 3D-2 Objective Communal open space is designed to allow for a range of activities, respond to site conditions and be attractive and inviting 3D-1 Design Guidance Where developments are unable to achieve the design criteria, such as on small lots, sites within business zones, or in a dense urban area, they should: • provide communal spaces elsewhere such as a landscaped roof top terrace or a common room • provide larger balconies or increased private open space for apartments • demonstrate good proximity to public open space and facilities and/or provide contributions to public open space	The proposal includes approximately 1,320m ² (29%) of communal open space on the podium and roof top levels with greater than 2 hours solar access from 9am to 3pm at midwinter to most of these spaces. The communal open space provides for a number of passive and more active spaces. In addition, many apartments are provided with substantially more private open space than required by the ADG.	Complies Consistent Consistent
3E Deep Soil Zones 3E-1 Design Criteria - 7% of the site area should be provided as deep soil area 3E-1 Design Guidance May not be possible on some sites including where: - the location and building typology have limited or no space for deep soil at ground level (e.g. central business district, constrained sites, high density areas, or in centres) - there is 100% site coverage or non-residential uses at ground floor level	As the proposal is in a dense urban area and comprises significant non-residential podium uses, no ground level deep soil planting is proposed. Notwithstanding, substantial opportunities exist for larger shrubs and small trees to be planted in raised planting beds at the podium and roof levels.	Consistent (based on Design Guidance)
3F Visual Privacy 3F-1 Design Criteria Separation between windows and balconies is provided to ensure visual privacy is achieved. Minimum required separation distances from buildings to the side and rear boundaries are as follows: Up to 12m (4 storeys): - 6m between habitable rooms/balconies - 3m between non-habitable rooms Up to 25m (5-8 storeys): - 9m between habitable rooms/balconies - 4.5m between non-habitable rooms Over 25m (9+ storeys): - 12m between habitable rooms/balconies - 6m between non-habitable rooms	Tower A is set back 12m from the western boundary in accordance with the ADG requirements. Towers A and B are separated by 18m up to Level 7 (i.e. up to 8 storeys) which complies with the ADG. Towers A and B are generally separated by 24m above Level 8 (i.e. 9+ storeys) with the exception of some minor balcony elements which reduce separation to 22.5m although these balconies or opposing windows are screened by use of landscaped planter beds at Level 8 and	Substantially complies

4 Environmental Planning Assessment

Table 4 Assessment against Relevant Provisions of the ADG

Provision	Assessment	Consistency/ Compliance
<p>No building separation is necessary where building types incorporate blank party walls - typically along a main street or at podium levels within centres</p> <p><u>3F-2 Design Guidance</u> Communal open space, common areas and access paths should be separated from private open space and windows to apartments, particularly habitable room windows</p>	<p>moveable screens to the edge of balconies in Tower A and fixed screens to some balcony edges and windows in Tower B which is considered acceptable.</p> <p>The accessible parts of the podium communal open space are separated from surrounding private open spaces by wide landscaped planters with trees and shrubs.</p>	
<p>3G Pedestrian Access and Entries <u>3G-2 Design Guidance</u></p> <ul style="list-style-type: none"> - Pedestrian links through sites facilitate direct connections to open space, main streets, centres and public transport - Pedestrian links should be direct, have clear sight lines, be overlooked by habitable rooms or private open spaces of dwellings, be well lit and contain active uses, where appropriate 	<p>The proposal provides for pedestrian links into and through the site from Peats Ferry Road to Dural Street via the internal central courtyard which is considered an acceptable outcome for this Site.</p>	Consistent
<p>3J Bicycle and Car Parking <u>3J-1 Design Criteria</u> For development on sites that are within 800 metres of a railway station or light rail stop in the Sydney Metropolitan Area the minimum car parking requirement for residents and visitors is set out in the Guide to Traffic Generating Developments, or the car parking requirement prescribed by the relevant council, whichever is less</p>	<p>The residential and visitor car parking rates in the RMS Guide are less than the DCP and therefore prevail. The applicable RMS rates are:</p> <p>0.4 per Studio/1 bed 0.7 per 2 bed 1.2 per 3+ bed 1 per 7 units for visitor</p> <p>On this basis, the proposal is required to provide a minimum of 154 resident and 33 visitor car parking spaces.</p> <p>The proposal provides for 155 resident and 33 visitor car parking spaces which complies (see also Section 4.3.6).</p> <p>In addition, the proposal complies with the DCP requirements for bicycle and motorcycle parking.</p>	Complies
<p>4A Solar and Daylight Access <u>4A-1 Design Criteria</u></p> <ol style="list-style-type: none"> 1. Living rooms and private open spaces of at least 70% of apartments in a building receive a minimum of 2 hours direct sunlight between 9am and 3pm in the Sydney metropolitan Area; 2. A maximum of 15% of apartments in a building receive no direct sunlight between 9am and 3pm 	<p>85.7% of apartments receive 2 hours of direct sunlight to both living rooms and POS adjacent to living rooms.</p> <p>14.3% of apartments will receive 0 hours direct sun to both living rooms and POS adjacent to living rooms.</p>	Complies Complies
<p>4B Natural Ventilation <u>4B-3 Design Criteria</u></p> <ul style="list-style-type: none"> - At least 60% of apartments naturally cross ventilated in the first nine storeys. Apartments at ten storeys or greater are deemed to be cross ventilated if any enclosure of the balconies at these levels allows cannot be fully enclosed 	<p>61.5% of apartments will achieve natural cross ventilation.</p>	Complies
<p>4C Ceiling Heights <u>4C-1 Design Criteria</u> Minimum ceiling heights as follows:</p> <ul style="list-style-type: none"> - 3.3m for ground and first floor to promote future flexibility of use - 2.7m for habitable rooms; - 2.4m for non-habitable rooms. 	<p>4.5-4.8m for ground and 3.5m for first floor.</p> <p>2.8m habitable and non-habitable rooms.</p>	Complies Complies

4 Environmental Planning Assessment

Table 4 Assessment against Relevant Provisions of the ADG

Provision	Assessment	Consistency/ Compliance
4D Apartment Size and Layout 4D-1 Design Criteria 1. Apartments are required to have the following minimum sizes: - Studio = 35m ² - 1 bed = 50m ² - 2 bed = 70m ² - 3 bed = 90m ² - plus 5m ² per bathroom in excess of one; - plus 12m ² per bedroom in excess of 3. 2. Every habitable room must have a window in an external wall with a total minimum glass area of not less than 10% of the floor area of the room 4D-2 Design Criteria 1. Habitable room depths are limited to a maximum of 2.5 x the ceiling height 2. In open plan layouts (where the living, dining and kitchen are combined) the maximum habitable room depth is 8m from a window 4D-3 Design Criteria 1. Master bedrooms have a minimum area of 10m ² and other bedrooms 9m ² (excluding wardrobes) 2. Bedrooms have a minimum dimension of 3m (excluding wardrobes) 3. Living rooms or combined living/dining rooms have a minimum width of: • 3.6m for studio and 1 bedroom apartments • 4m for 2 and 3 bedroom apartments 4. The width of cross-over or cross-through apartments are at least 4m internally to avoid deep narrow apartment layouts	42m ² 52-58m ² 77-103m ² 109-181m ² All apartments comply with these minimum areas and dimensions All apartments comply with these minimum dimensions All apartments comply with these minimum areas and dimensions	Complies Complies Complies Complies Complies Complies
4E Private Open Space and Balconies 4E-1 Design Criteria 1. All apartments are required to have primary balconies as follows: - Studio = 4m ² - 1 bed = 8m ² - 2 bed = 10m ² - 3 bed = 12m ² 2. For apartments at ground level or on a podium or similar structure, a private open space is provided instead of a balcony. It must have a minimum area of 15m ² and a minimum depth of 3m	All apartments comply with these minimum areas and dimensions	Complies
4F Common Circulation and Spaces 4F-1 Design Criteria 1. The maximum number of apartments off a circulation core on a single level is 8. 2. For buildings of 10 storeys and over, the maximum number of apartments sharing a single lift is 40 4F-1 Design Guidance - Achieving the design criteria for the number of apartments of a circulation core may not be possible. - Where design criteria 1 is not met, no more than 12 apartments should be provided off a circulation core on a single level.	With the exception of Levels 4-17 in Tower B, no more than 8 apartments are located off a circulation core. Tower B Levels 4-17 has 9 apartments off a circulation core per level although the access corridor provides for articulation such that it is not a long straight avenue and provides for separation of entry doors and for natural light penetration.	Consistent (based on Design Guidance)
4G Storage 4G-1 Design Criteria 1. In addition to storage in kitchens, bathrooms and bedrooms, the following storage is provided: - Studio = 4m ² - 1 bed = 6m ² - 2 bed = 8m ² - 3 bed = 10m ² At least 50% of the required storage is to be located within the apartment	All apartments provide for internal storage to meet the minimum requirements and substantial areas are provided in the basement levels to satisfy the external requirements.	Complies

4 Environmental Planning Assessment

Table 4 Assessment against Relevant Provisions of the ADG

Provision	Assessment	Consistency/ Compliance
4P Planting on Structures 4P-1 Design Guidance Minimum soil standards for plant sizes should be provided in accordance with Table 5.	The proposal is not consistent with the minimum soil depth standards in the ADG although these standards can readily be achieved and a condition of consent is recommended in this regard.	Capable of complying subject to conditions
4Q Universal Design 4Q-1 Design Guidance Developments achieve a benchmark of 20% of the total apartments incorporating the Liveable Housing Guideline's silver level universal design features	25% of apartments incorporate silver level universal design features	Complies
4S Mixed Use 4S-1 Design Guidance <ul style="list-style-type: none"> Mixed use developments positively contribute to the public domain. Design solutions may include: <ul style="list-style-type: none"> development addresses the street active frontages are provided diverse activities and uses avoiding blank walls at the ground level live/work apartments on the ground floor level, rather than commercial 4S-2 Design Guidance <ul style="list-style-type: none"> Residential circulation areas should be clearly defined. Design solutions may include: <ul style="list-style-type: none"> residential entries are separated from commercial entries and directly accessible from the street commercial service areas are separated from residential components residential car parking and communal facilities are separated or secured security at entries and safe pedestrian routes are provided concealment opportunities are avoided Landscaped communal open space should be provided at podium or roof levels 	The Proposal provides for a mix of complementary land uses with activation of both street frontages by virtue of retail and future child care uses. Residential entries, car parking and common spaces are separated from commercial entries and opportunities for concealment have been minimised.	Consistent Consistent
4T Awnings and Signage Design 4T-1 Design Guidance Awnings should be located along streets with high pedestrian activity and active frontages	Awnings are to be provided to the Peats Ferry Road and Dural Street corner retailing and a colonnade is provided to the majority of the Peats Ferry Road frontage. An awning is not provided to the façade of the former bank building on Peats Ferry Road as this would detract from the heritage significance of the heritage item.	Consistent

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

The application has been assessed against the requirements of SEPP BASIX and the BASIX Certificate for the proposed apartments is considered to be satisfactory.

4.2.5 State Environmental Planning Policy (Infrastructure) 2007

Table 5 includes an assessment of the proposed development against the relevant requirements of SEPP Infrastructure.

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Table 5 Assessment against Relevant Provisions of SEPP Infrastructure

Provision	Assessment	Consistent
cl45 - Development likely to affect an electricity transmission or distribution network	<p>The proposal requires ground penetration within 2m of, and removal of electricity distribution poles in Dural Street and underground cables in Peats Ferry Road and accordingly, these works trigger the requirement for a referral under ISEPP to the relevant electricity supply authority.</p> <p>The DA was referred to Ausgrid which responded with standard requirements for such works and Council's standard conditions are recommended with regard to electricity infrastructure and a requirement for undergrounding of transmission lines along Dural Street in order to facilitate the proposed access arrangements.</p>	Yes, Subject to conditions
cl104 – Traffic Generating Development	The proposed development triggers a referral to the RMS due to the number of car parking spaces proposed (>200 spaces) and quantum of shop floor space (>2,000m ²). The RMS has provided comments on the DA (see Appendix 6) and these are discussed in Section 4.5.2 .	Yes (see Appendix 6 and Section 4.5.2).

4.2.6 State Environmental Planning Policy (State and Regional Development) 2011

Section 4.5(b) of the EP&A Act provides that the Sydney district planning panel for the area in which the development is to be carried out is the consent authority for development of a kind that is declared by an EPI as regionally significant development.

Schedule 7(2) of SEPP SRD provides that development that has a CIV of more than \$30 million is regionally significant development.

As the proposed development has a CIV of approximately \$170.6 million it is deemed to be regionally significant development and the Sydney North Planning Panel is the consent authority for the DA.

4.2.7 State Environmental Planning Policy (Educational Establishments and Child Care Facilities) 2017

Table 6 provides a summary assessment of the proposed development against the relevant provisions of SEPP Education.

Table 6 Assessment against Relevant Provisions of SEPP Education

Provision	Assessment	Consistent
22 Centre-based child care facility—concurrence of Regulatory Authority required for certain development	<p>Cl22 applies if development for the purpose of a centre-based child care facility does not comply regulation 107 or regulation 108 of the <i>Education and Care Services National Regulations</i>.</p> <p>Detailed information has not been provided with respect to the child care facility component of the proposal and accordingly, a condition of consent is recommended requiring a further development application for that specific use.</p> <p>Notwithstanding, it is noted that the limiting factor for the number of children to be catered for would be the unencumbered outdoor space of 217m² which would provide for a maximum of 31 children.</p>	Insufficient information provided – Condition recommended requiring a further DA for the child care facility
23 Centre-based child care facility—matters for consideration by consent authorities	<p>Cl23 requires that, before determining a DA for development for the purpose of a centre-based child care facility, the consent authority must take into consideration any applicable provisions of the Child Care Planning Guideline, in relation to the proposed development.</p> <p>The Applicant has not submitted an assessment of the proposed child care facility component of the proposal against the Guideline although in broad terms, the proposed building would be capable of accommodating a child care centre use as generally depicted in the DA documentation. Accordingly, a condition of consent is recommended requiring a further development application for that specific use and a detailed assessment against the Guideline will be required at that time.</p>	Insufficient information provided – Condition recommended requiring a further DA for the child care facility

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4.2.8 State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017 (SEPP Vegetation)

State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017 (SEPP Vegetation) applies to the site as it is located within The Hornsby Shire LGA. Under Part 3 of the SEPP Vegetation, Council can issue permits for the clearing of vegetation in non-rural areas in accordance with the requirements of a development control plan.

Part 1B.6 Tree and Vegetation Preservation of the Hornsby Development Control Plan 2013 prescribes the trees and vegetation which may be removed without Council approval.

The proposal includes removal of trees that are not exempt species under the DCP and accordingly, development consent is required.

The six (6) trees to be removed are not considered to be significant, worthy or capable of retention given the Site context and future development envisaged by the planning controls and accordingly, no objection is raised to their removal.

The proposal has been designed to retain existing street trees in Peats Ferry Road and conditions are recommended requiring their retention and protection during demolition and construction works.

4.2.9 Sydney Regional Environmental Plan No 20 – Hawkesbury-Nepean River (No 2 – 1997)

The Site is located within the catchment of the Hawkesbury-Nepean River. The SREP includes planning consideration, policies and strategies applicable to the Site which incorporate measures to protect water quality, minimise urban runoff, conserve water and to ensure the catchment watercourse, wetlands, riparian lands and remnant vegetation are protected. The consent authority must have regard to these matters when determining an application to carry out development on land to which the SREP applies.

Pursuant to cl11(4) development consent is required for remediation works. The proposal seeks consent for remediation of the Site and the RAP submitted with the DA is considered to be satisfactory in this regard (see **Section 4.2.2**).

As discussed in **Section 4.3.8**, subject to the implementation of sediment and erosion control measures and stormwater management to protect water quality, the proposal is considered to satisfactorily respond to the relevant planning policies and recommended strategies under cl6(3) and cl6(6) of the SREP.

4.2.10 Hornsby Local Environmental Plan 2013

Table 7 provides a summary assessment of the proposed development against the relevant provisions of the LEP.

Table 7 Assessment against Relevant Provisions of LEP 2013

Provision	Assessment	Consistency/ Compliance
2.2-2.3 – Zoning and Objectives		
B4 Mixed Use		Permissible
Objectives of zone		
<ul style="list-style-type: none"> To provide a mixture of compatible land uses. To integrate suitable business, office, residential, retail and other development in accessible locations so as to maximise public transport patronage and encourage walking and cycling. 	<p>The proposal is for shop top housing which is permissible with development consent, as are commercial premises (including retail premises, business premises and office premises). In addition, the intended future use of part of the building for a centre based child care facility is permissible with development consent subject to a future DA.</p> <p>The proposal is consistent with objectives of the B4 Zone as it comprises a mixture of compatible land uses in a highly accessible location and includes various measures such as bicycle parking, end of trip facilities, car share parking and public domain improvements so as to maximise public transport patronage and encourage walking and cycling.</p>	Consistent

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Table 7 Assessment against Relevant Provisions of LEP 2013

Provision	Assessment	Consistency/ Compliance
2.6 – Subdivision	No consent for subdivision is sought as part of this DA.	N/A
2.7 – Demolition	The proposed development includes demolition which requires development consent. Consent has been sought for demolition as part of this DA.	Consistent
4.3 – Height of Buildings		
62.5m (187-203 Peats Ferry Rd)	77.5m (Tower B) – No, see Section 4.2.11	Does not comply (see Section 4.2.11)
38.5m (2C, 2 & 4 Dural St)	45.9m (Tower A) – No, see Section 4.2.11	
8.5m (6 Dural St)	7.7m ('Norwood') – Yes	Complies
4.4 – Floor Space Ratio		
(2) 3:1 max. (2D) Despite subclause (2), the floor space ratio for development on land identified as "Area 8" on the FSR Map may exceed the floor space ratio shown for the land on the FSR Map if the development is for the purposes of: (a) shop top housing, and (b) any other land use permitted in the zone, other than residential accommodation, that comprises a floor space ratio of at least 1:1.	Site Area = 4,601m ² The proposed development has a FSR of 5.81:1 which complies with cl4.4(2D) as the proposal is for shop top housing and includes 5,997m ² of non-residential GFA which constitutes an FSR of 1.3:1.	Complies
4.6 – Exceptions to Development Standards	A written request to vary the height of buildings development standard has been submitted and is considered to adequately address cl4.6 (see Section 4.2.11).	Consistent (see Section 4.2.11)
5.1 – Relevant acquisition authority Council is the relevant acquisition authority for land in the B4 Zone and marked "Local Road"	A small portion of the north-eastern corner of the Site is identified on the Land Reservation Acquisition Map for acquisition as "Local Road". The proposal does not include any proposed works within this identified area.	Consistent
5.1A Development on land intended to be acquired for public purposes Development consent must not be granted to development on land identified for acquisition that has not yet been acquired other than development for a specified purpose.	Column 1 of the Table to cl5.1A refers to the SP2 Zone marked "Local Road" and the purpose opposite is stated as "Roads". The proposal does not include any proposed works in this area of the Site and the proposed plans indicate that it will remain available for use as footpath as part of the Peats Ferry Road road reservation.	Consistent
5.6 – Architectural Roof Features	The proposed rooftop plant rooms, lift overruns and landscaping elements for the communal open space are not considered to be architectural roof features. Notwithstanding, they are considered acceptable with respect to the height variation sought (see Section 4.2.11).	N/A
5.10 – Heritage Conservation	The Site is within a heritage conservation area and contains three Heritage Items. The proposal retains the heritage facades on Peats Ferry Road and Dural Street and will relocate 'Norwood' closer to Dural Street to provide for a better relationship with the public domain and the proposal has been assessed as being acceptable subject to conditions of consent (see Section 4.3.2). It is noted that whilst cl5.10(10) provides for conservation incentives, the DA as submitted does not rely upon or include sufficient information to satisfy the provisions of this clause.	Consistent (see Section 4.3.2).

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Table 7 Assessment against Relevant Provisions of LEP 2013

Provision	Assessment	Consistency/ Compliance
6.2 – Earthworks Earthworks require development consent	The proposal includes excavation and site remediation which requires development consent. It is considered that the impact of these works will not result in significant adverse impacts in regard to contamination, future land uses, residential amenity or watercourses subject to standard soil and erosion control measures and acoustic and vibration management practices that can be required as conditions of consent to mitigate or minimise any potential short term construction impacts.	Consistent
6.8 – Design Excellence (3) Development consent must not be granted unless the consent authority considers that the development exhibits design excellence	The proposal has been assessed by Council's Design Excellence Panel which, together with the assessment undertaken in this report, concludes that the proposal satisfies the requirements of cl6.8 and that the proposal exhibits design excellence (see also Section 4.3.1).	Consistent (see Section 4.3.1)

4.2.11 Clause 4.6 Variation Request – Height of Buildings

The proposed development does not comply with the Height of Buildings development standard under cl4.3 of the LEP as follows:

- Tower A has a maximum height of 45.9m which exceeds the 38.5m development standard. This translates to part of the uppermost residential floor level and roof top structures; and
- Tower B has a maximum height of 77.5m which exceeds the 62.5m development standard. This translates to 2-3 of the uppermost residential floor levels and the roof top structures.

The height plane diagram at **Figure 21** graphically displays these elements of the proposed building relative to the two height of building standards applicable to the Site.

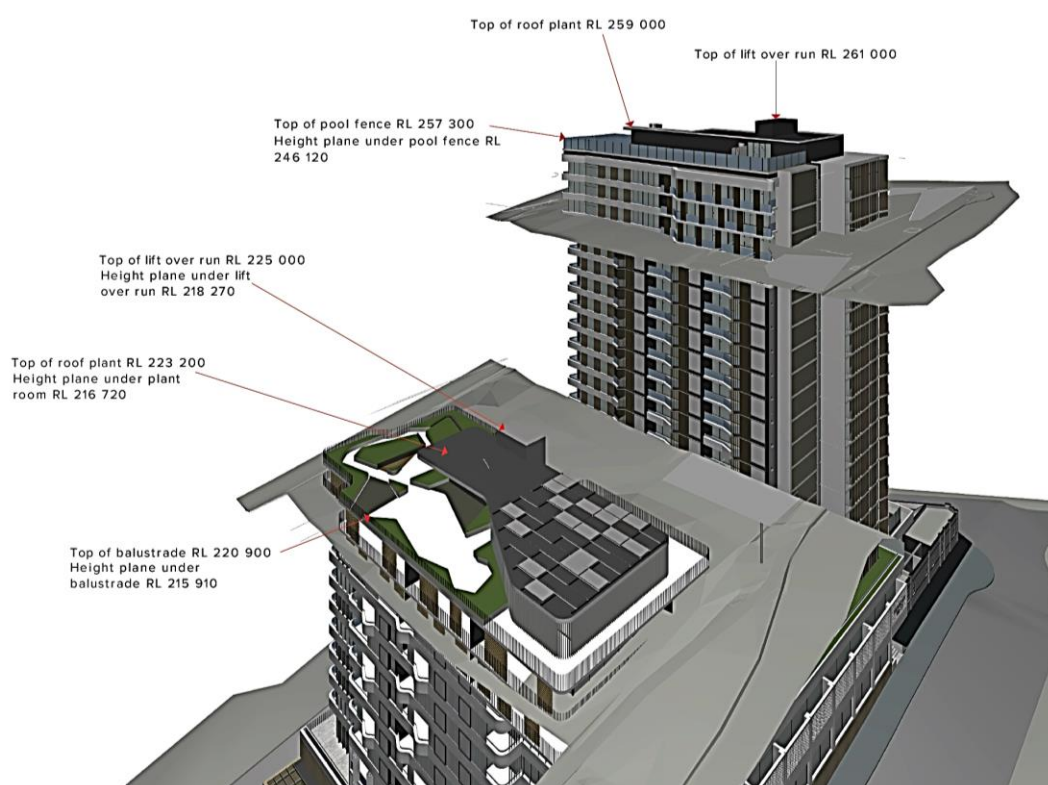


Figure 21 Building Height Plane Diagram (Turner Architects, 2019)

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The following assessment of the exceedance of the height of buildings development standard and the cl4.6 written request submitted with the application is based on the methodology outlined by Chief Justice Preston in the Judgment of *Initial Action Pty Ltd v Woollahra Municipal Council* [2018] NSWLEC 118.

Clause 4.6(2) of the LEP provides that development consent may be granted for development even though it would contravene a development standard, subject to meeting the requirements of cl4.6 and so long as the development standard is not expressly excluded from the operation of cl4.6.

The Height of Buildings control in cl4.3 of the LEP is a development standard as defined by s1.4 of the EP&A Act and is not expressly excluded from the operation of cl4.6. Accordingly, consent may be granted to the development subject to meeting the requirements of cl4.6.

Clause 4.6(3) provides that development consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating:

- (a) *that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and*
- (b) *that there are sufficient environmental planning grounds to justify contravening the development standard.*

A written request to vary the Height of Buildings development standard (the Request) has been prepared by the Applicant's planning consultant (see **Appendix 5**).

The Request argues that pursuant to cl4.6(3)(a), compliance is unreasonable and unnecessary for the following reasons:

- The majority of plant and machinery has been located at the roof levels rather than on lower, more visible parts of the building;
- The roof levels are proposed to be used for communal open space which is encouraged in dense urban environments and this requires shade structures and balustrades;
- The proposal provides for floor-to-ceiling heights in excess of the ADG requirements to contribute to the achievement of design excellence with the increased ceiling heights contributing to internal residential amenity and the perception of space and promoting flexibility for the commercial levels.

In this regard, if a 20-storey building (as envisaged by the DCP) including two podium commercial levels was designed using the minimum floor-to-ceiling requirements of the ADG, the overall height would be 63.2m excluding roof top structures, which would still exceed the maximum height limit.

The proposed increased floor-to-ceiling heights contribute to the building exceeding the height standard with an additional 2.1m in height over the two podium levels which is required to cater for the loading dock head clearance, intended use of the ground floor spaces by cafes and restaurants which require additional room for services, for structural slab transfers and to provide flexibility for the upper level commercial uses. In addition, the proposed floor-to-ceiling heights have been designed to relate to the retained heritage facades.

The proposed increased floor-to-ceiling heights at the residential levels contribute an additional 1.1m in height in Tower A and 1.8m in Tower B.

- Part of the height non-compliance is due to the slope of the land (1.9m for Tower A and 2.2m for Tower B);
- Retention of the heritage item 'Norwood' and its relocation to the Dural Street frontage means that the underlying FSR of 3:1 for 6 Dural Street cannot be achieved.

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Accordingly, an alternate scheme which realised the built form potential of 6 Dural Street in the absence of 'Norwood' would achieve an additional 562m² of floor space. The proposal seeks to relocate this floorspace to the top of Tower B which effectively provides for one additional residential level.

Accordingly, it is considered that the Request adequately demonstrates that compliance with the height of buildings development standard is unreasonable and unnecessary in this instance.

The Request argues that pursuant to cl4.6(3)(b), the environmental planning grounds to justify contravening the development standard are as follows:

- The proposal is consistent with the objective of the height of buildings development standard *"to permit a height of buildings that is appropriate for the site constraints, development potential and infrastructure capacity of the locality"*;
- The rooftop structures have been integrated into the design of the building and will have negligible adverse visual and overshadowing impacts;
- The transfer of development potential from 6 Dural Street to Tower B assists in the retention and restoration of 'Norwood';
- The proposal achieves design excellence through slim towers, a high degree of articulation and additional internal amenity through increased floor-to-ceiling heights, and
- The proposal will generally have positive or neutral environmental planning impacts.

Accordingly, it is considered that the Request raises sufficient environmental planning grounds that justify contravening the height of buildings development standard, being the retention and relocation of 'Norwood' to achieve a better relationship with the street, transfer of floor space to the tower, topography and better urban design outcomes.

Clause 4.6(4)(a) provides that development consent must not be granted for development that contravenes a development standard unless the consent authority is satisfied that:

- (i) *the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and*
- (ii) *the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out, and*

As described above, it is considered that Request has adequately addressed the matters required to be demonstrated by cl4.6(3) and therefore satisfies cl4.6(4)(a)(i).

The Request argues that pursuant to cl4.6(4)(a)(ii), the proposed development is in the public interest because it is consistent with:

- the objective of the height of building development standard; and
- the objectives of the B4 Mixed Use Zone.

As assessed in this report and described in **Table 7**, it is considered that the proposal is consistent with the objectives of the B4 Zone and the objective of the height of buildings development standard as the site constraints, development potential and infrastructure capacity of the locality are capable of accommodating a development of the kind proposed and accordingly, cl4.6(4)(a)(ii) is satisfied.

Clause 4.6(4)(b) requires the concurrence of the Secretary. On 21 February 2018, the Secretary of the Department of Planning and Environment issued a Notice under cl64 of the EP&A Regulation 2000 providing that consent authorities may assume the Secretary's concurrence for exceptions to development standards for applications made under cl4.6 of the Standard Instrument – Principal Local Environmental Plan (SILEP) or SEPP 1 subject to certain conditions. As the LEP adopts cl4.6 of the SILEP and the conditions of the Notice are

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not relevant in this instance, the Panel may assume concurrence in respect of the variation requested to the height of buildings development standard.

Accordingly, it is considered that the Request satisfactorily responds to the relevant matters required to be addressed under cl4.6 and that the Panel, as consent authority, may rely upon the Request and grant development consent to the DA. Should the Panel resolve to approve the DA, it should also provide a statement in the reasons for approval that it has satisfied itself of the matters in cl4.6(4).

4.2.12 Hornsby Development Control Plan 2013

Table 8 provides a summary assessment of the proposed development against the relevant provisions of the DCP to the extent that they are not addressed in the preceding sections.

Table 8 Assessment against Relevant Provisions of Hornsby DCP 2013		
Provision	Assessment	Consistency/ Compliance
1C General Controls		
1C.1.1 Biodiversity	The proposal will result in the removal of six non-significant trees from the Site and all street trees are proposed for retention including the heritage listed trees in Dural Street. Subject to construction management measures to be required as conditions of consent, the proposal is acceptable with regard to biodiversity.	Consistent
1C.1.2 Stormwater Management	The proposal includes stormwater quantity and quality control measures in accordance with Council's requirements.	Consistent
1C.1.4 Earthworks and Slope	The proposal includes significant excavation which is a necessity for the form of development envisaged by the statutory controls for this Site. Notwithstanding, excavation is not proposed below the heritage facades to be retained, in the structural root zone of heritage trees in Dural Street or within the land to be acquired for public road.	Consistent
1C.2.1 Transport and Parking		
<u>Service Vehicles</u>	Council has assessed that the proposal provides for adequate loading bays and service vehicle spaces and that all service vehicles will be capable of entering and exiting the Site in a forward direction without undue impact on kerbside parking in Dural Street.	Consistent
<u>Resident parking</u> 0.75 per 1 bed 1 per 2 bed 1.5 per 3+ bed 1 per 10 units for visitor 1 accessible space per adaptable unit	The residential and visitor car parking rates in the RMS Guide are less than the DCP and prevail in this instance. The proposal complies with the ADG providing for 155 resident and 33 visitor car parking spaces (see Table 4). The proposal complies with the DCP with respect to the number of accessible parking spaces although conditions are recommended requiring amendments to ensure that a safe and accessible path is provided between spaces and the lift cores.	Complies with the ADG (see Table 4)
<u>Shops parking</u> 1/29 GLFA	3,406m ² = 118 required – 119 provided	Complies
<u>Business/Office parking</u> 1/48m ² GFA	2,127m ² = 45 required – 45 provided	Complies
<u>Child Care parking</u> 1/4 children	31 children max. = 8 required – 8 provided	Complies
<u>Motorcycle parking</u> 1/50 car spaces	362 cars = 7 required – 16 provided	Complies
<u>Care Share</u> 1 space where over 50 units	231 apartments = 1 required – 2 provided	Complies
<u>Bicycle parking</u> 1 per 5 units (resident) 1 per 10 units (visitor) 1 per 600m ² (commercial)	231 units = 47 required – 72 spaces plus basement storage 231 units = 24 required - 24 provided 5,488m ² = 10 required - 16 provided	Complies Complies Complies

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Table 8 Assessment against Relevant Provisions of Hornsby DCP 2013

Provision	Assessment	Consistency/ Compliance
1C.2.2 Accessible Design - 10% Adaptable - 20% Silver Level Universal Design	- 10.4% of apartments are adaptable - 25% of apartments incorporate silver level universal design features	Complies Complies
1C.2.3 Waste Management	Council has assessed that waste management aspects of the proposal are satisfactory (see Section 4.3.9).	Consistent
1C.2.5 Noise and Vibration	Subject to conditions of consent, the proposal has been assessed as being acceptable with potential noise and vibration impacts (see Section 4.3.3).	Consistent
1C.2.6 Air Quality	The proposal does not include any land uses likely to result in significant adverse air quality impacts that would warrant a detailed Air Quality assessment and conditions of consent are recommended in relation to construction management impacts.	Consistent
1C.2.7 Crime Prevention	The proposal has been designed such that public and private spaces are well defined, active frontages are provided to increase natural surveillance of communal spaces within and on public land adjoining the Site and access to residential components of the building will be via secured entries.	Consistent
1C.2.8 Building Sustainability	The DA is accompanied by a BASIX Certificate and the proposal incorporates recycling facilities in accordance with Council's requirements.	Consistent
1C.2.9 Landscaping	The proposal provides for a range of on-site and street landscaping that, subject to conditions regarding soil depth for planting on structures, satisfactorily responds to Council's requirements.	Consistent subject to conditions
1C.2.10 Services and Lighting	The proposed development is capable of being serviced with all essential utilities and telecommunications infrastructure and the proposed design incorporates space for a new substation midway along Dural Street, well separated from heritage elements along that frontage. Furthermore, standard conditions regarding lighting are recommended.	Consistent
1C.2.11 Signage	The DA does not include any request for approval for signage and therefore any signage will be subject to future DAs.	N/A
1C.3.1 Bushfire	The Site is mapped as bushfire prone land 'Vegetation Buffer' and the DA was referred to the NSW RFS which has issued General Terms of Approval and a Bushfire Safety Authority for the proposed development (see Section 4.5.2).	Consistent

4.5 Hornsby Town Centre

4.5.1 Desired Future Character Development applications should demonstrate compatibility with the relevant desired character statement.	<p>The proposal is consistent with the Desired Future Character statement for Hornsby West Side within the DCP as it will provide for a mixed use, street based centre that provides a range of housing, retail and commercial offices, food outlets and employment opportunities to support the larger centre and service the working and residential populations in the area.</p> <p>The proposed design includes a 1-3 storey modulated podium which respects the retained heritage facades on-site and nearby heritage items and provides for active frontages, awnings and a colonnade.</p> <p>The tower elements have been refined to have slender proportions and to be setback from the podium alignment.</p> <p>The proposal also incorporates public domain improvements and street furniture.</p>	Consistent
4.5.4 Scale <u>Floorplates</u> 700m ² max. residential above podium	<p>Tower A = 498-651m² (600m² average) Tower B = 696-775m² (727m² average) Overall = 690m² average</p>	Does not comply but acceptable

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Table 8 Assessment against Relevant Provisions of Hornsby DCP 2013

Provision	Assessment	Consistency/ Compliance
	The floorplates of Tower B exceed the DCP control with the typical floorplate being 733m ² (Levels 4-17). Notwithstanding, this non-compliance is considered to be minor, the towers have been oriented north-south to provide a slender appearance from the primary aspects of the Site from the north and south and the DEP supports the proposal as achieving design excellence noting the average floorplate across the entire development is less than 700m ² .	
<u>Height</u> 2 storeys (6 Dural St)	Norwood = 1 storey	Complies
12 storeys (2-4 Dural St)	Tower A = 12 storeys plus rooftop amenities	Complies
20 storeys (Peats Ferry Rd)	Tower B = 21 storeys plus rooftop amenities (see Section 4.2.11).	Does not comply (see Section 4.2.11)
<u>Podium Height & Use</u> 2-5 storeys (8.5-17m) including commercial uses	1-3 storeys for commercial 11m high to Peats Ferry Road 6.5-14m high to Dural Street	Complies
<u>Transition in building heights</u>	The proposal retains Norwood on 6 Dural Street, albeit relocated closer to the street frontage and this provides for an adequate separation of the main building from the western adjoining residential development where a 12m height limit prevails.	Consistent
4.5.5 Setbacks Ground = 0m (Peats Ferry Rd & northern boundary) Ground = 0-3m (Dural Street) Ground = 6m (western boundary) Upper = 6m (Peats Ferry Rd) Upper = 3m (Dural Street & northern boundary)	The proposal substantially complies with these setbacks with the exception of minor incursions to the north and south which have been considered by the DEP as being acceptable and will not give rise to adverse overlooking or overshadowing. In addition, the relocated 'Norwood' will be less than 6m from the western boundary although this is considered acceptable for this single storey cottage.	Substantially complies
4.5.6 Open Spaces <u>Hornsby Park</u> Adjacent development should engage with and preserve and enhance the Park's heritage value	The proposal is not able to have a direct connection to Hornsby Park due to the status of the northern adjoining land as Crown Land and due to the existing operational, topographical and heritage values of that land that preclude such a connection. Notwithstanding, the proposal incorporates active spaces overlooking the northern boundary and therefore provides a visual connection with the adjoining public open space.	Consistent
<u>Communal Open Space</u> Located on podium 50m ² min. 6m min. dimension 2 hrs sun - 9am to 3pm (22 June) Landscaped Protect amenity of surrounding dwellings	The proposal includes approximately 1,320m ² of landscaped communal open space on the podium and roof top levels with greater than 2 hours solar access from 9am to 3pm at midwinter to most of these spaces. Wide landscaped planters separate the podium open space from adjacent private open spaces.	Complies
4.5.7 Landscaping	The proposed landscaping within the Site and within the street verges has been assessed as being generally acceptable subject to conditions of consent regarding depth of on-slab planters and public domain works.	Consistent subject to conditions
4.5.8 Privacy and Security	The proposed design responds favourably to the provisions of the ADG and DCP in respect of privacy and security.	Consistent
4.5.9 Sunlight and Ventilation	The proposal complies with the ADG requirements for sunlight access and ventilation to the proposed apartments and to the communal open spaces. In addition, the proposal does not result in unreasonable overshadowing of any public open space or residential development (see Section 4.3.4).	Consistent (see Section 4.3.4)

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Table 8 Assessment against Relevant Provisions of Hornsby DCP 2013

Provision	Assessment	Consistency/ Compliance
4.5.10 Housing Choice 1 bed – 10% 2 bed – 10% 3 bed – 10% Adaptable Units = 10% Livable (Silver) = 20%	Studio and 1 bed – 30.3% 2 bed – 58.4% 3 bed – 11.3% Adaptable - 11% Silver - 25%	Complies
4.5.11 Vehicle Access and Parking	The proposal provides for vehicular access points generally consistent with the DCP and complies with car parking requirements of the ADG for residential and DCP for non-residential.	Complies
4.5.12 Public Domain and Traffic Management Works	The proposal incorporates footpath improvements and street trees consistent with Council's DCP requirements and various conditions of consent are recommended to ensure these works are undertaken in a timely fashion and consistent with other existing or planned public domain works in the town centre.	Consistent
4.5.13 Design Details <u>Building Form</u>	The proposed podium and tower forms have been assessed by the DEP as having design excellence.	Consistent
<u>Wind Effects</u>	A Wind Assessment has been undertaken for the proposed development that indicates that pedestrian comfort levels at street level will be within acceptable limits and that subject to the proposed landscaping and other built form features such as balustrades and roof overhangs, wind impacts on common and private open spaces within the development will be acceptable.	Consistent
9.2.7 Commercial Heritage Items 9.3.4 Demolition 9.3.7 Hornsby West Side Heritage Conservation Areas– Character Statement	The proposal retains the heritage facades on Peats Ferry Road and Dural Street and will relocate 'Norwood' closer to Dural Street to provides a better relationship with the public domain. Whilst the proposal includes demolition works to the rear of the heritage facades, these building elements have been assessed as being of low significance. The proposed podium design and setback above the podium levels is also consistent with the DCP requirements. Accordingly, the proposal has been assessed as being acceptable subject to conditions of consent (see Section 4.3.2).	Consistent

4.2.13 Hornsby Shire Council Section 94 Contributions Plan 2014-2024

The Hornsby Shire Council Section 94 Contributions Plan 2014-2024 applies to the development as it would result in additional dwellings and additional non-residential floor space that will increase the demand for public facilities and services.

Accordingly, a condition of development consent has been recommended requiring a monetary contribution to cater for the demands of the proposed development for public services and infrastructure.

This contribution has been calculated inclusive of an offset to account for the existing non-residential floorspace on the Site.

4.2.14 Australian Standard AS2601 – Demolition of Structures

In accordance with Section 4.15(i)(a)(iv) and clause 92(1)(b) of the Regulation, consideration must be given to AS2601 as the development application includes demolition of all existing structures. A Preliminary Construction Management Plan has been submitted which, together with recommended conditions of consent at **Appendix 1**, is considered to address the requirements of AS2601.

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4.3 Environmental Impacts

The following subsections assess the key impacts of the development in accordance with Section 4.15(1)(b) of the EP&A Act to the extent they have not been addressed elsewhere in this assessment report.

4.3.1 Built Form, Streetscape and Character

The proposed built form and its relationship to the existing and desired future streetscape and character of this part of the town centre have been assessed by the DEP however, for completeness, **Table 9** provides an assessment of the proposal against the criteria under Clause 6.8 of the LEP.

Table 9 Assessment against Design Excellence Criteria under cl6.8 of LEP 2013

Design Excellence Criteria	Assessment
(a) whether a high standard of architectural design, materials and detailing appropriate to the building type and location will be achieved	These matters have been assessed by the DEP which has concluded that the proposal is acceptable with regard to design and materials and a condition of consent is recommended requiring no change to the materials proposed on the architectural drawings without further consent of Council.
(b) whether the form and external appearance of the development will improve the quality and amenity of the public domain	The form and external appearance of the proposed development has been assessed by DEP as being acceptable as it minimises sterilised frontages, will improve the interaction of the new buildings with the public domain through openings and a colonnade at ground level and has an appropriate interface with the northern public open space. Furthermore, it is noted that the proposal includes public domain works comprising new paving and street trees in Peats Ferry Road and Dural Street.
(c) whether the development detrimentally impacts on view corridors	Whilst the proposed towers will be visible from the surrounding area, they will not obscure any significant views that might currently be achieved across the Site (see Section 4.3.5).
(d) whether the development achieves transit-oriented design principles, including the need to ensure direct, efficient and safe pedestrian and cycle access to nearby transit nodes	The proposal is located within 150m walking distance of Hornsby Railway Station and bus interchange and includes public domain improvements in Peats Ferry Road and Dural Street to improve the pedestrian environment, provides for bicycle car parking, end of trip facilities and 2 car share parking spaces.
(e) the requirements of the Hornsby Development Control Plan	The Proposal is considered to satisfactorily respond to the relevant requirements of DCP 2013 (see Section 4.2.12).
(f) how the development addresses the following matters: (i) the suitability of the land for development, (ii) existing and proposed uses and use mix, (iii) heritage issues and streetscape constraints, (iv) the relationship of the development with other development (existing or proposed) on the same site or on neighbouring sites in terms of separation, setbacks, amenity and urban form, (v) bulk, massing and modulation of buildings, (vi) street frontage heights, (vii) environmental impacts and factors such as sustainable design, overshadowing and solar access, visual and acoustic privacy, noise, wind, reflectivity, water and energy efficiency and water sensitive urban design, (viii) the achievement of the principles of ecologically sustainable development, (ix) pedestrian, cycle, vehicular and service access and circulation requirements,	<ul style="list-style-type: none"> - The land is zoned for and capable of accommodating the proposed development as discussed in this report. - The proposed land uses are all permissible with development consent and provide for a mix envisaged by the FSR and DCP controls. - Refer to Section 4.3.2. - The proposal complies with the building separation requirements of the ADG and substantially complies with the setbacks to the street frontages and is considered to have acceptable amenity impacts as discussed in this report. - The built form of the proposed development has been assessed by DEP as being acceptable. - The podium height complies with the DCP. - The assessment within this report concludes that the proposal is acceptable in these regards. - The proposal complies with SEPP BASIX, includes solar panels on the roofs, minimises car parking provisions and provides for sustainable transport measures. - The proposal complies with Council's DCP and relevant Australian Standards.

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Table 9 Assessment against Design Excellence Criteria under cl6.8 of LEP 2013

Design Excellence Criteria		Assessment
(x)	the impact on, and any proposed improvements to, the public domain,	<ul style="list-style-type: none"> - The proposal includes public domain improvement works and minimises overshadowing to the Cenotaph Park as required by the DCP. - The proposal provides active street frontages where possible, includes a pedestrian colonnade and provides openings and public links within the Site which also have visual connection to the Crown Land to the north. - The proposal provides substantial communal open spaces at the podium and roof levels with appropriate landscaping, subject to conditions regarding soil depth for planting on structures.
(xi)	achieving appropriate interfaces at ground level between the development and the public domain,	
(xii)	integration of landscape design, including the configuration and design of communal access and communal recreation areas, to incorporate exemplary and innovative treatments and to promote an effective social atmosphere.	

Furthermore, the proposal responds to the DCP controls regarding the form, character and streetscape expected of new development as it :

- Retains 'Norwood' and relocates it is closer to the street so that it plays a more active role in the streetscape;
- Incorporates heritage facades into a podium which is generally consistent with the existing street wall height;
- Reinforces the continuity of the streetscape through consistent horizontal building elements and vertical rhythm through use of columns and recesses in the new podium;
- Provides materials that relate to the context of existing buildings within the precinct whilst providing contrasts to provide some diversity without dominating streetscape.

4.3.2 Heritage

The proposed development was referred by Council to an independent Heritage Consultant – John Oultram - for assessment which can be summarised as follows:

- The controls within the LEP anticipate a considerable intensification in development for this Site and properties on the opposite side of Peats Ferry Road and to the south which will likely lead to a considerable change in the character of the area that is partly a conservation area and that contains a large number of heritage items.
- The proposal retains portions of the most significant aspects of the site (the facades) and the corner building to the shops at 187 Pacific Highway is retained in full and these elements will remain in commercial use.
- The development has a low level podium at street level adjoining the shops to allow some scale relationship with the retained facades.
- The ground floor to the north of the bank has an open colonnade at street level with the upper section connecting into the side of the bank building.
- There is a recessed entry between the two sections of retained façades to Peats Ferry Road that will allow them to be read from different angles.
- There are entry steps and an opening at the junction of the new works to the retained faced in Dural Street allowing some separation between the facades and the adjoining development.
- The upper levels are set back from the facades to maintain a two storey street form.
- The child care centre at 6 Dural Street will remain (relocated) giving a lower scale relationship to the apartments further to the west. Though a modest, domestic structure, Norwood at 6 Dural Street was purpose built as a private kindergarten and

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should be retained (relocated). All of the structures at the rear are later and demolition of these back to the rear skillion of the original building is appropriate in heritage terms.

Accordingly, the proposal is considered to be acceptable in regard to heritage impacts subject to conditions of consent relating to:

- Nomination of a heritage architect to oversee heritage related works;
- Photographic archival recordings of heritage buildings prior to commencement of works;
- Preparation of a schedule of conservation works for 'Norwood' prior to works commencing;
- Preparation of a temporary protection plan for heritage items, prior to works commencing;
- Preparation of a relocation methodology plan for 'Norwood' for endorsement by Council prior to works commencing;
- Preparation of an interpretation strategy, salvage schedule and interpretation plan in respect of heritage fabric to be removed or reused on-site and interpretative elements to be incorporated into the new building; and
- Preparation of a signage strategy for future signage.

4.3.3 Acoustic Privacy

The subject DA is accompanied by an acoustic impact assessment which assesses the following:

1. Noise impacts from the child care centre on surrounding receivers (including proposed apartments) and noise ingress to the child care centre;
2. Noise impacts from building services on surrounding properties;
3. Noise impacts on nearby properties during construction; and
4. Road and rail noise impacts to the proposed apartments.

The following paragraphs summarise the findings of that assessment.

Child Care Centre

The proposal is to retain a child care use on the Site, primarily over 6 Dural Street, albeit that the 'Norwood' cottage will be relocated closer to Dural Street and the rear of that lot will be elevated approximately 2-3m above existing ground level and used for outdoor play space. A 1.8m high acoustic fence is proposed along the western edge of the outdoor play space with landscaping on either side.

The closest external sensitive receivers are the residential apartments at 8 Dural Street.

Assuming that up to 20 children would utilise the outdoor area at any one time, the worst case noise level from future childcare centre operations at the external facade of the apartments of 8 Dural Street was predicted to be:

- 47dB(A) $L_{eq,15min}$ at the first floor level;
- 50dB(A) $L_{eq,15min}$ at the second floor level;
- 55dB(A) $L_{eq,15min}$ at the third floor level.

Whilst noise at the first and second floor levels was assessed to comply with the target noise criteria, noise levels on the third floor apartments was assessed as potentially exceeding the target level of by approximately 2dB(A) during outdoor play time.

However, the target level could be achieved using an acoustic fence with a height of 2.2m.

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Alternatively, the acoustic assessment indicates that the target noise level could be achieved by implementing a combination of the following controls:

- Limiting outdoor play to no more than two hours total per day;
- Limiting the number of children outdoors to ten at any one time;
- Constructing a solid roof over the outdoor play area (COLA);
- Installing architectural noise controls at the two third floor residences of 8 Dural Street.

Whilst the child care use will need to be subject to a future DA, it is considered that the majority of these controls are unrealistic.

Accordingly, a condition of consent is recommended to increase the acoustic fence to a height of 2.2m above the level of the outdoor play space.

With respect to the apartments above the child care centre, noise from the child care centre is expected to exceed the target level of 53dB(A) up to Level 6. Notwithstanding, sound performance requirements are able to be met using 6.38mm laminated glass to the living room and bedroom windows of apartments above. Accordingly, a condition of consent is recommended requiring the acoustic performance requirements be met in accordance with the submitted Acoustic Report.

Building Services

Plant and mechanical equipment is generally located on the tower rooftops or within the basement levels and subject to final equipment selection, attenuation of car park ventilation systems and Council's standard conditions of consent, noise impacts from these building services is considered to be acceptable.

Construction

In order for road traffic noise to increase by more than the noise goal of 2.1dB, traffic would need to increase by approximately 60% due to construction activities. For reference, Peats Ferry Road carries in the order of 1,200 vehicles per hour in the peak periods.

Given the forecast construction traffic is anticipated to be no more than 4 heavy truck movements per hour and approximately 60 light vehicle movements during arrival/departure of construction workers, any noise increase as a result of construction traffic is estimated to remain below the permissible noise goals. Notwithstanding, the acoustic report recommends that heavy vehicle movements be restricted to standard (daytime) hours, which is consistent with Council's standard condition of consent relating to construction hours.

Noise from construction works will impact receivers at 8 Dural Street, 9 Dural Street and the existing child care centre at 6 Dural Street, if it were to continue operation during construction. Accordingly, construction noise management measures are recommended in the acoustic report and these are required as conditions of consent.

Road and Rail Noise

The acoustic assessment identified that there would be some traffic and rail noise intrusion into proposed apartments although this can be mitigated by use of 6.38mm laminated glazing and this can be required as a condition of consent.

4.3.4 Solar Access

The proposed development will result in overshadowing of existing residential development to the south of the Site along Dural Street and to a lesser extent some properties on William Street, as well as the existing residential flat building to the west of the Site at 8 Dural Street. There will be no overshadowing of 10-14 Dural Street between 9am and 3pm at midwinter.

As overshadowing is most acute in respect of 5-9 Dural Street and 8 Dural Street, a detailed solar analysis has been submitted for these properties.

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For the 24 units in 5-9 Dural Street, the affectation to living room windows at midwinter is summarised in **Figure 22** which demonstrates:

- Four (4) units (Units 2, 8, 12 and 22) currently receive less than 2 hours solar access between 9am and 3pm and the proposal will reduce this to no solar access although they will retain solar access to their east/west facing kitchen windows in the morning/evening;
- Two (2) units (Units 13 and 23) currently receive less than 2 hours solar access between 9am and 3pm and the proposal will reduce this to 20 minutes;
- One (1) unit (Unit 18) currently receives 2 hours solar access between 9am and 3pm and the proposal will reduce this to no solar access although it will retain solar access to its east facing kitchen window in the morning;
- Two (2) units (Units 1 and 11) currently receive more than 2 hours solar access between 9am and 3pm and the proposal will reduce this to 40-60 minutes;
- Eight (8) units (Units 4, 5, 14, 17, 21, 24, 25 and 28) currently receive more than 2 hours solar access between 9am and 3pm and the proposal will reduce this although all units will retain more than 2 hours solar access;
- Seven (7) units (Units 3, 6, 7, 15, 16, 26 and 27) will not have any change to the quantum of solar access they receive as a consequence of the proposal.

Living Room window #	Pre Development (minutes)	Post Development (minutes)	Living Room window #	Pre Development (minutes)	Post Development (minutes)
1	150	40	15	250	250
2	50	0	16	0	0
3	0	0	17	260	230
4	280	270	18	120	0
5	200	170	21	370	150
6	0	0	22	30	0
7	90	90	23	40	20
8	80	0	24	350	280
11	160	60	25	370	300
12	70	0	26	0	0
13	60	20	27	110	110
14	300	230	28	330	180
key					
No change pre-post dev.					
Nil solar access					
<120 minutes of solar access					
>120 minutes of solar access					

Figure 22 Summary of solar access analysis of 5-9 Dural Street (Source: Jacobs, 2019)

This impact is considered acceptable for the following reasons:

- The proposal will result in three (3) units which currently receive more than 2 hours solar access, having no solar access. This represents a reduction in non-complaint units of 12.5% and the proposal is consistent with Objective 3B-2 of the ADG which permits a reduction of up to 20% where an adjoining property currently does not receive the required hours of solar access; and

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- The additional shadow cast over 5-9 Dural Street that causes a reduction in solar access to non-compliant units is not as a consequence of the building height non-compliance or other primary built form controls (i.e. setbacks).

For 8 Dural Street, the 10 units with living room windows and balconies in the eastern façade of this building currently receive solar access from 9am to approximately 11:10am after which, the alignment of the eastern façade and the balcony awnings start to restrict direct solar access to the living room windows.

The proposal will increase overshadowing to six (6) units in the southern portion of this building from 9am although overshadowing to the living room windows to these units will dissipate quickly with 3 units having solar access to their living room windows by approximately 9:10am and the other 3 units having solar access to their living room windows by approximately 9:20am. In addition, the removal of a large mature tree in the north-western corner of the Site will slightly increase solar access to several units in the northern portion of this building.

This impact is considered acceptable for the following reasons:

- The proposal will result in six (6) units which currently receive slightly more than 2 hours solar access to their living room windows and adjacent balconies having a slight reduction of about 10-15 minutes. Notwithstanding, three (3) units will maintain 2 hours solar access and the other three (3) units will achieve only slightly less than 2 hours solar access;
- The removal of a large mature tree from within the Site will improve solar access to several units between 9-9:30am; and
- The additional shadow cast over 8 Dural Street is not as a consequence of the height of building non-compliance.

It is noted that the proposed development will overshadow the above mentioned properties and other private land at other times of the year and/or before 9am or after 3pm although the environmental planning controls require solar access to residential properties to be assessed between 9am and 3pm at midwinter. As the proposal is considered acceptable with regard to midwinter solar access, no additional assessment is considered necessary.

With regard to solar access to public open spaces, the proposal will result in some overshadowing of Cenotaph Park from around 2:30pm at midwinter although this public open space will be unaffected by the proposal from 9am to 2:30pm and accordingly, receives 2 hours direct solar access between 9am and 3pm in accordance with the requirements of Council's DCP.

4.3.5 Views

Whilst it is noted that there are views to Hornsby Park across the Site from some residential properties south of the Site and from the public domain in Peats Ferry Road and Dural Street, these views are primarily as a consequence of the lack of any built structures on the majority of the central and northern portions of the Site. These are not significant views and any expectation for them to be retained would unreasonably restrict the orderly and economic use of the land in accordance with the prevailing planning regime for this part of the town centre.

4.3.6 Traffic and Parking

Background

As part of the Hornsby West Side Precinct Planning Proposal, Council developed a traffic model to determine the traffic impact of the increased development in the Hornsby West Side precinct. For the entire Hornsby West Side Town Centre, the assumed growth was 1,000 apartments and 18,000m² of retail/commercial floor space. The model included assumptions in relation to background traffic growth (i.e. growth in traffic notwithstanding any increased development potential).

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Arising from that traffic model, Council identified numerous traffic management measures that would be required to accommodate future development in the Hornsby West Side Precinct including:

- signalisation of the Peats Ferry Road and High Street intersection;
- realignment of the bus and taxi exit opposite William Street to become a 4-way signalised intersection with High Street and Peats Ferry Road;
- reconfiguration of Station Street to allow traffic to enter from Coronation Street and provide a mini round-a-bout with angle parking;
- prohibition of vehicle entry to Station Street from Peats Ferry Road and provision of pedestrian only traffic signals; and
- introduction of a “No Right Turn” into Dural Lane from Peats Ferry Road.

Most of these works were included in an amended Section 7.11 Development Contributions Plan to ensure that future development contributed to provision of these works in an equitable fashion with the Dural Lane turning restriction being funded by Council.

The road network capacity analysis also established that the following larger area wide network measures are required to facilitate redevelopment of Hornsby West Side Precinct:

- public domain plan modifications to maintain traffic capacity at key intersections;
- modifications to the traffic signals at George Street / Bridge Street / Jersey Street North to remove the phase that services Railway Parade;
- modifications to the traffic signals at Pacific Highway / Bridge Road to improve southbound left turn capacity; and
- adjustments to signal timing and coordination, such that through traffic is discouraged from using the Pacific Highway through the West Side Precinct and encouraged to use the George Street – Bridge Road route.

Based on the above traffic management works and area wide network measures, the traffic modelling established that development commensurate with that facilitated by the Hornsby West Side Planning Proposal was feasible.

However, since finalisation of the Hornsby West Side Precinct Planning Proposal, the RMS has informed Council that it will not support the signalisation of Peats Ferry Road and High Street. This has implications for circulation and access arrangement requirements thereby decreasing the ability of the local road network to cater for the envisaged future traffic growth in Hornsby West Side Precinct.

Accordingly, Council Officers have been pursuing alternative traffic management measures (primarily in relating to William Street turning movements) to be used in conjunction with changes to Coronation Street, Station Street and Dural Lane, to minimise queuing on Peats Ferry Road.

Traffic Assessment

The Applicant lodged a Traffic Impact Assessment (TIA) as part of the original DA proposal and this has been updated as a consequence of the amended design and in response to feedback from Council’s Traffic Officers. Based on the amended TIA, the following summarises the assessment of traffic impacts:

- The proposed development will generate 215 additional vehicle trips per hours (vtp/h) in the AM peak and an additional 334 vtp/h in the PM peak;
- The traffic model underpinning the TIA indicates that there are five intersections currently operating at a Level of Service (LOS) less than LOS D as follows:
 - Peats Ferry Road and Coronation Street AM Peak – LOS F;

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- Peats Ferry Road and Station Street AM Peak – LOS F;
- Peats Ferry Road and William Street PM Peak – LOS F;
- Peats Ferry Road and High Street PM Peak – LOS F;
- Pacific Highway and Edgeworth David Avenue PM Peak – LOS F.
- With minor improvements to the network as envisaged by Council, the traffic modelling demonstrates that the proposed development will result in:
 - Peats Ferry Road and Coronation Street will move from LOS F to LOS B in the AM Peak;
 - Peats Ferry Road and Station Street will be closed to traffic;
 - Peats Ferry Road and William Street will remain at LOS F in the PM Peak although there will be an improvement from LOS D to LOS B in the AM Peak;
 - Peats Ferry Road and High Street will remain at LOS F in the PM Peak and move from LOS D to LOS E in the AM Peak; and
 - Pacific Highway and Edgeworth David Avenue will remain at LOS F in the PM Peak.
- When a background traffic growth of 2% to 2031 is added (which is generally the standard cumulative growth factor derived from first principles), traffic modelling of future conditions demonstrates that the intersections of Peats Ferry Road at Coronation Street, William Street, High Street, George Street and Edgeworth David Avenue all operate with high delays and LOS F. However, this assumed level of background traffic is higher than the network capacity and is unlikely to occur unless significant regional increases in road capacity are created.

Accordingly, even though parts of the road network currently experience congestion and the proposed development will contribute to future congestion, the proposed development will result in minimal change to the operation of key intersections in the longer term, assuming the traffic network improvements currently envisaged are implemented by Council (subject to receipt of development contributions).

Notwithstanding, in order to respond to this impact, the proposal includes a variety of mitigation measures to reduce private car dependency and promote sustainable transport modes including:

- The minimum on-site car parking to meet the ADG and Council's requirements (see below);
- Two (2) car share parking spaces;
- Bicycle car parking in excess of the minimum required by Council;
- End-of-trip bicycle facilities for workers;
- Footpath improvements; and
- A commitment to prepare a Green Travel Plan (which is required as a recommended condition of consent).

Public Transport Capacity

The Applicant's TIA includes an assessment of capacity of existing rail services to Hornsby Station based on surveys of passenger loading published by Sydney Trains. This data indicates that trains leaving Hornsby have significant spare capacity in the AM Peak hours although trains leaving Hornsby in the 8am to 8:30am period do reach capacity by the time they reach Chatswood. Furthermore, trains returning to Hornsby from the Sydney CBD in the PM are generally under capacity although trains arriving at Hornsby from Wynyard and North Sydney in the 6pm to 6:30pm period are at capacity.

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Accordingly, whilst there are some evening trains at capacity on their return journey to Hornsby, there is spare capacity in the rail network to cater for an increase in patronage from future development in Hornsby.

Car Parking Assessment

The amended proposal has reduced the quantum of car parking so that the proposal now provides the minimum car parking required under the ADG for residential and Council's DCP for non-residential.

Council does not support the provision of any additional car parking over and above the minimum requirements as this would add to potential traffic impacts, does not support the objective of the B4 Mixed Use zone to "*maximise public transport patronage and encourage walking and cycling*" and there is no justification for the excess car parking, given the proximity of the site to public transport services and commercial services in the town centre.

4.3.7 Trolley Management

A preliminary Trolley Management Plan has been submitted in respect of the intended supermarket use of the Lower Ground floor level which identifies that electronic wheel locking mechanisms will be installed in locations where it is conceivable that customers may seek to move trolleys beyond the Site and into the public domain, such as:

- At the Peats Ferry Road pedestrian entrance south (Ground Level);
- At the Peats Ferry Road pedestrian entrance north (Ground Level);
- At the entry corridor to the child care tenancy adjacent to the supermarket tenancy (Lower Ground);
- At the base of the entry ramp (Basement 1); and
- At the top of the residential parking entry ramp (Basement 2).

Whilst the intent of this preliminary management plan is supported, detailed conditions of consent are recommended to ensure that a range of management practices are employed during the ongoing operations of the development.

4.3.8 Stormwater Management

The stormwater design has been assessed by Council's Engineers and is considered to be satisfactory subject to standard consent conditions which are included at **Appendix 1**.

4.3.9 Waste Management

The waste management aspects of the proposed development have been assessed by Council's Waste Management Officers and are considered satisfactory subject to consent conditions which are included at **Appendix 1**.

4.3.10 Construction Impacts

As with other developments being undertaken in the Hornsby LGA, there will be negative short term disruptions due to demolition, excavation and construction works. In this regard, a preliminary Construction Management Plan and a preliminary Construction Traffic Management Plan have been submitted which describe various measures that can be undertaken to minimise the potential impacts of demolition and construction works including:

- Environmental management measures (e.g. dust, soil and sedimentation control, truck wash facilities and tree protection);
- Designation of works zones, materials handling areas and waste storage and removal;
- Pedestrian management;
- Traffic management - including local traffic control measures, construction vehicles routes, parking, etc; and
- Hours of work and access.

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Of particular note, the preliminary plans provide that truck movements are to be avoided during the 8am to 9am and 5pm to 6pm periods and that no rock breaking or noise intensive work is to be undertaken between noon and 2pm to provide a respite period during the lunch period.

Condition of development consent are recommended at **Appendix 1** requiring the development to be undertaken in accordance with these preliminary plans and that a detailed plan be prepared prior to works commencing on-site. Several amendments are recommended restricting the use of Peats Ferry Road north of William Street for construction vehicles which will require all vehicles to use Dural Street, Frederick Street and William Street.

In addition, as the preliminary geotechnical study submitted with the DA indicates that there is high strength sandstone below 2-3m from the existing surface level and that rock breakers, rock saws/grinders and ripping tools will be required for excavation, the recommended conditions of consent also require that:

- a dilapidation assessment of adjoining properties be prepared;
- only rock saws be used wherever practicable; and
- excavation is to not occur on Saturdays, Sundays or public holidays.

4.4 Suitability of the Site for Development

Pursuant to Section 4.15(1)(c) of the EP&A Act, the Site is considered to be suitable for the proposed development as it has been identified in the LEP and DCP for a mix of non-residential and residential land uses in a tower form, all in close proximity to public and private transport infrastructure.

In addition, the documentation submitted with the DA demonstrates that all essential services and infrastructure are, or can be made, readily available to the Site and the design incorporates sufficient physical capacity for the necessary infrastructure.

4.5 Submissions

Pursuant to Section 4.15(1)(d) of the EP&A Act, the following subsections consider any submissions made in accordance with the Act or Regulation.

4.5.1 Community Consultation

The proposal was originally notified from 22 March to 4 April 2018 and the amended proposal was notified from 3-16 November 2018. During the course of these two exhibition periods and thereafter, 129 submissions were received with a number of these being pro-forma objections or the same objection submitted in response to each notification period. Four (4) submissions were in support of the proposal.

Table 10 provides a summary of the issues raised in submissions that objected to the proposal listed in order of the number of submissions which raised that issue.

Table 10 Summary of Submissions and Responses	
Issue	Response
Traffic	See Section 4.3.6 .
Height	See Section 4.2.11 .
Infrastructure	<ul style="list-style-type: none">- A condition of consent is recommended requiring monetary development contributions toward public open space and recreation facilities to cater for the demands of the future population of the Site (see Section 4.2.13).- It is an objective of the B4 Mixed Use Zone to encourage development of the nature proposed in this location to take advantage of existing public transport infrastructure. In addition, the provision of a mixed use development is likely to reduce the need for trips from
<ul style="list-style-type: none">- Recreation Facilities- Public Transport	

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Table 10 Summary of Submissions and Responses

Issue	Response
- Schools, hospitals and emergency services	the Site by residents and encourage multi-purpose trips by visitors to the Site, hence minimising private vehicle trips and encouraging sustainable travel.
- Water and Sewer	- The provision of schools, hospitals and emergency services infrastructure is a State Government responsibility and is provided on the basis of forecast future population. The proposed development is part of the growth in population forecast by Council and the State Government since at least the rezoning of land in Hornsby West Side Precinct in 2014 and accordingly, the State Government will provide infrastructure in accordance with its own strategic planning practices.
Streetscape/Character	- The DA was referred to Sydney Water which did not raise any objection to the proposal.
Heritage	See Section 4.3.1.
Overshadowing	See Section 4.3.2.
Parking	See Section 4.3.4.
Overdevelopment	<p>The proposal has been amended to reduce the total quantum of car parking to the minimum required by Council in order to promote public transport and more sustainable transport methods and to reduce the overall impact of traffic on the surrounding road network.</p> <p>It is also noted that the proposal does not seek or rely upon changes to existing on-street car parking arrangements with car parking in surrounding streets and Council's car parks being time limited which will discourage future residents, employees or shoppers from extended use of public car parking. Furthermore, matters relating to potential illegal parking or loading operations will be subject to Council's standard enforcement protocols.</p> <p>In regard to commuter parking, the proposal does not directly impact on the supply of commuter parking and given the Site's proximity to the station, it is unlikely that future residents or employees to the Site would seek to use private vehicles to access commuter car parking.</p>
Construction Impacts	The proposal substantially complies with the prevailing statutory and non-statutory planning provisions which apply to the land with the main exception being in regard to building height. This is discussed in detail at Section 4.2.11 where it is concluded that a height compliant development would likely contain the same quantum of floor space, noting that the proposal complies with the FSR development standard under the LEP. Furthermore, with regard to external environmental impacts, the proposal has been assessed as acceptable. Accordingly, the proposed development is not considered to be overdevelopment.
Bushfire	See Section 4.3.10.
Lack of Strategic Planning	See Section 4.5.2.
Visual Privacy	<p>The proposal is consistent with the Greater Sydney Region Plan and the North District Plan (see Section 4.1).</p> <p>Furthermore, prior to its finalisation in 2014, the Hornsby West Side Planning Proposal was publicly exhibited, along with the Hornsby West Side Precinct Structure Plan within the DCP. Accordingly, the prevailing planning controls have been in force for 5 years and anticipate a high density mixed residential and commercial development of the kind proposed.</p>
Noise	<p>The proposal complies with the required building separation from the closest residential development to the Site is 8 Dural Street and is considered acceptable with regard to residential privacy.</p> <p>With regard to privacy of patrons of the public reserve and aquatic centre, there is a considerable horizontal and vertical distance between the Site and the public swimming pool and Hornsby Park is a public space of which natural surveillance should be encouraged. Accordingly, any distant overlooking of these spaces is considered acceptable and not grounds for refusal of the DA.</p>
Property Values	See Section 4.3.3.
Pedestrian Safety	Impact on property values is not a matter that requires consideration under s4.15 of the EP&A Act.
	<p>The proposal includes footpath improvements along the Site frontages and the DCP and s7.11 Plan envisage public domain improvements to improve pedestrian connectivity and safety. A condition of consent is also recommended requiring monetary development contributions toward improvements in the wider town centre.</p>

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Table 10 Summary of Submissions and Responses

Issue	Response
Fire Safety	A preliminary fire safety assessment has been submitted which demonstrates that the proposal is capable of complying with the prevailing fire safety standards and it is a requirement of the EP&A Regulation that a condition be imposed requiring the development to be constructed in accordance with the BCA which includes fire safety requirements.
Site Isolation	The proposal does not result in any isolated adjoining allotments that would not be capable of being developed in accordance with the prevailing planning controls.
Inclusion of Green Spaces	The proposal includes landscaping in publicly accessible and private spaces within and adjacent to the Site and is acceptable with regard to provision of landscaped spaces.
Site Contamination	See Section 4.2.2 .
Energy Efficiency	The proposal complies with the requirements of SEPP BASIX, the ADG and Council's DCP in regard to energy efficiency and wind impacts.
Biodiversity	The proposal will result in the removal of several trees although no part of the Site has been identified or assessed as containing biodiversity of significance that would warrant a detailed assessment in this regard and the heritage street trees in Dural Street are to be retained.
Light spill from headlights	The proposed vehicular access points are in the general location of the existing vehicular access to the Site and roughly consistent with the Vehicular Access Plan in the DCP. Furthermore, vehicular access from Peats Ferry Road or from Dural Street closer to Peats Ferry Road is not supported by Council. Accordingly, denial of vehicular access in the locations proposed would unreasonably restrict the orderly and economic development of the Site.
Views	See Section 4.3.5 .
Apartment Mix	The proposal complies with the DCP apartment mix requirements.
Insufficient Unit Size	The proposed apartments all comply with and in many cases significantly exceed the minimum requirements of the ADG and provide for a broader array of unit sizes than is typical in a development of this nature.
Accessible Units	The proposal complies with the ADG and Council's DCP with regard to the quantum and design of adaptable and Silver level apartments.
Development on Public Land	The proposed development does not include any works within the Crown Land to the north of the Site and does not rely upon any access over that land. Works within the public domain are restricted to vehicular crossings and footpath improvements and street trees which are considered acceptable and for which a separate Roads Act approval will be required.
Lack of Employment	The proposal will significantly increase the quantum of retail and commercial floorspace on the Site which in turn will generate additional long term jobs.
Wind	The Wind Assessment prepared for the proposal indicates that pedestrian comfort levels at street level will be within acceptable limits.
Trolley Management	See Section 4.3.7 .
Stormwater	The stormwater design has been assessed by Council's Engineers and is considered to be satisfactory subject to standard consent conditions.

4.5.2 Public Agency Consultation

The proposed development was referred to government agencies for comment as required by legislation and/or Council's standard practice. The following subsections provide a summary of the responses received from relevant agencies.

NSW Roads and Maritime Services

The DA was referred to the RMS as the proposal entails a development with car parking in excess of 200 spaces and retail floor space greater than 2,000m². The RMS has provided comments on the DA (see **Appendix 6**) and recommended conditions in regard to a construction management plan and a road occupancy licence (if required) for works that may impact on the traffic signals at Peats Ferry Road and Coronation Street. These requirements are incorporated in the recommended conditions of consent at **Appendix 1**.

4 Environmental Planning Assessment

Rural Fire Service

The Site is mapped as Bushfire Prone Land Buffer and the proposal includes the intended use of part of the Site for a child care facility, which is a Special Fire Protection Purpose pursuant to s100B of the *Rural Fires Act 1997*. Accordingly, the DA was referred to the NSW RFS under the Integrated Development provisions of Part 4 Division 4.8 of the EP&A Act.

It is noted that the proposed development does not include or require clearing or management of vegetation on any surrounding land.

The RFS has provided General Terms of Approval and a Bush Fire Safety Authority for the proposed development (see **Appendix 7**) subject to conditions relating to:

- (a) Preparation of a Bush Fire Emergency Management and Evacuation Plan;
- (b) Management of the entire Site as an Inner Protection Area;
- (c) Provision of water, electricity and gas services in accordance with Planning for Bush Fire Protection 2006 (PBP) and fire hydrants in accordance with the relevant Australian Standard;
- (d) Construction in accordance with the fire standards required by the relevant Australian Standard;
- (e) Installation of ember protection to 'Norwood'; and
- (f) Landscaping to comply with PBP.

Accordingly, as required by the EP&A Act, the recommended conditions of consent at **Appendix 1** include the conditions required by the RFS.

Ausgrid

The DA was referred to the Ausgrid as the proposal entails removal of existing electricity distribution poles and overhead transmission lines in Dural Street and excavation proximate to existing electricity assets. Ausgrid responded to Council's referral advising of Ausgrid's standard requirements for such work (see **Appendix 8**).

Accordingly, Council's standard conditions are recommended with regard to electricity infrastructure.

4.6 Public Interest

In accordance with Section 4.15(1)(e) of the EP&A Act, the consent authority is required to consider whether the proposed development is in the public interest.

The public interest is an overarching requirement which includes consideration of the matters discussed in this report. Implicit to the public interest is whether the proposed development adequately responds to and respects the desired outcomes expressed in relevant EPIs and DCP and whether, on balance, the impacts of the development can be appropriately mitigated or managed.

The proposed development is considered to be in the public interest as it will provide for a well-designed mixed use development generally in accordance with the provisions of the LEP, DCP, relevant SEPPs, the SREP and the ADG, whilst minimising adverse environmental impacts.

5 Conclusion

The application seeks approval for the demolition of existing structures, site remediation, vegetation removal, relocation of a heritage building, retention of heritage facades, construction of a shop-top housing development comprising retail and commercial floorspace including provision for a centre-based child care facility, 231 apartments in two towers and basement parking for 362 cars at 187-203 Peats Ferry Road & 2-6 Dural Street, Hornsby.

The proposed development has a Capital Investment Value of approximately \$170.6 million and is deemed to be regionally significant development pursuant to Schedule 7(2) of *State Environmental Planning Policy (State and Regional Development) 2011*. Accordingly, the Sydney North Planning Panel is the determining authority pursuant to s4.5(b) of the EP&A Act.

The proposal is permissible with development consent in the B4 Mixed Use Zone under LEP 2013 and is consistent with the objectives of that zone. The proposal complies with the FSR development standard under LEP 2013 and is consistent with the other relevant provisions of the LEP with the exception of the Height of Buildings development standard.

The Applicant has prepared a written request pursuant to cl4.6 of LEP 2012 to vary the Height of Buildings development standard. It is considered that the cl4.6 written request has adequately demonstrated that:

- (a) The height of buildings control is a development standard and is not excluded from the operation of cl4.6;
- (b) Compliance with the development standard is unreasonable and unnecessary in this instance;
- (c) There are sufficient environmental planning grounds to justify contravening the development standard; and
- (d) The proposal is in the public interest because it is consistent with the objective of the height of building development standard and the objectives of the B4 Mixed Use Zone

Accordingly, the Panel may assume the concurrence of the Secretary of the Department of Planning, Industry and Environment and grant consent to the development application.

The proposal has been assessed as being consistent with the Design Quality Principles of SEPP 65 and generally consistent with the design criteria of the ADG with the minor non-compliance relating to internal building separation considered acceptable in this instance.

With respect to *State Environmental Planning Policy (Educational Establishments and Child Care Facilities) 2017*, the proposed building has been assessed as being capable of accommodating a centre based child care facility although insufficient design and operating details have been provided to be able to grant consent for that land use as part of this DA. Accordingly, a condition of consent is recommended requiring a further development application for the fit-out and occupation of that part of the building proposed for use as a centre based child care facility.

Subject to conditions of consent, the proposal complies with the relevant provisions of the other relevant State Environmental Planning Policies.

The proposal is considered to be generally consistent with the Hornsby Development Control Plan 2013 with the minor non-compliances relating to floorplates, height in storeys and setbacks considered acceptable in this instance.

The public submissions and the agency referrals in respect of the proposed development have been assessed and it is considered that the proposal is satisfactory subject to conditions of consent or that the submissions raised matters that are not for consideration pursuant to Section 4.15 of the EP&A Act.

5 Conclusion

Accordingly, it is recommended:

*THAT the Sydney North Planning Panel assume the concurrence of the Secretary of the Department of Planning, Industry and Environment pursuant to cl4.6 of Hornsby Local Environmental Plan 2013 and grant Consent to Development Application No. DA/201/2018 for demolition of existing structures, site remediation, vegetation removal, relocation of a heritage building, retention of heritage facades, construction of a shop-top housing development comprising retail and commercial floorspace, 231 apartments in two towers and basement parking for 362 cars at 187-203 Peats Ferry Road & 2-6 Dural Street, Hornsby, being Lots C, D & E DP 367580, Lots A & B DP 384707, Lots 1, 2, 3 & 9 Sec 1 DP 1880, Lots A & B DP 337147 and Lot 1 DP 951409, pursuant to Section 4.16(1)(a), 4.16(3) and 4.16(4)(b) of the Environmental Planning and Assessment Act, 1979 subject to the conditions of consent detailed at **Appendix 1** to this report.*