CALADINES
TOWN PLANNING PTY LTD

Amended

Statement of Environmental Effects

Residential Flat Building

10-12 Bellevue Street

Thornleigh

1 August 2022

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1.0 Introduction

This amended Statement of Environmental Effects (SEE) has been prepared by Caladines Town Planning Pty Ltd on instructions from Zhinar Architects Pty Ltd and accompanies a development application (DA) to Hornsby Shire Council (HSC), seeking development consent to carry out on-site preparation works, including demolition of all existing structures, excavation works and the removal of trees to facilitate the construction of a five (5) storey residential flat building (RFB) containing 21 residential apartments over two (2) levels of basement car parking, provision of extensive landscaping throughout the site as well as private and communal open space at 10-12 Bellevue Street Thornleigh.

Because of the sites topography, which is higher in the south-eastern corner, the proposal also seeks consent to vary the 16.5m building height control by between 160mm or 0.99% (small portion of roof) and 970mm or 5.9% (lift overrun).

This SEE has been prepared pursuant to Section 4.12 "Application" of the Environmental Planning and Assessment Act, 1979 and Clause 50 of the Environmental Planning and Assessment Regulation, 2000.

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The SEE provides a description of the site and surrounds, a comprehensive description of the proposed development, a summary of the relevant planning controls, and an assessment of the environmental effects the proposed development will have on the surrounding urban environment.

The report concludes that after examining the environmental effects of the proposed development when measured against the Evaluation criteria prescribed under Section 4.15 (1) of the Environmental Planning and Assessment Act, 1979, the proposal is appropriate for the site, having no adverse environmental impacts upon the surrounding transitional urban environment, and will assist in contributing towards housing targets for the Hornsby LGA. Accordingly, the application is, in our opinion worthy of approval.

2.0 Regional Context

The subject site is located approximately 19km South West of the Sydney CBD, 4km from Hornsby Town Centre and within the Local Government Area (LGA) of Hornsby

The Hornsby LGA accommodates a diverse mix of residential, business and industrial forms of development in close proximity to the site. The new Northconnex Tunnel connects with the M1 Freeway that has a direct linkage with Gosford and the remaining portion of the Central Coast.

The commercial and retail uses within Thornleigh are quite diverse and within a short walk of most new medium to high density residential development in this neighbourhood. See the suburb of Thornleigh (shaded) and surrounding suburbs at **Figure 1.**

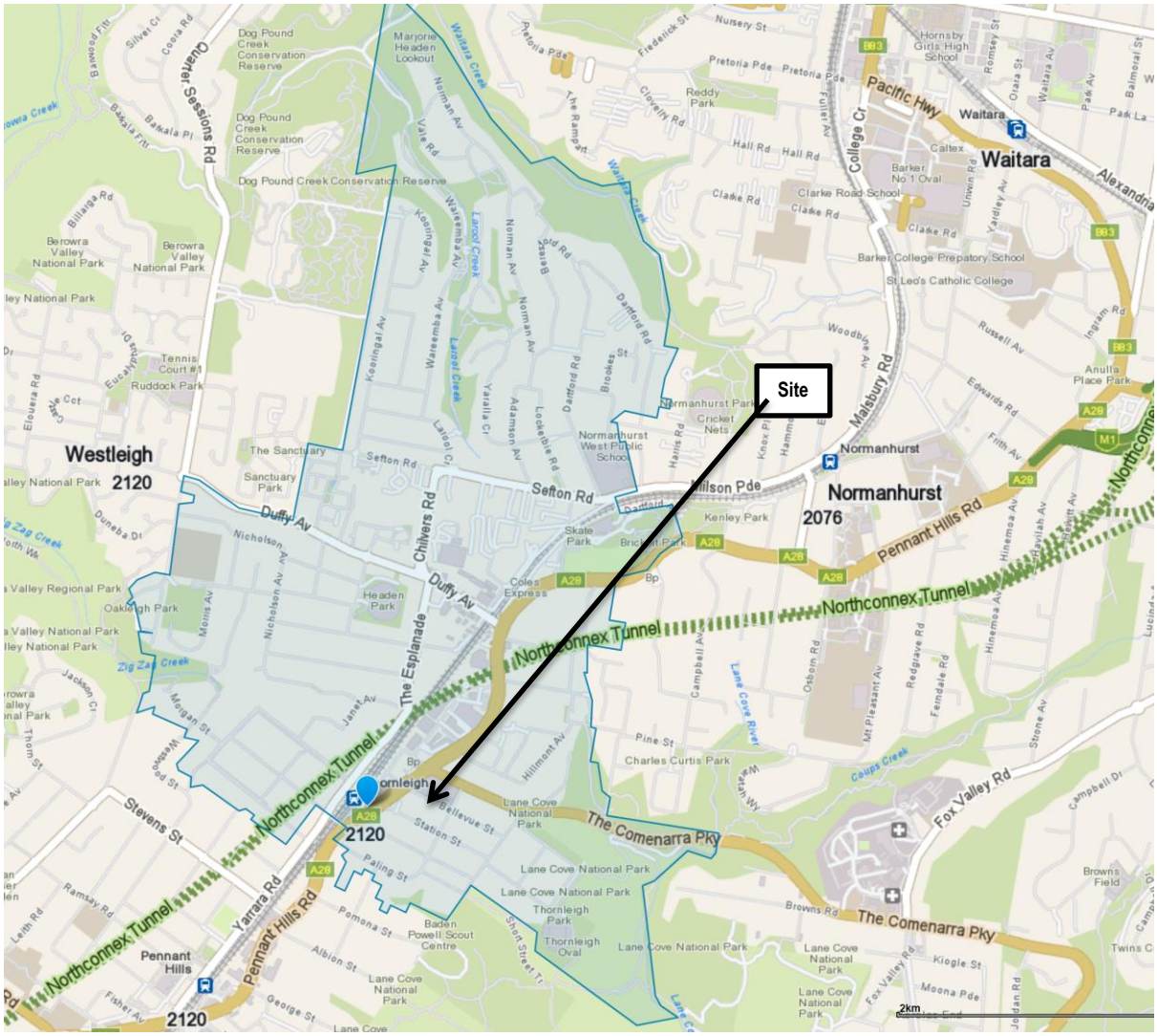

Figure 1
Source: *Whereis*

2.1 The Site and Surrounding Neighbourhood

The development site is located on the southern side of Bellevue Street between Wood Street and Pennant Hills Road Thornleigh. See location map at **Figure 2.**

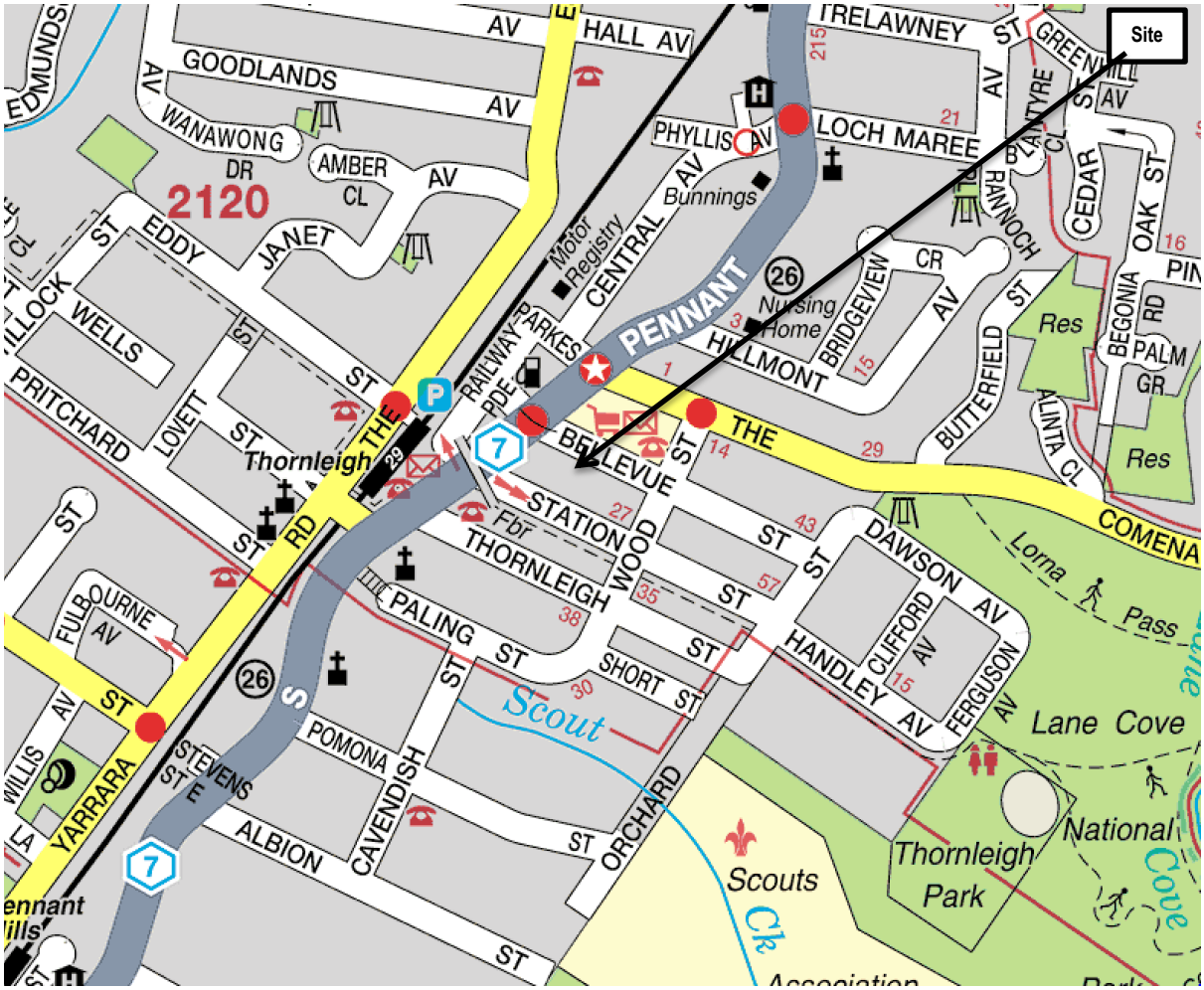

Figure 2
Source: UBD

The site is strategically located, within close proximity of Pennant Hills Road as well as the below listed amenities and public transport facilities:

- Thornleigh Railway Station;
- Thornleigh Community Centre;
- Aldi Supermarket;
- Thornleigh Park;
- Thornleigh Market Place including Woolworths Supermarket, Post Office and other small shops opposite the site;
- Bunnings;
- Hope Medical Centre;
- Motor dealerships;
- Restaurants and cafes;
- Fitness centre;
- McDonalds and KFC takeaway food restaurants;
- Churches

The development site consists of two (2) rectangular shaped lots, each containing a single detached dwelling house with associated structures. See aerial photo of the site and surrounds at **Figure 3.**

Figure 3
Source: Six Maps

The character of built form within this precinct consists predominantly of single detached dwelling houses with pitched tile roofing forms and landscaped front, side and rear setbacks however there are some sprinkles of new residential flat buildings and commercial/retail premises within the surrounding precinct.

The surrounding neighbourhood precinct is in a state of transition with older detached dwelling houses being replaced by an emerging character of medium to high density residential development. This urban renewal forms part of Council's Housing Strategy to increase the population density of the area by better utilising public transport amenities and services. The residential flat buildings typically have articulated facades and basement car parking.

Lower density residential streetscapes are still prevalent further from the train station and shopping centres. The dwelling houses are from a variety of architectural periods and include an eclectic variety of designs and material. Many of the houses include granny flats and ancillary buildings within their rear setbacks. The underlying topography is quite flat, with a consistent rectangular subdivision pattern creating similar lot sizes throughout the locality. This is changing as higher density development consolidates smaller Torrens title allotments.

The site is located within 250m (approximately) of the Thornleigh Railway Station and approximately 80m of Pennant Hills Road, which is a State classified road that affords commuters with regular bus services 7 days a week. Directly across the road from the site is a medium scale shopping centre that includes a Woolworths Shopping Centre. Approximately 80m west of the subject site is an Aldi Supermarket.

Photos of the dwellings on each property and other building forms surrounding the site are provided at **Figure 4** to **Figure 14.**

Figure 4
View South Towards 12 Bellevue Street

Figure 5
View South Towards 10 Bellevue Street

Figure 6
View West Along Bellevue Street Towards RFB at 14-16 Bellevue Street and House at 12 Bellevue Street

Figure 7

View South Towards RFB at 14-16 Bellevue Street

Figure 8
View South Towards 4 and 6 Bellevue Street

Figure 9
View South Towards 8 Bellevue Street

Figure 10
View West Along Streetscape of Bellevue Street

Figure 11
View North - Corner Wood Street and Bellevue Street

Figure 12
View East Along Bellevue Street - Shopping Centre Loading Area on Left Hand Side

.

Figure 13
View South Along Pennant Hills Road Towards Existing Aldi Supermarket

Figure 14
View West Along Bellevue Street Towards Intersection of Bellevue Street and Pennant Hills Road

3.0 Site Details

The site is legally described as Lot A and Lot B in DP 360224, generally known as 10-12 Bellevue Street Thornleigh. See cadastral map at **Figure 15**

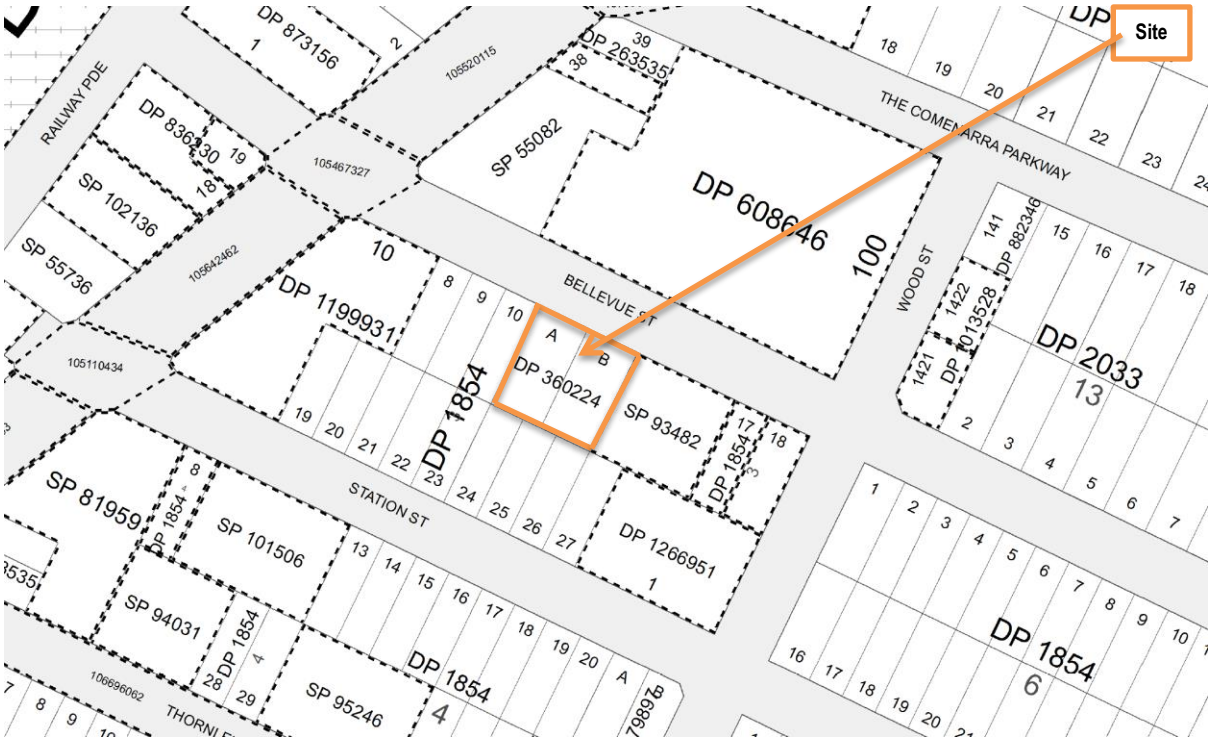

Figure 15
Source: NSW Land Registry Service

3.1 Town Planning Background To Application

On 21 September 2021 the project architect from Zhinar Architects Pty Ltd and Consultant Town Planner from Caladines Town Planning Pty Ltd attended a Design Excellence Panel Meeting where a number of design issues were discussed, including:

- the desired future character for this precinct;
- building height
- setbacks;
- building form and separation;
- landscaping;
- open space;
- privacy and security;
- sunlight and ventilation;
- housing choice;
- vehicles access and parking;
- public domain and traffic management and
- ESD issues.

On 7 October 2021 the project architect from Zhinar Architects Pty Ltd and Consultant Town Planner from Caladines Town Planning Pty Ltd attended a Pre-DA Meeting where a number of planning and design issues were discussed, including:

- Site context;
- Design Excellence Minutes;
- Setbacks;
- Landscaping;
- Height;
- Noise;
- Air Quality;
- Waste Management;
- Traffic;
- Engineering;
- Car parking, circulation ramps and parking aisles;
- Stormwater Drainage;
- Water quality;
- Trees and
- Construction Management Plan

The proposal before Council has considered all of the issues discussed at both meetings and has addressed the above issues by modifying the building design and also by engaging relevant consultants to prepare plans or reports to address the issues raised.

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4.0 The Proposal

The amended proposal involves the demolition of all existing structures on the land, removal of trees identified on the submitted plans and discussed within the Arborists report to facilitate the construction of a five (5) storey RFB containing 21 residential apartments over two (2) levels of basement car parking for 29 car spaces, bike racks, motor bike spaces, lift, fire stairs, bulk storage room, garbage rooms and resident storage cages.

Because of the sites topography, which is higher in the south-eastern corner to that of other parts of the site, the proposal also seeks consent to vary the 16.5m building height control by between 160mm or 0.99% (small portion of roof) and 970mm or 5.9% (lift overrun).

A large landscaped communal open space area is provided at the rear of the site while general common open space is provided along the front and sides boundaries. The open space at the rear also contains a large pergola and table with seating. Each unit is afforded its own individual private open space in the form of a small balcony or terrace. The mix of units within the complex is set out below in Table 1:

- 3 x 1 bedroom
- 14 x 2 bedroom
- 4 x 3 bedroom

Total = 21 units, 3 of which are adaptable.

Table 1

UNIT SUMMARY & ADG COMPLIANCE

10-12 BELLEVUE STREET, THORNLEIGH. NSW 2120

LEVEL	NUMBER	TYPE	AREA (m²)	POS (m²)	UNIT ADAPTABLE	UNIT LIVABLE	CROSS VENTILATION	SOLAR - 2HR	SOLAR NO DIRECT SOLAR	STORAGE (m²) INTERNAL	STORAGE (m²) BASEMENT	STORAGE (m²) TOTAL
GROUND	001	2 BED	81.47	53			1	1		4.7	4	8.7
GROUND	002	2 BED	87.05	50			1	1		4.2	4	8.2
GROUND	003	3 BED	97.98	27			1	1		7.2	4	11.2
GROUND	004	3 BED	100.38	30			1	1		5.1	5	10.1
LEVEL 1	101	2 BED	76.31	11			1	1		4.7	4	8.7
LEVEL 1	102	2 BED	78.91	11			1			3.4	4	7.4
LEVEL 1	103	2 BED	76.61	11		1	1	1		4	4	8
LEVEL 1	104	2 BED	75.39	10			1	1		5	4	9
LEVEL 1	105	1 BED	52.73	9	1			1		4	4	8
LEVEL 2	201	2 BED	76.31	11			1	1		4.7	4	8.7
LEVEL 2	202	2 BED	78.91	11			1			3.4	4	7.4
LEVEL 2	203	2 BED	76.61	11		1	1	1		4	4	8
LEVEL 2	204	2 BED	75.39	10			1	1		5	4	9
LEVEL 2	205	1 BED	52.73	9	1			1		4	4	8
LEVEL 3	301	2 BED	76.31	11			1	1		4.7	4	8.7
LEVEL 3	302	2 BED	78.91	11			1			3.4	4	7.4
LEVEL 3	303	2 BED	76.61	11		1	1	1		4	4	8
LEVEL 3	304	2 BED	75.39	10			1	1		5	4	9
LEVEL 3	305	1 BED	52.73	9	1			1		4	4	8
LEVEL 4	401	3 BED	104.87	40		1	1	1		6.7	4	10.7
LEVEL 4	402	3 BED	107.5	50		1	1	1		6.6	4	10.6
TOTAL UNIT	31				3	5	18	18	0			
					10%	16%	58%	58%	0%			

The proposal over each level is set out in detail below:

Basement - 2

- Excavation works to create an irregular shaped basement containing 19 resident car spaces, including 3 accessible car spaces. **Basement 1 and 2;**
- 4 bicycle rack and 1 motor bike space;
- Lockable storage cages;
- 1 lift;
- Pump holding tank;
- Ramp down from upper level and
- Fire stairs x 2.

Basement - 1

- 10 car spaces comprising of 6 resident spaces and 4 visitor spaces;
- Access basement 2 ramp to ground level above;
- Remote controlled metal security door allowing ingress/egress to and from this basement level;
- Lockable storage cages;
- Bulk waste storage area;
- Bin room;
- Plant rooms;
- Fire stairs – both ends;
- 1 lift.

Ground Floor Plan

- Hydrant booster;
- Substation;
- Temporary bin area;
- Modified floor plate (eastern side);
- Pergola, table and seating now on eastern side;
- Rear balcony (unit U002) has been deleted and replaced with landscaping;
- Pathway along rear of unit block removed to allow more landscaping/deep soil;
- Delete main entry way find feature to front door;
- Generous foyer;
- Vehicular access to site over a 6.1m wide concrete driveway off Bellevue Street;
- 2 x 2 bedrooms and 2 x 3 bedrooms;
- Each unit is provided with bedrooms, living/dining room, kitchen, bathrooms and laundry;
- Each unit is provided with a generous sized terrace/balcony;
- Garbage bin holding and collection area next to the driveway;
- The garbage bins will be collected and emptied by a Council contractor next to the driveway;
- Passive recreation area along the rear of the site;
- Central pathway off the street to lobby;
- On-site stormwater detention system is to be provided along the eastern side of the site;
- 5,500 litre underground rainwater tank at rear of site;
- Access into the building is through individual swipe cards or coded security doors;
- Generous landscaping/deep soil zones are provided around the perimeter of the site;
- Paved communal open space provided in south-western corner of site;
- 1 lift and
- fire stairs;

Level 1 to 3

- 1 x 1 bedroom, 3 x 2 bedroom and 1 x 3 bedroom;
- 3 x 1 bedroom adaptable units. One on each floor;
- Each unit is provided with bedrooms, living/dining room, kitchen, laundry and balcony/balconies;
- Central lift and fire stairs;

Level 4

- 2 x 3 bedroom units;
- Each unit is provided with bedrooms, living/dining room, kitchen, bathrooms, laundry and landscaped balconies;
- Central lift and fire stairs;

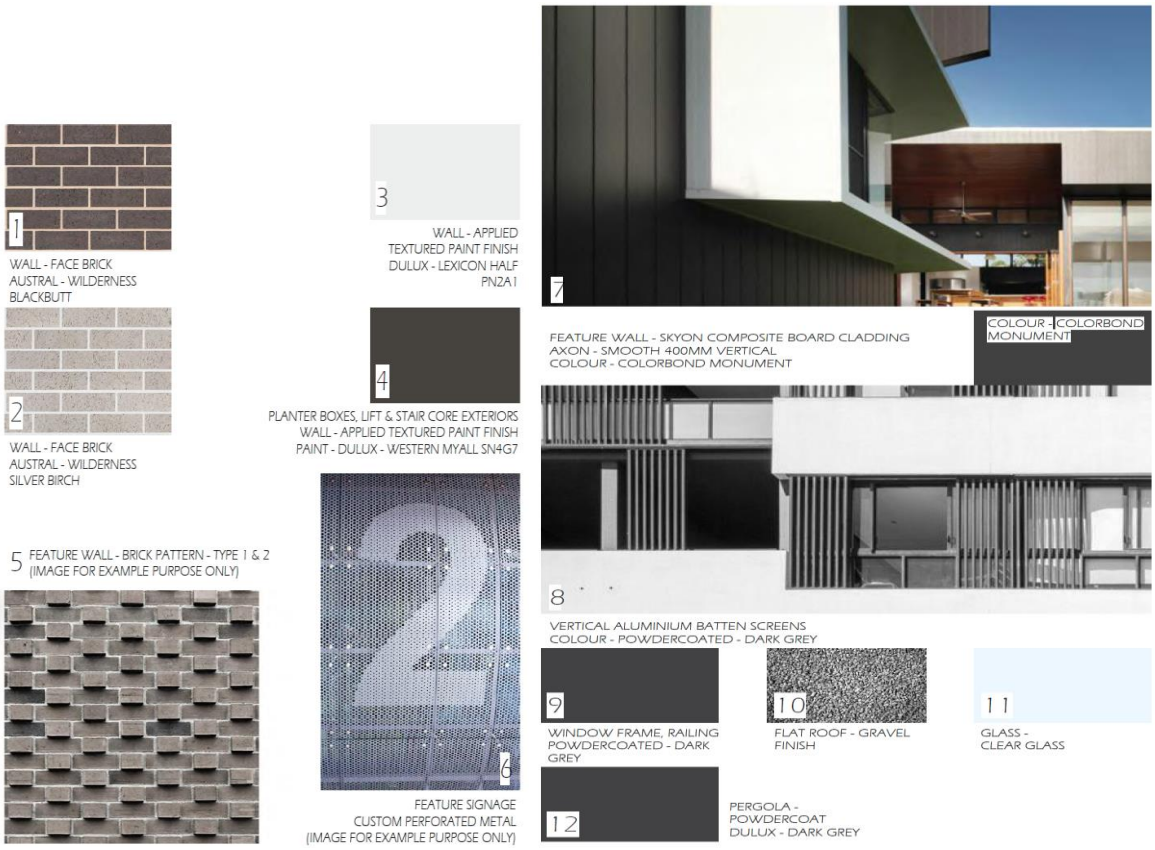
Roof Plan

- Light weight color bond roof and lift overrun;

Materials

The building is to be constructed primarily of face brickwork of light and dark colour tones. These traditional earthy colour tones will compliment the traditional leafy character of this neighbourhood.
Glass balustrading is provided with aluminium framed glass windows and sliding glass doors onto balconies and terraces. See photomontage of building at **Figure 16** and colour material and schedule at **Figure 17.**

Figure 16
View South
Source: Zhinar Architects



/Figure 17
Material and Colour Schedule

Environmentally Sustainable Development

A range of design initiatives and elements have been employed to ensure that the proposed development optimises its sustainability.

Resource, energy and water efficiency have been incorporated into the design and layout to contribute to this high quality residential scheme.

The proposal adopts a philosophy of reducing the amount of waste to land fill and a waste management hierarchy of avoid/reuse/recycle/dispose which is proposed in the excavation and construction processes.

The approximate quantity and destination of waste generated during the demolition and construction works with regard to re-use and recycling are outlined in the waste management plan.

Building materials incorporate the properties of high thermal mass, glazing and insulation, thereby reducing the need for artificial heating, cooling and lighting.

Demolished structures and materials will be directed to recycling facilities. See Waste Management Plan accompanying the application.

Use of high efficiency water fixtures and fittings throughout the development will further reduce water consumption.

Natural cross-ventilation is achieved for 18 of the 21 units or 86% apartments due to the orientation of the building, thereby reducing the need for continuous use of air conditioning during summer.

A total of 18 of the 21 units or 86% apartments receive 2 or more hours of sunlight into each unit during mid-winter.

Passive solar and ventilation principles will reduce energy usage. Gas hot water systems are proposed to be installed to reduce energy demand.

Common walls between the units will be constructed in accordance with the noise transmission and insulation requirements of the BCA. See BASIX Certificate that accompanies the application.

5.0 Statutory Compliance Assessment

The following is a summary assessment of the proposed development under the heads of consideration pursuant to Section 4.15 (1) of the Environmental Planning and Assessment Act 1979 as amended.

Section 4.15 (1) (a) (i)

The provisions of any environmental planning instrument.

State Environmental Planning Policy (SEPP) (Building Sustainability Index: BASIX) 2004 NSW

Comment

The aim of this policy is to ensure there is consistency in the implementation of the BASIX Scheme throughout the State.

The policy overrides the provisions of other environmental planning instruments and development control plans that would otherwise add to, subtract from or modify any obligation to comply with this policy.

The application is accompanied by a BASIX Certificate, which has considered the objectives of the SEPP and concludes that the standards set out by the SEPP have been satisfied.

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

3 Aims of Policy

The aims of this Policy are:

(a) to protect the biodiversity values of trees and other vegetation in non-rural areas of the State, and

(b) to preserve the amenity of non-rural areas of the State through the preservation of trees and other vegetation.

Comment

Whilst the proposed development seeks consent to remove seven (7) trees from the site, numerous new native trees and shrubs are proposed to replace them. These new trees and shrubs are of greater benefit to the site and biodiversity to the neighbourhood as they are not only a more suitable native species for this region they are more likely to survive in this areas hot dry climate.

As shown on the landscape plan, a total of sixteen (16) trees are to be preserved and protected through the implementation of adequate measures for their integration into the development.

Both the existing vegetation and new landscaping proposed will conserve habitat, attract more native wildlife to the neighbourhood and provide shade to the betterment of future residents and neighbours.

Given the above comments, it is considered that the aims of this policy are satisfied.

State Environmental Planning Policy No. 55 – Remediation of Land

SEPP 55 – Remediation of Land aims to provide a State wide planning approach to the remediation of contaminated land, in particular, it promotes the remediation of contaminated land for the purpose of reducing the risk of harm to human health or to the environment in general:

"by specifying when consent is required, and when it is not required, for a remediation work, and

by specifying certain considerations that are relevant in rezoning land and in determining development applications in general and development applications for consent to carry out a remediation work, in particular, and

by requiring that a remediation work meet certain standards and notification requirements."

Comment

Clause 7 of SEPP 55 requires the consent authority when assessing a DA for residential development to consider whether the subject land is contaminated.

Council must be satisfied that the land is suitable for the purpose for which development consent is sought or whether remediation of the land needs to occur prior to such use occurring.

It is noted from searches of Council's records and a review of archival aerial photos that the site has never in the past been used for industrial or commercial purposes and the site is not listed on Council's records as being subject to contamination.

In view of the above comments, there is nothing on record that would suggest the site is contaminated.

State Environmental Planning Policy (SEPP) No 65
Design Quality of Residential Flat Development
Comment

The provisions of SEPP 65 apply to the proposed multi-storey residential development. SEPP 65 seeks to increase the design quality of residential flat development throughout NSW.

It is well accepted that good design is a creative process which, when applied to towns and cities, results in the development of good urban places: buildings, streets, squares and parks. Good design is inextricably linked to its site and locality, responding to the landscape, existing built form, culture and attitudes. It provides sustainable living environments, both in private and public areas.

Good design serves the public interest and includes appropriate innovation to respond to technical, social, aesthetic, economic and environmental challenges. These design quality principles do not generate design solutions, but provide a guide to achieving good design and a means of evaluating the merit of the proposed solutions.

Ian Conry from Zhinar Architects, being the projects registered architect has carried out a comprehensive assessment of the proposal against the 9 design principles. See Ian's Design Verification Statement accompanying the application.
Ian has formed the view that the proposal is a responsive design approach to architecture and urban planning, which will ensure the proposed building form will comfortably fit within the surrounding transitional neighbourhood context.

The Design Principles are set out and addressed below:

Principle 1: Context and neighbourhood character
Principle 2: Built Form and Scale
Principle 3: Built Form
Principle 4: Sustainability
Principle 5: Landscape
Principle 6: Amenity
Principle 7: Safety
Principle 8: Housing diversity and social interaction
Principle 9: Aesthetics

Design Quality Principles
The following town planning comments are made on each principle. The conclusion after he assessing these principles demonstrates that the proposed development achieves the design quality principles set out under SEPP 65.

Principle 1: Context and Neighbourhood Character
The site is located within 240m (5 minute walk) of the Thorneligh Railway Station and public bus services that operate along Pennant Hills Road. The site is within 50-80, of two (2) supermarkets /(Woolworths and Aldi) as well as shops and offices.
Within the visual catchment of the site are a number of new, multi-storey RFB's constructed over the last 2 - 5 years. The site is located within a mixed use neighbourhood precinct that supports the objectives of increasing residential densities in close proximity to excellent neighbourhood support services, including major employment areas.

Principle 2: Built Form and Scale
The scale of the proposed development does not result in any noncomplying impacts on the surrounding properties in terms of loss of solar access, loss of privacy or visual impacts
The building has been designed to be in keeping with the desired scale and building form envisaged for this precinct.
The building responds to the sites topography, which is generally flat. The architectural expression of the proposed RFB ensures it readily fits within the eclectic character of Thornleigh town centre.
In materiality, proportion, scale and form, the proposal is responsive to the existing and future desired character of the area. Included are: A good quality landscape to the perimeter of the ground floor apartments, with single, well defined entry points into the building. A strong 'Sense of Address' and both vertical and horizontal breaks along the façade are provided. Visual relief through the use of material, colour and various articulation elements. Materials that provide texture at lower levels. provision of solid upstands at the lower levels.

Principle 3: Density
The proposed high density residential development provides for 21 apartments, providing a mix of 3 x 1 bedroom, 14 x 2 bedroom and 4 x 3 bedroom. The number of units proposed is at a comparable density to other new apartment developments within the Thornleigh neighbourhood precinct. The site

is ideally located to serve the needs of future residents in terms of local shopping, commercial offices, public transport, jobs, churches, childcare, public parks, schools and community services.
The proposed density is supported by close proximity to excellent public transport facilities. The broad range of unit types and sizes (including some oversized apartment suitable for families) caters to a wide variety of end users and promotes a diverse demographic mix. Solar access and cross ventilation to apartments, along with daylight and natural ventilation to lobbies on each floor achieves a high level of amenity for future residents.

Principle 4: Sustainability
The proposed development achieves the minimum 2hr control for solar access for 18 or 86% of the 21 units proposed.
In regards to cross ventilation, 18 or 86% of units in the development are cross ventilated, which will reduce the heat load in the building.
In addition, energy, thermal comfort and water initiatives have been identified within the BASIX Certificate. The building materials proposed incorporate a high thermal mass, glazing and insulation, thereby reducing the need for artificial heating, cooling and lighting.
The proposal maximises the principles of sustainability, including on-site rainwater harvesting and re-use for the watering of landscaping. Maximising direct sun to apartments while utilising overhangs and shading devices to control summer heat gain. Providing energy-efficient lighting, water-efficient fixtures and other appliances in each unit promote the buildings sustainability.

Principle 5: Landscape
A total of 16 trees are being retained and protected on site during construction of the building. Extensive native landscaping is proposed in private and public areas with a focus on creating a development that is in keeping with the envisaged 'green' character of this neighbourhood.
The provided setbacks at ground level allow deep soil zones to be provided with generous sized perimeter landscaping. Coupled with the private gardens of the ground floor units, these will provide both variety and a sense of individuality. Lawn areas and groups of native trees, communal areas, play areas, paths, seating, raised planters and ornamental grasses will provide an attractive softness to the building edges. See Landscape Plan accompanying the DA.

Principle 6: Amenity
The site is located in close proximity to excellent public transport, 80m to nearest bus stop along Pennant Hills Road and approximately 240m to Thornleigh Railway Station.
The proposed RFB is designed to maximise visual and acoustic privacy for future residents, ensuring neighbouring properties maintain a reasonable level of amenity.
While the side boundary setbacks are less than the 6m prescribed by the ADG, highlight windows are provided to those rooms that face the east and west
The number of units with access to natural ventilation and light has been maximised with 86% or 18 of the 21 units provided cross ventilation and solar access.

The design of the proposed RFB demonstrates adequate separation between existing and future buildings on neighbouring properties. While side building setbacks between ground floor and level 3 have setbacks less than the ADG Standard, highlight windows or fixed louvres have been introduced. Further, a row of dense screening tall trees are provided on each side elevation as well as privacy screens around each terrace to further reduce any perceive amenity issues such as overlooking.

An Acoustic Report prepared by Acoustic Logic accompanying the DA. It sets out a number of measures which will be implemented to ensure future residents of the proposed development and those living in neighbouring properties are not adversely affected by noise. Further, the acoustic report also addresses the interface with the loading dock across the road that services the shopping centre.

Principle 7: Safety

Safety is enhanced within the proposed development with the design of pedestrian entry points separate to vehicular access points. Pathways are clearly visible and will be well-lit of an evening to improve safety and ease of access. CCTV is being introduced to enhance safety at all entry and exit points into the site. Suitable security gates and fencing are proposed to enhance residential safety from any antisocial issues.

In addition, passive surveillance over the street is enhanced through the placement of windows and balconies overlooking these areas. Further, an increase in residential population and the ability for social interaction to occur further reduces anti-social issues to occur.

Security access in the form of swipe card access will be provided to all residents and no visitors will be allowed into the complex (either basement car park or into the building without the resident being within their unit).

Principle 8: Housing Diversity and Social interaction

The proposed development provides for a diverse mix of 1, 2 and 3 bedroom apartments that vary in size, design and layout, including a 10% mix of each type of unit. Provision is also made for 3 adaptable units, which is in keeping with Council's DCP controls and market expectations for the neighbourhood. The apartments cater to a large diversity of age groups and house hold types with stair cases, lift and the common/communal areas provide opportunities for social interaction between residents.

In a broader context, this project offers an excellent opportunity to provide activity in an area that has excellent access to public transport with rail and bus services provided within a short 'level' walk.

Principle 9: Aesthetics

The proposed RFB offers a high quality, aesthetically pleasing residential design with appropriate scale and articulation. The design reflects a modern approach with a flat roofing form that ensures an interesting and attractive new building form in the streetscape.

The development is an exemplary example of the type of density and capacity envisioned by the LEP and DCP controls for this neighbourhood precinct. The proposed RFB will present a degree of amenity and generous areas of open space with large trees and shrubs to promote a quality living environment for future residents.

In addition, the development achieves an appropriate fit with the eclectic character of the precinct and it could easily be argued that it provides a more sensitive response to the surrounding residential apartments. Therefore, the proposed density achieves a balanced streetscape, appropriate built form outcomes and high amenity for public domain open spaces.

The use of 'natural' colours and materials will require minimal maintenance, including the use of face brickwork and applied colours are found naturally rather than primary colours.

Apartment Design Guide

Clause 6A of the SEPP states that development control plans cannot be inconsistent with Apartment Design Guide (ADG) states. "This clause applies in respect of the objectives, design criteria and design guidance set out in Part 3 and Part 4 of the ADG. See below:

(a) Visual privacy

(b) Solar and daylight access

(c) Common circulation and spaces

(d) Apartment size and layout

(e) Ceiling heights

(f) Private open space and balconies

(g) Natural ventilation

(h) Storage

SEPP 65 states that if a development control plan (DCP) contains provisions that specify requirements, standards or controls in relation to a matter to which this clause applies, those provisions are of no effect.
Except for the side building setback controls, the proposal complies with all numeric standards within SEPP 65 and its companion ADG.

State Environmental Planning Policy (SEPP) (Infrastructure) 2007
SEPP (Infrastructure) 2007 was gazetted on 21 December 2007 and aims to facilitate the effective delivery of infrastructure across the State by:

- *"improving regulatory certainty through efficiency through a consistent planning regime for infrastructure and the provisions of services;*
- *providing greater flexibility in the location of infrastructure and service facilities, and*
- *allowing for the efficient development, redevelopment or disposal of surplus government owned land, and*
- *identifying the environmental assessment category into which different types of infrastructure and services development fall (including identifying certain development of minimal environmental impact as exempt development, and*
- *identifying matters to be considered in the assessment of development adjacent to particular types of infrastructure development, and*
- *providing for consultation with relevant public authorities about certain development during the assessment process or prior to development commencing."*

Traffic Generation
Comment
The proposed development is provided with vehicular ingress/egress over a 6.1m wide concrete driveway off Bellevue Street.
This location and width of the proposed driveway allows for good sight distance in both directions for motorists entering and leaving the site.
Bellevue Street is a local road and does not carry excessive traffic. The site is directly opposite a local major shopping centre and its loading/unloading bay, which generates small and large rigid trucks. At the western end of Bellevue Street, traffic signals service this eastern side of Pennant Hills Road.
The SEPP provides for a number of traffic generating thresholds that may trigger the need for the application to be referred onto the Transport for NSW (TfNSW) for either concurrence or for informational purposes.
Clause 104 of the SEPP "Traffic Generating Development" identifies the type of land uses that are required to be referred onto the RMS for concurrence or for information purposes. This clause refers to Column 1 of the Table to Schedule 3 and involves premises that are of a relevant size or capacity or an enlargement or extension of existing premises, or direct frontage to a classified road.
In this particular case, the proposal is for 21 apartments, which does not exceed the 75 apartment threshold however it does trigger a referral to TfNSW because it is less than 90m of Pennant Hills Road, being a State road. A traffic report prepared by Varga Traffic Planning accompanies the DA.

Noise and Vibration
The SEPP provides controls that must be considered when a development site is located in close proximity to major classified roads or railway lines.
In this respect the site is located approximately 80m to the east of Pennant Hills Road and approximately 240m east of the Thornleigh Railway Station.
The applicant engaged the services of Acoustic Logic to carry out an acoustic assessment of the impact of noise from Pennant Hills Road and the northern railway line (west).
The report establishes relevant noise criteria, details the acoustic assessment and provides comments and recommendations for the proposed development.

Provided the acoustic issues outlined in that report are addressed in the design and the recommendations are correctly implemented, the proposed development is expected to comply with the Hornsby Shire Council and TfNSW relevant standards and guidelines, and will have no adverse noise or vibration impacts at the nearest affected receivers.

Regional Environmental Plans (REP's) (Deemed SEPP)
Sydney Regional Environmental plan No.20 – Hawkesbury – Nepean River
(No. 2 - 1997).
Comment

SREP No.20 – Hawkesbury – Nepean River aims to "protect the environment of the Hawkesbury – Nepean River system by ensuring that the impacts of future land uses are considered in a regional context".

The SREP contains a list of both general planning considerations and specific planning policies and recommended strategies.

The proposed development through sedimentation control measures during construction and the provision of quality native landscaping before the building is occupied can only enhance the quality of water entering local water catchments that link with the Nepean River system and sub catchments.

Finally, as a consequence of the proposal, it is considered that the relevant aims and objectives of this deemed SEPP are met so as not to endanger threatened species or aquatic ecosystems.

Sydney Regional Environmental Plan (SREP) (Sydney Harbour Catchment) 2005
(Now Deemed SEPP)
Comment

This planning policy applies to the subject site and other areas of Sydney Harbour; it introduces zones for the waterways and provides a planning framework for Sydney Harbour and its tributaries.

The aims of this plan are set out as follows:

(1) This plan has the following aims with respect to the Sydney Harbour Catchment:
(a) To ensure that the catchment, foreshores, waterways and islands of Sydney Harbour are recognized, protected, enhanced and maintained:
(i) As an outstanding natural asset, and
(ii) As a public asset of national and heritage significance, for existing and future generations,
(b) To ensure a healthy, sustainable environment on land and water,
(c) To achieve a high quality and ecologically sustainable urban environment,
(d) To ensure a prosperous working harbor and an effective transport corridor,
(e) To encourage a culturally rich and vibrant place for people,
(f) To ensure accessibility to and along Sydney Harbour and its foreshores,
(g) To ensure the protection, maintenance and rehabilitation of watercourses, wetlands, riparian lands, remnant vegetation and ecological connectivity,
(h) To provide a consolidated, simplified and updated legislative framework for future planning.
(2) For the purpose of enabling these aims to be achieved in relation to the Foreshores and Waterways Area, this plan adopts the following principles:
(a) Sydney Harbour is to be recognized as a public resource, owned by the public, to be protected for the public good,
(b) The public good has precedence over the private good whenever and whatever change is proposed for Sydney Harbour or its foreshores,
(c) Protection of the natural assets of Sydney Harbour has precedence over all other interests.

Comment

The site is located in the broader areas of the SREP (Sydney Harbour Catchment) 2005 and therefore this policy is a consideration in the assessment of this application.

The proposal provides details on stormwater management by providing on-site detention and identifies how it is to be managed on-site.

As a result of the above considerations and views provided in other expert plans and reports that accompany this DA, it has been concluded that the proposed RFB works will have no impact upon the Sydney Harbour Catchment.

Hornsby Local Environmental Plan (HSLEP) 2013

The site is zoned R4 High Density Residential under the provisions of Hornsby LEP 2013. See **Figure 18.**

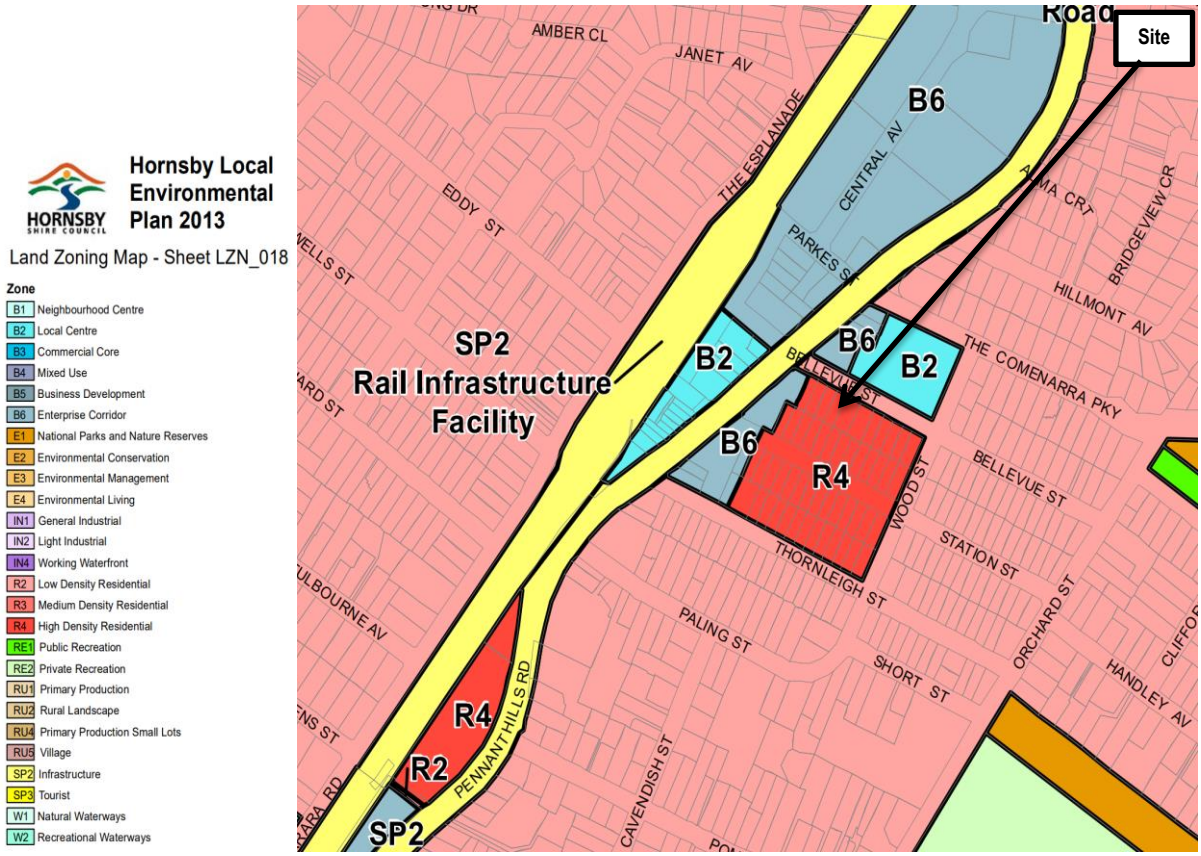


Figure 18
Source: Zone Map - Hornsby LEP 2013

The zone objectives and permissible uses in the zone are set out as follows:

Zone R4 High Density Residential

1 Objectives of zone

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

2 Permitted without consent

Environmental protection works

3 Permitted with consent

Boarding houses; Building identification signs; Business identification signs; Child care centres; Community facilities; Dwelling houses; Emergency services facilities; Flood mitigation works; Home-

gbased child care; Home occupations; Neighbourhood shops; Places of public worship; Recreation areas; Recreation facilities (indoor); Recreation facilities (outdoor); Residential flat buildings; Respite day care centres; Roads; Shop top housing; Water reticulation systems

4 Prohibited
Any development not specified in item 2 or 3

Comment
The proposal satisfies the zone objectives for the following reasons:

- The proposed units offer quality, affordable housing stock that promote housing choice, size and economic value in that a mix of 1, 2 and 3 bedroom apartments are provided, which is consistent with Council's strategic planning vision for this neighbourhood;
- The site is located within a medium-high density housing precinct where buildings up to 5 storeys are promoted by Council's strategic planning controls although it is noted that within the visual catchment of the site there are high rise mixed use developments and low-medium rise employment buildings. These tall mixed use buildings are located towards the west of the site and demonstrate Council's desire to increase residential housing densities in this neighbourhood;
- The proposal provides for two (2) levels of basement car parking, which will reduce noise and enhance the visual amenity of the building with cars being located below the building and out of sight. The units have excellent outlook, incorporating privacy features into the design to ensure residential amenity both within and outside of the building is not unreasonably impacted upon;
- The building is comfortably sited on the land, respecting the lands topography;
- The site is strategically located in a neighbourhood that can readily absorb an increase in population density as a result of the sites proximity to public amenities and services such as the Thornleigh Railway Station, neighbourhood shops, public buses, open space, community facilities and local primary and high schools;
- The proposed development will generates approximately 4 traffic movements along Bellevue Street during peak periods, which is well within acceptable standards and there is good sight distance in both directions for residents and visitors cars to enter and leave the site in a forward direction and
- Balconies, terraces and windows are designed and orientated to enhance passive surveillance over both the public and private domains;

Given the above comments, the proposal is considered to be consistent with the objectives of the R4 High Density Residential zone.

The relevant controls within Council's LEP are set out and addressed as follows:

2.4 Unzoned Land
Comment
The land is zoned R4 High Density Residential under the provisions of Hornsby LEP 2013 and as such this control is not applicable to this application.

2.5 Additional Permitted Uses of Particular Land
Comment
Not applicable to this application.

2.6 Subdivision – Consent Requirements
Comment
Not applicable to this application.

2.7 Demolition Requires Consent
Comment
The proposal involves demolition works to the existing dwellings and associated structures. See waste management plan accompanying the DA.

2.8 Temporary Use of Land
Comment
Not applicable to this application.

Part 3 Exempt and Complying Development
Comment
Not applicable to this application.

Part 4 Principal Development Standards

4.1 Minimum Subdivision Lot Size
Comment
Not applicable to this application.

4.1AA Minimum Subdivision Lot Size for Community Title Schemes
Comment
Not adopted

4.1A Minimum Subdivision Lot for Strata Plan Schemes in Certain Zones
Comment
Not applicable to this application.

4.1B Minimum Lot Size for Certain Split Lots
Comment
Not applicable to this application.

4.2 Rural Subdivision
Comment
Not applicable to the subject land.

4.3 Height of Buildings
(1) The objectives of this clause are as follows:

(a) to permit a height of buildings that is appropriate for the site constraints, development potential and infrastructure capacity of the locality.

(2) The height of a building on any land is not to exceed the maximum height shown for the land on the Height of Buildings Map.
Comment
Hornsby LEP 2013 sets a maximum building height control of 16.5m for the subject site. See extract of Building Height Control map at **Figure 19** and architectural height plane diagram at **Figure 20.**
Except for the lift overrun (970mm or 5.9% over) and a small portion of the roof (east side -160mm or 0.99% over), the remainder of the proposed RFB is at or below the height control. We believe the variations sought are not unreasonable and as such a clause 4.6 Exceptions to Development Standards submission has been prepared and in our view justifies the minor variations sought. See Appendix 1.

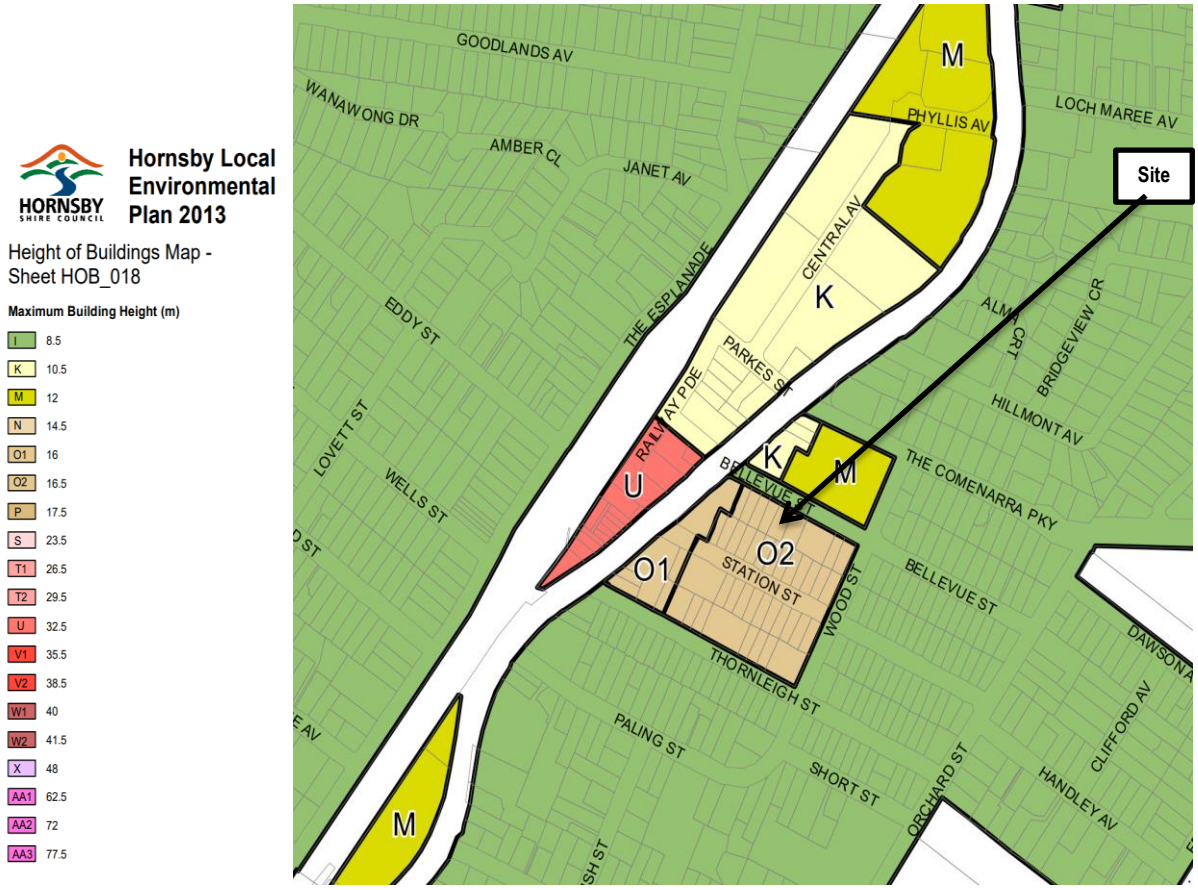


Figure 19

Source: Hornsby LEP – Height of Buildings Map

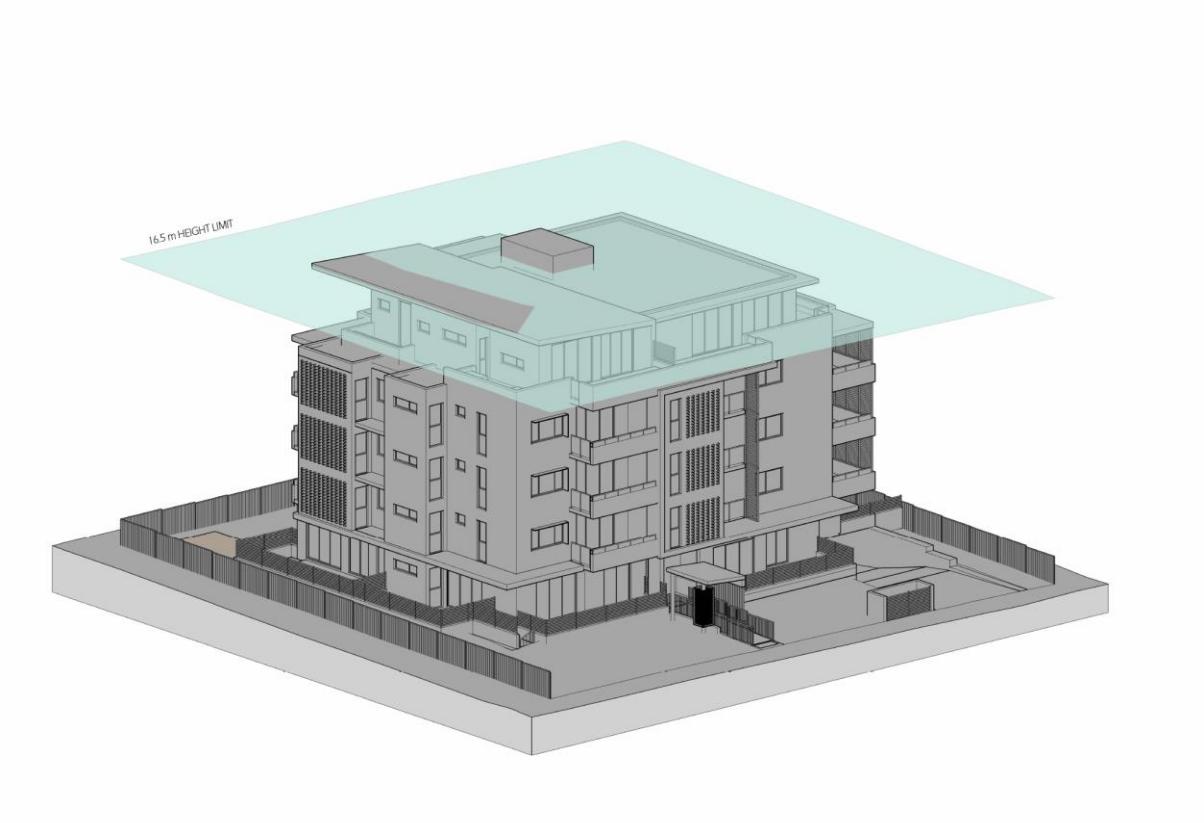


Figure 20

Source: Zhinar Architects – Amended Building Height Plane Diagram

4.4 Floor space ratio

Comment

The subject site is not subject to a floor space ratio (FSR) and as such this control is not applicable to this application.

4.5 Calculation of floor space ratio and site area

Comment

Because there is no FSR control applicable to this site, this control is not a consideration in the assessment of this application.

4.6 Exceptions to Development Standards

Comment

As previously mentioned, the lift overrun and a small portion of the roof extends above the maximum building height control by between 160mm (small portion of roof on eastern side of building) and 970mm (lift overrun). See **Figure 20.**

A written exception to vary the 16.5m building height control is provided at Appendix 1.

Miscellaneous Provisions

5.1 Relevant Acquisition Authority

Comment

This clause is not relevant to the application before Council.

5.1A Development on Land Intended to be Acquired for Public Purposes

Comment

This clause is not relevant to the application before Council

5.2 Classification and Reclassification of Public Land

Comment

This clause is not relevant to the application before Council.

5.3 Development Near Zone Boundaries

Comment

This clause is not relevant to the application before Council.

5.4 Controls Relating to Miscellaneous Permissible Uses

Comment

This clause is not relevant to the application before Council

5.5 controls Relating to Secondary Dwellings on Land in Rural Zones

Comment

This clause is not relevant to the application before Council

5.6 Architectural Roof Features

Comment

There are no architectural roof features that require approval.

5.7 Development Below Mean High Water Mark

Comment

This clause is not relevant to the application before Council

5.8 Conversion of Fire Alarms

Comment

This clause is not relevant to the application before Council

5.9 Dwelling Houses or Secondary Dwellings Affected By Natural Disaster

Comment

Not applicable to this development.

5.10 Heritage Conservation

Comment

The development site is not listed as a heritage item or within a heritage conservation area.
To the south of the site is a heritage item generally known as 9 Station Street Thornleigh.
See extract of Heritage Map at **Figure 21.**

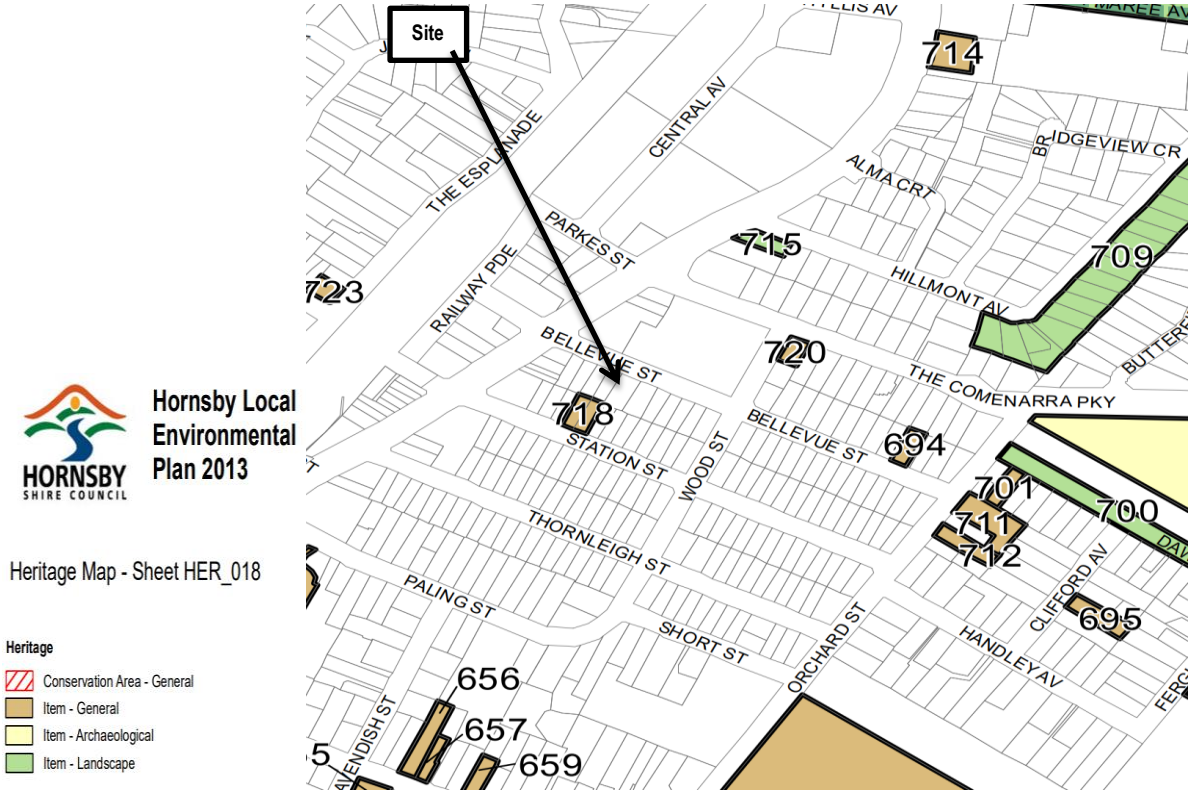


Figure 21
Source: Hornsby LEP 2013 – Heritage Map

5.11 Bushfire Hazard Reduction

Comment

This clause is not relevant to the application before Council as the site is not located within a precinct that is subject to bushfires.

5.12 Infrastructure Development and Use of Existing Buildings of the Crown

Comment

This clause is not relevant to the application before Council.

5.13 Eco-Tourist Facilities

Comment

This clause is not relevant to the application before Council.

5.14 Sliding Spring Observatory – Maintaining Dark Sky
Comment
This clause is not relevant to the application before Council.

5.15 Defence Communication Facility
Comment
This clause is not relevant to the application before Council.

5.16 Subdivision of, or dwellings on, Land in Certain Rural, Residential or Conservation Zones
Comment
This clause is not relevant to the application before Council.

5.17 Artificial Waterbodies in Environmentally Sensitive Areas in Areas of Operation of Irrigation Corporations
Comment
Not applicable.

5.18 Intensive livestock agriculture
Comment
This clause is not relevant to the application before Council.

5.19 Pond-based, tank-based and oyster aquaculture
Comment
This clause is not relevant to the application before Council.

5.20 Standards that cannot be used to refuse consent—playing and performing Music
Comment
/This clause is not relevant to the application before Council.

5.21 Flood Planning
Comment
This clause is not relevant to the application before Council.

Part 6 Additional local provisions
6.1 Acid Sulfate Soils
Comment
The land is not identified on Council's Acid Sulfate Soils maps. This control is therefore not applicable to this site.

6.2 Earthworks
Comment
This control is met because:

- development consent is sought to carry out earth works to construct 2 levels of basement car parking as well as redistribute soil throughout the site to respond to the topography of the land;
- the site is not flood prone or within an area that is subject to overland flow paths;
- the proposed works will not impact upon any heritage item in the vicinity of the site or the conservation area located at the rear of the site;
- existing drainage patterns will not be altered by the proposal;
- the overland flow path of stormwater can only be enhanced by the proposal because it will be captured on-site and redirected towards the street and

- no natural watercourses or rivers are being adversely impacted upon by the proposed development.

6.3 Repealed

6.4 Terrestrial Biodiversity
Comment
The subject site is not identified as being Biodiversity land pursuant to Hornsby LEP 2013. This clause is therefore not relevant to the application before Council.

6.5 Limited Development on Foreshore Area
Comment
This clause is not relevant to the application as the land is not located in a Foreshore Area.

6.6 Restrictions on Certain Development in Dural Village
Comment
This clause is not relevant to the application before Council

6.7 Location of Sex Service Premises
Comment
This clause is not relevant to the application before Council.

6.8 Design Excellence
Comment
The proposal satisfies this control as the proposed RFB is considered to be aesthetically pleasing and quite sympathetic to its context and the transitional character that this neighbourhood is undergoing. Further, the proposal is able to demonstrate that the development is of a high standard design and able to comply with all relevant DCP controls applicable to RFB development within the Hornsby Shire LGA.
Whilst the proposal seeks a minor variation to the buildings height, the additional height is minor and is justified from a town planning perspective as it does not generate and additional amenity impacts to that of a fully compliant RFB.
We believe the proposal achieves design excellence under these circumstances.

6.9 Dual occupancies (attached) on land in certain rural zones
Comment
This clause is not applicable to the RFB application now before Council

Section 4.15 (1) (a) (ii)
The Provisions of Proposed Environmental Planning Instruments
Currently, there are no draft environmental planning instruments that are on exhibition or being considered by Council or the Department of Planning Industry and Environment that would prohibit or modify the form of high density housing proposed on the subject site

Section 4.15 (1) (a) (iii)
Development Control Plans (DCPs)
Hornsby DCP 2013 was adopted on 19 December 2012 and came into effect on 11 October 2013. Since its adoption by Council, a number of parts of this DCP relating to the form of development proposed have been amended and each relevant section of the DCP is addressed as follows:

General Part 1
1C.2.1 Transport and Parking
The site is located approximately 250m of the Thornleigh Railway Station and 80m of Pennant Hills Road where regular buses operate 7 days a week.
The proposal provides for 29 car spaces within 2 levels of basement car parking. Of the 29 spaces, provided 25 comprise of resident spaces, 3 of which are accessible spaces and 4 visitor spaces are provided. The proposed 29 car spaces exceed the Council DCP standard by 3 spaces. See below:

Application of the DCP controls requires the following car parking numbers to be provided:

- 3 x 1 bed = 3 spaces
- 14 x 2 bed = 14 spaces
- 4 x 3 bed = 6 spaces
- 3 x visitors = 3 spaces

Total 26

The proposal also provides for resident and visitor bike racks and a motor bike space, all of which will service residents and therefore comply with this control. SEPP 65 allows variations to on site car parking numbers, allowing a lesser number if the site is within 800m of a railway station. Because the proposed RFB is within 250m, the provisions within the RMS controls prevail over the DCP controls.

The following is provided for motor bikes and bicycles:

Bicycles
- Residents 8 spaces
- Visitors 4 spaces

Total 12 spaces

1C.2.3 Waste Management
The application is accompanied by a Waste Management Plan (WMP) prepared by Garry Dickens of Dickens Solution (DS).
The WMP identifies in detail the waste management procedures for the demolition of the existing buildings and structures, recycling components of the demolition materials and on-going waste management for future residents of the proposed RFB.

Part 3 Residential

3.4.1 Desired Future Character

Desired Outcome

- Development that contributes to the desired future character of the area.

Comment

The proposed RFB is consistent with the desired future character of this neighbourhood and zone objectives. Within the visual catchment of the site there are a number of new RFB's of similar bulk and scale. The proposal will complement and integrate well into the transitional character of this neighbourhood.

3.4.2 Design Quality – SEPP 65

Desired Outcome

- A built form which responds to the site, locality and landscape and includes appropriate innovation to respond to technical, social, aesthetic, economic and environmental challenges.

Comment

See comments set out under the Statutory Compliance controls, specifically the SEPP 65 controls. Also, refer to the registered architects assessment of the 9 design principles accompanying the DA.

3.4.3 Site Requirements

Desired Outcome

• *Buildings located on consolidated development sites that provide soft landscaping surrounding the building and limit the number of driveway crossings.*

Comment

The site has a Bellevue Street frontage of 36.575m (rectangular in shape) and is therefore in excess of the minimum control of 30m.

3.4.4 Height within Hornsby LGA

Desired Outcome

• A built form not exceeding 5 storeys in height and comprising multi-unit housing.

Comment

The proposed RFB comprises a single building that is 5 storeys in height. The maximum building height controls prescribed under HLEP 2013 is 16.5m. There is a minor encroachment above the maximum building height control but this relates to the lift overrun and a small portion of the flat roof.
The lift overrun is 970mm or 5.9% above the standard and part of the roof extends above the height control by 160mm 0.99%. See **Figure 20.** The application is accompanied by a Clause 4.6 Exception to Development Standards submission that seeks to justify the standard. See Appendix 1.

3.4.5 Setbacks

Desired Outcome

- *Well-articulated building forms that are set back to incorporate landscaping, open space and separation between buildings.*
- *Development which have coordinated basement and services located to minimise loss of landscaped open space and reduction of deep soil;*
- *Setbacks that preserve and protect existing trees around the perimeter of sites and provide effective deep soil areas that are able to create garden setting, including substantial tree canopy to all sides of the building.*

Comment

The proposed RFB is well articulated with balconies and facades stepping in and out on all elevations. Excellent landscaping and deep soil is provided around the perimeter of the site to ensure large trees are provided and overland stormwater is able to filter into the natural surface.

The design allows a number of existing trees to be retained on site. Turf and shrubs are also provided throughout the site to enhance the communal open space area in the rear setback.

This design response will have no impacts upon the amenity of residents in adjoining properties. Residents living in neighbouring RFB's expect their amenity in high rise residential development will be different to the amenity of residents living in a single dwelling house in a low density residential neighbourhood.

Basements

There are some minor departures from the basement setbacks. This is along each boundary except the eastern boundary which complies with the standard 4m. The variations on the front, rear and side (western) basements are considered minor, with all except the western side boundary having part compliant and part non-compliant components.

As shown on the landscape plan, where non-compliance occurs, existing trees are to be retained and additional landscaping provided, which is consistent with the desired outcome of this control.

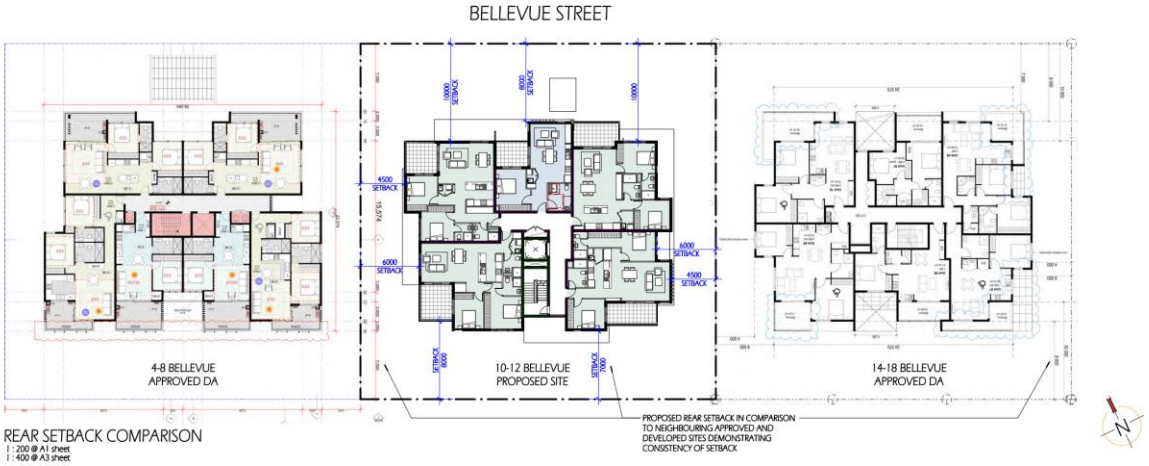
The basement setback along the western side boundary is reduced to 2m however as shown on the landscape plan, dense landscape screening is to be provided along this boundary to soften the built form proposed above NGL.

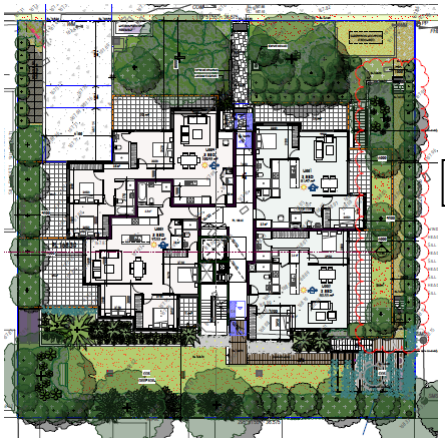
Front Boundary

The front building setback complies with Council's controls of 10m that can be reduced to 8m for a maximum of 1/3 of the building width.

Rear Boundary

It should be noted that as a consequence of the sites topography and articulated shape of the buildings floor plate, there is a minor departure from the rear boundary setback control of 10m that can be reduced to 8m for a maximum of 1/3 of the building width. In this particular case, the rear setback varies between 7.005m to 8.005m, which is less than the standard. However, the rear setback proposed is consistent with those rear boundary setbacks approved in RFB design schemes on either side of the development site. See **Figure 22**. Having regards to the proposed RFB, it should be noted that it has greater articulation on all elevations and new landscaping is superior to that of the RFB's on either side.





Amended Scheme

Figure 22
Source: Zhinar Architects

In regards to the 5th storey, the control requires an "*additional 3m for external walls of the fifth storey, measured from the walls of the lowest storey*". In considering this 5th storey control to the rear boundary, habitable rooms are setback between 9.005m and 10.005m, being slightly below the standard.
While this is also a non-compliance with the control, it is consistent with the approved RFB's setbacks on either side and those setbacks on the ground floor. We see this as also a minor variation and the objective of the control is satisfied as the building form is well articulated by having the building stepping in and out, further adding interest to the building's façade.

Quality landscaping and fencing is provided along the rear boundary to respect the amenity of future residents and provide security for the complex.

Side Boundaries
The DCP sets a 6m side boundary setback control, which can be reduced to 4.5m for non-habitable rooms only, to a maximum of 1/3 of the building width.
The proposed side boundary setbacks vary between 4.5m to 6.0m however to achieve greater articulation in the building design, some of the rooms within the 4.5m setback are habitable rooms, mostly in the form of bedrooms. In order to mitigate overlooking opportunities from these bedrooms, highlight windows are provided. Those units on levels 1- 4 in the south-eastern corner have living rooms within the 4.5m setback are afforded fixed louvres to prevent overlooking.
Ground floor Unit 002 also located in the south-eastern corner has its living room setback 4.5 from the boundary but is enclosed by landscaping and common side boundary fencing.

Fifth Storey Setback

Balconies with planter box screening are provided on the 5th storey. The separation distance at this level and landscaping all assist by mitigating overlooking.

3.4.6 Building Form and Separation

Desired Outcome

- *Buildings that are limited in width and depth, incorporating articulated facades and separated by garden areas.*

Comment

The proposed building is afforded a depth less than 25m and is well articulated. The proposed building length provides clear articulated facades to break up the buildings overall bulk and scale. Further, the additional depth of the building does not increase the extent of overshadowing or overlooking onto adjoining properties.

The proposal incorporates a mix of retaining large trees on the site and provision for new native and exotic landscaping. This softens the buildings presentation to the street and surrounding neighbourhood.

The well designed landscaping and use of a variety of materials and colours will soften the RFB's appearance to the surrounding neighbourhood, in particular the proposed buildings presentation to each boundary.

The building form and building separation respond well to Council's controls, incorporating design elements to ensure privacy and amenity is not adversely impacted upon incluidng efficient apartment layouts and orientation, screening, strategically placed planter boxes on the 5th storey to mittigate opportunities for overlooking. Further, provision of highlight windows and landscape embalishment works should offset amenity impacts.

The proposal adopts an articulated form that aligns with the DCP design controls and use of varying building materials, protruding balconies, indentations and projections in the alignment of the external walls. Further, the recessed upper level is afforded a contemporary flat roof that is consistent with Council's DCP control.

Overall, the proposal incorprates good articulation in the built form and a mixed palette of building materials, earthey colours and finishes to compliment the leafy character of Thornleigh.

3.4.7 Landscaping

Desired Outcome

- *Landscaping that integrates the built form with the locality and enhances the tree canopy.*

Comment

The perimeter of the site is generously landscaped, including large areas of deep soil to provide a building in a landscaped setting. See landscape plan for the number and species of landscaping selected.

A total of 7 trees on this site are required to be removed because they are either sited within the building's footprint or in close proximity to it. It is noted that a large native tree located within the rear setback is to be retained and protected during construction works.

An Arborists report prepared by Redgum Horticultural Services accompanies the application to justify each trees removal. The conclusions and recommendations of the Arborist are set out below:

CONCLUSION

Seven (7) trees are nominated for removal and replacement with species in accordance with the associated Landscape documentation for the development. The sixteen (16) trees to be preserved will be retained and protected through the implementation of adequate measures for their integration into the development by the application of appropriate technology as detailed in this report. Where appropriate, the Landscape Plan will include planting with new trees including street tree/s.

It is often a consequence of redevelopment, and subject to the nature of the proposed land use that some or all the trees present on the site prior to that redevelopment may be required to be removed and replaced with new tree plantings in different locations. This may be dependent upon the type of development and its design constraints and the requirements of the local planning instruments and any Landscape Design Codes if existing. Where tree removal is required for this development, it is considered that those trees identified within this report are not sustainable within the context of the proposed development. Where tree retention has been considered, those trees are expected to survive the redevelopment process and remain stable and viable. The retention and protection of existing trees on site is a significant aspect of the development process, allowing those trees as components of the current curtilage to b process and remain stable and viable.

RECOMMENDATIONS – Retention.

- *Trees 4x16 are to be retained in situ within the site and are to be protected as detailed in 14.2 - 14.21 of Part B of this report. Tree protection fences, or works, to be located in accordance with Site Plan B – Trees to be Retained and Tree Protection Zones (Appendix F).*
- *16.2 Where Tree Protection Zone fences are to be moved or relocated this must be undertaken in consultation with the Consultant Arboriculturist for the project to ensure that tree protection is maintained. If the fences are relocated areas are to be mulched in accordance with 14.8 of this report to reduce compaction to the root system of the retained specimens.*
- *To minimise damage to retained crowns, all Tree Protection Zones are to be adhered to. This must be undertaken in consultation with the Consultant Arboriculturist for the project to ensure that tree protection is maintained. Minor pruning may be required if damage occurs, work to undertaken in accordance with section 4 of this report.*
- *Milestone/s - Project/Site arborist is to inspect/assess all retained specimens prior to Demolition and Tree Removal, Post Demolition, Prior to Construction during Construction and on completion in relation to trees protected and the protection measures have been carried out as per the approved D/A conditions for the site. Documentation is to be submitted to the consenting authority after each inspection.*
- *Any work to be undertaken within Tree Protection Zones is to be undertaken in accordance with 16.2 of this report.*
- *Tree removal near retained specimens is to be undertaken in accordance with 14.11 of this report.*
- *There is to be no storage of materials, rubbish, soil, equipment, structures or goods of any type to be kept or placed within 5 metres from the trunk or within the dripline of any tree for the duration of the development. This will ensure protection of the tree/s to be retained on or adjacent to site.*
- *Each of the replacement are to be a vigorous specimen with a straight trunk, gradually tapering and continuous, crown excurrent, symmetrical, with roots established but not pot bound in a volume container or approved similar and be maintained by an appropriately qualified and experienced landscape contractor for up to one (1) year after planting, or as appropriate.*

3.4.8 Open Space

Desired Outcome

- *Development that incorporates passive and active recreation areas with privacy and access to sunlight;*
- *Communal open space comprising landscaped setbacks, landscaping between dwellings, and principal communal open space area.*

Comment

The proposed development is provided with generous areas of communal open space (front and rear) of the site. Landscaping is required to be provided at 25% of the site area, which in this particular case generate 331.95m2.

The proposal generates 336m2 or approximately 25.31% of communal open space/deep soil, which exceeds the 25% standard within Council's DCP and the ADG.

A large area of communal open space is provided at the rear of the site, which includes bench seating and barbecue facilities below a pergola. Good deep soil zones are provided for in the rear yard, which will attract residents as it will receive good sunlight exposure during the morning and afternoon periods.

3.4.9 Privacy and Security

Desired Outcome

• *Development designed to provide reasonable privacy to proposed and adjacent* and adjacent residential properties and high levels of security.

Comment

Units on the ground floor are provided with secured terraces, while units on the upper levels are afforded balconies but have been designed to reduce impacts on privacy and security for future residents. This includes screening devices to reduce or off-set direct views into neighbour's properties.

The private open space areas within the development have some form of overlooking onto the private and public domains, however this increases security and promotes safety for this neighbourhood.

3.4.10 Materials, Finishes and Services

Desired Outcome

- Development that enhances the visual quality of the public domaon.

Comment

Materials

The building is to be constructed primarily of face brickwork of light and dark colour tones. These traditional earthy colour tones will complement the traditional leafy character of this neighbourhood.

Glass balustrading is provided with aluminium framed glass windows and sliding glass doors onto balconies and terraces. See colour material and schedule at **Figure 22.**

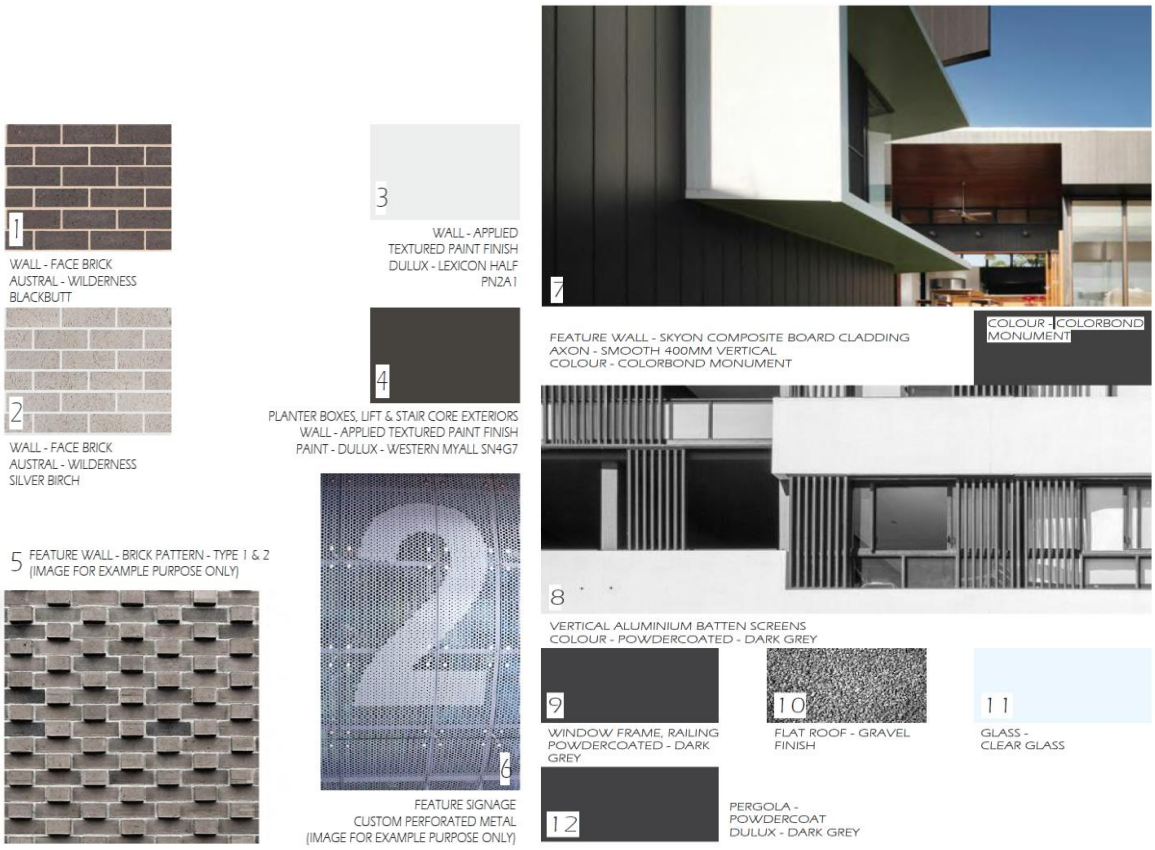


Figure 22
Source: Hornsby LEP 2013 – Heritage Map

3.4.11 Sunlight and Ventilation

Desired Outcome

- Development designed to provide reasonable solar access to living areas and open space areas.
- Development designed to provide natural cross ventilation

Comment

A total of 84% or 18 units are cross ventilated, while 18 or 84% of all units receive a minimum of 2 hours of sunlight during the winter solstice to provide a quality living environment for future residents. See Table 1. Previously set out in this report. .

3.4.12 Housing Choice

Desired Outcome

A range of dwelling types that match the demographic diversity of the Hornsby Shire and are accessible or may be adapted to meet the needs of people who have limited physical mobility.

Comment

The mix of units within the complex is set out below:

- 3 x 1 bedroom
- 14 x 2 bedroom
- 4 x 3 bedroom

Total = 21 units of which 3 are adaptable

Depending on the number of bedrooms each unit is afforded, the units vary in size, shape and flexibility and as such provide affordability and diversity in housing stock.

This unit mix proposed meets the 10% prescribed number set by this control.

3.4.13 Vehicle Access and Parking

Desired Outcome

• Development that provides sufficient and convenient parking for residents and visitors with vehicular access that is simple, safe and direct.

Comment

The proposal seeks to carry out excavation works to create two (2) levels of basement car parking for 29 vehicle spaces including 3 visitor spaces, bicycles, storage cages and rooms and a garbage housing area in the upper basement level. A temporary bin storage area abuts the driveway.

Vehicular access into and out of the site is over a combined 6.1m wide driveway off Bellevue Street.

Council's strategic plan for this neighbourhood seeks to promote underground car parking with landscaped setbacks and clear lines of sight, which is a fundamental design factor in this proposed development.

3.4.14 Public Domain and Traffic Management Works

Desired Outcomes

- *A public domain that encourages vitality around and within development precincts;*
- *Traffic Management works that provide for the safe and efficient movement of vehicles to, from and within precincts*.

Comment

The applicant understands that Council will impose reasonable conditions relevant to public domain works. There are no known traffic management works required by Council's planning instrument or DCP.

The applicant is aware that Council will frame a suitably worded condition of consent that will require the payment of a Section 7.10 monetary contribution towards the ongoing maintenance of public amenities and services as a result of the increase in population in this area.

3.4.15 Key Development Principles

Comment

The site is located within the Station Street, Thornleigh Precinct.

Public Domain

Paul Scrivener Landscape was engaged by the applicant to prepare a landscape plan, which provides detail on the proposed landscaping of public and private areas. The key themes for the precinct are:

- Strategy;
- Landscape Setting;
- Built Form.

The proposed RFB is five (5) storeys in height. The landscape design creates a high degree of visual privacy, visual character to the street, functional open space for residents living and creating a green breathing space.

Provides an appropriate setting with three (3) street trees provided along the nature strip. Large trees are sprinkled throughout the site to promote privacy and offering a green setting.

The proposal will increase housing stock and provide for a range of housing types and choice for future residents. The proposed RFB is aesthetically pleasing, incorporating a varied and modulated pattern of articulation with balconies carefully integrated into the overall architectural composition.

The design of the building's facade will present itself to the streetscape as an example of appropriate, modern residential design and at the same time create a barrier for negative environmental externalities from its surrounds.
Whilst the proposed development involves an increase in bulk and scale on the site, it is considered that the impact on the public domain will be acceptable as the proposal represents the form and scale of Council's strategic planning vision for this neighbourhood precinct.

The provision of new landscaping elements as a comprehensive uniform landscape concept for the site will contribute to the proposal integrating well within the public domain and providing a more amenable pedestrian environment.

The design and siting of the proposed RFB ensures 18 or 84% of units receive solar access into living areas.

Section 4.15 (a) (iii) (a)
Any Planning Agreement That Has Been Entered Into Under Section 7.4, or any Draft Planning Agreement That a Developer Has Offered to Enter into Under Section 7.4
The applicant has not agreed to enter into or discussed entering into a planning agreement with Council.

Section 4.15 (1) (a) (iv)
Matters prescribed by the Regulations
There are no matters prescribed by the Regulations that are applicable to this application.

Section 4.15 (1) (b)
The Likely Impacts of That Development
The proposed development has been designed with particular attention to the amenity of its future occupants, neighbouring properties and the public domain.
As previously discussed under the Part 5, Statutory Compliance section of this report, the development is responsive to the constraints of the site, in particular vegetation, neighbouring buildings, impact of street traffic, noise, solar access and views. This has culminated in generating a unique design which creates a sense of space, connectivity to public and private space, and fixed and manoeuvrable louvres, highlight windows to enable users to control acoustics, solar access and privacy to their units. This is achieved by the following design initiatives:

- providing suitable separation not only between buildings, but also separation to living areas and bedrooms;
- short paths of travel between units to access stairs and lifts, enable ease of access and minimises the volume of persons travelling past each unit;
- the access framework throughout the site is efficient and legible;
- generous floor plan layout will afford a high level of privacy for persons within each unit;
- the balconies of all units are provided with an attractive outlook over the public domain and or common open space areas;
- accessible vehicular entry/exit points and a legible parking and circulation network; and
- safety by design initiatives have been incorporated into the design to enhance a sense of safety and security.

It has been demonstrated that the existing services and facilities have more than sufficient capacity to accommodate the proposed additional density on this site.

The proposed RFB will not be over-taxing on existing services and amenities however should there be a need to augment services, this would be carried out during construction of the proposed building. There will be no traffic impact resulting from the additional density as discussed in the traffic report with the increase in traffic movement being 2 trips during peak periods, being well within acceptable thresholds. It is envisaged that greater use of public transport will occur via the use of public buses along Pennant Hills Road and trains from the Thornleigh Railway Station, located approximately 240m north of the site, placing less reliance on the use of private motor vehicles.

In concluding, the proposed density increase is acceptable because:

- The proposal satisfies the objectives of Council's DCP for 5 storey residential apartment buildings in that the proposed building is 5 storey's in height and set within a garden setting;
- Local services and facilities have the capacity to accommodate the increase in density;
- The proposal supports the provision of additional population density in meeting the Metropolitan Plan targets and Council's housing studies;
- The proposed increased density will positively affect housing affordability and choice in the types of units available to the population;
- Principle 4 – Density under SEPP 65 is met as the proposal responds to the sites regional context, availability of infrastructure, public transport (rail and bus), community facilities, and environmental quality and
- The proposed increased density will not result in amenity impacts upon public amenities and services.

Accessibility
The application is accompanied by an accessibility report, which confirms the design has been assessed and complies with:

- The prescriptive Deemed to Satisfy (DtS) Accessibility Provisions of Part D3 of the Building Code of Australia (BCA) Volume One Edition 2014;
- AS 4299 -1995 (Adaptable Housing); and
- The Disability Access to Premises - Buildings Standards (DAPS) 2010.

The outcomes of this assessment report concludes that the proposed design is capable of achieving compliance with the abovementioned prescribed standards subject to the recommendations referenced in the report.

Air Quality
As a result of the sites location to Pennant Hills Road, an air quality assessment was undertaken by RWDI to assess the potential air quality impacts from road traffic on the future residents of the proposed development. The report concludes as follows:

"The development site is located close to Pennant Hills Road to the northwest, Wood Street to the east and Station Street to the south. Of these streets, Pennant Hills Road, located approximately 70m from the proposed development, has by far the largest volume of traffic and has been selected as the subject of screening level modelling.
Information from the Traffic Volume Viewer from Transport for NSW https://roadswaterways.transport.nsw.gov.au/) indicated a morning peak hour traffic volume for Pennant Hills Road of 7,791 vehicles eastbound and 7,944 vehicles westbound, based on data collected in 2019".
These results indicate that compliance is achieved at the proposed site for carbon monoxide (CO) and nitrogen dioxide (NO2), and inhalable particulate matter (PM10).
These findings indicate that vehicle emissions on Pennant Hills Road are currently compliant with NSW air quality criteria anywhere at the development site. We conclude that no further study of transportation-related air quality is warranted".

Building Code of Australia (BCA)

A detailed BCA report has been prepared by Building Control Group (BCG) who have demonstrated that the proposed development's compliance with the BCA. They have made the following comments:

The architectural design documentation as referred to in this report has been assessed against the applicable provisions of the Building Code of Australia, (BCA) and it is considered that such documentation complies or is capable of complying (as outlined in Annexure B) with that Code.

Although demonstrating compliance with the BCA at the DA assessment stage is not a principal consideration under Section 4.15 of the Environmental Planning & Assessment Act 1979, Council has an obligation to consider whether the proposal, as lodged, is capable of complying with the BCA - without further modifications to those plans for which approval is sought.

In this instance we are confident that any modifications and advancement in the level of detailing required to the proposal in order to satisfy the requirements of the BCA (in force at the time the Construction Certificate application is lodged) will not necessitate any significant design changes that in turn would necessitate the submission of an application under Section 4.55 of the Environmental Planning and Assessment Act 1979.

Furthermore, we draw Council's attention to the requirements of clause 145 of the Environmental Planning & Assessment Regulation 2000 and suggest that detailed & specific BCA compliance matters shall be addressed to the satisfaction of the appointed Certifying Authority prior to the issue of the Construction Certificate. It is considered that this BCA review and the additional preparation of the required Construction Certificate documentation will be sufficient to ensure that the proposed design will achieve the necessary compliance with the BCA.

Therefore, the proposal is able to satisfy all relevant BCA requirements, and the applicant understands that suitably framed conditions of consent will be imposed to ensure compliance with these.

Visual Amenity and Impacts Upon Views

Based on an assessment of the proposed development on the surrounding neighbourhood, it is considered that there will be no significant views or view corridors lost or interrupted by the proposed RFB.

The assessment has investigated the existing visual character and resources of the site and the surrounding context to identify the visual opportunities and constraints. The visual assessment has concluded that the potential visual impacts of the proposed development are within an acceptable threshold and will cause a positive change to the transitional character of the site and surrounds and will be compatible of emerging in conjunction with the desired future character of the site and the surrounds.

As envisaged by Council's planning controls, the proposed building will have a greater prominence on the surrounding urban fabric than that which currently exists. This same prominence is reflected in Council's 2013 LEP and DCP.

One can take from that observation that the proposal will therefore be in keeping with the desired future character of development for this neighbourhood precinct.

Air and Microclimate

The proposed development represents an intensification of use, albeit residential in nature, which will generate a small number of additional traffic movements and therefore marginally increase vehicle emissions.

Whilst there will be substantial disturbance of the site during construction, upon completion of the development, the site will be landscaped with shrubs, turf and native trees, thus reinstating the microclimatic conditions on the site.

Drainage Control
Comment
The application is accompanied by stormwater management plans prepared by Quantum Engineers, which proposes to capture, and disperse stormwater from the site during heavy rain. These plans have been prepared in accordance with best practice guidelines. The objective of the overall design is to:

(i) Reduce the amount of stormwater leaving the site at any one time during heavy rainfall;
(ii) Redirect the flow of existing stormwater within the site to appropriately sited pits.

An above ground on-site detention tank is proposed along the northern street frontage of the site that will allow stormwater to be slowly dispersed to the street during heavy rain.

Soil and Water Management
Comment
Prior to any building works being carried out on site, a sedimentation control fence will be erected around any part of the site that is to be disturbed. Such fencing will be erected in accordance with best practice guidelines. See sedimentation control plan accompanying the stormwater plans.

Environment Protection
Comment
The site is located within a well-established urban neighbourhood. The land falls from north to south and stormwater management is provided in the form of an underground on-site detention facility for holding and later disbursement of stormwater.
The amount of deep soil/landscaping is in excess of that required by Council's DCP control and will ensure water is also absorbed into the natural surface of the site.
The site has no environmental constraints such as:

- Excessive topography;
- Proximity to natural watercourses;
- Soil landscapes;
- Threatened plant communities;
- Bushland;
- Fauna habitat or
- Bushfire hazards that would impact place constraints on developing the site.

Nuisance During Construction
All building works on site will be carried out in accordance with the State Governments statutory construction hours for building works.
Initial excavation work is to be carried out on site to prepare the proposed basement car park, which will require excavation machinery on site for a short period of time. The period would be for a number of weeks depending upon the prevailing weather at the time.
Trucks leaving the site will be checked by a designated worker to ensure soil and other material does not spill onto the public road, however if this was to occur for some unforeseen circumstance, the matter will be quickly cleaned from the road surface by the designated worker.
While concrete and material trucks will be servicing the site at various times, these will be supervised by an on-site foreman to ensure vehicles are able to unload and depart from the site as quickly and safely as is reasonably possible.

Overall, the amount of nuisance caused by the proposed development will not be unreasonable to cause undue loss of amenity to residents.

Safety, Security and Crime Prevention

The proposal has been designed to incorporate principles of Crime Prevention Through Environmental Design (CPTED), with these design measures supplemented by future security management strategies.

The design of the residential apartments and their internal layout have addressed potential safety problems such as potential entrapment and hiding places.

These principles are set out and addressed below:

- Surveillance;
- Access Control;
- Territorial Reinforcement;
- Space Management:

Surveillance

Comment

The proposed development encourages casual surveillance by providing an appropriately designed pedestrian entrance in the centre of the site off Bellevue Street, promoting passive surveillance and creating an active environment for residents and their visitors to walk conveniently into the site.

Private open space areas such as balconies, terraces and primary living spaces are orientated to overlook the street and the private domain within the site. This design will also better activate the communal open space and central walkway.

The landscaping strategy ensures a high level of amenity whilst maintaining clear sight lines and minimising potential hiding places.

The proposed access to the site is readily available off Bellevue Street along a well-lit walkway to the buildings entry point.

Access into the lobby is through a security coded door lock or swipe card entry. Access to each level will only be available to residents, meaning visitors will not be allowed access into the building without the permission of a resident who is already in the building.

All access ways will be well lit in order to provide residents and users of the site's pedestrian links with a sense of security.

Access Control

Comment

The use of physical barriers to attract, channel or restrict the movement of people has been incorporated into the design.

The pathway allowing direct entry into the site will be clearly visible from living areas and balconies with all pathways well lit of an evening without causing light spill into units.

Access into the building and basement parking levels will be controlled through security doors and an intercom system, limiting access to residents and permitted visitors only. This type of access control minimises opportunities for crime and increases the effort required to commit crime.

The proposal incorporates clear sight lines between public and private domains, with external lighting throughout the site.

All lighting will be carefully designed and placed to further improve security and as mentioned above, ensure light spill does not occur.

Territorial Reinforcement

Comment

Territorial reinforcement will be focused on the open landscaped zone through shared ownership.

As shown on the architectural plans, boundaries between private and public spaces are clearly defined.

The proposed common open space will consist of high quality landscaping, which will ensure it receives regular use, and in turn, promotes the principle of 'territorial reinforcement'.
The central common open space is provided with bench seating and a barbecue area with shrubs, small trees and low level lighting, promoting a secure, active environment where residents will feel safe.

Space Management
Comment
The creation of well-kept and attractive spaces will help attract more people, and thus reduce the likelihood of crime occurring.
A security camera system should be installed at the point of entry to the building's lobby and swipe card/coded door entry provided to access the building. The camera system will allow residents to see the person at the entry door before allowing any non-resident into the building.
The Body Corporate when formed will put in place guidelines to reinforce to residents of their responsibilities to maintain a secure environment.

Communal open space is proposed to be established and maintained to a high quality level so these spaces remain attractive and inviting for residents and visitors to utilise.

Crime Prevention Through Environmental Design (CPTED) is a recognized model which provides that if development is appropriately designed it can reduce the likelihood of crimes being committed. By introducing CPTED measures within the design, it is anticipated that this will assist in minimizing the incidence of crime and contribute to perceptions of increased public safety.

The increase in residential population in this neighbourhood can only have positive benefits because it will allow greater passive surveillance of both the public and private domains.
The proposal offers a high level of public surveillance by designing balconies and primary living areas to overlook Bellevue Street, in particular, the sites main point of entry.

Acoustics
Acoustic Logic have assessed noise impacts relating to the proposed residential development at 10-12 Bellevue Street, Thornleigh have been assessed.
Provided that the acoustic treatments set out in Section 6 of this report are adopted, external noise impacts on the development will comply with the requirements of:

- Hornsby Council '*Development Control Plan DCP 2013'*

- Australian and New Zealand AS/NZS 3671:1989 '*Acoustics—Road traffic noise intrusion—Building siting and construction'*

- Australian and New Zealand AS/NZS 2107:2016 '*Recommended design sound levels and reverberation times for building interiors'*

- NSW Department of Planning document – '*Development Near Rail Corridors and Busy Roads - Interim Guideline*'

External noise emissions criteria have been established in Section 7 of this report based on the requirements of the following:
- Hornsby Council Development Control Plan (DCP) 2013

- Protection of the Environment Operations Act 1997

- Protection of Environmental Operation Act Regulation 2000

• NSW Department of Environment and Heritage, Environmental Protection Authority document Noise Policy for Industry (NPfI) 2017'.

Detailed acoustic treatment will be determined as part of the CC drawings.

Section 4.15 (1) (c)
The Suitability of the site for the development
The site is considered suitable for the proposed development as outlined below:

The site is specifically zoned to accommodate residential apartments under the R4 High Density Residential zone.

The site has very unique, physical characteristics which make it ideally suited to accommodate higher density residential development, including a very large site area, generous street frontages, and excellent access to Thornleigh Railway Station and bus services along Pennant Hills Road.

Given that the site is located within an established urban area, existing essential services are available to the site including water, sewer, electricity, gas and telecommunications.

The site is located within the vicinity of a range of services and facilities, located in relatively close proximity to the site.
The site is located within a well-established residential neighbourhood where there are excellent amenities and services (shops, schools, public transport (bus and rail), and open space etc.) available which will provide future residents with a quality living environment.

The site is suitably zoned for the proposed RFB and is consistent with the intended future character for the locality as set out by Councils planning controls.
The analysis provided with the application demonstrates that the project is suitable given the lack of encumbrances constraining the site, and the size, location and context of the land.

The site is appropriately sized to permit high density residential development. The standard of design will help promote a sustainable built form and interconnection with the environment through the incorporation of landscaping, including street trees and other public improvements such as footpaths, stormwater and roads.

Section 4.15 (1) (d)
Any submissions made in accordance with this Act or the regulations
To be determined by Council following exhibiting the application to nearby property owners and the general public.

Section 4.15 (e)
The Public Interest
It is considered that proposal serves to benefit the public interest through the provision of a well sited RFB that will fit well within this neighbourhood's transitional environment, which is moving from low to high density housing forms.

Pursuant to case law of *Ex Gratia P/L v Dungog Council (NSWLEC 148),* the question that needs to be answered is "*Whether the public advantages of the proposed development outweigh the public disadvantages of the proposed development*".
The assessment of this application needs recognition that the provision of new affordable housing stock is a balanced consideration that serves to benefit the social and economic impacts of the community where it can readily be demonstrated that a sensitive design approach responds to

Council's strategic objectives with a high degree of accessibility and usability with consideration of any environmental impacts arising from its physical form and the resultant public benefit.

The physical appearance of the proposal will contribute to the transitional streetscape that will occur over time and complement the strategic controls now in place to increase residential densities in this neighbourhood.
There are no impacts that will arise from the proposed development, therefore, the benefits outweigh any disadvantage and as such the proposed development in our view will have an overall public benefit.
In summary, the public advantages of this development are:

- Generate short term employment of builders and sub-contractors;
- Increasing housing supply, mix and choice in an area which is free of any adverse natural constraints;
- The proposal generates a substantial monetary sum of Section 7.10 Monetary Contributions to benefit public amenities and services;
- Provide housing in close proximity to local and major business precincts;
- Provide housing in close proximity to public bus and rail transport;
- Creating a design outcome that promotes the controls expected by the objectives of the LEP and DCP for this neighbourhood precinct;
- Providing a high quality built form and presentation which will set a standard for future urban renewal.

Overall the proposal is considered to be in the public interest as it will provide the local community with a form of high quality, diverse housing stock to take advantage of its proximity to a full range of urban facilities and services in the locality.

6.0 Conclusion

The proposed multi storey residential flat development is permissible under the R4 High Density Residential zone with consent of Council.
The proposal responds well to its transitional neighbourhood context, which is to provide the neighbourhood with new affordable housing stock that compliments Council's residential housing strategy, by increasing residential densities to better utilize the excellent public transport networks, schools, open space and the nearby business centres such as West Pennant Hills, Pennant Hills, and Hornsby.
The subject proposal seeks to provide a built form that will achieve the desired future character of this neighbourhood and afford future residents with a high quality living environment. While there are two (2) very small variations to the maximum building height, these have been justified in the Clause 4.6 submission at Appendix 1. In summary the proposal will:

- provide a built form which strengthens the neighbourhood's sense of identity, and visual appearance. This includes maintaining an appropriate scale to the street frontages without generating adverse overshadowing or amenity impacts on surrounding properties;
- provide an increase in housing choice to meet demands within the locality;
- provide an opportunity for higher densities in a transitional residential neighbourhood, which will reduce pressure for up zoning land in other areas for high density purposes;
- provide quality residential apartments which are afforded a high level of amenity and privacy for future residents;

- allow a good opportunity to redevelop a site, which will assist in achieving the desired regional objectives and
- have no adverse environmental impacts on adjoining properties.

The proposed development is subject to a number of statutory planning instruments and policy controls of which the proposal has been assessed against, enabling a conclusion that the proposal complies with the intent of such controls.

Other plans and reports comprising the project application address key aspects of the development and its implications, such as BCA, design, BASIX, Traffic, noise, air quality, drainage, accessibility, stormwater management and landscaping.

Collectively, these reports and the assessment of other issues in this report confirm that the development will have no unreasonable amenity impacts upon the environment in which the development is to be set.

In view of the comments contained within this report, we are satisfied that this proposal has properly responded to all relevant matters for consideration contained within Section 4.15 of the Environmental Planning and Assessment Act 1979, and its companion Regulation, that the proposal will fit comfortably within its urban context and consent may reasonably be granted

APPENDIX 1

Amended Clause 4.6 Exceptions to Development Standards
Hornsby Local Environmental Plan 2013
Clause 4.3 - Height of Buildings
Proposed five (5) Storey RFB
10 – 12 Bellevue Street Thornleigh

1.0 Introduction

This amended written request is made pursuant to Clause 4.6 "Exceptions to Development Standards" as set out under Hornsby Local Environmental Plan (HLEP) 2013.
The written request seeks to vary Clause 4.3 "Height of Buildings" contained within HLEP 2013, relating to this DA which seeks to demolish all existing structures on the land to permit the construction of a proposed five (5) storey RFB on land at 10-12 Bellevue Street Thornleigh.
The amended RFB design now before Council lowers the building by 200mm from that of the original design that was lodged as part of the DA. The original design sought approval for a roof encroachment of 360mm (larger portion of roof to that now proposed) and the lift overrun extended 1.170m above the height control.

While the proposal still seeks to exceed the maximum 16.5m building height control, the variations have been reduced by 200mm and those parts that encroach above the standard are much smaller. These include:

- the lift overrun extends 970mm or 5.9% above the 16.5m building height control and
- a small portion of the flat roof structure (eastern side) extends 160mm or 0.99% above the 16.5m building height control.

The planning reasons why both structures extend above the height control relate to the topography of the land, which falls towards the south-east (rear corner) where it is approximately 1m above the NGL.

Clause 4.6 of HLEP 2013 states that a development standard may be varied through a written request that seeks to justify the contravention of the standard by demonstrating:

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

The consent authority then has to be satisfied that:

- *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,*

This submission contends that strict compliance with the maximum building height control of 16.5m is unreasonable or unnecessary in the circumstances of the case and that the variation sought can be justified on environmental planning grounds as the proposal will have no environmental impacts on the surrounding built urban environment.

The above statement is made because the variations are minor in the context of the overall development and neighbourhood characteristics, and the transitional change to the urban character

and streetscape along Bellevue Street, is consistent with the adopted planning controls for transforming land in this precinct to a much higher density.

Accordingly, we are of the view that this written exception to the building height control justifies the minor variations sought.

2.0 Definition of Development Standards

"Development Standards" has the following definition under Section 1(4) of the *Environmental Planning & Assessment Act 1979*:

> *"means provisions of an environmental planning instrument or the regulations in relation to the carrying out of development, being provisions by or under which requirements are specified or standards are fixed in respect of any aspect of that development, including, but without limiting the generality of the foregoing, requirements or standards in respect of:*
>
> *(a) the area, shape or frontage of any land, the dimensions of any land, buildings or works, or the distance of any land, building or work from any specified point,*
> (b) *the proportion or percentage of the area of a site which a building or work may occupy,*
> *(c) the character, location, siting, bulk, scale, shape, size, height, density, design or external appearance of a building or work,*
> *(d) the cubic content or floor space of a building,*
> *(e) the intensity or density of the use of any land, building or work,*
> *(f) the provision of public access, open space, landscaped space, tree planting or other treatment for the conservation, protection or enhancement of the environment,*
> *(g) the provision of facilities for the standing, movement, parking, servicing, manoeuvring, loading or unloading of vehicles,*
> *(h) the volume, nature and type of traffic generated by the development,*
> *(i) road patterns,*
> *(j) drainage,*
> *(k) the carrying out of earthworks,*
> *(l) the effects of development on patterns of wind, sunlight, daylight or shadows,*
> *(m) the provision of services, facilities and amenities demanded by development,*
> *(n) the emission of pollution and means for its prevention or control or mitigation, and*
> *(o) such other matters as may be prescribed.*

Comment

Clause 4.3 "Height of Buildings" and Clause 4.6"Exceptions to Development Standards are contained within HLEP 2013, which is a statutory planning instrument and as such the building height control is a development standard.

3.0 Varying Development Standards: A Guide August 2011

In accordance with the notification given under Clause 12 of Circular B1 states that:

"As numerical standards are often a crude reflection of intent, a development which departs from the standard may in some circumstances achieve the underlying purpose of the standard as much as one which complies. In many cases the variation will be numerically small and in other cases it may be numerically large, but nevertheless be consistent with the purpose of the standard…

In deciding whether to consent to a development application the Council should test whether the proposed development is consistent with the State regional or local planning objectives for the locality; and in particular the underlying objective of the standard. If the development is not only consistent with the underlying purposes of the standard, but also with the broader planning objectives of the locality, strict compliance with the standard would be unreasonable and unnecessary"

Comment

On demonstrating that the development standard is unreasonable or unnecessary in the circumstances of the case, the consent authority may assume the Planning Secretary concurrence to

the objection pursuant to Clause 4.6 Exceptions to Development Standards under HLEP 2013 in the circumstances of the objection.

4.0 Land and Environment Court Judgments

The following Land and Environment Court judgments are a relevant consideration in the assessment of this submission:

1. Initial Action Pty Ltd v Woollahra Municipal Council [2018] NSWLEC 118
2. Wehbe v Pittwater Council (2007) 156 LGERA 446
3. Winten Property Group Ltd v North Sydney Council (2001) NSWLEC 24
4. Rebel MH Neutral Bay Pty Limited v North Sydney Council [2019] NSWCA 130
5. Micaul Holdings Pty Limited v Randwick City Council [2015] NSWLEC
6. Four2Five Pty Ltd v Ashfield Council [2015] NSWLEC 1009

Comment

1.1 In *Initial Action Pty Ltd v Woollahra Municipal Council* [2018] NSWLEC 118 (**Initial Action**), Preston CJ held that that the consent authority must form two positive opinions of satisfaction, being:

(a) That the applicant's written request has adequately addressed both matters required to be addressed by clause 4.6(3)(a) and (b). The consent authority does not have to directly form the opinion of satisfaction regarding the matters in clause 4.6 (3)(a) and (b), but only indirectly form the opinion of satisfaction that the written request adequately addresses the matters required to be demonstrated by those clauses (see paragraph [25] of *Initial Action*). Clause 4.6 (3)(b) does not require any better "environmental planning outcome" to be proven, but rather that there be "sufficient environmental planning grounds" to justify contravening the development standard (see paragraph [41] of *Initial Action*);

(b) That in accordance with clause 4.6(3)(b), the proposed development will be in the public interest because it is consistent with the objectives of the particular development standard that is contravened and the objectives for development for the zone in which the development is proposed to be carried out (see paragraph [26] of *Initial Action*); and

For a clause 4.6 variation request to be adequate, the consent authority is still required to be directly satisfied about the matters described in clause 4.6(4)(a)(ii) (see paragraph [26] of *Initial Action*).

In *Wehbe v Pittwater Council* (2007) 156 LGERA 446 Preston CJ identified five (5) different ways in which it could be demonstrated that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case. These five (5) ways are set out below and addressed later in this request:

1. *the objectives of the standard are achieved notwithstanding non-compliance with the standard;*
2. *the underlying objective or purpose of the standard is not relevant to the development and therefore compliance is unnecessary;*
3. *the underlying object or purpose would be defeated or thwarted if compliance was required and therefore compliance is unreasonable;*
4. *the development standard has been virtually abandoned or thwarted by Council's own actions in granting consents departing from the standard and hence compliance with the standard is unnecessary and unreasonable;*

5. *the zoning of the particular land is unreasonable or inappropriate so that a development standard appropriate for that zoning is also unreasonable and unnecessary as it applies to the land and compliance with the standard would be unreasonable or unnecessary. That is, the particular parcel of land should not have been included in the particular zone.*

5.0 Development Standards

Clause 4.6 Exceptions to Development standards

(1) *The objectives of this clause are as follows:*

(a) to provide an appropriate degree of flexibility in applying certain development standards to particular development,

(b) to achieve better outcomes for and from development by allowing flexibility in particular circumstances.

(2) Development consent may, subject to this clause, be granted for development even though the development would contravene a development standard imposed by this or any other environmental planning instrument. However, this clause does not apply to a development standard that is expressly excluded from the operation of this clause.

(3) 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.

(4) Development consent must not be granted for development that contravenes a development standard unless:

(a) 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*

(b) the concurrence of the Director-General has been obtained.

(5) In deciding whether to grant concurrence, the Director-General must consider:

(a) whether contravention of the development standard raises any matter of significance for State or regional environmental planning, and

(b) the public benefit of maintaining the development standard, and

(c) any other matters required to be taken into consideration by the Director-General before granting concurrence.

(6) Development consent must not be granted under this clause for a subdivision of land in Zone RU1 Primary Production, Zone RU2 Rural Landscape, Zone RU3 Forestry, Zone RU4 Primary Production Small Lots, Zone RU6 Transition, Zone R5 Large Lot Residential, Zone E2 Environmental Conservation, Zone E3 Environmental Management or Zone E4 Environmental Living if:

(a) the subdivision will result in 2 or more lots of less than the minimum area specified for such lots by a development standard, or

(b) the subdivision will result in at least one lot that is less than 90% of the minimum area specified for such a lot by a development standard.

(7) After determining a development application made pursuant to this clause, the consent authority must keep a record of its assessment of the factors required to be addressed in the applicant's written request referred to in subclause (3).

(8) This clause does not allow development consent to be granted for development that would contravene any of the following:

(a) a development standard for complying development,
(b) a development standard that arises, under the regulations under the Act, in connection with a commitment set out in a BASIX certificate for a building to which State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004 applies or for the land on which such a building is situated,
(c) clause 5.4.

Comment
Clause 4.6 permits flexibility in the consideration of a development standard, in this particular case, relevant to the building height of the proposed RFB.
It is considered that the proposed minor height variations ensure the building achieves the density and built form that is strategically envisaged by Council for the site and precinct as a whole.
Because of the topography of the land, the building design has required substantial sculpturing, requiring flexible application of the standard, where the merits of the application are substantially relevant to the orderly and economic development of the land.

We have formed the view that there is no public benefit in maintaining strict compliance with the development standard in this instance given the departure from the height control is minor and will have no negative consequences in terms of the proper management, development and conservation of natural and artificial resources, including promoting the social and economic welfare of the community and achieving a better natural and built environment.
The departure from the height control allows for the orderly and economic use of the site in a manner which would otherwise not be strictly achieved with a reduced yield by removing one floor or part of a floor with no noticeable benefits.
The additional shadow cast does not create any noticeable impacts to that of a fully compliant development on the internal amenity of common open space, neighbouring sites nor any public reserves or the general amenity within the private and public domains.
The building maintains satisfactory sky exposure and daylight to those private areas adjoining the site.

As set out below, the minor building encroachments above the 16.5m height control are in the following areas:

- Lift overrun 970m or 5.9% and
- Small portion of flat roof - 160mm or 0.99%

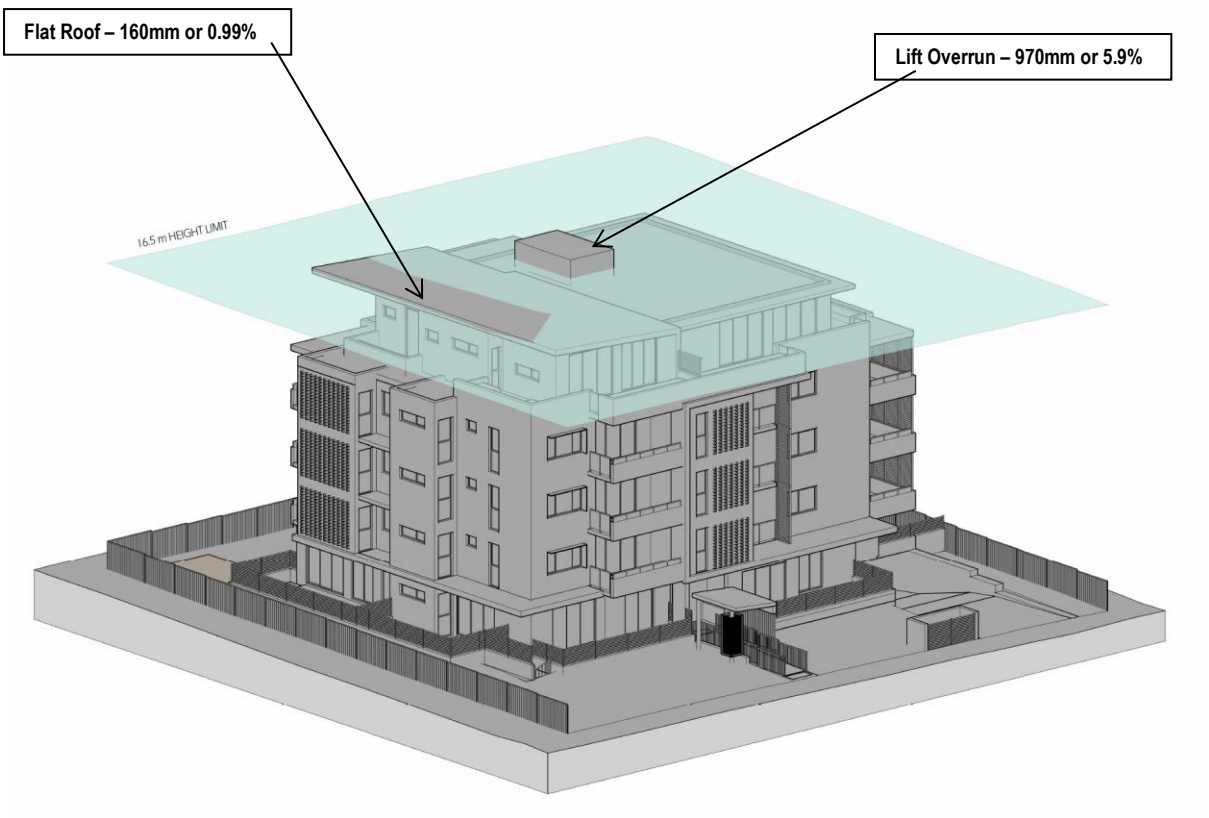


Figure 1
Source: Building Height Plane – Zhinar Architects

This Clause 4.6 variation demonstrates that the increased building height is not unreasonable in these circumstances because:

- the objectives of the height standard are still achieved in that it provides a transition in built form and will not unreasonably impact upon the amenity of adjoining neighbours nor block or interrupt any known view corridors or vistas;
- sky exposure and daylight to public areas are maintained;
- the sites R4 High Density Residential zone objectives are me because the proposal increases the population of this neighbourhoodt;
- the variation is consistent with all relevant environmental planning instruments to increase densities around public transport corridors and employment zones, such as buses along Pennant Hills Rd, Thornleigh Rialway Station and the Thornleigh town centre;
- the orderly and economic use of the land achieves a planning outcome that does not impact upon neighbours or future residents within the proposed RFB;
- is in the public interest because it provides greater choice, affordability and size of housing stock, allowing for the orderly and economic use of the land and
- urban consolidation initiatives in that the type of housing proposed, which includes 3 adaptable units, and will assist in achieving strategic housing targets for this region.

The combined effect of these assessments confirms that the flexible application of the height standard is appropriate in this instance because the variation proposed is well founded and that the height standard is unreasonable or unnecessary in the circumstances of this application.

Height of Buildings
The provisions of clause 4.3 are set out below and a part copy of the height of building map is provided at **Figure 2.**

4.3 Height of buildings

(1) The objectives of this clause are as follows:

(a) to establish and maintain the desirable attributes and character of an area,

(b) to minimise overshadowing and ensure there is a desired level of solar access and public open space,

(c) to support building design that contributes positively to the streetscape and visual amenity of an area,

(d) to reinforce important road frontages in specific localities.

(2) The height of a building on any land is not to exceed the maximum height shown for the land on the Height of Buildings Map.

(2A) Despite subclause (2), the height of a dwelling house or dual occupancy must not exceed 8.5 metres if the dwelling house or dual occupancy is to be located on land in Zone R4 High Density Residential.

Comment

As set out below, the minor building encroachments above the 16.5m height control are in the following areas:

- Lift overrun 970mm or 5.9% and
- Part flat roof 160mm or 0.99%

The residential floor plates allow more than 18 or 84% of the apartments to be cross ventilated and 18 or 84% of units in the development will receive 2 or more hours of direct sunlight.

As can be seen from the above minor height departures, the majority of the proposed building is below the 16.5m prescribed by Council's LEP, allowing units on adjoining land to not be impacted upon in any manner as the majority of any additional shadow (lift overrun) will be cast onto the buildings own roof or in regards to the additional 160mm, this relates to a portion of the buildings roof that would not cause loss of amenity or increase the buildings overall bulk and scale to that of a fully compliant scheme.

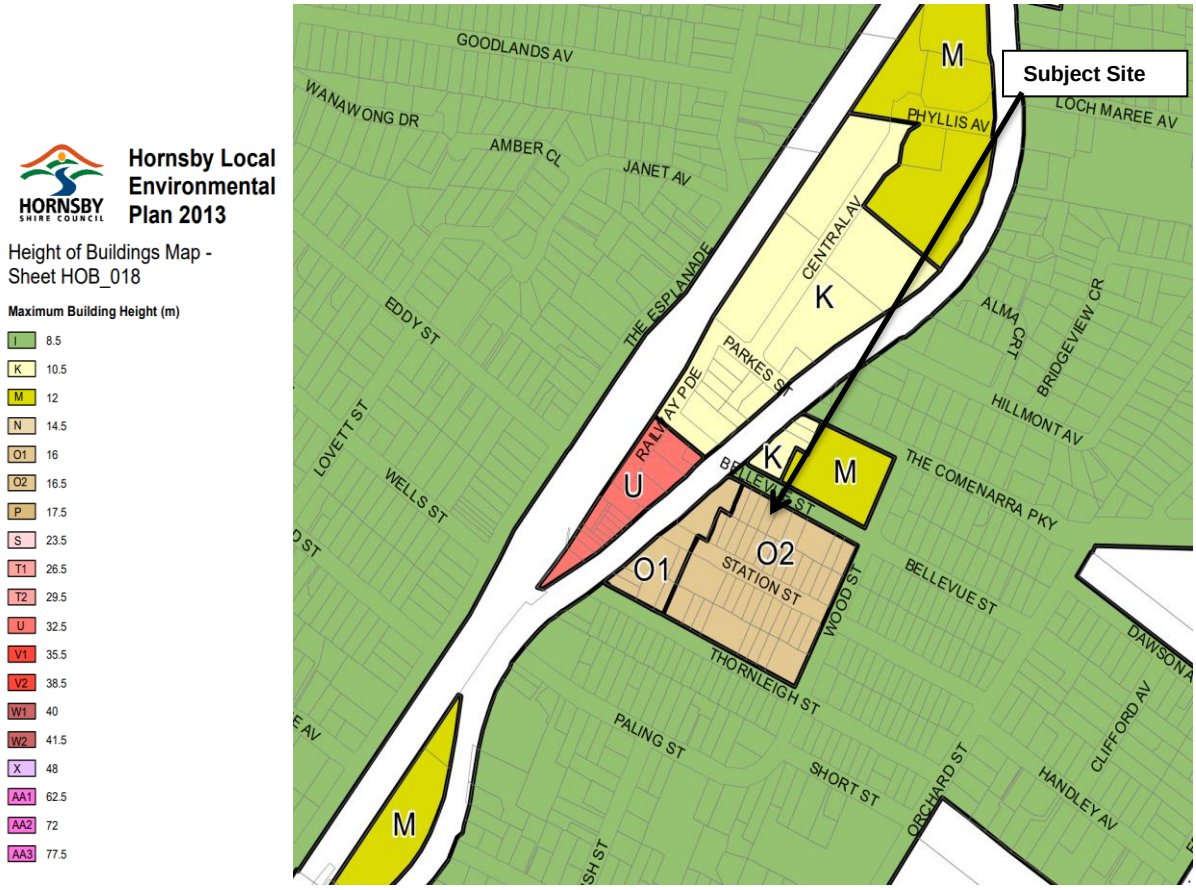


Figure 2
Source: Building Height Map HLEP 2013

The surrounding context also justifies a variation to the height controls that apply to the site as the proposal offers a more balanced urban design and planning outcome for the streetscape, in order to deliver an appropriate response that is in scale with other new developments in this locality.

The Clause 4.6 variation submission demonstrates that the proposed increase in height above the permissible standard of 16.5m is not unreasonable or unnecessary and is readily supportable because:

- Council's height controls surrounding the site promote buildings of similar scale to that proposed. The average person walking past the site or from a distance would not realize there is a departure from the height control of between 160mm or 0.99% (small portion of roof-eastern side) and lift overrun by 970mm or 5.9%;
- Because of the orientation of the site, the proposed development does not cast any additional shadow onto the public domain to that of a fully compliant 16.5m high design scheme;
- It satisfies the relevant objectives of the height standard in that no identified views will be interrupted or lost to that of a fully compliant 16.5m RFB;
- It satisfies the intent of Council's strategic planning vision for new high rise development in this precinct;
- provides housing choice, size and affordability;
- allows for satisfactory sky exposure and daylight to ab achieved;
- promotes the orderly and economic use of the land;
- does not generate any adverse social impacts;
- has sufficient environmental planning grounds to serve the public interest;
- encourage greater use of public transport, given the site is located within a short walk of Pennant Hills Road and Thornleigh Railway Station;
- privacy impacts have been mitigated to that of a fully compliant design scheme and

- the proposed height variation ensures the orderly and economic use of land as envisaged by the Environmental Planning and Assessment Act, 1979.

The above factors demonstrate that there are both numerous internal and external factors which confirm there are sufficient environmental planning grounds to permit the minor height variations sought.

5.0 Land and Environment Courts Assessment

Winten Property Group Ltd v North Sydney Council (2001) NSWLEC 24

Justice Lloyd's Questions - Winten Property Group v North Sydney Council 2001

Justice Lloyd raised in this case, five questions that must be considered in the assessment of a SEPP 1 Objection, in the subject application, it relates to Clause 4.6 of HLEP 2013 because SEPP 1 does not apply to this new planning instrument.
The provisions of SEPP 1 differ from the provisions of clause 4.6. The decision in *Four2Five Pty Ltd v Ashfield Council [2015] NSWLEC 1009 now* confirms that the decision of Preston CJ in *Wehbe v. Pittwater Council* [2007] NSWLEC 827 is only of indirect assistance in determining ways of establishing that compliance with a development standard in an environmental planning instrument might be seen as unreasonable or unnecessary. In *Wehbe* [42] [46] Preston CJ did say however that a way of proving a well-founded objection under SEPP 1 is to establish that the development standard has been virtually abandoned or destroyed by the Council's own actions in granting development consents departing from the standard and hence compliance with the standard is unnecessary or unreasonable. The principle should apply to Cl. 4.6 of the HLEP 2013 as well.

The Chief Judge referred to the decision in *North Shore Gas Company v North Sydney Municipal Council* (Land and Environment Court, New South Wales, 15 September 1986, unreported) in which Stein J similarly held that compliance with a development standard was not required where the standard had been virtually abandoned or destroyed by council's own action.

Question 1

Is the Planning Control in Question a Development Standard?

Environmental Planning Instrument

The standard is contained within an Environmental Planning Instrument (HLEP 2013) that was prepared in accordance with the provisions contained within the EPA Act 1979 and therefore the control is a development standard that controls the height of buildings in the Hornsby LGA.

Question 2

What is the Underlying Object or Purpose of The Standard?

As mentioned previously, the Department of Planning Circular B1, numerical requirements may be departed from if the purpose behind the control is achieved and the locality objectives of the relevant planning instruments are satisfied.

The underlying object of the standard is to:

- Ensure buildings are of a bulk, height and scale to fit within their context;
- Ensure buildings do not unreasonably increase amenity impacts, such as overlooking and overshadowing;
- Protect views;
- Ensure heritage items and conservation areas are not impacted upon by an increase in building height;
- Respect the existing and transitional character that a neighbourhood may be undergoing;
- To allow for building transitions.

Question 3

*Is compliance with the development standard consistent with the aims of the policy, and in particular does compliance with the development standard tend to hinder the attainment of the objects specified in Section 1.3 (a)(i) and (ii) of the Environmental Planning & Assessment Act 1979***.**

Comment

Section 1.3 (a)(i) and (ii) is set out as follows:

> *1.3 Objects*
>
> *The objects of this Act are:*
>
> *(a) to encourage:*
>
> > *(i) the proper management, development and conservation of natural and artificial resources, including agricultural land, natural areas, forests, minerals, water, cities, towns and villages for the purpose of promoting the social and economic welfare of the community and a better environment,*
> >
> > *(ii) the promotion and co-ordination of the orderly and economic use and development of land,*

This issue in itself would hinder the attainment of the EPA Act 1979 objective, which seeks to promote the orderly and economic use and development of land. The reasons why the new RFB will achieve the objects of the Act are:

- The proposed RFB is permissible in the R4 High Density Residential zone and is consistent with the zones objectives;
- The proposed RFB does not significantly increase overshadowing to that of a fully compliant 16.5m building height scheme. The lift overrun, which encroaches above the height control by 970mm does not cast any shadow outside of the roof and that part of the roof that extends 160mm above the standard generates a very small increase in shadow to that generated by a compliant design scheme;
- No views will be lost to that of a fully compliant scheme;
- The design responds to its eclectic context in that the proposed design is responsive to its urban infill location and will not impact upon the amenity of existing or future residents in this precinct, in terms of overlooking and overshadowing of private and communal open space areas and
- The proposed development is located on a site that is large in size and falls towards the rear. The additional height comfortably fits within its transitional neighbourhood context and ideally suits the sites location;

Question 4: Is compliance with the development standard unreasonable or unnecessary in the circumstances of the case?

Comment

Compliance with the development standard is deemed to be unreasonable or unnecessary in the circumstances of this case because the departure sought does not create any additional amenity impacts upon the built and natural environments to that of a fully compliant design scheme.
Notwithstanding the non-compliance, the proposed development will perform favourably in relation to the objectives of the standard. In particular, the generic intent behind the height standard is to control the scale of new development and not to unreasonably increase amenity impacts. The proposal achieves this.

The proposed RFB clearly demonstrates that although the roof marginally exceeds the height control in two (2) small areas, the proposed RFB can readily fit within this transitional neighbourhood context.

Question 5: Is the objection well founded?

In the decision (*Wehbe v Pittwater Council [2007] NSW* LEC *827*) Chief Justice Preston expressed the view that there are 5 different ways in which an objection may be well founded and that approval of the objection may be consistent with the aims of the policy. These are:

1) *The objectives of the standard are achieved notwithstanding non-compliance with the standard;*
2) *The underlying objective or purpose of the standard is not relevant to the development and therefore compliance is unnecessary;*
3) *The underlying object or purpose would be defeated or thwarted if compliance was required and therefore compliance is unreasonable;*
4) *The development standard has been virtually abandoned or destroyed by the Council's own actions in granting consents departing from the standard and hence compliance with the standard is unnecessary and unreasonable; or*
5) *The zoning of the particular land is unreasonable or inappropriate so that a development standard appropriate for that zoning is also unreasonable and unnecessary as it applies to the land and compliance with the standard would be unreasonable or unnecessary. That is, the particular parcel of land should not have been included in the particular zone.*

We are of the view that the objection is well founded because:

- The proposed RFB has been designed so it does not cast excessive additional shadow within the common open space areas of the development or cast any additional shadow onto neighbouring residential properties or generate a building of increased bulk and scale, which is reflected in the accompanying drawings, photomontages and 3D model;
- The proposed built form responds to Council's LEP controls in that provision is made for a high density RFB that is complimentary to the height control objectives to control future development on this property and other residential development within the visual catchment of the site;
- The departure sought will have no unreasonable impacts upon the amenity of neighbours in this precinct;
- Allows satisfactory sky exposure and daylight to neighbouring properties and from within the development site and
- The proposed design is in the public interest as it promotes a quality built form in that the development will engage in responding to a need for greater economic and social benefits to this neighbourhood.

Clause 4.6 (4)(b) - Concurrence of the Planning Secretary

Clause 4.6(4)(b) requires the concurrence of the Planning Secretary to be obtained prior to the granting of consent to a development that contravenes a development standard.

Concurrence can be assumed by Council in accordance with the Planning Secretary's Assumed concurrence notice dated 21 February 2018.

Whether Contravention of the Development Standard Raises any Matter of Significance of State or Regional Environmental Planning

The variation to the building height control set out under clause 4.3 of the HLEP 2013 will not raise any matter which could be deemed to have State or Regional significance. The variation sought will not contravene any overarching State or Regional objectives or standards, rather it will contribute to the achievement of dwelling targets. Beyond this the variation sought will have no effects outside of the sites immediate area.

6.0 Conclusion

Hornsby Shire Council as the consent authority can be satisfied that pursuant to clause 4.6(4) of HLEP 2013, that:

(c) This written request has in fact demonstrated, in accordance with clause 4.6(3) of HLEP 2013, that:

(i) compliance with the building height development standard in clause 4.1A of HLEP 2013 is unreasonable or unnecessary in the circumstances of this case; and

(ii) there are sufficient environmental planning grounds to justify the contravention of the development standard;

(d) The proposed RFB will be in the public interest because it is consistent with the objectives of the building height standard and the objectives of the R4 Density Residential zone; and

(e) The Planning Secretary's concurrence has been obtained because concurrence is assumed.

This written request has demonstrated that compliance with the building height development standard is unreasonable or unnecessary in the circumstances of the case and the DA should be approved.

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1 August 2022

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