

# **BUSINESS PAPER**

## **PLANNING MEETING**

**Wednesday, 3 December, 2008  
at 6:30 pm**

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## **AGENDA AND SUMMARY OF RECOMMENDATIONS**

### **PRESENT**

### **NATIONAL ANTHEM**

### **OPENING PRAYER/S**

### **ACKNOWLEDGEMENT OF RELIGIOUS DIVERSITY**

Statement by the Chairperson

*"We Recognise our Shire's rich cultural and religious diversity and we acknowledge and pay respect to the beliefs of all members of our community, regardless of creed or faith."*

### **ABORIGINAL RECOGNITION**

Statement by the Chairperson:

*"We recognise the traditional inhabitants of the land we are meeting on tonight, the Darug and Guringai Aboriginal people, and respect is paid to their elders and their heritage."*

### **AUDIO RECORDING OF COUNCIL MEETING**

Statement by the Chairperson:

*"I advise all present that tonight's meeting is being audio recorded for the purpose of assisting in the accuracy of the Minutes. The recordings may be accessed by members of the public once the Minutes have been finalised and speakers are requested to ensure their comments are relevant to the issue at hand and refrain from making personal comments or criticisms."*

### **APOLOGIES**

### **DECLARATIONS OF INTEREST**

*Clause 52 of Council's Code of Meeting Practice (Section 451 of the Local Government Act, 1993) requires that a councillor or a member of Council committee who has a pecuniary interest in a matter which is before the Council or committee and who is present at a meeting of the Council or committee at which the matter is being considered must disclose the nature of the interest to the meeting as soon as practicable. The disclosure is also to be submitted in writing (on the form titled "Declaration of Interest").*

*The Councillor or member of a Council committee must not be present at, or in sight of, the meeting of the Council or committee:*

- (a) at any time during which the matter is being considered or discussed by the Council or committee.*
- (b) at any time during which the Council or committee is voting on any question in relation to the matter.*

*Clause 51A of Council's Code of Meeting Practice provides that a Councillor, Council officer, or a member of a Council committee who has a conflict of interest or non pecuniary interest in any matter with which the Council is concerned and who is present at a meeting of the Council or committee at which the matter is being considered must disclose the nature of the interest to the meeting as soon as practicable. The disclosure is also to be submitted in writing (on the form titled "Declaration of Interest").*

*The Councillor or member of a Council committee who has a conflict of interest may still participate in the discussion and vote on the matter. In this regard particular note should be taken of Section 6.12 of Council's Code of Conduct.*

## **CONFIRMATION OF MINUTES**

THAT the Minutes of the Planning Meeting held on 19 November, 2008 be confirmed, a copy having been distributed to all Councillors.

## **PETITIONS**

## **MAYORAL MINUTES**

## **NOTICES OF MOTION**

## **RESCISSION MOTIONS**

## **MATTERS OF URGENCY**

## **ITEMS PASSED BY EXCEPTION / CALL FOR SPEAKERS ON AGENDA ITEMS**

### Note:

*Persons wishing to address Council on matters which are on the Agenda are permitted to speak, prior to the item being discussed, and their names will be recorded in the Minutes in respect of that particular item.*

## **DEVELOPMENT APPLICATIONS**

### **A WARD DEFERRED**

### **A WARD**

### **B WARD DEFERRED**

### **B WARD**

### **Page Number 1**

#### **Item 1      PLN230/08 ERECTION OF A DWELLING HOUSE AND FRONT FENCE 15 SHIELDS LANE, PENNANT HILLS**

THAT Council approve Development Application No. 1228/2008 for the erection of a dwelling-house and front fence at Lot 1, DP 1086210, No. 15 Shields Lane Pennant Hills, for the recommended reasons detailed in the report from Nexus Environmental Planning P/L and reproduced at Schedule 1.

**Page Number 10****Item 2     PLN232/08 DEVELOPMENT APPLICATION -  
CONSTRUCTION OF MULTI-UNIT HOUSING COMPRISING  
TWO DWELLINGS  
12 STUART AVENUE NORMANHURST**

THAT Development Application No. 430/2008 for the demolition of an existing dwelling and the construction of a multi-unit housing comprising two dwellings and Torrens title subdivision at Lot 7 DP 8354 No. 12 Stuart Avenue, Normanhurst be approved subject to conditions of consent detailed in Schedule 1 of this report.

**C WARD DEFERRED****C WARD****GENERAL BUSINESS**

- *Items for which there is a Public Forum Speaker*
- *Public Forum for non agenda items*
- *Balance of General Business items*

**Page Number 26****Item 3     PLN223/08 HERITAGE ADVISORY COMMITTEE -  
COMMUNITY REPRESENTATION**

THAT

1. Ms Anne Conway be invited to participate on the Hornsby Shire Heritage Advisory Committee as a voluntary community representative.
2. Mr Kenneth Bradley be advised of Council's resolution and thanked for his interest in the matter.

**Page Number 30****Item 4     PLN231/08 DRAFT AMENDMENTS TO THE COMMUNITY  
USES DEVELOPMENT CONTROL PLAN - AFTER  
EXHIBITION**

THAT:

1. The draft amendments to the Community Uses Development Control Plan attached to Executive Manager's Report No. PLN231/08 be adopted with the following amendments:
  - 1.1 clarifying Council requirements relating to minimum setbacks to watercourses, where waste should be disposed and where contamination reports should be submitted with an application under "Information Required with a Development Application";

- 1.2 removing reference to the need for home based child care to comply with the Community Uses DCP in the table “Approvals Required for Children’s Services”;
  - 1.3 referencing relevant Environment Protection Authority land contamination guidelines under the Hazard/Risks element and Appendix A; and
  - 1.4 identifying the detail a site analysis should include and how it should be used under Appendix B - Site Analysis Criteria for Child Care Centres.
2. Submitters be advised of Council’s resolution.

**Page Number 37**

**Item 5 PLN235/08 LOCAL DEVELOPMENT PERFORMANCE  
MONITORING REPORT 2007 - 2008**

THAT the contents of Executive Manager’s Report No. PLN235/08 be received and noted.

**Page Number 41**

**Item 6 PLN238/08 FREQUENCY OF PLANNING MEETINGS**

THAT Council amends its current meeting cycle to one Planning Meeting per month, to be held on the first Wednesday of the month, commencing 4 February 2009.

**SUPPLEMENTARY AGENDA**

**CONFIDENTIAL ITEMS**

**QUESTIONS OF WHICH NOTICE HAS BEEN GIVE**

**QUESTION OF WHICH NOTICE HAS BEEN GIVEN N**

**QUESTIONS WITHOUT NOTICE**

**1 ERECTION OF A DWELLING HOUSE AND FRONT FENCE  
15 SHIELDS LANE, PENNANT HILLS**

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<b>Development Application No:</b>	1228/2008
<b>Description of Proposal:</b>	Erection of a dwelling-house and front fence
<b>Property Description:</b>	Lot 1, DP 1086210, No. 15 Shields Lane, Pennant Hills
<b>Applicant:</b>	Home Team Constructions P/L
<b>Owner:</b>	Mr D and Mrs C Klassen
<b>Statutory Provisions:</b>	Hornsby Shire Local Environmental Plan, 1994 Residential A (Low Density) Zone
<b>Estimated Value:</b>	\$409,300
<b>Ward:</b>	C

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**RECOMMENDATION**

THAT Council approve Development Application No. 1228/2008 for the erection of a dwelling-house and front fence at Lot 1, DP 1086210, No. 15 Shields Lane Pennant Hills, for the recommended reasons detailed in the report from Nexus Environmental Planning P/L and reproduced at Schedule 1.

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**EXECUTIVE SUMMARY**

1. The application proposes the erection of a two storey dwelling-house and a front fence on a vacant site.
2. On 20 June 2007, Council's Planning Committee first considered a similar application, being DA/345/2007 and resolved to defer consideration for no longer than 1 month to allow the applicant to address concerns regarding solar access and the height of the front fence height.
3. On 15 August 2007, Council's Planning Committee considered a further report and resolved to refuse consent to DA/345/2007, as the proposal failed to meet the solar access requirements of the Dwelling House DCP.
4. On 5 September 2008, the applicant lodged a new development application being, DA/1228/2008, which is the subject of this report.

5. Given that an adjoining property owner (and former Councillor) raised objections to the previous application, (DA/1228/2008) the new application was referred to an independent planning consultant, Nexus Environmental Planning P/L for assessment. The consultant has concluded that the proposal complies with the objectives of the height, solar access and setbacks elements of the Dwelling House DCP and is an acceptable development of the site.
6. It is recommended that Council consider the attached report prepared by Nexus Environmental Planning P/L and determine the application by approval.

## HISTORY OF THE SITE

On 19 March 2007, DA/345/2007 was lodged, proposing the erection of a two storey dwelling-house and front fence on the subject vacant site.

After consideration of the report of the Executive Manager Planning Division at its Meeting on 20 June 2007, which recommended refusal of the application on grounds relating to bulk and scale, Council resolved as follows:

*“THAT Development Application No. 345/2007 for the erection of a two storey dwelling- house be deferred for no longer than one month to allow the applicant to:*

1.
  - a. *Address the reasons for refusal No. 1 to 4 in Executive Manager's Report PLN142/07;*
  - b. *Address the unacceptable reduction of solar access to the courtyard and living areas of No. 11 Shields Lane at the winter solstice. The applicant is to provide more detailed information to substantiate their case, for example, 3D diagrams;*
  - c. *Be advised that Council does not support the proposed 1.8 metre high masonry/timber fence in the front yard;*
  - d. *Be invited to participate in mediation with the owners of 11 Shields Lane, with the view of lodging amended plans to address all relevant issues to both parties' satisfaction, particularly in relation to the lack of solar access and overshadowing to the private open space.*
2. *This matter be returned to Council for determination.”*

The resolution was based on concerns that the development would have detrimental solar access impacts on the amenity of the private open space and north-facing windows of the adjacent property, No. 11 Shields Lane, which could be satisfactorily resolved with an achievable re-design.

Following an on-site mediation meeting on 28 June 2007, amended plans were submitted on 12 July 2007, reducing the bulk and scale of the proposal to comply with Councils 0.4:1 floor space ratio development standard, together with altered details, further shadow diagrams and a written submission in support of the amended proposal.

Council considered these amended details at the Planning Committee meeting on 15 August 2007, and resolved as follows:



*“THAT Development Application No. 345/07 for the erection of a two storey dwelling-house be refused on ground No. 1 in Executive Manager’s Report No. PLN198/07.*

- 1. The proposal does not meet the performance criteria and objectives of the Solar Access element of the Dwelling House DCP. The design, height and setbacks of the proposal will result in a development that has a detrimental solar access impact on the private open space of the adjacent dwelling-house No. 11 Shields Lane. The development will not ensure that reasonable solar access to these premises is maintained, even during the winter months.”*

As the period in which a request for a review of a determination pursuant to Section 82A of the Act had expired, the applicant lodged a new development application, No 1228/2008 proposing the erection of a two storey dwelling-house and front fence on the subject property.

To address any perception that the assessment and determination of DA/1228/2008 may be subject to improper influence from a former councillor, the (then) Executive Manager referred the application to an independent planning consultant for assessment and directed that the resultant report be referred to Council for determination.

Two Councillors subsequently requested that a ‘Red Sticker’ be placed against the application for referral to a Planning Meeting for determination.

## **ASSESSMENT**

A detailed assessment of the merits of the application against the matters for consideration pursuant to Section 79C of the Environmental Planning and Assessment Act, 1979 has been undertaken by Nexus Environmental Planning P/L. A copy of that report is held as Attachment 1 to this report.

## **PUBLIC CONSULTATION**


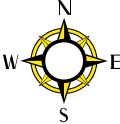
The proposal was placed on public exhibition and was notified to adjoining and nearby landowners between 1 October 2008 and 15 October 2008, in accordance with Council’s Notification and Exhibition Development Control Plan.

In response to the notification process, one submission was received from the owner of the adjoining property No. 11 Shields Lane, objecting to the proposal with respect to the loss of solar access in relation to the private open space and the ground floor level, north-west facing living room windows of the dwelling-house, particularly during the winter months.

The plan below illustrates the location of the subject site in proximity to resident that made a submission to the application.



**NOTIFICATION PLAN**

<ul style="list-style-type: none"> <li>• PROPERTIES NOTIFIED</li> </ul>	X SUBMISSIONS RECEIVED	 PROPERTY SUBJECT OF DEVELOPMENT	
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**CONCLUSION**

Consent is sought to construct a two storey dwelling and front fence at the subject property. A development application for a similar dwelling was considered by Council in 2007 and was subsequently refused. Due to a perceived conflict in Council’s ability to independently assess the current application, it was referred to an independent consultant planner for review.

The independent planning consultant’s report identifies that the proposed development in its current form, is consistent with the requirements of the Hornsby Shire Local Environmental Plan 1994 and, with a permitted variation to the 1 metre cut and fill control element, meets the objectives of the Dwelling House Development Control Plan in terms of design, height, privacy and solar access.

Having regard to the detailed assessment of the application by the independent planning consultant, it is recommended that the application be approved, subject to the conditions of consent detailed in Schedule 1 of this report.

SIMON EVANS  
Manager - Assessment Team 1  
Planning Division

SCOTT PHILLIPS  
Executive Manager  
Planning Division

**ITEM 1**

**Attachments:**

1. Locality Plan
2. H:\Assess\Vergison\Word\Council Reports\2008\Kennan's Report DA 1228.08.doc
3. Site Plan
4. Ground Floor Plan
5. First Floor Plan
6. Elevations
7. Sections
8. Survey Plan
9. Shadow Diagrams
10. Landscape Plan

File Reference: DA/1228/2008  
Document Number: D01040612

## SCHEDULE 1

### GENERAL CONDITIONS

The conditions of consent within this notice of determination have been applied to ensure that the use of the land and/or building is carried out in such a manner that is consistent with the aims and objectives of the planning instrument affecting the land.

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

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

#### Approved Plans and Supporting Documentation

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

<i>Plan No.s</i>	<i>Drawn by</i>	<i>Dated</i>
1 of 8 to 8 of 8	Home Team Constructions P/L	27/2/08
1 of 3 to 3 of 3 shadow diagrams HT/833/08	Home Team Constructions P/L	7/2/08
Survey Plan Job 1529/102796	Donovan Associates	13/12/2006
Landscape plan 1 of 1	Outside Living	9/3/2007

**Important Note:** *This development consent only permits the removal of tree(s) 1, 2, 3, 4a and 5 as identified on the site plan No. 1 of 8 prepared by Home Team Constructions dated 27/2/2008, with the trees numbered 1 to 9. The removal of any other trees requires separate approval under Council's Tree Preservation Order.*

#### REQUIREMENTS PRIOR TO THE ISSUE OF A CONSTRUCTION CERTIFICATE

The following conditions of consent must be complied with prior to the issue of a 'Construction Certificate' by either Hornsby Shire Council or an accredited certifier. All necessary information to demonstrate compliance with the following conditions of consent must be submitted with the application for a construction certificate.

##### Building Code of Australia

- All building work must be carried out in accordance with the requirements of the Building Code of Australia (BCA).

##### Contract of Insurance (Residential Building Work)

- In the case of residential building work for which the *Home Building Act, 1989* requires there to be a contract of insurance in force in accordance with Part 6 of that

Act, that such a contract of insurance is in force before any building work authorised to be carried out by the consent commences.

*Note: This condition does not apply to the extent to which an exemption is in force under Clause 187 or 188 of the Act, subject to the terms of any condition or requirement referred to in Clause 187(6) or 188(4) of the Act, or to the erection of a temporary building.*

#### **Notification of Home Building Act, 1989 Requirements**

4. Residential building work within the meaning of the *Home Building Act, 1989* must not be carried out unless the principal certifying authority for the development to which the work relates (not being Council) has given Council written notice of the following information:
  - a) In the case of work for which a principal contractor is required to be appointed:
    - i) The name and licence number of the principal contractor, and
    - ii) The name of the insurer by which the work is insured under Part 6 of that Act.
  - b) In the case of work to be done by an owner-builder:
    - i) The name of the owner-builder, and
    - ii) If the owner-builder is required to hold an owner-builder permit under that Act, the number of the owner-builder permit

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

#### **Sydney Water – Quick Check**

5. The application must be submitted to a *Sydney Water* ‘Quick Check Agent’ or ‘Customer Centre’ for approval to determine whether the development will affect any *Sydney Water* infrastructure, and whether further requirements are required to be met.

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

#### **Internal Driveways/Accessway**

6. The internal driveway and parking areas must be designed in accordance with *Australian Standards 2890.1, 2890.2 and 3727* and the following requirements:
  - a) The driveway must be a rigid pavement; and
  - b) Grades in excess of 25% are not permitted and changes in grades must not exceed 8%.

## Stormwater Drainage

7. The stormwater drainage system must be designed and constructed to satisfactorily drain rainfall intensities for an average recurrence interval of 20 years and be gravity drained into Council's street drainage system.

## REQUIREMENTS PRIOR TO THE COMMENCEMENT OF ANY WORKS

The following conditions of consent must be complied with prior to the commencement of any works on the site. The conditions have been imposed to ensure that the works are carried out in such a manner that complies with relevant legislation and Council's policies and does not disrupt the amenity of the neighbourhood or impact upon the environment.

### Sediment and Erosion Control

8. Sedimentation and erosion barriers are to be constructed to control the discharge of sediment from the site. The barriers are to be designed and installed in accordance with the requirements of Landcom's "Managing Urban Stormwater: Soils and Construction", Volume 1, 4<sup>th</sup> Edition, March 2004, (the Blue Book), and Hornsby Shire Council's "Sustainable Water Best Practices" manual and must be effectively maintained at all times during the course of construction and must not be removed until the site has been stabilised or landscaped to the Principal Certifying Authority's satisfaction.

### Erection of Construction Sign

9. A sign must be erected in a prominent position on any site on which building work, subdivision work or demolition work is being carried out:
  - a) showing the name, address and telephone number of the principal certifying authority for the work;
  - b) showing the name of the principal contractor (if any) for any building work and a telephone number on which that person may be contacted outside working hours; and
  - c) stating that unauthorised entry to the work site is prohibited.

*Note: Any such sign is to be maintained while the building work, subdivision work or demolition work is being carried out, but must be removed when the work has been completed.*

## DEVELOPMENT REQUIREMENTS DURING CONSTRUCTION

The following conditions of consent have been imposed to ensure that the administration and amenities relating to the proposed development comply with all relevant requirements. These conditions are to be complied with during the construction of the development on site.

### Survey Reports

10. To ensure that the dwelling-house and front fence are being erected in accordance with the approval, a registered surveyor's report must to be submitted to the principal certifying authority at each level of the building (prior to the pouring of concrete)

certifying that:

- a) the building, fence, retaining walls and the like have been correctly positioned on the site; and
- b) the finished floor level(s) are in accordance with the approved plans.

### **Hours of Construction**

11. In order to maintain the amenity of adjoining properties, site works must be restricted to between 7.00 am and 6.00 pm, Monday to Friday and 8.00 am to 1.00 pm Saturday. Site works may extend to 4.00 pm on Saturdays if inaudible on residential properties. No work must be undertaken on Sundays or public holidays. Plant, goods or materials must not be delivered to the site outside the approved hours of site works unless otherwise approved by Council.

### **REQUIREMENTS PRIOR TO THE ISSUE OF AN OCCUPATION**

The following conditions of consent must be complied with prior to the 'Principal Certifying Authority' issuing an 'Occupation Certificate'.

*Note: For the purpose of this consent, any reference to 'occupation certificate' must also be taken to mean 'interim occupation certificate'.*

### **Fulfilment of BASIX Commitments**

12. The applicant must demonstrate the fulfilment of BASIX commitments pertaining to the development. (*Clause 97A(3) of the Environmental Planning and Assessment Regulation 2000.*)

### **Access Way/Driveway**

13. A separate application under the Local Government Act, 1993 and the Roads Act, 1993 must be submitted to Council for approval for:-
  - (a) The installation of a vehicular footway crossing servicing the development, and the removal of any redundant crossings; and
  - (b) The undertaking of work within a public road (this includes laneways, public pathways, footways).

### **Damage to Council Assets**

14. A letter from Hornsby Shire Council must be obtained confirming that no damage has been caused to Council's assets. The cost of repairing any damage caused to Council's assets in the vicinity of the subject site as a result of construction works associated with the approved development is to be repaired to Hornsby Shire Council requirements at no cost to Council.

**- END OF CONDITIONS -**

**2 DEVELOPMENT APPLICATION - CONSTRUCTION OF MULTI-UNIT HOUSING COMPRISING TWO DWELLINGS  
12 STUART AVENUE NORMANHURST**

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<b>Development Application No:</b>	430/2008
<b>Description of Proposal:</b>	Demolition of an existing dwelling and construction of multi-unit housing comprising two dwellings and Torrens title subdivision.
<b>Property Description:</b>	Lot 7 DP 8354 No. 12 Stuart Avenue, Normanhurst
<b>Applicant:</b>	Studio4design
<b>Owner:</b>	Mr R J Abraham
<b>Statutory Provisions:</b>	Hornsby Shire LEP 1994 Residential A – (Low Density) zone
<b>Estimated Value:</b>	\$370,000
<b>Ward:</b>	B

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**RECOMMENDATION**

THAT Development Application No. 430/2008 for the demolition of an existing dwelling and the construction of a multi-unit housing comprising two dwellings and Torrens title subdivision at Lot 7 DP 8354 No. 12 Stuart Avenue, Normanhurst be approved subject to conditions of consent detailed in Schedule 1 of this report.

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**EXECUTIVE SUMMARY**

1. The application proposes the demolition of an existing dwelling and the construction of multi-unit housing comprising two dwellings and the Torrens title subdivision of the land.
2. The proposal complies with Hornsby Shire Local Environmental Plan 1994 (HSLEP) and Council's Low Density Multi Unit Housing Development Control Plan.
3. Four submissions were received in respect of the application.
4. It is recommended that the application be approved.



## THE SITE

The site has an area of 1011.68 square metres, is located on the western side of Stuart Avenue and experiences an average fall of 3% to the rear. The front portion of the site slopes toward the street.

The site is currently occupied by a single storey dwelling house. The site contains five trees and one street tree, none of which are environmentally or visually significant. The existing trees range from 4 to 7 metres in height.

A footpath exists along the frontage of the site.

The area is characterised predominantly by single storey cottages, however some two storey dwellings exist, as well as a two storey public housing estate to the rear which is visible from the street further to the north. A church is located to the south and a petrol station located further north at the intersection of Pennant Hills Road and Stuart Avenue, the rear view of which is highly visible from Stuart Avenue.

## THE PROPOSAL

The proposal involves the demolition of the existing dwelling and the erection of a contemporary design multi unit housing development comprising two attached dwellings.

The dwellings are two storeys in height and each dwelling contains four bedrooms, kitchen, bathrooms, laundry and an open plan area comprising living and dining areas. Each dwelling is comprised of two main components linked by a narrow hallway, resulting in an internal courtyard being provided for each dwelling. The upper floor of No. 12A has been altered to provide a greater setback from the southern boundary.

A single garage and carport is provided for each dwelling, which are accessed via a central driveway. Reciprocal rights would be provided on title for each dwelling to utilise the driveway and turning area.

The Torrens title subdivision of the existing allotment into two lots is proposed, with a site area of 505.8 square metres for each lot.

## ASSESSMENT

The development application has been assessed having regard to the '2005 City of Cities Metropolitan Strategy', the 'North Subregion (Draft) Subregional Strategy' and the matters for consideration prescribed under Section 79C of the *Environmental Planning and Assessment Act 1979* (the Act). Subsequently, the following issues have been identified for further consideration.

### 1. STRATEGIC CONTEXT

#### 1.1 Metropolitan Strategy – (Draft) North Subregional Strategy

The Metropolitan Strategy is a broad framework to secure Sydney's place in the global economy by promoting and managing growth. It outlines a vision for Sydney to 2031; the challenges faced, and the directions to follow to address these challenges and achieve the

vision. The draft North Subregional Strategy acts as a framework for Council in the preparation of a new Principal LEP by 2011.

The draft Subregional Strategy sets the following targets for the Hornsby LGA by 2031:

- Employment capacity to increase by 9,000 jobs; and
- Housing stock to increase by 11,000 dwellings.

The proposed development would be consistent with the draft Strategy by providing an additional dwelling and would improve housing choice in the locality.

## 2. STATUTORY CONTROLS

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

### 2.1 Hornsby Shire Local Environmental Plan 1994

The subject land is zoned zone under Hornsby Shire Local Environmental Plan 1994 (HSLEP). The objectives of the zone zone are:

- “(a) to provide for the housing needs of the population of the Hornsby area.*
- “(b) to promote a variety of housing types and other land uses compatible with a low-density residential environment.*
- “(c) to provide for development that is within the environmental capacity of a low-density residential environment.”*

The proposed development is defined as “multi unit housing” and “subdivision” under the HSLEP and is permissible in the zone with Council’s consent.

Clause 15 of the HSLEP prescribes that the maximum floor space ratio (FSR) of development within the Residential A (Low Density) zone is 0.4:1. The proposal provides an FSR of 0.4:1 for No. 12 and 0.39:1 for No. 12A, in compliance with the development standard.

### 2.2 Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005

The site is located within the catchment of Sydney Harbour. As such, the land is subject to SREP (Sydney Harbour Catchment) 2005. The aim of the Plan is to ensure that the catchment, foreshores, waterways and islands of Sydney Harbour are recognised, protected, enhanced and maintained, including its water quality.

The proposed development would have minimal potential to impact on the water quality of the catchment, with the proposed drainage resulting in an improvement to the existing situation. Conditions are recommended with respect to installation of sediment and erosion control measures prior to and during construction.

### 2.3 Low Density Multi-Unit Housing Development Control Plan

The proposed development has been assessed having regard to the relevant performance and prescriptive design standards within Council's Low Density Multi-Unit Housing Development Control Plan (Housing DCP). The following table sets out the proposal's compliance with the prescriptive standards of the Plan:

<b>Low Density Multi-Unit Housing Development Control Plan</b>			
<b>Control</b>	<b>Proposal</b>	<b>Requirement</b>	<b>Compliance</b>
<b>Density</b>			
No. 12	505.84m <sup>2</sup>	500m <sup>2</sup>	Yes
No. 12A	505.84m <sup>2</sup>	500m <sup>2</sup>	Yes
<b>Floor Space Ratio</b>			
No. 12	0.4:1	0.4:1	Yes
No. 12A	0.39:1	0.4:1	Yes
<b>Height</b>			
No. 12	2 storeys / 7.4m	2 storeys / 9m	Yes
<b>Car parking</b>			
No. 12	2 spaces	2 spaces	Yes
No. 12A	2 spaces	2 spaces	Yes
<b>Private Open Space</b>			
No. 12	174 m <sup>2</sup>	120 m <sup>2</sup>	Yes
No. 12A	203 m <sup>2</sup>	120 m <sup>2</sup>	Yes
<b>Landscaping</b>			
No. 12	49.6%	45%	Yes
No. 12A	56.9%	45%	Yes
<b>Site cover</b>			
No. 12	36%	40%	Yes
No. 12A	36%	40%	Yes
<b>Setbacks</b>			
No. 12			
Front	9 – 14.6m	4 - 7.6m	Yes
Side (South)	0m	0 - 1m	Yes

Side (North)	1.1m	0 - 1m	Yes
Rear	3m	3m	Yes
No. 12A			
Front	5.4 – 11.7m	4 - 7.6m	Yes
Side (South)	1.1m	0 - 1m	Yes
Side (North)	0m	0 - 1m	Yes
Rear	16.9m	3m	Yes

As detailed in the above table, the proposed development complies with the prescriptive standards within Council's Low Density Multi Unit Housing DCP. A brief discussion on compliance with relevant performance standards is detailed below.

### 2.3.1 Setbacks

The Housing DCP requires a minimum front setback of 6m or 7.6m in established areas, however allows encroachments to 4m for up to one third of the property width. The proposed single garages are setback 6m and 9m. The garage eave overhang to No. 12A is setback 5.4m and the carport to No. 12A is setback 6m, and complies with the permitted encroachment width of one-third of the property width. The entry to No. 12 is setback 14.6m and the entry to No. 12A setback 11.7m. The setback is varied and the two dwellings stepped, which enables the required car parking to be provided whilst respecting the setback of the adjoining dwellings and minimising the amount of building protruding forward of the adjoining building alignment to increase the visual separation.

All side and rear setbacks meet or exceed the DCP requirement, with two attached dwellings permitted.

A submission raised concern regarding the setback to the northern side boundary being insufficient and a large expanse of wall being viewed from the adjoining property. The proposed dwelling No. 12 has been broken up into two components, providing a 3m wide break between walls. The proposed design of the dwelling would not result in a large mass of building being visible from No. 10. In addition, the area adjoining No. 12 comprises a carport, landscaped area and part of the dwelling with one window facing south. The design of the dwellings has had regard to the adjoining properties and incorporates setbacks that are varied and stepped.

### 2.3.2 Overshadowing

The original proposal resulted in some overshadowing of No. 14 Stuart Avenue, and did not provide adequate solar access to the living areas or private open space. The applicant subsequently modified the design to reduce the bulk of dwelling No. 12A, increase side setbacks, reduce the size of the first floor and reduce the internal ceiling heights and roof height to minimise overshadowing impacts. The revised proposal would still overshadow No. 14 Stuart Avenue as it is sited directly to the south, however the elevational shadow diagrams submitted by the applicant and reviewed by Council, confirm that solar access to the living areas of No. 14 would reduce the current impact resulting from the existing dwelling. The living area of No. 14 Stuart Avenue would receive direct sunlight to its window from 12 pm onwards and the private open space would experience minor shadowing to 9 am. The revised proposal meets the minimum solar access requirements of the DCP and no objection was raised from the adjoining neighbour to the south in response to the amended proposal.

A submission raised concerns regarding the need for additional heating, lighting and harsh cleaning products for cleaning as a result of the significant increase in overshadowing. Given the amendments to the proposal, shadow impacts are likely to be similar, or reduced than that from the existing dwelling.

### **2.3.3 Streetscape**

The area is characterised predominantly by single storey cottages, however some two storey dwellings exist, including a two-storey public housing estate located to the rear of the site. The area is likely to be subject to further gentrification due to the lot sizes and the opportunity for future subdivision or multi unit housing.

The proposed setback of the dwellings is in keeping with adjoining dwellings. The single garage and carport for each dwelling is sited closer to the street, however given the constraints of the site and the need for two parking spaces per dwelling with easy access to the street, the car parking would feature at the front of the site. Whilst the setbacks element of the DCP indicates setbacks should allow for parking, the applicant has reduced the prominence of the parking by stepping the two dwellings, providing a single garage and carport instead of a double garage, sited the bulk in the central portion of the site away from neighbours and setback the remainder of the dwellings to minimise the built form at the front of the site.

The proposed design is not monotonous or symmetrical and whilst it is contemporary in appearance, it would compliment the existing streetscape. The DCP encourages a mix of housing types and in order to fit in with the established streetscape, a similar front setback and overall height similar to the existing dwelling and landscaped frontage have been proposed. The proposed materials and finishes compliment the adjoining dwellings, which are light in colour and is in keeping with the materials used in the surrounding area which comprise brick, weatherboard and cladding.

With respect to the issue of the loss of a street tree and the cut required to accommodate a driveway, the excavation has been minimised by the provision of only one driveway for two dwellings and two trees are proposed on the nature strip to replace the one being removed. In addition, a detailed landscape plan indicates the provision of structured planting over the site, with particular attention to the front setback to allow the new dwellings to integrate with the surrounding area and established plantings.

### **2.3.4 Design**

The proposal utilises a variety of roof forms, dwelling No. 12 is stepped back from the street and windows varied to provide a design which is not symmetrical or mirror imaged. The floor layout of the two dwellings vary, however both have a central open portion which accommodates a courtyard and provides solar access to the dwellings and reduces the bulk of the dwellings when viewed from adjoining dwellings. Each dwelling contains a single garage and carport, rather than a double garage to reduce the prominence of the buildings, given the narrow frontage and the limited opportunity for car parking behind the building line.

### **2.3.5 Private Open Space**

The two allotments provide areas of private open space in accordance with the requirements of the DCP being 174m<sup>2</sup> and 203m<sup>2</sup> for No. 12 and 12A respectively. Open space areas are accessible from internal living areas and comply with solar access requirements.

### 2.3.6 Privacy

The design of the proposal has had regard to the privacy of the adjoining properties, as well as each other. The main living areas are orientated to the rear and highlight windows provided to maintain privacy.

Two first floor decks are proposed facing the street. The decks are associated with a bedroom which is not a primary living area. The decks would allow casual surveillance of the street, which is a positive feature with respect to safety and security, however would not result in direct overlooking of adjoining living areas or private open space.

### 2.4 Residential Subdivision Development Control Plan

The proposed development has been assessed having regard to the relevant performance and prescriptive design standards within Council's Residential Subdivision Development Control Plan (Subdivision DCP) and complies with the relevant prescriptive standards. The two lots are regular in shape and each exceed the required minimum lot size of 500 square metres.

## 3. ENVIRONMENTAL IMPACTS

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

### 3.1 Natural Environment

Council's assessment concludes that there are no significant trees on the site and the removal of trees would be acceptable, subject to the implementation of the replacement planting in accordance with the proposed landscape plan. The landscape plan includes new trees, shrubs and groundcovers, with two new street trees and two new trees in the northern and southern corners of the front setback, as well as in the private open space for each dwelling.

### 3.2 Built Environment

The design and built form of the proposal is discussed in detail under Section 2.3 of this report.

#### 3.2.1 Traffic

The RTA's "Guide to Traffic Generating Developments" sets out that residential dwellings have the potential to generate 0.85 vehicular trips during the weekday peak hour. Given that one additional dwelling is proposed in total, the increase in traffic generation is 0.85 vehicles in the peak hour. This traffic generation could be accommodated within the existing road network.

#### 3.2.2 Drainage

The engineering assessment concluded that stormwater can be drained to street gutter independently from the proposed lots and one of the lots is to have an on-site detention system in accordance with the Council's engineering requirements.

**4. SITE SUITABILITY**

Section 79C(1)(c) of the Act requires Council to consider “*the suitability of the site for the development*”. The proposal satisfy’s Council’s prescriptive and performance development standards. The site is considered suitable for multi unit housing, for the reasons detailed in this report.

**5. PUBLIC PARTICIPATION**

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

**5.1 Community Consultation**


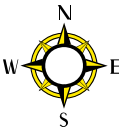
The proposed development was placed on public exhibition and was notified to adjoining and nearby landowners between 10 April 2008 and 15 May 2008 in accordance with Council’s Notification and Exhibition Development Control Plan. During this period, Council received four submissions.

The design was subsequently modified and the amended proposal was notified to adjoining and nearby landowners between 13 October 2008 and 27 October 2008. During this period, Council received one additional submission (from a party that previously made a submission).

The map below illustrates the location of those nearby landowners that made a submission who are in close proximity to the development site.



**NOTIFICATION PLAN**

<ul style="list-style-type: none"> <li>• PROPERTIES NOTIFIED</li> </ul>	<p>X SUBMISSIONS RECEIVED</p>	 <p>PROPERTY SUBJECT OF DEVELOPMENT</p>	
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The four submissions received with respect to the original proposal objected to the development, generally on the following grounds:

- The two storey duplex is out of character with the single storey detached dwelling nature of the area and impacts on streetscape by introducing a new design element into the street.
- Garages and carports project forward of the dwellings, which is not reflected elsewhere in the street.
- The loss of a street tree and excavation into the embankment to accommodate a driveway is not a desirable environmental outcome and removes soft elements from the streetscape.
- Overlooking from the first floor decks.
- Bulky development with an overbearing height and proximity to side boundaries that will dominate the properties either side.
- Loss of privacy to the adjoining dwelling at No. 10 Stuart Avenue.
- Overshadowing of living areas (existing and those under construction) at No. 14 Stuart Avenue between 9 am and 3 pm and rear yard as a result of the height, length and bulk of proposed dwellings.
- Overshadowing will necessitate the use of mechanical heating and lighting and need for harsh cleaning products, which has an additional economic cost for No. 14 Stuart Avenue and additional environmental cost.
- Consideration of energy efficiency is restricted to the future occupants of the development only and not No. 14 Stuart Avenue.
- Concerns regarding the usability of the carports and ease of access, increasing on-street parking.
- On Street parking issues already experienced due to overflow from adjoining Catholic Church.
- No visitor parking, resulting in on-street parking on a narrow and busy stretch of Stuart Avenue.
- Vehicles cannot enter or leave in a forward direction.
- Additional traffic movements generated.
- Does not satisfy the objectives of the zone.
- Out of character with the existing subdivision pattern which is one lot in front and a battleaxe lot at the rear.
- The development should take account of the constraints of the site and not be at the expense of the neighbours.

The amended proposal resulted in one submission being received which objected to the development, generally on the following grounds:

- Dwelling No. 12 is now almost in line with the building alignment of No. 10 Stuart Avenue, however, No. 12A still exceeds.
- The increase in side setback does not provide much more space between No. 10 Stuart Avenue and No. 12 or lessen the expanse of wall when viewed from No. 10.
- Reversal of roof angle of No. 12 reduces shadow of No. 14 Stuart Avenue and the visual impact as viewed from No. 10 Stuart Avenue.
- Development still out of keeping with the streetscape and introduces new element which dominates.



The merits of the matters raised in community submissions have been addressed in the body of the report. It is considered that the issues of objection have been satisfied in the design of the development, or would not warrant refusal of the application.

## 6. THE PUBLIC INTEREST

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

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

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

## 7. CONCLUSION

The application proposes demolition of existing dwelling & construction of multi-unit housing comprising two dwellings and Torrens title subdivision.

The proposal complies with Hornsby Shire Local Environmental Plan 1994 (HSLEP), Council’s Low Density Multi Unit Housing Development Control Plan and Residential Subdivision Development Control Plan.

The amended proposal has regard to the issues raised within the submissions and results in an built form that minimises streetscape and overshadowing impacts.

It is recommended that the application be approved.

ROD PICKLES  
Manager - Assessment Team 2  
Planning Division

SCOTT PHILLIPS  
Executive Manager  
Planning Division

### Attachments:

1. Locality Plan
2. Site Plan
3. Floor Plan
4. Elevation Plan
5. Subdivision Plan
6. Shadow Diagrams
7. Landscape Plan

File Reference: DA/430/2008

Document Number: D01043210

**ITEM 2**

**SCHEDULE 1**

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

<b><i>Plan No.</i></b>	<b><i>Drawn by</i></b>	<b><i>Dated</i></b>
Plan of Detail & Levels	Asher Consulting Pty Ltd	08/03/2007
DA01 A - Site & Roof Plan	Studio4Design	18/09/2008
DA02 A – Floor Plans	Studio4Design	18/09/2008
DA03 A – Elevations & Sections	Studio4Design	18/09/2008
DA04 A – Shadow Diagrams	Studio4Design	18/09/2008
DA05 A – Subdivision Plan	Studio4Design	18/09/2008
DA-06 – Shadow Perspective	Studio4Design	23/09/2008
2008.0310DA1 A – Landscape Plan	TGS Landscape Architects	04/04/2008
SW01 Rev B – Stormwater Management Plan	Mitchell Howes Civil & Structural Engineers Pty Ltd	03/10/2008
SW02 Rev 0 – Details & General Notes	Mitchell Howes Civil & Structural Engineers Pty Ltd	18/03/2008

<b><i>Document No.</i></b>	<b><i>Prepared by</i></b>	<b><i>Dated</i></b>
Statement of Environmental Effects	Studio4Design	March 2008
Schedule of Finishes	Studio4Design	March 2008
Waste Management Plan	Studio4Design	March 2008
BASIX Certificate No. 188959	Department of Planning	01/04/2008
Letter	Studio4Design	18/09/2008

2. All boundaries behind the building line and courtyard areas shall be enclosed with new 1.8m fences at the sole cost of the applicant.
3. A Section 73 Compliance Certificate under the Sydney Water Act 1994 must be obtained from Sydney Water Corporation.

*Please refer to the Building Developing and Plumbing section of the web site [www.sydneywater.com.au](http://www.sydneywater.com.au) or telephone 13 20 92 for assistance.*

4. The redundant gutter and footway crossing must be replaced with integral kerb and gutter. The footway area must be restored by turfing. Works are to be completed prior to occupancy or the issue of a subdivision certificate, whichever occurs first.
5. The concrete vehicular crossing shall be a minimum of 150mm in depth reinforced with F72 steel reinforcing fabric.
6. Any damage caused to Council's assets in the vicinity of the subject site as a result of construction works associated with the approved development is to be repaired by the applicant/developer prior to the issue of the subdivision certificate.
7. The vehicular crossing and the internal driveways are to be designed and constructed in accordance with Hornsby Shire Council Civil Works Specifications and AS 3727 and shall comply with the following requirements:
- (a) Longitudinal sections through the centrelines of the driveways from the street /road to the proposed garages, showing proposed driveway grades and allowing or suitable transition at changes of grades, are to be submitted for consideration with a construction certificate application.

- (b) The maximum grade is to be 25% with maximum transition for changes of grade to be 8% per plan meter.
8. A Traffic Control Plan (TCP), prepared by a qualified work site traffic controller, is to be submitted with any construction certificate proposing works within the public road, demonstrating compliance with the Road & Traffic Authority's Traffic Control At Worksites Manual, 1998, and detailing where required:-
- (a) Public notification of proposed works.
  - (b) Short term (during actual works) signage.
  - (c) Vehicle Movement Plans, where applicable.
    - 1.
  - (d) Pedestrian and cyclist access/safety.

### **Drainage – On Site Detention**

9. Stormwater drainage from the site shall be designed to satisfactorily drain rainfall intensities for an average recurrence interval of 20 years. The design shall:-
- (a) Be in accordance with Hornsby Shire Council Civil Works – Design Specification 1999.
  - (b) Provide for drainage discharge to the existing drainage system (council gutter or easement).
  - (c) Ensure that the development, either during construction or upon completion, does not impede or divert natural surface water runoff so as to cause a nuisance to adjoining properties.
10. The drainage system for one of the lots is to be constructed with an on-site-detention system having a storage/ponding capacity of not less than 5m<sup>3</sup> and a maximum discharge, when full, of 8 litres per second. The system shall be designed by a Chartered Civil/Hydraulic Engineer to the following requirements:
- a) A surcharge/inspection grate is to be located directly above the outlet.
  - b) Stormwater discharge from the detention system is to be controlled via a one metre length of pipe not less than 50mm diameter discharging into a larger diameter pipe capable of carrying the design flow to Council's gutter/stormwater pit.
  - c) Where the OSD system is proposed under the vehicular driveway, the engineer is to certify that the detention tank is structurally capable of withstanding the maximum anticipated traffic load
  - d) Drainage plans must be prepared by a Chartered Civil/Hydraulic.
  - e) An emergency overflow system shall be provided should the system block or surcharge.

- f) The on-site detention systems within private or common courtyard areas must be designed so they do not impact on the amenity of the development or the use of such areas.
- g) A certificate from a Chartered Engineer, confirming that the on-site detention system has been constructed according to construction certificate plans and will function hydraulically in accordance with the approved design plan shall be submitted to Council.
- h) The certificate (OSD) is to include work-as-executed details of the on-site-detention system prepared by a Chartered Engineer/Registered Surveyor and verify that the storage has been constructed in accordance with the design requirements. The details are to show the invert levels of the OSD system as well as the pipe sizes and grades. Any variations must be shown in red and supported by calculations.

*Note: If the OSD system is combined with a rainwater tank (as required by BASIX), the separate volumes are to be clearly indicated in the design.*

- 11. The following documentary evidence is to be obtained and forwarded to the Principal Certifying Authority prior to the release of the subdivision certificate:-
  - a) The submission of a surveyor's certificate stating that no services, drainage lines or access way encroach over the proposed boundary other than as provided for by easements created by the final plan of subdivision.
- 12. The creation of an appropriate 88B restriction as to user and a positive covenant on the title of the land describing the constructed on-site detention system clearly and responsibilities for maintenance and that they are not to be varied without the consent of the Council. Evidence of creation shall be submitted prior to occupation of the premises. The Section 88B restriction and covenant created as part of this consent is to contain a provision that they cannot be extinguished or altered except with the consent of Hornsby Shire Council.
- 13. An interallotment easement to drain water shall be creation if stormwater from one of the lots is drained through the other (not required, if both lots are drained independently to street gutter).
- 14. All building work must be carried out in accordance with the requirements of the *Building Code of Australia*.
- 15. All demolition work is to be carried out in accordance with the applicable provisions of Australian Standard 2601-2001 'The Demolition of Structures'.

*Note: Applicants are reminded that WorkCover NSW requires all plant and equipment used in demolition work must comply with the relevant Australian Standards and manufacturer specifications.*
- 16. On-site signage is required to clearly identify the PCA and the principal contractor (the coordinator of the building work) pursuant to the *Environmental Planning and Assessment Amendment (Quality of Construction) Act 2003*, s157(1)(c1), Cl 98A, 136C & 227A.

17. In order to maintain the amenity of adjoining properties, site works shall be restricted to between 7.00 am and 6.00 pm, Monday to Friday and 8.00 am to 1.00 pm Saturday. No work shall be undertaken on Sundays or public holidays. Plant, goods or materials shall not be delivered to the site outside the approved hours of site works unless otherwise approved by Council.
18. The builder or person who does the residential building work must comply with the applicable requirements of Part 6 of the Home Building Act 1989 and must not contract to do any residential building work unless a contract of insurance that complies with that Act is in force in relation to the proposed work. A copy of the contract of insurance shall be submitted to Hornsby Council before any works commence.
19. Under Section 34 of the Building and Construction Industry Long Service Payments Act 1986 any work costing \$25,000 or more is subject to a Long Service Levy. The levy rate is 0.2% of the total cost of the work and shall be paid to either the Long Service Payments Corporation or Hornsby Shire Council. Under section 109F (1) of the Environmental Planning & Assessment Act, 1979 this payment must be made prior to a construction certificate being issued.
20. To maintain local tree canopy cover, all trees to be removed must be replaced according to the proposed Landscape Plan, TGS Landscape Architects, 4<sup>th</sup> April 2008.
21. The payment of a contribution of \$19,205.85 towards the cost of transport and traffic management, open space and recreation facilities, library and community facilities, civic and urban improvements, bushland regeneration, stormwater drainage and section 94 plan administration in accordance with sections 94, 94B and 94C of the Environmental Planning and Assessment Act, 1979 and the Hornsby Shire Council's Development Contributions Plan 2007-2011. The contribution is based on the following rates:

Dwelling Size	No. of dwellings	Contribution Rate	Total Contribution
>3 bedrooms	1 (2 proposed minus 1 credit)	\$19,205.85	\$19,205.85

The contribution is to be paid by the end of the financial quarter in which the development application was determined and prior to the issuing of the construction certificate. The contribution will be adjusted in accordance with the underlying consumer price index for the subsequent financial quarters.

**Note 1:** *It is recommended that you contact Council on 9847 6030 to ascertain the indexed value of contributions prior to payment.*

**Note 2:** *Council's Contribution Plan can be viewed at [www.hornsby.nsw.gov.au/Building & Development](http://www.hornsby.nsw.gov.au/Building&Development), or a copy may be inspected during business hours at the first floor of Hornsby Shire Council's Administration Building located at No. 296 Pacific Highway, Hornsby.*

**ADVICE****Construction Certificate – Subdivision/Engineering Works**

1. A construction certificate must be obtained from either Council or an Accredited Certifier. Engineering design plans and specifications are to be prepared by a chartered professional engineer for any proposed works. The plans and specifications are to be in accordance with development consent conditions, appropriate Australian standards, and applicable Council standards, in particular “Hornsby Shire Council Civil Works - Design and Construction Specification”. The information that is required to be submitted with a construction certificate is as follows:
  - (a) Copies of any compliance certificates that are to be relied upon
  - (b) Four (4) copies of the detailed engineering plans in accordance Hornsby Shire Council's Civil Works - Design Specification 1999. The detailed plans may include but are not limited to the earthworks, roadworks, road pavements, road furnishings, stormwater drainage, landscaping and erosion control works.
  - (c) Hornsby Shire Council’s approval is required for any works within the public road reserve of Oleander Road or Highlands Avenue prior to the issuing of a construction certificate for these works.

**Road Works (Access Way/Driveway )**

2. Separate applications under the Local Government Act 1993 and Roads Act 1993 must be submitted to Council for approval for the installation of vehicular footway crossings servicing the proposed lots with dwellings.

This application can only be submitted by one of Council’s Authorised Vehicular Crossing Contractors. You are advised to contact Council’s Works Division on (02) 9847 6940 to obtain a list of Council’s Authorised Vehicular Crossing contractors (if Council is engaged for approval of construction certificate, an application is not necessary).

**Tree Preservation Order**

3. A Tree Preservation Order exists within the Hornsby Shire whereby the cutting down, topping, lopping or wilful destruction of any tree exceeding 3.0 metres in height (except where exempt as defined under Council’s Tree Preservation Order ) or substantially altering the soil level around the trunk or within 3 metres of the trunk, without prior written consent is prohibited. Release of the Construction Certificate gives automatic approval to the removal of those trees located on the subject property within 3 metres of the foundation footprint of an approved residential, commercial or community building, garage, in-ground swimming pool or within the alignment of approved vehicular access or parking area. Other trees shall not be removed or damaged without approval being granted under Council’s Tree Preservation Order. Penalties apply for non-compliance.

**- END OF CONDITIONS -**

### **3 HERITAGE ADVISORY COMMITTEE - COMMUNITY REPRESENTATION**

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#### **EXECUTIVE SUMMARY**

Council's Heritage Advisory Committee assists in the assessment of development applications affecting heritage items and heritage conservation areas, educating the community on the importance of heritage conservation, and making recommendations for financial assistance to conserve items of heritage significance.

The Committee's Constitution identifies that the Committee should consist of eleven members, namely, four Councillors, three Council officers, two technical specialists and two community representatives. One of the community representatives has resigned. Accordingly, it is recommended that Council endorse a nominee to fill the community representative vacancy on the Heritage Advisory Committee.

#### **PURPOSE/OBJECTIVE**

The purpose of this report is to evaluate and seek Council's endorsement of a nominee for the vacant voluntary community representative position on the Hornsby Shire Heritage Advisory Committee.

#### **BACKGROUND**

Council's Heritage Advisory Committee was formed in January 1994 under Section 377 of the *Local Government Act 1993*. Members of the Committee are volunteers who assist in the assessment of development applications affecting heritage items and heritage conservation areas, educating the community on the importance of heritage conservation and making recommendations for financial assistance to conserve items of heritage significance.

To ensure that the Committee maintains a balance of membership and equality of representation, the Committee's Constitution states that the Committee shall consist of eleven members, namely:

- \* Four nominated Councillors (minimum of two).
- \* Three officers of Hornsby Shire Council:
  - a representative from Council's Town Planning Services Branch;
  - a representative from Council's Assessment Teams; and
  - a representative from the Hornsby Shire Library.
- \* Two technical specialists from the architectural/planning or other related professions with expertise in heritage.
- \* Two community representatives:
  - a representative from Hornsby Shire Historical Society; and
  - a representative from the general community.



Following the recent resignation of the community representative from the general community, expressions of interest for a community representative were called by letter of invitation to local heritage-related community groups and through an advertisement in the local press. Two submissions have been received.

## **DISCUSSION**

This report discusses the expressions of interest for the vacant community representative and a recommended nominee to be invited to join the Committee.

### **Expressions of Interest for a Voluntary Community Representative**

Expressions of interest were sought via letters of invitation to local heritage-related community groups and advertisements in the local press. The industry groups contacted included historical and conservation societies of Hornsby Shire, civic trusts, and “friends of” groups. Other members of the public were informed via advertisements in the Hills News, Northern District Times and Hornsby Advocate.

The closing date for expressions of interest for the position was 24 October 2008. Written nominations were required to include a summary of the nominee’s relevant experience in community and heritage matters. A summary of the expressions of interest (copy attached) is provided below.

#### ***Anne Conway***

Ms Conway is a resident of Mount Colah and operates as a conservation and environmental consultant. She has held senior roles in various State Government departments, including the former Department of Urban Affairs and Planning where she was the Divisional Manager with responsibility for the Heritage Branch. Ms Conway has also sat on the NSW Heritage Council and has qualifications in the environmental fields. She is also a certified planning professional of the Planning Institute of Australia.

#### ***Kenneth Bradley***

Mr Bradley is a resident of Dural and President of the Dural and District Historical Society. Mr Bradley is a geologist by profession, and has worked locally and internationally in this capacity. Mr Bradley has been involved in local community activities. Elsewhere, his historical interests lead him to be involved in the restoration of the Thai-Burma Railway. Mr Bradley is also on Committees for the Memorial Highway to Canberra and Garden Clubs of Australia.

### **Evaluation/Recommendation**

Each of the applicants has outlined individual skills, experience and interests that would add significant value to the Committee. Mr Bradley demonstrates strengths in local history and involvement in community groups. However, Ms Conway would provide additional technical expertise on heritage matters, particularly in relation to ecological considerations. Ms Conway’s submission demonstrates sound heritage knowledge and experience in working with government agencies involved in heritage conservation. Her relevant work experience and interest in heritage conservation would aid in the assessment of development applications affecting heritage items and heritage conservation areas, educating the community on the importance of heritage conservation and making recommendations for financial assistance to

conserve items of heritage significance. Accordingly, it is recommended that Council invite Ms Conway to participate on the Heritage Advisory Committee as a community representative.

### **TRIPLE BOTTOM LINE SUMMARY**

Triple Bottom Line is a framework for improving Council decisions by ensuring accountability and transparency on social, environmental and economic factors. It does this by reporting upon Council's strategic themes. As this report provides Council with information and does not propose any actions which require a sustainability assessment, no Triple Bottom Line considerations apply.

### **CONCLUSION**

The Heritage Advisory Committee's Constitution identifies that the Committee should consist of eleven members, two of which are community representatives. One of the community representatives has resigned. Accordingly, in September 2008, expressions of interest were invited from interested members of the public for the vacant position on the Committee. Letters were sent to local heritage-related community groups and an advertisement was placed in the local press.

Two submissions have been received. The submissions have been evaluated on the basis of relevant community experience in heritage matters. Ms Anne Conway is recommended as the voluntary community representative for the Committee.

### **RECOMMENDATION**

THAT

1. Ms Anne Conway be invited to participate on the Hornsby Shire Heritage Advisory Committee as a voluntary community representative.
2. Mr Kenneth Bradley be advised of Council's resolution and thanked for his interest in the matter.

JAMES FARRINGTON  
Manager - Town Planning Services  
Planning Division

SCOTT PHILLIPS  
Executive Manager  
Planning Division

#### **Attachments:**

1. Nomination of Mrs Conway
2. Nomination of Mr Bradley

File Reference: F2008/00017

Document Number: D01033391

#### **4 DRAFT AMENDMENTS TO THE COMMUNITY USES DEVELOPMENT CONTROL PLAN - AFTER EXHIBITION**

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##### **EXECUTIVE SUMMARY**

In September 2006, Council adopted the recommendations of the Child Care Planning Review 2006. The Review recommends strategies to better manage the development application process and planning controls that promote high quality child care centres which are compatible with the character of the area.

Draft amendments to the Community Uses Development Control Plan (DCP) that implement the recommendations of the Review were exhibited for public comment in October and November 2008. Four submissions have been received during the exhibition period. In addition, a number of Council's branches reviewed the DCP and offered comment.

A number of minor amendments have been made to address issues identified in the submissions. It is recommended the draft DCP amendments be adopted.

##### **PURPOSE**

The purpose of this report is to advise Council of submissions received in response to the exhibition of draft amendments to the Community Uses DCP.

##### **BACKGROUND**

At its meeting on 3 September 2008, Council considered Executive Manager's Report No. PLN191/08 presenting draft amendments to the Community Uses DCP to implement the recommendations of the Child Care Planning Review 2006. The Review recommends strategies to better manage the development application process and planning controls that promote high quality child care centres. In summary, the draft DCP amendments propose to implement the recommendations of the Review by:

- \* enhancing site selection criteria so that child care centres are not located on battle-axe allotments or quiet cul-de-sac streets;
- \* specifying maximum child care place numbers per centre;
- \* promoting best practice for play space provision;
- \* promoting dwelling-house conversions in preference to purpose built child care centres; and
- \* requiring the submission of technical reports, including contamination and acoustic reports, with child care centre proposals.

Council resolved that:

1. *The draft amendments to the Community Uses DCP attached to Executive Manager's Report No. PLN191/08 be exhibited for a minimum of 28 days in accordance with the consultation strategy outlined in the report.*

2. *Following the exhibition, a report on submissions be presented to Council for its consideration.*

In accordance with Council's resolution, the draft amendments to the Community Uses DCP were exhibited from 7 October to 7 November 2008. Four submissions and comments from Council's Community Services Branch and Environmental Sustainability and Health Team have been received.

## DISCUSSION

The draft amendments to the Community Uses DCP were exhibited at Council's Administration Centre, Council's libraries and on the Council website. Letters were sent to relevant State Government agencies, five child care industry advocacy groups and 29 community groups in the Shire. Four submissions have been received, including submissions from the Community Child Care Cooperative (CCCC), Pennant Hills District Civic Trust (PHDCT) and Beecroft Cheltenham Civic Trust (BCCT).

Relevant Council branches were invited to comment on the draft DCP Amendments. Council's Community Services Branch and Environmental Health and Protection Team made comment. The issues raised in the submissions are addressed below under the corresponding elements in the draft DCP amendments.

### The Plan

The Plan identifies preliminary information concerning where the DCP applies and how it works. Information required with a development application and approvals required for children's services are identified.

### *Information Required with a Development Application*

The information required to be submitted with a development application for a child care centre is identified. Appendix A also provides a summary of the submission requirements.

**Submissions:** Council's Community Services Team notes that the draft DCP amendments require the submission of a number of additional technical reports with child care centre proposals. The Team expresses concern that the additional submission requirements may discourage the establishment of new service providers who may be able to achieve the intent of what Council is trying to achieve without submitting the technical reports.

Council's Environmental Sustainability and Health Team suggest a number of minor amendments concerning setbacks from watercourses, waste disposal and contaminated land.

**Comment:** The additional submission requirements would minimise any potential impacts of child care centres on surrounding properties (eg traffic and acoustic reports). The requirement for technical reports including land contamination, electro magnetic field and air quality reports is aimed at minimising health risks to future users of any proposed child care centre. These reports are only required when there is a potential hazard or risk which warrants further technical investigation.

The minor amendments proposed by Council's Environmental Sustainability and Health Team would clarify existing Council requirements relating to the minimum setback to watercourses, where waste should be disposed and where contamination reports should be submitted with an application.

**Resolve:** It is recommended that minor amendments be made to clarify Council requirements relating to minimum setbacks to watercourses, where waste should be disposed and where contamination reports should be submitted with an application.

### *Approvals Required for Children's Services*

The various forms of children's services classified by the *Children and Young Persons (Care and Protection Act 1998)* and how they relate to Council's planning controls are identified in a table to indicate what approvals are required.

**Submission:** The table identifies that Family Day Care and Home Based Children's Services must comply with the provisions of the Hornsby Shire Local Environmental Plan 1994 (HSLEP) and the Community Uses DCP. The CCCC notes that these forms of children's services are not covered by the same child care requirements as Centre Based Child Care Centres and therefore, should not have to comply with the requirements of the Community Uses DCP.

**Comment:** Family Day Care and Home Based Children's Services constitute a "home occupation" under the HSLEP. These forms of child care must comply with different requirements to that of child care centres in the *Children and Young Persons (Care and Protection Act 1998)* and *Children Services Regulation 2004*. The Community Uses DCP contains controls for child care centres which reflect the provisions contained in the Act and associated Regulations. Accordingly, the table should be amended to remove reference to the need for home based child care to comply with the Community Uses DCP.

**Resolve:** It is recommended that the table identifying approvals required for children's services be amended to remove reference to the need for home based child care to comply with the Community Uses DCP.

### **Site Selection**

Site selection criteria, tailored to the various zones in which child care centres are permitted, are identified to encourage the appropriate location of centres having regard to social and environmental constraints.

**Submissions:** Two submissions express concern that the site selection criteria proposed conflicts with other site selection criteria. A submission suggests that discouraging child care centres from being located in quiet cul-de-sac streets will force child care centres to establish on busy roads. The submission suggests that locating child care centres on busy roads is not a desirable planning outcome as they will be subjected to traffic, safety, noise and environmental pollution issues.

The CCCC suggests that the site selection criteria that encourages child care centres not to be established adjacent to railway lines conflicts with the site selection criteria that encourages child care centres to establish within walking distance to a railway station.

**Comment:** The site selection criteria for child care centres in residential zones encourage child care centres not to be established adjacent to RTA and major roads. Accordingly, the site selection criteria do not promote child care centres to locate on main roads.

Site selection criterion encourages child care centres to establish within a radius of 700m of a railway station and employment centre. A child care centre can locate on many properties

which comply with this site selection criterion that do not adjoin a railway line. Accordingly, there is no conflict between the site selection criteria.

**Resolve:** It is recommended that no amendment be made to the site selection criteria as a result of the submissions commenting on conflicts between site selection criteria.

### Density

Density controls, tailored to the various zones in which child care centres are permitted, are identified to control the size of development and ensure centres are compatible with the character of the area. There are two issues that have been identified in relation to the density provisions, namely:

- \* Maximum child number restrictions; and
- \* Site coverage exclusions.

**Maximum Child Number Restrictions:** Council's Community Services Branch has advised that the Children Services Regulation 2004 has been reviewed and will likely be replaced in 2010. The Branch notes that the likely amendments would make the maximum child number restrictions and best practice recreation space provisions proposed for centres in low density residential areas unviable. The Branch suggests that the provisions proposed be reviewed after the introduction of the amended Regulations.

**Comment:** Changes to the Department of Community Services (DOCs) requirements for child care centres and increasing demand for child care services, resulted in an increase in proposals for purpose built child care centres which no longer have a residential appearance and have caused a number of other unacceptable amenity impacts. Accordingly, Council resolved to undertake a comprehensive review of planning provisions for child care centres.

The Child Care Planning Review 2006 evaluated the economic, social and environmental advantages/disadvantages of various planning options for the provision of child care centres in the Shire. The review included an investigation into the commercial feasibility of establishing child care facilities in various zones (i.e. capital and on-going costs) and the proposed density restrictions for child care centres. Like the 2006 Review, any future review of child care centre planning provisions should be comprehensive, and respond to changes to relevant legislation when issues emerge.

**Resolve:** It is recommended that no amendment be made as a result of comments concerning the need for review of density and best practice recreation space provisions.

**Site Coverage Exclusions:** Submissions from the CCCC and PHDCT recommend that verandahs be excluded for the purpose of calculating site coverage for child care centres. The submissions note that verandahs provide shaded outdoor play areas for children.

**Comment:** The Community Uses DCP includes verandahs for the purpose of calculating site coverage for child care centres. The method of calculating site coverage is consistently applied across all development types in low density residential zones. There are a number of alternative options for the provision of shaded outdoor play areas that do not constitute site coverage such as shade sails. Accordingly, verandahs should not be excluded for the purposes of calculating site coverage for child care centres.

**Resolve:** It is recommended that no amendment be made as a result of the comments concerning the exclusion of verandahs for the purposes of calculating site coverage for child care centres.

### **Hazards/Risks**

Hazard/risk controls are identified for child care centres to minimise the risk to life, public health and the environment from soil and building contaminants, electromagnetic radiation, and air and water pollution. Appendix A provides a summary of the hazard/risk submission requirements.

**Submission:** Council's Environmental Sustainability and Health Team suggests that reference to the NSW Environment Protection Authority's (EPA) Guidelines be included in the element and Appendix A to ensure that a land contamination report is undertaken in accordance with mandated procedures.

**Comment:** It is acknowledged that the element would be improved by referencing the relevant guidelines to ensure that land contamination reporting is undertaken in accordance with EPA requirements.

**Resolve:** It is recommended that the Hazard/Risks element and Appendix A be amended by referencing relevant EPA land contamination guidelines.

### **Site Analysis Criteria for Child Care Centres**

A site analysis having regard to the opportunities and constraints of the site and surrounding area is required to be submitted with a development application for a child care centre. The criteria for assessment in a site analysis are detailed in Appendix B - Site Analysis Criteria for Child Care Centres.

A review of other site analysis elements in best practice DCPs has identified that the criteria should identify the detail a site analysis should include and how it should be used. A site analysis should include an investigation of the site and surrounds to identify the existing characteristics, opportunities and constraints. A site analysis should also include map(s), sketches, photographs and a written statement explaining how the design of the proposal achieves high quality urban and architectural design. A site analysis should be used to assess how the development proposal relates to the immediate surroundings. A site analysis should also be used to produce a design that minimises the negative impact on the amenity of adjoining development. Accordingly, Appendix B should be amended to identify the detail a site analysis should include and how it should be used.

### **TRIPLE BOTTOM LINE SUMMARY**

The Triple Bottom Line (TBL) Statement forms part of Council's efforts towards "creating a living environment". The statement addresses the strategic themes within Council's Management Plan that cover social, environmental and economic factors and the corresponding sustainability questions contained in the TBL checklist.

**Working with our community:** The draft DCP amendments were exhibited in October and November 2008. Advertisements were placed in the Hornsby Advocate, Hills News, Northern District Times and Hills Shire Times and on Council's website. Letters were sent to relevant State Government agencies, five child care industry advocacy groups and 29



community groups in the Shire. The review was displayed at Council's Administration Centre and Council's libraries.

***Conserving our natural environment:*** The draft DCP amendments provide controls to promote high quality child care provision in appropriate locations throughout the Shire to service identified demand and respect environmental constraints.

***Contributing to community development through sustainable facilities and services:*** The draft DCP amendments provide controls to promote high quality child care centres that cater for the current and future needs of the community.

***Fulfilling our community's vision in planning for the future of the Shire:*** The draft DCP amendments provide controls to cater for the current and likely future demand for child care services in the community and at the same time control the location, scale, design, form and layout of child care facilities so that the amenity of surrounding areas is maintained.

***Supporting our diverse economy:*** The draft DCP amendments provide controls to facilitate high quality child care services throughout all areas in the Shire. The provision of child care services supports and contributes to the local economy of the Shire.

***Maintaining sound corporate and financial management:*** There are no corporate or financial issues for Council associated with the preparation of the draft DCP amendments.

***Other sustainability considerations:*** Considerable research and consultation was undertaken as part of the Child Care Planning Review. The Review recommends amendment of the Community Uses DCP in relation to child care centres in accordance with recent trends and best practice. The draft DCP amendments implement the recommendations of the Review.

## CONCLUSION

Draft amendments to the Community Uses DCP that implement the recommendations of the Child Care Planning Review 2006 were exhibited for public comment in October and November 2008. Four submissions and comments from Council branches have been received.

A number of minor amendments have been made to address issues identified in the submissions. The revised draft DCP amendments should be adopted.

## RECOMMENDATION

THAT:

1. The draft amendments to the Community Uses Development Control Plan attached to Executive Manager's Report No. PLN231/08 be adopted with the following amendments:
  - 1.1 clarifying Council requirements relating to minimum setbacks to watercourses, where waste should be disposed and where contamination reports should be submitted with an application under "Information Required with a Development Application";

- 1.2 removing reference to the need for home based child care to comply with the Community Uses DCP in the table “Approvals Required for Children’s Services”;
  - 1.3 referencing relevant Environment Protection Authority land contamination guidelines under the Hazard/Risks element and Appendix A; and
  - 1.4 identifying the detail a site analysis should include and how it should be used under Appendix B - Site Analysis Criteria for Child Care Centres.
2. Submitters be advised of Council’s resolution.

JAMES FARRINGTON  
Manager - Town Planning Services  
Planning Division

SCOTT PHILLIPS  
Executive Manager  
Planning Division

**Attachments:**

1. Draft DCP Amendments

File Reference: F2004/07448  
Document Number: D01043165

## 5 LOCAL DEVELOPMENT PERFORMANCE MONITORING REPORT 2007 - 2008

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### EXECUTIVE SUMMARY

The NSW Department of Planning recently released its annual *Local Development Performance Monitoring Report 2007/08* (DPM Report). The DPM Report provides comprehensive statistics about the processing of development applications and complying development certificates by NSW councils.

An analysis has been undertaken of Hornsby Council's performance in respect of development approvals and related regulatory functions in comparison to other NSW councils. That analysis reveals that Hornsby Council is amongst those councils with the highest number of development applications and legal referrals in the State, however, has below average numbers of complying development and construction certificates.

### PURPOSE

The purpose of this report is to provide an overview of the development performance of Hornsby Council in comparison with other councils in NSW.

### DISCUSSION

The DPM Report collates an array of data on planning determinations, on the size of developments and on the time taken for a variety of categories of applications. Data is presented showing comparisons for all 152 NSW councils and groups of liked size councils.

Under the DMP Report, Hornsby Council is in '*DLG Group 7*', which means; "*a very large urban council on the margin of a developed region/urban centre*". Hornsby Council shares 'Group 7 with Baulkham Hills, Blue Mountains, Campbelltown, Gosford, Liverpool, Penrith and Wyong Councils.

#### Development Applications

Hornsby Council ranked 9<sup>th</sup> (of 152 councils) in the State for the highest number of development applications determined in 2007/08. Hornsby Council determined total of 1,654 development applications. The average number of development applications determined in Group 7 was 1,424.

The total value of all development applications determined by Hornsby Council was \$359m. The value of all development applications determined in the State was \$22.3b and the average value across Group 7 councils was \$332m.

At Hornsby, a total of 95% of development applications were determined by staff under delegated authority with the remaining 5% determined by Council at its Planning Meeting. Across the State, an average of 97% of development applications were determined under delegated authority and in Group 7, an average of 98% of development applications were determined under delegated authority.

At Hornsby, an average of 103 development applications were determined per officer. Across the State, an average of 69 development applications were determined per officer and in Group 7, an average of 89 development applications were determined per officer.

Hornsby Council's mean (gross) determination time for all development applications was 84 days. The mean time across all NSW councils was 74 days and the mean time across Group 7 councils was 68 days. Whilst Hornsby Council has a higher mean determination time for determining development applications, it processes more applications per officer, having a higher (average) value and has a greater percentage of applications referred to a Planning Meeting for determination.

### **Complying Development Certificates**

A total of 74 complying development certificates were issued by private certifiers and Hornsby Council in 2007/08. This is equivalent to 4% of the overall number of applications determined. This is significantly lower than the State average of 11% during 2007/08. In the Group 7 councils, an average of 179 complying development certificates were issued.

### **Reviews and Legal Appeals**

Hornsby Shire Council ranked 2<sup>nd</sup> in the State for the total number of Section 82A reviews considered. A total of 64 reviews were submitted to Hornsby of which 89% were approved following applicants amending proposals to address initial reasons for refusal. This is well above the Group 7 average of 13 Section 82A reviews per council. Across the State, there were 547 (reported) Section 82A reviews lodged with councils. Therefore, Hornsby Council processed 11.7% of all Section 82A reviews across the State.

Hornsby Council is ranked 6<sup>th</sup> in the State for the total number of legal appeals to the Land and Environment Court with a total of 21 appeals lodged. In 2007/08, Council spent \$713,877 defending Class 1 appeals in the Court. Of the appeals lodged, 15 or 71% of Council's appeals were upheld by the Court. This was well above the Group 7 average of 7 appeals per council, in which 44% were upheld by the Court.

### **Construction Certificates**

Hornsby Council did not rank in the top 10 councils for the total number of construction certificates issued. The number of construction certificates issued reduced from 1,224 in 2006/07 to 1,194 in 2007/08, which was slightly lower than the Group 7 councils' average of 1,217 construction certificates. This would indicate Council's increased competition for construction certificate business against private certifiers and a slow down in construction activity in the Shire.

## **REPORT OUTCOMES**

Hornsby Council's development performance in 2007/08 is in part based on the values that Council places against the various criteria measured. For example, whilst Council has a higher mean processing time for development applications than the State and Group 7 councils, Hornsby Council staff process more applications per officer, with a higher average value per application. Council may decide to allocate additional resources in its Planning Division to lower mean processing times. Or, Council may consider that it has the right balance having regard to the competing community and service demands within its finite budget.

Similarly, Council may decide to increase delegations to officers to determine development applications at the expense of community participation at Planning Meetings. Or, Council may consider that it currently has the balance right having regard to the expectations of the local community.

Notwithstanding the above, Council should consider its position regarding those criteria in which Council rests at one end of the spectrum across the State or its Group. In this regard, Council may consider whether there are opportunities to increase the percentage of complying development certificates within the Shire; whether there is an over reliance on the use of Section 82A reviews and whether Council is receiving best value for money in defending decisions in the Land and Environment Court.

As part of Council's continuous improvement program, officers continue to monitor Council's performance in determining development applications and related regulatory functions. That includes the manner in which officers negotiate outcomes with applicants and neighbouring property owners; the manner in which officers use their delegated authority and the planning and financial implications of planning policy recommendations to Council.

### **BUDGET**

There are no direct budget implications from this report.

### **POLICY**

There are no direct policy implications from this report.

### **CONSULTATION**

No consultation was undertaken in the preparation of this report.

The DPM Report to which this report is based is a public document and can be downloaded from the NSW Department of Planning's web site.

### **TRIPLE BOTTOM LINE SUMMARY**

Triple Bottom Line is a framework for improving Council decisions by ensuring accountability and transparency on social, environmental and economic factors. It does this by reporting upon Council's strategic themes. As this report provides Council with information and does not propose any direct actions which require a sustainability assessment, no Triple Bottom Line considerations apply.

### **CONCLUSION**

The Department of Planning's DPM Report provides comprehensive statistics about the processing of development applications and complying development certificates by NSW councils.

The data presents the opportunity to drive process improvements and to identify efficient and effective systems and processes being employed to assess development applications and related regulatory functions across the State.

An analysis of Hornsby Council's performance in respect of development approvals and related regulatory functions in comparison to other NSW councils and its group of councils (Group 7) reveals that Hornsby Council is amongst those councils with the highest number of development applications and legal referrals in the State, however, has below average numbers of complying development and construction certificates.

The values that Council places against the various criteria measured are an outcome of Council's community services priorities and budgetary constraints. As part of Council's continuous improvement program, officers continue to monitor Council's performance in determining development applications and related regulatory functions.

### **RECOMMENDATION**

THAT the contents of Executive Manager's Report No. PLN235/08 be received and noted.

ROD PICKLES  
Manager - Assessment Team 2  
Planning Division

SCOTT PHILLIPS  
Executive Manager  
Planning Division

### **Attachments:**

There are no attachments for this report.

File Reference: F2007/01232  
Document Number: D01044671

## **6 FREQUENCY OF PLANNING MEETINGS**

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### **EXECUTIVE SUMMARY**

As part of Council's continuous improvement programme, it is appropriate that Council reviews its meeting cycles. Given the recent declaration of the new Council, it is considered an opportune time to review the Planning Meeting cycle.

Currently, Council conducts a Planning Meeting on the first and third Wednesdays of each month (excluding January), effectively resulting in a meeting every two weeks. This report examines the benefits and disadvantages of changing the Planning Meeting cycle to one meeting per month.

Due to the downturn in the development industry and therefore the reduction in the number of development applications received coupled with revised administrative arrangements arising from the Department of Planning's 'Planning Reforms' agenda, this report recommends that Council changes its Planning Meeting cycle to one meeting per month.

### **PURPOSE**

The purpose of this report is to evaluate the merits of conducting monthly Planning Meetings

### **HISTORY**

In September 2007, Council considered Executive Manager's Report No. PLN211/07 titled 'Monthly Planning Meetings'. At that time, Council resolved to adopt the Executive Manager's recommendation to maintain its current Planning Meeting cycle.

In June 2008, Council considered Executive Manager's Report No. CC51/08 whereby Council adopted the current meeting cycle until September 2009. That cycle includes two Planning Meetings per month.

### **DISCUSSION**

Local Government responsibilities are placing increasing pressure on elected representatives to attend meetings and to make decisions on a broad range of matters. As community demands increase, Councillors are likely to find it increasingly difficult to allocate time to fully participate in matters. This report provides Councillors with an opportunity to consider whether Council is currently achieving the right balance in committing resources to two Planning Meetings per month having regard to present circumstances in the development industry and other competing demands placed on Councillors.

In recent months Hornsby Council, like most local government areas within metropolitan Sydney, has been experiencing a reduction in the number of development applications received. This has largely been attributed to the downturn in the development industry and the wider financial contraction in the Australian and international economies. Together with a reduction in the number of applications received, the value of development has reduced during this period. Whilst Council continues to receive comparable numbers of applications

for domestic development as was the case twelve months ago, the percentage and value of higher density housing and employment generating development has significantly reduced. Consequently, Council is considering fewer development applications that have the potential to have a significant community impact requiring extensive community consultation.

With the recent change in Council and Executive Manager, Planning position, there has been an opportunity to examine internal procedures and current reporting protocols. That process has included an examination of the use of officer delegations and the complexity of current planning reports. In addition, officers have reviewed the manner and extent to which development outcomes are negotiated at the various stages in the development application process. Combined, the examination of internal procedures and reporting protocols have resulted in the need for less development applications being referred to Council for determination.

In addition to the above, a recent initiative has been the introduction of the *Councillors Weekly Planning Memo*, which provides a new forum for providing regular information to Councillors that do not require a resolution of Council (e.g. Information on the number of development applications received in a nominated period).

In the last twelve months, Councillors have placed 'Red Stickers' against forty one development applications. Of that number, approximately one quarter of the applications are satisfactorily resolved and the Red Sticker is removed. Therefore, an average of three applications a month are required to be referred to Council for determination under the 'Red Sticker' policy.

The combination of the above circumstances has led to a reduction in the number of items being listed on a Planning Meeting agenda. For example, whereas twelve months ago the Planning Meeting agenda contained an average of fifteen items per meeting, recent meetings have had approximately half that number of items.

Should Council decide to reduce the number of Planning Meetings to one per month, Council would have the opportunity to reallocate the 'free' night to other planning matters and/or other Council priorities. Over the next two years, Council will be required to make a number of very significant planning decisions concerning the future direction of the Shire. This includes decisions regarding the Hornsby Housing Strategy, the Sub-Regional Employment Lands Strategy, the Comprehensive Local Environmental Plan and amendments to a number of Development Control Plans. It is envisaged that each of the abovementioned projects will require extensive workshops to gain a better understanding and ultimately consensus on the future direction of the Shire. It is difficult to identify how this can be readily achieved having regard to Council's current meeting schedule.

Discussions with Council's Executive Team lead to a view that should Council resolve to reduce the number of Planning Meetings to one per month, the most appropriate time to hold Planning Meetings would be on the first Wednesday of the month (commencing 4 February 2009).

Notwithstanding the above, there are a number of advantages in maintaining the current cycle of two meetings per month. These include the following.

The reduction of meetings would slightly increase the processing time (by up to two weeks) of approximately half of the development applications that are scheduled to be included on the planning agenda. The Environmental Planning and Assessment Act 1979 prescribes that after a period of 40 days, an applicant that is dissatisfied with Council's non-determination of



a development application has the right to lodge a Class 1 appeal to the Land and Environment Court against Council's deemed refusal of the application. However, in all likelihood, if an applicant is aware of a scheduled meeting date, it is unlikely that such an appeal would be instigated in that two week period. In addition, the increase in processing time for a small number of development applications would have a negligible impact on Council's overall performance in processing development applications. Despite the slightly longer processing time for a small number of development applications, it is likely that the overall processing time for determining development applications would decrease. This would be the result of Council officers having the opportunity to resolve development applications that would otherwise be required to be referred to Council for determination.

The reduction in meetings would increase the number of items on a monthly Planning Meeting agenda, therefore, possibly providing less time for Councillors to consider community submissions and debate the merits of the planning matter before it. However, as stated above, it is anticipated that based on current trends, Council would still only be considering approximately fifteen items per meeting, which is the same as was the case twelve months ago when there were two Planning Meetings per month. Executive Manager's Report No. PLN211/07 reported that (at that time), Planning Meetings containing fifteen items usually finished by approximately 10pm. It is anticipated that under new arrangements, a similar time period would be required in order for Council to conduct the business of the Planning Meeting.

## **CONCLUSION**

Currently, Council conducts two Planning Meetings per month. This report examines the benefits and disadvantages of changing the Planning Meeting cycle to one meeting per month.

Given the current downturn in the development industry, which has resulted in a reduction in the number and complexity of development applications received by Council, coupled with amendments to internal procedures for producing reports and distributing information to Councillors, it is considered appropriate that Council reduce the number of Planning Meetings to one per month. It is considered that there would not be a measurable impact on Council's overall processing times for development applications and that the community would still have a reasonable opportunity to participate in the planning process.

A reduction in the number of Planning Meetings would also provide Council with greater flexibility to schedule other meetings/workshops on a needs basis. Should Council concur with the recommendation in this report, it is recommended that the Planning Meeting occur on the first Wednesday of each month (commencing 4 February 2009).

## **BUDGET**

There would be some administrative and salary savings should Council reduce its Planning Meetings to one per month. However, these savings are not considered to be significant and should not be the determining factor in changing the meeting cycle.

## **POLICY**

There would be no policy implications arising from Council's adoption of the officer's recommendation.

## **CONSULTATION**

Council's Executive Group and senior officers within the Planning Division were consulted in the preparation of this report. There was no external consultation in the preparation of this report.

### **TRIPLE BOTTOM LINE SUMMARY**

Triple Bottom Line is a framework for improving Council decisions by ensuring accountability and transparency on social, environmental and economic factors. It does this by reporting upon Council's strategic themes.

There would be no triple bottom line implications arising from Council's adoption of the officer's recommendation.

### **RESPONSIBLE OFFICER**

The Executive Manager, Planning is responsible for the preparation of this report.

### **RECOMMENDATION**

THAT Council amends its current meeting cycle to one Planning Meeting per month, to be held on the first Wednesday of the month, commencing 4 February 2009.

SCOTT PHILLIPS  
Executive Manager  
Planning Division

### **Attachments:**

There are no attachments for this report.

File Reference: F2005/01146-02  
Document Number: D01049455