

BUSINESS PAPER

PLANNING MEETING

**Wednesday, 4 March, 2009
at 6:30pm**

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QUESTION OF WHICH NOTICE HAS BEEN GIVEN**SUPPLEMENTARY AGENDA****QUESTIONS WITHOUT NOTICE**

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 a 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 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").

If the non-pecuniary interest is significant, the Councillor must:

- a) remove the source of conflict, by relinquishing or divesting the interest that creates the conflict, or reallocating the conflicting duties to another Council official.*

OR

- b) have no involvement in the matter by absenting themselves from and not taking part in any debate or voting on the issue as if the provisions of Section 451(2) of the Act apply.*

If the non-pecuniary interest is non-significant, the Councillor must provide an explanation of why they consider that the interest does not require further action in the circumstances.

POLITICAL DONATIONS DISCLOSURE

Statement by the Chairperson:

"I advise all present that a Political Donations Disclosure Statement pursuant to Section 147(3) of the Environmental Planning and Assessment Act 1979 must be made in the event that a person has made or a Councillor or political party has received a gift or political donation from any person or organisation, including a person or organisation making a submission to an application or other planning matter, listed on the Planning Meeting agenda."

CONFIRMATION OF MINUTES

THAT the Minutes of the Planning Meeting held on 4 February, 2009 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 PLN11/09 DEVELOPMENT APPLICATION - COMMUNITY FACILITY - PLACE OF PUBLIC WORSHIP
24 WILLIAM STREET HORNSBY**

THAT Development Application No. 1635/2008 for Community Facility – Place of Public Worship at Lot 1 DP 869009, 24 William Street, Hornsby be approved subject to conditions of consent detailed in Schedule 1 of this report.

C WARD DEFERRED**Page Number 22****Item 2 PLN6/09 DEVELOPMENT APPLICATION - DEMOLITION OF TWO EXISTING DWELLINGS AND ERECTION OF A SENIORS LIVING DEVELOPMENT
64 AND 64A BEECROFT ROAD BEECROFT**

THAT Development Application No. 1867/2007 for the demolition of existing dwellings and the erection of a seniors living development comprising 11 units with basement carparking and strata title subdivision at lot 1 and lot 2 DP 502773 (Nos 64 & 64A) Beecroft Road, Beecroft, be approved subject to the conditions of consent detailed in Schedule 1 of this report.

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 47**Item 3 PLN13/09 STATE ENVIRONMENTAL PLANNING POLICY
(EXEMPT AND COMPLYING DEVELOPMENT CODES) 2008**

THAT :-

1. A workshop with Councillors be conducted to discuss the implication of *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008*.
2. A further report be presented to Council concerning variations and exceptions to the *SEPP* when the process is identified by the Department of Planning.

CONFIDENTIAL ITEMS**Item 4 PLN18/09 CONFIDENTIAL - ADVICE ON PROSPECTS -
TORRENS TITLE SUBDIVISION OF AN EXISTING MULTI-
UNIT HOUSING DEVELOPMENT
18 FAIRBURN AVENUE WEST PENNANT HILLS**

This report should be dealt with in confidential session, under s10A (g) of the Local Government Act,1993. This report contains advice concerning litigation, or advice that would otherwise be privileged from production in legal proceedings on the ground of legal professional privilege.

QUESTION OF WHICH NOTICE HAS BEEN GIVEN**SUPPLEMENTARY AGENDA****QUESTIONS WITHOUT NOTICE**

**1 DEVELOPMENT APPLICATION - COMMUNITY FACILITY - PLACE OF PUBLIC WORSHIP
24 WILLIAM STREET HORNSBY**

Development Application No:	1635/2008
Description of Proposal:	Community Facility – Place of Public Worship
Property Description:	Lot 1 DP 869009, 24 William Street, Hornsby
Applicant:	Mr Derek Lee c/- Icare Project Management
Owner:	Uniting Church In Australia
Statutory Provisions:	Hornsby Shire Local Environmental Plan 1994 (Residential A - Low Density) (Special Uses A – Community Purposes)
Estimated Value:	\$2,382,000.00
Ward:	B

RECOMMENDATION

THAT Development Application No. 1635/2008 for Community Facility – Place of Public Worship at Lot 1 DP 869009, 24 William Street, Hornsby be approved subject to conditions of consent detailed in Schedule 1 of this report.

EXECUTIVE SUMMARY

1. The application proposes the erection of a new building containing a church, hall, offices, meeting rooms and associated facilities, basement level car park and at grade parking spaces.
2. The proposal complies with Hornsby Shire Local Environmental Plan 1994 (HSLEP) and Council’s Community Uses and Car Parking Development Control Plans, with the exception of landscaped area and car parking.
3. It is recommended that the application be approved.

HISTORY OF THE SITE

On 2 June 2004, Council granted consent to Development Application No. 2389/2003 for the demolition of an existing church and hall and the construction of a new church and hall with basement car parking and associated site works on the subject site. The congregation was limited to 180 seats during weekdays and 220 seats on weekends. The consent has been activated with works underway on the site, including the demolition of the existing church and the removal of trees. The proposed building subject of this application is substantially smaller than that previously approved under DA/2389/2003.

The site was previously used as church. A child care centre associated with the church continues to operate on the site.

THE SITE

The site is known as Lot 1 DP 869009 (No. 24) William Street. It has a total area of 2805 sqm and is located on the north western corner of the intersection of William and Frederick Streets. The site is rectangular in shape and has a 61.36m frontage to William Street and a 45.72m frontage to Frederick Street. Dural Lane adjoins the northern boundary of the site.

The site has a moderate fall of 3.6m from the western boundary to the south eastern corner. Established trees exist along the southern boundary of the site.

The site contains an existing heritage listed house which is currently being used for a child care centre. The existing car parking is comprised of both paved and unmarked parking spaces. The remainder of the site is vacant.

To the north, west and south of the site there are one to two storey dwelling houses. Immediately to the north of the site at the Frederick Street frontage is a dwelling house used for church purposes. To the east is a three storey residential flat building.

THE PROPOSAL

The proposal involves the erection of a new building containing a church and hall with 180 seats, offices, meeting rooms and associated facilities, and a basement level car park containing 18 parking spaces. There are also 18 at grade parking spaces between the child care centre and the new church building.

The site also contains a childcare centre which operates Monday to Friday only and is licensed for 30 children. There are no works proposed for the childcare centre and it is to remain in its present configuration.

The Church accommodates both English and Korean Speaking congregations, comprising approximately 70 to 80 people each. The church is also used on Thursday and Friday mornings, and Wednesday to Saturday evenings, for social groups, meetings, bible study and youth groups. The schedule of main events is as follows:

English Speaking Congregation:

Thursday	Seniors Group	9:30am - 12:30pm (weekly)
	Meetings	7:30pm – 10:00pm (weekly)
Friday	Social Group	9:30am – 11:00am (weekly)

Sunday	Church Service	9:30am – 11:30am (weekly)
	Church Service	6:00pm – 7:00pm (occasional)
Korean Speaking Congregation:		
Wednesday	Church Service	7:00pm – 8:00pm (weekly)
Thursday	Bible Study	7:00pm – 9:00pm (weekly)
Friday	Youth Group	6:30pm – 9:30pm (weekly)
Saturday	Community Group	6:30pm – 9:30pm (weekly)
Sunday	Church Service	12:00pm – 5:00pm (weekly)
	Church Service	6:00pm – 7:00pm (occasional)

No trees are proposed to be removed, with the established band of trees along the southern boundary being retained.

The roof form, colours and finishes of the proposal have been selected to compliment the heritage listed cottage. The walls of the building would be face brick in cream and brown colours with a slate grey colorbond roof. A heritage room is to be incorporated into the new building which would include lead light windows, wood panelling and plaques from the demolished church building. The steeple from the demolished church is also proposed to be reused in the new building.

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 not be inconsistent with the draft Strategy. Whilst no additional dwellings or employment opportunities result from the proposal, the use of the site as a church and child care centre remains and there is potential for additional employment as a result of the new facilities being provided on site for the church activities.

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 Residential A (Low Density) and Special Uses A (Community Purposes) under Hornsby Shire Local Environmental Plan 1994 (HSLEP).

The objectives of the Residential A (Low Density) 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 objectives of the Special Uses A (Community Purposes) zone are:

- “(a) *to provide for the cultural needs of the community.*
- “(b) *to identify land for the provision of community services and facilities.*
- “(c) *to ensure that community uses are compatible with the amenity of the area in which they are located.*”

The proposed development is defined as “place of worship” under HSLEP and is permissible in each zone with Council’s consent.

Almost half of the site is Special Uses A zone and the remainder of the site is Residential A zone, with the following approximate areas for each zone:

Residential A	1420.6m ²
Special Uses A	1384.4 m ²

In accordance with HSLEP the Special Uses A portion of the site is not subject to floor space ratio limitations. The portion of the development which falls within the Residential A zone is required to comply with an FSR of 0.4:1. The proposal achieves a FSR of 0.15:1 within this part of the site as the only floor space is contained within the existing child care centre. The floorspace of the proposed church building is contained wholly within the Special Uses A zone.

Clause 18 of HSLEP sets out heritage conservation provisions within the Hornsby area. The proposal involves alterations and additions to an item of heritage significance listed in Schedule D of the HSLEP. Clause 18(a) of HSLEP requires a development application to be accompanied by a heritage assessment if a heritage item of local significance is involved.

2.2 Sydney Regional Environmental Plan No. 20 – Hawkesbury Nepean River

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

Works would be required to construct the new building and associated car parking. Subject to the installation of sediment and erosion control measures, the water quality within the catchment would be adequately maintained.

2.3 Community Uses and Car Parking Development Control Plan

The proposed development has been assessed having regard to the relevant performance and prescriptive design standards within Council's Community Uses and Car Parking Development Control Plan. The following table sets out the proposal's compliance with the prescriptive standards of the Plan:

Council's Community Uses and Car Parking Development Control Plan			
Control	Proposal	Requirement	Compliance
Floor Space Ratio	0.15:1	0.4:1	Yes
Site Cover	19%	40%	Yes
Setbacks			
Front (William St)	10.52m	6m	Yes
Side (East)	6m	1m	Yes
Side (West)	1m	1m	Yes
Rear (North)	4.28m	3m	Yes
Car Parking Church & Child Care Centre	44 spaces	36 spaces	No
Landscaping	30%	45%	No

As detailed in the above table, the proposed development does not comply with the prescriptive standard relating to landscaped area and car parking within Council's Community Uses DCP and Car Parking DCP. The matters of non-compliance are detailed below, as well as a brief discussion on compliance with relevant performance standards.

2.3.1 Floor Space Ratio

The portion of the development which falls within the Residential A zone is required to comply with an FSR of 0.4:1. The proposal achieves a FSR of 0.15:1 within this part of the site as the only floor space is contained within the existing child care centre. The floorspace of the proposed church building is contained wholly within the Special Uses A zone. The

remainder of the Residential A zone contains car parking, open space for the child care centre and landscaping.

In any regard, the bulk and scale of the development would be in keeping with surrounding development.

2.3.2 Site Cover

The portion of the development which falls within the Residential A zone is required to comply with a maximum site coverage of 40%. Site coverage includes the child care centre and associated deck and verandah in this instance but does not include car parking. The proposed development has a site cover of 19% for the portion of the site within the Residential A zone.

2.3.3 Landscaping

The portion of the development which falls within the Residential A zone is required to comply with a minimum landscaped area of 45%. The proposal provides 30% of the portion of the site zoned Residential A as landscaped area.

The landscaping element of the Community Uses DCP has the following objective:

“To provide attractive landscapes which reinforce the function of a street and enhance the amenity of building and to preserve significant strands of trees or natural vegetation.”

The residentially zoned portion of the site contains all the on-grade carparking and the child care centre, with limited areas of landscaping, with the exception of the William Street frontage. The remainder of the site, in particular the William and Frederick Street frontages are well landscaped and the dense screen of established trees along William Street is being retained. The landscaped setbacks to both streets are being embellished with new trees, shrubs, groundcovers and grass which would compliment the existing trees and provide a landscaped appearance for the site. Screen planting is proposed along the northern boundary to the laneway to provide a buffer to screen the proposed fencing. Landscaping is also proposed surrounding the on-grade parking, with the addition of one shade tree required adjacent to car space 6 within the landscape strip in order to comply with the requirements of the DCP.

The proposed development would result in the increase of quality landscaping on the site given its predominantly vacant nature at present. Adequate setback has been provided from Frederick Street and William Street to allow for the provision of landscaping softening the visual impact of the development from adjoining properties.

The setback along the eastern boundary, adjacent to the building, is occupied by an above ground detention area. This has resulted in the Frederick Street frontage having minimal amenity and screen planting within it. In order to improve the streetscape and treatment of the landscape along this boundary additional screen planting should be provided in association with the detention basin.

It is considered that due to the redesign and subsequent reduction in the size of the building from previously approved and the large setbacks to both streets, that a reduced amount of landscape area is acceptable.

2.3.4 Design

The proposed design of the building is similar in appearance to the previously approved development, however of a smaller scale. The area is characterised by a mixture of one to two storey dwelling houses, three storey residential flat buildings, a church and child care centre. The scale of the surrounding development varies from single to three storeys in height. There is no clear identity for the area which the proposed building could adhere to.

The proposed design of the building provides for good setbacks to ensure retention of established trees along the southern frontage and opportunity for landscaping along the two road frontages and screen planting along the northern boundary to the lane.

The overall height of the Church and hall building remains in accordance with the previous approval. The appearance of the development from the south would be greatly improved due to the proposed construction of a freestanding building rather than being attached to the heritage item as previously approved. The length of the building when viewed from the north has also been reduced and as such would have a reduced visual impact when viewed from the public domain and surrounding properties.

The use of the spire from the recently demolished Church, as well as the incorporation of a heritage room into the building attempts to incorporate the history of the site into the design of the building.

The proposed materials and finishes compliment the area and the adjoining heritage item.

2.4 Car Parking Development Control Plan

The current application is for the proposed construction of a new building containing a church and hall with 180 seats, offices, meeting rooms and associated facilities, and a basement level car park containing 18 parking spaces. There are also 18 at grade parking spaces between the child care centre and the new church building.

The site also contains a childcare centre which operates 7am to 6:30pm, Monday to Friday only and is licensed for 30 children. There are no works proposed for the childcare centre and it is to remain in its present configuration.

The previously approved larger development on the site contained a new church and hall with a total of 44 car parking spaces. The congregation was limited to 180 seats during weekdays and 220 on weekends.

A Traffic and Parking Assessment Report for the proposed redevelopment has been prepared by Varga Traffic Planning Pty Ltd.

Council's Car Parking DCP has the following parking requirements:

Places of Worship	1 parking space per 5 seats minimum (subject to study)
Community Halls	1 parking space per 5 seats minimum (subject to study)
Child Care Centre	1 space per 4 children.

The development generates the following car parking:

Places of Worship	36 spaces
Community Halls	Total 180 seats includes Church and Hall, therefore no additional parking generated.
Child Care Centre	8 spaces.

A total of 44 spaces are generated by the proposal. The proposal provided 36 spaces, which is a shortfall of 8 spaces. The application requests permission for a total of 180 seats in both the hall and church combined.

The parking requirements for a place of worship and community hall however are subject to a parking study. The applicant submitted a Traffic & Parking Assessment Report prepared by *Varga Traffic Planning Pty Ltd* which included a survey of the existing operations on site prior to the recent demolition of the church on site.

The applicant is proposing dual use of the on-grade parking spaces for the child care centre and Church. The peak times for the Church uses are in the evenings after 6:30pm and on weekends. This does not conflict with the use of the child care centre. Further, the child care centre is small in scale providing for only 30 children and requiring 8 spaces. The drop off and pick up times are usually staggered over a two hour period in both the morning and afternoon and parking occurs for a short period of time only. A traffic conflict between the two uses is not envisaged.

A parking accumulation survey was carried within approximately 200m of the church between 7:00 am and 5:00 pm on Sunday 16 November 2008. There are 527 parking spaces located within 200m of the church and more than 300 of these were vacant during both the morning and evening Church services.

Patron accumulation and patron travel mode surveys were carried out on Sunday 16 November 2008. The surveys showed that the equivalent vehicle occupancy was 2.1 and 4.3 patrons respectively for the morning and afternoon services. The parking requirement was 33 and 20 spaces respectively for the morning and evening services. Parking supply proposed is adequate for the current average service at the church. Over time, as the congregation expands, parking would extend to the available on-street and public car park spaces.

Council's Traffic Assessment concluded that there is sufficient additional parking available on-street and within Council's car parks for Easter and Christmas Services. To aid pedestrian access to the Church it is recommended that a pedestrian refuge be constructed on Frederick Street, north of William Street, in line with the existing kerb ramps. The pedestrian refuge is to be designed in accordance with RTA Technical Direction TDT 2002/10, with a median extending 10m north of the ingress driveway. The design is to be approved by Council. This would limit the ingress driveway in Frederick Street to left in only.

The patron accumulation and patron travel mode surveys showed that the equivalent vehicle occupancy was 2.1 and 4.3 patrons respectively for the morning and afternoon services.

The Traffic and Parking Assessment Report assumes average vehicle occupancy over the morning and afternoon services, giving 62 vehicles arriving and 62 vehicles leaving during the peak traffic generation period between the two services. Using the equivalent vehicle occupancy rates determined from the surveys, the traffic generation equates to 42 vehicles

arriving and 86 vehicles departing during the peak traffic generation period 11:30 am - 12:30 pm.

Increases in the Church congregation are likely to occur slowly over a period of years. The traffic generated by the Church is relatively minor and over a short time period on Sundays. The approval is being sought for 180 seats which is well beyond the current congregation size of 70-80 people per service and would accommodate future growth.

Council's Traffic Assessment concluded that traffic generation is not considered an impediment to the operation of the development.

2.5 Heritage Development Control Plan

The property contains a heritage item (former house) of local significance listed under the provisions of Schedule D (Heritage Items) of the HSLEP 1994. The property is also located within the Hornsby West Side Heritage Conservation Area and within the vicinity of properties No. 19 and No. 23 Dural Street, Hornsby and the street trees within the William Street road reserve which are listed as heritage items of local significance.

The roof form, colours and finishes of the proposal have been selected to compliment the heritage listed cottage. A heritage room is to be incorporated into the new building which would include lead light windows, wood panelling and plaques from the existing church building. A steeple is proposed to be relocated from the demolished church and incorporated into the design of the new building.

The proposal was considered by the Heritage Committee. The current proposal provides for a church which is smaller in scale and detached from the heritage listed structure on site, currently used as a child care centre. As such, the proposal provides a more sympathetic relationship to the heritage building and a greater opportunity for landscaping and treatment of the space between the buildings. Accordingly, it was recommended by the Committee that no objection be raised to the proposal on heritage grounds.

3. ENVIRONMENTAL IMPACTS

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

3.1 Natural Environment

3.1.1 Trees

The current proposal does not propose the removal of trees. Development Consent No. 2389/2003 granted consent for removal of trees, with works commenced on site including the removal of those trees granted permission to be removed.

3.2 Built Environment

3.2.1 Drainage

The proposal involves the disposal of stormwater via an on-site detention system which is taken to Council's drainage system.

Council's landscape assessment has concluded that additional planting is required within the area identified as a lawn on-site detention area within the front setback to Frederick Street. The additional landscaping would not conflict with the use of the area for drainage purposes.

3.3 Social Impacts

The social impacts of the development on the local and broader community have been considered with specific reference to the potential employment generation within the complex. The use of the site will remain for a community purpose, providing assistance to the greater community resulting in a positive social impact. The activities on the site do not generate a large amount of employment however some employment opportunities may arise from administrative roles in the office.

The existing child care centre remains on site in its same size, providing employment as a valuable service for the community.

3.4 Economic Impacts

Given the community nature of the development as a Church, significant economic impacts are not likely.

4. SITE SUITABILITY

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

The site is suitable for the continued use as a place of worship and child care centre.

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 2 December 2008 and 24 January 2009 in accordance with Council's Notification and Exhibition Development Control Plan. During this period, Council received no submissions.



NOTIFICATION PLAN

<ul style="list-style-type: none"> • PROPERTIES NOTIFIED 	X SUBMISSIONS RECEIVED	 PROPERTY SUBJECT OF DEVELOPMENT	
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6. THE PUBLIC INTEREST

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

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

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

CONCLUSION

The application proposes the erection of a new building containing a church, hall, offices, meeting rooms and associated facilities, basement level car park and at grade parking spaces.

The proposal complies with HSLEP and Council’s Community Uses and Car Parking DCPs, with the exception of prescriptive landscaped area and car parking development standards.

The proposed landscaping would adequately screen the building and car parking and compliment the development and surrounding area. The retention of existing established trees would aid in softening the appearance of the new buildings, in conjunction with the new planting.

The proposed car parking is adequate for the use of the site with the dual use of parking by both the Church and child care centre due to varying hours of operation.

It is recommended that the application be approved.

Note: At the time of the completion of this planning report, no persons have made a *Political Donations Disclosure Statement* pursuant to Section 147(3) of the Environmental Planning and Assessment Act 1979 in respect of the subject planning application.

ROD PICKLES
Manager - Assessment Team 2
Planning Division

SCOTT PHILLIPS
Executive Manager
Planning Division

Attachments:

1. Locality Plan
2. Site Plan/Floor Plan
3. Basement Plan
4. Landscape Plan
5. Elevation Plans

File Reference: DA/1635/2008
Document Number: D01095926

SCHEDULE 1**GENERAL CONDITIONS****Approved Plans and Supporting Documentation**

- 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:

<i>Plan No.</i>	<i>Prepared by</i>	<i>Dated</i>
08060-DA02-A to 08060-DA06-A	NBRS & Partners	28/11/2008
94/223	McKittrick Fry & O'Hagan	September 2006
08060-DA09A-A to 08060-DA09C-A	NBRS & Partners	3/12/2008
SW-00 to SW-06	Sparks & Partners	28/11/2008
ES-01 to ES-02	Sparks & Partners	28/11/2008

<i>Document No.</i>	<i>Prepared by</i>	<i>Dated</i>
Statement of Environmental Effects	NBRS & Partners	Undated
Traffic & Parking Report	Varga Traffic Planning Pty Ltd	08/12/2008
Heritage Report	Paul Davies Pty Ltd	20/10/2003
Supplementary Heritage Report	NBRS & Partners	14/01/2009
Access Report	Access Associates Sydney	28/11/2008
Acoustic Report	Renzo Tonin & Associates	08/12/2008
Supplementary Acoustic Report	Renzo Tonin & Associates	14/01/2009
Geotechnical Report	Jeffrey & Katauskas Pty Ltd	07/06/2006

- Shade trees must be provided for the open car parking area within the landscape strip adjoining the spaces at a ratio of one shade tree for every six spaces.

REQUIREMENTS PRIOR TO THE ISSUE OF A CONSTRUCTION CERTIFICATE

- All building work must be carried out in accordance with the requirements of the Building Code of Australia.
- Should there be any alternative solutions listed as Category 2 Fire Safety Provisions and outlined in the Environmental Planning and Assessment Regulation 2000, a fire engineering report must be forwarded to the Brigades for comment.

Fire Safety Schedule

- In accordance with clause 168 of the Environmental Planning and Assessment Regulation 2000 fire safety measures must be implemented in the building. A schedule of all proposed and existing Essential Fire Safety Measures to be installed in the building (eg: hydrants, hose reels, exit signs, smoke control systems) shall be submitted with the Construction Certificate application and distinguish between the existing and proposed fire safety measures. Should the Construction Certificate involve the use of an alternate solution, the application must also be accompanied by details of the performance requirements that the alternate solution is intended to meet and the assessment methods used to establish compliance with those performance requirements.

Engineering Works

6. All engineering works required by this must be designed and undertaken in accordance with the relevant aspects of the following documents, except as otherwise authorised by this consent. A Construction Certificate is to be obtained prior to commencement of works.
 - (a) Australian Rainfall and Run-Off 1987
 - (b) Hornsby Shire Council's Design and Construction Specifications 1999

Inspections - Engineering

7. All engineering work required by the consent must be inspected at the "hold points" as nominated in the Hornsby Shire Council Civil Works Construction Specifications 1999. Certificates shall be issued prior to occupancy confirming that the works comply with development consent, construction certificate and Hornsby Shire Council Civil Works - Design and Construction Specification.

Road Works (Driveway, Access, Kerb and Gutter)

8. A separate application under the Local Government Act 1993 and Roads Act 1993 shall be submitted to Council for approval for the following:
 - 8.1 the installation/widening of new/existing vehicular footway crossings, and removal of the any redundant crossings.
 - 8.2 the levels provided by Council are to be used to design the driveway.
 - 8.3 further, evidence of Council's levels being incorporated into the longitudinal section is to be submitted with a construction certificate application.

(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 nominated for approval of construction certificate, an application is not necessary. If Council is engaged to issue a Construction Certificate for the driveway works, an application is not necessary).
9. The vehicular footway crossing, driveway, parking and service areas are to be designed and constructed in accordance with Hornsby Shire Council Civil Works Specifications and Australian Standards 3727 and 2890.1. Details of sections and grades are to be submitted with a construction certificate application.
10. Redundant gutter and/or footway crossings must be replaced with integral kerb and gutter. The footway area must be restored by turfing (new turfs are to be laid where there are no turfs/deteriorated).
11. Construction of kerb, gutter and pavement along the full frontage of Dural Lane in line with the adjoining kerb alignment, together with footpath formation, necessary drainage and sealing of road pavement between the existing pavement and lip of the gutter. The existing road pavement is to be saw cut a minimum of 300mm from the existing edge of bitumen and reconstructed. The works are to be carried out in accordance with Hornsby Shire Council Civil Works specifications and completed prior to issue of an occupation permit.

12. A construction certificate application is to be lodged with Hornsby Shire Council for approval of the kerb and gutter construction works (Council is the only authority to issue a construction certificate within Council's road reserve).
13. A Traffic Control Plan (TCP), prepared by a qualified work site traffic controller, is to be submitted with any construction certificate for works within Council's road reserve or where pedestrian or vehicular movements would be affected, demonstrating compliance with the Road & Traffic Authority's Traffic Control At Worksites Manual, 1998, and detailing:-
 - (a) Public notification of proposed works.
 - (b) Long term signage arrangement.
 - (c) Short term (during actual works) signage.
 - (d) Vehicle Movement Plans, where applicable.
 - (e) Traffic Management Plans.
 - (f) Pedestrian and cyclist access/safety.

Drainage- On –Site-Detention

14. The drainage system to control all collected roof and surface stormwater shall be designed with an on-site-detention system. Stormwater discharge from the development site shall be limited to 5 year ARI (average recurrence interval) pre development level. On site detention storage shall be provided for up to 20 year ARI storm events. Detail calculations are to be submitted with a construction certificate application. The design shall :
 - (a) be in accordance with Hornsby Shire Council - Design Specification
 - (b) Australian Standard 3500.3
 - (c) provide for drainage discharge to Council drainage pit in William or Fredrick Street (not to be discharged to street gutter).

Construction Certificate – Engineering Works

15. 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". Information required to be submitted with a construction certificate is as follows:
 - (a) copies of compliance certificates relied upon
 - (b) 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 for the existing roadworks and public drainage is required prior to the issuing of a construction certificate for these works.

REQUIREMENTS DURING CONSTRUCTION

16. Council and the PCA must be notified immediately should the presence of asbestos or soil contamination, not recognised during the original assessment process be identified during demolition or construction works.
17. The applicant shall protect overland flow paths, drains, adjoining land and downstream water quality from sedimentation. Accordingly, sediment and erosion control measures must be implemented prior to excavation, and maintained during construction.
18. Approved works must be performed in accordance with the Stormwater Management Erosion and Sediment Control Plan prepared by Sparks and Partners dated November 2008.
19. The following sediment control measures are required to be provided in conjunction with the Stormwater Management Erosion and Sediment Control Plan prepared by Sparks and Partners dated November 2008:
 - (a) All runoff and erosion controls are to be installed before any works are carried out at the site.
 - (b) All contaminated surface waters and debris from the site must be screened, collected and pollutants captured within the site.
 - (c) Stormwater kerb inlets and drains receiving stormwater must be protected at all times during work on site.
 - (d) Movement of water must be controlled by diverting upslope clean surface runoff (via diversion drains and sediment fencing) around the disturbed areas.
 - (e) Contamination of surface waters on downslope lands must be mitigated by installing sediment control fences downslope of the disturbed areas to capture sediment and debris escaping from the site.
 - (f) Geofabric sediment fencing must be installed parallel to the proposed works or along the natural contours of the site.
 - (g) Sediment fencing must be secured by post (where metal star pickets are used, plastic safety caps shall be used) at two-metre intervals with the geotextile fabric embedded at 200 mm in soil. One metre returns must be installed at twenty-metre intervals along the sediment fencing.
 - (h) Topsoil stockpiling stripped from the construction site must be diverted away from drainage lines and stormwater inlets, be suitably covered by impervious membrane material and screened by sediment fencing.
 - (i) Driveway access paths must be stabilised with needle-punched geotextile covered by a minimum 150mm thick layer of coarse gravel, aggregate, or recycled crushed concrete.
 - (j) Kerb inlet sediment traps are to be installed downslope of the site to facilitate the capture of sediment.
 - (k) Street sweeping must be undertaken as required along William Street and Frederick Street during and after excavation and construction until the site is fully established.
 - (l) Turfed nature strip areas adjacent to the kerb of the lots under construction shall remain undisturbed during the construction phase.
 - (m) Erosion and sediment control measures must be maintained in good working order, and be repaired or replaced throughout the course of works on site.

- (n) Sediment and erosion controls must be inspected weekly or after each storm event for litter, sediment, and organic waste accumulation. All sediment/debris shall be removed within two (2) working days or when reached 40% capacity.
 - (o) Disturbed areas must be rehabilitated and landscaped with preferably indigenous plant species or other suitable approved stabilising processes within fifteen days of the completion of works.
20. A surcharge/inspection grate is to be located directly above the outlet.
 21. 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.
 22. 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.
 23. Suitable swimming pool standard fencing is to be constructed where the average depth of ponding is to exceed 150mm for 20 year ARI storm.
 24. Where the banks of the ponding area exceed a grade of 1 in 4 they are to be covered by a stable maintenance free surface.
 25. Any imported soils to the subject site must be Virgin Excavated Natural Material (VENM) as defined in Schedule 1 of the Protection of the Environment Operations Act 1997 or a material as approved under the DECC general resource recovery exemption.
 26. All excavated material removed from the site must be classified in accordance with NSW EPA (1999) Environmental Guidelines: Assessment, Classification and Management of Liquid and Non-Liquid Wastes prior to disposal. All excavated material must be disposed of to an approved waste management facility.

REQUIREMENTS PRIOR TO ISSUE OF AN OCCUPATION CERTIFICATE

Fire Safety Certificate – Final

27. In accordance with Part 9, Division 4 of the Environmental Planning & Assessment Regulation, 2000, the owner of the building must, on completion of the building, provide Council with a certificate in relation to each essential fire safety or other safety measure implemented in the building.

Access

28. The development shall comply with the recommendations contained within the Access Report prepared by Access Associates Sydney dated 28/11/2008. Certification is to be submitted to the PCA prior to the issue of an Occupation Certificate.
29. A certificate from a Chartered Engineer of the Institution of Engineers, Australia (also known as Engineers, Australia), 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.

- 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.
30. An appropriate 88B restriction as to user and a positive covenant are to be created on the title of the land describing the 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.
 31. Prior to the issuing of the Final Occupancy Certificate, the completed works shall be inspected and certified by a Registered Landscape Architect or experienced Landscape Architect/Designer as being completed in accordance with the requirements of the Development Consent.
 32. A pedestrian refuge must be constructed on Frederick Street, north of William Street, in line with the existing kerb ramps, with a median extending 10m north of the ingress driveway. The pedestrian refuge is to be designed in accordance with RTA Technical Direction TDT 2002/10 in consultation with Council's Traffic and Road Safety Branch and approved by the Local Traffic Committee.
 33. In accordance with the approved plans, a minimum of 36 car spaces shall be provided on site.
 34. In order to avoid vehicular conflict, the ingress and egress crossings shall be suitably signposted.

OPERATIONAL CONDITIONS

Fire Safety Statement - Annual

35. In accordance with Part 9, Division 5 of the Environmental Planning & Assessment Regulation, 2000, at least once in each period of 12 months after the date of the first fire safety certificate, the owner shall provide Council with a further certificate in relation to each essential service installed in the building.
36. The hall shall be used for only church related functions or for community use and no other commercial purpose.
37. Congregation numbers and the use of the hall shall be limited to 180 persons.
38. The land and adjoining areas are to be kept in a clean and tidy condition at all times. Litter and rubbish shall be placed in containers and removed from the site. A waste storage container is to be provided at the commencement of the building work.
39. The cost of repairing any damage caused to Council's assets as a result of construction works associated with the approved development is to be met in full by the applicant/developer prior to the issue of a subdivision certificate.
40. All noise generated by the proposed development is to be attenuated to prevent levels of noise being emitted to adjacent premises which possess tonal, beating and similar characteristics or which exceeds background noise levels by more than 5dB(A).

41. All public address speakers are to be positioned internally.
42. Operating hours are to be limited to those stated in Renzo Tonin and Associates Response prepared by Martin Cole, Renzo Tonin and Associates Pty Ltd dated 14 January 2009.

Boundary Planting (Eastern Boundary - Frederick Street)

43. Landscape planting around the edge of the entire detention area (notably along the boundary and in front of the building) shall include:

- * 50 Syzgium 'Aussie Boomer' planted at 1 metre centres. Shrubs to be installed at minimum pot size of 25 litres.

Tree planting to the detention basin shall include:

- * Stenocarpus sinuatus planted at 4 metre centres. Trees to be installed at minimum pot size of 25 litres to ensure adequate screen planting is provided to boundary.

Landscape Works to all Areas

44. Excepting the above specific requirements, all landscape works shall also meet the minimum construction standards identified in the Hornsby Shire Council Landscape Code for Development Applications including the construction of mulched planter beds, planting of trees in minimum 25 litre pot sizes, shrubs in minimum 5 litre pot sizes and groundcovers in minimum 150mm pot sizes in the densities identified in the submitted landscape plans and to ensure appropriate size and density of planting in landscape works.

The landscape works shall be maintained into the future to ensure the establishment and successful growth of plant material to meet the intent of the landscape design.

45. All vehicles shall enter and exit the site in forward direction.
46. All off-street carparking including the provision of aisle, ramps and access driveways shall comply with Australian Standard AS 2890.1:2004 Off-street car parking.

- END OF CONDITIONS -

ADVISORY NOTES

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

A. Environmental Planning and Assessment Act 1979 Requirements

The Environmental Planning and Assessment Act 1979 requires you to:

- (a) Obtain a construction certificate prior to the commencement of any works. Enquiries regarding the issue of a construction certificate can be made to Council's Customer Service Centre on 9847 6760.
- (b) Nominate a principal certifying authority and notify Council of that appointment prior to the commencement of any works.
- (c) Give Council at least two days notice prior to the commencement of any works.
- (d) Have mandatory inspections of nominated stages of the construction inspected.
- (e) Obtain an occupation certificate before occupying any building or commencing the use of the land.

B. Long Service Levy

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 0.35% of the total cost of the work and must 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 (Clause 98(1)(b) of the Environmental Planning and Assessment Regulation 2000).

C. Road Opening Permit

A road opening permit is to be obtained from Council's Work Division for connection of internal drainage system to the Council pit within its road reserve.

D. Site Works

No site works, including the removal of vegetation or any demolition works, shall be commenced prior to:

- * A construction certificate being issued.

E. Principal Certifying Authority

Before any construction works commence, you are required to appoint a Principal Certifying Authority as required by section 81A of the Environmental Planning & Assessment Act, 1979. The Principal Certifying Authority is responsible for ensuring that all the works are carried out in accordance with the approved plans and specifications.

F. Notifying Council of Commencement of Works

It is a requirement of the Environmental Planning and Assessment Act, section 81A(2)(c) that you notify Hornsby Council at least two (2) days prior to the intention to commence works.

Where works are to be undertaken in a public place, such notice must be accompanied by evidence of the contractor's Public Liability and Workers' Compensation Insurances. The public risk policy shall be such an amount as determined by Council (not being less than \$10,000,000.00) and shall cover the owner and the Council against any injury, loss or damage sustained by any person, firm or company.

G. Plans on Site

A copy of all approved plans, specification and documents (including the construction certificate if required for the work incorporating certification of conditions of approval) shall be kept on site at all times so as to be readily available for perusal by any officer of Council or the Principle Council/Accredited Certifier.

2 DEVELOPMENT APPLICATION - DEMOLITION OF TWO EXISTING DWELLINGS AND ERECTION OF A SENIORS LIVING DEVELOPMENT 64 AND 64A BEECROFT ROAD BEECROFT

Development Application No:	DA/1867/2007
Description of Proposal:	Demolition of two existing dwellings and erection of a seniors living development comprising 11 units with basement carparking and strata title subdivision.
Property Description:	Lot 1 and Lot 2 DP 502773 (Nos. 64 and 64A) Beecroft Road, Beecroft
Applicant:	P S Graham and Associates
Owner:	Mr J J Udovicic
Statutory Provisions:	Hornsby Shire Local Environmental Plan 1994 Residential AS (Low Density – Sensitive Lands)
Estimated Value:	\$2.17m
Ward:	C

RECOMMENDATION

THAT Development Application No. 1867/2007 for the demolition of existing dwellings and the erection of a seniors living development comprising 11 units with basement carparking and strata title subdivision at lot 1 and lot 2 DP 502773 (Nos 64 & 64A) Beecroft Road, Beecroft, be approved subject to the conditions of consent detailed in Schedule 1 of this report.

EXECUTIVE SUMMARY

1. The application proposes the demolition of two existing dwellings and the erection of a seniors living development comprising 11 units with basement carparking and strata title subdivision.
2. The application was deferred by Council on 3 September 2008 to enable the applicant to prepare amended plans.
3. The proposal complies with the design principles and standards pursuant to SEPP (Housing for Seniors or People with a Disability) 2004 other than the floor space ratio standard, which is subject to a SEPP 1 objection.

4. The SEPP 1 objection submitted in respect to non-compliance with the floor space ratio standard is supported.
5. No submissions have been received in respect of the application or the amended plans.
6. It is recommended that the application be approved.

HISTORY OF THE APPLICATION

On 3 September 2008 Council's Planning Committee first considered the subject application and resolved:

“THAT consideration of this matter be deferred to enable the applicant to prepare amended plans, as advised in the applicant's letter dated 21 August 2008, and to address the seniors living SEPP planning and design issues raised in the subject report.”

The applicant submitted amended plans on 19 November 2008 which were notified for 14 days. There were no submissions received in response to the amended plans.

THE SITE

The site has an area of 1,823.7m² is regular in shape and comprises two existing lots, one a battleaxe shaped lot, on the western side of Beecroft Road. The battleaxe shaped lot has an average fall of 4.6% to the rear of the site. The front lot has a fall of 7.3% to the frontage. The site has a 21m wide frontage to Beecroft Road and a depth of 86.8m.

The existing dwellings on the subject site do not contribute to the heritage significance of the conservation area. There are no significant trees on the site, existing vegetation comprises exotic species.

St John's Anglican Church on the corner of Beecroft Road and Chapman Avenue adjoins the northern boundary of the site and is a heritage item. Opposite the site is the Beecroft Commercial Centre and residential property comprising detached dwellings north of the shopping centre, including No. 83 Beecroft Road, a heritage item. The site is within a heritage conservation area.

The western side of Beecroft Road south of the site includes 3 storey residential flat buildings south of Hannah Street. These buildings are opposite the Beecroft Commercial Centre and are complimentary in scale and contribute to the built-up character of the suburban centre along its western edge.

THE PROPOSAL

The proposal as amended is for the demolition of two existing dwellings and the erection of a seniors living development comprising a one and two storey building with basement car parking and comprising 11 self care units. The units include 9 x 2 bedroom dwellings and 2 x 3 bedroom dwellings. There are 17 car parking spaces. The building is setback 14m-15m from the frontage to Beecroft Road. The proposal includes strata title subdivision.

The proposed building is of brick construction with terra cotta tiled roof. The building includes a mix of brick and sandstone finishes and includes timber louvered screens, which

create interest and good aesthetics. The proposed single and two storey elements provide transition to surrounding buildings and the streetscape.

The proposed building is forward of the existing dwelling at the frontage and would form a visual element to neighbouring properties which have substantial front setbacks (refer to comments in Section 2.2.2).

The amended proposal maintains the same rear and side setbacks, floor plan and private open space, topmost ceiling height, landscape plan, materials and finishes; as the plans previously considered by Council. The amended proposal seeks to address Council's previous concerns regarding; the need to maintain residential character with regard to the existing building line, regard to the surrounding heritage conservation area and heritage buildings, including St John's Anglican Church, and to have regard to the streetscape. Concerns were also raised regarding non-compliance with the floor space ratio standard under Clause 50 of the seniors living SEPP and the access requirements.

The applicant submitted an access report prepared by *Access Associates Sydney* on 20 January 2009 together with requested engineering information. The revised SEPP 1 objection was submitted on 23 January 2009.

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 11 seniors living dwellings 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 Residential AS (Low Density – Sensitive Lands) under Hornsby Shire Local Environmental Plan 1994 (HSLEP). The objectives of the Residential AS zone are:

- (a) *to provide for the housing need 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 and sensitive to the land capability and established character of this environment.*
- (c) *to provide for development that is within the environmental capacity of a sensitive low density residential environment.*

The proposed development is defined as ‘housing for aged or differently abled persons’ under the HSLEP and is permissible in the zone with Council’s consent.

Certain provisions under the HSLEP are not applicable to the proposal as State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004, prevails to the extent of any inconsistency with the Policy.

2.2 State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004

The SEPP is the overriding planning instrument for the development of housing for aged and disabled people in NSW and provides for hostels, residential care facilities (nursing homes) self contained dwellings and multi-storey buildings. The SEPP is comprehensive in scope including land use planning provisions, design principles, development standards and standards specifically to meet the housing needs of aged and disabled people. The SEPP also includes design guidelines for infill development such as the proposed development.

The proposed development has been assessed having regard to the relevant standards within the SEPP. The following table sets out the proposal’s compliance:

SEPP (Housing for Seniors or People with a Disability)			
Control	Proposal	Requirement	Compliance
Site Area	1,824.4m ²	1,000m ²	Yes
Site Frontage	21m	20m	Yes
Floor Space Ratio	0.595:1	0.5:1	No
Height	6.4m	8m	Yes
Private Open Space	Gnd Flr >35m Ist Flr 10m-13.6m	15m 10m	Yes Yes
Deep Soil Landscaping	45%	15%	Yes

Solar Access	100% of dwellings	70% of dwellings	Yes
Car parking	17 spaces	12 spaces	Yes

As noted in the above table, the proposed development complies with the standards within the SEPP other than the floor space ratio of the building. The non-compliance is subject to a SEPP 1 objection and discussed in Section 2.3 of this report.

The amended plans have been assessed with regard to the issues raised in the previous report to Council and the relevant SEPP provisions, as follows:

2.2.1 Accessibility

The applicant submitted an access report prepared by *Access Associates Sydney*. The report includes an assessment of the amended proposal with regard to the statutory framework for access for people with a disability and the need for the provision of a continuous path of travel, as follows:

- *From points of arrival and links from public transport and local facilities to residential unit entrances.*
- *From accessible visitor parking space and resident parking area.*
- *To and throughout each apartment.*
- *To all communal areas including garbage disposal, landscaped seating areas and letterboxes.*

The access report notes identifies locations where repairs and modifications are required to the footpath and kerb to gain access to services located in the Beecroft Commercial Centre.

The report includes recommendations for the proposed development to comply with the access standards for people with a disability. A condition is recommended requiring compliance with the recommendations contained within the access report.

2.2.2 Neighbourhood amenity and streetscape

The amended proposal is for the building to be setback 14m-15m from the frontage and for hipped tile roof for the single and two storey components of the building. The amended proposal features more distinctive elements to the building facades which creates greater architectural interest and relates the development to the surrounding built form, including St John's Anglican Church.

The proposed front setback is more in keeping with the substantial setbacks (25m-30m) of adjoining properties than the original proposal and is considered acceptable.

The proposed basement carpark is above ground level and extends 6m forward of the building in the streetscape. At the frontage the section of elevated basement is 1.3m to 1.9m above finished ground level. The basement car park entry is 1.2m below the top of the basement wall and is partially below street level. The basement level is finished in sandstone block and is screened by landscaping and a sandstone feature wall along the frontage. It is considered the elevated basement section of the building at the frontage would not be dominant in the streetscape or detract from the appearance of the building.

The amended proposal contributes to the built form of the locality and has regard to the predominant character of the heritage conservation area. At its meeting on 1 December 2008, Council's Heritage Committee resolved that no objections be raised to the amended proposal.

It is considered the amended proposal now meets the relevant design principles under Clause 33 of the SEPP. As noted in the previous report, the proposed development complies with the SEPP requirements in respect to; visual and acoustic privacy, solar access and design for climate, stormwater, crime prevention and waste management.

2.2.3 Visual and acoustic privacy

The site has frontage to Beecroft Road and is impacted on by road noise. Subject to appropriate acoustic design, road noise would not detract from the residential acoustic environment. Compliance with Council's Code for Sound Insulation of Residential Buildings and the recommendations of the acoustic report submitted with the application is recommended as a condition.

2.2.4 Solar Access and design for climate

The change in roof form from the original proposal does not significantly alter solar access of adjoining property in winter. The provision for solar access complies with the seniors living SEPP requirement and Council's Dwelling House DCP requirement.

2.2.5 Stormwater

In compliance with the SEPP the proposal includes rainwater storage for recycled water use. A condition is recommended for stormwater detention to minimise impacts on downstream water quality.

2.2.6 Crime prevention

The proposed dwellings comply with the security and crime prevention design requirements of the seniors living SEPP.

2.2.7 Waste management

The proposed waste storage room is adequate for the waste generated by the proposed dwellings subject to recommended conditions.

The proposed development involves the demolition of the two existing dwellings and a condition is recommended for compliance with the Waste Management Plan submitted with the application.

2.2.8 Standards that cannot be used to refuse development consent for self-contained dwellings

The proposed development complies with the SEPP development standards in respect to landscaped area, deep soil zones, solar access, private open space and car parking provision.

The amended proposal reduces the number of dwellings from 12 to 11 and the floor space area from 1,149.6m² to 1,085.5m². The proposed floor space ratio is 0.59:1 in non-compliance with the 0.5:1 floor space ratio required pursuant to Clause 50(b) of the SEPP.

The non-compliance is the subject of the applicant's objection to the standard submitted under SEPP 1 – Development Standards. The non-compliance is considered acceptable (refer to discussion in Section 2.3).

2.3 State Environmental Planning Policy No. 1 – Development Standards

The applicant has submitted an objection to compliance with the maximum 0.5:1 floor space ratio standard pursuant to Clause 50 of the Seniors Living SEPP.

The application has been assessed against the requirements of SEPP 1. This policy provides flexibility in the application of development standards in circumstances where strict compliance with those standards would, in any particular case, be unreasonable or unnecessary or tend to hinder the attainment of the objectives of the Act.

The Land and Environment Court has expressed the view that there are five different ways in which an objection may be well founded and that approval of the objection may be consistent with the aims of the Policy:

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

It is considered that the first and second points above are relevant matters to consider in respect to this application.

The applicant's grounds for the objection are as follows:

The standards nominated in Clause 50 are standards that if met by the proposed development cannot be used to refuse development consent.

This does not mean that if a standard has not been met then the development should be refused. The standards should be considered as a whole as together they comprise the underlying objectives of the SEPP (Senior Living) 2004 standards.

The FSR is 0.595:1.

The development has been reduced from 12 units to 11 units as the FSR at 12 units exceeded the standard. Further reduction of the building will compromise dwelling standards. The current FSR of 0.595 exceeds the standard by 0.095:1.

The FSR non compliance does not prevent the proposal from meeting all other objectives nominated in Clause 50. The underlying objectives of Clause 50 have been achieved without the numerical compliance of 0.5:1 FSR.

Strict compliance with the FSR in this instance is unreasonable and unnecessary.

Non compliance with the development standard does not raise any matter of significance for state or regional planning.

Granting of consent to this development would be consistent with the SEPP 1 Policy's aim of providing flexibility in the application of planning controls where strict compliance with the 0.5:1 FSR would be unreasonable and unnecessary or tend to hinder the attainment of the objects specified in S5(a)(i) & (ii) of the Environmental Planning & assessment Act 1979.

The proposed development complies with the seniors living SEPP development standards other than the floor space ratio standard. The proposed building includes a basement carpark which reduces the footprint of the building, than would otherwise be the case with garaging at ground level. The proposed built form with basement car parking enables a greater area for landscaping and private open space than that required by the SEPP. The amended proposal features a tiled hipped roof, a greater front setback and architecturally is a better response to the surrounding built form than the previous proposal. The amended proposal is satisfactory in respect to the SEPP design principles under Part 3 Division 2 of the Policy, particularly with regard to the heritage streetscape and the character of surrounding development.

Strict compliance with the floor space ratio standard would not achieve any greater benefit in respect to residential amenity or the character of the built form of the locality. The submitted objection to the development standard is therefore considered well founded. Refusal of the application on grounds of non-compliance with the floor space ratio standard is considered unwarranted.

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

The site does not include any indigenous trees or native vegetation. The proposal involves the removal of 12 existing exotic trees that are not identified as significant trees. The submitted landscape concept plan includes plant species appropriate to the development and the locality.

3.2 Built Environment

3.2.1 Heritage

The Heritage Committee commented on the amended proposal as follows:

‘At its meeting on 1 December 2008, the Heritage Advisory Committee commented that the amended plans provide for an increased setback, greater landscaped areas at the frontage, and a hipped roof form and materials which are more in keeping with

the character of the surrounding Conservation Area. The Committee generally agreed that the proposal would not have an adverse impact upon the significance of the heritage items within the vicinity or the character of the Conservation Area. Accordingly, the Committee resolved that no objections be raised to the proposal on heritage grounds.'

The officer's assessment concurs with the opinion of the Heritage Committee. The amended proposal is considered satisfactory in respect to the requirements of the Seniors Living SEPP under Clause 33(b).

3.2.2 Solar Access

The applicant submitted shadow diagrams for the amended proposal which demonstrate that the solar access of neighbouring residential properties complies with Council's requirement for 4 hours of sunshine to private open space on 22 June.

3.3 Traffic and Road Safety

The amended proposal, in respect to the Beecroft Road frontage and access to the development, is essentially the same as the previous proposal, considered by Council's Traffic and Road Safety Branch and the NSW Roads and Traffic Authority (RTA).

The RTA commented on the proposal involving Beecroft Road, a classified road, pursuant to Section 138 of the Roads Act 1993. The RTA raised no objection to the proposal subject to recommended conditions to address pedestrian safety at the frontage and compliance with the RTA standards.

Council's Traffic and Road Safety assessment concluded the proposal is essentially a low traffic generating development, complies with the Seniors Living SEPP car parking requirement and includes a driveway gradient of 1 in 20 which allows an appropriate sight line for exiting vehicles at the Beecroft Road frontage. Accordingly, the development would not adversely affect traffic movements on or within the vicinity of Beecroft Road. A condition is recommended for 'right turn only' for vehicles exiting onto Beecroft Road.

3.4 Social Impacts

The proposed dwellings provide self care accommodation for independent living of seniors or people with a disability, in close proximity to shops, medical services, public transport, community and recreation facilities.

The proposal would be of positive social benefit in increasing the range of well located housing designed specifically to meet the housing needs of people over 55 or people with a disability.

3.5 Economic Impacts

The proposed development would be of positive economic impact in providing employment opportunities during construction of the development.

4. SITE SUITABILITY

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

The site is identified with development constraints in accordance with Council's Land Sensitivity Study, which records ratings of Level 3 for Soil Dispersibility and Level 2 Soil Landscapes. The proposed basement carpark involves excavation to a depth of 2m to 4m. Subject to the implementation of soil and water management measures during construction of the development, together with a geotechnical engineering assessment for the foundations of the proposed building, the development constraints would be addressed.

The residential site is otherwise considered suitable for the proposed development and is well located in respect to access to shops, medical, community and recreation facilities.

5. PUBLIC PARTICIPATION


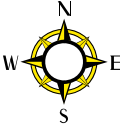
Section 79C(1)(d) of the Act requires Council to consider "*any submissions made in accordance with this Act*".

5.1 Community Consultation

The proposed development was placed on public exhibition and was notified to adjoining and nearby landowners between 16 January 2008 and 6 February 2008 in accordance with Council’s Notification and Exhibition Development Control Plan. Subsequent amended plans were notified 25 July 2008 to 8 August 2008 and 20 November 2008 to 4 December 2008. There were no submissions received in response to the original proposal or the amended plans. The map below illustrates the location of properties notified.



NOTIFICATION PLAN

<ul style="list-style-type: none"> • PROPERTIES NOTIFIED 	X SUBMISSIONS RECEIVED	 PROPERTY SUBJECT OF DEVELOPMENT	
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5.2 Public Agencies

The application was referred to the NSW Roads and Traffic Authority pursuant to Section 138 of the Roads Act 1993.

The RTA advised it had no objections to the proposed development and recommended conditions in respect to traffic safety at the Beecroft Road frontage.

6. THE PUBLIC INTEREST

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

The public interest is an overarching requirement, which includes the consideration of the matters discussed in this report. Implicit to the public interest is the achievement of future

built outcomes adequately responding to and respecting the future desired outcomes expressed in environmental planning instruments and development control plans.

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

CONCLUSION

Consent is sought for the demolition of two existing dwellings and the erection of a seniors living development containing 11 self care dwellings, and strata title subdivision.

The proposed development adjoins St Johns Anglican Church, Beecroft, which is an item of environmental heritage and is within a heritage conservation area. The proposal has been the subject of previous consideration by Council's Heritage Committee and amendments to address concerns raised by Council. The amended development as now proposed addresses the concerns previously raised by Council in respect to mitigating the heritage impact. The amended proposal complies with the seniors living SEPP other than the required maximum floor space ratio of 0.5:1. The non-compliance is considered acceptable with regard to the submitted SEPP 1 objection.

The proposal has been publicly notified on three occasions and there were no objections received in response to the public exhibition process.

The proposed development provides for high quality housing for seniors or people with a disability in close proximity to the Beecroft Commercial Centre, public transport and recreation facilities and is therefore recommended for approval.

Note: At the time of the completion of this planning report, no persons have made a *Political Donations Disclosure Statement* pursuant to Section 147(3) of the Environmental Planning and Assessment Act 1979 in respect of the subject planning application.

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. Elevations
5. Landscape Plan
6. Shadow Plan

7. Photomontage

File Reference: DA/1867/2007
Document Number: D01082345

SCHEDULE 1**GENERAL CONDITIONS****Approved Plans and Supporting Documentation**

- 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:

<i>Plan No.</i>	<i>Prepared by</i>	<i>Dated</i>
Dwg No. 02 Rev 6 Floor Plans	OPRA Architects	10.11.08
DWG No. A-03 Elevations & Section	OPRA Architects	17.10.08
Soil & Water Management Plan	P S Graham & Associates	9-6-2006
LPDA 08-129 Landscape Plan	Conzept Landscape Architects	May 2007

<i>Document No.</i>	<i>Prepared by</i>	<i>Dated</i>
D00856969 - Noise Assessment	Acoustic Services Pty Ltd	11 February 2007
D01085227 - Review of Access for People with a Disability	Access Associates Sydney	November 2008
D01095999 – Materials & Finishes	OPRA Architects	10.02.09

Plans on Site

- A copy of all approved plans, specification and documents (including the construction certificate if required for the work incorporating certification of conditions of approval) shall be kept on site at all times so as to be readily available for perusal by any officer of Council or the Principle Council/Accredited Certifier.

REQUIREMENTS PRIOR TO THE ISSUE OF A CONSTRUCTION CERTIFICATE

- The landscape plan dated May 2007 shall be amended to address the amended floor plan dated 10.11.08, in particular the residents garden and common garden areas on the elevated basement extension of the building at the frontage. Details are to be submitted with the application for a Construction Certificate.

Dilapidation Report

- A Dilapidation Report is to be prepared by a chartered professional structural engineer, detailing the structural condition of adjoining properties, including Council's property, and their ability to withstand the proposed excavation. This report must include any measures required to be incorporated to ensure that no damage will occur during the course of works. Excavation works shall take place in accordance with the recommendations of the report.
- Foundations of the structures are to be designed in accordance with the recommendations of a Chartered Geotechnical Engineer of the Institution of

Engineers, Australia.

Building Code of Australia

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

Should there be any alternative solutions listed as Category 2 Fire Safety Provisions and outlined in the Environmental Planning and Assessment Regulation 2000, a fire engineering report should be forwarded to the Brigades for comment under Clause 144 of the Environmental Planning and Assessment Regulation 2000.

Fire Safety Schedule

7. In accordance with clause 168 of the Environmental Planning and Assessment Regulation 2000 fire safety measures shall be implemented in the building. A schedule of all proposed and existing Essential Fire Safety Measures to be installed in the building (eg: hydrants, hose reels, exit signs, smoke control systems) shall be submitted with the Construction Certificate application and distinguish between the existing and proposed fire safety measures.

Sydney Water

8. The approved plans must be submitted to a Sydney Water Quick Check agent or Customer Centre to determine whether the development will affect Sydney Water's sewer and water mains, stormwater drains and/or easements, and if further requirements need to be met. The approved plans will be appropriately stamped. For Quick Check agent details please refer to "Your Business" section of Sydney Water's web site at www.sydneywater.com.au then see Building & Renovating under the heading Building & Renovating, or telephone 13 20 92.

Long Service Levy

9. 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 0.35% 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.

Engineering Works

10. All engineering works required by this consent must be designed and undertaken in accordance with the relevant aspects of the following documents, except as otherwise authorised by this consent. A Construction Certificate is to be obtained prior to commencement of works.
 - (a) Australian Rainfall and Run-Off 1987
 - (b) Hornsby Shire Council's Design and Construction Specifications 1999
11. The internal driveway and parking areas are to be designed and constructed in accordance with Australian Standard 2890.1.

12. A Traffic Control Plan (TCP), prepared by a qualified work site traffic controller, is to be submitted with the construction certificate application, demonstrating compliance with the Road & Traffic Authority's Traffic Control At Worksites Manual, 1998, and detailing:-
- (a) Public notification of proposed works.
 - (b) Long term signage arrangement.
 - (c) Short term (during actual works) signage.
 - (d) Vehicle Movement Plans, where applicable.
 - (e) Traffic Management Plans.
 - (f) Pedestrian and cyclist access/safety.

Drainage- On -Site-Detention

13. The drainage system to control all collected roof and surface stormwater shall be designed with an on-site-detention system. Stormwater discharge from the development site shall be limited to 5 year pre development ARI discharge level. On site detention storage shall be provided for up to 20 year ARI storm events. Detail calculations are to be submitted with a construction certificate application: The design shall :
- (a) be in accordance with Hornsby Shire Council - Design Specification
 - (b) provide for drainage discharge to an existing Council drainage system
 - (c) the discharge structure shall be designed to ensure that there is no soil erosion
 - (d) a surcharge/inspection grate is to be located directly above the outlet.
 - (e) 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.
 - (f) 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.

Contributions Plan

14. The payment of a contribution of \$63,685.30 for 11 Seniors Living dwellings, towards the cost of transport and traffic management, open space and recreation facilities, library and community facilities, bushland regeneration, stormwater drainage, civic improvements and section 94 plan administration in accordance with sections 94, 94A 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 a rate of \$9,274.65 per Seniors Living dwelling and it is to be paid by the end of the financial quarter in which the development application was determined and prior to the issuing of a construction certificate. The contribution will be adjusted in accordance with the underlying consumer price index for the subsequent financial quarters. The levied contribution includes a credit of 9,274.65 for each of the two existing lots.

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, 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.

REQUIREMENTS PRIOR TO THE COMMENCEMENT OF ANY WORKS

Erection of Construction Sign

15. 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:
- showing the name, address and telephone number of the principal certifying authority for the work;
 - showing the name of the principal contractor (if any) for any demolition or building work and a telephone number on which that person may be contacted outside working hours; and
 - 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.

Protection of Adjoining Areas

16. A temporary hoarding, fence or awning must be erected between the work site and adjoining lands before the works begin and must be kept in place until after the completion of the works if the works:
- could cause a danger, obstruction or inconvenience to pedestrian or vehicular traffic;
 - could cause damage to adjoining lands by falling objects; or
 - involve the enclosure of a public place or part of a public place.

Note: Notwithstanding the above, Council's separate written approval is required prior to the erection of any structure or other obstruction on public land.

Toilet Facilities

17. Toilet facilities must be available or provided at the works site before works begin and must be maintained until the works are completed at a ratio of one toilet plus one additional toilet for every 20 persons employed at the site. Each toilet must:
- be a standard flushing toilet connected to a public sewer; or

- (b) have an on-site effluent disposal system approved under the *Local Government Act 1993*; or
- (c) be a temporary chemical closet approved under the *Local Government Act 1993*.

Erosion and Sediment Control

18. Erosion and sediment control measures must be provided and maintained throughout the construction period in accordance with the manual '*Soils and Construction 2004 (Bluebook)*', the approved plans, Council specifications and to the satisfaction of the principal certifying authority. The erosion and sediment control devices must remain in place until the site has been stabilised and revegetated.

Note: On the spot penalties up to \$1,500 may be issued for any on-compliance with this requirement without any further notification or warning.

REQUIREMENTS DURING CONSTRUCTION

Council Property

19. The land and adjoining areas are to be kept in a clean and tidy condition at all times. Litter and rubbish shall be placed in containers and removed from the site. A waste storage container is to be provided at the commencement of the building work.

Construction Work Hours

20. All work on site (including demolition and earth works) must only occur between the following hours:

Monday to Friday	7 am to 6 pm
Saturday	8 am to 1 pm
Friday	7 am to 6 pm
Sunday & Public Holidays	No work

Dust Control

44. Measures to prevent the emission of dust or other impurities into the surrounding environment are to be implemented during demolition works.

Demolition

21. All demolition work must be carried out in accordance with *Australian Standard 2601-2001 – The Demolition of Structures* and the following requirements « [delete non-relevant requirements](#) »:

- (a) Demolition material is to be disposed of in accordance with the approved waste management plan. Receipts from an authorised recycling and/or waste disposal site must be submitted to the principal certifying authority within 14 days of the completion of demolition works.
- (b) Demolition works, where asbestos material is being removed, must be undertaken by a contractor that holds an appropriate licence issued by *WorkCover NSW* in accordance with Chapter 10 of the *Occupational Health and*

Safety Regulation 2001 and Clause 29 of the Protection of the Environment Operations (Waste) Regulation 1996.

- (c) On construction sites where buildings contain asbestos material, a standard commercially manufactured sign containing the words 'DANGER ASBESTOS REMOVAL IN PROGRESS' measuring not less than 400mm x 300mm must be erected in a prominent position visible from the street.

Environmental Management

22. The site must be managed in accordance with the publication '*Managing Urban Stormwater – Landcom (March 2004)*' and the *Protection of the Environment Operations Act 1997* by way of implementing appropriate measures to prevent sediment run-off, excessive dust, noise or odour emanating from the site during the construction of the development.

Excavation & Backfilling

23. All excavations must be properly guarded and protected to prevent them from being dangerous to life or property.
24. Retaining walls or other approved methods necessary to prevent the movement of excavated or filled ground, are to be constructed together with associated stormwater drainage measures prior to occupation of the development or before where site conditions require.
25. The redundant laybacks are to be removed and replaced by kerb and gutter and footpath area turfed.

Footpath

26. The damaged/subsided sections of the footpath are to be removed and reconstructed to match the existing sections.

Environmental Sustainability

27. Council and the PCA must be notified immediately should the presence of asbestos or soil contamination, not recognised during the original assessment process be identified during demolition or construction works.
28. Any imported soils to the subject site must be Virgin Excavated Natural Material (VENM) as defined in Schedule 1 of the *Protection of the Environment Operations Act 1997*.
29. All excavated material removed from the site must be classified in accordance with NSW EPA (1999) *Environmental Guidelines: Assessment, Classification and Management of Liquid and Non-Liquid Wastes* prior to disposal. All excavated material must be disposed of to an approved waste management facility.

Roads and Traffic Authority

30. Vehicles associated with construction are not permitted to park in Becroft Road.
31. All vehicles are to enter and exit in a forward direction.

32. The retaining wall adjacent to the driveway and the pedestrian ramp's handrail must not contain panels that obstruct sight lines in accordance with AS 2890.1 Off Street Car Parking Figure 3.3.
33. Any redundant vehicular crossings are to be removed, kerb and gutter replaced and road pavement restored to RTA standards. Vehicular footway crossings are to be designed in accordance with RTA guidelines & AS2890.1-2004.
 - Details of these requirements can be obtained from the RTA's Project Services Manager, Traffic Projects section, Parramatta (ph: 8849 2144).
 - A certified copy of the design plans including driveway adjustments shall be submitted to the RTA for consideration and approval prior to the release of the construction certificate by Council and commencement of road works.
 - The RTA fees for administration, plan checking, civil works inspections and project management shall be paid by the developer prior to the commencement of road works.

Approved Landscape Plan

34. The proposed landscape works must be constructed in accordance with the requirements of Hornsby Shire Council's Landscape Code for Development Applications, approved landscape plans LPDA 08 -129 dated May 2007 prepared by Conzept Landscape Architects and as specified in this consent.
35. To ensure adequate canopy planting is provided to replace mature trees removed, the following additional tree planting is to be provided:
 - Tree planting to the on-grade landscape area of unit 8 must include and additional 4 *Backhousia citriodora* planted in mulched planter areas. Trees to be installed at minimum pot size of 25 litres.
36. All landscape works shall meet the minimum construction standards identified in the Hornsby Shire Council Landscape Code for Development Applications including the construction of mulched planter beds, planting of trees in minimum 25 litre pot sizes, shrubs in minimum 5 litre pot sizes and groundcovers in minimum 150mm pot sizes in the densities identified in the submitted planting specification.

REQUIREMENTS PRIOR TO THE ISSUE OF AN OCCUPATION CERTIFICATE

Fulfilment of BASIX Commitments

37. Prior to the issue of an occupation certificate, the applicant must demonstrate the fulfilment of BASIX commitments pertaining to the development.

Sydney Water – s73 Certificate

38. A s73 Certificate must be obtained from *Sydney Water*.

39. The cost of repairing any damage caused to Council's assets as a result of construction works associated with the approved development is to be met in full by the applicant/developer prior to the issue of an occupation certificate.

Inspections - Engineering

40. All engineering work required by the consent must be inspected at the "hold points" as nominated in the Hornsby Shire Council Civil Works Construction Specifications 1999. Certificates shall be issued prior to occupancy confirming that the works comply with development consent, construction certificate and Hornsby Shire Council Civil Works - Design and Construction Specification.

OSD Certificate

41. A certificate from a Chartered Professional Engineers of the Institution of Engineers, Australia (also known as Engineers, Australia), 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.
42. The certificate (OSD) is to include work-as-executed details of the on-site-detention system prepared by a Chartered Professional 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.

Restriction as to User and Positive Covenant

43. An appropriate 88B restriction as to user and a positive covenant are to be created on the title of the land describing the 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.

Waste Minimisation and Management

44. Documentary evidence (ie. tipping dockets/receipts from transfer stations and landfills) shall be submitted to Council or the principal certifier to confirm compliance with the Waste Management Plan lodged with the development application.

Waste Storage Facility

45. There must be a bin storage area within 50 metres walking distance of every dwelling.
46. Bin storage areas must be designed and constructed in accordance with Council's *Waste Minimisation and Management Development Control Plan*.
47. An easement entitling the Council, its servants and agents and persons authorised by it to enter upon the property and to operate equipment for the purpose of waste and recycling collection services. This easement must be granted in favour of Council prior to the occupation of the development and prior to registration of any plan of subdivision or strata subdivision of the land.

Note: An 88(b) instrument is an acceptable form of easement subject to the area effected by the easement not requiring renewal upon sale or transfer at any time.

48. Each dwelling must be provided with an indoor waste/recycling cupboard for the interim storage of a minimum one day's garbage and recycling generation.
49. Space must be provided for either individual compost containers for each dwelling or a communal compost container; the siting of which will have regard for potential amenity impacts.
50. Site security measures implemented on the property, including electronic gates, must not prevent access to the bin room by waste removal services.

Landscaping

51. Prior to the issuing of the Final Occupancy Certificate, the completed works shall be inspected and certified by a Registered Landscape Architect or experienced Landscape Architect/Designer as being completed in accordance with the requirements of the Development Consent.

Noise

52. All recommendations made in the acoustic report prepared by Acoustic Services Pty Ltd dated 11 February 2007 accompanying the application which require specialised acoustic treatment of the building and/or the way in which the use is to operate shall be complied with. A certificate of compliance is to be submitted to the PCA prior to the issue of an Occupation Certificate.

Access & Mobility

53. The development shall comply with access and mobility requirements detailed in the *Review of Access for People with a Disability* report dated November 2008. Prior to occupation of the building, a compliance certificate certifying compliance with these requirements is to be obtained.

Seniors Living SEPP

54. The documentation relating to the constitution and operation of the development is to be submitted to Council with the occupation certificate for any portion of the development and is to include:
 - * A restriction on the occupation of the development (apart from any resident administrator or caretaker) to persons defined under Clause 18 of State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004.
 - * Agreements necessary to ensure that support services are provided for residents of the development throughout the term of the development. In this regard, the agreements should provide:
 - that there shall be no termination of any agreement for the supply of support services unless not less than 6 months PRIOR written notice is given by either party thereto;

- in the event that supplier of the support services seeks to assign its rights or obligations under those agreements, the written consent of the Council to such assignment shall first be obtained. Such consent will not be withheld in the event that it is established to Council's satisfaction that the proposed assignee is a responsible and reputable individual or organisation capable of undertaking the obligations of the assignor to the residents of the development and, further, in the event that the assignee is a corporation, that its managing director shall personally guarantee performance of its obligations to residents of the development;
- in the event that the supplier of the support services is a corporation, the performance of the obligations of that supplier to the residents of the development shall be personally guaranteed by its managing director.

55. The strata plan shall provide a by-law at all times which provides the following:

A lot shall not be used or occupied other than by:

- (a) One or more persons who:
 - (i) Are over the age of 55 years, or
 - (ii) Have a disability (as that term is defined in State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004).
- (b) Persons or carers who live with persons referred to in (a)(i) and (ii) above.
- (c) staff employed to assist un the administration of and provision of services to housing provided under SEPP (Housing for Seniors or People with a Disability)2004.

56. The Body Corporate shall provide a comprehensive residents manual to each of the dwellings prior to the release of the Occupation Certificate which clearly details available services and facilities within the area including the following:

- (a) Transport, including availability and contact details for use of timetables for local buses and Community bus services operated by HACC (a facility provided by the Hornsby Ku-ring-gai Community Aids Disabled Transport Service Incorporation) and wheelchair accessible taxi services;
- (b) Personal care, including bathing and dressing;
- (c) Housekeeping, including cleaning and laundry;
- (d) Home delivered meals;
- (e) 24 hour a day monitored emergency call system;
- (f) Doctors; and
- (g) Community facilities and services.

The Body Corporate shall update the manual annually.

Survey Reports

57. To ensure that the building and any associated structures are correctly positioned on the site, a report prepared by a registered surveyor is to be submitted to the principal certifying authority at each level of construction of the building (prior to the pouring of concrete) indicating that the finished floor level is in accordance with the approved plans.

Occupation

58. The building or part thereof shall not be occupied until an occupation certificate has been issued in accordance with Sections 109C and 109H of the Environmental Planning & Assessment Act, 1979.
59. Prior to the issue of an occupation certificate, all mechanical plant equipment must have noise specifications, proposed locations and orientations reviewed prior to installation on the site to ensure that they will not singularly or in total emit noise levels which possess tonal, beating and similar characteristics or which exceeds background noise levels by more than 5dB(A). Should the calculated noise emissions from the mechanical plant equipment be in excess of the set limits, appropriate acoustic treatment must be implemented by a suitably qualified consultant.

OPERATIONAL REQUIREMENTS

Landscaping Maintenance

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

Approved Use

61. The premises shall be occupied solely for the approved use. No separate occupation or use of any part of the premises shall take place without prior development consent, (other than for exempt or complying development).

Fire Safety Statement - Annual

62. On at least one occasion in every 12 month period following the date of the first 'Fire Safety Certificate' issued for the property, the owner must provide Council with an annual 'Fire Safety Certificate' to each essential service installed in the building.

- END OF CONDITIONS -

ADVISORY NOTES

The following information is provided for your assistance to ensure compliance with the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment

Regulation 2000, other relevant Council Policy/s and other relevant requirements. This information does not form part of the conditions of development consent pursuant to Section 80A of the Act.

Environmental Planning and Assessment Act 1979 Requirements

- A. The Environmental Planning and Assessment Act 1979 requires you to:
- (a) Obtain a construction certificate prior to the commencement of any works. Enquiries regarding the issue of a construction certificate can be made to Council's Customer Service Centre on 4645 4608.
 - (b) Nominate a principal certifying authority and notify Council of that appointment prior to the commencement of any works.
 - (c) Give Council at least two days notice prior to the commencement of any works.
 - (d) Have mandatory inspections of nominated stages of the construction inspected.
 - (e) Obtain an occupation certificate before occupying any building or commencing the use of the land.

Long Service Levy

- B. 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 0.35% of the total cost of the work and must 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 (*Clause 98(1)(b) of the Environmental Planning and Assessment Regulation 2000*).

Road Works (Driveway, Access)

- C. A separate application under the Local Government Act 1993 and Roads Act 1993 shall be submitted to Council for approval for the following:
- (a) the installation of a vehicular footway crossing servicing the development, and the removal of the any redundant crossings.
 - (b) the levels provided by Council are to be used to design the internal driveway.
 - (c) further, evidence of Council's levels being incorporated into the longitudinal section is to be submitted with a construction certificate application.

(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.

3 STATE ENVIRONMENTAL PLANNING POLICY (EXEMPT AND COMPLYING DEVELOPMENT CODES) 2008

EXECUTIVE SUMMARY

On 12 December 2008, *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008* was gazetted implementing the *NSW Housing Code*. The *SEPP* commenced on 27 February 2009 and applies across the State. The *SEPP* replaces exempt and complying development policies of local councils.

The *SEPP* provides for new single and two storey detached dwelling-houses on residential lots of greater than 450 square metres to be approved within 10 days as complying development. The *SEPP* also details 41 types of minor residential developments that, if they meet the requirements of the *SEPP*, do not require approval.

A detailed evaluation of the *SEPP* against Council's current controls has been undertaken and is included in this report. It is recommended that a workshop with Councillors be conducted to discuss the implications of the *SEPP* and that a further report be presented to Council concerning variations and exceptions to the *SEPP* when the process is identified by the Department of Planning (DOP).

PURPOSE

The purpose of this report is to advise Council of the gazettal of *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008* and outline its implications for Hornsby Shire.

BACKGROUND

As part of the NSW Government's Planning Reforms, on 8 May 2008, the Government released the *draft NSW Housing Code* and the *NSW Commercial Building Code* for public exhibition. The *draft Codes* were presented as the first of a series of standard codes for exempt and complying development being prepared by the State Government. It was identified that the purpose of the Codes is to assist the Government simplify the development assessment process and increase the percentage of development proposals considered as complying development from 11% to 50% within 4 years.

At its meeting on 2 July 2008, Council considered Executive Manager's Report No. PLN140/08 advising Council of the release of the *draft Codes* and presenting a detailed evaluation of the *Codes* against Council's current controls. Council resolved to forward a submission to the DOP on the *Codes*.

On 12 December 2008, *SEPP (Exempt and Complying Development Codes) 2008* was gazetted. The *SEPP* implements the *NSW Housing Code* outlining how residential developments including detached single and double storey dwellings, home extensions and other ancillary development can proceed on residential lots of greater than 450 square metres as complying development with council or accredited certifier approval. The *SEPP* also

outlines minor developments that can proceed as exempt development without planning or construction approval. The *SEPP* commenced on 27 February 2009.

DISCUSSION

This report outlines the contents of *SEPP (Exempt and Complying Development Codes) 2008* and identifies its implications for Hornsby Shire. A copy of the *SEPP* is attached.

Exempt and Complying Development

In 1997, provisions for exempt and complying development were first introduced into the *Environmental Planning and Assessment Act, 1979* as an alternative to the lodgement of a formal development application. Councils were able to develop their own exempt and complying development policies or be subject to a State Policy.

In 1998, Council resolved to prepare a draft LEP and draft DCP for exempt and complying development. The draft LEP (Amendment No. 57) was gazetted on 10 November 2000, and amended the *HSLEP* to include clauses to exempt minor development from requiring development consent and to include provisions relating to complying development. Council's *Exempt and Complying Development DCP* came into effect on gazettal of the draft LEP. The *DCP* lists development which is exempt from Council approval and associated exemption circumstances. The *DCP* also lists development which can be assessed as complying development and associated development standards and requirements, conditions of consent and notification requirements.

Council's LEP provisions for exempt and complying development and associated DCP have ensured that Council has maintained local autonomy of its planning controls, with a strategy suitable to the characteristics of Hornsby Shire. However, the LEP and DCP have resulted in only a minor number of applications (4%) being processed as complying development in recent years. This is opposed to the Government's target of 50% of applications being processed as complying development within 4 years.

NSW Planning Reforms and the Draft Housing and Commercial Building Codes

In February 2008, Council forwarded a submission to the DOP commenting on a Discussion Paper concerning the State Government's Planning Reforms. Specifically, in respect to exempt and complying development, the submission noted the Government's intention to prepare standard codes for exempt and complying development with the inclusion of dwelling-houses as complying development.

Council's submission requested that a number of issues be addressed in progressing the recommendations of the reforms to ensure that the aim of streamlining the planning system is balanced with the need to ensure development outcomes and processes are consistent with local community expectations. The submission noted that the imposition of broad development standards contained in any State code may not address the specific controls contained in Council's *Exempt and Complying Development DCP* which are designed to maintain the character of Hornsby Shire. Similarly, the imposition of the generic conditions of consent may be deficient when compared to the specific conditions contained in Council's *DCP* which are designed to maintain local character and respond to community expectations.

Council's submission also noted that in the preparation of Council's current provisions for exempt and complying development, significant consideration was given to the issues and implications of including dwelling-houses as complying development in the urban areas of

the Shire. It was noted that the formulation of development standards for dwelling-houses would not address the high proportion of amendments required to proposals as a result of non-merit assessment. Council's experience in the assessment of development applications for dwelling-houses has been that despite a proposal complying with relevant prescriptive measures, it may still result in an adverse impact on adjacent properties. A high proportion of applications for dwelling-houses are amended for merit reasons (such as amenity and privacy) which cannot easily be addressed by development standards. Also, in some instances, mediation between neighbours results in improved outcomes which do not necessarily comply with the strict parameters of standards. Complying development does not provide for private certifiers to mediate such outcomes.

There is also a community expectation within Hornsby Shire that adjoining property owners will be notified and provided the opportunity to comment on applications for dwelling-houses. This is a reasonable expectation given the potential impact of dwellings on adjacent properties and is consistent with Council's current procedures for community consultation. Therefore, it was concluded that dwelling-house applications in the urban areas of the Shire cannot reasonably be defined as small scale, low impact or routine development. Consequently, Council submitted that dwelling-houses should not be included in any standard code for exempt and complying development.

Despite Council's representations, in May 2008, the State Government released draft Housing and Commercial Building Codes. Executive Manager's Report No. PLN140/08 advised Council of the release of the *draft Codes* and presented a detailed evaluation of the Codes against Council's current controls. Council noted that the *draft Housing Code* would have limited application in Hornsby Shire as it related to single storey dwellings on allotments over 600 square metres. Most applications assessed by Council relate to two storey dwellings. However, Council noted the Minister for Planning's stated intention to release further codes for single storey houses and single storey house alterations and additions on lots less than 600 square metres, two storey houses and two storey house alterations and additions on various lot sizes, terrace houses and terrace house alterations and additions on various lot sizes, and duplex (two storey) on certain lot sizes.

Council resolved to make further representations (copy attached) that dwelling-houses should not be included as complying development and suggesting detailed amendments to the *draft Codes*.

SEPP (Exempt and Complying Development Codes) 2008

On 12 December 2008, *SEPP (Exempt and Complying Development Codes) 2008* was gazetted implementing the first stage of the *NSW Housing Code*. The *SEPP* identifies detached single and double storey dwellings, alterations and additions, and other ancillary residential development on allotments greater than 450 square metres as complying development. The *SEPP* also identifies exempt development relating to residential development. The *SEPP* comprises 3 parts and schedules as summarised below.

Part 1 - General

Part 1 of the *SEPP* identifies the name and aims of the Policy, the land to which it applies, relationship with other planning instruments and definitions of key terms. The *SEPP* applies across the State and from 27 February 2009, replaces the exempt and complying development policies of local councils. The relationship between the *SEPP* and Council's *Exempt and Complying Development DCP* is summarised as follows:

- If the *SEPP* identifies an exempt development type listed in Council's DCP as exempt development, the *SEPP* prevails;
- If the *SEPP* identifies an exempt development type listed in Council's DCP as complying development, until February 2010 the applicant may use either the *SEPP* or Council's DCP; and
- If the *SEPP* identifies a complying development type listed in Council's DCP as exempt development, the *SEPP* prevails.

Part 1 also outlines the general requirements for exempt and complying development and variations and exclusions from the *SEPP* as discussed further below.

Part 2 - Exempt Development Codes

Generally the exempt development provisions of the *SEPP* apply to all lands regardless of zoning or allotment size. However, the development types identified in Part 2 are specifically targeted for residential land. The DOP has indicated that the *SEPP* will be progressively updated to include additional development types for other land zonings (i.e. commercial, retail and industrial land).

The *SEPP* identifies that exempt development must:

- meet the requirements of the Building Code of Australia;
- not be carried out on land comprising a State listed heritage item;
- be installed to manufacturer's specifications;
- not involve the pruning or removal of a tree which requires consent for its removal or pruning; and
- not be carried out in an environmentally sensitive area (as defined in the *SEPP*).

The *SEPP* also identifies where exempt development is limited to certain land use zones or excluded from existing or draft heritage items and/or heritage conservation areas.

The *SEPP* identifies that the following 41 types of development may be carried out as exempt development where the development standards specified in the *SEPP* are met.

Access Ramps	Home Businesses, Home Industries and Home Occupations
Aerials or Antenna	Home Based Child Care
Air Conditioning Units	Landscaping Structures
Aviaries	Letter Boxes
Awnings, Blinds and Canopies	Minor Building Alterations (Internal)
Balconies, Decks, Patios, Pergolas, Terraces and Verandahs	Minor Building Alterations (External)
Barbeques	Pathways and Paving
Bed and Breakfast Accommodation	Playground Equipment
Cabanas, Cubby Houses, Ferneries, Garden Sheds, Gazebos and Greenhouses	Portable Swimming Pools and Spas and Child-resistant Barriers
Carports	Privacy Screens
Clothes Hoists and Clothes Lines	Rainwater Tanks (above ground)
Communications Dishes (Radio and Satellite)	Rainwater Tanks (below ground)
Demolition	Scaffolding
Driveways	Screen Enclosures (of balconies, decks, patios, pergolas, terraces and

	verandahs)
Earthworks and Retaining Walls	Shade Structures of Canvas, Fabric, Mesh or the like
Farm Buildings and Structures	Skylights, Roof Windows and Ventilators
Fences (non rural) – Behind the Building Line	Solar Water Heaters and Photovoltaic Systems
Fences (non rural) – Forward of the Building Line	Temporary Builders' Structures
Fences (rural)	Water Features and Ponds
Flag Poles	Windmills
Fowl and Poultry Houses	

A detailed comparison between the exempt development types under the *SEPP* and types and exemption requirements under Council's *Exempt and Complying Development DCP* is attached to this report. The main differences are outlined below.

- Council's *Exempt and Complying Development DCP* identifies the following exempt development types that are not included in the *SEPP*:
 - *change of use of a building;*
 - *clothing bins;*
 - *occupation of a premises;*
 - *public meetings;*
 - *signs, sign displays, community banners and notices;*
 - *temporary structures; and*
 - *temporary use of a building;*

These development types generally relate to business lands and therefore, may be included as part of any future amendment to the *SEPP* for commercial zones. The development activities will continue to be permitted as exempt development in accordance with Council's DCP until they are superseded by any future amendment to the *SEPP*.

- The *SEPP* identifies the following exempt development types that are not included in Council's DCP or the *HSLEP*:
 - *bed and breakfast accommodation;*
 - *carports;*
 - *driveways;*
 - *farm buildings and structures;*
 - *fowl and poultry houses;*
 - *landscaping structures;*
 - *pathways and paving;*
 - *playground equipment;*
 - *portable swimming pools and spas and child resistant barriers;*
 - *privacy screens;*
 - *screen enclosures (of balconies, decks, patios, pergolas, terraces and verandahs)*
 - *water features and ponds; and*
 - *windmills*

Bed and breakfast accommodation; carports; farm buildings and structures; and swimming pools and spas are currently identified as complying development under

Council's DCP. It should also be noted that the draft Annual Amendments LEP 2008, which is currently on public exhibition, proposes to introduce bed and breakfast accommodation as a permissible land use within the river settlement and low density residential zones. Should Council resolve to progress the draft LEP, bed and breakfast accommodation would be exempt development within the specified zones where the proposal satisfies the exclusions and development standards under the *SEPP*.

- Council's DCP states that exempt development cannot be carried out on land that contains a heritage item referred to in Schedule D of the *HSLEP*. The *SEPP* does not exclude 19 of the 41 exempt development types identified from being undertaken on lands containing a heritage item. However, Council's DCP does not exclude exempt development from heritage conservation areas. The *SEPP* excludes 6 of the exempt development types from heritage conservation areas. The attached table indicates where heritage items and heritage conservation areas are excluded.
- The *SEPP* includes a limit on the number of specified development types per allotment. For example *aerials and antennae; carports; clothes hoists and clothes lines; flagpoles; and letter boxes* are limited to 1 per allotment. *Aviaries; cabanas, cubby houses, ferneries, garden sheds, gazebos and greenhouses* are limited to 2 per allotment. Council experience with exempt development has been that by the nature of the exempt development types, there is limited demand for the construction of multiple exempt development types on a single allotment that would result in cumulative impacts.
- The *SEPP* identifies development standards for each development type. The development standards include setbacks, height, maximum area, drainage, and materials and finishes. As indicated in the attached table, in many instances the development standards are generally consistent with the requirements of Council's DCP. However, the *SEPP* permits significantly larger *balconies, decks, patios, pergolas, terraces and verandahs; and cabanas, cubby houses, ferneries, garden sheds, gazebos and greenhouses* as exempt development. The maximum size has increased from 10 square metres to 20 square metres.

Part 3 – General Housing Code

Part 3 identifies how residential developments can proceed as complying development and applies to the following types of development on allotments over 450 square metres:

- Single and two storey dwelling-houses on land zoned low, medium or high density residential;
- Alterations or additions to existing single or two storey dwelling-houses, or the addition of a second storey to an existing dwelling, on land zoned rural or low, medium or high density residential;
- Ancillary development on land zoned rural or low, medium or high density residential; and
- Demolition or removal of dwelling-houses or ancillary development on land zoned rural or low, medium or high density residential.

The *SEPP* identifies exclusions for complying development including heritage items, draft heritage items, heritage conservation areas, draft heritage conservation areas, bush fire prone land and environmentally sensitive areas (including coastal waters, wetlands, and critical habitat). The DOP has advised that the exclusion of bushfire prone land is an interim step, and it is anticipated that the *SEPP* will apply to bushfire prone land following further consultation with the Rural Fire Service concerning appropriate processes and controls.

Clarification has also been sought from the DOP concerning what may be included under the definition of environmentally sensitive land.

The *SEPP* includes development standards including different standards for varying lot sizes, requirements for minimum landscaped area, minimum site coverage, and setbacks. The main difference between the controls under the *SEPP* and Council's controls for dwelling-houses is that the *SEPP* includes a maximum floor area control to limit the size of dwelling-houses rather than prescribing a floor space ratio as contained in the *HSLEP*. The following table provides a summary of controls for dwelling-houses under the *SEPP* in comparison to Council's controls.

	Floor Area (Max)	Floor Space Ratio (Max)	Site Cover (Max)	Landscaped Area (Min)	Private Open Space (Min)	Height (Max)	Front Setback (Min)
Requirements under the SEPP							
Lots 450m ² – 599m ²	330m ²	0.73:1*	50%	20%	24m ²	8.5m	4.5m
Lots 600m ² - 899m ²	380m ²	0.63:1*	50%	25%	24m ²	8.5m	4.5m
Lots 900m ² – 1,499m ²	430m ²	0.48:1*	40%	35%	24m ²	8.5m	6.5m
Lots 1,500m ² and over	430m ²	0.29:1*	30%	45%	24m ²	8.5m	10.0m
Requirements under Council controls							
	NA	0.4:1	40%	45%	60m ² – 120m ²	9.0m	6.0m

* The potential maximum floor space ratio under the *SEPP* is calculated by dividing the maximum floor area by the minimum lot size for each lot type.

A Complying Development Certificate application must be determined within 10 days. If a development cannot be approved under the *SEPP* as it does not meet the requirements, the applicant is required to lodge a development application with the Council.

Schedules

The Schedules outline exemptions, exclusions of other environmental planning instruments and allows for the inclusion of local variations. The DOP advises that in some instances, local variations within a local government area may be appropriate for some development standards. The *SEPP* allows for local variations limited to the following:

- front setbacks;
- side setbacks; and
- landscaped area.

The Department will be calling for the nomination of local variations in March 2009. Nominated variations will be reviewed by a panel of experts who will make recommendations for consideration by the Minister for Planning. Supported variations will be included in a schedule to the *SEPP*.

In March 2009, the Department will also be calling for the nomination of areas that should be excluded from the application of complying development under the *SEPP*. A council may nominate an area where there is a provision in an environmental planning instrument or other supporting information that identifies the area as having particular character attributes that require a merit assessment under a development application. Where the Minister supports the exclusion, it will be included in a schedule to the *SEPP*.

The Department has advised that further information on the process for variations and exclusions will be provided in the next few weeks.

Implications for Hornsby Shire

The introduction of the *SEPP* has the potential to have significant implications for the development assessment process within Hornsby Shire and resultant residential built form outcomes. Development applications for dwelling-houses and alterations and additions currently comprise the majority of development applications received by Council. The Minister for Planning has commented that the *SEPP* covers 80 percent of all project homes available on the market.

Council's Planning Division is currently undertaking mapping of the exclusions under the *SEPP* to determine the extent of properties within the Shire on which complying development may be carried out. The mapping of exclusions is essential, as from 27 February 2009, 149 Planning Certificates issued by Council have been required to identify whether complying development may be undertaken on a property under the *SEPP*. Proponents are encouraged to obtain a Planning Certificate prior to lodging a complying development application. However, obtaining a Certificate is not mandatory.

The requirements for landscaped area, site cover, setbacks, private open space and dwelling size under the *SEPP* facilitate residential development that varies from development permissible under Council's controls. Accordingly, residential areas may display dwellings-houses that depict an alternative building form depending on whether the proposal was approved under the *SEPP* or Council controls. The Strategic Planning Programme includes a review of Council's controls for residential development to commence in the middle of the year. The review will include consideration of the relationship between the *SEPP* and Council's controls.

The *SEPP* has the following additional implications for Hornsby Shire.

- Council's *Dwelling-House DCP* states that a minimum of 45% of the site, exclusive of building or driveway areas, should be landscaped. The *SEPP* specifies that for smaller allotments, the landscaped area may be only 20%. This may have a significant impact on the landscaped quality of established residential areas. Therefore, it may be appropriate that Council make a submission to seek a local variation for landscaped area when submissions are sought by the DOP.
- The definition of draft heritage items and draft heritage conservation areas under the *SEPP* excludes items or areas that form part of a draft LEP exhibited prior to 1 March 2006. The draft LEPs for proposed heritage conservation areas and heritage items at East Epping and Essex Street, Mount Errington and Rosebank Avenue were exhibited in 2002, 2003 and 2004 respectively. Therefore, the draft LEPs are not exclusions for exempt and complying development for the purposes of the *SEPP*. On 5 January 2009, Council forwarded a submission to the DOP requesting that gazettal of the draft LEPs

be progressed as a matter of urgency. However, no response has been received. Therefore, it would be appropriate that Council make a submission to seek a local exclusion for draft heritage conservation areas when submissions are sought by the DOP.

- The *SEPP* includes the demolition or removal of dwelling-houses as complying development with the exclusion of heritage items, draft heritage items, heritage conservation areas, draft heritage conservation areas. However, the exclusions do not address dwelling-houses that have been identified as having heritage significance as part of a study. For example, dwelling-houses that have been identified as having significance as part of Council's Heritage Review Stage 4 which has recently been exhibited, may be demolished as complying development where the proposal meets the requirements of the *SEPP*.
- The *SEPP* requires the provision of a minimum of 1 parking space behind the building line in association with the erection of a new dwelling-house. The parking requirement is less than the requirements of Council's *Car Parking DCP* which requires that dwelling-houses greater than 100m² provide 2 parking spaces behind the building line to ensure sufficient parking for residents. This may increase the demand for on-street parking.

The following issues raised by Council in commenting on the *draft Housing Code* have been addressed in the *SEPP* as follows:

- Any principal private open space is required to be directly accessible from a "habitable room" of the dwelling other than a bedroom. The minimum width of private open space has also been increased from 2 metres to 4 metres to ensure it is usable space to support residential outdoor activities and use. However, the minimum dimension is still less than the 5 metres required by Council.
- An articulation zone (including entry feature or portico, window box, bay window) is identified in front of the building line. The zone is limited to an area 1.5 metres wide in front of the building line. The permissible building encroachment within the zone has been amended from 15 square metres to 25 percent of the zone. This is generally consistent with Council's controls which permit an encroachment for a maximum of 1/3 of the width of the property.
- The *SEPP* requires that within 2 days of determination of the complying development application, the certifier or council is to notify (in writing) the owners of any properties within 40 metres of the boundaries of the site. This is consistent with Council's requirement for complying development. However, Council also requires that a second notification letter be sent 7 days prior to the commencement of works.

It is considered that a workshop with Councillors would be beneficial in that it would provide an opportunity to discuss the implications of the implementation of the *SEPP* for Hornsby Shire. Thereafter, a further report would be presented to Council concerning variations and exceptions to the *SEPP* when the process is identified by the DOP.

POLICY

The *SEPP* will supersede the existing exempt and complying development provisions within the *HSLEP* and *Exempt and Complying Development DCP*. However, for the first 12 months

from commencement, proponents are able to choose between the *SEPP* or Council's controls for complying development for certain types of development.

CONSULTATION

The DOP has conducted implementation workshops for practitioners, councils, council customer service staff and community throughout February. The purpose of the workshops was to provide education and training for councils and housing industry practitioners focusing on the key components of the *SEPP* in preparation for its commencement on 27 February 2009. Planning Division staff attended the workshops.

The Managers of Assessment Teams 1 and 2 were consulted 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. 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

On 12 December 2008, *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008* was gazetted implementing the *NSW Housing Code*. The *SEPP* commenced on 27 February 2009 and applies across the State and replaces the exempt and complying development policies of local councils.

It is recommended that a workshop with Councillors be conducted to discuss the implications of the *SEPP* and that a further report be presented to Council concerning variations and exceptions to the *SEPP* when the process is identified by the Department of Planning.

RECOMMENDATION

THAT :-

1. A workshop with Councillors be conducted to discuss the implication of *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008*.
2. A further report be presented to Council concerning variations and exceptions to the *SEPP* when the process is identified by the Department of Planning.

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Attachments:

There are no attachments for this report.

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