



the bushland shire

creating a living environment

BUSINESS PAPER

PLANNING MEETING

**Wednesday, 1 April, 2009
at 6:30pm**

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AGENDA AND SUMMARY OF RECOMMENDATIONS

PRESENT

NATIONAL ANTHEM

OPENING PRAYER/S

ACKNOWLEDGEMENT OF RELIGIOUS DIVERSITY

Statement by the Chairperson

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

ABORIGINAL RECOGNITION

Statement by the Chairperson:

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

AUDIO RECORDING OF COUNCIL MEETING

Statement by the Chairperson:

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

APOLOGIES

DECLARATIONS OF INTEREST

Clause 52 of Council's Code of Meeting Practice (Section 451 of the Local Government Act, 1993) requires that a councillor or a member of 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 March, 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****Page Number 1**

- Item 1 PLN14/09 DEVELOPMENT APPLICATION -
CONSTRUCTION OF A NEW MULTI-PURPOSE HALL
OFFICE AND STORE ROOM FOR USE AS A PLACE OF
WORSHIP
3 AMOR STREET ASQUITH**

RECOMMENDATION

THAT Development Application No. 977/2007 for the demolition of part of the existing church offices and hall and construction of a new multi-purpose hall, office and store room for use as a place of worship at Lot 1 DP 136101 and Lot 39 DP 12901, No. 3 Amor Street Asquith be approved subject to conditions of consent detailed in Schedule 1 of this report.

A WARD**Page Number 22**

- Item 2 PLN24/09 DEVELOPMENT APPLICATION - RECONSTRUCT
EXISTING BOATSHED AND DECK
BEROWRA WATERS BOAT SHED, BEROWRA CREEK**

RECOMMENDATION

THAT Development Application No. 1269/2008 for the demolition and reconstruction of an existing boatshed and deck at Lot 466 DP 727082 & Crown Lease 1985/6 be approved subject to the conditions of consent detailed in Schedule 1 of this report.

Page Number 43

- Item 3 PLN23/09 DEVELOPMENT APPLICATION - ALTERATIONS
AND ADDITIONS TO EXISTING CHURCH, HALL AND
RECTORY
34 PALMERSTON ROAD WAITARA**

RECOMMENDATION

THAT Development Application No. 1623/2008 for alterations and additions to an existing church, hall and rectory at Lot 4 DP 14655 (No. 34) Palmerston Road Waitara be approved subject to the conditions of consent detailed in Schedule 1 of this report.

B WARD DEFERRED**B WARD****C WARD DEFERRED****C WARD****Page Number 68****Item 4 PLN20/09 DEVELOPMENT APPLICATION - SENIORS
LIVING DEVELOPMENT
64 - 66 NORFOLK ROAD EPPING****RECOMMENDATION**

THAT Development Application No. DA/1536/2008 for the demolition of existing buildings, the retention of 'Donald M Tulloch' building and the erection of a Seniors Living development comprising a 105 bed residential care facility at lot 3 DP 828636 (No. 64-66) Norfolk Road Epping, be approved subject to the conditions of consent detailed in Schedule 1 of this report.

Page Number 97**Item 5 PLN17/09 DEVELOPMENT APPLICATION -
MODIFICATION TO APPROVED DWELLING-HOUSE
15 SHIELDS LANE, PENNANT HILLS.****RECOMMENDATION**

THAT Council approve Development Application No. 1228/2008/A, for the erection of a dwelling-house and front fence at Lot 1, DP 1086210, No. 15 Shields Lane, Pennant Hills, as detailed in Schedule 1 of this report.

GENERAL BUSINESS

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

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

1 DEVELOPMENT APPLICATION - CONSTRUCTION OF A NEW MULTI-PURPOSE HALL OFFICE AND STORE ROOM FOR USE AS A PLACE OF WORSHIP 3 AMOR STREET ASQUITH

Development Application No:	DA/977/2007
Description of Proposal:	Demolition of part of the existing church offices and hall and construction of a new multi-purpose hall, office and store room for use as a place of worship
Property Description:	Lot 1 DP 136101 and Lot 39 DP 12901, No. 3 Amor Street Asquith
Applicant:	Asquith Church of Christ
Owner:	Church of Christ Property Trust
Statutory Provisions:	Hornsby Shire Local Environmental Plan 1994: Special Uses A (Community Purposes)
Estimated Value:	\$997,700
Ward:	A

RECOMMENDATION

THAT Development Application No. 977/2007 for the demolition of part of the existing church offices and hall and construction of a new multi-purpose hall, office and store room for use as a place of worship at Lot 1 DP 136101 and Lot 39 DP 12901, No. 3 Amor Street Asquith be approved subject to conditions of consent detailed in Schedule 1 of this report.

EXECUTIVE SUMMARY

1. The application proposes the demolition of part of the existing church offices and hall and construction of a new multi-purpose hall, office and store room for use as a church.
2. The application was deferred by Council on 19 November 2008 to enable the applicant to address the issues associated with landscaping, floor space ratio and car parking.
3. The proposal does not comply with the provisions of the Community Uses Development Control Plan and the Car Parking Development Control Plan. Notwithstanding, the proposed development would provide the public with a modern place of worship with expanded facilities and would result in a positive impact for the community.

4. No submissions have been received in respect of the application.
5. It is recommended that the application be approved.

HISTORY OF THE APPLICATION

On 19 November 2008 Council's Planning Committee first considered the subject application and resolved:

“THAT consideration of Development Application No. 977/2007 for the demolition of part of the existing church offices and hall and construction of a new multi-purpose hall, office and store room for use as a place of worship at Lot 1 DP 136101 and Lot 39 DP 12901, No. 3 Amor Street Asquith be deferred to allow the applicant to address the issues associated with landscaping, floor space ratio and car parking.”

HISTORY OF THE SITE

The site has been used as a place of worship for 66 years. During this time a number of extensions comprising a hall, amenities block, offices, and Sunday school building have been constructed.

THE SITE

The site has an area of 1361 sqm and is bounded by Amor Street to the north, Wattle Lane to the east, a Council car park to the south and residential properties to the west. The site has a slight fall from the northern boundary down to the southern boundary.

Existing development on the site comprises:

- The main building along the western boundary, which is divided into a church and a multi-purpose hall. The multi-purpose hall includes a kitchen, stage and a storeroom.
- A small single storey meeting room with a pitched roof along the eastern boundary of the site.
- A small single storey building, which serves as a hall, located along the eastern boundary of the site adjacent to the amenities block.
- A small amenities building containing toilets in the south eastern corner along Wattle Lane.

There is currently no car parking available on the site and the congregation predominantly utilises the Council car park immediately to the south of the site and on-street carparking.

The site is surrounded by a variety of land uses and activities including business, civic and residential uses. It is located in close proximity to retail and commercial uses along the Pacific Highway and the Main Northern Railway line.

The development immediately adjoining and opposite the site is detailed below:

- A Council owned car park is located directly south of the site.
- A supermarket is located further south of the car park.

- The Asquith local retail strip is located east of the site, on the opposite side of Wattle Lane.
- A post office, fast food retail outlet and residential dwellings are located north of the site on Amor Street.
- A residential allotment adjoins the church on the western boundary.

THE PROPOSAL

The proposed redevelopment seeks to demolish part of the existing church offices and hall and construct a new multi-purpose hall, office and store room for use as a place of worship.

The development components are summarised as follows:

- Demolition of the existing chapel, which comprises the northern half of the main building along the western boundary. The rear portion, accommodating the multi-purpose hall is to be retained.
- Demolition of the fibro hall and offices/outbuildings adjacent the eastern boundary/ Wattle Lane.
- Construction of a church comprising the following features:

Development Component	Description
Ground Floor	<ul style="list-style-type: none"> - Worship area with seating for 240 people. (During special events the site may accommodate up to 300 people). - Raised platform with baptistery - Two change rooms and storeroom located at the rear of the raised platform. - Bio box and crying room at the rear of the worship area. - Office with book display - Three bathrooms - Cleaner storage
First Floor	<ul style="list-style-type: none"> - Two ancillary meeting rooms - Three ancillary offices

- Installation of an awning along the northern entrance of the church.
- Construction of three storerooms.
- New opening to the foyer from a relocated door and new door to kitchen.
- A new paved forecourt area, with provision for three car parking spaces to cater for people with a disability and for special occasions, such as weddings and funerals.

- Landscaping within the front setback to enhance the appearance of the site and the eastern side setback adjacent to the new courtyard.
- Removal of the chain wire fence and provision of new gates along the eastern boundary and rear of the site.
- Erection of four signs as follows:

Development Component	Description
Sign 1	A freestanding advertisement for the purpose of displaying changeable messages. The sign would be located on the Amor Street frontage and would have an overall height of 3 metres and a width of 2.42 metres. The sign would not be illuminated.
Sign 2	A building identification sign on the northern Amor Street elevation of the building. The sign consists of a logo and 3D lettering containing the words 'Church of Christ - Asquith' with dimensions of 4.8 metres (L) x 2.2 metres (H). The sign would not be illuminated.
Sign 3	A building identification sign on the eastern Wattle Lane elevation of the building. The sign consists of a logo and 3D lettering containing the words 'Church of Christ - Asquith' with dimensions of 3.8 metres (L) x 1.8 metres (H). The sign would not be illuminated.
Symbol	A Cross would be affixed to the pre-cast concrete panels along the Amor Street elevation.

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 in so far as providing additional jobs 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 Special Uses A (Community Purposes) under Hornsby Local Environmental Plan 1994 (HSLEP). The objectives of the Special Uses A (Community Purposes) zone are:

- to provide for the cultural needs of the community.*
- to identify land for the provision of community services and facilities.*
- 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 the zone with Council’s consent.

2.2 State Environmental Planning Policy No. 64 Advertising and Signage

SEPP 64 establishes development standards for advertising signs. The Policy aims to:

- ensure that signage (including advertising) is compatible with the desired amenity and visual character of the area, provides effective communication in suitable locations and is of a high quality and finish;*
- regulate signage (but not content) under Part 4 of the Act; and*
- provide time-limited consents for the display of certain advertisements.*

The proposed signage satisfies the requirements of the Policy.

2.3 Community Uses Development Control Plan

The proposed development has been assessed having regard to the relevant performance and prescriptive design requirements within Council’s Community Uses Development Control Plan (Community Uses DCP). The following table sets out the proposal’s compliance with the prescriptive measures of the Plan:

Community Uses Development Control Plan			
Control	Proposal	Requirement	Compliance
FSR	0.64:1	0.4:1	No
Height	7 metres	9 metres	Yes
No. of Storeys	2 storeys	2 storeys	Yes
Site coverage	58%	40%	No
Car parking	3 spaces	48	No
Setbacks			
- Front	5.5 - 16 metres	6 metres	Yes
- Side (Wattle Lane)	1.9 metre	1 metre	Yes
- Side	1 metre	1 metre	Yes
- Rear	unchanged	3 metres	Yes
Landscaping	24%	45%	No

As detailed in the above table, the proposed development does not comply with a number of prescriptive measures within Council's Community Uses DCP. The matters of non-compliance are detailed below, as well as a brief discussion on compliance with relevant performance criteria.

2.3.1 Floor Space Ratio

Under the DCP, the floor space ratio of development should not exceed 0.4:1 in the Special Uses A zone. Existing development on the site complies with the FSR provisions. However, the proposed development increases the FSR to 0.64:1 which does not comply with the prescriptive measure of 0.4:1.

The objectives of the Density element of the Community Uses DCP states:

'To control the density and scale of development to ensure compatibility with the density and scale of the surrounding area.'

The applicant states that the proposed development is consistent with the objectives of the density provisions of the DCP, as the building would be compatible with the surrounding development being a development which is less in scale than the adjoining shops and of a similar scale to 2 storey residential development with a garden area fronting Amor Street.

In the context of a development within a commercial precinct and having regard to surrounding development, the non-compliance with the FSR would not be significant.

2.3.2 Site Cover

Under the DCP, site coverage should not exceed 40% of the site area. The performance criteria states that site coverage should allow adequate areas for access, car parking, landscaping and useable outdoor recreation. Furthermore, the area of the site covered by

impervious surfaces (including roofed areas, paving, driveways etc) should be minimised to reduce stormwater runoff from the site.

In the context of a development within a commercial precinct and having regard to surrounding development, the non-compliance with the site coverage requirements would not be significant. Furthermore the proposal includes landscaping adjacent to the boundaries of the site to soften the visual impact of the development.

2.3.3 Car Parking

Currently, the church operates without any on-site carparking spaces provided. Under the DCP, the proposed development would require 48 car spaces. The proposal includes 3 spaces. The application has been supported by a Traffic and Parking Report. An assessment of the parking provisions for the proposal assumes the church will utilise the existing Council carpark at the rear of the site as well as parking in surrounding streets. The report concludes that the typical weekly parking demand created by the redeveloped church would be 23 spaces more than the current demand and that the Council car park has adequate spare capacity to cater for the extra needs of the Church.

Council's assessment of the proposal included a survey by the Traffic and Road Safety Branch to provide details concerning the use of these parking facilities during Sunday morning services at Asquith Church of Christ. It was concluded that that parking needs were currently met, with spare parking spaces as detailed in the applicant's traffic report and that traffic generated by this development would not adversely affect the local road network.

Having regard to the above circumstances, it is considered that an absence of on-site carparking in this instance is justified.

2.3.4 Landscaping

The objective of the Landscaping element of the Community Uses DCP is to provide attractive landscapes which reinforce the function of a street, enhance the amenity of buildings and to preserve significant stands of trees or natural vegetation. The proposed landscaping would be within 24% of the site which does not comply with the prescriptive measure of 45% of the site set aside for landscaping. The application includes a landscape plan which addresses the streetscape of Amor Street and Wattle Lane and incorporates planting to enhance the amenity of the adjoining residential property to the west.

In the context of a development within a commercial precinct and having regard to surrounding development, the non-compliance with the landscaping requirements would not be significant.

2.3.5 Acoustics

Whilst it is recognised that there would be some increase in noise associated with an increase in development on site, it is considered that the noise increase would not be significant as to warrant refusal of the application in itself. Noise restrictions are set out in the *Protection of the Environment Operations Act 1997* and noise generated by the development could be reasonably managed on site.

Notwithstanding the above, the proposed development has been designed to minimise potential acoustic impacts on the adjoining and surrounding residential properties. The platform of the church is located towards the western boundary and directed inward. The

storeroom, change rooms and access way provide an additional buffer between the church activities and the adjoining residential property and the location of the store rooms along the western boundary of the multi-purpose hall would act as a buffer between the activities in the hall and the residential property to the west. Furthermore, there are no windows within the main worship area, which minimises the opportunity for acoustic impacts.

The applicant has advised that the Church's operations have generally occurred between 7am and 10pm, with the exception of occasional use of the hall for functions (e.g. 80th birthdays) until 11pm on a Saturday. There can be small numbers of people on site – up to ten – for up to half an hour beyond these hours to set up/pack up for operations. The hours of operation are addressed by consent conditions that limit activity after 10pm during weekdays, 11pm on Saturday and 9.30pm on Sunday & Public Holidays to address noise disturbance criteria.

2.3.6 Solar Access

The application includes shadow diagrams which demonstrate compliance with Council's requirements for developments maintaining a minimum of 4 hours of sunshine to the open space areas of adjoining residential properties, in accordance with the Community Uses DCP solar access requirement.

2.3.7 Crime Prevention

The proposed development has been designed to minimise crime in accordance with *Crime Prevention through Environmental Design* (CPTED) principles by way of clear sightlines, windows that overlook the street and pedestrian access and clearly defined building entry and access.

The proposal complies with the Community Uses DCP crime prevention element objective.

2.4 Car Parking Development Control Plan

The primary purpose of this DCP is to provide parking controls for the development.

The deficiency in the provision of car parking for the proposed development has been addressed in Section 2.3.3 of this report.

2.5 Access and Mobility Development Control Plan

The primary purpose of this DCP is to assist proponents and Council in ensuring the requirements for equality of access in the *Anti Discrimination Act 1977* are satisfied when building work is proposed.

The applicant submitted an Access Report prepared by 'E Armstrong'. The development is designed to provide suitable access for people with disabilities. Council's assessment of the access and mobility impacts of the development notes that wheelchair access is not available to the mezzanine level which is proposed to be used as church offices. However, there are other offices at ground level. It is recommended that should the application be approved, a condition be imposed that no activities be planned for the mezzanine level that are not duplicated on the ground level. This would not be an ideal outcome, however, acceptable in the circumstances of the case.

2.6 Outdoor Advertising Development Control Plan

The primary purpose of the Plan is to control the visual impact of advertisements and advertising structures on the environment and to provide adequate opportunities for the community to advertise their goods and/or services.

The proposed development has been assessed having regard to the relevant performance and prescriptive design requirements within Council's Outdoor Advertising Development Control Plan Development Control Plan (Outdoor Advertising DCP). The following table sets out the proposal's compliance with the prescriptive measures of the Plan:

Outdoor Advertising Development Control Plan			
Control	Proposal	Requirement	Compliance
Sign 1 Area (advertising panel)	2.9 sqm	4 sqm	Yes
Sign 2 Area (wall sign)	4 sqm	4 sqm	Yes
Sign 3 Area (wall sign)	3.2 sqm	4 sqm	Yes
No. of Signs	3	3	Yes

2.7 Waste Minimisation and Management Development Control Plan

The primary purpose of this Development Control Plan is to provide planning strategies and controls to promote waste minimisation and management. The applicant has submitted a waste management plan in accordance with the requirements of the DCP.

The waste generated by the operation of the proposed development would be collected by commercial waste contractor at the street frontage. Conditions are recommended for implementation of the Waste Management Plan and for the construction of the development to be carried out in accordance with Council's waste minimisation and management guidelines.

2.8 Sustainable Water Development Control Plan

The DCP aims to achieve the implementation of sustainable water practices into the management of development in the Hornsby Shire.

Appropriate conditions are recommended in relation to erosion and sediment control and stormwater management for the site to ensure compliance with the DCP.

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

There is no known hazard/risk associated with the site with respect to bushfire, landslip, subsidence and flooding that would preclude approval of the proposed development.

There are no trees or significant vegetation located on the site.

3.2 Built Environment

The development would complement the existing streetscape in terms of bulk and scale. The built environment would not be adversely affected by the proposed development.

3.3 Social Impacts

The development would make a positive social contribution to the local community by providing a modern place of worship with expanded facilities to service the needs of the Church community.

3.4 Economic Impacts

The development would not generate any economic impacts.

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 currently used as a place of worship and subject to the provision of adequate parking for the intensification of the use, the site would be suitable for the proposed development.

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 23 July 2007 and 23 August 2007 in accordance with Council’s Notification and Exhibition Development Control Plan. During this period, Council did not receive any submissions.

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 planning 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.

7. CONCLUSION

The application proposes the demolition of part of the existing church offices and hall and the construction of a new multi-purpose hall, office and store room for use as a place of worship.

Whilst the proposal does not comply with Council's Community Uses Development Control Plan with respect to the density, landscaping and car parking requirements and the Car Parking Development Control Plan with respect to vehicle parking requirements, the proposed development would provide the public with a modern place of worship with expanded facilities and would result in a positive impact for the community.

Council did not receive any submissions to the application and the proposal is 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. Landscape Plan
4. Floor Plans
5. Elevations
6. Signage Details
7. Fence Plan

File Reference: DA/977/2007
Document Number: D01098742

SCHEDULE 1**CONDITIONS OF CONSENT****GENERAL CONDITIONS**

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

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

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

1. Approved Plans and Supporting Documentation

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

Architectural Plans prepared by David Baillie Architect

<i>Plan No.</i>	<i>Title</i>	<i>Rev</i>	<i>Dated</i>
DA 1001	Site Plan	A	22 June 2007
DA 2201	Ground Floor Plan	A	22 June 2007
DA 2202	First Floor Plan	A	22 June 2007
DA 3001	Elevations North East	A	22 June 2007
DA 3002	Elevations South West	A	22 June 2007
DA 3101	Section 1	A	22 June 2007
DA 3102	Section 2	A	22 June 2007
DA 8001	Signage Detail	A	22 June 2007
Dwg 1	Fence Detail	1.0	9 August 2007

Landscape Plan prepared by David Baillie Architect

<i>Plan No.</i>	<i>Title</i>	<i>Rev</i>	<i>Dated</i>
DA 6001	Landscape Plan	A	9 July 2008

Hydraulic Plans prepared by Healey Castle & Associates Pty Ltd

<i>Plan No.</i>	<i>Title</i>	<i>Rev</i>	<i>Dated</i>
Job No. 3946 Dwg C01	Civil Notes	A	3 August 2006
Job No. 3946 Dwg C02	Stormwater Management Plan	A	3 August 2006
Job No. 3946 Dwg C03	Stormwater Drainage Plan Sheet 1	B	15 September 2006
Job No. 3946 Dwg C04	Stormwater Drainage Plan Sheet 2	A	3 August 2006

Survey Plan prepared by William Dive Consulting Surveyor

<i>Plan No.</i>	<i>Title</i>	<i>Rev</i>	<i>Dated</i>
5145.1	Survey Plan	-	30 April 2004

Supporting Documentation

<i>Document Title</i>	<i>Prepared by</i>	<i>Dated</i>
Statement of Environmental Effects	Eric Armstrong	March 2007
Acoustic Report	Eric Armstrong	28 August 2007
Waste Management Plan	unknown	undated
Schedule of Finishes Job No. 05001 Issue A		7 June 2007
Geotechnical Investigation Report Project No. 43364	Douglas Partners Pty Ltd	3 October 2005
Fire Safety Schedule and Revised Fire Safety Schedule	unknown	undated
Access Report	Eric Armstrong	undated
Traffic and Parking Report Project No. PO17 Rev 02b	Mark Waugh Pty Ltd	29 May 2006
Acoustic Report	unknown	undated

REQUIREMENTS PRIOR TO THE ISSUE OF A CONSTRUCTION CERTIFICATE

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

2. Noise Management Plan

A Noise Management Plan is to be prepared and submitted, detailing how potential noise impacts will be managed at the site. The management plan is to include, but not be limited to the following:

- a. The control of noise during the operation of church services and practices;
- b. Noise control for the movement of vehicles in the car park (i.e. installation of signage and noise reduction earth materials); and
- c. Response to potential noise complaints.

3. Building Code of Australia

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

4. Fire Safety Upgrade

To ensure the protection of persons using the existing building and to facilitate egress from this building in the event of a fire, details must be submitted with the application

for a construction certificate, detailing what works are necessary (if any) to bring it into full compliance with Parts C, D and E of the Building Code of Australia.

5. Sydney Water – Quick Check

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

Note: Refer to www.sydneywater.com.au or telephone 13 20 92 for assistance.

REQUIREMENTS PRIOR TO THE COMMENCEMENT OF ANY WORKS

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

6. Erection of Construction Sign

A sign must be erected in a prominent position on any site on which building work, subdivision work or demolition work is being carried out:

- a. showing the name, address and telephone number of the principal certifying authority for the work;
- b. showing the name of the principal contractor (if any) for any demolition or building work and a telephone number on which that person may be contacted outside working hours; and
- c. stating that unauthorised entry to the work site is prohibited.

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

7. Protection of Adjoining Areas

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:

- a. could cause a danger, obstruction or inconvenience to pedestrian or vehicular traffic;
- b. could cause damage to adjoining lands by falling objects; or
- c. 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.

8. Toilet Facilities

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 for every 20 persons employed at the site. Each toilet must:

- a. 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*.

9. Erosion and Sediment Control

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

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

10. Construction Work Hours

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

Monday to Saturday	7 am to 5 pm
Sunday & Public Holidays	No work

11. Demolition

All demolition work must be carried out in accordance with *Australian Standard 2601-2001 – The Demolition of Structures* and the following 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.
- d. Should the presence of asbestos or soil contamination, not recognised during the application process be identified during demolition, the applicant must immediately notify the principal certifying authority and Council.

12. Environmental Management

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.

13. Council Property

During construction works, no building materials, waste, machinery or related matter is to be stored on the road or footpath. The public reserve is to be kept in a clean, tidy and safe condition at all times.

Note: This consent does not give right of access to the site via Council's park or reserve. Should such access be required, separate written approval is to be obtained from Council.

14. Survey Report – Finished Floor Level

A report(s) must be prepared by a registered surveyor and submitted to the principal certifying authority prior to the pouring of concrete at each level of the building certifying that:

- a. the building and retaining walls have been correctly positioned on the site;
- b. the finished ground floor level is in accordance with the approved plans.

REQUIREMENTS PRIOR TO THE ISSUE OF AN OCCUPATION

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

Note: For the purpose of this consent, any reference to 'occupation certificate' shall also be taken to mean 'interim occupation certificate' unless otherwise stated.

15. Stormwater Drainage

The stormwater drainage system for the development must be designed and constructed in accordance with Council's *Civil Works – Design and Construction Specification 2005* and the following requirements:

- a. Connected directly to Council's street drainage system within the public car park via the on site detention system.

16. On Site Stormwater Detention

An on-site stormwater detention system must be designed by a chartered civil engineer and constructed in accordance with the following requirements:

- a. have a capacity of not less than 16 cubic metres, and a maximum discharge (when full) that is less than or equal to the pre development 1 in 5 year ARI storm event;
- b. have a surcharge/inspection grate located directly above the outlet;
- c. discharge from the detention system to be controlled via 1 metre length of pipe, not less than 50 millimetres diameter or via a stainless plate with sharply drilled orifice bolted over the face of the outlet discharging into a larger diameter pipe capable of carrying the design flow to an approved Council system;
- d. where above ground and the average depth is greater than 0.3 metres, a 'pool type' safety fence and warning signs to be installed; and
- e. not be constructed in a location that would impact upon the visual or recreational amenity of residents.

17. Internal Driveway/Vehicular Areas

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

- a. design levels at the front boundary be obtained from Council;
- b. the driveway be a rigid pavement;
- c. the driveway pavement be a minimum 3 metres wide, 0.15 metres thick reinforced concrete with F72 steel reinforcing fabric and a 0.15 metre sub-base; and
- d. the pavement have a kerb to one side and a one-way cross fall with a minimum gradient of 2 percent and a lintel and pit provided at the low point.

18. Footpath

A concrete footpath must be constructed along the full frontage of the subject site in accordance Council's *Civil Works Design and Construction Specification, 2005* and the following requirements:

- a. the existing footpath being removed;
- b. pouring of the concrete footpath to the full frontage of the subject site;
- c. the land adjoining the footpath to be fully turfed;
- d. segmental block paving to be constructed along the full width of the footway over the full frontage to the site, including the planting of street trees in suitable grates or bays in the footway area; and
- e. any public utility adjustments to be carried out at the cost of the applicant and to the requirements of the relevant public authority.

19. Road Works

All road works approved under this consent must be constructed in accordance with Council's *Civil Works Design and Construction Specification, 2005* and the following requirements:

- a. The kerb and gutter with Amor Street and Wattle Lane is to be removed and reconstructed; and
- b. the existing road pavement to be saw cut a minimum of 300 mm from the existing edge of the bitumen and reconstructed.

20. Traffic Control Plan

A Traffic Control Plan (TCP) must be prepared by a qualified traffic controller in accordance with the *Roads & Traffic Authority's Traffic Control at Worksites Manual 1998* and *Australian Standard 1742.3* for all work on a public road and be submitted to Council. The TCP must detail the following:

- a. arrangements for public notification of the works;
- b. temporary construction signage;
- c. permanent post-construction signage;
- d. vehicle movement plans;
- e. traffic management plans; and
- f. pedestrian and cyclist access/safety.

21. Damage to Council Assets

Any damage caused to Council's assets as a result of the construction of the development must be rectified in accordance with Council's written requirements and at the sole cost of the applicant.

22. Landscaping of Site

All landscaped 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 planting specification.

23. Completion of Landscaping

A certificate must be provided by a practicing landscape architect, horticulturalist or person with similar qualifications and experience certifying that all required landscaping works have been satisfactorily completed in accordance with the approved landscape plans.

Note: Advice on suitable species for landscaping can be obtained from Council's planting guide 'Indigenous Plants for the Bushland Shire', available at www.hornsby.nsw.gov.au.

24. External Lighting

All external lighting must be designed and installed in accordance with *Australian Standard AS 4282 – Control of the Obtrusive Effects of Outdoor Lighting*. Certification of compliance with the Standard must be obtained from a suitably qualified person.

OPERATIONAL CONDITIONS

The following conditions have been applied to ensure that the ongoing use of the land is carried out in such a manner that complies with relevant legislation and Council's policies and does not disrupt the amenity of the neighbourhood or impact upon the environment.

25. Use of Premises

The development approved under this consent shall be used for a 'place of worship' and not for any other purpose without Council's separate written consent. A 'place of worship' is defined as follows:

place of worship means a building or place used for the purpose of religious worship, whether or not the building or place is also used for counselling, social events or religious training by a congregation or religious group.

26. Hours of Operation

The hours of operation of the premise are restricted to those times listed below:

Monday to Friday	7 am to 10 pm
Saturday	7 am to 11 pm
Sunday & Public Holidays	7 am to 9.30 pm

27. Patron Numbers

There is not to be more than 240 people in the premises at any one time, with the exception of Christmas and Easter functions when a maximum of 300 people are permitted in the premises.

28. Signs

The advertising signage approved under this consent must not be illuminated, flash, move or display electronic images.

29. Noise

All noise generated by the proposed development must 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) and the operation and management of the proposed development must be in accordance with the *Acoustic Report* prepared by Mr Eric Armstrong dated 28 August 2007.

30. Fire Safety Statement - Annual

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.

31. Landscape Maintenance

All landscape works must be maintained in perpetuity 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 practice.

- 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 legislation and Council's policies and specifications. This information does not form part of the conditions of development consent pursuant to Section 80A of the Act.

Environmental Planning and Assessment Act 1979 Requirements

The Environmental Planning and Assessment Act 1979 requires 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 Services Branch 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 written 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

In accordance with Section 34 of the *Building and Construction Industry Long Service Payments Act 1986*, a 'Long Service Levy' must be paid to the *Long Service Payments Corporation* or *Hornsby Council*.

Note: The rate of the Long Service Levy is 0.35% of the total cost of the work.

Note: Hornsby Council requires the payment of the Long Service Levy prior to the issue of a construction certificate.

Tree Preservation Order

To ensure the maintenance and protection of the existing natural environment, you are not permitted to ringbark, cut down, top, lop, remove, wilfully injure or destroy a tree outside three metres of the approved building envelope without prior written consent from Council. Fines may be imposed if you contravene Council's *Tree Preservation Order*.

Note: A tree is defined as a perennial plant with self supporting stems that are more than 3 metres or has a trunk diameter more than 150mm measured 1 metre above ground level, and excludes any tree declared under the Noxious Weeds Act (NSW).

Disability Discrimination Act

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

Dial Before You Dig

Prior to commencing any works, the applicant is encouraged to contact *Dial Before You Dig* on 1100 or www.dialbeforeyoudig.com.au for free information on potential underground pipes and cables within the vicinity of the development site.

Asbestos Warning

Should asbestos or asbestos products be encountered during construction or demolition works you are advised to seek advice and information prior to disturbing the material. It is recommended that a contractor holding an asbestos-handling permit (issued by *Work Cover NSW*), be engaged to manage the proper disposal and handling of the material. Further information regarding the safe handling and removal of asbestos can be found at:

www.environment.nsw.gov.au

www.nsw.gov.au/fibro

www.adfa.org.au

www.workcover.nsw.gov.au

Alternatively, telephone the *Work Cover* Asbestos and Demolition Team on 8260 5885.

**2 DEVELOPMENT APPLICATION - RECONSTRUCT EXISTING BOATSHED AND DECK
BEROWRA WATERS BOAT SHED, BEROWRA CREEK**

Development Application No:	DA/1269/2008
Description of Proposal:	Demolition and reconstruction of an existing boatshed and deck
Property Description:	Lot 466 DP 727082 & Crown Lease 1985/6
Applicant:	Cameron Brae Pty Ltd
Owner:	Department of Lands
Statutory Provisions:	Hornsby Shire Local Environmental Plan 1994 (HSLEP) – Business D (Aquatic Service Centre) Zone, Open Space A (Public Recreation-Local) Zone and unzoned land below the Mean High Water Mark
Estimated Value:	\$ 219,340
Ward:	A

RECOMMENDATION

THAT Development Application No. 1269/2008 for the demolition and reconstruction of an existing boatshed and deck at Lot 466 DP 727082 & Crown Lease 1985/6 be approved subject to the conditions of consent detailed in Schedule 1 of this report.

EXECUTIVE SUMMARY

1. The application proposes the demolition and reconstruction of a boatshed and deck which is a heritage item of local significance.
2. The proposal complies with provisions of Hornsby Shire Local Environmental Plan, River Settlements Development Control Plan and the Berowra Waters Plan of Management.
4. Twenty seven submissions have been received in respect of the application and eleven further submissions were received upon re-notification of the application.
5. It is recommended that the application be approved.

HISTORY OF THE SITE

The Berowra Waters boatshed was constructed between 1937 and 1939. The first lease was granted by the Department of Lands on 1 August 1989.

On 6 September 2000, Council recommended that the Minister for Planning approve a State Significant Development involving the renovations of the existing boatshed and kiosk buildings including an extended outdoor deck for a 60 seat restaurant, a kiosk and related works.

On 20 December 2001 the Minister for Planning approved State Significant Development, DA-151-06-01 for renovations to the kiosk and boatshed, alterations to the slipway and the marina component, upgrading the waste water management system and use of the kiosk and the new deck as a café. Condition 13 limited the operation of the development as follows:

“13. The Applicant shall comply with the following limits on the proposed development’s operations:

- (a) The Café shall have a maximum of 60 seats;*
- (b) The Café shall only operate between:
7:30 am and 9 pm, Monday to Friday; and
7:30 am and 10:30 am, and 3 pm and 9 pm on Saturdays, Sundays, and public holidays;*
- (c) The Kiosk may be used to sell pre-packaged food between 7:30 am and 9 pm daily;*
- (d) The seating on the deck area in front of the Kiosk shall be closed to the public between 10:30 am and 3 pm on Saturdays, Sundays and public holidays;*
- (e) The Boatshed shall only be used to seel certain goods (restricted to ship chandlery, fishing tackle, and general provisions for boat users), and provide storage and amenities for the activities that are directly associated with the development’s operations;*
- (f) The existing marina pontoons shall only be used to provide berths for “short stay” vessels, up to 32 “commuter boats”, and up to 20 small hire boats (less than 4.5 metres in length);*
- (g) All vessels using the existing marina pontoons shall be berthed in an orderly manner, and the applicant can ensure that no overcrowding occurs;*
- (h) No vessels and dinghies shall be stored on, or moored or berthed at any of the other pontoons, decks, walkways, or structures of the development;*
- (i) No swing moorings shall be operated or managed from the development;*
- (j) All deliveries to and from the development shall be carried out between 9 am and 4 pm Monday to Friday; and*
- (k) All deliveries to and from the development shall be carried out by small rigid vehicles;”*

The following condition was also recommended and is considered relevant to the current application:

- “27. Before commissioning the proposed works, the Applicant shall upgrade the existing wastewater treatment system so that it can accommodate all the wastewater generated on the site for a 7 day retention period.*

Note: The Applicant will require a separate approval from Council and the NSW Department of Health for this upgrade.”

In 2003 the applicant commenced the refurbishment works in accordance with the development consent. During construction, the poor structural condition of the boatshed became apparent due to white-ant infestation. A structural engineering assessment of the building recommended that the building be completely demolished and reconstructed to meet the current and relevant Australian codes and standards.

On 15 December 2006 a section 96(1A) application to modify the consent was approved by the Minister for Planning. The modification proposed the reconstruction of the boatshed and swapping the approved uses of the boatshed building and the kiosk building (i.e. the use of the boatshed as a café and the kiosk as a chandlery). The approval included the following amendment to condition 13 (e) of the original proposal:

“(e) The Kiosk shall only be used to sell certain goods (restricted to ship chandlery, fishing tackle, pre-packaged food and drinks, and general provisions for boat users), and provide storage and amenities for the activities that are directly associated with the development’s operation.”

In assessing that application and making its recommendation to the Minister, the Department of Planning advised the applicant that the reconstruction of the boatshed could not be included under the Section 96(1A) application and that a separate application would need to be lodged with Council.

Pursuant to DA-151-06-01, the boatshed is currently approved for use as a 60 seat café.

THE SITE

The boatshed building forms a part of a marina located on the eastern side of Berowra Waters and is accessed off Berowra Waters Road. The site is located partly on land and partly over water and has an area of 1307 sqm.

The current improvements on the site include:

- The original boatshed on the western side with an area of 25 sqm, which has existed on site since 1890s, and is commonly referred to as the “Kiosk” building;
- The comparatively newer boatshed building on the eastern side with an area of 149 sqm, which was built in the 1930s, and is commonly referred to as the “Boatshed”;
- A slipway located between the two buildings;
- Associated deck areas primarily around the Kiosk;
- One L-shaped marina pontoon on the water in front of the boatshed building;
- A concrete septic tank (3,500 litres), a concrete holding tank (3,500 litres), a stainless steel grease trap (1,800 litres) located to the south of the Kiosk; and
- A garbage storage area, located to the south of the Kiosk, adjacent to Berowra Waters Road.

The boatshed building is currently accessed via the slipway off Berowra Waters Road. The building includes a storage area, toilets and an attic area for storage purposes. The building is in a dilapidated condition and is not being used.

The marina is surrounded by the Hawkesbury River on the northern and western side and by bushland to the east. Several buildings are located to the north-east of the marina along Kirkpatrick Way including the Post Office, the Rural Fire Service headquarters, the CruiseCraft Marina and the Ferry Master's residence. Berowra Waters Road adjoins the site to the south. The Berowra Waters Teahouse is located to the south on the opposite side of the road. The vehicle ferry ramp providing access to the western side of the Hawkesbury River, is located to the west of the site.

Limited on street car parking is available along Berowra Waters Road and Kirkpatrick way. The public car park is located on the western side of the river and can be accessed by the ferry service.

The property is listed as a heritage item of local significance under the provisions of Schedule D (Heritage Items) of the HSLEP. The property is also within the vicinity of the vehicular cable ferry, kiosk, teahouse, toilet block, Rex Jones Memorial, and tidal bath remains which are also listed as heritage items under the HSLEP.

THE PROPOSAL

The proposal involves the demolition and reconstruction of the boatshed building and the adjoining deck. The applicant seeks to rebuild the boatshed in situ. The level of the proposed deck would be 450 mm higher than the existing level. The area of the proposed boatshed would be 149 sqm.

The existing floorspace ratio would remain unchanged after the reconstruction of the boatshed.

The internal layout of the structure would comprise toilets and a kitchen. No attic space is proposed. The applicant has provided a concept seating layout for the restaurant. A continuous ramp would provide access from the road to the deck area.

With regard to the visual appearance, the reconstructed building would be similar to the existing structure. The proposed materials and colours respect the existing building. The proposed roof sheeting of the building would be Colourbond corrugated Heritage Red to match the existing paint colour and the external wall cladding would match the rusticated timber weatherboards.

It is proposed to decommission the existing on-site septic system and re-use the oil separator. The septic tank and collection well are proposed to be located on the south-eastern corner of the boatshed building. The pump out system would be located on the south-western corner of the boatshed building.

The proposal does not alter the approved seating number or the operating hours of the restaurant.

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 in so far as providing additional jobs 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 site is partly on land and partly over water. The land primarily comprises the Business D (Aquatic Service Centre) Zone while a strip to the south of the site constitutes Open Space A (Public Recreation-Local) Zone. The part of the site below the Mean High Water Mark is unzoned. The proposed works are located within the Business D Zone. The uses are defined as ‘marina’ and ‘restaurant’ and are permissible within the Business D zone.

The zone objectives are:-

- To encourage economic growth and employment opportunities.*
- to accommodate the retail, commercial, service and social needs of the community that uses the Hawkesbury River and its tributaries.*
- to encourage development that improves the health, vitality and aquatic, cultural and social environments within business centres and adjacent areas.*

The proposal would result in the reconstruction of the dilapidated boatshed to accommodate the approved restaurant. Therefore, the development would have a positive impact on the commercial activities adjoining the Hawkesbury River and complies with the zone objectives.

The proposal does not change the existing density of the site and complies with Clause 15 (floor space ratio) of HSLEP 1994.

Clause 10 of the HSLEP requires all developments to have adequate water and sewer services. The application for alterations to the marina and use of the boatshed as a restaurant (DA-151-06-01) required upgrading of the waste water system. The applicant has provided

details of the decommissioning of the existing septic system and the provision of a new waste water disposal system on the south-eastern corner of the site in addition to a pump out facility. The septic system would have a 7 day retention period. Council's assessment concludes that the proposed septic system is satisfactory subject to the implementation of appropriate conditions.

Clause 18 of the HSLEP sets out heritage conservation provisions within the Hornsby area. The subject site is listed as a heritage item of local significance under the HSLEP. The property is also located within the vicinity of the vehicular cable ferry, kiosk, teahouse, toilet block, Rex Jones Memorial, and tidal bath remains which are listed as heritage items under the provisions of Schedule D (Heritage Items) of the HSLEP.

The proposed design respects the existing structure and blends well with the locality. It is considered that the demolition of the heritage item is acceptable subject to photographic recording of the Boatshed in recognition that subtle aesthetic and material changes may occur with the reconstruction.

Clause 20A of the HSLEP applies to developments located within areas subject to acid sulfate soil conditions. The applicant addressed this matter by providing a preliminary acid sulfate soil report and an acid sulfate soil management plan. Council's assessment of the proposal in this regard concludes that the development can be safely carried out subject to implementation of recommended conditions.

2.2 Environmental Planning Assessment Regulation 2000 - Designated Development

The site is identified as "*marinas or other water land or water related shoreline facilities*" under Schedule 3 of the Regulation and the existing marina satisfies the criteria of a "Designated Development" as it is a marina that could accommodate up to 46 vessels with no car parking facilities.

However, pursuant to Clause 35 (Part 2) of the Schedule, any development involving alterations and additions to development (whether existing or approved) is not designated development if:

"in the opinion of the consent authority, the alterations or additions do not significantly increase the environmental impacts of the total development (that is the development together with the additions or alterations) compared with the existing or approved development."

The current proposal relates to the demolition and reconstruction of the boatshed that would constitute alterations to the marina. However, the proposed alterations would reduce the adverse environmental impacts caused by the dilapidated structure.

Therefore, it is considered that the proposed development is not designated development.

2.3 State Environmental Planning Policy (Major Projects) 2005

The application has been assessed against the requirements of State Environmental Planning Policy (Major Projects) 2005. This Policy provides State-wide planning controls to identify development to which the development assessment and approval process under Part 3A of the Act applies. Schedule 1 of the Policy identifies the classes of development for Part 3A projects.

The proposal involves the demolition and reconstruction of the boatshed and does not include any alteration to the pontoons or the boat storage facilities within the site. Therefore the proposal would not be classified as a Major Project under Schedule 1(14) of the SEPP. Council has received advice from the Department of Planning in this regard, which is discussed in section 5.2.2 of this report.

2.4 State Environmental Planning Policy No 19 – Bushland in Urban Areas

The application has been assessed against the requirements of State Environmental Planning Policy No 19 (SEPP 19). The Policy provides State-wide controls to preserve bushland within urban areas for community, heritage and aesthetic reasons and applies to sites which contain or adjoin bushland zoned as open space.

The Policy applies to this development as a strip of land within the site and the land adjoining the site to the east contain bushland and are zoned Open space A. However, the proposal does not result in the removal of any bushland and therefore no further consideration of the Policy is necessary.

2.5 State Environmental Planning Policy No. 55 – Remediation of Land

The application has been assessed against the requirements of State Environmental Planning Policy No 55 (SEPP 55). SEPP 55 requires that Council must not consent to the carrying out of any development on land unless it has considered whether the land is contaminated or requires remediation for the proposed use.

The development only proposes the demolition and reconstruction of the boatshed. It does not propose any landform modification. Therefore, no further assessment under this Policy is necessary.

2.6 Sydney Regional Environmental Plan No. 20–Hawkesbury Nepean River (SREP 20)

The application has been assessed against the requirements of SREP 20. This Plan requires Council to consider the impacts of a development on water quality, aquaculture, recreation and tourism. The compliance of the proposal with the controls within SREP 20 is discussed below:

2.6.1 Water Quality

The proposed development is consistent with the environmental capability of the site. The applicant has provided details of the waste water disposal system and the sediment and erosion control measures. Council's assessment of the upgraded waste water disposal system and the proposed sediment control measures concludes that the development is satisfactory subject to the implementation of recommended conditions of consent.

2.6.2 Water Quantity

The development would not result in increase of impervious surface and therefore would not result in major changes to the flow characteristics of surface water.

2.6.3 Cultural Heritage

The development proposes the demolition and reconstruction of a heritage item. The matter has been addressed within Sections 2.1 and 2.10 of this report.

2.6.4 Riverine Scenic Quality

The area is identified under 'Landscape Unit 4.2.5' as an area of Regional Scenic significance under the Hawkesbury Nepean Scenic Quality Study with a high visual sensitivity and low absorption capacity of the landscape.

The proposed development would demolish an existing heritage item and reconstruct a building that respects the existing structure with regard to the footprint, colours, materials and the overall building envelope. The resultant development would not establish a significant change to the scenic quality of the area. It would rather improve the visual appearance of the site by removing the dilapidated structure.

2.6.5 Recreation and Tourism

The proposal would result in the construction of a new boatshed building which is proposed to be used as a restaurant in accordance with the current approval. Thus, the development would have a positive impact on the recreational opportunities in the area.

2.6.6 Land uses in riverine scenic areas

The proposed development is consistent with the development controls for the land uses in the riverine scenic areas. The structure would not be visually obtrusive as it would replace an existing structure with a similar building envelope. The siting of the proposed development would preserve the riparian vegetation and would enhance the scenic character of the locality.

2.7 River Settlements Development Control Plan

The proposed development has been assessed having regard to the relevant performance and prescriptive design standards within Council's River Settlements Development Control Plan.

The proposed reconstruction is consistent with the Masterplan for the eastern side of Berowra Waters. The development would utilise the existing building footprint and be similar in design to the existing structure. The redevelopment respects the scenic quality of the area, as addressed in this report, and is considered satisfactory.

2.8 Access and Mobility Development Control Plan

The proposed development has been assessed having regard to the relevant performance and prescriptive design standards within Council's Access and Mobility Development Control Plan.

The proposal provides a continuous path of travel via a ramp from Berowra Waters Road to the boatshed. The applicant has provided an Access Report demonstrating compliance with the relevant Australian standards and the DCP. Council's assessment of the proposal in this regard is considered satisfactory.

2.9 Sustainable Water Development Control Plan

The proposed development has been assessed having regard to the relevant performance and prescriptive design standards within Council's Sustainable Water Development Control Plan. The matter has been addressed under section 2.6 of this report.

2.10 Heritage Development Control Plan

The proposed development has been assessed having regard to the relevant performance and prescriptive design standards within Council's Heritage Development Control Plan.

Council's Heritage Committee has reviewed the proposal. The Committee's assessment concludes that the Berowra Waters Boatshed contributes to the historic setting of Berowra Waters. However, the structure is currently in a poor condition. The location of the structure close to the water and the early construction has resulted in the timber components highly susceptible to deterioration over time. The building's deterioration has been discernable for some time and has been the matter of correspondence to the property lessee, the Department of Planning and the Department of Lands.

2.11 Berowra Waters Plan of Management

The proposed development has been assessed having regard to the relevant performance and prescriptive design standards within Council's Berowra Waters Plan of Management.

The goal of the Plan of Management is to protect, maintain and enhance the significant heritage features of the Berowra Waters area. The proposal would result in the reconstruction of a deteriorating heritage item. Therefore it would be consistent with the goals of the Plan of Management.

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 development is considered acceptable with regard to its impact on the natural environment with the following matters requiring further attention:

3.1.1 Trees

The proposal would require the removal of two Sweet Pittosporum trees. The large Fig trees (*Ficus* spp.) to the east of the boatshed and the remaining bushland surrounding the building would be retained.

Council's assessment of the proposal included a detailed examination of the existing trees on site. The proposal is considered satisfactory subject to the retention of the two trees located on the eastern side of the boatshed building.

3.1.2 Water Quality

The proposal would not result in any adverse impacts on the water quality subject to upgrading the waste water system and the implementation of the sediment and erosion control measures.

3.2 Built Environment

3.2.1 Design

The matters in relation to design have been addressed in previous sections of this report.

The built form of the new building would be similar in siting and design to the existing structure. The proposed structure is marginally higher than the existing structure in order to comply with the relevant Australian standards and codes relating to access to the site. It is noted that the nearest structure (the Berowra Waters Garden House Restaurant) is located at a significantly higher level than the proposed building and therefore, such an increase in the level of the roof would not result in loss of views by that restaurant. The proposed built form would not have an adverse impact on the scenic quality of the River.

3.2.2 Traffic and Car Parking

The use of the boatshed as a restaurant was approved pursuant to DA-151-06-01. The assessment of the application considered the parking requirements for such a use and the traffic generation having regard to the figures under the “*maximum car parking spaces required*” established by the Berowra Waters Plan of Management for such commercial activities. It was concluded that the proposal for alterations to the marina and the use of the site as a restaurant would reduce the demand of parking on site than what was already approved. Consequently, the Minister for Planning was satisfied that the proposed use would not intensify the traffic problems within Berowra Waters. The structures would utilise the existing parking spaces around the buildings.

DA-151-06-01 also approved a pedestrian walkway to the south of the boatshed building. This walkway would be utilised for pedestrian access in future.

The current proposal is for the demolition and reconstruction of the boatshed with no alterations proposed to the approved use as a restaurant. Therefore this application would not generate any additional parking demand and no further assessment of traffic and car parking impacts is warranted. The proposal includes an upgrade to the waste water management system on site. The applicant has provided details of the management of trucks catering to the pump out facility and is assessed as satisfactory.

3.3 Social Impacts

The proposal would result in the generation of employment within the area as the reconstructed boatshed is proposed to be used as a restaurant in future. Thus, the development would result in a positive social impact.

3.4 Economic Impacts

The proposal would result in the removal of a dilapidated structure and the reconstruction of a new building with similar appearance. This would result in the improvement of the visual

appearance and also in the proper utilisation of the boatshed as a restaurant in future. The restaurant would in turn generate employment within the area and improve recreation and tourism opportunities within Berowra Waters.

The development would therefore have a positive economic impact on the locality.

4. SITE SUITABILITY

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

4.1 Bushfire Risk

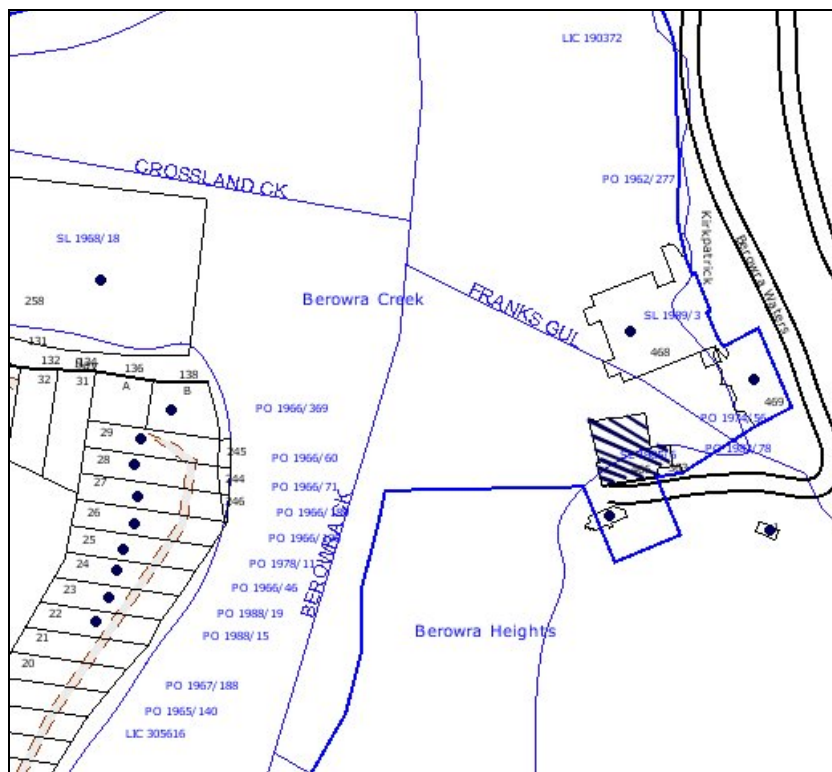
The land is identified as bushfire prone area. The development was referred to Rural Fire Service for comments. The matter is discussed in detail under section 5.2.1 of this report.

5. PUBLIC PARTICIPATION


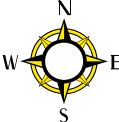
Section 79C(1)(d) of the Act requires Council to consider “*any submissions made in accordance with this Act*”.

5.1 Community Consultation

The proposed development was placed on public exhibition and was notified to adjoining and nearby landowners between 25 September and 16 October 2008 in accordance with Council’s Notification and Exhibition Development Control Plan. During this period, Council received 27 submissions including 1 letter of support and 26 letters of objection. Following the submission of amended plans the application was re-notified between 15 January and 29 January 2009. During this period, Council received 11 submissions objecting to the development (some of which were from persons who previously made a submission). The map below illustrates that no submissions were received from land owners that are in close proximity to the development site.



NOTIFICATION PLAN

<ul style="list-style-type: none"> • PROPERTIES NOTIFIED 	<ul style="list-style-type: none"> X SUBMISSIONS RECEIVED 	 PROPERTY SUBJECT OF DEVELOPMENT	
<p>21 SUBMISSIONS RECEIVED OUT OF MAP RANGE and 10 SUBMISSIONS WITH NO ADDRESS</p>			

The submissions that objected to the development were generally on the following grounds:

- The area has limited parking spaces. The addition of another restaurant would result in unacceptable impact on the traffic generation in the area.
- The proposed hire boat location would increase the parking demand within the area.
- The sewage pumping trucks would block Berowra Waters Road.
- The size of the existing septic tanks would be inadequate.
- The use as a restaurant would result in more rubbish being stored in the area.
- The proposed use as a restaurant would result in the blockage of emergency access to the locality.
- The proposal is contrary to the Berowra Waters Plan of Management, River Settlements Development Control Plan and Council’s Car Parking Development Control Plan.
- The proposal would result in conflict between the pedestrian and vehicular conflict.
- There is no space for loading and unloading facilities.
- The site has inadequate waste disposal area.
- The bushfire hazard assessment report wrongly indicates that the development proposes “alterations and additions” to the Berowra Waters Boatshed.
- The heritage listed structure should not be demolished but should be repaired and refurbished.

- The architectural design of the structure is unsympathetic
- The height of the structure would restrict views enjoyed from the Berowra Waters Garden House restaurant.

Comment: A number of submissions incorrectly interpret that the applicant is seeking consent for a restaurant. The use of boatshed as a restaurant has been approved under DA-151-06-01.

Consideration of other matters raised in community submissions have been addressed in the body of the report including the current condition of the boatshed, the design of the new structure, impacts of the proposal on traffic generation and pedestrian access to Berowra Waters Road. The matters in relation to the emergency access to the locality have been assessed under DA-151-06-01 and are not relevant to the current proposal.

Some submissions sought clarification regarding the following matters:

- Condition 13 of the Section 96(1A) modification to DA-151-06-01 was not modified fully. Therefore the issues regarding the seating number and location and a result of the swapping of the uses remains unclear.
- No information has been provided regarding the number of people that would use the facility in future and details of seating layout have not been provided.
- The boatshed does not have an approval to be used as a restaurant. The previous application for restaurant had 150 seating capacity.
- Once the application is approved, the deck in front of the kiosk would also be used for the purpose of a restaurant.
- The boatshed, being used a restaurant would have health risks.
- The development should include road widening, increase pedestrian facilities, and payment of Section 94 contributions to improve the public wharf.

Comment: The details of the approved uses on site have been addressed in this report. DA-151-06-01 “swapped” the uses of the kiosk and the boatshed. However, modifications to the conditions regarding operating hours or restriction on the sale of pre-packaged food items did not form a part of that consent. Therefore, the current development consent only approves the use of the boatshed as a restaurant with 60 seats within the building. The kiosk and the deck could not lawfully be used for the purpose of a restaurant without separate consent. This is reinforced as a condition of consent. The operating hours would remain the same as approved under DA-151-06-01.

The matter regarding payment of section 94 contributions and the upgrade of the infrastructure is not relevant to the current proposal and no excess commercial floor space is generated.

5.2 Public Agencies

The development application was referred to the Rural Fire Service and the Department of Planning for comment, with the following matters raised:

5.2.1 Rural Fire Service

The Rural Fire Service reviewed the proposal and raised no objections to the development subject to the implementation of the recommendations within the Bushfire Hazard

Assessment Report submitted by the applicant. This forms part of the recommended conditions of consent.

5.2.2 Department of Planning

The proposal was referred to Department of Planning to comment on whether the development satisfies the “Marina” category within State Environmental Planning Policy (Major Projects) 2005.

The Department advised that the proposal relates to the reconstruction of the boatshed only and would not alter the pontoons. Therefore, the development would not be categorised as a major project under the SEPP. The Department has no other functions under the application.

6. THE PUBLIC INTEREST

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

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

The application is considered to have satisfactorily addressed Council’s 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 would be in the public interest.

7. CONCLUSION

The proposed development involves the demolition of the Berowra Waters boatshed and the reconstruction of a new building with a similar footprint in the same location. The existing boatshed is heritage listed under the HSLEP and is in a dilapidated condition.

The proposed building respects the design of the existing structure and would provide an improvement to the visual appearance of the site. The new structure is proposed to be utilised in future for the purpose of (an approved) restaurant with a 60 seat capacity. The application does not propose to alter the use of the site and therefore would not in itself have an adverse impact on the traffic generation or parking demand within the locality. The proposed development complies with the provisions of Hornsby Shire Local Environmental Plan, Sydney Regional Environmental Plan No. 20, The River Settlements Development Control Plan and the Heritage Development Control Plan.

Approval of the application is recommended.

SCOTT PHILLIPS
Executive Manager
Planning Division

Attachments:

1. Locality Plan
2. Existing Site Plan
3. Existing Floor Plan and Elevation
4. Proposed Floor Plan and Elevation
5. Proposed Elevation and Sections
6. Proposed Seating Layout

File Reference: DA/1269/2008
Document Number: D01109877

SCHEDULE 1 – CONDITIONS OF CONSENT**GENERAL CONDITIONS**

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

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

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

1. Approved Plans and Supporting Documentation

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

<i>Plan No.</i>	<i>Drawn by</i>	<i>Dated</i>
Site Plan – 0751-DA01	Kennedy Associates Architects	February 2008
Existing floor plan and elevations – 0751-DA02	Kennedy Associates Architects	February 2008
Proposed floor plan and elevation – 0751-DA03A	Kennedy Associates Architects	26/11/2008
East, West Elevations and sections – 0751-DA04	Kennedy Associates Architects	26/11/2008
Proposed seating layouts 0751-DA08	Kennedy Associates Architects	24/11/2008
Sediment and Erosion Control Plan	Martens and Associates Pty Ltd	16/01/2009

<i>Document No.</i>	<i>Prepared by</i>	<i>Dated</i>
Onsite Sewage Management Plan	Martens Consulting Engineering	January 2009
Preliminary Acid Sulfate Soils and Geotechnical Investigations	Martens Consulting Engineering	January 2009
Access Report	Access Associates Sydney	3 February 2009
Heritage Impact Assessment Report	Designs Concordant P/L	March 2008
Waste Management Plan	Inspire Urban Planning	12/09/2008
Bushfire Hazard Assessment Report Ref - 70340B	Building Code and Bushfire Hazard Solutions Pty Ltd	August 2008

2. Retention of Existing Trees

This development consent only permits the removal of trees numbered T1, T3, T4 and T5 as identified on Plan No. 0751-DA01 prepared by Kennedy Associates Architects dated February 2008. The removal of any other trees requires separate approval under Council's Tree Preservation Order.

REQUIREMENTS PRIOR TO THE ISSUE OF A CONSTRUCTION CERTIFICATE

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

3. Building Code of Australia

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

4. Sydney Water – Quick Check

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

Note: Refer to www.sydneywater.com.au or telephone 13 20 92 for assistance.

REQUIREMENTS PRIOR TO THE COMMENCEMENT OF ANY WORKS

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

5. Photographic evidence

A photographic recording of the boatshed must be undertaken by a suitably qualified heritage architect. The photographic recording is required to be undertaken in accordance with the *NSW Heritage Office* guidelines and two complete copies submitted to Council for its records. The photographic recording is required to include (but not be limited to) the exterior and interior of the boatshed, and the context of the site.

6. Erection of Construction Sign

A sign must be erected in a prominent position on any site on which building work, subdivision work or demolition work is being carried out:

- a. Showing the name, address and telephone number of the principal certifying authority for the work.

- b. Showing the name of the principal contractor (if any) for any demolition or building work and a telephone number on which that person may be contacted outside working hours.
- c. Stating that unauthorised entry to the work site is prohibited.

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

7. Erosion and Sediment Control

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

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

8. Construction Work Hours

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

Monday to Saturday	7 am to 5 pm
Sunday & Public Holidays	No work

9. Demolition

All demolition work must be carried out in accordance with *Australian Standard 2601-2001 – The Demolition of Structures* and the following 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. Should the presence of asbestos or soil contamination, not recognised during the application process be identified during demolition, the applicant must immediately notify the principal certifying authority and Council.

10. Environmental Management

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.

11. Works near Trees

A 1.8 metre high chain wire fencing (or similar) must be installed 5 metres from significant trees numbered T2 and T2A identified on the approved plans.

All works (including retaining walls) within 3 metres of any trees required to be retained (whether or not on the land the subject of this consent), must be carried out under the supervision of an *'AQF Level 5 Arborist'* or equivalent and a certificate submitted to the principal certifying authority detailing the methods used to preserve the trees.

Note: Except as provided above, the applicant is to ensure that no excavation, filling or stockpiling of building materials is to occur within 4 metres of any tree to be retained.

12. Council Property

During construction works, no building materials, waste, machinery or related matter is to be stored on the road or footpath.

13. Construction of the deck

The deck must be constructed in accordance with the following requirements:

- a. Stockpiling, sanding and cutting must be screened by appropriate sediment fencing and performed in such a manner to ensure that pollutants do not enter into the water.
- b. No alteration of the natural gradient or scouring of the shoreline.
- c. Works performed above the waterway must include preventive controls measures (such as booms, silt curtains, dust bags, covers, aprons or barrier controls) to ensure dust and particulate pollutants are captured and contained and to prevent the escape of turbid plumes into the aquatic environment.

REQUIREMENTS PRIOR TO THE ISSUE OF AN OCCUPATION CERTIFICATE

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

14. Wastewater System Approval

An on-site sewage management system, separately approved under the Local Government Act 1993, must be installed, commissioned and certified by a licensed

plumber in accordance with Australian Standard 1547 – Onsite Domestic Wastewater Management (2000) and Environment & Health Protection Guidelines – Onsite Sewage Management for Single Households (1998).

OPERATIONAL CONDITIONS

The following conditions have been applied to ensure that the ongoing use of the land is carried out in such a manner that complies with relevant legislation and Council's policies and does not disrupt the amenity of the neighbourhood or impact upon the environment.

15. Fire Safety Statement - Annual

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.

16. Use of Premises

Nothing in this development consent amends or supersedes the requirements of development consent DA-151-06-01 and the modification referred to in Schedule 1 of the Notice of Modification.

17. Maintenance of Wastewater Device

All wastewater and stormwater treatment devices (including drainage systems, sumps and traps) must be regularly maintained in order to remain effective. All solid and liquid wastes collected from the device must be disposed of in accordance with the *Protection of the Environment Operations Act 1997*.

- 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 legislation and Council's policies and specifications. This information does not form part of the conditions of development consent pursuant to Section 80A of the Act.

Environmental Planning and Assessment Act 1979 Requirements

The Environmental Planning and Assessment Act 1979 requires:

- a. 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 Services Branch on 9847 6760.
- b. A principal certifying authority to be nominated and Council notified of that appointment prior to the commencement of any works.

- c. Council to be given at least two days written notice prior to the commencement of any works.
- d. Mandatory inspections of nominated stages of the construction inspected.
- e. An occupation certificate issued before occupying any building or commencing the use of the land.

Long Service Levy

In accordance with Section 34 of the *Building and Construction Industry Long Service Payments Act 1986*, a 'Long Service Levy' must be paid to the *Long Service Payments Corporation* or *Hornsby Council*.

Note: The rate of the Long Service Levy is 0.35% of the total cost of the work.

Note: Hornsby Council requires the payment of the Long Service Levy prior to the issue of a construction certificate.

Kitchen Fitout

This development consent does not include approval for the fitout of the kitchen. A separate development application is required to be lodged with Council for the fitout of the kitchen demonstrating compliance with *Australian Standard 4674-2004-Design and fitout of food premises*, *Food Act 2003* and *Food Regulation 2004*.

Tree Preservation Order

To ensure the maintenance and protection of the existing natural environment, it is an offence to ringbark, cut down, top, lop, remove, wilfully injure or destroy a tree outside three metres of the approved building envelope without prior written consent from Council. Fines may be imposed for non-compliance with Council's *Tree Preservation Order*.

Note: A tree is defined as a perennial plant with self supporting stems that are more than 3 metres or has a trunk diameter more than 150mm measured 1 metre above ground level, and excludes any tree declared under the Noxious Weeds Act (NSW).

Disability Discrimination Act

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

Dial Before You Dig

Prior to commencing any works, the applicant is encouraged to contact *Dial Before You Dig* on 1100 or www.dialbeforeyoudig.com.au for free information on potential underground pipes and cables within the vicinity of the development site.

**3 DEVELOPMENT APPLICATION - ALTERATIONS AND ADDITIONS TO EXISTING CHURCH, HALL AND RECTORY
34 PALMERSTON ROAD WAITARA**

Development Application No:	DA/1623/2008
Description of Proposal:	Alterations and additions to an existing church, hall and rectory (All Saints Church)
Property Description:	Lot 4 DP 14655 (No. 34) Palmerston Road Waitara
Applicant:	NBRS & Partners
Owner:	Anglican Parish Of Waitara
Statutory Provisions:	Hornsby Shire Local Environmental Plan 1994 Residential A (Low Density) State Environmental Planning Policy No. 1
Estimated Value:	\$592,344
Ward:	A

RECOMMENDATION

THAT Development Application No. 1623/2008 for alterations and additions to an existing church, hall and rectory at Lot 4 DP 14655 (No. 34) Palmerston Road Waitara be approved subject to the conditions of consent detailed in Schedule 1 of this report.

EXECUTIVE SUMMARY

1. The application proposes alterations and additions to the All Saints Anglican Church at Waitara, incorporating a new link building that connects the existing church, hall and rectory.
2. The proposal does not comply with the floor space ratio control for the Residential A zone in the Hornsby Shire Local Environmental Plan 1994. In addition the application does not comply with the prescriptive controls for site coverage, setback and landscaped area within the Community Uses Development Control Plan. However, pursuant to SEPP 1, the proposed variation to the development standard is supported as there would be no increase in the intensity of the existing use. In addition the development would improve the existing appearance of the premises and existing external impacts.
3. Three submissions have been received in respect of the application.

4. It is recommended that the application be approved.

HISTORY OF THE SITE

On 22 January 1959, Council issued Building Approval No. 1512/A/495 for the erection of a church on the property. There are no consent conditions limiting the operation of the church.

On 10 June 1981, Council approved Development Application No. 156/81 for the replacement of an old weatherboard cottage and Sunday school building with a new two storey brick cottage (rectory) and a hall for use as a Sunday school and meeting hall. The Council assessment report noted that there was no on-site parking other than an existing carport for the residence. There were no consent conditions imposed regarding hours of operation of the church hall.

THE SITE

The site is known as Lot 4 DP 14655 (No. 34) Palmerston Road Waitara. It has a total area of 1073 sqm and is located on the south eastern corner of the intersection of Palmerston Road and Burdett Street. The site is rectangular in shape and has a 28.34m primary frontage to Palmerston Road and a 33.13m secondary frontage to Burdett Street. The site is relatively flat with a uniform fall of 1m over its 31m length from east to west.

The site is currently occupied by a single storey church orientated east west and a hall located on the east boundary, which is linked to the church by a lightweight structure comprising kitchen and toilet facilities. In front of the hall is a 2 storey rectory with its own frontage and access to Palmerston Road. There is no on-site parking for the church. The rectory has a carport.

Buildings in the surrounding area to the south of Burdett Street are predominately low density residential in character. Adjoining the site to the south is an existing single storey brick residence fronting Palmerston Road, which has been approved for a 2 storey childcare facility (per DA/2172/2004). Adjoining to the east is a single storey weatherboard residence fronting Burdett Street. The properties on the opposite (northern) side of Burdett Street include a child care centre and buildings ancillary to the Hornsby Hospital precinct.

THE PROPOSAL

The proposal involves the demolition of the existing church entrance lobby and the amenities building that links the church and hall. This is to be replaced with a new entry foyer building that links the church, hall and rectory. The new building works incorporate a cry room/meeting room, a small secondary cry room, an administration/ office area, new amenities and kitchen facilities. The modifications also extend the church towards the northern Burdett Street boundary.

The existing service vehicle access from Burdett Street is removed and a new crossover and parking space for a funeral or wedding vehicle is provided in the setback off Palmerston Road.

The modifications relocate the church playground to a grassed setback area between the enlarged church and the west boundary fronting Palmerston Road.

The alterations would be constructed of double brick with a rendered finish and low pitched metal roofs falling to a consistent eaves height along the entrance elevation. There is a higher gently pitched skillion roof as an awning over the entrance.

Two signs approximately 2.5sqm in area are proposed on the Palmerston Road and Burdett Street facades and one small pole sign is proposed adjacent to Palmerston Road, all identifying the premises as “*All Saints Anglican Church Waitara*”. The signs are not proposed to be illuminated.

The typical hours of operation of the church are to be as follows:

- Monday to Friday 7am to 10.30pm - max 70 persons (ex weddings/funerals).
- Saturday 7am to 10.30pm - max 220 persons
- Sunday 7am to 9.30pm - max 220 persons

With the exception of:

- Special religious services or prayer meetings with up to 220 persons occurring 10 times per year, held on weekdays (ex religious calendar events).
- Congregation social functions with up to 220 persons occurring 10 times per year on any night, but typically occur on a Saturday night.
- Community events/seminars for a maximum of 150 people up to 6 times per year, held on weekday evenings, for example the church held a recent depression seminar.
- 2 worship services per annum would operate until 1 am, for example Christmas midnight mass.
- School holiday programme for a maximum of 70 children and 30 adults supervising held on weekdays between 7am to 6pm.
- Fetes or market days – held on Saturdays up to 3 times per year.

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. The application does not propose to intensify the existing use of the church.

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

Clause 15 of HSLEP prescribes that the maximum floor space ratio (FSR) of development within the Residential A zone is 0.4:1. The proposal achieves a FSR of 0.55:1. The applicant addresses this requirement by providing an objection to the development standard pursuant to SEPP No. 1 as discussed at Section 2.2 of this report.

2.2 State Environmental Planning Policy No. 1 (Development Standards)

The applicant has submitted an objection to the requirement for compliance with the maximum 0.4:1 floor space ratio development standard pursuant to Clause 15 of the HSLEP.

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.*

The applicant's grounds for objection under SEPP No. 1 rely on points 1 and 5 above in respect to this application, as summarised in the following:

- The Zoning of the Land is Inappropriate.

"The zone is clearly one which has its prime purpose residential accommodation..."

The residential zoning of the site and use is not appropriate where residential development standards are sought to be imposed on non residential uses.

The appropriate zone for these non residential uses is a Special Uses zone or is a more general residential zone is preferred then the development standards should be flexible to accommodate the reasonable development of the non residential uses the community desires in close proximity and among residential land uses.

While the development standard seeks to control the scale of development of a residential site to provide areas on that site for recreation and private open space for the inhabitants of a residential use, that need is not necessary or reasonable for the permissible non residential uses in the zone.

Opposite the site to the north is a special uses zone where child care developments and hospital developments exist at greater scale than proposed on the site. These developments set the character of this locale and the subject site falls within a transition area between low density residential and the more intense community uses of hospital, child care and medical support areas."

Comment: The argument that the Council should uphold the SEPP No. 1 objection on the basis that the zoning is incorrect is not supported. The zones nearby such as the Special Use Zone, and Residential AM (Medical Support) Zone have an identical FSR control of 0.4:1 for community uses pursuant to either Clause 15 of HSLEP and/or within the density element of the Community Uses DCP. Therefore, even if the site was included in the adjacent zones to the north, the same floor space ratio control of 0.4:1 would apply to the alterations to the church. Furthermore existing developments nearby comply with the standard. For example the child care centre to the north at No. 89 Burdett Street has an FSR of 0.33:1 per DA No. 434/2005. The FSR control of 0.4:1 has a purpose and should not be abandoned for all non-residential uses as argued in the applicant's SEPP No. 1 objection.

- The Objectives of the Standard are Achieved.

"As set out in the HSLEP 1994... the main objectives of the floor space ratio standard are as follows:

"To control the intensity and scale of development so that development will be in accordance with the land's environmental capacity and zone objectives."

From this objective the development needs to be tested against 4 elements:

- 1. intensity of development*
- 2. scale of development*
- 3. lands environmental capacity, and*
- 4. zone objectives*

Intensity – The proposed development will not increase the activity of the site, increase hours of operation nor increase traffic. The intensity of use will remain as existing....In the case of a place of public worship, the building is traditionally of a form of prominence in the community visible by the populace as spiritual links, a gathering place for the populace for major events in life and a place for assistance with troubles. The present development on site has these uses but in a poorly functioning arrangement. The proposal retains the buildings but links the uses under cover and provides for the function of the site to be more efficient.

Scale – The scale of the proposal in regards to height and visual impact does not adversely impact upon the development in the area with the development single storey with the exception of the existing two storey rectory.

Environmental Capacity - The site is Level 1 under the land sensitivity ratings of the DCP. The site is not constrained by land sensitivity and is capable of both the land use and the proposed FSR.

Zone Objectives - The zone objective is in 3 parts. The place of worship and other community uses does not and cannot meet the first objective as the use is not one of housing and as such the objective is not considered relevant... The second objective regarding a range of housing type but land use is also not relevant unless the rectory is considered a housing type but land use compatible with a low density residential environment is relevant. It is considered that the proposal meets the zone objective by providing, as it has for many years, a land use compatible with and desired by the local area. To meet the FSR of 0.4:1 the church would need to either remain as existing with a poorly functioning site not meeting the requirement of the congregation in regards to comfort and amenity or purchase an adjoining site. This would reduce the housing stock in the area and be contrary to the objectives of the zone.”

Comment: 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. Furthermore the new link building does not contribute to the intensity of the activity, as the enlarged church would provide for a maximum of 150 people within the worship hall, while the existing ancillary hall would continue to provide for up to 70 people (total 220 people). This is consistent with the capacity of the existing church and hall pursuant to the provisions of the Building Code of Australia. Rather, the proposal to enclose the circulation/ meeting space adjacent to the church would provide acoustic benefits to the neighbours and amenity improvements for church worshippers. The SEPP No. 1 objection to the development standard is therefore supported on the basis that the objectives of the standard are achieved notwithstanding non-compliance with the standards. Compliance with the development standard is unreasonable and unnecessary in the circumstances of the case.

2.3 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 alterations and extensions to the existing buildings. Subject to the installation of sediment and erosion control measures, the water quality within the catchment would be adequately maintained.

2.4 State Environmental Planning Policy No. 64 – Advertising and Signage

State Environmental Planning Policy No. 64 – ‘Advertising and Signage’ applies to the proposed signage that identifies the building as “*All Saints Anglican Church Waitara*”. The signage satisfies the assessment criteria specified in Schedule 1 of the SEPP, as discussed in the following:

- The proposal is compatible with the existing character of the area and the objectives of the Outdoor Advertising Development Control Plan;
- The signage is compatible with the scale of the altered church buildings;
- The proposal does not have the potential to impact upon any environmentally sensitive areas, heritage areas, natural or other conservation areas, open space areas, waterways or rural landscapes;
- The signage does not obscure or compromise important views, dominate the skyline nor impact on the viewing rights of other advertisers;
- The sign is not proposed to be illuminated and
- The proposal does not raise any concerns regarding safety of pedestrians or cyclists.

2.5 Community Uses Development Control Plan

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

Council’s Community Uses Development Control Plan			
Control	Proposal	Requirement	Compliance
Floor Space Ratio	0.55:1	0.4:1	No
Height	3-4 metres	9 metres	Yes
No. of Storeys	1 storey	2 storeys	Yes
Site Cover	59%	40%	No
Setbacks			
Palmerston Rd	5-8m	4-6m	Yes

Burdett St Side (south)	0.6m No change	3m 1m	No No change
Rear (east)	1m	3m	No
Landscaping	35%	45%	No

As detailed in the above table, the proposed development does not comply with the prescriptive standard relating to FSR, site cover, setbacks and landscaped area within Council's Community Uses DCP. The non-compliance of the development with the FSR control has been addressed in section 2.2 of the report. The other matters of non-compliance are detailed below, as well as a brief discussion on compliance with relevant performance standards.

2.5.1 Site Cover

The existing premises has a site coverage of 40% which would increase to 59% with the proposed alterations and additions. This does not comply with the maximum prescriptive control of 40% pursuant to the density element in the Community Uses DCP. The purpose of the site coverage control is to ensure adequate areas for access, car parking, landscaping and useable outdoor recreation and reduce stormwater runoff from the site. The proposal is not inconsistent with the purpose of this control as:-

- There is no increase in the intensity of the use and therefore no requirement for additional on-site parking;
- Access to the church is improved by the provision of ramps for people with disabilities;
- The alterations provide for a foyer that improves circulation areas for worshippers and would function as a internal recreation/ meeting space for the church. Providing an internal (rather than external) meeting area before/ after activities would minimise potential acoustic impacts on the locality;
- The extent of landscaping and outdoor recreation space is compatible with the use of the property as a church and is not inconsistent with the character of the street;
- Stormwater runoff is able to be addressed by consent conditions.

2.5.2 Landscaping

The existing premises has a soft landscaped area of 52% which would decrease to 35% with the proposed alterations and additions. This does not comply with the minimum prescriptive control of 45% landscaping pursuant to the landscaping element in the Community Uses DCP.

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 reduction in soft landscaping is predominately located between the existing church and rectory building. The siting of the new building bulk enables a well landscaped setback to be provided to the primary frontage at Palmerston Road to enhance the amenity of the building. The existing limited landscaping to the rear (east) and side (south) boundaries are largely

unaltered by the development. The minor reduction in the landscaped setback to Burdett Street is considered acceptable taking into account the overall improvement in the appearance of the church from the public domain. The site does not contain significant stands of trees or natural vegetation that should be retained as part of any redevelopment.

It is considered that the alterations to the building would improve the visual amenity of the church from the public domain and incorporate an attractive landscape setting. Accordingly, a reduced amount of landscape area is supported.

2.5.3 Setbacks

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

“To provide setbacks that complement the streetscape, provide for landscaping and protect the privacy and solar access of adjacent dwellings.”

The proposed setbacks that do not comply with the prescriptive measures in the DCP are discussed hereunder.

Burdett Street – The existing church is setback 1.8 metres from the secondary street frontage. This is proposed to be reduced to a setback of 600mm for a length of 8 metres to facilitate the relocation of the dais within the church. The setback proposed enables some hedge planting between the church and street, which is similar to the existing situation. There is no impact on privacy or solar access as a result of the non-complying setback. Furthermore, the impact of the work on the Burdett Street streetscape is insignificant.

Rear (east) Setback – The existing church is setback between 1 and 2 metres from this boundary which does not comply with the 3 metre rear boundary setback in the DCP. The application proposes to demolish the existing toilet facilities adjacent to this boundary and reconstruct them marginally closer to the common boundary with No. 74A Burdett Street. The flat metal roof over the new single storey amenities steps down to 3 metres above natural ground which would limit the potential for overshadowing impacts. The windows within the new toilets and kitchen are to be high sill to address any potential privacy conflicts with the adjacent dwelling, particularly given that the floor level is 400mm above ground.

2.5.4 Design

The proposed single storey alterations provide a physical connection between the existing one and two storey structures on the site. The modified building addresses the street corner of Palmerston Road and Burdett Street, providing a legible common pedestrian access into the premises. The building design and roof form provides for articulation of the building bulk and avoids symmetrical design elements. The proposal provides a landscaped setback to Palmerston Road to fit in with the established streetscape character. The proposed materials and finishes compliment the area and the existing buildings on the site.

2.5.5 Acoustics

The ‘acoustic’ element in the Community Uses DCP requires buildings to be designed to provide a reasonable acoustic environment for residents.

The applicant’s statement of operation has advised that *“Historically, the church’s operations have occurred between 7am and 10pm, except for occasional midnight worship services, such as Christmas Eve. There can be small numbers of people on site – up to ten – for up to half*

an hour beyond these hours to set up/pack up for operations.” The applicant has indicated that there would be no detrimental acoustic impact as the existing capacity and usage of the premises is to remain the same. The hours of operation are addressed by consent conditions that limit activity after 10pm to address noise disturbance criteria.

Furthermore, the design of the alterations improve the potential acoustic impacts of the church on neighbouring residential properties by:

- Re-orientating the church on a north-south axis where it would face Burdett Street in lieu of the adjacent residence and the inclusion of a storage area along the eastern façade to act as a noise buffer in the church.
- Replacement of the existing lightweight wall to the link between the church and hall (on the east boundary) with a masonry wall.
- The outdoor area currently used by the church for various activities in fine weather would become an enclosed foyer which would buffer the sound to neighbouring properties.
- The area currently used as child play area be relocated to the front of the church adjacent to Palmerston Road.

Whilst it is recognised that there would be some increase in noise associated with an increase in development on site, it is considered that the noise increase would not be significant as to warrant refusal of the application in itself. Noise restrictions are set out in the *Protection of the Environment Operations Act 1997* and noise generated by the development could be reasonably managed on site.

2.6 Car Parking Development Control Plan

The application proposes an altered church with 150 seats and a hall with 70 seats. Ancillary facilities such as a common foyer, meeting room, cry rooms, offices, and associated facilities are proposed. One parking space for a hearse or wedding car is provided on turf pave. The existing parking for the rectory is unaltered.

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)

With the simultaneous use of the church and hall, a minimum of 44 car parking spaces would be required on the site. However the church and hall are existing on the site, and no on-site parking has been previously required.

The existing development consents for the church and hall do not limit the number of people able to be accommodated on site. However pursuant to the provisions of Part D of the Building Code of Australia (access and egress), the maximum number of persons accommodated in a church is 1sqm per person. Accordingly the existing 143sqm church and 77sqm ancillary hall are able to accommodate a total of 220 people. While this application proposes to marginally increase the size of the church, it is not proposed to increase the intensity of the landuse by increasing the number of potential occupants. Accordingly, there is no requirement for additional parking as part of this application. A limit on the number of

people within the premises at any one time is addressed by the recommended consent conditions.

2.7 Access and Mobility Development Control Plan

The primary purpose of this DCP is to assist proponents and Council in ensuring the requirements for equitable access are satisfied when building work is proposed.

As the building is frequented by the public, an accessible and continuous path of travel is recommended in compliance with the element objective for 'Access Routes and Building Entrances' of the Access and Mobility DCP. An accessible ramp is provided for access from the street to the ground floor of the church. The application is accompanied by an access report that has provided recommendations resulting in minor internal changes to the plans regarding access to disabled toilets, amenities, tactile indicators and the like.

There is no existing or proposed public parking available on the site. As the application is not increasing the number of worshippers to the premises, it is unreasonable to require on-site parking for people with disabilities.

2.8 Outdoor Advertising Development Control Plan

The primary purpose of the Plan is to control the visual impact of advertisements and advertising structures on the environment and to provide adequate opportunities for the community to advertise their goods and/or services.

The proposed development has been assessed having regard to the relevant performance and prescriptive design requirements within Council's Outdoor Advertising Development Control Plan Development Control Plan (Outdoor Advertising DCP). The following table sets out the proposal's compliance with the prescriptive measures of the Plan:

Outdoor Advertising Development Control Plan			
Control	Proposal	Requirement	Compliance
Sign 1 – Palmerston Road (wall sign)	2.5 sqm	4 sqm	Yes
Sign 2 – Palmerston Road (pole sign)	1.0 sqm (area) 2.6m (height)	4.5 sqm (area) 8m (height)	Yes
Sign 3 – Burdett Street (wall sign)	2.5 sqm	4 sqm	Yes
Total Signage	6 sqm	12.5 sqm	Yes

2.9 Waste Minimisation and Management Development Control Plan

A waste management plan for the construction phase has been provided and is to be implemented in accordance with the recommended conditions.

2.10 Sustainable Water Development Control Plan

The DCP aims to achieve the implementation of sustainable water practices into the management of development in the Hornsby Shire.

Conditions are recommended in relation to erosion and sediment control and stormwater management for the site.

3. ENVIRONMENTAL IMPACTS

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

3.1 Natural Environment

3.1.1 Trees

One 4m (high) tree is indicated as being removed in the north-eastern corner of the site. This tree is located within 1.5 metres of the existing church and is therefore exempt under the Tree Preservation Order. The tree does not have any environmental or visual significance.

3.2 Built Environment

3.2.1 Heritage

None of the buildings on the site are heritage listed, nor is the site in a heritage conservation zone. However, the site is located in the proximity of a heritage item, No. 33 Palmerston Road, which is located diagonally across the road from the rectory building. The item is a residential dwelling of local significance. The development would not detrimentally impact on this heritage item. Rather, the improved appearance of the church would have a positive effect on the streetscape by unifying the existing built elements on the site and addressing the street corner.

3.2.2 Traffic and Access

Council’s engineering assessment of the traffic impacts of the development concludes that as there would not be an increase in the number of the church’s congregation, increased traffic generation would not occur as a result of this development.

It is proposed to remove the existing service access to the site from Burdett Street and provide access for service, funeral and wedding cars from Palmerston Road. The proposal would enable a hearse to park wholly within the site without restricting access to parishioners entering the church. It is anticipated that the proposed driveway would not interfere with traffic flow or the operation of Palmerston Road.

The proposed disabled access from Burdett Street does not comply with the Roads and Traffic Authority’s Technical Direction for kerb ramps by retaining the existing driveway lip. The recommended consent conditions require the existing driveway to be removed and a disabled access ramp installed without the driveway lip.

As there is no proposed off-street parking, it is expected that parishioner's would utilise available parking in surrounding streets. To assist with the access requirements of disabled, elderly and less mobile persons, it is considered necessary that a footpath be provided along the Burdett Street frontage of the site to connect with the existing footpath on Palmerston Road. This is recommended as a condition of consent.

3.3 Social Impacts

The use of the site would remain for a community purpose, providing assistance to the greater community resulting in a positive social impact.

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.

5. PUBLIC PARTICIPATION


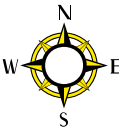
Section 79C(1)(d) of the Act requires Council to consider "*any submissions made in accordance with this Act*".

5.1 Community Consultation

The proposed development was placed on public exhibition and was notified to adjoining and nearby landowners between 3 December 2008 and 24 January 2009 in accordance with Council's Notification and Exhibition Development Control Plan. During this period, Council received three submissions. The map below illustrates the location of those nearby landowners who made a submission that are in close proximity to the development site.



NOTIFICATION PLAN

<ul style="list-style-type: none"> • PROPERTIES NOTIFIED 	<ul style="list-style-type: none"> X SUBMISSIONS RECEIVED 	 PROPERTY SUBJECT OF DEVELOPMENT	
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Two submissions objected to the development, generally on the grounds that the development would result in:

- Increased intensity of use.
- Inadequate parking.
- Fire Safety.
- Excessive site coverage and inadequate landscaping.
- Inadequate building setback to Palmerston Road and Burdett Street.
- Visual impact of garbage area.

One submission supported the development and made the following observations:

- The church is a great contributor within the immediate community, they run English course, kids clubs and other value-adding activities;
- The redevelopment will update the building and the design looks nice;

The merits of the matters raised in community submissions have been addressed in the body of the report with the exception of the following:

5.1.1 Increased intensity of use.

Concerns were raised that the existing church is already operating outside the original approval conditions by conducting English classes, mothers groups, youth groups and the like during the week. In addition, neighbours were concerned that the activity and congregation volumes would increase which would further reduce the availability of on-street parking.

As detailed in the background to this report, the church was approved on the site in 1959 without any specific conditions limiting its operation. A 'place of worship' is defined in the Hornsby Shire LEP 1994 as follows:

“Place of worship means a building or place used for the purpose of religious worship, whether or not the building or place is also used for counselling, social events or religious training by a congregation or religious group.”

The above definition permits activities that are ancillary and subsumed by the church, such as church youth groups and other social events. The church has advised that the ESL (English) classes conducted are bible study classes where the teaching of the gospel accounts for half the lesson, which comprises religious training. Other land uses that are severable to the above definition may be permitted with consent pursuant to Clause 12 of HSLEP which relates to the temporary use of land for community purposes. The recommended consent conditions make it clear that the approved use of the premises is as a 'place of worship.' In addition, consent conditions limit the number of people able to be accommodated on-site at any one time to reflect the existing capacity of the church and hall.

5.1.2 Fire Safety

A submission was concerned that the building would not be safe in the event of fire given the limited egress options from the enlarged building. The development would be required to comply with the provisions of the Building Code of Australia which addresses such fire safety matters.

5.1.3 Visual impact of garbage area

A concern was raised about the visual impact of the garbage storage area on the streetscape. It was suggested that the garbage area screening wall be re-oriented so that it is parallel with the new wall of the administration room. This suggestion would reduce the small playground area available in the front setback as the garbage storage area would need to be increased in size to facilitate pedestrian access to the bins. There is limited benefit to the streetscape from the proposed alteration. Recommended consent conditions require the opening to the south of the garbage area to be screened with gates.

5.2 Public Agencies

The application was not required to be referred to any external public authorities.

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.

7. CONCLUSION

The application proposes the demolition of part of an existing church and link building and the construction of a new foyer linking the church, existing hall and rectory for use as a place of worship.

The development proposes a floor space ratio of 0.55:1 which exceeds the development standard of 0.4:1 that applies to the Residential A zone pursuant to Clause 15 of the HSLEP. An objection to the standard has been submitted by the applicant pursuant to SEPP No. 1

Whilst the proposal does not comply with Council's Community Uses Development Control Plan with respect to the density, landscaping, setbacks and site coverage, the proposed development would provide the public with a modern place of worship with expanded facilities and would result in a positive impact for the community.

Accordingly, it is recommended that the Council uphold the SEPP No. 1 objection and approve the application.

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. Landscape Plan
4. Elevations Plans
5. Perspective

File Reference: DA/1623/2008
Document Number: D01108785

SCHEDULE 1**CONDITIONS OF CONSENT****GENERAL CONDITIONS**

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

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

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

1. Approved Plans and Supporting Documentation

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

<i>Plan No.</i>	<i>Drawn by</i>	<i>Dated</i>
3291/07 Rev A Sheet 1 of 2 Survey Plan	Alan G Turner & Associates	23.11.07
07109-DA01 Rev A Site Analysis & Site and Roof Plan	NBRS + Partners	27.11.08
07109-DA02 Rev B Ground Floor Plan	NBRS + Partners	16.01.09
07109-DA03 Rev A Elevations and Section	NBRS + Partners	27.11.08
07109-DA04 Rev A Perspectives	NBRS + Partners	27.11.08
07109-DA05 Rev A Landscape Plan	Will Cuddy	27.11.08
07025-DA07 Rev A East Elevation	NBRS + Partners	09.03.09
HSK01 Rev P1 Sheets 1 & 2 of 2 Stormwater Services Erosion & Sediment Control Site Plan	Sparks and Partners	1.04.08

<i>Document No.</i>	<i>Prepared by</i>	<i>Dated</i>
Statement of Environmental Effects (including Waste Management Plan)	NBRS + Partners	10.11.08
Statement of Operation	NBRS + Partners	03.11.08
Access Report	Accessibility Solutions	14.01.09
Proposed Finishes Board	NBRS + Partners	Nov 2008

REQUIREMENTS PRIOR TO THE ISSUE OF A CONSTRUCTION CERTIFICATE

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

2. Building Code of Australia

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

3. Fire Safety Upgrade

To ensure the protection of persons using the existing building and to facilitate egress from this building in the event of a fire, details must be submitted detailing what works are necessary (if any) to bring it into full compliance with Parts C, D and E of the Building Code of Australia.

4. Sydney Water – Quick Check

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

Note: Refer to www.sydneywater.com.au or telephone 13 20 92 for assistance.

REQUIREMENTS PRIOR TO THE COMMENCEMENT OF ANY WORKS

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

5. Erection of Construction Sign

A sign must be erected in a prominent position on any site on which building work, subdivision work or demolition work is being carried out:

- a. Showing the name, address and telephone number of the principal certifying authority for the work.
- b. Showing the name of the principal contractor (if any) for any demolition or building work and a telephone number on which that person may be contacted outside working hours.
- c. Stating that unauthorised entry to the work site is prohibited.

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

6. Protection of Adjoining Areas

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:

- a. Could cause a danger, obstruction or inconvenience to pedestrian or vehicular traffic.
- b. Could cause damage to adjoining lands by falling objects.
- c. 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.

7. Toilet Facilities

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 for every 20 persons employed at the site. Each toilet must:

- a. 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*.

8. Erosion and Sediment Control

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

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

9. Construction Work Hours

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

Monday to Saturday	7 am to 5 pm
Sunday & Public Holidays	No work

10. Demolition

All demolition work must be carried out in accordance with *Australian Standard 2601-2001 – The Demolition of Structures* and the following 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.
- d. Should the presence of asbestos or soil contamination, not recognised during the application process be identified during demolition, the applicant must immediately notify the principal certifying authority and Council.

11. Environmental Management

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.

12. Sediment basin

Waters captured in the sediment basin must be flocculated to ensure that discharges contain no more than 50 mg/L of suspended solids, turbidity is no more than 30 ntu's and the pH is between 6.5 – 7.5 before being discharged. Gypsum (calcium sulphate) shall be used as the flocculent agent and applied within 48 hours following rainfall events. The flocculent must be evenly distributed over the surface area of the sediment retention basin. Settled sediment must be pumped out and disposed of to an approved waste management facility.

Note: Approval must be sought from Council prior to discharge into Council's stormwater system

13. Excavated Material

All excavated material removed from the site must be classified in accordance with the *NSW Environment Protection Authority's Environmental Guidelines – Assessment, Classification and Management of Liquid and Non-Liquid Wastes* prior to disposal to an approved waste management facility and reported to the principal certifying authority.

14. Council Property

During construction works, no building materials, waste, machinery or related matter is to be stored on the road or footpath.

REQUIREMENTS PRIOR TO THE ISSUE OF AN OCCUPATION CERTIFICATE

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

Note: For the purpose of this consent, any reference to 'occupation certificate' shall also be taken to mean 'interim occupation certificate' unless otherwise stated.

15. Vehicular Crossing

A separate application under the *Local Government Act 1993* and the *Roads Act 1993* must be submitted to Council for the installation of a new vehicular crossing in Palmerston Road and the removal of the redundant crossing in Burdett Street. The vehicular crossing must be constructed in accordance with Council's *Civil Works Design 2005* and the following requirements:

- a. Any redundant crossings to be replaced with integral kerb and gutter.
- b. The footway area to be restored by turfing.
- c. The driveway at the boundary on Palmerston Road must be 3.5 metres wide.

Note: An application for a vehicular crossing can only be made to one of Council's Authorised Vehicular Crossing Contractors. You are advised to contact Council on 02 9847 6940 to obtain a list of contractors.

16. Landscaping, fencing and signage adjacent to new Vehicular Crossing

A clear sight distance splay of 2.0m by 2.5m must be provided on the southern side of the proposed driveway on the Palmerston Road frontage.

17. Pedestrian Crossing in Burdett Street

A disabled access ramp must be installed in Burdett Street in accordance with the *RTA Technical Direction TD 2002/08* to align with the proposed pedestrian entry gate on the subject site.

18. Footpath

A concrete footpath must be constructed along the Burdett Street frontage of the subject site in accordance Council's *Civil Works Design and Construction Specification, 2005* and the following requirements:

- a. Pouring of the concrete footpath to the full frontage of the subject site.
- b. The land adjoining the footpath to be fully turfed.
- c. Any public utility adjustments to be carried out at the cost of the applicant and to the requirements of the relevant public authority.

19. Damage to Council Assets

Any damage caused to Council's assets as a result of the construction of the development must be rectified in accordance with Council's written requirements and at the sole cost of the applicant.

20. Stormwater Drainage

The stormwater drainage system for the development must be designed and constructed in accordance with Council's *Civil Works – Design and Construction Specification 2005* and the following requirements:

- a. Connected directly to Council's street drainage system.

21. External Lighting

All external lighting must be designed and installed in accordance with *Australian Standard AS 4282 – Control of the Obtrusive Effects of Outdoor Lighting*. Certification of compliance with the Standard must be obtained from a suitably qualified person.

22. Garbage Storage Area

The southern elevation of the garbage area must be screened with gates. These gates are to be affixed to the garbage enclosure structure along the entire 2.5 metre wide southern opening and have a height of 1.6 metres. The gates are to be a solid structure or a slatted screen with a maximum opening of 50% of the surface area. The materials and colours are to blend with the approved buildings on the site.

OPERATIONAL CONDITIONS

The following conditions have been applied to ensure that the ongoing use of the land is carried out in such a manner that complies with relevant legislation and Council's policies and does not disrupt the amenity of the neighbourhood or impact upon the environment.

23. Use of Premises

- The development approved under this consent must be solely used for a 'place of worship' and not for any other purpose without Council's separate written consent. A 'place of worship' is defined as follows:

place of worship means a building or place used for the purpose of religious worship, whether or not the building or place is also used for counselling, social events or religious training by a congregation or religious group.

24. Patron Numbers

There must not to be more than 220 people in the premises at any one time.

25. Hours of Operation

- The hours of operation of the premise are restricted to those times listed below:

Monday to Saturday	7 am to 10 pm
Sunday & Public Holidays	7 am to 9.30pm

With the exception of:

- Two worship services per annum that are permitted to operate until 1 am; and
- a maximum of 10 persons on site at any one time on-site for up to half an hour before or after the approved hours of operation.

26. Signs

- The signage approved under this consent must not be illuminated, flash, move or display electronic images.

27. Noise

- All noise generated by the proposed development must 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).

28. Deliveries

Vehicles awaiting loading or unloading shall be parked on site and not on adjacent or nearby public roads. Deliveries are to occur within the new hearse/wedding car parking space.

29. Fire Safety Statement - Annual

- 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 legislation and Council's policies and specifications. This information does not form part of the conditions of development consent pursuant to Section 80A of the Act.

Environmental Planning and Assessment Act 1979 Requirements

The Environmental Planning and Assessment Act 1979 requires you to:

- 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 Services Branch on 9847 6760.
- Nominate a principal certifying authority and notify Council of that appointment prior to the commencement of any works.
- Give Council at least two days written notice prior to the commencement of any works.
- Have mandatory inspections of nominated stages of the construction inspected.
- Obtain an occupation certificate before occupying any building or commencing the use of the land.

Long Service Levy

In accordance with Section 34 of the *Building and Construction Industry Long Service Payments Act 1986*, a 'Long Service Levy' must be paid to the *Long Service Payments Corporation* or *Hornsby Council*.

Note: The rate of the Long Service Levy is 0.35% of the total cost of the work.

Note: Hornsby Council requires the payment of the Long Service Levy prior to the issue of a construction certificate.

Tree Preservation Order

To ensure the maintenance and protection of the existing natural environment, you are not permitted to ringbark, cut down, top, lop, remove, wilfully injure or destroy a tree outside three metres of the approved building envelope without prior written consent from Council. Fines may be imposed if you contravene Council's *Tree Preservation Order*.

Note: A tree is defined as a perennial plant with self supporting stems that are more than 3 metres or has a trunk diameter more than 150mm measured 1 metre above ground level, and excludes any tree declared under the Noxious Weeds Act (NSW).

Disability Discrimination Act

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

Dial Before You Dig

Prior to commencing any works, the applicant is encouraged to contact *Dial Before You Dig* on 1100 or www.dialbeforeyoudig.com.au for free information on potential underground pipes and cables within the vicinity of the development site.

Asbestos Warning

Should asbestos or asbestos products be encountered during construction or demolition works you are advised to seek advice and information prior to disturbing the material. It is recommended that a contractor holding an asbestos-handling permit (issued by *Work Cover NSW*), be engaged to manage the proper disposal and handling of the material. Further information regarding the safe handling and removal of asbestos can be found at:

www.environment.nsw.gov.au

www.nsw.gov.au/fibro

www.adfa.org.au

www.workcover.nsw.gov.au

Alternatively, telephone the *Work Cover* Asbestos and Demolition Team on 8260 5885.

**4 DEVELOPMENT APPLICATION - SENIORS LIVING DEVELOPMENT
64 - 66 NORFOLK ROAD EPPING**

Development Application No:	DA/1536/2008
Description of Proposal:	Seniors Living Development comprising the demolition of 'Poplars Private Hospital' and the erection of a seniors living development comprising 105 bed residential care facility
Property Description:	Lot 3 DP 828636 (Nos. 64-66) Norfolk Road Epping
Applicant:	Incoll Management
Owner:	Awder Pty Ltd
Statutory Provisions:	SEPP (Housing for Seniors or People with a Disability) 2004 Hornsby Shire Local Environmental Plan 1994 - Residential A (Low Density) Zone
Estimated Value:	\$17,635,097
Ward:	C

RECOMMENDATION

THAT Development Application No. DA/1536/2008 for the demolition of existing buildings, the retention of 'Donald M Tulloch' building and the erection of a Seniors Living development comprising a 105 bed residential care facility at lot 3 DP 828636 (No. 64-66) Norfolk Road Epping, be approved subject to the conditions of consent detailed in Schedule 1 of this report.

EXECUTIVE SUMMARY

1. The application proposes the demolition of 'Poplars Private Hospital', the retention of the 'Donald M Tulloch' building and the erection of a Seniors Living development comprising a 105 bed residential care facility.
 2. On 13 January 2006, the Land and Environment Court upheld an appeal against Council's refusal of a development application for a two and three storey multi-unit housing development comprising 37 units on the site, which included retention of the 'Donald M Tulloch' building.
 3. The proposed residential care facility complies with State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004, other than the 8m height standard pursuant to Clause 40(4).
-

4. The applicant's objection to the height standard, pursuant to State Environmental Planning Policy No. 1 – Development Standards, is supported with respect to the 'Donald M Tulloch' building.
5. One submission has been received in respect of the application.
6. It is recommended that the application be approved.

HISTORY OF THE SITE

The 'Poplars Private Hospital' site has been the subject of two previous development applications for multi-unit housing which were refused by Council. The applications involved medium-high density multi-unit housing development that relied on existing use rights. On 13 January 2006 the Land and Environment Court upheld the appeal against Council's refusal of DA/911/2005 to demolish part of the existing 'Poplars Private Hospital' building and to erect a three and two storey multi-unit housing development comprising 37 units with basement car parking. The consent included refurbishment of the 'Donald M Tulloch' building.

THE SITE

The site is located approximately 1km north east of the Epping town centre and comprises lot 3 DP 828636 (Nos. 64-66) Norfolk Road Epping.

The site has an area of 6,873sqm and is located on the south eastern corner of Norfolk Road and Somerset Street. The site is generally rectangular in shape with a 55m frontage to Norfolk Road, a 105m frontage to Somerset Street and a 7m corner splay. The site extends a further 10m x 20m at the south eastern corner. An existing hospital known as 'Poplars Private Hospital' is sited on the land and has recently been vacated. The hospital comprised five existing buildings developed in various stages since the 1920s. A large formal garden at the frontage is identified as an item of local heritage significance.

A reciprocal right of carriageway with the southern adjoining property lot 2 DP 627224 (No. 62) Norfolk Road, provides vehicle access to the Hospital's open carpark and to the adjoining townhouse development for seniors living ('Carinya' - 28 units). The 'Carinya' development includes garages, carports and units with frontage to the right of way. A separate driveway off Somerset Street provides access to the Donald M Tulloch building lower ground floor car park and the open carpark.

The site experiences an average fall of 4% to the eastern boundary. Existing trees are mainly exotic species generally confined to the Norfolk Road and Somerset Street frontages.

The eastern boundary adjoins two, 2 storey dwelling houses. The western side of Norfolk Road opposite the site includes single and two storey dwelling houses. The opposite corner of Norfolk Road and Somerset Street includes a recent townhouse development. The majority of the surrounding locality is generally a low density residential area.

Epping Park is opposite the site on Somerset Street and, together with federation dwelling houses on Norfolk Road, largely define the character of the locality. A number of heritage items are in the vicinity of the subject site. Epping Park includes an area of remnant bushland opposite the site on Somerset Street.

The M2 Motorway tunnel traverses east-west generally below the Somerset Street alignment.

THE PROPOSAL

The proposal includes the demolition of all existing buildings other than the 'Donald M Tulloch' building which is to be retained and constructed as a residential care facility. The facility is for 105 beds including 16 dementia care beds and involves assisted living, 24 hour care and dementia care. The proposed development is two storeys in height with the building arranged to enclose two central courtyards. The existing 'Donald M Tulloch' building is three storeys in height including the lower ground floor car park. The proposal includes alterations and additions to integrate the 'Donald M Tulloch' building with the new development (refer to the architects design statement attached).

The proposed development is not dissimilar to the previous use of the site as a private hospital and involves a reduced building envelope including setbacks and height, to that approved by the Land and Environment Court in 2006.

The main entry is at the Somerset Street frontage. The facility comprises 1 bedroom suites with 52 suites on the ground floor and 53 on the first floor. The suites are accessed by a central corridor. Communal dining, lounge and staff areas are located centrally with access and views to the courtyards. The layout of the ground and first floors are essentially the same. There are 3 lifts including a service lift. The lower ground floor includes the kitchen, laundry facilities, storerooms, resident gym, plant rooms, garbage room and the car parking area.

The proposed vehicle access is off Somerset Street. The existing right of carriageway off Norfolk Road is maintained for access to a residents' mini bus parking area.

The proposed development generally maintains the existing front setback to Norfolk Road. The proposed two storey building is of design to address both street frontages and to respond to the federation character of the area. The proposed alterations and additions to the 'Donald M Tulloch' building include new openings for windows, additions to the second floor and the addition of a skillion roof. The additions integrate the building with the new development.

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 additional assisted accommodation for seniors 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 A (Low Density) under Hornsby Shire Local Environmental Plan 1994 (HSLEP). The objectives of the zone are:

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

The proposed development is defined as ‘housing for aged or differently abled persons’ under 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 proposed development has been assessed having regard to the relevant standards within the SEPP. The following table sets out the proposal’s compliance with the Policy:

SEPP (Housing for Seniors or People with a Disability)			
Control	Proposal	Requirement	Compliance
Site Area	6,873m ²	1,000m ²	Yes

Site Frontage	55m/105m	20m	Yes
Floor Areas	Lower Gnd– 542.5m ² Ground – 2731.7m ² First – 2635.4m ²	N/A	N/A
Floor Space Ratio	0.86:1	1:1	Yes
Height	New Building - 8m Tulloch Bldg – 9m	8m	Yes No
Landscaping	3,076.5m ²	25m ² per bed = 2,625m ²	Yes
Car parking	27 spaces 1 ambulance space	1 space/10 beds = 10.5 1 space/2 staff = 13.5 Total 24 spaces 1 ambulance space	Yes

As noted in the above table, the proposed development complies with the prescriptive standards within the SEPP other than the maximum 8m height requirement (ceiling to ground level) which is a development standard pursuant to Clause 40 of the SEPP. The non-compliance is subject to a SEPP 1 objection and is discussed in Section 2.3 of this report.

The proposal has been assessed with regard to the SEPP provisions in respect to site related requirements, design requirements and development standards, as follows:

2.2.1 Location and access to facilities

The day to day needs of the residents of the proposed facility would essentially be provided for on-site, including a visiting doctor, podiatrist and hairdresser. The facility caters for residents' visitors with the provision of family rooms, private dining areas and a children's play area. A 14 seat mini bus is proposed for residents for access to shops and services and for recreational excursions. Access to public transport is available at the bus stop located 50m south of the Norfolk Road frontage, which complies with Clause 26 of the SEPP.

The proposed development is designed in compliance with the access requirements of the Aged Care Act 1997 for residential care facilities.

2.2.2 Bush Fire Prone Land

The site is located within a bushfire prone area. The proposed residential care facility is a 'special fire protection purpose' pursuant to Section 100B of the Rural Fires Act 1997 and is an 'integrated development'. The application includes a 'Bushfire Hazard Assessment Report' which was reviewed by the NSW Rural Fire Service in its assessment of the application.

The NSW Rural Fire Service has advised of its approval as a bushfire safety authority subject to recommended conditions of consent being incorporated.

2.2.3 Neighbourhood amenity and streetscape

The subject site is a large corner site which is not significantly affected by the scale of adjoining residential developments. The existing buildings on the site fronting Somerset Street form an element in the streetscape. The Norfolk Road frontage of the site includes a large garden with trees along the street frontage which largely define the streetscape due to the significant setback and low scale of the existing building at the frontage.

The site and neighbouring properties are zoned Residential A (Low Density). The proposed development is inconsistent with the density and scale of development permitted pursuant to Clause 14 and Clause 15 of HSLEP and the applicable controls under Council's development control plans. Notwithstanding the applicable planning controls, the site's size, its corner position, aspect and relation with immediate adjoining properties, enables a higher density development form, without detracting from the predominant low density scale, due to the significant setback to the Norfolk Road frontage and the open aspect of Epping Park opposite the Somerset Street frontage. The proposed development is of a reduced density and scale to that previously approved by the Land and Environment Court (DA/911/2005) and is considered an appropriate design response to the site.

The Norfolk Road streetscape is characterised by federation style dwelling houses which define the immediate area. The dwelling house at No. 57 Norfolk Road and Epping Park are identified as heritage items. The proposed development is of design that would contribute to the existing built form in the streetscape and not detract from the significance of the items or views to and from Epping Park.

The garden at the frontage of the site is identified as an item of local heritage significance. The boundary along the front of the site, Camphor Laurels and Lombardy Poplars have significance heritage as cultural plantings from the 1940s and are prominent in the streetscape. However, the trees are generally in poor condition. The proposed development retains the paths and structure of the front garden and includes the replacement of the Camphor Laurels and Lombardy Poplars. It is recommended that the trees be replaced with native Lilli Pilly species. The recommended replacement trees form a similar shape and are a suitable street tree evident elsewhere in Epping (refer to heritage comments under Section 3.2 of this report).

The existing 'Donald M Tulloch' is two storey and part three storey in height and is elevated in relation to the adjoining property at No. 20 Somerset Street. The proposed alterations and additions result in a three storey built form. The proposal includes a transition in height in relation to the adjoining property at No. 20 Somerset Street with the second floor setback 7.5m. The setback minimises bulk and scale in relation to the adjoining two storey dwelling.

There are no proposed windows that would face towards No. 20 Somerset Street at the lower ground floor level. The proposed ground floor level is at approximately the first floor level of the adjoining dwelling and includes an outdoor terrace area 4.2m wide x 6.3m long with 1m high solid balustrade setback 3.2m from the boundary together with a central planter box 3m x 7m. The proposed outdoor terrace is located opposite the two bedroom windows, the first floor rear deck and rear yard of No. 20 Somerset Street. Given the benign use of the outdoor terrace of the proposed facility, the planter box and setback is considered to maintain adequate privacy for the adjoining dwelling.

The adjoining townhouses of the 'Carinya' seniors living development front the right of carriageway along the southern boundary of the site. The proposed development has a

minimum setback of 5.5m from the ROW, 7.0m from the boundary and 10.0m from the adjoining townhouses. The proposed development allows adequate separation to maintain the existing open outlook at the northern elevation of the 'Carinya' units fronting the southern boundary.

At the south eastern part of the site the existing open car park is maintained, other than the proposed alterations and additions to the 'Donald M Tulloch' building, which are setback 11.4m from the eastern boundary with the adjoining two storey dwelling house at No. 20A Somerset Street. The proposal would not adversely impact on the amenity of that dwelling.

The proposed development is considered satisfactory in respect to neighbourhood amenity and the streetscape, pursuant to Clause 33 of the Seniors Living SEPP.

2.2.4 Visual and acoustic privacy

The proposed residential care facility is designed to provide a caring environment for senior residents with units orientated mainly towards internal courtyard areas. The proposed setback to the adjoining 'Carinya' development and the proposed landscaping would ensure adequate privacy of the neighbouring property.

The proposed design for privacy is satisfactory with regard to the amenity of adjoining dwelling houses at 20 & 20A Somerset Street.

2.2.5 Solar access and design for climate

The submitted shadow diagrams demonstrate that solar access is available to the north facing windows of the 'Carinya' townhouses at the southern boundary for part of the day on 22 June.

The proposed development includes balconies for a number of north facing suites and includes sitting rooms and lounge areas with access to winter sunlight. The proposed development primarily relies on central heating and air conditioning.

The proposal includes rainwater storage and recycling for irrigation of landscaped areas and solar collectors for hot water heating.

It is considered the proposal complies with the SEPP sustainable design principles.

2.2.6 Stormwater

The proposed stormwater drainage system is designed to incorporate an on-site detention system and complies with Council's stormwater drainage requirements.

2.2.7 Crime prevention

The proposed development is designed to provide a secure environment for residents and particularly to safeguard residents with dementia. Open panel steel fencing is proposed throughout landscape areas and enables casual surveillance of the extensive street frontage. The main public access to the development is clearly defined at the Somerset Street frontage.

The proposal complies with the SEPP design principle.

2.2.8 Accessibility

The proposal includes 3 lifts that provide access from the lower ground floor car park. Pathways are designed to allow a continuous path of travel throughout the development and for access to the public domain in compliance with the SEPP.

2.2.9 Waste Management

The proposed garbage room includes a facility to allow for recycling. A condition is recommended to require compliance with Council's Waste Minimisation and Management DCP.

2.2.8 Standards that cannot be used to refuse development consent for residential care facilities

The proposed development complies with the SEPP development standards in respect to density and scale, landscaped area and parking for residents and visitors.

The proposal does not comply with the building height requirement in respect to the 'Donald M Tulloch' building. The non-compliance is the subject of a SEPP 1 objection (refer to Section 2.3 of this report).

2.3 State Environmental Planning Policy No. 1 – Development Standards

The applicant has submitted an objection to the requirement for compliance with the maximum building height pursuant to Clause 40(4) of the Seniors Living SEPP, which states that the height of all buildings in the proposed development must be 8 metres or less.

40 Development standards – minimum sizes and building height

(4) Height in zones where residential flat buildings are not permitted

If the development is proposed in a residential zone where residential flat buildings are not permitted:

- (a) the height of all buildings in the proposed development must be 8 metres or less, and*
- (b) a building that is adjacent to a boundary of the site (being the site, not only of that particular development, but also of any other associated development to which this Policy applies) must not be more than 2 stories in height, and*
- (c) a building located in the rear 25% area of the site must not exceed a storey in height.*

The site is within a low density residential zone where multi-unit housing is restricted to detached and semi-detached dwellings. Residential flat buildings are not permitted within the zone. The existing 'Donald M Tulloch' building has a minimum setback of 1.4m from the eastern boundary of the site, is a two storey and part three storey building and was used as an operating theatre for the former hospital.

The proposal includes alterations and additions to the 'Donald M Tulloch' building for a residential care facility and integration with the new development.

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 above points 1, 2 & 3 are relevant matters to consider in respect to this application.

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

1. *The existing Donald M Tulloch building was constructed in 1993 and comprises a ground floor carpark and service areas, a first floor currently comprising operating theatres and the like and a second floor comprising a substantial plant room. The building is substantial in its construction in that it comprises reinforced concrete slabs supported on concrete columns. It is a sound structure which structurally has not reached the end of its useful or safe life. In addition its demolition would be expensive, time consuming and noisy due to this substantial construction.*
2. *The Donald M Tulloch building whilst not being compliant with Council's current development controls for the Residential A zone or with the development standards contained within the SEPP is an existing structure which exists and forms part of the existing streetscape and character of the area. Being an existing structure the applicant is entitled for it to remain as is. In this regard recognition must be given to the significant improvement in its streetscape appearance proposed by this application.*

3. *Having regard to the above it was held by the Land & Environment Court of NSW in Fodor Investments P/L v Hornsby Shire Council [2006] NSWLEC 8 that the adaptive re-use of the Donald M Tulloch building was an appropriate outcome for the site and the adjoining properties.*
4. *There will be no additional detrimental impacts that will arise as a result of the proposed re-use of this building upon the adjoining properties, with a contrary outcome being likely as a result of modifications proposed adjacent to the eastern boundary. In this regard the Donald M Tulloch building is proposed to be altered so as to provide for a reduction in bulk on the first and second levels through increased setbacks and reduced overall height.*
5. *In addition to the above and importantly, it is to be noted that were the applicant not permitted to adapt the existing Donald M Tulloch building as proposed that a bigger building footprint would be required in order to achieve a comparable and significantly compliant FSR. Such an outcome would result in reduced setbacks to the south, the locating of building within the south eastern corner and the introduction of a basement carpark. It is also anticipated that a reduction in landscape area would be required.*
6. *Were the above to occur it is likely that additional impacts would be caused to the adjoining properties particularly those to the south and as such one of the underlying objectives of the provisions would not be complied with. Whilst the relationship of the Donald M Tulloch building to the adjoining dwelling to the east is not ideal (noting that it will be improved by the proposal) it nevertheless is an existing relationship no doubt contemplated by the owners of the adjoining property when they purchased. It therefore seems appropriate to achieve an outcome whereby existing impacts are confined to that property rather than to enforce an outcome whereby additional properties would potentially be impacted upon.*

The applicant's grounds for objection in respect to Clause 40(4)(a) and (b) of the Seniors Living SEPP are discussed as follows:

The adaptive reuse of the 'Donald M Tulloch' building was considered by the Land and Environment Court in the two appeals by Fodor Investments Pty Ltd. The Court findings were to retain the building having regard to the impact of the proposed adaptive reuse on the existing and future character of the area, the impact on adjoining residential properties and internal amenity.

The subject proposal involves an addition of 487m² to the third level (203m²) of the existing building which does not comply with the Seniors Living SEPP maximum 2 storey height limit. The third level extends to the new building and involves a further 144m² where the 2 storey height limit is exceeded. The non-compliance involves 14% of the total proposed floor area.

The proposed third level is setback 7.5m from the eastern side boundary and would not significantly alter the existing amenity of the adjoining property at No. 20 Somerset Street. The proposed alterations and additions to the 'Donald M Tulloch' building improve the streetscape presentation of the building and alter the building appearance to be residential in context.

The retention of the existing building has on principle been considered a reasonable planning outcome by the Land and Environment Court. Compliance with the height standard is considered unwarranted in respect to the proposed use of the existing building. The proposed alterations and additions are of design that maintains the amenity of adjoining properties and fits with the residential character of the area. The proposed additions integrate the existing building with the new development and achieve a balance and proportion with the new building on the elevated section of the site. In this regard it is considered the objective of the 8m height limit, to maintain the character of residential areas where residential flat building is not permitted, would not be compromised by the non-compliance with the development standard.

The objection to the 8m height limit is therefore supported.

The applicant's grounds for objection in respect to Clause 40(4)(c) of the Seniors Living SEPP are discussed as follows:

The site is a corner lot with extensive frontage to two streets. The rear 25% of the site is the south east corner of the site and involves an area of 852.5m², setback 45m from the Somerset Street frontage and setback 68m from the Norfolk Road frontage. This area of the site is mainly comprised of the proposed open car park area, dementia garden and landscaping. The proposed two and three storey buildings form a minor encroachment on this area of 94m². The proposed buildings have an average setback of 12.5m from the rear boundaries. The proposed development is considered acceptable in respect to compliance with the 25% single storey requirement, given the majority of the area is free of any building. The amenity of the adjoining 'Carinya' units and the adjoining dwelling house at No. 20A Somerset Street, would not be diminished as a result of the development.

The objection to the 25% single storey requirement is therefore supported.

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 is located opposite Epping Park which includes remnant bushland identified as Sydney Turpentine-Ironbark Forest, an endangered ecological community under the *Threatened Species Conservation Act 1995*. The existing vegetation on the subject site does not include plant species identified as part of the endangered ecological community, other than 1 *Pittosporum undulatum*, a locally invasive native species. The proposed development would not adversely impact on Sydney-Turpentine Ironbark Forest.

The site includes 58 trees of which trees Nos. 31, 32, 38, 40, 41, 48, 50, 51 and 52 are Wallangara White Gum *Eucalyptus scoparia* and trees Nos. 33, 34, 35, 42, 43, 44, 46, 47, 49 and 53 are Brush Cherry *Syzigium paniculatum*. The trees are listed under the *Threatened Species Conservation Act 1995* and are located along the eastern boundary of the site. Six of the trees (Nos. 31, 32, 33, 34, 35 & 38) are located within 3m of existing buildings and accordingly not protected under Council's Tree Preservation Order. The six trees are proposed to be retained and protected in accordance with the applicant's tree management plan. The submitted 'Tree Assessment and Development Impact Report' prepared by Landscape Matrix Pty Ltd includes the following comment:

Tree numbers 31, 32, 38, 40, 41, 48, 50, 51 and 52 (Eucalyptus scoparia) and tree numbers 33, 34, 35, 42, 43, 44, 46, 47, 49 and 53 (Syzygium paniculatum) are considered to be a planted specimens rather than remnant vegetation as Syzygium paniculatum and Eucalyptus scoparia are not recorded as occurring naturally at this locality. (NSW Department of Environment and Climate Change 2008). Taking this into account it is considered that there will not be a significant impact on threatened species arising from the proposal when applying the relevant test under section 5A of the Environmental Planning and Assessment Act, 1979.

The proposed development would necessitate the removal of 20 trees from the site, none of which are identified as significant trees in accordance with Council's Tree Management Plan.

Tree No. 1, a Lemon Scented Gum (*Corymbia citriodora*) and tree No. 24, an English Oak (*Quercus robur*) proposed to be retained, are identified as good and worthy of preservation and appropriate conditions are recommended to protect these trees.

Of the trees to be removed 20 are Camphor Laurel and Poplar trees located within the front garden identified as a heritage item. Council's Heritage Committee raised no objection to removal of the trees subject to replacement plantings of Lilly Pilly (*Acmena smithii*). Refer to discussion in Section 3.2.

The submitted landscape plan prepared by Site Image Landscape Architects, includes a mix of native and exotic species. The landscape plan is considered appropriate for the site, subject to recommended conditions.

3.2 Built Environment

3.2.1 Streetscape

The proposed development occupies a prominent corner site opposite Epping Park and would form a defining element in the streetscape. The proposed design has regard to the federation style dwelling houses located within Norfolk Road and would contribute to the character of the area and the streetscape.

The proposed development proposal retains a large setback to the Norfolk Road frontage and the heritage garden. The submitted landscape plan reiterates the formal garden design, complemented with masonry/brick gate piers, paving and fencing.

3.2.2 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 scale, design and articulation of the proposed Seniors Living development represents an improvement on the previous development approved by the Land and Environment Court. As such, the development would be more in keeping with the character of the draft East Epping Heritage Conservation Area.

The Committee noted that the heritage listing of the property relates to the cultural plantings of Poplar and Camphor Laurel trees at the property's street frontages. The row plantings enhance the streetscape and provide a visual identity to the area. It is acknowledged that a number of the trees are in a poor condition and nominated for

removal as part of the Development Application. The Committee also acknowledged that Camphor Laurels are identified as a noxious weed and their replacement would be inappropriate in view of the close proximity of bushland. Instead, the Committee generally agreed that the trees be replaced by an alternative type, having a similar nature and form. As such, the Committee resolved that no objection be raised to the proposal on heritage grounds subject to replacement planting of a similar nature and form, to be resolved by Council's Heritage Planner in consultation with Council's Tree Management Team.

*Council's Heritage Planner and Tree Management Team recommend the replacement of the Camphor Laurels and Poplars (where proposed for removal) with an equal number of Lilly Pilly (*Acmena smithii*), each having a minimum pot size of 25 litres. The recommended replacement trees have a similar form and height to Camphor Laurels and are locally native. It is anticipated that the plantings would eventually establish a stand within the front setback of the property similar to the existing row planting. Accordingly, no objection is raised to the proposal on heritage grounds subject to the abovementioned replacement planting.*

3.2.3 Traffic and Car Parking

The proposed residential care facility would generate up to 21 vehicle trips during the PM peak hour which is slightly less than the former hospital use which generated 24 vehicle trips. The proposed traffic generation would not adversely impact on the local road network.

The proposed 27 car parking spaces and ambulance bay parking comply with the minimum requirements of the Seniors Living SEPP for 24 spaces and an ambulance bay. In addition a resident bus parking bay is proposed off Norfolk Road.

The proposed ambulance bay is located within the vehicle manoeuvring area at the Somerset Street frontage. The use of the ambulance bay is unlikely to coincide with the use of the service area loading dock and is considered acceptable in respect to vehicle manoeuvring subject to recommended signposting.

The proposal is satisfactory in respect to traffic generation, parking and road safety.

3.3 Social Impacts

The proposed residential care facility generally provides for seniors who, due to illness, injury and the frailty that comes with aging, are in need of support for activities of daily living.

The proposed residential care facility increases the number of residential care beds for seniors and would be of a positive social benefit.

3.4 Economic Impacts

The proposed facility involves 27 staff and would provide local employment opportunities. The operation of the residential care facility would generate demand for local goods and services through the provision of meals, cleaning services, personal care, and nursing care and generally in meeting the needs of residents.

The construction of the proposed development would also generate employment and demand for local goods and services.

The proposed facility would be of positive economic impact.

4. SITE SUITABILITY

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

4.1 Bushfire Risk

The land is identified as being subject to bushfire risk from the remnant bushland area adjacent to Epping Park opposite the site. The proposed residential care facility is identified as a ‘special fire protection purpose’ pursuant to Section 100B of the Rural Fires Act 1997 and was referred to the NSW Rural Fire Service.

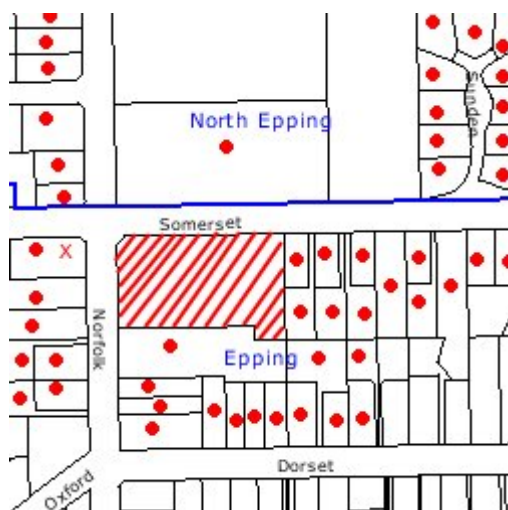
The NSW Rural Fire Service advised of its approval for the issue of a Bush Fire Safety Authority, subject to recommended conditions.

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 19 November and 10 December 2008 in accordance with Council’s Notification and Exhibition Development Control Plan. During this period, Council received one submission. The map below illustrates the location of the nearby landowner who made a submission and the properties notified.



NOTIFICATION PLAN

<ul style="list-style-type: none"> • PROPERTIES NOTIFIED 	X SUBMISSIONS RECEIVED	 PROPERTY SUBJECT OF DEVELOPMENT	
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The submission objected to the development with regard to the visual impact resulting from the loss of trees at the frontage and the need for low allergen replacement trees.

The consideration of the visual impact matter has been addressed in Section 3.2 of the report. The recommended replacement Lilly Pilly trees are recognised as low allergen trees. The concerns raised in the submission are addressed by the proposal.

5.1.1 Boundary fence

The existing southern and eastern boundary fences are generally in need of replacement for the proposed development.

It is considered to be a reasonable request that the applicant be required to construct new boundary fences at nil cost to the neighbouring property owners. A recommended condition of consent has been included in Schedule 1.

5.2 Public Agencies

The development application is Integrated Development under the Act in requiring the approval of the NSW Rural Fire Service for the issue of a Bush Fire Safety Authority for the proposed residential care facility as a 'special protection purpose'.

The NSW Rural Fire Service advised of its approval subject to conditions which include arrangements for emergency evacuation.

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 105 bed residential care facility would be in the public interest.

7. CONCLUSION

The proposed residential care facility is consistent with the previous use of the site for a private hospital. The proposed two and three storey building is designed with regard to the federation character of the locality.

The proposed development complies with the requirements of the Seniors Living SEPP for residential care facilities in respect to neighbourhood amenity and streetscape, privacy, sustainable design, accessibility, floor space ratio, landscaping and car parking. The design is functional in meeting residential care requirements with location of service areas, dining/lounge areas and in catering to residents' visitors. The proposed landscaping creates

appropriate spaces for residents to enjoy, provides visual quality, screening for privacy and re-instates the formal heritage garden at the frontage.

The proposal includes the adaptive reuse of the Donald M Tulloch building, in accordance with the preferred planning approach determined by the Land and Environment Court. The proposed alterations and additions integrate the building with the new development. The resulting three storey built form is considered acceptable and the SEPP 1 objection to the 2 storey height standard of the Seniors Living SEPP is supported in this regard.

The proposed 105 bed facility would be of positive social benefit in providing residential care for the frail elderly and in catering to an increasing aged population.

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. Landscape Plans
4. Floor Plans
5. Roof Plans
6. Elevations & Sections
7. Shadow Plan
8. Envelope - Existing/Approved Plans
9. Architects Statement

File Reference: DA/1536/2008

Document Number: D01104058

SCHEDULE 1 – CONDITIONS OF CONSENT**GENERAL CONDITIONS**

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

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

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

1. Approved Plans and Supporting Documentation

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

<i>Plan No.</i>	<i>Drawn by</i>	<i>Dated</i>
DA03 B- Lower Gnd Flr	Morrison Design Partnership	Nov 2008
DA04 A- Gnd Flr	Morrison Design Partnership	Nov 2008
DA05 A- First Flr	Morrison Design Partnership	Nov 2008
DA06 A- Roof Plan	Morrison Design Partnership	Nov 2008
DA07 C- Elevations	Morrison Design Partnership	Nov 2008
DA 08 A- Sections	Morrison Design Partnership	Nov 2008
DA 09 A- Dimensions	Morrison Design Partnership	Nov 2008
SS08-1812 101 C – Landscape Plan	Site Image Landscape Architects	07.11.2008
SS08-1812 001 B – Exiting Tree Management	Site Image Landscape Architects	06.11.2008
SS0801812 501 C – Landscape Details	Site Image Landscape Architects	06.11.2008
SS08-1812 502 C – Plant Schedule	Site Image Landscape Architects	06.11.2008
ES-01 B & ES-02 B – Stormwater Management Erosion & Sediment Control	Morrison Design Partnership	Nov 2008
SW-04 B – Stormwater Management Lower Ground Floor Plan	Morrison Design Partnership	Nov 2008

<i>Document No.</i>	<i>Prepared by</i>	<i>Dated</i>
D01079768 – Waste Management Plan	Incoll Development and Project Management	23 Dec 2008
D01113394 - External	Morrison Design Partnership	Nov 2008

Finishes Schedule		
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2. Retention of Existing Trees

This development consent only permits the removal of trees numbered 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 19, 22, 29, 30, 32, 38, 40, 41 and 51 as identified on Plan No. SS08-1812 001 B prepared by Site Image Landscape Architects dated 06.11.2008. The removal of any other trees requires separate approval under Council's Tree Preservation Order.

3. Amendment of Plans

The approved plans must be amended as follows:

- a. The Landscape Plans SS08-1812 101 C and SS08-1812 502 C shall be amended in respect to the Norfolk Road frontage by deleting the 3 x *Eucalyptus botryooides* (Bangalay) and 6 x *Lophostemon confertus* (Brushbox) for replacement with 9 x *Acemena smithii* (Lilly Pilly) plants. Plants shall be installed in minimum 200 litre pot size.
- b. The Landscape Plans shall also be amended to include an additional 15 *Syzigium 'cascade'* planted at 2 metre centres in mulched planter beds of a minimum pot size of 5 litres.

REQUIREMENTS PRIOR TO THE ISSUE OF A CONSTRUCTION CERTIFICATE

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

4. Building Code of Australia

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

5. Construction in Bushfire Prone Area

New construction shall comply with Australian Standard AS3959-1999 'Construction of buildings in bushfire prone areas' Level 1.

6. Landscape Plans

Landscaping to the site is to comply with the principles of Appendix 5 of *Planning for Bush Fire Protection 2006*. In this regard the following landscaping principles are to be incorporated into the development:

- a) Suitable impervious areas being provided immediately surrounding the building such as courtyards, paths and driveways.
- b) Grassed areas/mowed lawns/ or ground cover plantings being provided in close proximity to the building.

- c) Restrict planting in the immediate vicinity of the building which may over time and if not properly maintained come in contact with the building.

The landscape works must be constructed in accordance with the requirements of Hornsby Shire Council's Landscape Code for Development Applications.

7. Water/Electricity and Utility Services

Water, electricity and gas installation must comply with section 4.1.3 of *Planning for Bush Fire Protection 2006*.

8. Rural Fire Service Access

Property Access Roads shall comply with section 4.1.3(2) of *Planning for Bush Fire Protection 2006*.

9. Fire Safety Upgrade

To ensure the protection of persons using the existing building and to facilitate egress from this building in the event of a fire, details must be submitted detailing what works are necessary (if any) to bring it into full compliance with Parts C, D and E of the Building Code of Australia.

10. Sydney Water – Quick Check

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

Note: Refer to www.sydneywater.com.au or telephone 13 20 92 for assistance.

11. Waste Storage Facility

Bin storage areas must be designed and constructed in accordance with Council's *Waste Minimisation and Management Development Control Plan*.

REQUIREMENTS PRIOR TO THE COMMENCEMENT OF ANY WORKS

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

12. Erection of Construction Sign

A sign must be erected in a prominent position on any site on which building work, subdivision work or demolition work is being carried out:

- a. Showing the name, address and telephone number of the principal certifying authority for the work.

- b. Showing the name of the principal contractor (if any) for any demolition or building work and a telephone number on which that person may be contacted outside working hours.
- c. Stating that unauthorised entry to the work site is prohibited.

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

13. Protection of Adjoining Areas

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:

- a. Could cause a danger, obstruction or inconvenience to pedestrian or vehicular traffic.
- b. Could cause damage to adjoining lands by falling objects.
- c. 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.

14. Toilet Facilities

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 for every 20 persons employed at the site. Each toilet must:

- a. 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*.

15. Erosion and Sediment Control

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

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

16. Contamination

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. Sediment Detention Basins

The sediment basin/s detailed on Drawing ES-01 B must be designed to contain 25mm runoff from the 75th percentile, 5-day rainfall event or a 5 year ARI time of concentration storm event, with a volume capacity of water that will enter in 6 minutes, one hour storm event with an additional 20% capacity provided for storage of sediment. The outlet discharge must be a slow control discharge (i.e. riser or a sheet flow spillway) designed to discharge at peak flow of a 20 year frequency storm. Trash collection screening filters must be installed at the inlet of the basin.

18. Sediment Treatment

Waters captured in the sediment basin must be flocculated to ensure that discharges contain no more than 50 mg/L of suspended solids, turbidity is no more than 30 ntu's and the pH is between 6.5 – 7.5 before being discharged. Gypsum (calcium sulfate) must be used as the flocculant agent and applied within 48 hours following rainfall events. The flocculant must be evenly distributed over the surface area of the sediment retention basin. Settled sediment must be pumped out and disposed of to an approved waste management facility. Approval must be sought from Council prior to discharge into Council's stormwater system.

19. Treatment Devices

All wastewater and stormwater treatment devices (including drainage systems, sumps and traps) must be regularly maintained in order to remain effective. All solid and liquid wastes collected from the device must be disposed of in accordance with the *Protection of the Environment Operations Act 1997*.

20. Construction Work Hours

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

Monday to Saturday	7 am to 5 pm
Sunday & Public Holidays	No work

21. Demolition

All demolition work must be carried out in accordance with *Australian Standard 2601-2001 – The Demolition of Structures* and the following 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.
- d. Should the presence of asbestos or soil contamination, not recognised during the application process be identified during demolition, the applicant must immediately notify the principal certifying authority and Council.

22. Street Sweeping

Street sweeping must be undertaken following sediment tracking from the site along Norfolk Road and Somerset Street during works and until the site is established.

23. Tree Protection

A 1.8 metre high chain wire fencing (or similar) must be installed 4 metres from significant trees numbered 1 and 24 identified on the approved plans.

24. Works near Trees

All works (including driveways and retaining walls) within 3 metres of any trees required to be retained (whether or not on the land the subject of this consent), must be carried out under the supervision of an 'AQF Level 5 Arborist' or equivalent and a certificate submitted to the principal certifying authority detailing the method(s) used to preserve the trees.

Note: Except as provided above, the applicant is to ensure that no excavation, filling or stockpiling of building materials is to occur within 4 metres of any tree to be retained.

25. Council Property

During construction works, no building materials, waste, machinery or related matter is to be stored on the road or footpath. The public reserve is to be kept in a clean, tidy and safe condition at all times.

26. Excavated Material

All excavated material removed from the site must be classified in accordance with the *NSW Environment Protection Authority's Environmental Guidelines – Assessment, Classification and Management of Liquid and Non-Liquid Wastes* prior to disposal to an approved waste management facility and reported to the principal certifying authority.

27. Survey Report – Finished Floor Level

A report(s) must be prepared by a registered surveyor and submitted to the principal certifying authority prior to the pouring of concrete at each level of the building certifying that:

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

28. Landfill

Landfill must be constructed in accordance with Council's '*Construction Specification, 2005*' and the following requirements:

- a. All fill material imported to the site is to wholly consist of Virgin Excavated Natural Material (VENM) as defined in Schedule 1 of the *Protection of the Environment Operations Act 1997* or a material approved under the *Department of Environment and Climate Change's* general resource recovery exemption.
- b. A compaction certificate is to be obtained from a geotechnical engineer verifying that the specified compaction requirements have been met.

REQUIREMENTS PRIOR TO THE ISSUE OF AN OCCUPATION CERTIFICATE

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

Note: For the purpose of this consent, any reference to 'occupation certificate' shall also be taken to mean 'interim occupation certificate' unless otherwise stated.

29. Landscape Works

The completed landscape works shall be inspected and certified by a Registered Landscape Architect or experienced Landscape Architect/Designer as being completed in accordance with the approved plans and conditions of development consent.

30. Boundary Fencing

Fencing must be erected along the eastern boundary and southern boundary east of the right of carriageway to a height of 1.8 metres at the sole cost of the applicant.

Note: Alternative fencing may be erected subject to the written consent of the adjoining property owner(s).

31. Stormwater Drainage

The stormwater drainage system for the development must be designed and constructed in accordance with Council's *Civil Works – Design and Construction Specification 2005* and connected to an existing Council piped drainage system via an on site detention system.

Note: A certificate from a chartered civil engineer together with a works as executed design plan must be submitted to the principal certifying authority to demonstrate the satisfaction of this condition.

32. On Site Stormwater Detention

An on-site stormwater detention system must be designed by a chartered civil engineer and constructed in accordance with the following requirements:

- a. Stormwater discharge from the development site shall be limited to 5 year pre development ARI (average recurrence interval) 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.
- b. Have a surcharge/inspection grate located directly above the outlet.
- c. Discharge from the detention system to be controlled via 1 metre length of pipe, not less than 50 millimetres diameter or via a stainless plate with sharply drilled orifice bolted over the face of the outlet discharging into a larger diameter pipe capable of carrying the design flow to an approved Council system.
- d. Where above ground and the average depth is greater than 0.3 metres, a 'pool type' safety fence and warning signs to be installed.
- e. Not be constructed in a location that would impact upon the visual or recreational amenity of residents.

Note: Council's separate approval for drainage works within a public road is required.

33. Vehicular Crossing

A separate application under the *Local Government Act 1993* and the *Roads Act 1993* must be submitted to Council for the installation of a new vehicular crossing and the removal of the redundant crossing. The vehicular crossing must be constructed in accordance with Council's *Civil Works Design 2005* and the following requirements:

- a. Any redundant crossings to be replaced with integral kerb and gutter.

- b. The footway area to be restored by turfing.

Note: An application for a vehicular crossing can only be made to one of Council's Authorised Vehicular Crossing Contractors. You are advised to contact Council on 02 9847 6940 to obtain a list of contractors.

34. Internal Driveway/Vehicular Areas

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

- a. Design levels at the front boundary be obtained from Council.
- b. The driveway be a rigid pavement.
- c. The driveway grade not exceed 25 percent and changes in grade not exceed 8 percent.
- d. The driveway pavement be a minimum 3 metres wide, 0.15 metres thick reinforced concrete with F72 steel reinforcing fabric and a 0.15 metre sub-base.
- e. The existing driveway be removed unless a chartered structural engineer certifies that it is capable of remaining stable under an 8 tonne traffic loading.
- f. The pavement have a kerb to one side and a one-way cross fall with a minimum gradient of 2 percent and a lintel and pit provided at the low point.
- g. Retaining walls required to support the carriageway and the compaction of all fill batters to be in accordance with the requirements of a chartered structural engineer.
- h. The provision of safety rails where there is a level difference more than 0.3 metres and a 1:4 batter can not be achieved.
- i. A sign reading "AMBULANCE ENTRY" be installed at the Somerset Street driveway.

35. Traffic Control Plan

A Traffic Control Plan (TCP) must be prepared by a qualified traffic controller in accordance with the *Roads & Traffic Authority's Traffic Control at Worksites Manual 1998* and *Australian Standard 1742.3* for all work on a public road and be submitted to Council. The TCP must detail the following:

- a. Arrangements for public notification of the works.
- b. Temporary construction signage.
- c. Permanent post-construction signage.
- d. Vehicle movement plans.

- e. Traffic management plans.
- f. Pedestrian and cyclist access/safety.

36. Damage to Council Assets

Any damage caused to Council's assets as a result of the construction of the development must be rectified in accordance with Council's written requirements and at the sole cost of the applicant.

37. Creation of Easements

The applicant must create an appropriate "*Positive Covenant*" and "*Restriction as to User*" over the constructed on-site detention/retention systems and outlet works, within the lots in favour of Council in accordance with Council's prescribed wording. The position of the on-site detention system is to be clearly indicated on the title.

To register the OSD easement, the restriction on the use of land "*works-as-executed*" details of the on-site-detention system must be submitted verifying that the required storage and discharge rates have been constructed in accordance with the design requirements. The details must show the invert levels of the on site system together with pipe sizes and grades. Any variations to the approved plans must be shown in red on the "*works-as-executed*" plan and supported by calculations.

Note: Council must be nominated as the authority to release, vary or modify any easement, restriction or covenant.

38. Works as Executed Plan

A works-as-executed plan(s) must be prepared by a registered surveyor and submitted to Council for completed road pavement, kerb & gutter, public drainage systems, driveways and on-site detention system.

OPERATIONAL CONDITIONS

The following conditions have been applied to ensure that the ongoing use of the land is carried out in such a manner that complies with relevant legislation and Council's policies and does not disrupt the amenity of the neighbourhood or impact upon the environment.

39. Landscaping Maintained

The landscape works must be maintained in perpetuity to ensure the establishment and successful growth of plant material to meet the intent of the landscape design.

40. Noise

All noise generated by the proposed development must 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 Car Parking and Deliveries

All car parking must be constructed and operated in accordance with *Australian Standard AS 2890.1 – 2004 – Off Street Car Parking* and *Australian Standard 2890.2 – 2002 – Off Street Commercial* and the following requirement:

- a. All parking areas and driveways are to be sealed to an all weather standard, line marked and signposted.
- b. Car parking, loading and manoeuvring areas to be used solely for nominated purposes.
- c. Vehicles awaiting loading, unloading or servicing shall be parked on site and not on adjacent or nearby public roads;
- d. All vehicular entry on to the site and egress from the site shall be made in a forward direction.

42. Fire Safety Statement – Annual

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.

43. Asset Protection Zone

At the commencement of building works and in perpetuity the entire property must be managed as an 'Inner Protection Area' as outlined within *Planning for Bush Fire Protection 2006* and the NSW Rural Fire Service document '*Standards for asset protection zones*'.

44. Evacuation and Emergency Management

Arrangements for emergency and evacuation must comply with acceptable solutions of section 4.2.7 of *Planning for Bush Fire Protection 2006*.

45. Waste Collection

Site security measures implemented on the property, including electronic gates, must not prevent access to the bin room by waste removal services.

- 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 legislation and Council's policies and specifications. This information does not form part of the conditions of development consent pursuant to Section 80A of the Act.

A. Environmental Planning and Assessment Act 1979 Requirements

The Environmental Planning and Assessment Act 1979 requires:

- a. 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 Services Branch on 9847 6760.
- b. A principal certifying authority to be nominated and Council notified of that appointment prior to the commencement of any works.
- c. Council to be given at least two days written notice prior to the commencement of any works.
- d. Mandatory inspections of nominated stages of the construction inspected.
- e. An occupation certificate issued before occupying any building or commencing the use of the land.

B. Tree Preservation Order

To ensure the maintenance and protection of the existing natural environment, it is an offence to ringbark, cut down, top, lop, remove, wilfully injure or destroy a tree outside three metres of the approved building envelope without prior written consent from Council. Fines may be imposed for non-compliance with Council's *Tree Preservation Order*.

Note: A tree is defined as a perennial plant with self supporting stems that are more than 3 metres or has a trunk diameter more than 150mm measured 1 metre above ground level, and excludes any tree declared under the Noxious Weeds Act (NSW).

C. Dial Before You Dig

Prior to commencing any works, the applicant is encouraged to contact *Dial Before You Dig* on 1100 or www.dialbeforeyoudig.com.au for free information on potential underground pipes and cables within the vicinity of the development site.

D. Asbestos Warning

Should asbestos or asbestos products be encountered during construction or demolition works you are advised to seek advice and information should be prior to disturbing the material. It is recommended that a contractor holding an asbestos-handling permit (issued by *Work Cover*

NSW), be engaged to manage the proper disposal and handling of the material. Further information regarding the safe handling and removal of asbestos can be found at:

www.environment.nsw.gov.au

www.nsw.gov.au/fibro

www.adfa.org.au

www.workcover.nsw.gov.au

Alternatively, telephone the *Work Cover* Asbestos and Demolition Team on 8260 5885.

E. Food Authority Notification

The *NSW Food Authority* requires businesses to electronically notify the Authority prior to the commencement of its operation.

Note: NSW Food Authority can be contacted at www.foodnotify.nsw.gov.au.

F. NSW Rural Fires Service

The General Terms of Approval of the NSW Rural Fire Service for a 'Bush Fire Safety Authority' for the proposed development are subject to conditions Nos. 5, 6, 7, 8, 44 and 45.

**5 DEVELOPMENT APPLICATION - MODIFICATION TO APPROVED DWELLING-HOUSE
15 SHIELDS LANE, PENNANT HILLS.**

Development Application No:	DA/1228/2008/A
Description of Proposal:	Erection of a dwelling-house and front fence (Section 96(1A))
Property Description:	Lot 1, DP 1086210, No. 15 Shields Lane, Pennant Hills
Applicant:	Home Team Constructions P/L
Owner:	Mr D and Mrs C Klassen
Statutory Provisions:	Hornsby Shire Local Environmental Plan, 1994 Residential A (Low Density) Zone
Estimated Value:	\$409,300
Ward:	C

RECOMMENDATION

THAT Council approve Development Application No. 1228/2008/A, for the erection of a dwelling-house and front fence at Lot 1, DP 1086210, No. 15 Shields Lane, Pennant Hills, as detailed in Schedule 1 of this report.

EXECUTIVE SUMMARY

1. On 3 December 2008, Council approved an application for the erection of a dwelling-house at the subject property.
2. On 23 January 2009, an application was lodged under Section 96(1A) of the Environmental Planning and Assessment Act 1979, seeking the deletion of conditions 15 to 19 from the consent.
3. The proposed development is compatible with surrounding land uses, meets the relevant objectives of the Dwelling House Development Control Plan (DCP) and is an acceptable development of the site.
4. Two submissions have been received in respect of the application.

5. It is recommended that the application be approved.

HISTORY OF THE APPLICATION

On 5 September 2008, DA/1228/2008 was lodged for the erection of a two storey dwelling-house and a front fence on a vacant allotment.

Given that an objection was received from an adjoining property owner who was a former Hornsby Shire Councillor, the application was referred to an independent planning consultant, Nexus Environmental Planning P/L for assessment.

The planning consultant recommended that the application be approved, noting that the proposal met the objectives of the Dwelling House DCP and was an acceptable development of the site.

At its Planning Meeting on 3 December 2008, Council considered the planning consultant's report under Planning Report No. PLN230/08 and resolved to grant consent to the application, subject to the conditions recommended by the consultant as well as the following additional conditions:

15. *The description of the development consent remove any reference to a "front fence".*
16. *The proposed front courtyard fencing does not form part of this development consent. All fencing forward of the front building alignment shall be removed from the construction certificate plans.*
17. *A 1.8 metre high lapped and capped timber fence shall be constructed on the rear property boundary and the side property boundaries behind the front building alignment at the sole cost of the applicant.*
18. *Prior to the issue of a construction certificate, the applicant shall submit amended plans to Council or an accredited certifier demonstrating that the building has been moved forward on the lot in a manner that results in the garage being located no more than six metres from the front property boundary.*
19. *Prior to the issue of an occupation certificate, the applicant shall obtain a certificate from a qualified acoustic engineer certifying that the proposed Home Theatre room has been constructed in a manner that incorporates appropriate acoustic insulation materials that will prevent noise from electronic equipment emanating from the dwelling".*

THE SITE

The vacant allotment has an area of 580m², is located on the southern side of Shields Lane, Pennant Hills, between Werona Street and Willis Avenue and has a 2.5m fall from the rear, south western to the front, north eastern corner of the site.

There are a number of trees on the site, none of which have been identified as being significant.

The site is subject to a 1m wide drainage easement along the south eastern side boundary.

Adjoining development comprises an eclectic blend of post war and contemporary styled, one and two storey dwelling-houses surrounded by well established gardens and landscaped areas.

Front boundary fencing in Shields Lane varies from 1.8m high, 'Colorbond' pressed metal or brick and timber paling fences to 1m pickets

THE PROPOSAL

The original application sought consent for a two storey dwelling and front fence. The proposed dwelling sought a setback of 6m from the front property boundary (with the garage being 7.07m from the boundary).

The Section 96(1A) application seeks to remove conditions 15 to 19 of the consent.

The applicant indicates that these conditions are unreasonable and unnecessary, and would not add to the amenity or character of the development, the neighbourhood or the streetscape.

Given the scope of the application and that the applicant does not seek to provide additional information from the original proposal, it was not considered necessary to refer the application back to the independent planning consultant for re-assessment.

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

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 modification to the development does not amend the strategic context of the proposal.

2. STATUTORY CONTROLS

2.1 Environmental Planning and Assessment Act, 1979 – Section 96

In considering the application to modify the consent, Council must be satisfied that the development to which the consent as modified relates, is substantially the same development as originally approved.

The proposal seeks to delete conditions 15 to 19. In that respect, it is considered that the proposal as amended is substantially the same as the development originally approved.

2.2 Hornsby Local Environmental Plan, 1994

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

- “(a) to provide for the housing needs of the population of the Hornsby Shire;*
- (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 development is defined as “dwelling-house” (ancillary structure) under the HSLEP, and is permissible in the zone, with Council’s consent.

Clause 15 of HSLEP prescribes that the maximum floor space ratio (FSR) of development within the zone is 0.4:1. The proposed amendment to the consent would not exceed the maximum FSR standard for the site.

2.3 State Environmental Planning Policy (Exempt & Complying Development)

The NSW Government, as part of its ongoing planning reforms, has released the first stage of the NSW Housing Code.

The Housing Code outlines how residential developments including:

- detached one and two storey dwellings,
- home extensions and
- other ancillary development, such as swimming pools,

can proceed on lots of greater than 450 square metres as complying development with council or accredited certifier approval.

It is noted that subject to minor variations to the side boundary setbacks of the dwelling, the proposal would be complying development under the Housing Code. This would result in conditions 17, 18 and 19 being redundant.

Given that NSW Housing Code is now in force, an application designed in compliance with the new Code would have greater impact on premises No. 11 Shields Lane, in terms of overshadowing and overlooking than the current proposal.

An assessment of the application against the Housing Code is relevant in so far as assessing whether the conditions sought to be deleted are reasonable or necessary. As stated, other than a minor variation to the side setbacks of the building, the development would be complying development, meaning that conditions 18 and 19 would not apply. Consequently, it is

considered that there is no justification for the imposition of those conditions and they should be removed from the consent.

2.4 Dwelling House Development Control Plan

The original proposal, for the erection of a dwelling-house and front fence was assessed by an independent planning consultant, Nexus Environmental Planning P/L and considered an appropriate development for the site, having regard to the relevant performance criteria and prescriptive measures within Council's Dwelling House DCP.

The following table sets out the proposal's compliance with the prescriptive measures of the Plan:

Dwelling House Development Control Plan			
Control	Proposal	Requirement	Compliance
FSR	0.4:1	0.4:1	Yes
Site coverage	40%	40%	Yes
Height	8.52 metres	9 metres	Yes
Storeys	1 and 2 storeys	2 storeys	Yes
Car parking	2 spaces	2 spaces	Yes
Length of Building	14.76 m	24 m	Yes
Unbroken Wall length	7.17 m	10 m	Yes
Private Open Space	290 m ²	120 m ²	Yes
Landscaping	61%	45%	Yes
Setbacks			
- Front	6 m	6 m	Yes
- Side	1.02 m	1 m	Yes
- Side	1 m	1 m	Yes
- Rear	18.67 m	3 m	Yes

As detailed in the above table, the original proposal complies with Council's Dwelling House DCP. The proposed deletion of conditions 15 to 19 is addressed in detail below.

Conditions 15 and 16, which require the deletion of any reference to a front fence forward of the front building alignment is considered to be an onerous requirement given the established character of the Shields Lane streetscape, the northern end of which is characterised by decorative timber fences or "Colorbond" structures between 1.2m and 1.8m in height on the front property boundaries of properties.

The proposed front fence, comprising a masonry structure up to 1.8m in height and incorporating a timber-slatted recess for landscaping purposes, would be 6.2m long facing Shields Lane, would incorporate an extension into the front yard area as part of the landscaping of the front yard, is not inconsistent with the appearance of the dwelling-house,

would provide a level of security for the site without detracting from the surrounding streetscape and meets the objectives of the Fencing element of the Dwelling House DCP.

Condition 17 is subservient to conditions 15 and 16 and should be deleted from the consent should those conditions also be removed.

Condition 18, which requires the submission of amended plans relocating the dwelling-house forward to a 6 metre front boundary setback to the garage, is considered to be an unnecessary requirement. It is noted that the consultant's assessment raised no objections to the siting of the development 6 metres to the adjacent front porch structure, in compliance with the prescriptive measures of the Setbacks element of the Dwelling House DCP.

The re-siting of the structure a further metre forward would have minimal streetscape or amenity benefits in relation to adjacent properties.

Condition 19, which requires the submission of an acoustic report prior to the issuance of an occupation certificate, is considered to be an unreasonable and onerous requirement. The designation of a room within a dwelling-house as a "Home Theatre" is a common proposal in contemporary dwelling-house design and if operated in a typical manner, would not impact upon neighbouring residents.

The assessment of the impact of such rooms in similar applications considered by Council in recent times has not determined that an acoustic report is necessary under any circumstances. There are adequate powers under the Protection of the Environment Operations Act, 1997 to address any excessive or offensive noise levels generated by the use of this room.

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*".

The assessment of the application reveals that there are no additional environmental impacts that require further assessment.

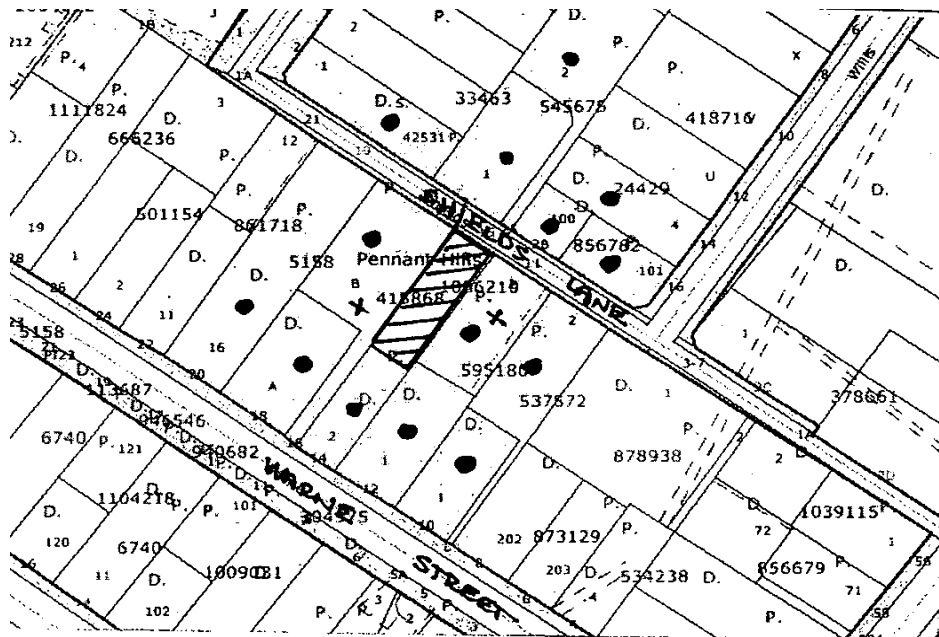
4. PUBLIC PARTICIPATION

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


4.1 Community Consultation

The proposed modification to the development consent was notified to adjoining and nearby landowners between 3 February and 17 February 2009, in accordance with Council's Notification and Exhibition DCP. Council received two submissions in response to the notification process.

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



NOTIFICATION PLAN

<ul style="list-style-type: none"> • PROPERTIES NOTIFIED 	<ul style="list-style-type: none"> X SUBMISSIONS RECEIVED 	 PROPERTY SUBJECT OF DEVELOPMENT	
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The submissions are discussed below:

4.1.1 Front Fence

Both submissions gave qualified support to the proposal as it relates to the deletion of the front fence conditions subject to the fence not causing an obstruction of drivers vision when leaving the subject property.

Australian Standard 2890.1 'Off-street car parking' requires that where a driveway exits a property a 2.5m splayed area, clear of obstructions be provided either side of the driveway where the driveway crosses the allotment boundary. A condition is recommended requiring that the proposed front fence comply with AS 2890.1 clause 3.2.4 (b).

4.1.2 Boundary Fencing

Both submissions also supported the deletion of condition 17 regarding the erection of new fencing along the side and rear boundary alignments. The submissions noted that the existing fencing is in good condition, provides acceptable levels of security and that any new fencing should involve consultation in the first instance, with the respective property owners, in accordance with the requirements of the Dividing Fences Act.

4.1.3 Move the building forward on the lot in a manner that results in the garage being located no more than six metres from the front property boundary.

One submission supports the deletion of the condition that requires the building to be resited. Whilst, one submission reiterated earlier concerns that the location of the subject dwelling results in unacceptable overshadowing impacts.

The independent planning consultant addressed the overshadowing concern as follows:

The relevant Performance Criterion of the Dwelling House DCP states:

"Dwelling-houses should not unreasonably obscure sunlight to habitable rooms, solar collectors or open space of adjoining development during the winter months."

The relevant Prescriptive Measures are:

"Unless site conditions dictate, dwelling-houses should be designed to allow at least 4 hours of sunshine to the private open space required for adjacent and proposed dwellings between 9am and 3pm on 22 June."

"Dwelling-houses should be designed to allow north facing windows to living areas of adjacent and proposed dwellings to receive 3 hours of sunshine between 9am and 3pm on 22 June over a portion of their surface."

Based on an assessment that the adjoining dwelling-house at No.11 Shields Lane is an extra large dwelling, the required open space for that dwelling is 120m². Thus, the above prescriptive measure requires 4 hours of sunlight to be provided to 120m² of the private open space of the adjoining dwelling at No.11 Shields Lane.

The dwelling-house at No.11 Shields Lane has approximately 150m² of private open space. The shadow diagrams provided by the applicant indicate that:

- at 9:00am, there is no shadow cast by the proposed dwelling house onto the adjoining property at No.11 Shields Lane;
- at 12 noon, there is some shadow cast by the proposed dwelling house onto the private open space of No.11 Shields Lane, however, that shadow does not reduce the amount of open space receiving sunlight below the required 120m²;
- at 3:00pm, the quantum of the shadow cast by the proposed dwelling house onto the adjoining property at No.11 Shields Lane is such that less than the required 120m² will receive sunlight.

The applicant has not provided shadow diagrams for the 1:00pm time period in mid-winter, however, it is considered that the shadow cast by the proposed dwelling-house at that time would be such that close to the required 120m² of private open space at No.11 Shields Lane would receive sunlight. It is considered that, on balance, and having regard to the siting of the dwelling house at 11 Shields Lane, the shadow cast by the proposed development is reasonable and acceptable.

The shadow diagrams indicate that the proposed development would not cast shadow onto the north facing windows of the adjoining development such that the second of the above prescriptive measures is met by the proposed development.

It is noted that in the event that the proposal was complying development, the Housing Code would require minor changes only to the side boundary setbacks. The Code would also allow the dwelling to be sited further to the rear which would result in greater overshadowing impacts on No. 11 Shields Lane.

4.1.4 Noise from Home Theatre

One submission reiterated earlier concerns regarding the potential noise impact from the proposed “Home Theatre” room. This concern has been addressed in Section 2.4 of this report.

5. 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 planning 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 modification would be in the public interest.

CONCLUSION

Consent is sought to modify a consent for a dwelling-house at the subject property. The proposal to delete conditions 15 to 19 from the consent is considered appropriate.

The notification process did not raise any additional concerns regarding the anticipated impacts of the proposal on the amenity of the area and, in broad terms, generally supported the proposal to delete some conditions and to address concern raised about pedestrian safety and additional condition is recommended.

The proposed dwelling-house and front fence recommended for approval by the independent planning consultant are appropriate and acceptable developments of the site.

If assessed under the newly enacted NSW Housing Code – “Exempt and Complying Development for Detached Dwellings”, the dwelling-house, subject to minor variations to the side boundary setbacks would be complying development.

Having regard to the above matters, approval of the application is recommended.

SIMON EVANS
Manager - Assessment Team 1
Planning Division

SCOTT PHILLIPS
Executive Manager
Planning Division

Attachments:

1. Locality Plan
2. Site Plan
3. Landscape Plan
4. Floor Plans
5. Elevations
6. Shadow Diagrams
7. Planning Report DA/1228/2008
8. Submission by Mallesons Stephen Jaques

File Reference: DA/1228/2008/A

Document Number: D01100684

SCHEDULE 1**Deletion of conditions:**

15. The description of the development consent is to remove any reference to a "front fence".
16. The proposed front courtyard fencing does not form part of this development consent. All fencing forward of the front building alignment shall be removed from the construction certificate plans.
17. A 1.8 metre high lapped and capped timber fence shall be constructed on the rear property boundary and the side property boundaries behind the front building alignment at the sole cost of the applicant.
18. Prior to the issue of a construction certificate, the applicant shall submit amended plans to Council or an accredited certifier demonstrating that the building has been moved forward on the lot in a manner that results in the garage being located no more than six metres from the front property boundary.
19. Prior to the issue of an occupation certificate, the applicant shall obtain a certificate from a qualified acoustic engineer certifying that the proposed Home Theatre room has been constructed in a manner that incorporates appropriate acoustic insulation materials that will prevent noise from electronic equipment emanating from the dwelling.

Inclusion of condition:

20. Prior to the issue of a construction certificate, the applicant shall submit amended plans to Council or an accredited certifier demonstrating that the vehicular access complies with clause 3.2.4 (b) of *Australian Standard 2890.1 'Off-street car parking'* based on the design of the front boundary fence.