



the bushland shire

creating a living environment

BUSINESS PAPER

PLANNING MEETING

**Wednesday, 3 March, 2010
at 6.30pm**

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AGENDA AND SUMMARY OF RECOMMENDATIONS

PRESENT

NATIONAL ANTHEM

OPENING PRAYER/S

Rev. Fergus Semler from Dural Anglican Church, Dural will be opening the meeting in prayer.

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 / LEAVE OF ABSENCE

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 less than 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 3 February, 2010 be confirmed; a copy having been distributed to all Councillors.

PETITIONS

MAYORAL MINUTES

NOTICES OF MOTION

RESCISSION MOTIONS

MATTERS OF URGENCY

ITEMS PASSED BY EXCEPTION / CALL FOR SPEAKERS ON AGENDA ITEMS***Note:***

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

DEVELOPMENT APPLICATIONS**A WARD DEFERRED****A WARD****Page Number 1**

**Item 1 **PLN2/10 DEVELOPMENT APPLICATION - BOUNDARY
ADJUSTMENT, SUBDIVISION OF ONE LOT INTO TWO LOTS AND
ERECTION OF A DWELLING HOUSE - 7 & 9 SUMMERHAZE PLACE
HORNSBY HEIGHTS****

RECOMMENDATION

THAT Development Application No. 787/2009 for a boundary adjustment, subdivision of one lot into two lots and the erection of a dwelling house at lot 32 and lot 33 DP 813213 (No. 7 and No. 9) Summerhaze Place Hornsby Heights be approved as a deferred commencement consent and subject to the conditions of consent detailed in Schedule 1 of this report.

Page Number 27

**Item 2 **PLN6/10 DEVELOPMENT APPLICATION - ERECTION OF A
RESIDENTIAL OFFICE, SHED AND FRONT FENCE - 8 TAYLORS
ROAD DURAL****

RECOMMENDATION

THAT Development Application No. 384/2009 for the erection of a residential office, shed and front fence at Lot 14 DP 238481 (No. 8) Taylors Road, Dural, be approved subject to the conditions detailed in Schedule 1 of this report.

Page Number 50

**Item 3 **PLN7/10 DEVELOPMENT APPLICATION - EXTRACTIVE INDUSTRY -
DESIGNATED DEVELOPMENT - 4713 AND 4751 OLD NORTHERN
ROAD MAROOTA****

RECOMMENDATION

THAT Development Application No. 578/2009 for a sand extractive industry at Lot 2 DP 510812, No. 4713 Old Northern Road, Maroota and Lot 3 DP 567166, No. 4751 Old

Northern Road, Maroota 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 92

Item 4 PLN1/10 DEVELOPMENT APPLICATION - ERECTION OF A DWELLING-HOUSE - 4A CHERRYBROOK ROAD, WEST PENNANT HILLS

RECOMMENDATION

THAT Development Application No. DA/1622/2009 for the erection of a one and two storey dwelling-house at Lot 1012, DP1134002, No. 4A Cherrybrook Road, Pennant Hills be approved subject to the conditions of consent detailed in Schedule 1 of this report.

Page Number 108

Item 5 PLN8/10 DEVELOPMENT APPLICATION - MODIFICATION TO MULTI-UNIT HOUSING DEVELOPMENT - AMENDED MATERIALS AND FINISHES AND BOUNDARY FENCE - 23 - 27 RAY ROAD EPPING

RECOMMENDATION

THAT Development Application No. 1688/2006E for modifications to the demolition of existing buildings, retention and restoration of 'Woodlands House' for a medical centre, erection of 2 x 4 storey residential flat buildings containing 40 dwellings and erection of a 2 storey dwelling house, Torrens title subdivision into 3 lots and strata subdivision, Nos. 23-27 Ray Road Epping be approved as detailed in Schedule 1 of this report.

GENERAL BUSINESS

Page Number 153

Item 6 PLN5/10 HERITAGE ADVISORY COMMITTEE - TECHNICAL SPECIALIST REPRESENTATION

RECOMMENDATION

THAT

1. Margaret Desgrand be invited to participate on the Hornsby Shire Advisory Committee as a voluntary technical specialist.

2. Submitters be advised of Council's resolution and thanked for their interest in the matter.

Page Number 158**Item 7 **PLN9/10 KU-RING-GAI AND HORNSBY SUB-REGIONAL
EMPLOYMENT STUDY - REVIEW OF SUBMISSIONS******THAT:**

1. The *Ku-ring-gai and Hornsby Subregional Employment Study* and *Dural Service Centre Study* be adopted.
2. The key principles of the *Ku-ring-gai and Hornsby Subregional Employment Study* be endorsed as follows:
 - 2.1 The role of the Hornsby Town Centre as the major town centre in the Subregion be reinforced by preserving a commercial core and identifying adjacent business development areas to facilitate future growth in the Centre.
 - 2.2 The role of Epping as a Town Centre be strengthened by increasing opportunities for higher order office and retail activities.
 - 2.3 The local service role of Villages, Small Villages and Neighbourhood Centres be strengthened through a reduction in higher order retail and employment uses.
 - 2.4 The hierarchy of centres under the draft *North Subregional Strategy* be confirmed through the application of *Standard Instrument* zones and land uses.
 - 2.5 Existing strategic industrial centres be protected and promoted as a competitive place for industrial activity.
3. The recommended actions of the *Ku-ring-gai and Hornsby Subregional Employment Study* be endorsed for progression as part of the Hornsby Comprehensive Local Environmental Plan as follows:
 - 3.1 Progression of equivalent *Standard Instrument* zones for the Shire's industrial and business lands, as well as relevant special use zones where required to facilitate the delivery of infrastructure.
 - 3.2 Progression of recommended permissible and prohibited land uses for each zone, as part of the translation of existing land use tables under the Hornsby Shire Local Environmental Plan.
 - 3.3 Identification of an enterprise corridor at Pennant Hills, Thornleigh and Waitara along sections of Pennant Hills Road and Pacific Highway.

-
- 3.4 Introduction of a B2 (Local Centre) zone within part of the Dural Service Centre to facilitate additional commercial and retail floor space.
 - 3.5 Inclusion of *vehicle sales or hire premises* and *bulky goods retailing* as permissible uses within the IN2 (Light Industrial) zoned area of the Dural Service Centre.
 4. Council's Strategic Planning Programme 2010/2011 include the following projects to commence in July 2011:
 - 4.1 Thornleigh Floor Space Ratio Controls Review; and
 - 4.2 Waitara Floor Space Ratio Controls Review.
 5. Council not progress the preparation of the draft LEP to amend the range of permissible uses in the Business E (Service Centre) zone, prepared in response to the submission from Dural Service Centre Business Group.
 6. Submitters be advised of Council's resolution.

Page Number 170**Item 8 PLN11/10 STRATEGIC PLANNING PROGRAMME REVIEW - 2010****RECOMMENDATION**

THAT:

1. The 20010/2011 Strategic Planning Programme attached to Executive Manager's Report No. PLN11/10 be adopted.
2. The Galston Village Masterplan contained within the Rural Lands Development Control Plan be updated to include recent development approvals and incorporate relevant recommendations from the *Galston Village Masterplan Review* for incorporation into Council's Comprehensive Development Control Plan.
3. The Waterways Review Planning Proposal not be progressed as a separate project and that the recommendations of the *Waterways Review* be incorporated into Council's Comprehensive Local Environmental Plan.
4. Council not progress the following draft Local Environmental Plans:
 - a draft Tourism LEP to implement the recommendations of the Hornsby Tourism Planning Provisions Review; and
 - HSLEP (Amendment No. 84) for the establishment of the Mount Errington Heritage Conservation Area;

as the subject of the draft Plans has been, or is being, progressed as part of other projects on the Strategic Planning Programme.

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 - BOUNDARY ADJUSTMENT, SUBDIVISION OF ONE LOT INTO TWO LOTS AND ERECTION OF A DWELLING-HOUSE - 7 & 9 SUMMERHAZE PLACE HORNSBY HEIGHTS

Development Application No:	DA/787/2009
Description of Proposal:	Boundary adjustment, subdivision of one lot into two lots and erection of a dwelling house
Property Description:	Lot 32 and Lot 33 DP 813213 (No. 7 and No. 9) Summerhaze Place, Hornsby Heights
Applicant:	Mr J D Dillon and Mrs V Dillon
Owner:	Mr M J Wilson and Mrs M L Wilson Mr J D Dillon and Mrs V Dillon
Statutory Provisions:	Hornsby Shire Local Environmental Plan 1994 Residential A (Low Density)
Estimated Value:	\$300,000
Ward:	A

RECOMMENDATION

THAT Development Application No. 787/2009 for a boundary adjustment, subdivision of one lot into two lots and the erection of a dwelling house at lot 32 and lot 33 DP 813213 (No. 7 and No. 9) Summerhaze Place Hornsby Heights be approved as a deferred commencement consent and subject to the conditions of consent detailed in Schedule 1 of this report.

EXECUTIVE SUMMARY

1. The application proposes a boundary adjustment, subdivision of one lot into two lots and the erection of a dwelling house.
2. The proposal generally complies with the Dwelling House Development Control Plan and the Residential Subdivision Development Control Plan other than the prescriptive requirement for a larger lot area on steeper sites.
3. Six submissions have been received in respect of the application.

4. The proposal is integrated development and the General Terms of Approval have been received from the Rural Fire Service.
5. It is recommended that the application be approved as deferred commencement consent.

HISTORY OF THE APPLICATION

The application was lodged on 16 July 2009. The applicant submitted amended plans on 30 November 2009 to address concerns regarding the design of the proposed dwelling.

On 1 December 2009 the applicant requested the application be staged to allow the subdivision to be finalised prior to construction of the dwelling house.

THE SITE

The site has an area of 1,373m², and is located on the southern side of Summerhaze Place. The site is steeply sloping with an average gradient of 33%.

The site includes two existing dwelling houses that are located on the higher eastern part of the site with vehicular access off a right of carriageway. The lower western part of the site is steeply sloping, includes bush with scattered trees and has frontage to Summerhaze Place. The neighbouring properties include dwelling houses that have been designed with regard to the steep topography and the outlook to the surrounding bushland.

The site of the proposed dwelling house is known as proposed Lot 1 which is located on the lower western side of No. 9 Summerhaze Place.

The site is within a bushfire prone area. Surrounding development comprises a mixture of single and two storey dwellings on various sized allotments.

THE PROPOSAL

The proposed subdivision involves a minor boundary adjustment between No. 7 and No. 9 Summerhaze Place and the creation of an additional lot. The boundary adjustment aligns with the existing boundary fence and adds to the area of land available to No. 9 for the purpose of subdivision.

Proposed Lot 1 is irregular in shape, with an area of 528m² and has frontage to Summerhaze Place. The lot has an average gradient of 45% falling east to west with a rock shelf along the eastern part of the lot. The proposed lot has a width of 11.8m toward the frontage expanding to 17.5m at the rear. The lot has a frontage of 21.6m to Summerhaze Place. The common boundary with Lot 2 generally follows the contour interval. The lot includes bushland however none of the trees are identified as significant.

The proposed dwelling house is to be sited on proposed Lot 1. The dwelling has a lower floor garage and entry with single level above comprising three bedrooms, lounge, kitchen and dining. The dwelling includes decks at the northern and western elevations. The dwelling is in steel frame construction with skillion metal sheet roofing and clad in fibre cement hardiplank and custom orb metal sheeting.

Proposed Lot 2 is the site of the existing dwelling at No. 9 Summerhaze Place. The lot has an area of 845m², is irregular in shape and has access off the existing right of carriageway. The

proposed lot accommodates the existing private open space, garaging, services and utility areas of the existing dwelling. The lot is elevated in relation to proposed Lot 1.

Proposed lot 3 is the site of the existing dwelling at No. 7 Summerhaze Place. The lot has an area of 975m², is irregular in shape and has access off the existing right of carriageway. The proposed boundary adjustment increases the landscaped frontage area on the north side of the driveway.

ASSESSMENT

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

1. STRATEGIC CONTEXT

1.1 Metropolitan Strategy – (Draft) North Subregional Strategy

The Metropolitan Strategy is a broad framework to secure Sydney's place in the global economy by promoting and managing growth. It outlines a vision for Sydney to 2031; the challenges faced, and the directions to follow to address these challenges and achieve the vision. The draft North Subregional Strategy acts as a framework for Council in the preparation of a new Principal LEP by 2011.

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

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

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

2. STATUTORY CONTROLS

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

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:

- (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 ‘*subdivision*’ and ‘*dwelling house*’ under the HSLEP and is permissible in the zone with Council’s consent.

Clause 14 of the HSLEP prescribes that the minimum area of an allotment in the Residential A zone is 500m², excluding the area of any accessway. The proposed lots comply with this requirement.

Clause 15 of the HSLEP prescribes that the maximum floor space ratio (FSR) of development within the Residential A zone is 0.4:1. The existing and proposed dwellings comply with this requirement.

2.2 Rural Fires Act 1997

The application for residential subdivision within a bush fire prone area forms ‘integrated development’ and was referred to the NSW Rural Fire Service (RFS) for comment in respect to a Bush Fire Safety Authority under Section 100B of the Act.

The RFS raised no objection to the proposed subdivision and proposed dwelling house and recommended conditions for approval.

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

The application has been assessed against the requirements of Sydney Regional Environmental Plan No. 20 (SREP – 20). This Policy provides general planning considerations and strategies requiring Council to consider the impacts of the proposal on water and scenic quality, aquaculture, recreation and tourism.

The proposed development would have minimal potential to impact on the water quality of the catchment, subject to the implementation of sediment and erosion control measures.

2.4 Residential Subdivision Development Control Plan

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

Residential Subdivision Development Control Plan			
Control	Proposal	Requirement	Compliance
Lot size	Lot 1 – 528m ² Lot 2 – 845m ² Lot 3 – 975m ²	Lot 1 – 680m ² Lot 2 – 600m ² Lot 3 – 625m ²	No Yes Yes
Floor Space Ratio	Lot 1 – 0.26:1 Lot 2 – 0.38:1 Lot 3 – 0.18:1	0.4:1	Yes
Accessway width	6m	4m	Yes

As detailed in the above table, the proposed development does not comply with the lot area prescriptive standards within Council's Subdivision DCP. The matter of non-compliance is detailed below, as well as a brief discussion on compliance with relevant performance standards.

2.4.1 Density

Proposed Lot 1 has an average gradient of 45% and does not comply with the Residential Subdivision DCP allotment size graph requirement for a lot area of 680m². The purpose of this development standard is to ensure sufficient site area for solar access and amenity of future and adjoining residents on steep sites.

In this case, the non-compliance is considered acceptable with regard to the proposed dwelling house which is designed with regard to the steep topography, the northerly aspect and residential amenity.

The proposed dwelling is discussed further in Section 2.4 of this report.

2.4.2 Lot Layout and Design

The proposed lots are of satisfactory design in accommodating the existing and proposed dwelling houses on the steeply sloping site, with regard to private open space, solar access, existing trees, car parking, services and utility areas.

The irregular shape of proposed Lot 1 is appropriate to the topography of the site. In particular the extended frontage is appropriate to the street frontage which is curvilinear and very steep; in the presentation of the proposed dwelling in the streetscape.

The existing accessway for the two existing dwellings on proposed lots 2 and 3 complies with the Residential DCP.

2.4.3 Setbacks

The existing dwellings comply with the Residential DCP setbacks criteria.

2.4.4 Private Open Space

Due to the topography of the land, the deck and private open space for the proposed dwelling on proposed Lot 1 would look over the roof of the dwelling to the west. There would not be any tangible visible impact on the privacy of that property.

The existing sheet metal fencing between the two existing dwellings provides for privacy. The erection of boundary fencing for the proposed dwelling on proposed Lot 1 is recommended.

2.4.5 Landscaping

There are five trees to be removed for the proposed dwelling. None of the trees are identified as significant.

The submitted landscape plan for the proposed dwelling is considered satisfactory in relation to residential amenity and the natural features of the site. A condition is recommended in respect to indigenous plant selection. (Refer also to comments in Section 3.1. of this report)

2.4.6 Land Sensitivity

The site includes rock outcrops and is steeply sloping with an average gradient of 45% over proposed Lot 1.

The proposed dwelling on Lot 1 requires a cut of 1m and filling to a depth of 1.7m for the construction of the driveway, lower ground floor garage and rear parking space. The site includes exposed sandstone bedrock, sandstone boulders and loose earth material. Excavation of part of the sandstone rock-shelf and bedrock is also proposed.

Council's engineering assessment is satisfied with the slope stability assessment submitted with the application. Appropriate conditions have been recommended requiring a structural engineer to design footings for the proposed dwelling and submission of a dilapidation report for adjoining properties and the reuse of sandstone material on-site for retaining walls and landscaping.

2.4.7 Drainage

The stormwater drainage for the two existing dwellings on proposed Lots 2 and 3 remains unchanged in respect to the proposed new lot boundaries.

The stormwater drainage for proposed Lot 1 is to be piped directly into Council's drainage system in Summerhaze Place.

2.5 Dwelling House Development Control Plan

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

Dwelling House Development Control Plan			
Control	Proposal	Requirement	Compliance
Floor Space Ratio	0.26:1	0.4:1	Yes
Site Coverage	31.4%	40%	Yes
Setbacks	Front – 6.8m East side - >1.7m West side – 1.6m West side, deck – 0.7m Rear – 3m	6m 1m 1m 1m 3m	Yes Yes Yes No Yes
Design	Wall length – 6m Building length – 19.3m Cut & fill – 1.7m	10m 24m 1m	Yes Yes No

Height	8.6m	9m	Yes
Private Open Space	Upper Terrace – 78m ² Deck Areas – 42m ² Dimension – 3.2m	100m ² 5m	No
Landscaping	53%	45%	Yes

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

2.5.1 Design

The proposed dwelling is of lightweight construction and includes design features for energy efficiency including wide eaves and louvre windows. The proposed finishes and materials provide contrast. The dwelling has suitable balance and proportion between wall length, stepped design and skillion roof. It is considered the proposed dwelling would be acceptable in the streetscape, would not detract from the residential character of the locality and would blend with the bushland setting.

The proposed dwelling requires cut and fill to a depth of 1.7m for the driveway, lower floor garage and rear parking space. The non-compliance with the 1m maximum standard is considered acceptable as excavation is unavoidable due to the gradient of the site and excavated areas would be screened by the proposed dwelling.

2.5.2 Setbacks

The proposed setbacks comply with the Dwelling House DCP other than the front deck which encroaches on the 1m side setback. A condition is recommended for the deck to align with the western side wall and comply with the setback provision.

2.5.3 Solar Access

The proposed dwelling is designed for winter sun and summer shade and complies with the Dwelling House DCP solar access prescriptive measures.

The proposed dwelling would overshadow part of the rear yard of adjoining dwellings fronting Cottonwood Way during winter mornings, however, sunlight access would be available for a minimum of four hours in compliance with the Dwelling House DCP requirement.

2.5.4 Height

The proposed dwelling has a maximum height of 8.6m due to the topography of the land. The height of the dwelling would be accentuated in relation to adjoining dwellings down-slope but consistent with two storey dwellings and the pattern of development in the locality.

2.5.5 Privacy

The proposed dwelling house is elevated to adjoining properties fronting Cottonwood Way. The proposed decks are 17m above Cottonwood Way at the frontage of the adjoining dwellings. The proposed deck at the western elevation off the lounge room forms a partially internal space, minimising opportunity for overlooking. The proposed 5m² deck accessed off bedroom 1 does not contribute to the outdoor living areas and is considered acceptable in respect to privacy.

The proposed lower level garage includes windows at the western elevation which would directly overlook the rear yard of adjoining residents. To minimise impacts on privacy a condition is recommended for highlight windows.

Overall, the substantial difference in height, the relative proximity of the adjoining properties and the expansive valley outlook, would obviate overlooking and impacts on privacy.

2.5.6 Private Open Space

The site is constrained by the topography and the steep west facing slope.

The proposed dwelling includes a number of deck areas for outdoor living with access off the living areas on the northern and western side of the dwelling. The proposed deck areas provide functional areas for outdoor living.

The proposal includes an eastern open space area on the rock shelf with access from the front deck. This area is considered impractical for private open space use and is better utilised for landscaping. An increase in the area of the proposed deck off the laundry (to not less than 12m²) is recommended for open space use, with controlled access to the rock shelf.

The width of the proposed deck areas is less than the prescriptive requirement for a minimum dimension of 5m for private open space. The deck use for open space is considered satisfactory in meeting the recreation needs of residents as the majority of dwellings in this location rely on deck areas and limited ground level areas for private open space, due to the steep terrain.

Subject to the adherence to the recommended condition, the use of deck areas for private open space use is considered acceptable, notwithstanding non-compliance with the area requirement of the Dwelling House DCP.

2.5.7 Landscaping

The applicant submitted a landscape plan which is generally satisfactory in integrating the proposed dwelling with the existing landform subject to recommended conditions for locally indigenous plants.

2.5.8 Vehicle Access and Parking

The proposed dwelling includes a single car garage and tandem car parking space.

The proposed garage rear roller door illustrated on the floor plan is not detailed for the southern elevation plan and a condition is recommended for the plan to be amended accordingly.

The proposed driveway falls away steeply on the western side and a condition is recommended for a safety rail to be installed.

Subject to compliance with recommended conditions, the proposed car parking would be satisfactory and complies with the Dwelling House DCP.

2.5.9 Environment Protection

The proposed dwelling house is designed in response to the constraints of the site and would largely retain the significant landform features of the site. The proposed sediment and erosion control measures are satisfactory in minimising impacts on downstream water quality subject to compliance with the recommended condition.

It is considered the proposal meets the Dwelling House DCP environment protection performance criteria, subject to management of site works during excavation.

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 proposed development would necessitate the removal of five trees from the site. None of the trees to be removed are identified as ‘significant trees’ under Council’s Tree Management Plan.

The site includes remnant bushland identified as *Silvertop Ash – Scribbly Gum Woodland*. Council’s environmental assessment concurred with the Flora and Fauna Report submitted for the proposal and notes that it is unlikely that the proposal would have a significant impact upon species, populations and communities listed under the Threatened Species Conservation Act 1995.

The Flora and Fauna Assessment prepared by Clarke Dowdle and Associates Pty Ltd (October 2009) recommends ‘landscaping should utilise and incorporate locally occurring native species.’ This recommendation in conjunction with ‘consider the use of topsoil translocation from the excavation site to be placed along the north-eastern (front) embankment on the site with suitable retaining structures’ is supported.

3.2 Built Environment

The proposed dwelling is considered proportional in scale to the site’s aspects, the materials and finishes would blend with the surrounding environment and would not detract from the residential character of the locality.

The roadway at the frontage slopes steeply. The proposed driveway would have adequate site distance to ensure traffic safety at the frontage.

The proposed dwelling is elevated in the vicinity of a Sydney Water inspection point at the rear of the site. The requirements of Sydney Water in this regard would be required prior to the construction of the dwelling.

The applicant has requested the development be staged to allow subdivision to be finalised prior to the dwelling being constructed. Given that proposed Lot 1 does not comply with the prescriptive measure for lot size for the steep site and also the necessary site works to be carried out to enable construction of the proposed dwelling, the requested staging would result in non-compliance with the density prescriptive measure for steep sites. Accordingly the request is not supported and a recommended condition of consent requires the dwelling to be constructed together with the subdivision.

The proposal involves an effective boundary adjustment between the two existing parcels. A deferred consent commencement condition is recommended for registration of the boundary adjustment, to formalise the development site of the proposed dwelling on land owned by the applicant (proposed Lot 1) prior to the consent being operative.

3.3 Social Impacts

The proposal would provide additional housing opportunity in the locality.

3.4 Economic Impacts

The proposal would have a minor positive impact on the local economy by generating an increase in demand for local services.

4. SITE SUITABILITY

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

4.1 Topography

The site of the proposed dwelling is steep with an average fall of 45% and includes sandstone rock ledge and outcrops. The geotechnical report submitted for the site determined a very low risk the site is affected by slope instability. The report related to the dwelling now constructed on the upper part of the site.

The proposal involves rock excavation works for the driveway and proposed dwelling. In order to minimise impacts of the landform and to address potential impacts on adjoining properties, the following works would be required:

- preparation of a dilapidation report;
- footings designed by a structural engineer; and
- a management plan prepared for the sandstone excavation work to retain landscape features, protect adjoining properties and reuse extracted sandstone for retaining walls in construction of the development.

Subject to the adoption of recommended conditions, the proposal is considered acceptable in respect to the topography of the site.

4.2 Bushfire Risk

The land is identified as being subject to bushfire risk being in close proximity to Berowra Valley Regional Park. The bush fire threat is from the bushland areas west and south of the

site. The residential properties surrounding the site provide an effective asset protection zone in relation to the bush fire affected area.

The proposed dwelling house is of non-combustible material being in steel frame construction, metal roof and fibre cement cladding, in accordance with requirements of AS3959 *Construction of Buildings in Bush Fire Prone Areas*.

A bush fire safety authority has been issued by the RFS for the proposed subdivision subject to conditions. The RFS also recommended conditions for the construction of the proposed dwelling and upgrading of the existing dwellings, to minimise the impact from a bushfire threat.

5. PUBLIC PARTICIPATION


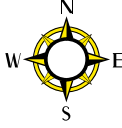
Section 79C(1)(d) of the Act requires Council to consider “any submissions made in accordance with this Act”.

5.1 Community Consultation

The proposed development was notified to adjoining and nearby landowners between 30 July and 20 August 2009, and re-advertised from 3 September to 24 September 2009. Council received six submissions in response to notification of the application. The amended plans were notified from 2 December to 16 December 2009. Council received three submissions in response to the amended plans, reiterating previous 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 	X SUBMISSIONS RECEIVED	 PROPERTY SUBJECT OF DEVELOPMENT	
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Six submissions objected to the development, generally on the following grounds that the development would result in:

- Unacceptable dwelling style, materials and finishes;
- Unacceptable overshadowing of adjoining properties;
- Unacceptable lot size and design;
- Unacceptable impact on flora and fauna;
- Unacceptable impact on privacy;
- Unacceptable driveway safety;
- Unacceptable impact on residential character;
- Development that is excessive in height and visual impact;
- Inadequate geotechnical assessment;
- Encroachment on side setback.

In response, the applicant submitted a petition on 29 January 2010 with 14 signatories that raised no objection to the proposal.

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 Boundary fence

Given that the application intensifies development, it is considered to be a reasonable request that the applicant be required to construct the western boundary fence at nil cost to the neighbouring property owners. A recommended condition of consent has been included in Attachment A.

5.2 Public Agencies

The development application is Integrated Development under the Act in respect to approval of the RFS for a bush fire safety authority for subdivision. The RFS raised no objection to the proposal subject to conditions.

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 subdivision and dwelling house would be in the public interest.

CONCLUSION

The proposed development involves a boundary adjustment, creation of an additional lot and erection of a dwelling house.

The proposed additional lot does not comply with the prescriptive measure of the Subdivision DCP for larger lot areas on steeply sloping sites. The proposed dwelling house on the proposed lot is generally satisfactory in achieving a satisfactory low density living environment and complies with the Dwelling House DCP other than for the provision of private open space area. The non-compliance is acceptable with regard to the characteristic built form of dwelling houses in the locality that rely mainly on deck areas for private open space. Appropriate conditions are recommended to maintain bushland.

Subject to recommended conditions, the proposal otherwise complies with the requirements of the Subdivision DCP and Dwelling House DCP. A deferred commencement consent is recommended to effect the boundary adjustment and ensure appropriate site management during excavation works on the steeply sloping site.

The proposed development is satisfactory in respect to the requirements of the NSW Rural Fire Service, subject to conditions.

ROD PICKLES
Manager - Assessment Team 2
Planning Division

PAUL DAVID
Manager - Subdivision & Development
Engineering Services
Planning Division

SCOTT PHILLIPS
Executive Manager
Planning Division

Attachments:

1. Locality Plan
2. Subdivision Plan
3. Dwelling House Plans
4. Shadow Plan
5. Landscape Plans

File Reference: DA/787/2009
Document Number: D01323946

SCHEDULE 1**GENERAL CONDITIONS**

The conditions of consent within this notice of determination have been applied to ensure that the use of the land and/or building is carried out in such a manner that is consistent with the aims and objectives of the relevant legislation, planning instruments and Council policies affecting the land and does not disrupt the amenity of the neighbourhood or impact upon the environment.

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. Deferred Commencement

Pursuant to Section 80(3) of the Environmental Planning and Assessment Act 1979, this consent does not operate until the following information is submitted to Council:

- a. The registration of the proposed boundary adjustment (to create lot 3) between No. 7 Summerhaze Place (lot 33 DP 813213) and No. 9 Summerhaze Place (lot 32 DP 813213) as shown by the proposed boundary line in red on the plan Ref 11275 dated 16th June 2009 prepared by Hammond Smeallie & Co. Pty Ltd.

Such information shall be submitted within 12 months of the date of this notice, otherwise this consent will lapse.

Upon Council's written satisfaction of the above information, the following conditions of development consent will apply:

2. 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	Nu-Steel Homes	29-09-2009
Garage Floor Plan	Nu-Steel Homes	29-09-2009
Floor Plan	Nu-Steel Homes	29-09-2009
South & North Elevations	Nu-Steel Homes	29-09-2009
East & West Elevations	Nu-Steel Homes	29-09-2009
Section A-A	Nu-Steel Homes	29-09-2009
Landscape Design	Costata Landscape Design	October 2009

Subdivision Plan	Hammond Smeallie & Co Pty Ltd	16 June 2009
<i>Document No.</i>	<i>Prepared by</i>	<i>Dated</i>
D01298797 Flora and Fauna Assessment	Clarke Dowdle & Associates	October 2009

3. Amendment of Plans

The approved plans are to be amended as follows:

- a. The front deck must be setback to align with the western side wall as amended in red by Council.
- b. The garage windows at the western elevation must be replaced with highlight windows to minimise overlooking.
- c. The steps from front deck to the rock shelf must be deleted.
- d. The laundry deck area must be not less than 12m² and include controlled access to the rock shelf if required.
- e. The clothes line on the rock shelf must be deleted.
- f. A roller door to the garage southern elevation must be provided.
- g. Fixed non-combustible screening to the western elevation of the rear car parking space must be provided.

4. Removal of Existing Trees

This development consent only permits the removal of trees numbered 1, 3, 4, 5 and 7 as identified on the approved Site Plan prepared by Nu-Steel Homes dated 29-09-2009. The removal of any other trees requires separate approval under Council's Tree Preservation Order.

REQUIREMENTS PRIOR TO THE ISSUE OF A CONSTRUCTION CERTIFICATE

5. Works Management Plan

An excavation works management plan, prepared by a qualified geotechnical engineer, must be submitted to the principal certifying authority for the site of the proposed dwelling house, that addresses the following:-

- i. Protection of existing landform to retain the rock shelf on the eastern side of Lot 1.
- ii. Reuse of excavated sandstone on-site for landscaping and retaining walls.
- iii. Protection of adjoining properties.
- iv. Methodology to stabilize rock boulders.

6. Landscape Plan

The *Landscape Design* prepared by *Costata Landscape Design* dated 24/10/2009 (HSC Ref D01298799) must be amended to address condition No. 3 and include a planting schedule which includes locally occurring native species and salvage and re-use of native soil seed bank at the front of the site.

7. Building Code of Australia

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

8. Contract of Insurance (Residential Building Work)

In the case of residential building work for which the *Home Building Act, 1989* requires there to be a contract of insurance in force in accordance with Part 6 of that Act, that such a contract of insurance is in force before any building work authorised to be carried out by the consent commences.

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

9. Notification of Home Building Act, 1989 Requirements

Residential building work within the meaning of the *Home Building Act, 1989* must not be carried out unless the principal certifying authority for the development to which the work relates (not being Council) has given Council written notice of the following information:

- a. In the case of work for which a principal contractor is required to be appointed:
 - i. The name and licence number of the principal contractor.
 - ii. The name of the insurer by which the work is insured under Part 6 of that Act.
- b. In the case of work to be done by an owner-builder:
 - i. The name of the owner-builder.
 - ii. If the owner-builder is required to hold an owner-builder's permit under that Act, the number of the owner-builder's permit.

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

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. Dilapidation Report

A ‘Dilapidation Report’ is to be prepared by a ‘chartered structural engineer’ detailing the structural condition of all adjoining properties.

REQUIREMENTS PRIOR TO THE COMMENCEMENT OF ANY WORKS

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, 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.

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

14. 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 non-compliance with this requirement without any further notification or warning.

REQUIREMENTS DURING CONSTRUCTION

15. Construction Work Hours

All work on site (including demolition and earth works) must only occur between 7am and 5pm Monday to Saturday.

No work is to be undertaken on Sundays or public holidays.

16. 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.

17. Disturbance of Existing Site

During construction works, the existing ground levels of open space areas and natural landscape features, (including natural rock-outcrops, vegetation, soil and watercourses) must not be altered unless otherwise nominated on the approved plans.

18. 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.

19. 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.

20. 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.

REQUIREMENTS PRIOR TO THE ISSUE OF AN OCCUPATION OR SUBDIVISION 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.

The Principle Certifying Authority must not issue a Subdivision Certificate until an Occupation Certificate has been issued for the dwelling on approved lot 1.

21. Fulfilment of BASIX Commitments

The applicant must demonstrate the fulfilment of BASIX commitments pertaining to the development.

22. Sydney Water – s73 Certificate

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

23. Stormwater Drainage – Dwellings

The stormwater drainage system for the development must be designed and constructed for an average recurrence interval of 20 years and be gravity drained in accordance with the following requirements:

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

24. 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 5 cubic metres, and a maximum discharge (when full) of 8 litres per second.
- 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.

25. 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 must not exceed 25 percent and changes in grade must not exceed 8 percent.
- d. 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.
- e. 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.

26. 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*.

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.

27. 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 where required:

- 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.

28. Creation of Easements

The following matters must be nominated on the plan of subdivision under s88B of the *Conveyancing Act 1919*:

- a. The creation of 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.

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

29. Retaining Walls

All required retaining walls must be constructed as part of the development.

30. 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. The plan(s) must be accompanied by a certificate from a registered surveyor certifying that all pipelines and associated structures lie wholly within any relevant easements..

31. Landscaping of Site

All pervious areas of the site and the road reserve adjoining the site must be appropriately landscaped with suitable (preferably indigenous) turf, trees and shrubs to complement the development and prevent erosion of soil.

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.

32. Boundary Fencing

Fencing must be erected along all property boundaries of Lot 1 behind the front building alignment to a height of 1.8 metres at the cost of the applicant.

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

33. s94 Infrastructure Contributions

The payment to Council of a contribution of \$19,592.00* for one additional lot towards the cost of infrastructure identified in Council's Development Contributions Plan 2007-2011.

*Note: * The value of contribution is based on a rate of \$19,592.00 per additional lot and is current as at 9 February 2010. The contribution will be adjusted from this date in accordance with the underlying consumer price index for subsequent financial quarters.*

It is recommended that you contact Council to ascertain the indexed value of the contribution prior to payment.

GENERAL TERMS OF APPROVAL – NSW RURAL FIRE SERVICE

The following conditions of consent are General Terms of Approval from the nominated State Agency pursuant to Section 91A of the *Environmental Planning and Assessment Act 1979* and must be complied with to the satisfaction of that Agency.

34. General Conditions

The development proposal is to comply with the subdivision layout identified on the drawing prepared by Hammond Smeallie & Co. Pty Ltd numbered 11275, Issue D, dated 16 June 2009.

35. Asset Protection Zones

At the issue of subdivision certificate and in perpetuity the entire property shall be managed as an inner protection area (IPA) as outlined within section 4.1.3 and Appendix 5 of 'Planning for Bush Fire Protection 2006' and the NSW Rural Fire Service's document 'Standards for asset protection zones'.

Note: The intent of measures is to provide sufficient space and maintain reduced fuel loads so as to ensure radiant heat levels of buildings are below critical limits and to prevent direct flame contact with a building.

36. Water and Utilities

Water, electricity and gas are to comply with section 4.1.3 of 'Planning for Bush Fire Protection 2006'.

Note: The intent of measures is to provide adequate services of water for the protection of buildings during and after the passage of a bush fire, and to locate gas and electricity so as not to contribute to the risk of fire to a building.

37. Access

Property access roads for community title developments shall comply with sections 4.1.3(2) and 4.2.7 of 'Planning for Bush Fire Protection 2006'.

Note: The intent of measures for property access is to provide safe access to/from the public road system for fire fighters providing property protection during a bush fire and for occupants faced with evacuation.

38. Design and Construction

- a. New construction shall comply with Australian Standard AS3959-1999 'Construction of buildings in bush fire-prone areas' Level 1. Roller doors, tilt-a-doors and other such doors shall be sealed to prevent the entry of embers into the building.
- b. The existing dwellings on proposed Lot 2 and 3 are required to be upgraded to improve ember protection. This is to be achieved by enclosing all openings (excluding roof tile spaces) or covering openings with a non-corrosive metal screen. Where applicable, this includes any sub floor areas, openable windows, doors, vents, weepholes and eaves.
- c. Roofing to all dwelling shall be gutterless or guttering and valleys are to be screened to prevent the build up of flammable material. Any materials used shall have a flammability Index of no greater than 5 when tested in accordance with Australian Standard AS1530.2-1993 'Methods for Fire Tests on Building Materials, Components and Structures – Test for Flammability of Materials'.

Note: The intent of measures is that buildings are designed and constructed to withstand the potential impacts of bush fire attack.

39. Landscaping

Landscaping to the site is to comply with the principles of Appendix 5 of 'Planning for Bush Fire Protection 2006'.

CONDITIONS OF CONCURRENCE – NSW RURAL FIRE SERVICE

The following conditions of consent are from the nominated State Agency pursuant to Section 79BA of the *Environmental Planning and Assessment Act 1979* and must be complied with to the satisfaction of that Agency.

40. Design and Construction

New construction shall comply with Australian Standard AS3959-1999 'Construction of buildings in bush fire-prone areas' Level 1. Roller doors, tilt-a-doors and other such doors shall be sealed to prevent the entry of embers into 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:
- The issue of 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.
- A principal certifying authority to be nominated and Council notified of that appointment prior to the commencement of any works.
- Council to be given at least two days written notice prior to the commencement of any works.
- Mandatory inspections of nominated stages of the construction inspected.
- An occupation certificate to be 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.

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 3 metres of the approved building envelope without the prior written consent from Council.

Note: A tree is defined as a single or multi-trunked wood perennial plant having a height of not less than three (3) metres, and which develops many branches, usually from a distance of not less than one (1) metre from the ground, but excluding any plant which, in its particular location, is a noxious plant declared as such pursuant to the Noxious Weeds Act 1993. This definition of 'tree' includes any and all types of Palm trees.

All distances are determined under British Standard BS 5837: 2005, "Trees in Relation to Construction – Recommendations".

Fines may be imposed for non-compliance with Council's *Tree Preservation Order*.

Subdivision Certificate Requirements

A subdivision certificate application is required to be lodged with Council containing the following information:

- a. A surveyor's certificate certifying that all structures within the subject land comply with the development consent in regard to the setbacks from the new boundaries.
- b. A surveyor's certificate certifying that all services, drainage lines or access are located wholly within the property boundaries. Where services encroach over the new boundaries, easements are to be created.
- c. Certification that the requirements of relevant utility authorities have been met; and
- d. a surveyor's certificate certifying finished ground levels are in accordance with the approved plans.

Note: Council will not issue a subdivision certificate until all conditions of the development consent have been completed.

Fees and Charges – Subdivision

All fees payable to Council as part of any construction, compliance or subdivision certificate or inspection associated with the development (including the registration of privately issued certificates) are required to be paid in full prior to the issue of the subdivision certificate. Any additional Council inspections beyond the scope of any compliance certificate required to verify compliance with the terms of this consent will be charged at the individual inspection rate nominated in Council's Fees and Charges Schedule.

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.

House Numbering

House numbering can only be authorised by Council. Before proceeding to number each premise in the development, the allocation of numbers is required to be obtained from Council's Planning Division. The authorised numbers are required to be displayed in a clear manner at or near the main entrance to each premise.

2 DEVELOPMENT APPLICATION - ERECTION OF A RESIDENTIAL OFFICE, SHED AND FRONT FENCE - 8 TAYLORS ROAD DURAL

Development Application No:	DA/384/2009
Description of Proposal:	Erection of a residential office, shed and front fence.
Property Description:	Lot 14 DP 238481 (No. 8) Taylors Road, Dural
Applicant:	Mr Vanick Yedgar
Owners:	Mr Javid Rahiminia Mr Yousef Rahiminia
Statutory Provisions:	Hornsby Shire Local Environmental Plan 1994: Rural BA (Small Holdings – Agricultural Landscapes) zone Environmental B (River Catchment) zone
Estimated Value:	\$195 000
Ward:	A

RECOMMENDATION

THAT Development Application No. 384/2009 for the erection of a residential office, shed and front fence at Lot 14 DP 238481 (No. 8) Taylors Road, Dural, be approved subject to the conditions detailed in Schedule 1 of this report.

EXECUTIVE SUMMARY

1. The application proposes the erection of a residential office, shed and front fence at a rural property.
2. The proposal complies with the Hornsby Shire Local Environmental Plan 1994 and is generally consistent with the Rural Lands Development Control Plan. There is a non compliance with the 'Setbacks' element of the Rural Lands Development Control Plan however this non compliance would have no significant impact on adjoining land and a variation to the development standard is supported.
3. Twenty submissions from fourteen people and one petition with eight signatures have been received in respect of the application.

4. A Red Sticker has been placed against the application resulting in it being referred to Council for determination.
5. It is recommended that the application be approved.

HISTORY OF THE SITE

In October 2008, Council was notified by a person of the community that a demountable building had been transported to the site.

On 2 February 2009, following the investigation of the site, Council issued an order for the removal / demolition of the unauthorised demountable building from the site.

On 8 April 2009, Development Application No. 384/2009 was lodged for the use of the demountable building as a residential office, as well as the construction of a shed and front fence. This application is the subject of this report.

HISTORY OF THE APPLICATION

On 3 February 2010 Council first considered the subject application at its Planning Meeting and resolved:

“THAT consideration of Development Application No. 384/2009 for the erection of a residential office, shed and front fence at Lot 14 DP 238481 (No. 8) Taylors Road, Dural, be deferred for a period of one month to allow:

1. *Councillors to undertake an on-site inspection of the property.*
2. *Council officers to investigate the circumstances of DA/256/2005 pertaining to a nearby property, to determine whether those circumstances are applicable to this application.”*

The applicant was advised of Council’s resolution and a meeting was scheduled for Wednesday 24 February 2010 prior to the next Planning Meeting. At the time of the preparation of this report Council officers were scheduled to attend the site inspection to assist Councillors with their deliberations of the matter.

At the Planning Meeting on 3 February 2010, residents raised some similarities with the subject application to DA/256/2005 at Lot 6 DP 238481 (No. 23) Taylors Road, Dural. As part of the further assessment of the application, Council officers examined the circumstances of that application.

The proposed development at 23 Taylors Road was for the construction of a farm shed and tennis court and an existing rural property. The farm shed was proposed to be 199.65 square metres with a ridge height of 6m and was to be located 15 metres from the front boundary and 6.7 metres from the western side boundary. The proposed tennis court was proposed more than 15 metres from the front boundary and 4 metres from the western side boundary.

The application was refused by Council on 18 May 2006, on the grounds that the proposal would result in a detrimental impact on the visual amenity of the rural landscape, inadequate setbacks from the western side boundary and the removal of significant trees.

Whilst that application was for the construction of a shed similar to that of the subject application, each application must be considered on their individual merits and there are no strong parallel circumstances between the two applications that would suggest that Council is bound to adhering to upholding a precedent in the current application.

THE SITE

The site has an area of 2.23 hectares and is located on the southern side of Taylors Road. The site slopes to the rear boundary and experiences an average grade of 15%. The site has a frontage of 98 metres to Taylors Road and a depth of 200 metres.

The front portion of the site is zoned rural and contains a single storey dwelling, a workshop, a swimming pool and landscaped lawns. The rear portion of the site is zoned environmental protection and contains dense bushland and a watercourse adjacent to the rear boundary. There are no agricultural activities presently being carried out on the site and the site is within a bushfire prone area.

The site is affected by a 60 metre wide transmission line easement which traverses the property from the north-west to the south-east section of the site.

The locality is characterised by similar sized rural holdings, containing one and two storey dwelling-houses.

THE PROPOSAL

The application proposes a residential office, storage shed and front fence at the property. The application has been significantly amended from the original proposal to address concerns raised by Council officers and nearby residents.

Residential Office

The application proposes the erection of a residential office 92 square metres in area (9.2 x 10m) with a maximum height of 5 metres. The proposed office would comprise the demountable building, which would be renovated to include the construction of brick walls and a pitched tile roof. The building would be positioned to the rear of an existing brick workshop on the site.

The facilities within the proposed office include a toilet, basin, tea area and photocopy room. The residential office would be accessible through the existing brick work shop at the front of the site, through two access doors on the western elevation, and through a sliding door on the eastern elevation adjacent to the dwelling.

The application has provided the following details with respect to the operation of the proposed residential office.

- The residential office is for an existing painting business 'Arrow Painting'.
- The business would employ no more than two staff members other than the permanent residents to work within the residential office.
- 10 to 15 painters are employed or subcontracted by the business who work off site.
- No painting for the purpose of the business would be carried out on the site.

- The site would not be used as a meeting place for clients.
- The site would not be used for subcontractor gatherings or meetings.

Storage Shed

The proposed storage shed is 120 square metres in area (12m x 10m) with a maximum height of 5.5 metres.

The storage shed is proposed to be located 80 metres from the front boundary and setback 5 metres from the western boundary. The application proposes the construction of a driveway to access the shed and a parking area in front of the shed. The proposed storage shed would not be used for storage of paints or other items in relation to the business.

Front Fence

The application proposes the erection of a 1.8 metre high front fence constructed of timber posts and horizontal timber panels.

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 employment within 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 proposed development is located within land zoned Rural BA (Small Holdings) under Hornsby Shire Local Environmental Plan 1994 (HSLEP). The objectives of the zone are:

- (a) *to restrain population growth, maintain the rural character of the area and ensure that existing or potentially productive agricultural land is preserved.*
- (b) *to promote agricultural use of land and provide for a range of compatible land uses which maintain the agricultural and rural environment of the area.*
- (c) *to ensure development is carried out in a manner that improves the environmental qualities, and is within the servicing capacity, of the area.*

The proposed development is defined as ‘residential office’ and ‘rural structure’ which is permissible in the zone with Council’s consent. The proposal’s compliance with the requirements for residential offices and rural structures is addressed in Section 2.3.2 and 2.3.3 of this report.

The proposal maintains the rural character of the locality and would not detract from the environmental qualities of the area. The amended design of the residential office is in keeping with the character of the existing dwelling on the site and the nearby adjoining properties. The proposed residential office is permissible in the zone and is within the servicing capacities of the area. The proposal is consistent with the zone objectives in this regard.

2.1.1 Clause 13 – Suspension of Restrictions on Land

The objective of Clause 13 of the HSLEP is to ensure private restrictions do not restrict development or activities being carried out in accordance with the HSLEP.

Restrictions on the 88B instrument were applied at the approval of subdivision within Taylors Road in 1969. Restriction No. 3 outlines a number of prohibited structures and land uses for the subject site and surrounding properties. Restriction No. 3 (i) of the instrument requires that no commercial non agricultural activity be carried out on the allotments. Restriction no. 3 (f) of the instrument requires that no main building be erected other than as a single private dwelling house.

The proposed development is defined as ‘residential office’ which is permissible in the Rural BA (Small Holdings) zone with Council’s consent. Given the proposed use is permissible in the zone and complies with the HSLEP, the restrictions within the 88B instrument do not apply to this development for the purpose to the assessment of the development application.

It should be noted that the restrictions within the 88B instrument are not released as a result of this consent. In that regard, a development consent would not remove the risk of civil action against the land owner of a breach of the restriction.

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

The application has been assessed against the requirements of Sydney Regional Environmental Plan No. 20 – Hawkesbury Nepean Catchment. This Policy provides State-wide planning controls for the protection of the Hawkesbury Nepean Catchment including its water quality.

The proposed residential office is for the administrative aspects of the business only and the site would not be used for the storage or disposal of paints in association with the business. There would therefore be no detrimental impact on the water quality of the catchment as a result of the operation of the business.

As a result of the additional bathroom proposed as part of this development the waste water system is proposed to be upgraded. Conditions of consent have been recommended for the installation of the upgraded waste water system.

The application included a sediment and erosion control plan. A condition has been recommended to ensure the sediment and erosion control measures are implemented before commencement of any construction works.

Subject to the fulfilment of conditions the proposal would have no significant impact on the water quality of the Hawkesbury Nepean Catchment and the development is considered acceptable in this regard.

2.3 Sydney Environmental Planning Policy (Building Sustainability Index: BASIX) 2004

The application has been assessed against the requirements of the State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004, which aims to ensure consistency in the implementation of the BASIX scheme throughout the State.

A BASIX Certificate was submitted as part of this application. A condition has been recommended for applicant to demonstrate the fulfilment of BASIX commitments pertaining to the development.

2.4 Rural Lands Development Control Plan

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

Rural Lands Development Control Plan			
Control	Proposal	Requirement	Compliance
Setbacks			
Proposed shed:			
Front	80m	15m	Yes
Side (west)	5m	15m	No

Side (east)	75m	15m	Yes
Rear	90m	15m	Yes
Residential office:			
Front	12m	15m	No
Side (west)	44m	15m	Yes
Rear	180m	15m	Yes

As detailed in the above table, the proposed shed does not comply with the prescriptive measures of the 'Setbacks' element of the Rural Lands DCP. The relevant matters of the Plan are addressed below.

2.4.1 Setbacks

The proposed shed is setback 5 metres from the western boundary which does not comply with the prescriptive measures of the 'Setbacks' element that requires structures to be setback 15 metres from all property boundaries.

Existing vegetation located along the western boundary provides a sufficient level of screening for the shed when viewed from the western adjoining property. The proposed location of the shed is considered acceptable as it would have no detrimental impact on the streetscape or adjoining properties and would not impact on the bushland located 10 metres to the south of the proposed shed. The non compliance with the side setback requirement is considered acceptable in this regard.

The proposed office is setback 12 metres from the front boundary which does not comply with the minimum 15 metre prescriptive setback requirement. As the proposed office would be positioned behind an existing brick workshop setback 7 metres from the front boundary, the proposal would have any significant impact on the streetscape. The residential office is consistent with the setbacks of the existing dwelling and the proposed location of the office is considered suitable for the site.

2.4.2 Land Use: Agricultural and Rural Structures

The proposed shed has been considered with respect to the 'Land Use: Agricultural and Rural Structures' element of the Rural Lands DCP.

The storage shed was originally proposed to be located within the front portion of the site, setback 7 metres from the front boundary. Due to concerns raised with respect the visual impact of the structure, amended plans were submitted showing a revised location of the shed, setback 80 metres from the front boundary and setback 5 metres from the western boundary. As addressed in Section 2.4.1 of this report, the proposed location of the shed is considered acceptable and would have no detrimental impact on the streetscape or adjoining properties.

The application does not indicate the proposed colour of the shed. To ensure the colour used in the construction of rural shed is consistent with the dominant colours of the rural area and surrounding bushland, a condition has been recommended requiring that the shed be a green colour consistent with those shown in Appendix D of the Rural Lands DCP.

A parking area 60 square metres in area is nominated to be located in front of the proposed shed. As the proposed shed is used as a rural structure and would not be used in association

with the business, it is not considered necessary that a parking area be provided in this location. Accordingly, the parking area illustrated on the site plan is recommended to be deleted.

Subject to the imposition of relevant conditions, the proposed shed would be consistent with the 'Land Use: Agricultural and Rural Structures' element of the Rural Lands DCP and would not result in any significant impact on the rural environment.

2.4.3 Land Use: Home Industry, Home Occupation and Residential Office

The proposed residential office has been assessed having regard to the 'Land Use: Home Industry, Home Occupation and Residential Office' of the Rural Lands DCP.

The requirements for residential offices as outlined in the Rural Lands DCP and Clause 23 of the HSLEP is outlined below:

'residential office' means a dwelling in which an occupation is carried out by the permanent residents of the dwelling which does not involve any of the following:

- (a) *the employment of more than 3 persons other than the permanent residents;*
- (b) *the interference in any way with the amenity of adjoining properties or the locality in which the dwelling is situated;*
- (c) *the exhibition of any notice; advertisement or sign (other than a notice or sign which would fit within a rectangular figure 1.2 metres in length and 0.6 metres in height and exhibited on that dwelling or land to indicate the name and occupation of the resident);*
- (d) *exposure to view from any public place or any matter, except as provided by paragraph (c);*
- (e) *a change in the appearance of the dwelling or the land on which it is erected out of character with that of the adjoining land;'*

With respect to (a), the applicant has advised the business would employ two people to work within the residential office other than the permanent residents of the dwelling. The business subcontracts / employs 10 – 15 painters who would work off site. The applicant has advised the painters would not be visiting the site for meetings or gatherings. In this regard, the proposal is consistent with the maximum number of employees as only two staff members would visit the site for business purposes.

With respect to (b) the applicant has advised the proposal would not interfere with the amenity of adjoining properties or the locality, as site would be used for administrative aspects of the business only.

The perceived amenity impacts of the business, including noise and fumes, were some of the concerns outlined in the community submissions. It is unlikely the proposal would have any amenity impacts in terms of fumes or noise as no painting works or storage of materials in relation to the business would be permitted on site. A condition has been recommended for noise levels to not background noise levels by more than 5dB(A).

With respect to (c), no signage is proposed as part of this application.

With respect to (d), the amended design of the proposed office would be consistent with the appearance of the existing dwelling house and existing workshop on the site. The office would not be easily visible from the street due to the proposed location of the office behind the existing workshop. A condition is also recommended for screen planting to be erected on the north-western side of the site to screen the office from Taylors Road. Furthermore, the day to day business operations would be within the office and would therefore not be viewed from any public place.

With respect to (e) the proposal would not result in any significant change in the appearance of the dwelling and would not be out of character dwellings on adjoining properties. The proposed office would consist of brick walls and a pitched tile roof consistent with the existing dwelling on the site and the surrounding properties.

A number of concerns were raised in community submissions regarding the appearance of the office originally proposed as part of this application. The proposed office was initially to utilise a white metal demountable structure transported to the site. The original proposal for the office was considered out of character with the existing dwelling on the site and general character of the area, however, the amended proposal is considered to significantly address the concerns raised.

The amended design involved a change to the external materials and appearance of the structure to brick walls and tile roof and proposed to reduce the total area of the proposed office from 121 square metres (13.2m x 9.2m), to 92 square metres (9.2 x 10m). The applicant advised it is the intention to utilise two of the three parts of the temporary building on the site as a frame for the development.

The proposal has demonstrated compliance with the definition of 'residential office' as outlined in the HSLEP and the Rural Lands DCP. Conditions have been recommended to ensure the structure is used for the approved use and maintains compliance with the definition of 'residential office' pursuant to Schedule D of the HSLEP.

2.4.4 Dwelling Design

The proposed design of the residential office is acceptable as it is in keeping with the existing dwelling and rural character of the area as addressed in Section 2.4.3 of this report.

2.4.5 Fences and Gates

The application originally proposed a 1.8 metre front fence consisting of masonry piers and metal pole infill. Council recommended changes to the proposed fence to be consistent with the 'Fences and Gates' element of the Rural Lands DCP.

The amended fence design consists of timber posts and horizontal timber panels. The amended design maintains the proposed height of 1.8 metres and would extend for 98 metres along the length of the front boundary.

Taylors Road is largely characterised by open fencing constructed of timber and wire. It is considered that the proposed 1.8 metre high fence along the front boundary would be excessive in height and inconsistent with adjoining properties. It is considered that a 1.5 metre high with openings of at least 50% would reduce the perceived impacts on the streetscape and be in keeping with the character of the area. Conditions have been recommended that require amendments to the front fence.

The original plans submitted as part of the application nominated a metal fence to be erected on the western side boundary of the site. Concerns were raised from the adjoining property regarding this proposed fencing. The applicant was advised that side fencing is regulated under the Dividing Fences Act 1991 and that consideration can be given to Council's Exempt and Complying Development DCP and the State Environmental Planning Policy (Exempt and Complying Development) 2008. The side boundary fencing no longer forms part of this application.

2.4.6 Visual Amenity

The proposed office would have no detrimental impact on the visual amenity of the area due to the location behind the existing workshop and additional screen planting required, as addressed in Section 2.4.3 of this report.

The proposed shed would have no detrimental impact on the visual amenity of the area due to the significant setback from the street and existing screen vegetation as addressed in Section 2.4.2 of this report.

2.5 Waste Minimisation and Management Development Control Plan.

A Waste Management Plan was submitted with the application in accordance with the Waste Minimisation and Management Development Control Plan.

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 proposed shed would necessitate the removal of one tree from the site. This tree has not been identified as being significant and is considered acceptable for removal. A recommended condition requires tree fencing to be constructed in a manner to ensure protection of trees located along the western boundary adjacent to the proposed shed.

The rear portion of the site is zoned Environmental B (River Catchment) and contains bushland and a creek along the rear boundary. The proposed location of the shed is considered suitable as it would be located 10 metres from the bushland on site and 90 metres from the watercourse. The proposed construction of the shed and office would not have any significant impact on the environment subject to conditions for sediment and erosion control measures being implemented.

The approval for a residential office does not permit the storage or disposal of if paints, solvents and other potentially toxic materials for the purpose of the business on site and is for the administrative aspects of the business only. Subject to conditions, the proposal would have no significant impact on the natural environment.

3.2 Built Environment

The amended proposal is considered acceptable with respect to the built environment as addressed in Section 2.4.2 and 2.4.4 of this report.

3.3 Social Impacts

The proposal would not result in any adverse impacts on the social environment.

3.4 Economic Impacts

The proposal would have a positive economic impact by generating employment.

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

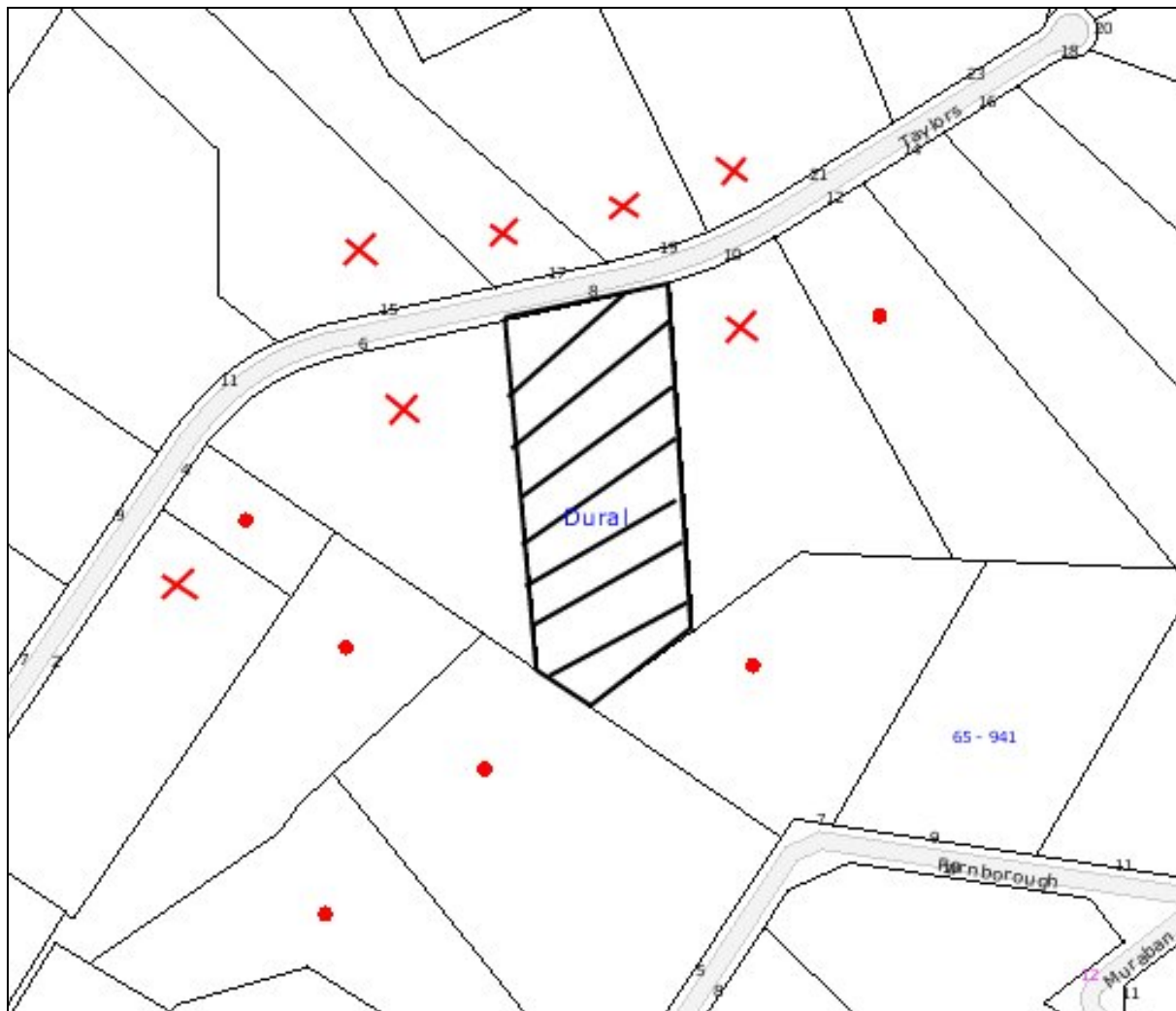
The land is identified as being subject to bushfire risk and was referred to the Rural Fire Service for comment. The Rural Fire Service raised no objections to the proposal subject to conditions relating to design and construction of structures.

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 21 April 2009 and 27 May 2009 in accordance with Council’s Notification and Exhibition Development Control Plan. During this period, Council received fourteen submissions and one petition with eight signatures. Amended plans were lodged demonstrating a revised location of the proposed shed. The application was re-notified between 19 June 2009 and 3 July 2009. During this period Council received an additional six 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 	 <ul style="list-style-type: none"> PROPERTY SUBJECT OF DEVELOPMENT 	
<p>7 SUBMISSIONS RECEIVED OUT OF MAP RANGE</p>			

Twenty submissions from fourteen residents objected to the development, generally on the grounds that the development would result in:

- *An office out of character with the area and detrimental to the streetscape.*
- *A shed positioned too close to the street that would detrimentally impact on the streetscape.*
- *Unacceptable traffic on Taylors Road and on street parking congestion.*
- *Unacceptable noise resulting from the operation of the business and additional cars and trucks on the street.*
- *Fumes from the painting business that could pose a risk to nearby residents.*
- *Detrimental environmental impacts to the bushland and water course on the site should paints, solvents and other potentially toxic materials be incorrectly stored, managed and disposed of.*
- *A fire hazard as a result of the storage of paints and materials for the business.*

- *Colorbond fencing along the western side boundary that would be out of character with the rural environment.*

On 16 December 2009, amended plans were submitted showing a reduction in the scale of the proposed residential office and a change in the external appearance of the structure to be in keeping with the existing dwelling on the site. These recent amendments were not re-notified to adjoining properties. It is considered that these amendments address the issues raised with respect to the appearance of the proposed office. The relocation of the proposed shed also addresses the issues raised with respect to the impact of the shed on the streetscape.

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 Additional traffic on local streets

The business would employ two part time staff to work within the office. The applicant has advised the site would not be used for a meeting place for contractors or clients, nor would any deliveries of paints or materials for the purpose of the operation of the business occur. In this regard, the additional traffic load resulting from two employees visiting the site is not considered significant.

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 development would be in the public interest.

CONCLUSION

The application proposes the construction of a residential office, a storage shed and front fence at an existing rural property. The application was significantly amended to satisfy Council’s requirements and reduce the perceived detrimental impacts of the development.

The proposal has been assessed as satisfactory against the provisions of the Environmental Planning and Assessment Act 1979, the Hornsby Shire Local Environmental Plan 1994 and the Rural Lands Development Control Plan. There is a non compliance with the ‘Setbacks’ element of the Rural Lands Development Control Plan however this non compliance would not have any significant impact on adjoining properties or the streetscape and is acceptable. Subject to conditions the proposed development not result in any negative social, economic or environmental impacts and is recommended for approval.

ROD PICKLES
Manager - Assessment Team 2
Planning Division

SCOTT PHILLIPS
Executive Manager
Planning Division

Attachments:

1. Locality Plan
2. Site Plan/Shed Fence Evaluation
3. Office Floor Plan/Elevations

File Reference: DA/384/2009
Document Number: D01335626

SCHEDULE 1**GENERAL CONDITIONS**

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

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

Note: For the purpose of this consent, any reference to an Act, Regulation, Australian Standard or publication by a public authority 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>
AO/1209 (Site Plan)	NY Solutions Pty Ltd	14/12/2009
AO/1209 – sheet 2A	NY Solutions Pty Ltd	Revision A-1 dated 14/12/09
AO/1209 – Sheet 3	NY Solutions Pty Ltd	14/12/2009

<i>Document No.</i>	<i>Prepared by</i>	<i>Dated</i>
REP-07709-A – ‘On-site Wastewater Management Report’ for 8 Taylors Road, Dural.	EnviroTech Pty Ltd	28 May 2009

2. Front Fence

The front fence is to be no greater than 1.5 metres in height above natural ground level. To achieve an open appearance, the width of each opening is to be equal to or greater than the width of each railing, as marked in red on the approved plans.

3. Rural Structure

The colour used in the construction of rural shed is to be a green colour consistent with those shown in Appendix D of the Rural Lands Development Control Plan.

4. Removal of Existing Trees

This development consent only permits the removal of tree numbered T7 (located within the building envelope) as identified on Site Plan No. AO/1209 prepared by NY Solutions dated 14/12/09. 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.

5. Building Code of Australia

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

6. Contract of Insurance (Residential Building Work)

In the case of residential building work for which the *Home Building Act, 1989* requires there to be a contract of insurance in force in accordance with Part 6 of that Act, that such a contract of insurance is in force before any building work authorised to be carried out by the consent commences.

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

7. Notification of Home Building Act, 1989 Requirements

Residential building work within the meaning of the *Home Building Act, 1989* must not be carried out unless the principal certifying authority for the development to which the work relates (not being Council) has given Council written notice of the following information:

- a. In the case of work for which a principal contractor is required to be appointed:
 - i. The name and licence number of the principal contractor.
 - ii. The name of the insurer by which the work is insured under Part 6 of that Act.
- b. In the case of work to be done by an owner-builder:
 - i. The name of the owner-builder.
 - ii. If the owner-builder is required to hold an owner-builder's permit under that Act, the number of the owner-builder's permit.

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

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.

8. 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.

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 non-compliance with this requirement without any further notification or warning.

10. Tree Protection Barriers

Tree protection fencing must be erected around trees numbered T5, T6, T8, and T9 to be retained at a three metre setback. The tree fencing must be constructed of 1.8 metre 'cyclone chainmesh fence' or star pickets spaced at 2 metre intervals, connected by a continuous high-visibility barrier/hazard mesh at a height of 1 metre.

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.

11. Construction Work Hours

All work on site (including demolition and earth works) must only occur between 7am and 5pm Monday to Saturday.

No work is to be undertaken on Sundays or public holidays.

12. Works near Trees

All required tree protection measures are to be maintained in good condition for the duration of the construction period.

All works (including driveways and retaining walls) within four metres of any trees required to be retained (whether or not on the subject property, and pursuant to this consent or the *Tree Preservation Order*), must be carried out under the supervision of an 'AQF Level 5 Arborist' 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, parking of vehicles or plant, disposal of cement slurry, waste water or other contaminants is to occur within 4 metres of any tree to be retained.

13. Demolition

All demolition work must be carried out in accordance with *Australian Standard 2601-2001 – The Demolition of Structures* and demolition material is to be disposed of to an authorised recycling and/or waste disposal site and/or in accordance with an approved waste management plan.

14. 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.

15. Landfill

Landfill must be constructed in accordance with Council's '*Construction Specification, 2005*'. 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.

16. 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.

17. Disturbance of Existing Site

During construction works, the existing ground levels of open space areas and natural landscape features, (including natural rock-outcrops, vegetation, soil and watercourses) must not be altered unless otherwise nominated on the approved plans.

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' or 'Subdivision 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.

18. Fulfilment of BASIX Commitments

The applicant must demonstrate the fulfilment of BASIX commitments pertaining to the development.

19. Stormwater Drainage – Dwellings

The stormwater drainage system for the development must be designed and constructed for an average recurrence interval of 20 years and be gravity drained in accordance with the following requirements:

Roof water is to be connected to a rainwater tank having a minimum capacity of 3,500 litres (in addition to any BASIX requirements). The overflow from the rainwater tank and collected surface water must be disposed of in accordance with Council's design specification; "*On Site Absorption System*", and the following requirements:

- i. The trench located a minimum of 5 metres from any down stream properties and 1 metre from the side boundaries;
- ii. The trench laid on contour;
- iii. The trench be a minimum of 0.5 metres wide, 0.5 metres deep and 2 metres long for every 50 square metres of impervious area; and
- iv. Overland flow from the trench be spread evenly over the site so as not to discharge water in a concentrated manner onto adjoining land.

20. 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 driveway grade must not exceed 25 percent and changes in grade must not exceed 8 percent.

21. 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).

22. Maintain Canopy Cover

To maintain canopy cover, two (2) medium to large trees selected from Council's booklet '*Indigenous Plants for the Bushland Shire*' such as *Syncarpia glomulifera* (Turpentine) are to be planted on the subject site. The planting location shall not be within 4 metres of the foundation walls of a dwelling or in-ground pool. The pot size is to be a minimum 25 litres and the tree(s) must be maintained until they reach the height of 3 metres. Trees must be native to Hornsby Shire and reach a mature height greater than ten metres (10m).

23. Screen Planting

A screen of trees or shrubs (minimum mature growth height of 3-4 metres), as listed in Council's "*Indigenous Plants for the Bushland Shire*" publication must be planted to the west of the proposed residential office in the location nominated in red on the approved plans.

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.

24. Use of Premises

The development approved under this consent adjacent to the existing dwelling shall be used for a 'residential office' and not for any other purpose without Council's separate written consent.

Note: Pursuant to Clause 23 of the HSLEP, 'residential office' is defined as 'a dwelling in which an occupation is carried out by the permanent residents of the dwelling which does not involve any of the following:

- (a) *the employment of more than 3 persons other than the permanent residents;*

- (b) *the interference in any way with the amenity of adjoining properties or the locality in which the dwelling is situated;*
- (c) *the exhibition of any notice; advertisement or sign (other than a notice or sign which would fit within a rectangular figure 1.2 metres in length and 0.6 metres in height and exhibited on that dwelling or land to indicate the name and occupation of the resident);*
- (d) *exposure to view from any public place or any matter, except as provided by paragraph (c);*
- (e) *a change in the appearance of the dwelling or the land on which it is erected out of character with that of the adjoining land;'*

25. Operation of Painting business

No painting work for the purpose of the business is to be carried out on site. Paints or other materials used in association with the business must not be stored or disposed of on site. The site must not be used as a display room or meeting place for painting contractors or clients.

26. Use of Shed

The shed approved under this consent shall only be used as a 'rural structure' and not for any other purpose without Council's separate written consent. The shed must not be used for the storage of paints, materials or any other items in association with the business.

27. Hours of Operation

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

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

28. Noise

All noise generated by the residential office 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).

CONDITIONS OF CONCURRENCE – NSW RURAL FIRE SERVICE

The following conditions of consent are from the nominated State Agency pursuant to Section 79B of the *Environmental Planning and Assessment Act 1979* and must be complied with to the satisfaction of that Agency.

29. Design and Construction

All proposed Class 10 structures as defined per the 'Building Code of Australia' 2006 attached to or within 10 metres of the habitable building must comply with Australian Standard AS3959-1999 'Construction of buildings in bush fire-prone areas' Level 1.

- 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:
- The issue of 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.
- A principal certifying authority to be nominated and Council notified of that appointment prior to the commencement of any works.
- Council to be given at least two days written notice prior to the commencement of any works.
- Mandatory inspections of nominated stages of the construction inspected.
- An occupation certificate to be 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.

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 3 metres of the approved building envelope without the prior written consent from Council.

Note: A tree is defined as a single or multi-trunked wood perennial plant having a height of not less than three (3) metres, and which develops many branches, usually from a distance of not less than one (1) metre from the ground, but excluding any plant which, in its particular location, is a noxious plant declared as such pursuant to the Noxious Weeds Act 1993. This definition of 'tree' includes any and all types of Palm trees.

All distances are determined under British Standard BS 5837: 2005, "Trees in Relation to Construction – Recommendations".

Fines may be imposed for non-compliance with Council's *Tree Preservation Order*.

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.

Covenants

The land upon which the subject building is to be constructed may be affected by restrictive covenants. Council issues this approval without enquiry as to whether any restrictive covenant affecting the land would be breached by the construction of the building, the subject of this consent. Applicants must rely on their own enquiries as to whether or not the building breaches any such covenant.

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 demolition or construction 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 *WorkCover NSW*) be engaged to manage the proper 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 *WorkCover* Asbestos and Demolition Team on 8260 5885.

3 DEVELOPMENT APPLICATION - EXTRACTIVE INDUSTRY - DESIGNATED DEVELOPMENT - 4713 AND 4751 OLD NORTHERN ROAD MAROOTA

Development Application No:	DA/578/2009
Description of Proposal:	Designated development - Sand extractive industry to be developed in two stages and progressively rehabilitated in stages to agricultural use including dams for water storage and rehabilitated bushland
Property Description:	Lot 2 DP 510812, No. 4713 Old Northern Road, Maroota and Lot 3 DP 567166, No. 4751 Old Northern Road, Maroota
Applicant:	Etra Pty Ltd
Owners:	Hostjolu Pty Ltd Mr M E Attard Mrs P P Attard
Statutory Provisions:	Hornsby Shire Local Environmental Plan 1994 Rural AE (Large Holdings - Extraction) zone and Environmental Protection B (River Catchment) zone
Estimated Value:	\$2,000
Ward:	A

RECOMMENDATION

THAT Development Application No. 578/2009 for a sand extractive industry at Lot 2 DP 510812, No. 4713 Old Northern Road, Maroota and Lot 3 DP 567166, No. 4751 Old Northern Road, Maroota be approved subject to the conditions of consent detailed in Schedule 1 of this report.

EXECUTIVE SUMMARY

1. The application proposes a sand extractive industry to be developed in two stages and progressively rehabilitated in stages to agricultural use including dams for water storage and rehabilitated bushland.
2. The proposal complies with the provision of the Hornsby Shire Local Environmental Plan 1994 and Sydney Regional Environmental Plan No. 9 - Extractive Industry.
3. No submissions have been received in respect of the application.

4. It is recommended that the application be approved.

HISTORY OF THE SITE

On 21 April 1998 Council approved Development Application No. 725/94 for stage 1 of an extractive industry development with dams and rehabilitation to market garden use on Lot 3 DP 567166, Old Northern Road, Maroota. Stage 1 of the development involved an extraction area of 5.25 hectares on the 50.59 hectare allotment. An estimated volume of 800,000 cubic metres of sandstone was to be extracted to an average depth of 15.5 metres from the site. Stage 2 of the development was withdrawn by the applicant. The estimated period of extraction was for 15-20 years. The development consent was limited to a period of 5 years to enable Council to consider the *Maroota Groundwater Study - Stage 3* in deciding whether to extend the time period of the operation and to include additional conditions.

On 7 January 2000, Council approved a Section 96(2) modification to the development consent to extend the time period of operation from the site for 5 years from the date of the amended consent.

On 22 November 2004, Council approved a Section 96(2) modification to the development consent to extend the time period of operation from the site for a further 5 years from the date of the amended consent. The consent lapsed on 22 November 2009.

THE SITE

The extraction area is situated within Lot 3 DP 567166 and Lot 2 DP 510812. The two lots have a combined area of approximately 60 hectares and are situated east of Old Northern Road, approximately 2 kilometres north of its intersection with Wisemans Ferry Road.

Lot 3 is battleaxe shaped lot with an area of 50.59 hectares and is located on the eastern side of Old Northern Road. The western portion of the allotment, where it fronts Old Northern Road is approximately 93 metres wide for a length of 800 metres. The allotment then widens to 565 metres at the rear. A dwelling house is located at the front of the property near Old Northern Road. Further east within the site are two agriculture dams which support market gardening.

A natural watercourse known as Coopers Creek crosses the site and flows in a southeast direction into the adjoining Marramarra National Park. Coopers Creek drains into the Hawkesbury River approximately 4 kilometres to the east.

The site has previously been used, in part, for sand extraction and construction of a water supply dam. The initial extraction site occupied the narrow access handle of Lot 3 which fronts Old Northern Road. The disturbed area has been rehabilitated for agricultural use.

Lot 2 is a rectangular shaped lot with an area of 10.12 hectares. A dwelling house is located within the centre of the property as well as a dam. A natural watercourse crosses the site and flows from Coopers Creek.

The extraction area and land to the north, west and south occupy freehold land. The eastern boundary and a small section of the southern boundary abut Marramarra National Park. Part of the lot, to the north is undergoing sand extraction, the remainder of it being undeveloped bushland traversed by an access track to the transmission line to the east whilst land to the south is partly cleared.

THE PROPOSAL

The proposal is to extract and process approximately 3.5 million tonnes of sand in two stages covering 11.8 hectares down to 177 metres AHD and processed on-site over 20 years. The maximum annual quantity of material to be extracted from the two areas would not exceed 195,000 tonnes per annum. Sand would be extracted from two areas of Lot 3 DP 567166 (total 6.8 hectares of mainly bushland) with one area being active between 2010 and 2020 and the other being active between 2020 and 2030. In addition sand would be extracted from part Lot 2 DP 510812 (4.96 hectares of cleared grazing land) between 2010 and 2030.

The stage extraction areas have taken into account a 40 metre setback from Coopers Creek, a 10 metre setback from property boundaries, a minimum 6 metre buffer area around known Aboriginal Sites, general avoidance of the two areas zoned Environmental Protection B (River Catchment) and the presence of the core area of the threatened flora species *Tetratheca glandulosa*. After extraction the land would be progressively rehabilitated in stages agricultural use including dams for water storage and rehabilitated bushland.

Access to the site processing area would continue (as per the vehicular access to the existing quarry) to be via Old Northern Road, along approximately 100 metres of a sealed Crown road and then approximately 1 kilometre of unsealed internal access or haul road to Lot 3 DP 567166 and Lot 2 DP 510812.

No site access would be permitted off Old Northern Road to Lot 2 DP 510812 except for use by residents and visitors to the dwelling and for light vehicles in an emergency. Lot 2 DP 510812 is owned by PF Formation and the dwelling will be retained for residential use by an employee's family. A 2 metre high and 3 metre wide bund using site topsoil would be located along the western boundary of Lot 2 DP 510812 for 20 years to provide acoustic and visual screening for residents of the nearby dwelling.

The proposed hours of operation of the extractive industry are as follows:

Monday to Saturday	7am to 6pm
Sunday and Public Holidays	No work

It is anticipated that the site would operate for around 275 days a year. The applicant proposes that an average 35 truck loads (average load 20 tonnes) would be removed from the site per day, averaged over one month. In addition, a maximum of 10 laden vehicles would be permitted to enter and leave the site between 6am and 7am Monday to Saturday excluding Sundays and public holidays.

The existing processing plant will continue to operate on the site to screen material won from the extraction area. A mobile crusher may be used as required on-site for a maximum of one day per week.

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 continuing to provide 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 regulations*”.

2.1 Designated Development

Section 78A(8)(a) of the Act requires the submission of an environmental impact statement with the development application if the proposed development is designated. Schedule 3 of the Regulation designates ‘*Extractive Industries*’ that obtain extractive materials by methods including excavating, dredging, tunnelling or quarrying or that store, stockpile or process extractive materials by methods including washing, crushing, sawing or separating.

The application is defined as ‘designated development’ under the Regulation for the following reasons:

1. *The use would result in more than 30,000 cubic metres of material being extracted per year;*
2. *the use would disturb a total surface area of more than 2 hectares of land by:*
 - (a) *clearing or excavating; or*
 - (b) *constructing dams, ponds, drains, roads or conveyors; or*
 - (c) *storing or depositing overburden, extractive material or tailings; or*
3. *the use is located:*
 - (a) *in or within 40 metres of a natural water body, and an environmentally sensitive area; or*

- (b) *within 500 metres of the site of another extractive industry that has operated within the past 5 years.*

In accordance with the Act Council has given written notice of the development application to public authorities and adjoining property owners/ occupiers. A notice was placed on the land which could be read from a public place and a notice was published in the local newspaper.

2.2 Hornsby Shire Local Environmental Plan 1994

Lot 3 DP 567166 and Lot 2 DP 510812 are zoned Rural AE (Large Holdings – Extraction) under the Hornsby Shire Local Environmental Plan 1994 (HSLEP). Two smaller areas within the eastern portion of Lot 3 DP 567166 around Coopers Creek are zoned Environmental Protection B (River Catchment).

The objectives of the Rural AE (Large Holdings - Extraction) zone are:

- (a) *to restrain population growth, ensure that existing or potentially productive agricultural land is preserved and protect geological resources.*
- (b) *to enable extraction of geological resources, prevent fragmentation of land and provide for a range of compatible land uses which maintain the rural environment of the area.*
- (c) *to ensure development is carried out in a manner that improves the environmental qualities, and is within the servicing capacity, of the area.*

The objectives of the Environmental Protection B (River Catchment) zone are:

- (a) *to protect the natural environment of sensitive areas within the catchment of the Hawkesbury River.*
- (b) *to protect the valleys and escarpments within the catchment of the Hawkesbury River and accommodate land uses, including housing, that recognise environmental sensitivity of the area.*
- (c) *to protect the scenic quality of visually prominent areas and water quality within the catchment of the Hawkesbury River.*

The proposed development is defined as ‘*extractive industries*’ under the HSLEP and is permissible in the Rural AE (Large Holdings - Extraction) zone with Council’s consent.

The proposal is consistent with the objectives of the Rural AE (Large - Holdings Extraction) zone in that it would not cause population growth or fragment the land and is within the servicing capacity of the area. Although the proposal would restrict agriculture in the medium term, it is proposed to provide a major portion of the extraction area for agriculture and bushland once extraction has ceased. The environmental and rural qualities of the area would be maintained with rehabilitation of the extraction areas for agriculture, dams and bushland.

Extractive industries are prohibited in the Environmental Protection B (River Catchment) zone under the HSLEP. However, the provisions of *Sydney Regional Environmental Policy No. 9 (Extractive Industries)* takes precedence over the HSLEP and allows the proposal with

development consent. SREP 9 identifies sand/clay/shale and friable sandstone in the Maroota area as of regional significance.

The proposal would rehabilitate with bushland large portions of the two areas zoned Environmental Protection B (River Catchment). Mitigation measures would be implemented to reduce any impacts on water quality with the use of a closed water cycle system (except for the collection of rainwater), no off-site discharge of clean or dirty water and a 40 metre buffer area around Coopers Creek. The scenic quality of the area would be maintained with a 40 metre setback from Coopers Creek, the 10 metre setback to the property boundaries and the rehabilitation of the extraction area.

Clause 18(9)(b)(ii) of the HSLEP requires an assessment of Aboriginal heritage prior to the approval of the application on:

- (a) *an archaeological site or a potential archaeological site that is the location of an Aboriginal place or relic, within the meaning of the National Parks and Wildlife Act 1974; or*
- (b) *on land containing bushland and zoned:*
 - (i) *Rural A or B, where the area to be disturbed is greater than 0.1ha; or*
 - (ii) *Residential A, AA, AM, AS or AT, with a site area greater than 1 ha; or*
 - (iii) *Open Space A, B or C, where the area of land to be disturbed is greater than 0.1ha; or*
 - (iv) *Environmental Protection A, B, C or D, with a site area greater than 1ha or where the area of land to be disturbed is greater than 0.1ha; or*
- (c) *on land which contains any or all of the following locations or features:*
 - (i) *estuarine foreshore;*
 - (ii) *a creekline/ drainage line with sandstone base;*
 - (iii) *sandstone exposures at ground level which are larger than 5m² in area;*
or
 - (iv) *sandstone cliffline or isolated boulder higher than 2m,*

An Aboriginal Heritage Assessment was submitted with the application and referred to the Department of Environment and Climate (DECC) for comment. The DECC reviewed the *Aboriginal Cultural Heritage and Archaeological Assessment Part Lot 3 DP567166 and Part Lot 2 DP510812 at Old Northern Road, Maroota, NSW* dated January 2008 prepared by Total Earth Care and supports the recommendations contained within the report and therefore granted General Terms of Approval regarding cultural heritage.

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

The general aim of this Policy is to protect and preserve bushland within the urban areas because of its value to the community as part of the natural heritage, its aesthetic value, and its value as a recreational, educational and scientific resource.

The Policy applies as the subject property adjoins Marramarra National Park (land which is reserved for open space) along its eastern boundary.

Clause 9 of requires Council to take into account:

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

With respect to (a), extraction Area A and B propose to clear approximately 6.6 hectares of bushland. These areas would be progressively extracted and rehabilitated to native vegetation and subject to the recommended conditions, Council's Bushland and Biodiversity Team raise no objection to the proposal. Extraction Area C is largely confined to a cleared grassland area.

With respect to (b) and (c), a minimum 50 metre setback is maintained to Marramarra National Park in accordance with the requirements of the Extractive Lands DCP which would provide a buffer zone to the National Park and conditions relating to sediment and erosion control measures have been imposed to minimise the risk of erosion of soils, the siltation of streams and waterways and the spread of weeds and exotic plants within the bushland.

2.4 State Environmental Planning Policy No. 44 - Koala Habitat

The land is a potential koala habitat as more than 15% of the total number of trees on site are either Scribbly Gum or Grey Gum, which are listed in Schedule 2 of SEPP 44 as koala feed trees.

No koalas or evidence of the species were detected on the site during the fauna survey. Council's environmental assessment concurs with the SIS with regards to SEPP 44- Koala Habitat Protection in that the site is a potential Koala habitat, however, due to the absence of Koala activity a Koala Plan of Management is not required.

2.5 State Environmental Planning Policy No. 33 - Hazardous and Offensive Development

SEPP 33 requires Council to specifically assess the hazards and risks associated with a proposed development before approval is given for the construction of the operation. Two of the relevant aims of the Policy are:

- (a) *to ensure that in determining whether a development is a hazardous or offensive industry, any measures proposed to be employed to reduce the impact of the development are taken into account, and*
- (b) *to ensure that in considering any application to carry out potentially hazardous or offensive development, the consent authority has sufficient information to assess whether the development is hazardous or offensive and to impose conditions to reduce or minimise any adverse impact, and*

Applying SEPP 33 merit based assessment guidelines, risk screening methods and thresholds (e.g. types and quantities of hazardous materials and dangerous goods, location, distance to boundaries and vehicle movements) to the extractive industry development, the proposal is

not potentially a hazardous industry. No hazardous materials or dangerous goods would be stored or used on-site. Accordingly, a preliminary hazard analysis is not required.

However, the proposal is potentially offensive industry as it requires an Environment Protection Licence from DECC. The minimum test for developments such as extractive industry is meeting the requirements for licensing by DECC. If a development cannot obtain the necessary pollution control licences or other permits, then it may be classified as 'offensive industry'.

Extractive industry has operated in the Maroota area including Lot 3 DP 567166 (part of the proposed development) for many years with an Environment Protection Licence No. 3829 with a review date in May 2011. This licence includes, inter alia, conditions for noise limits, dust emissions and hours of operation to limit any significant offence. As DECC has provided GTAs and considers the licence requirements can be met, then the proposal is not likely to be 'offensive industry' and further consideration of SEPP 33 is not required.

2.6 State Environmental Planning Policy No. 55 Remediation of Land

Clause 7 of *State Environmental Planning Policy No. 55 - Remediation of Land* requires Council to consider whether land is contaminated prior to granting consent to the carrying out of any development on that land.

Should the land be contaminated Council must be satisfied that the land is suitable in a contaminated state for the proposed use. If the land requires remediation to be undertaken to make the land suitable for the proposed use, Council must be satisfied that the land will be remediated before the land is used for that purpose.

The site history indicates a history of extractive industries, it is not likely that the site has experienced any significant contamination, and further assessment under SEPP 55 is not required.

2.7 State Environmental Planning Policy (Mining, Petroleum Production and Extractive Industries) 2007

The aims of this Policy are, in recognition of the importance to New South Wales of mining, petroleum production and extractive industries:

- (a) *to provide for the proper management and development of mineral, petroleum and extractive material resources for the purpose of promoting the social and economic welfare of the State, and*
- (b) *to facilitate the orderly and economic use and development of land containing mineral, petroleum and extractive material resources, and*
- (c) *to establish appropriate planning controls to encourage ecologically sustainable development through the environmental assessment, and sustainable management, of development of mineral, petroleum and extractive material resources.*

Clause 12-17 of the Policy sets out the matters to be considered when assessing an application for extractive industry.

With respect to Clause 12, the proposal is compatible with the surrounding land uses of agriculture, extractive industry and National Park and would not have a significant impact on the existing and potential future land uses. Public benefits would flow from the proposal as discussed in Section 2.9.12 of this report.

With respect to Clause 13, the proposal is compatible with the existing on-site and likely future land uses of extractive industry and agriculture and would not have a significant impact on these existing and future land uses. Public benefits would flow from the proposal as discussed in Section 2.9.12 of this report.

With respect to Clause 14, Council must consider whether or not the consent should be issued subject to conditions aimed at ensuring that the development is undertaken in an environmentally responsible manner, including impacts on significant water resources, (including surface and groundwater resources), impacts on threatened species and biodiversity, and greenhouse gas emissions are minimised. These matters are addressed in the EIS and accompanying SIS and subject to recommended conditions, are considered acceptable.

With respect to Clause 15, the officer's assessment is satisfied that the development would be carried out in such a way as to optimise the efficiency of recovery of minerals, petroleum or extractive materials and to minimise the creation of waste in association with the extraction, recovery or processing of minerals, petroleum or extractive materials.

With respect to Clause 16, Council must consider whether or not transport of materials in connection with the development is not to be by public road, limiting or precluding truck movements, in connection with the development, that occur on roads in residential areas or on roads near to schools and implementation of a code of conduct relating to the transport of materials on public roads. At present there are no alternative roads for transporting the material along Old Northern Road past Maroota Public School and Wisemans Ferry Road. Extractive industry operators in the Maroota area have agreed on a traffic management policy of complying with speed limits of 40 kilometres per hour outside Maroota Public School. The traffic management policy also states that all loads would be covered leaving the quarry sites and engine/ exhaust brakes would not be used in the vicinity of quarry site.

The proposal would not increase transport movements along public roads in the Maroota area compared to existing operations for extractive industry on Lot 3 DP 567166. Transport alternatives may become available in the future with development of an internal access road between extraction areas on different properties for transport to processing plants in the Maroota area.

Clause 16(2) requires referral of the application to the Roads and Traffic Authority (RTA). As detailed in Section 5.2.1 of this report, the RTA raised no objection to the proposal.

With respect to Clause 17, a quarry rehabilitation plan has been submitted with the application and subject to compliance with the recommendations of the plan, Council's conditions and the General Terms of Approval granted by various agencies, the application satisfactorily addresses the requires of the SEPP.

2.8 Sydney Regional Environmental Plan No. 9 - Extractive Industry (No. 2 - 1995)

The aim of this Plan is to facilitate development of extractive resources in proximity to the population of the Sydney Metropolitan area by identifying land which contains extractive material of regional significance.

The REP overrides the HSLEP by permitting extractive industry to occur on land to which the REP applies. The Plan applies to the subject site.

Clause 7(3) of the REP specifies that Council must not grant consent unless:

- (a) *it has considered the effect of the development on flood behaviour, the water quality, quantity and hydrodynamics of any watercourse or underground waters and also the effect of flood behaviour on the development and operations associated with the development in the vicinity, and*
- (b) *it has considered a rehabilitation plan prepared in accordance with the Guidelines for Rehabilitation Plans in the Extractive Industry Report, and*
- (c) *it is satisfied that, while the development is being carried out, noise and vibration levels will generally be in accordance with the guidelines in the State Pollution Control Commission Environmental Noise Manual (1985 edition) available at the offices of the Environment Protection Authority and the councils of the areas specified in Schedule 4, and*
- (d) *it is satisfied that rehabilitation measures will be carried out in accordance with the guidelines in the Urban Erosion and Sediment Control Handbook (1992) prepared by the Department of Conservation and Land Management and available at the offices of the Department of Land and Water Conservation.*

With respect to (a), the Department of Water and Energy has reviewed the EIS and has commented on aquatic/ riparian environment matters, erosion and sediment control, water quality aspects and hydro-geological concerns. These issues have been adequately addressed in the EIS and are discussed in Section 2 of this report.

With respect to (b), a rehabilitation plan has been prepared in accordance with the Extractive Industry Report. The rehabilitation plan adequately addressed the issues of short term erosion protection, maintenance treatments, agricultural use and native bush regeneration.

With respect to (c), the Environmental Protection Authority has advised that the development is satisfactory with regard to noise and vibration levels.

With respect to (d), Department of Environment and Climate Change and Council's environmental officer's assessment is satisfied that rehabilitation and soil conservation issues have been addressed in the planning stage of the proposal.

Clause 11(2) of the REP specifies special requirements for extractive industry at Maroota and requires that Council must not grant consent to the carrying out of development for the purpose of extractive industry on land to which this clause applies unless Council is satisfied that the proposed development:

- (a) *is unlikely to have a significant adverse impact on the Maroota groundwater resource or on other groundwater users in the region, and*
- (b) *will conserve the environmentally sensitive and significant areas and features of the Maroota locality, including the environment of threatened species, populations and ecological communities, and*

- (c) *will involve controlled and limited access points to main roads, and*
- (d) *will result in a final landform capable of supporting sustainable agricultural production or other post-extraction land uses compatible with the established character and the landscape and natural quality of the Maroota locality.*

With respect to (a), the extractive industry is unlikely to have a significant adverse impact on the Maroota groundwater resource or on other groundwater users in the region subject to groundwater monitoring bores being established and extraction restricted to not closer than 2 metres of the ground water level.

With respect to (b), the Species Impact Statement prepared by Aquila Ecological Surveys proposes the mitigations measures to conserve the environmentally sensitive and significant areas and features of the Maroota locality, including the environment of threatened species, populations and ecological communities.

With respect to (c), controlled and limited access would continue to be provided to Old Northern Road.

With respect to (d), the site would be remediated for agriculture and/or bushland use upon completion of the extractive industry. These uses are compatible with the established character and the landscape and natural quality of the Maroota locality.

2.9 Sydney Regional Environmental Plan No. 20 - Hawkesbury Nepean

The site is within the catchment of the Hawkesbury-Nepean River. As such the land is subject to the provisions of Sydney Regional Environmental Plan No. 20 - Hawkesbury-Nepean River. The aim of the environmental planning instrument is to protect the environment of the Hawkesbury-Nepean River system by ensuring that the impacts of development and future land uses are considered in the regional context. The plan requires consideration of general planning considerations and specific planning policies and recommended strategies listed in Clauses 5 and 6 of the instrument.

The proposed extractive industry is satisfactory having regard to the general planning considerations listed in the instrument.

The specific planning policies and recommended strategies set out in Clause 6 are addressed as follows:

(i) Total catchment management

The policy requires that total catchment management is to be integrated with environmental planning for the catchment.

It is considered that these aspects are adequately addressed in the EIS. Water quality has been addressed through the implementation of sediment and erosion control measures, the rehabilitation plan and recommended conditions of approval. There would be no sewage or other effluent disposal from the site into the catchment area.

Subject to the detailed sediment and erosion and nutrient controls, the development is likely to have a minimal impact on the quality of water in the catchment and the cumulative impact of the development proposal is considered minimal.

(ii) *Environmentally sensitive areas*

The policy requires that the quality of environmentally sensitive areas must be protected and enhanced and that new development should be located in areas that are already cleared.

The Hawkesbury River is located approximately 4km to the east of the extraction areas. Environmentally sensitive areas applicable to the proposal include the adjacent Marramarra National Park to the east and significant floral and fauna habitats. The EIS and SIS for the proposal have considered the Director-General's requirements and include mitigation measures to reduce any adverse impacts on water quality, flora and fauna habitats and Marramarra National Park.

(iii) *Water Quality*

The policy requires that future development must not prejudice the achievement of the goals of use of the river for primary contact recreation and aquatic ecosystem protection in the river system.

The recommended conditions requiring the installation and maintenance of erosion and sediment control measures would minimise the impact of the proposed extractive industry on water quality.

(iv) *Water Quantity*

The policy requires that aquatic ecosystems must not be adversely affected by development which changes the flow characteristics or groundwater in the catchment.

Subject to a restriction on excavation not being within 2m of the groundwater level, the extractive industry is unlikely to significantly reduce water quantity in the catchment.

(v) *Cultural Heritage*

The SREP requires an Aboriginal site survey where predictive models or current knowledge indicate the potential for Aboriginal sites and the development concerned would involve significant site disturbance. The application includes an assessment of Aboriginal heritage and the DECC have granted GTA's.

(vi) *Flora and Fauna*

The policy requires that flora and fauna communities are managed so that the diversity of species and genetics within the catchment is conserved and enhanced.

The proposal would retain approximately 3.85 hectares of *Tetratheca glandulosa* and remove 403 individual *Tetratheca glandulosa* a vulnerable plant species within Lot 3 DP 567166. *Tetratheca glandulosa* habitat would be recreated in suitable areas of the site as part of regenerated bushland in the rehabilitation plan. 8.2 hectares of extraction area would be rehabilitated as regenerated bushland. The SIS considered the proposal is unlikely to have a significant effect on threatened flora and fauna species and their habitats provided mitigation measures are implemented to minimise any adverse impacts. Council's environmental assessment concurs with the SIS and

subject to the recommended conditions, the development would have minimal impact on flora and fauna.

(vii) Riverine scenic quality

Refer to (ii) above.

(viii) Agriculture/aquaculture and fishing

The development would not adversely affect any recreation areas or tourism activities within the catchment. The development would not have an adverse impact on any existing agricultural activities being undertaken within the catchment. The land would be rehabilitated to enable use for agricultural or bushland purposes after the cessation of the extractive industry.

(ix) Rural residential development

The policy requires that rural residential development should not reduce agricultural sustainability, contribute to urban sprawl, or have adverse environmental impacts (particularly on the water cycle or on flora or fauna).

The proposed development is not for rural residential use.

(x) Urban development

The policy requires that all potential adverse environmental impacts of urban development must be assessed and controlled.

The proposed development does not result in any urban development.

(xi) Recreation and tourism

This policy requires that the value of the riverine corridor as a significant recreational and tourist asset must be protected.

The proposed development would not have a direct or significantly adverse impact on any recreation or tourism activities being undertaken within the catchment.

(xii) Metropolitan strategy

The development is consistent with the vision, goal and key principles of the Metropolitan Strategy.

2.10 Threatened Species Conservation Act 1995

Flora and fauna species listed as Vulnerable under the *Threatened Species Conservation Act 1995* that have been recorded on site or have the potential to be affected by the proposal include:

- *Tetratheca glandulosa* (recorded on site- 403 on site, 717 individuals recorded in the study area and adjacent lands). 403 individual *Tetratheca glandulosa* plants would be removed from Lot 3 DP 567166.

- *Acacia byoneana* (4 individuals along eastern edge of Lot 3)
- *Pimelea curviflora* var. *curviflora* (10 individuals recorded in north western part of Lot 3 extraction area)
- Powerful Owl – (recorded foraging along Coopers Creek)
- Turquoise Parrot (male and female recorded searching for nesting hollows in east of proposed extraction area for Lot 3)
- Golden-tipped Bat (probable anabat recording within western section of Lot 3 extraction area)
- Eastern Bent-wing Bat (probable anabat recording within western section of Lot 3 extraction area)
- Eastern Freetail Bat (confident anabat recording east of Lot 3 extraction area)
- Giant Burrowing Frog (none recorded on site suitable habitat present below dam and Coopers Creek)
- Red Crowned Toadlet (one individual recorded from leaf litter north western section of proposed Lot 3 extraction area)
- Glossy Black-Cockatoo (not recorded on site however chewed cones found in adjacent woodland of Marramarra NP)
- Eastern Pygmy Possum - (not detected but potential habitat identified on site)

Following a review of the Species Impact Statement and other documentation, it is considered that the development is acceptable for the following reasons:

- The proposal would rehabilitate bushland within the two areas zoned *Environmental Protection B (River Catchment)* and a 40 metre setback from Coopers Creek would be retained.
- Setbacks of the proposed extraction activities would be greater than 60 metres to Marramarra National Park.
- Extraction would not occur below two metres above the wet weather groundwater level. Groundwater levels and water quality would be regularly monitored as part of the proposed Environmental Management Plan.
- The level of survey effort undertaken within the Species Impact Statement has satisfactorily complied with the Director-General's requirements issued by the NSW Department of Environment, Climate Change and Water, thereby allowing Council to understand the full impacts of the proposal.
- An area of 3.85 hectares of *Tetratheca glandulosa* would be retained. The seed bank of this plant would be incorporated into topsoil translocation and form part of the rehabilitated bushland. The rest of this population extends into Marramarra National Park which secures the long term conservation and recruitment of this local population.

- The assessment in the SIS appropriately concludes that the proposal is unlikely to have a significant impact on threatened flora and fauna and their habitats provided mitigation measures are implemented to minimise any adverse impacts on flora and fauna.
- An area comprising 8.2 hectares is proposed to be rehabilitated as bushland using a variety of techniques including soil seed bank translocation and revegetation (specified in the *Quarry Rehabilitation Concept Plan* prepared by Footprint Green Pty Ltd, 15 January 2010).

2.11 Extractive Industries Development Control Plan

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

Extractive Industries Development Control Plan			
Control	Proposal	Requirement	Compliance
Extraction Area			
- Lot 3	6.80 ha	N/A	N/A
- Lot 2	4.96 ha	N/A	N/A
Setbacks			
- Front	200m	10m	Yes
- Side	10m	10m	Yes
- Side	10m	10m	Yes
- Rear	300m	10m	Yes

As detailed in the above table, the proposed development complies with the prescriptive standards within Council's Extractive Industry DCP. A brief discussion on compliance with relevant performance standards is provided below.

2.11.1 Extraction Sequence

The EIS addresses the orderly sequence of the extraction and staging of the proposal including rehabilitation, to ensure that the extraction occurs in an orderly and controlled manner with regard to environmental sensitivity of the locality.

The extraction process has been designed to minimise the generation of impacts, minimise the volume of waste and limit the potential impact upon sensitive site features.

2.11.2 Setbacks

Extraction operations should be set back no less than 10m from adjoining property boundaries to provide a landscaped buffer; 40 metres to a watercourse; 200 metres to a residence not associated with the extraction and 50 metres from any boundary to a National Park. The development complies with the abovementioned setback provisions contained in the Extractive Industry DCP.

However, the proposed development does not comply with the setback provisions to a site or relic of heritage, archaeological, geological, or cultural significance and the setback provisions to land zoned Environmental Protection B (River Catchment), the non-compliance is supported for the reasons detailed below:

A setback of 50 metres is required from any site or relic. Six locations have been identified within the site and four of them (CC2, CC3, CC4 AND CC5) are located outside the extraction and would be protected from impact with 40 metre buffers. The development proposes a setback of 6 metres to two of the Aboriginal Cultural Heritage locations within the site (CC1 and CC6). The CC1 site is located outside of the extraction area and no objection is raised to the reduced buffer distance.

With regard to CC6, the applicant has stated that a 40 metre buffer would encroach on the extraction area to a large extent and sterilise the resource contrary to the provisions of SEPP (Mining, Petroleum Production and Extractive Industries) 2007 and that if the reduced setback to 6 metres is not supported the applicant would apply for consent from DECC to destroy the site under Section 90 of the *National Parks and Wildlife Act 1974*.

The DECC reviewed the *Aboriginal Cultural Heritage and Archaeological Assessment Part Lot 3 DP567166 and Part Lot 2 DP510812 at Old Northern Road, Maroota, NSW* dated January 2008 prepared by Total Earth Care and supports the recommendations contained within the report and granted GTAs regarding cultural heritage. Accordingly, no objection is raised to the setback non-compliance.

A setback of 50 metres is required to land zoned Environmental Protection B (River Catchment). The proposed development involves extraction within the Environmental Protection B zone.

2.11.3 Transport

The existing single access point to Old Northern Road via approximately 100 metres of an unnamed sealed Crown road and then approximately 1 kilometre of unsealed internal access or haul road would be used for the proposal.

Processing would be carried out on-site and then heavy vehicles would transport the product along Old Northern Road through Maroota Village and Wisemans Ferry Road.

The extractive industry does not require the provision of any parking spaces or loading/unloading on site. The development is satisfactory with respect to access to the site.

The proposed development would not increase heavy truck movements over the 35 truck loads per day average over one month as per Development Consent No. 795/94 for Lot 3 DP 567166. A condition is recommended to limit the number of truck movements to 35 loads daily having regard for the amenity and safety to the Maroota Village.

Council's engineering assessment of the traffic impacts of the development raised no objection to the proposal nor did the RTA.

2.11.4 Water Resources

The objectives of the Extractive Industries DCP are to protect existing drainage patterns, conserve and efficiently manage the sustainability of surface and ground water resources and to protect the downstream ecosystems.

All surface runoff from the site would be directed to a series of sediment dams and tailings ponds and ultimately to clean water storage dams. The amount and rate of stormwater runoff would not increase as a result of the development. The inward draining nature of the site and no off-site discharge of clean or dirty water would ensure that no contaminated surface water can leave the site.

Extraction would not occur below 2 metres above the wet weather groundwater level (or 177m AHD). Groundwater levels and water quality would be regularly monitored and the results reported in accordance with the recommendations of the Groundwater Assessment prepared by URS, dated 15 January 2008 and the EIS.

2.11.5 Soil and Water Management

Erosion, sediment and stormwater controls would be included in the maintenance of the buffer areas, the staged extraction areas and site rehabilitation. As stated previously, all surface runoff from the site would be directed to a series of sediment dams and tailings ponds and ultimately to clean water storage dams. The amount and rate of stormwater runoff would not increase as a result of the development. The inward draining nature of the site and no off-site discharge of clean or dirty water would ensure that no contaminated surface water can leave the site or affect adjacent watercourses. No soil would be removed off-site. Outside the extraction areas, overland flow to Coopers Creek would not be altered and there would be no discharge of water to adjoining lands.

2.11.6 Rehabilitation

A concept rehabilitation plan was prepared by Footprint Green Pty Ltd and has been amended to address initial concerns in the assessment of the application. The plan provides detailed measures for the protection of the existing vegetation, re-establishment of endemic plant communities, earth bunding and screen planting and treatment of final excavated surfaces.

Progressive rehabilitation of the extraction sites is proposed by rehabilitating slopes from the top of the cut face to the bottom. It is proposed that management plans are to be updated on a yearly basis as part of the ongoing maintenance of the rehabilitation.

2.11.7 Flora and Fauna

This matter is addressed in Section 2.10 of this report.

2.11.8 Visual Amenity

The main visual impact of the proposal would be the modification of the topography of the site as a result of removal of bushland, grassland sand extraction. These activities would result in the lowering of the topography in the extraction areas by about 20 metres with the formation of two large bowls with steep sides, sloping towards Coopers Creek. The visual quality of the area would be reduced in the medium term for 20 years until the area is completely rehabilitated with dams, bushland and grassland suitable for agricultural use.

The extraction areas would only be visible from publicly accessible areas around the periphery of the site. Direct views of the extraction areas within Lot 2 DP 510812 would not

be possible from Old Northern Road due to the retention of bushland along the frontage of the land between the road and greater than 200 metres distance to a 2 metre high vegetated bund to be located along the western boundary of the extraction area.

There would be distance views over 1 kilometre away of the northern portion of the extraction area in Lot 3 DP 567166 from Old Northern Road and the unnamed Crown road but with no public access to the distant extraction areas. Intervening topography and bushland vegetation would restrict views from other public areas with the exception of direct views from the adjoining Marramarra National Park which has vehicular access via private lands to a track and difficult walking only access to areas overlooking the site.

Scenic quality of the area including any long term visual impact on Marramarra National Park is assisted with the proposed setbacks greater than 60 metres to the National Park, 40 metres to Coopers Creek, greater than 200 metres from Old Northern Road, 10 metres from property boundaries and greater than 150 metres from any residence not associated with the extraction and rehabilitation areas.

2.11.9 Acoustic Environment

A noise impact report prepared by Renzo Tonin and Associates accompanies the EIS. The report predicts noise levels are generally within 5dB(A) of the set noise criteria under calm conditions and that any exceedances are generally caused by the crusher and the bulldozer.

The crusher is a mobile unit and is only expected to be used an average of one day per week. The assessment recommends that when the crusher is on site it should be strategically located as far from residences as possible, and behind a localised sand mound at least 3 metres in height. This would provide approximately 5dB(A) noise reduction from the source.

The bulldozer is a mobile machine and cannot therefore be effectively screened. A residential grade muffler is recommended for installation on this machine which would provide a 5 to 10dB(A) noise reduction.

The assessment notes that the plant operating at the site that are most likely to cause significant vibration are bulldozers and trucks. Although vibration levels can vary, indicative minimum 'buffer' distances used to avoid human discomfort are 10 metres for bulldozers and trucks. Based on these buffer distances and considering the nearest residences are hundreds of metres from the extraction area vibration impacts are not expected to be an issue for the proposal.

An assessment of traffic noise has determined that the development would have little or no impact on residential traffic noise levels and that the proposed development is consistent with the current environment protection licence which permits a maximum of 35 trucks per day and 10 trucks between 6am and 7am.

The EPA raised no objection to the proposal and issued GTAs which are included in the conditions in Schedule 1 and include requirements for noise monitoring to be undertaken during operations.

2.11.10 Air Quality

An Air Quality Impact Assessment has been submitted by Holmes Air Sciences. The predicted impacts due to the proposal have been assessed as minimal and unlikely to result in

an exceedance of the dust deposition goals. The cumulative impact with existing air quality is also unlikely to result in exceedances of the air quality goals.

The EPA has raised no objection to the proposal and issued GTAs which are included in the conditions in Schedule 1 and include requirements for dust deposition measurements to be carried out at various locations on the site during operations.

The potential for loss of amenity from dust generated by vehicles along internal roads can be adequately suppressed through frequent watering of the road surface. The sand material being extracted from the area is relatively coarse material with a low content of dust particles. The sand is processed using either a wet wash plant with no potential for dust generation or drying screening.

All trucks leaving the site would have their loads covered with tarpaulins to prevent dust escape.

2.11.11 Heritage Resources

This matter is addressed in Section 2.2 and 5.25 of this report.

2.11.12 Social and Economic Assessment

The social impacts of extractive industry include a change to the visual amenity of the area as a result of removal of natural bushland. The development would result in increased noise emissions from truck movements and processing of sand, an increase in heavy vehicular movements along Old Northern Road at Maroota and potential for loss of groundwater supply to adjoining agriculture areas. These matters have been considered in detail within this report and the application proposes appropriate measures to mitigate against social impact viz earth berms to attenuate noise, pollution control, rehabilitation of bushland and agricultural land, and monitoring of groundwater.

The extractive industry would have a positive economic impact by supplying valuable building sand to the Sydney market. Employment opportunities would be created in the locality including income to local suppliers servicing employees of the industry. The economic benefits may also include the creation of additional areas of productive farmland upon completion of the extractive industry.

2.11.13 Ecologically Sustainable Development

The principles of ecologically sustainable development have been addressed throughout the report. Continued monitoring and rehabilitation procedures are required to be undertaken as a requirement of any consent granted.

2.11.14 Contributions

The applicant would be required to make a payment of a contribution towards the cost of the rehabilitation, restoration, repair and/or maintenance of Old Northern Road and Section 94 administration in accordance with Sections 94 of the Environmental Planning and Assessment Act 1979 and Hornsby Shire Council's Development Contributions Plan 2007-2011. A condition has been imposed to ensure that s94 contributions are paid for the development.

2.11.15 Environmental Audit and Management

Schedule 1 includes a condition of consent requiring the submission of an annual Environmental Management Plan in accordance with the requirements of the Extractive Industries Development Control Plan.

2.12 Rural Lands Development Control Plan

The primary purpose of this DCP is to provide planning strategies and controls for development within the rural area based on the findings of the Rural Lands Study.

The EIS prepared for the development addresses the objectives of the environmental strategy of the DCP and the rehabilitation plan satisfies the rural strategy objectives. Furthermore, the proposal is consistent with the economic strategy of the DCP in that it provides opportunities for employment.

The prescriptive measures for ‘extractive industry’ in the rural area refer to SREP 9 and Council’s Extractive Industry DCP, which are addressed in Section 2.8 and 2.11 respectively.

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 environmental impacts of the proposed development on the natural environment have been addressed in Section 2 of the report.

3.2 Built Environment

The environmental impacts of the proposed development on the built environment have been addressed in Section 2 of the report.

3.3 Social Impacts

The social impacts of the proposed development have been addressed in Section 2.11.12 of the report.

3.4 Economic Impacts

The economic impacts of the proposed development have been addressed in Section 2.11.12 of the report.

4. SITE SUITABILITY

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

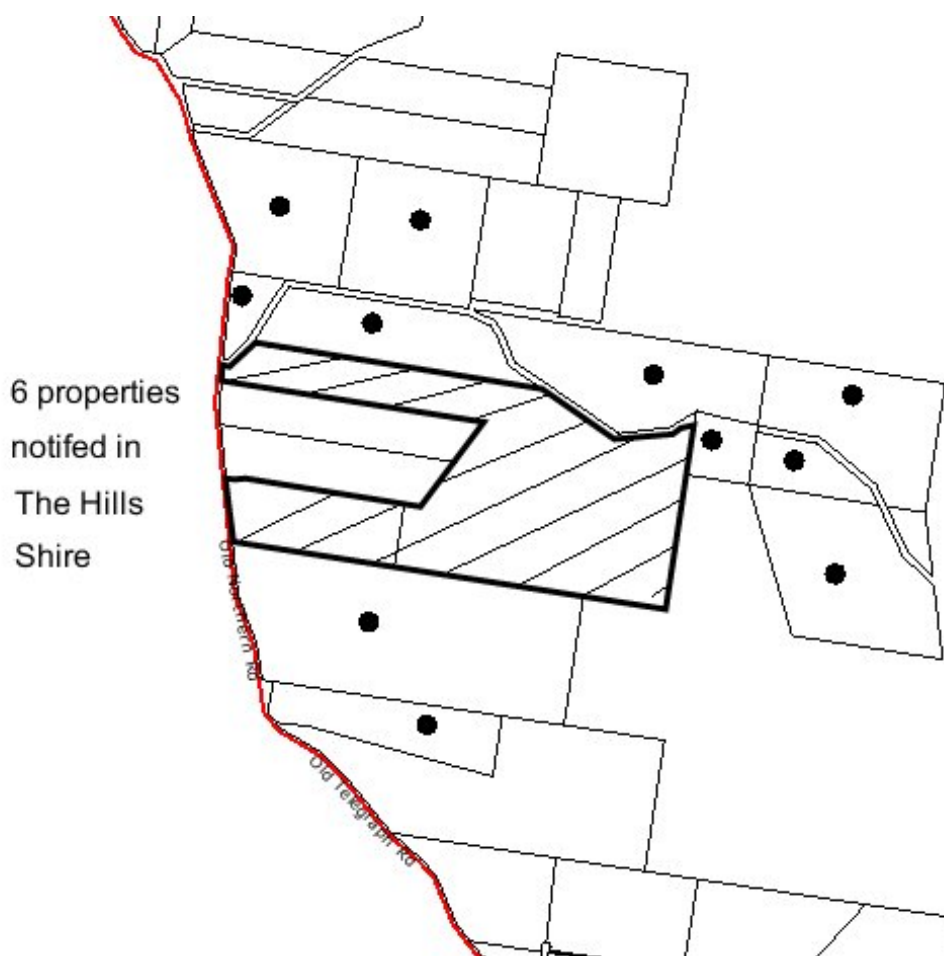
There is no known hazard/risk associated with the site with respect to landslip, subsidence and flooding that would preclude approval of the proposed development. Whilst the site is identified as bushfire prone land, the NSW Rural Fire Service raised no objection to the proposal.

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 22 June 2009 and 22 July 2009 in accordance with Council’s Notification and Exhibition Development Control Plan. During this period, Council received no submissions. The map below illustrates the location of those nearby landowners who were notified of the development.



NOTIFICATION PLAN

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

The development application is Integrated Development under the Act. Accordingly, the application was referred to the following Agencies for comment:

5.2.1 Roads and Traffic Authority

The RTA reviewed the development application and raised no objection to the proposal subject to Council's approval and recommended condition of consent to be imposed.

5.2.2 Rural Fire Service

The RFS raised no concerns or issues in relation to bush fire.

5.2.3 Department of Water and Energy

The site is traversed by Coopers Creek. The *Water Management Act 2000* includes provision for prescribed activities within 40 metres of a watercourse. The proposed development is a controlled activity under the Act and requires the approval of the Department of Water and Energy (DWE). In this regard the application is 'integrated development' and was referred to the Department for assessment.

The DWE has granted 'General Terms of Approval' for the proposed development.

5.2.4 Department of Primary Industries

The Department of Primary Industries provided the following comments:

- ***Mineral Resources***

The Maroota area is an important and strategically located source of high quality construction sand for the Sydney market. The proposal would make a valuable contribution to meeting the Sydney region's requirements at a time when major sources close to metropolitan markets are approaching exhaustion.

DPI Mineral Resources collects production statistics for mines and quarries throughout the State. In order to assist in the collection of this data, the Mineral Resources Division requests that if development consent is granted, it includes the following condition:

The operator is required to provide annual production data as requested by the Mineral Resources Division of the Department of Primary Industries.

- ***Fisheries***

There are no concerns in relation to fisheries provided that a 40m buffer zone, as proposed in the EIS is maintained along Coopers Creek and the proposed surface water treatment, erosion and sediment control and rehabilitation measures are employed.

- ***Agriculture***

Vegetative buffers should be maintained or constructed between sand extraction operations and agricultural land either on-site or on properties adjoining the proposed extraction areas.

The agricultural community should be kept informed of any activities that impact on commercial agricultural activities in the locality, e.g. when heavy machinery is being

used near grazing stock or when dust generating activities that may coat horticultural crops are being undertaken.

Rehabilitation design for the future agriculture opportunities should aim to return topsoils and subsoil drainage to a quality comparable to that which currently exists and with a potential water supply source.

5.2.5 Department of Environment and Climate Change

5.2.5.1 Aboriginal Cultural Heritage

The DECC reviewed the *Aboriginal Cultural Heritage and Archaeological Assessment Part Lot 3 DP567166 and Part Lot 2 DP510812 at Old Northern Road, Maroota, NSW* dated January 2008 prepared by Total Earth Care and supports the recommendations contained within the report and granted GTAs regarding cultural heritage.

5.2.5.2 Threatened Species Concurrence

The DECCW notes that the SIS concludes that the proposal is unlikely to have a significant effect on threatened species. Council's environmental assessment concurs with this assessment. Accordingly, concurrence of the Director-General of the DECCW is not required to grant consent to the development.

5.2.6 Environmental Protection Authority

The *Protection of the Environment Operations Act 1997* includes provisions for the issue of an environment protection licence to authorise the carrying out of scheduled activities. The proposed development is a scheduled activity under the Act and requires the approval of the EPA. In this regard the application is 'integrated development' and was referred to the Department for assessment.

The EPA reviewed the application and determined that it is able to incorporate the changes into the existing environment protection licence (No. 3829), subject to a number of conditions and granted 'General Terms of Approval' for the proposed development.

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 development would be in the public interest.

CONCLUSION

The application proposes a sand extractive industry to be developed in two stages. The extraction areas would be progressively rehabilitated in stages to agricultural use including dams for water storage and rehabilitated bushland.

The proposed development constitutes a viable extractive operation designed to supply sand material to the Sydney building market. The development would progressively rehabilitate the site over the anticipated life of the consent.

Rehabilitation would result in an agricultural landform which would increase the present productive area of each of the lots and thereby increase both the agricultural productivity of the properties and provide opportunities for extended crop rotation. The rehabilitation of bushland would minimise any adverse impacts on flora and fauna within the locality.

It is considered that the environmental impacts of the extractive industry can be minimised through the imposition of conditions including sediment and erosion control measures, landscaping and rehabilitation. Accordingly, the application 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. Rehabilitation Plans

File Reference: DA/578/2009
Document Number: D01336707

SCHEDULE 1**GENERAL CONDITIONS**

The conditions of consent within this notice of determination have been applied to ensure that the use of the land and/or building is carried out in such a manner that is consistent with the aims and objectives of the relevant legislation, planning instruments and Council policies affecting the land and does not disrupt the amenity of the neighbourhood or impact upon the environment.

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:

Quarry Rehabilitation Concept Plan Cover Sheet prepared by Footprint Green Pty Ltd

Plan No.	Plan Title	Rev	Dated
smrmcs1.01	Cover Page	0.4	15 January 2010
smrmex1.01	Existing site land uses and habitats and extraction and rehabilitation areas	0.4	15 January 2010
smrmeo1.01	Operational stages and typical extraction and rehabilitation process	0.4	15 January 2010
smrmfc1.01	Proposed land uses and final landform and contours	0.4	15 January 2010
smrmpp2.01	Stage 1 - rehabilitation process in Area E	0.4	15 January 2010
smrmsp1.01	Stage 1 - extraction and rehabilitation process in Areas A and C	0.4	15 January 2010
smrmsp2.01	Stage 2 - extraction and rehabilitation process in Areas B and D	0.4	15 January 2010
smrmd1.01	Procedures for <i>Tetratheca glandulosa</i> propagation and translocation and bushland rehabilitation	0.4	15 January 2010
smrmd2.01	Procedures for upland wetland revegetation and agricultural land rehabilitation	0.4	15 January 2010
smrmp2.01	Specifications and species options for revegetation	0.4	15 January 2010
smrmmr1.01	Performance measures, monitoring and reporting	0.5	15 January 2010

Supporting Documentation

<i>Document No.</i>	<i>Prepared by</i>	<i>Dated</i>
Environmental Impact Statement	Environmental Planning Pty Ltd	May 2009
Species Impact Statement	Aquila Ecological Surveys	November 2008
Report on Traffic and Transportation Requirements - Job No. 9162 Report No. 36/07	Lyle Marshall & Associates Pty Ltd	February 2008
Air Quality Impact Assessment	Holmes Air Sciences	4 March 2008
Air Quality Impact Assessment Addendum 1 (letter)	PAE Holmes	13 August 2009
Air Quality Impact Assessment Addendum 2 (letter)	PAE Holmes	24 September 2009
Environmental Noise and vibration Assessment – TD721-01F02 (Rev 4)	Renzo Tonin and Associates	17 March 2008
Acoustic Report Addendum (letter)	Renzo Tonin and Associates	14 August 2009
Groundwater Assessment Report - JN 43346029.00106/REPORT 08	URS Australia Pty Ltd	15 January 2008
Aboriginal Cultural Heritage and Archaeological Assessment	Total Earth Care	January 2008
Herbivore Exclusion Fencing Requirements	Hornsby Shire Council Bushland & Biodiversity Team	1 February 2010

2. Consent Limited to a Period of 20 Years

Pursuant to Section 80A(1)(d), this consent is limited to a period of 20 years from the endorsed date of this consent. Any disturbed areas on the site, must be rehabilitated in this period.

All work including rehabilitation is to be completed within this period. Rehabilitation must be carried out progressively during the course of excavation and be completed to within this period. All equipment to be used in the work must be removed from the site within that time.

3. Determination of Weighted Material

A standard method of determining weighted material must be negotiated, being a method that is auditable by Council at six monthly intervals.

REQUIREMENTS PRIOR TO THE COMMENCEMENT OF ANY WORKS**4. Licences**

The proponent is to obtain all necessary operating licenses and permits from all relevant public authorities including the Environmental Protection Authority and

Department of Water and Energy, details of which are to be submitted to Council prior to the commencement of on-site works.

5. Protection of Aboriginal Artefacts and Habitat

Fencing must be provided to separate extraction areas from Aboriginal artefacts and habitat areas to reduce impacts to native vegetation and the habitat it provides and protect Aboriginal artefacts.

6. 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 non-compliance with this requirement without any further notification or warning.

7. Certification by a qualified and experienced ecologist

In accordance with the approved *Quarry Rehabilitation Plan for Part Lot 3 DP567166 and Part Lot 2 DP510812 Old Northern Rd, Maroota* prepared by Footprint Green Pty Ltd (dated 15th January 2010) certification by a qualified and experienced ecologist is required to:

- a. undertake *Tetratheca glandulosa* propagation and translocation procedures including pre-clearing surveys and identification of clumps of on-site (Task 6.1-6.11 – Sheet 8/11)
- b. collection of all baseline vegetation quadrat data for future monitoring purposes prior to clearing
- c. prior to clearing of native vegetation within each cell check that the cell does not contain exotic or weed vegetation
- d. prior to the translocation of topsoil within each cell check that the recipient cell does not contain any exotic or weed vegetation and the final grading band sub strata has been suitably prepared
- e. provide recommended actions required to ensure the donor and recipient sites are weed free before works commence

8. Noxious Weeds

The removal of introduced environmental and noxious weeds from donor and recipient sites is to be undertaken by a qualified and experienced bush regeneration company or consultant.

9. Rehabilitation Bond

Prior to the commencement of extraction, the proponent must lodge with Council a contract for a Rehabilitation Bond based on an amount per tonne of extracted

material. The total of this amount must be sufficient to cover the cost rehabilitating the approved extraction area and other likely disturbed areas.

OPERATIONAL CONDITIONS

10. Truck Movements

A maximum of 35 truck loads of material are permitted to be removed from the site each day.

11. Monitoring and Management

The proponent must submit to Council every 12 months after the endorsed date of this consent an *Environmental Management Plan* in which Council is to be satisfied of the overall performance and management of the operation.

The *Environmental Management Plan* should refer to the objectives and principles of Ecologically Sustainable Development and address the following matters:

- a. Acquisition of all necessary licences and permits and an indication of how compliance with licensing and approval requirements will be achieved and due diligence attained.
- b. On site materials Management including management of operational impacts: if appropriate, include such as:
 - i. management of explosives, chemicals and fuel and their use
 - ii. maintenance an site security plans
- c. Water Management.
- d. Acoustic Management.
- e. Air quality Management.
- f. Transport routes, access & movements.
- g. Soil Conservation including geo-technical appraisal of tailing systems and erosion and sediment controls.
- h. Social impact management including consultation with community groups, nearby residents and monitoring of complaints received.
- i. Identification, assessment and evaluation of risks, safeguards and the confidence level of contingency / emergency plans.
- j. Statement of Compliance with the approved EIS documentation, conditions of this consent and the objectives of Councils DCP - Extractive industries.
- k. Advice and recommendations of all relevant state government agencies.
- l. Reference to International Standards (ISO) 14001-14004 relating to Environmental Management Systems, which should address issues such as:

- i. the capacity and support mechanisms necessary to implement and achieve the proponent company's environmental policy, objectives and targets; and
 - ii. the means by which the proponent company measure, monitor and evaluate its environmental performance.
- m. Recommendations to adjust operation procedures to improve the overall performance of the operations.
- n. Strategies to feed information from the monitoring program back into the management practices and action plans to improve the environmental performance and sustainability of all components of the proposal.
- o. Training programs for operational staff and incentives for environmentally sound performance.
- p. Archaeological protection measures.
- q. Performance indicators in relation to critical operational issues including :
 - i. Compliance with the conditions of consent;
 - ii. Compliance with the objectives of Sydney Regional Environmental Plan No. 9 Extractive Industries (No. 2 - 1995); and
 - iii. Compliance with the objectives of Council's Extractive Industry Development Control Plan.

12. Processing of Materials

Processing of materials must take place wholly within the site.

13. Annual Volume of Materials Extracted

The annual volume of material to be extracted shall be in accordance with the details provided in the Environmental Impact Statement and accompanying documents (i.e. 195,000 tonnes per annum).

14. Rehabilitation and Environmental Protection Procedures

All rehabilitation and environmental protection procedures must be undertaken in accordance with the approved *Quarry Rehabilitation Plan for Part Lot 3 DP567166 and Part Lot 2 DP510812 Old Northern Rd, Maroota* prepared by Footprint Green Pty Ltd (dated 15th January 2010).

15. Rehabilitation and Environmental Protection Works

In accordance with the approved *Quarry Rehabilitation Plan for Part Lot 3 DP567166 and Part Lot 2 DP510812 Old Northern Rd, Maroota* prepared by Footprint Green Pty Ltd (dated 15th January 2010) all weed removal, protection and translocation of *Tetratheca glandulosa* clumps, vegetation clearing, bulk removal of topsoil containing seed bank and preparation of recipient sites including final grading of sub strata (Tasks 7.6 – 7.30 within sheet 8/11 of the approved Rehabilitation Plan) is to only be undertaken by an experienced bushland rehabilitation company or consultant.

Some bulk earth works pertaining to rehabilitation works (e.g. topsoil stripping or recipient site preparation) may be undertaken by other earth moving personnel including PF Formation employees or other earthmoving contractors only under the direct supervision of the nominated experienced bushland rehabilitation expert. This arrangement must be approved by Council in writing before any such works commence.

16. Exclusion Fencing

- a. In order to prevent herbivory of germinating translocated soil seedlings, exclusion fencing is to be undertaken in accordance with the '*Herbivore Exclusion Fencing Requirements*', prepared by Hornsby Shire Council Bushland and Biodiversity Team, dated 1 February 2010. The fencing which includes sedimentation/erosion control is to be installed immediately after topsoil has been translocated to the recipient site.
- b. The Herbivore Exclusion Fencing must be maintained for each rehabilitation cell until certification from an ecologist or contracted bush regeneration company or consultant is provided to Council that justifies that exclusion fencing is no longer required due to the success of native vegetation establishment.

17. Monitoring Program

- a. The monitoring program for bushland rehabilitation must form part of other monitoring requirements (ground water, air quality etc) of the approved quarry operation Environmental Management Plan. The approved monitoring methods, survey parameters, frequency, performance measures and remedial actions outlined within sheet 11 of 11 of the *Quarry Rehabilitation Concept Plan for Part Lot 3 DP567166 and Part Lot 2 DP510812 Old Northern Rd, Maroota* prepared by Footprint Green Pty Ltd (dated 15th January 2010) must be undertaken by a qualified and experienced ecological company or consultant.
- b. At the completion of rehabilitation and translocation works within each cell, a concise works summary report must be prepared by a qualified and experienced ecologist to ensure the rehabilitation and translocation works are satisfactorily completed in accordance with the approved rehabilitation plan with *Task 7.32 – Sheet 8/11* of the approved *Quarry Rehabilitation Plan for Part Lot 3 DP567166 and Part Lot 2 DP510812 Old Northern Rd, Maroota* prepared by Footprint Green Pty Ltd (dated 15th January 2010). The works summary reports must be provided to Council and must also be attached to the operational monitoring program reporting (Environmental Management Plan).

18. s94 Infrastructure Contributions

The monthly payment to Council of a contribution of \$0.80* per tonne for all extracted material transported from the site in accordance with Council's *Development Contributions Plan 2007-2011* and the following:

- a. On or before the 14th day of each month that extracted materials are transported from the site, the Applicant shall submit to Council a certified copy of returns or records showing the true quantities of extracted material

transported from the site during the immediately preceding month. Thereafter, Council will issue to the Applicant an invoice for the contribution payable for such material transported from the site. Payment of the amount of the invoice shall be made by the Applicant within 14 days of the invoice date. If the party carrying out the extraction work fails to deliver such returns to the Council in accordance with this clause by the 14th day of a particular month, the Council shall at its absolute discretion be entitled but not obliged to estimate the quantity of material transported from the site during the immediately preceding month and shall be entitled to issue such an invoice on the basis of such estimate.

- b. Council shall be entitled to inspect and audit the original records relating to any of the extracted material, including locality of destinations, numbers and types of laden trucks and trailers and load quantities, transported from the site.
- c. If the Applicant ceases to carry out the approved extraction work or if a party other than the Applicant commences to carry out such work without the Applicant having started to do so, then the Applicant shall forthwith furnish to Council notice of that fact together with the name and address of the party (if any) who has commenced or will thereafter commence to carry on the said work. Such notice shall be accompanied by an acknowledgment in writing by that party that it is aware of the obligations imposed on it pursuant to this condition. Until such time as the notice and acknowledgment are furnished to the Council by the applicant, the applicant will remain jointly and severally liable with the party for the time being carrying out the extraction work for payment of the aforesaid contribution and for compliance with the terms of this condition. The terms of this paragraph shall apply mutatis mutandis to any future operator of the extraction work in the event of his ceasing to carry out the work.

*Note: * The value of contribution is current as at 5 February 2010. The contribution will be adjusted from this date in accordance with the underlying consumer price index for subsequent financial quarters.*

It is recommended that you contact Council each quarter to ascertain the indexed value of the contribution prior to payment.

19. 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.

20. Setback from Prescribed Stream

A buffer setback of 40 metres must be provided from the crest of the watercourse (Coopers Creek) to any construction works. The setback area must be suitably vegetated with native grasses to facilitate the filtration of surface runoff.

21. 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).

22. 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*.

23. Storage of Flammable and Combustible Goods

Flammable and combustible liquids must be stored in accordance with *Australian Standard 1940 – The Storage and Handling of Flammable and Combustible Liquids*. A bund wall must be constructed around all work and liquid storage areas to prevent any spillage entering into the stormwater system. The bunded area must provide a volume equal to 110% of the largest container stored and graded to a blind sump so as to facilitate emptying and cleansing.

24. Depth of Excavation

The maximum depth of allowable excavation is 177 metres AHD or the retention of a 2 metre buffer above the wet weather high water table.

GENERAL TERMS OF APPROVAL - DEPARTMENT OF WATER AND ENERGY

The following conditions of consent are General Terms of Approval from the nominated State Agency pursuant to Section 91A of the *Environmental Planning and Assessment Act, 1979* and must be complied with to the satisfaction of that Agency.

25. Works Requiring Controlled Activity Approval - GTA 1

These General Terms of Approval (GTA) only apply to the controlled activities described in the plans and associated documentation relating to DA/578/2009 and provided by Council:

- (i) Site Plan, map and/or surveys

Any amendments or modification to the proposed controlled activities may render these GTA invalid. If the proposed controlled activities are amended or modified the Department of Water and Energy must be notified to determine if any variations to these GTA will be required.

26. Works Requiring Controlled Activity Approval - GTA 2

Prior to the commencement of any controlled activity (works) on waterfront land, the consent holder must obtain a Controlled Activity Approval (CAA) under the Water Management Act from the Department of Water and Energy. Waterfront land for the

purposes of this DA is land and material in or within 40 metres of the top of the bank or shore of the river identified.

- (i) Vegetation Management Plan
- (ii) Erosion and Sediment Control Plan
- (iii) Soil and Water Management Plan
- (iv) Amendments to Plans - in relation to rehabilitation of Coopers Creek in and around the crossing and in-line dam

27. Works Requiring Controlled Activity Approval - GTA 3

The consent holder must (i) carry out any controlled activity in accordance with approved plans and (ii) construct and/ or implement any controlled activity by or under the direction supervision of a suitably qualified professional and (III) when required, provided a certificate of completion to the Department of Water and Energy.

28. Works Requiring Controlled Activity Approval - GTA 5

The consent holder must (i) carry out any controlled activity in accordance with approved plans and (ii) construct and/ or implement any controlled activity by or under the direction supervision of a suitably qualified professional and (III) when required, provided a certificate of completion to the Department of Water and Energy.

29. Works Requiring Controlled Activity Approval - GTA 6

The consent holder must (i) carry out any controlled activity in accordance with approved plans and (ii) construct and/ or implement any controlled activity by or under the direction supervision of a suitably qualified professional and (III) when required, provided a certificate of completion to the Department of Water and Energy.

30. Works Requiring Controlled Activity Approval - GTA 7

The consent holder must reinstate waterfront land affected by the carrying out of any controlled activity in accordance with a plan or design approved by the Department of Water and Energy.

31. Works Requiring Controlled Activity Approval - GTA 8

The consent holder must use a suitably qualified person to monitor the progress, completion, performance of works, rehabilitation and maintenance and report to the Department of Water and Energy as required.

32. Works Requiring Controlled Activity Approval - GTA 9

The consent holder must provide a security deposit (bank guarantee or cash bond) - equal to the sum of the cost of complying with the obligations under any approval - to the Department of Water and Energy as and when required.

33. Works Requiring Controlled Activity Approval - GTA 12

The consent holder must ensure that the construction of any bridge, causeway, culvert or crossing does not result in erosion, obstruction of flow, destabilisation or damage

to the bed or banks of the river or waterfront land, other than in accordance with a plan approved by the Department of Water and Energy.

34. Works Requiring Controlled Activity Approval - GTA 13

The consent holder must ensure that any bridge, causeway, culvert or crossing does not obstruct water flow and direction, is the same width as the river or sufficiently wide to maintain water circulation, with no significant water level difference between either side of the structure other than in accordance with a plan approved by the Department of Water and Energy.

35. Works Requiring Controlled Activity Approval - GTA 14

The consent holder must ensure that no materials or cleared vegetation that may obstruct flow, wash into the water body or cause damage to river banks are left on waterfront land other than in accordance with a plan approved by the Department of Water and Energy.

36. Works Requiring Controlled Activity Approval - GTA 15

The consent holder is to ensure that all drainage works (i) capture and convey runoffs, discharges and flood flows to low flow water level in accordance with a plan approved by the Department of Water and Energy; and (ii) do not obstruct the flow of water other than in accordance with a plan approved by the Department of Water and Energy.

37. Works Requiring Controlled Activity Approval - GTA 16

The consent holder must stabilise drain discharge points to prevent erosion in accordance with a plan approved by the Department of Water and Energy.

38. Works Requiring Controlled Activity Approval - GTA 17

The consent holder must establish all erosion and sediment control works and water diversion structures in accordance with a plan approved by the Department of Water and Energy. These works and structures must be inspected and maintained throughout the working period and must not be removed until the site has been fully stabilised.

39. Works Requiring Controlled Activity Approval - GTA 18

The consent holder must ensure that no excavation is undertaken on waterfront land other than in accordance with a plan approved by the Department of Water and Energy.

40. Works Requiring Controlled Activity Approval - GTA 19

The consent holder must ensure that any excavation does not result in (i) diversion of any river (ii) bed or bank instability or (iii) damage to native vegetation within the area where a controlled activity has been authorised, other than in accordance with a plan approved by the Department of Water and Energy.

41. Works Requiring Controlled Activity Approval - GTA 22

The consent holder must clearly mark (with stakes using a GPS or peg out survey), protect and maintain a riparian corridor with a width of 40 metres measured horizontally landward from the highest bank of the river for the length of the site directly affected by the controlled activity in accordance with a plan approved by the Department of Water and Energy.

42. Works Requiring Controlled Activity Approval - GTA 23

The consent holder must establish a riparian corridor along Coopers Creek in accordance with a plan approved by the Department of Water and Energy.

GENERAL TERMS OF APPROVAL - DEPARTMENT OF ENVIRONMENT CLIMATE CHANGE AND WATER (EPA)

The following conditions of consent are General Terms of Approval from the nominated State Agency pursuant to Section 91A of the <i>Environmental Planning and Assessment Act 1979</i> and must be complied with to the satisfaction of that Agency.
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EPA Identification No.	Type of Monitoring Point	Description of Location
5	Meteorological station	Meteorological station located at a site to be determined in accordance with AM-1.

43. Pollution of Waters (L1.1)

Except as may be expressly provided by a licence under the Protection of the Environment Operations Act 1997 in relation of the development, section 120 of the Protection of the Environment Operations Act 1997 must be complied with in and in connection with the carrying out of the development.

44. Waste (5.1)

The licensee must not cause, permit or allow any waste generated outside the premises to be received at the premises for storage, treatment, processing, reprocessing or disposal or any waste generated at the premises to be disposed of at the premises, except as expressly permitted by a licence under the Protection of the Environment Operations Act 1997.

45. Waste (L5.2)

This condition only applies to the storage, treatment, processing, reprocessing or disposal of waste at the premises if it requires an environment protection licence under the Protection of the Environment Operations Act 1997.

46. Noise Limits (L6.1)

Noise generated at the premises must not exceed the noise limits presented in the table below:

Table 6.1 - Noise Limits (dB(A))

Location	Day
	L _{Aeq,15min}
R3 – Lot 59 DP 752029	43
R4 – Lot 63 DP 752029	41
R6 – Lot 2 DP 567166	45
R7 – Lot 2 DP 567166	45
R8 – Lot 2 DP 567166	46
R9 – Lot 1 DP 567166	47
R10 – Lot 10 DP 752029	47
R11 – Lot 1 DP 621814	35
R12 – Lot 6 DP 39392	35
R13 – Lot 5 DP 39392	35
R14 – Lot 4 DP 39392	35
R15 – Lot 3 DP 39392	35
R16 – Lot 2 DP 39392	35
R17 – Lot 1 DP 39392	35

47. Noise limits apply regardless of Chapter 11 Industrial Noise Policy (L6.2)

Noise generated from the premises in excess of the limits set out in condition L6.1, whether on one or more occasions, constitutes a breach of the licence regardless of Chapter 11 of the Industrial Noise Policy.

48. Interpretation of noise limits (L6.3)

For the purposes of condition L6.1:

- Day is defined as the period from 7am to 6pm Monday to Saturday and 8am to 6pm Sundays and Public holidays,
- Evening is defined as the period 6pm to 10pm Monday to Sunday,
- Night is defined as the period from 10pm to 7am Monday to Saturday and 10pm to 8am Sundays and Public Holidays,
- The modification factors in Section 4 of the NSW Industrial Noise Policy must also be applied to the measured noise levels where applicable; and
- Error margins associated with the noise monitoring equipment used are not to be taken into account in reporting whether or not a noise limit in Condition No. 39 has been exceeded.

Where it can be demonstrated that direct measurement of noise from the premises is impractical, the EPA may accept alternative means of determining compliance. See Chapter 11 of the NSW Industrial Noise Policy.

49. Noise (L6.4)

The noise emission limits identified in condition L6.1 apply under adverse meteorological conditions of:

- Wind speed up to 3m/s at 10 metres above ground level.

50. Noise (L6.5)

For the purpose of condition L6.4 the metrological data to be used for determining meteorological conditions is the data recorded by the meteorological weather station identified as EPA Identification Point 5.

51. Noise (L6.6)

For the purposes of determining the noise generated at the premises:

- a) Class 1 or 2 noise monitoring equipment that is calibrated in accordance with the manufacturer's specifications must be used according to AS IEC61672.1-2004 and AS IEC61672.2-2004;
- b) The noise monitoring equipment for the premise described in Table 6.1 must be placed in a position that is:
 - On a property boundary that is closest to the premises, where any dwelling at the location is within 30 metres of the location's property boundary that is closest to the premises; or
 - Within 30 metre of a dwelling façade where any dwelling at a location is situated more than 30 metres from the location's property boundary that is closest to the premises.

52. Hours of Operation (L6.7)

All activities at the premises must only be carried out on between 0700 and 1800 Monday to Saturday inclusive. Up to ten (10) laden vehicles can enter or leave the premises between 0600 and 0700 Monday to Saturday inclusive.

53. Noise Management Plan (L6.8)

The proponent must prepare and implement a Noise Management Plan that covers all premises based activities and transport operations. The Plan must include but not need be limited to:

- All measures necessary to not exceed the limits in Table L6.1 at all times
- A system that allows for periodic assessment at least every 6 months of Best Management Practice (BMP) and Best Available Technology Economically Achievable (BATEA) that has the potential to reduce noise levels from the premises at Locations R6, R7, R8, R9 and R10 in Table L6.1, including, but not necessarily limited to, fitting and maintenance of "residential class muffler(s)" to the bulldozer(s), and formation and maintenance of sand mound(s) or sand bunds.
- Effective implementation of identified BMP and BATEA measures, where considered feasible and reasonable

- Measures to monitor noise generated from the premises, and respond to complaints
- Measures for community consultation including site contact details
- Noise monitoring and reporting procedures.

54. Dust (O2.1)

Activities occurring at the premises must be carried out in a manner that will minimise emissions of dust from the premises.

55. Dust (O2.2)

Trucks entering and leaving the premises that are carrying loads must be covered at all times, except during loading and unloading.

56. Soil and Water Management Plan (O3.1)

A *Soil and Water Management Plan (SWMP)* must be prepared and implemented. The plan must describe the measures that will be employed to minimise soil erosion and the discharge of sediment and other pollutants to lands and/or waters during all phases of the operation. The Scheme should be consistent with the guidance contained in *Managing Urban Stormwater: Volume 2E Soils and Construction - Mines and Quarries* (available from the EPA).

57. Monitoring Records (M1.1)

The results of any monitoring required to be conducted by the EPA's general terms of approval, or a licence under the Protection of the Environment Operations Act 1997, in relation to the development or in order to comply with the load calculation protocol must be recorded and retained as set out in conditions M1.2 and M1.3.

58. Monitoring Records (M1.2)

All records required to be kept by the licence must be:

- In a legible form, or in a form that can readily be reduced to a legible form;
- Kept for at least 4 years after the monitoring or event to which they relate took place; and
- Produced in a legible form to any authorised officer of the EPA who asks to see them.

59. Monitoring Records (M1.3)

The following records must be kept in respect of any samples required to be collected: the date(s) on which the sample was taken;

- the time(s) at which the sample was collected;
- the point at which the sample was taken; and

- the name of the person who collected the sample.

60. Requirement to monitor concentration of pollutants discharged (M2.1)

For each monitoring/ discharge point or utilisation area specified below (by a point number), the applicant must monitor (by sampling and obtaining results by analysis) the concentration of each pollutant specified in Column 1. The applicant must use the sampling method, units of measure, and sample at the frequency, specified opposite in the other columns:

Point # 1, 2, and 3

Air

Pollutant	Units of measure	Frequency	Sampling Method
Particles - Deposited Matter	Grams per square metre per month	Monthly	AM-19

61. Testing methods - concentration limits (M4.1)

Monitoring for the concentration of a pollutant emitted to the air required to be conducted by the EPA's general terms of approval, or a licence under the Protection of the Environment Operations Act 1997, in relation to the development or in order to comply with a relevant local calculation protocol must be done in accordance with:

- any methodology which is required by or under the POEO Act 1997 to be used for the testing of the concentration of the pollutant; or
- if no such requirement is imposed by or under the POEO Act 1997, any methodology which the general terms of approval or a condition of the licence or the protocol (as the case may be) requires to be used for that testing; or
- if no such requirement is imposed by or under the POEO Act 1997 or by the general terms of approval or a condition of the licence or the protocol (as the case may be), any methodology approved in writing by the EPA for the purposes of that testing prior to the testing taking place.

Note: The Protection of the Environment Operations (clean air) Regulation 2002 requires testing for certain purposes to be conducted in accordance with test methods contained in the publication "Approved Methods for the Sampling and Analysis of Air Pollutants in NSW".

62. Requirement to monitor weather (M5.1)

For each monitoring point specified below (by a point number), the licensee must monitor (by sampling and obtaining results by analysis) each weather parameter specified in Column 1. The licensee must use the sampling method, units of measure, and sample at the frequency, specified opposite in the other columns:

POINT 5 <weather>

Parameter	Units of Measure	Frequency	Averaging Period	Sampling Method
Wind Speed	m/s	Continuous	15-minute	AM-2 and AM-4

Wind Direction	°	Continuous	15-minute	AM-2 and AM-4
Sigma Theta	°	Continuous	15-minute	AM-2 and AM-4
Temperature	°C	Continuous	15-minute	AM-4

63. Reporting Conditions (R1.1)

The applicant must provide an annual return to the EPA in relation to the development as required by any licence under the Protection of the Environment Operations Act 1997 in relation to the development. In the return the applicant must report on the annual monitoring undertaken (where the activity results in pollutant discharges), provide a summary of complaints relating to the development, report on compliance with licence conditions and provide a calculation of licence fees (administrative fees and, where relevant, load based fees) that are payable. If load based fees apply to the activity the applicant will be required to submit load-based fee calculation worksheets with the return.

64. Dust Monitoring Plan

- a) The proponent must prepare and implement a dust monitoring plan, to the satisfaction of DECCW, that:
- quantifies dust impacts at the most sensitive receptor(s) as defined by the results of the EA;
 - for the range of normal operating scenarios at the proposal site;
 - for variable meteorological conditions;
 - is implemented within 1 month of operational activities beginning at the proposal site; and
 - operates for a minimum period of 12 months.
- b) The proponent must submit a report to the Manager of Sydney Industry for DECCW approval detailing all elements of the dust monitoring plan at least two months prior to commencement of operational activities at the proposal site.

GENERAL TERMS OF APPROVAL - DEPARTMENT OF PRIMARY INDUSTRIES MINERAL RESOURCES

The following conditions of consent are General Terms of Approval from the nominated State Agency pursuant to Section 91A of the *Environmental Planning and Assessment Act, 1979* and must be complied with to the satisfaction of that Agency.

65. Production Data

The operator is required to provide annual production data as requested by the Mineral Resources Division of the Department of Primary Industries.

GENERAL TERMS OF APPROVAL - DEPARTMENT OF ENVIRONMENT AND CLIMATE CHANGE (NPWS)

The following conditions of consent are General Terms of Approval from the nominated State Agency pursuant to Section 91A of the *Environmental Planning and Assessment Act, 1979* and must be complied with to the satisfaction of that Agency.

66. Aboriginal Cultural Heritage - GTA 1

All identified sites must be protected from impact by a 40 metre buffer zone to be calculated from the perimeter of the identified site.

67. Aboriginal Cultural Heritage - GTA 2

All identified sites to be precisely relocated using photos and GPS references prior to demarcation of buffer zone.

68. Aboriginal Cultural Heritage - GTA 3

All buffer zones to be clearly fenced.

69. Aboriginal Cultural Heritage - GTA 4

No vehicular access, services or earth disturbing works will be permitted within the buffer zones. No other impacts will be permitted within the buffer zones.

70. Aboriginal Cultural Heritage - GTA 5

The buffer zones must not be used as storage areas.

71. Aboriginal Cultural Heritage - GTA 6

Runoff from the sand extraction operation should be designed to ensure that sites are protected from altered runoff and deposition conditions which may impact sites.

72. Aboriginal Cultural Heritage - GTA 7

All sites CC1, CC2, CC3, CC4, CC5 and CC6 to be monitored annually to assess the condition of the buffer fencing, buffer zones and impacts to sites from runoff and/or deposition. Remedial action to be taken where necessary if changes are detected.

73. Aboriginal Cultural Heritage - GTA 8

If new Aboriginal objects, including Aboriginal human remains are found all work must cease and the Department of Environment, Climate Change and Water must be contacted.

74. Aboriginal Cultural Heritage - GTA 9

All people employed on site must undergo a site induction which includes training in the management protocols set out in condition No. 65 above and be briefed on the Aboriginal cultural heritage significance of the area and relevant GTA conditions.

CONDITIONS OF CONCURRENCE - ROADS AND TRAFFIC AUTHORITY

The following conditions of consent are from the nominated State Agency pursuant to Section 79b of the *Environmental Planning and Assessment Act, 1979* and must be complied with to the satisfaction of that Agency.

75. The wheels of all vehicles leaving the site are to be clean and free of dust, dirt and mud. It is recommended that a wheel wash be installed to prevent material being deposited on Old Northern Road.
76. All landscaping, signage, fencing and parked vehicles are not to impeded sight lines to pedestrians and vehicles travelling along Old Northern Road.
77. All vehicles must enter and exit the site in a forward direction.
78. All vehicles must be clear of the formation before being required to stop.
79. All works associated with the proposed development to be at no cost to the RTA.

- END OF CONDITIONS -

**4 DEVELOPMENT APPLICATION - ERECTION OF A DWELLING-HOUSE
4A CHERRYBROOK ROAD, WEST PENNANT HILLS**

Development Application No:	DA/1622/2009
Description of Proposal:	Erection of a dwelling-house
Property Description:	Lot 1012, DP1134002, No. 4A Cherrybrook Road, West Pennant Hills
Applicant:	Provincial Homes Pty Ltd
Owner:	Mr David Williams and Ms Diane Ward
Statutory Provisions:	Hornsby Shire Local Environmental Plan, 1994 Residential A (Low Density) zone
Estimated Value:	\$425,000
Ward:	C

RECOMMENDATION

THAT Development Application No. DA/1622/2009 for the erection of a one and two storey dwelling-house at Lot 1012, DP1134002, No. 4A Cherrybrook Road, Pennant Hills be approved subject to the conditions of consent detailed in Schedule 1 of this report.

EXECUTIVE SUMMARY

1. The application proposes the erection of a one and two storey dwelling-house on a vacant site.
2. The proposal meets the objectives of the Hornsby Shire Local Environmental Plan, 1994 (HSLEP) and generally complies with Council's Dwelling House Development Control Plan (DCP).
3. The application is referred to Council for determination in accordance with a resolution adopted when the subdivision under DA 716/2005 was approved.
4. Two public submissions were received during the exhibition period.
5. It is recommended that the application be approved.

HISTORY OF THE SITE

The subject allotment was created as part of a two lot subdivision approved by Council on 21 December, 2005 under DA/716/2005.

THE SITE

The rhombus shaped site has an area of 905.1m² with a front boundary length of 21.3m, a northern boundary length of 46.136m, a north-eastern boundary length of 19.0m and a south-eastern boundary length of 57.94m.

The front of the site is oriented towards the west with the land falling from north to south at an approximate gradient of 4% for two-thirds of the width of the site with a further fall towards the south at an approximate gradient of 20%.

The site is burdened by a 2.135m wide easement for support along the front boundary alignment, and 1m wide easements for drainage along the southern and north-eastern side boundaries.

Stormwater from the development would be drained to an approved interallotment drainage system located within the easement along the southern boundary of the site.

There are two trees on the site comprising a Magnolia and a Deodara. There is no significant vegetation or trees located on the subject or neighbouring properties that would be impacted upon by the development.

A two storey dwelling-house is currently under construction in accordance with DA/1509/2009 (approved at Council's Planning Meeting on 2 September, 2009) on the northern adjoining allotment, No. 4 Cherrybrook Road.

Adjoining the southern boundary is a post-war brick and tile single storey dwelling-house known as 2 Cherrybrook Road. The surrounding residential development is characterised by an eclectic blend of one and two storey dwelling-houses of a predominantly contemporary appearance, surrounded by well established trees and landscaped gardens.

THE PROPOSAL

The application proposes the erection of a one and two-storey, brick and tile dwelling-house comprising a double garage, entry, "home theatre", guest room, kitchen, "4 seasons room", family room, bathroom, laundry, ensuite, rumpus room, wet bar, ensuite, "wine room" and an "alfresco" area located at the ground floor level. Four bedrooms, an ensuite, a walk-in-robe, a bathroom and a sitting room would be located at the first floor level.

The dwelling-house would be set back 7.7m from the front boundary, 1m from the northern side boundary, 1.1m from the southern side boundary and 30m from the rear northern corner of the allotment.

ASSESSMENT

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

1. STRATEGIC CONTEXT

1.1 Metropolitan Strategy – (Draft) North Subregional Strategy

The Metropolitan Strategy is a broad framework to secure Sydney's place in the global economy by promoting and managing growth. It outlines a vision for Sydney to 2031; the challenges faced, and the directions to follow to address these challenges and achieve the vision. The draft North Subregional Strategy acts as a framework for Council in the preparation of a new Principal LEP by 2011.

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

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

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

2. STATUTORY CONTROLS

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

2.1 Hornsby Shire Local Environmental Plan 1994

The subject land is zoned zone under Hornsby Shire Local Environmental Plan 1994 (HSLEP). The objectives of the zone 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 use is defined as a "dwelling-house" and is permissible within the zone pursuant to Clause 7 of the HSLEP.

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 an FSR of 0.39:1 which complies with the development standard contained within Clause 15.

2.2 State Environmental Planning Policy (Exempt and Complying Development)

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

This 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 450m² in size as complying development with council or accredited certifier approval. The development is excluded by the guidelines of the SEPP in this instance, as the application proposes side setbacks of 1.0m which is contrary to the maximum allowable side setback of 1.5m. Consequently, it is necessary that a development application be submitted. All other development standards under the SEPP have been satisfied.

2.3 Dwelling House Development Control Plan

Pursuant to Section 79C(1)(a)(iii) of the Environmental Planning and Assessment Act, 1979 the proposed development has been assessed having regard to the relevant performance and prescriptive design requirements of 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
Gross Floor Area	354m ²	362.6m ²	Yes
FSR	0.39:1	0.4:1	Yes
Site coverage	31%	40%	Yes
Height	8.5m	<9m	Yes
Storeys	1 and 2 storeys	2 storeys	Yes
Car parking	2 spaces	2 spaces	Yes
Length of Building	20.7 m	24 m	Yes
Unbroken Wall length	<10m	10m	Yes
Private Open Space	350m ²	120m ²	Yes
Landscaping	60%	45%	Yes

Setbacks			
- Front	7.7m	6 m	Yes
- Side (north)	1m	1 m	Yes
- Side (south)	1.1 m	1 m	Yes
- Rear	30m	3 m	Yes

2.3.1 Privacy

Whilst the proposed development complies with the prescriptive measures of the Dwelling House DCP as detailed in the above table, the proposal raises privacy issues in terms of the potential overlooking of the private open space of the adjoining allotment.

The proposed first floor level sitting room does not comply with the prescriptive measures of the Privacy element, which requires active use living rooms to be located at ground floor level to minimise overlooking of the recreational and living areas of neighbouring properties. In this instance, the sitting room is orientated towards the rear of the subject property and has no windows within the southern elevation that would directly overlook the adjacent premises, No 2 Cherrybrook Road.

Given the topography of the site in relation to the adjacent premises, the proposed “4 seasons room” and adjacent “alfresco” area would have the potential to overlook the northern courtyard. To address this issue, a condition is recommended requiring a minimum sill height of 1.5m for the window of the “4 seasons room” within the southern elevation and the erection of a 1.5m high privacy screen along the southern side of this area.

With this condition, the development would not impact on the privacy and amenity of the adjoining property No. 2 Cherrybrook Road, meets the objectives of the Privacy element and is considered acceptable.

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 assessment of the application has noted that there are two trees on the site comprising a Magnolia tree (*Magnolia Sp.*) and a Deodara tree (*Cedrus Deodara*). It is considered that the removal of these trees is acceptable as they are not native or indigenous species and are not significant. Their removal would not have a deleterious impact on the character of the area.

The site does not include any indigenous trees or native vegetation.

The concept landscape plan includes plant species that would be appropriate to the development and the locality.

3.2 Built Environment

The proposed dwelling-house would be consistent with the character of the established built form of the residential development in the locality in terms of design, setbacks and height.

3.3 Social and Economic Impacts

There are no anticipated negative social or economic impacts resulting from the proposed development.

4. SITE SUITABILITY

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

The site is identified as having development constraints in accordance with Council’s Land Sensitivity Study, which records ratings of Level 3 for Soil Dispersibility and Level 2 for Soil Landscapes. The proposal involves an excavation up to a depth of 1.6m. Subject to the implementation of soil and water management measures during the construction phase, the development constraints would be satisfactorily addressed.

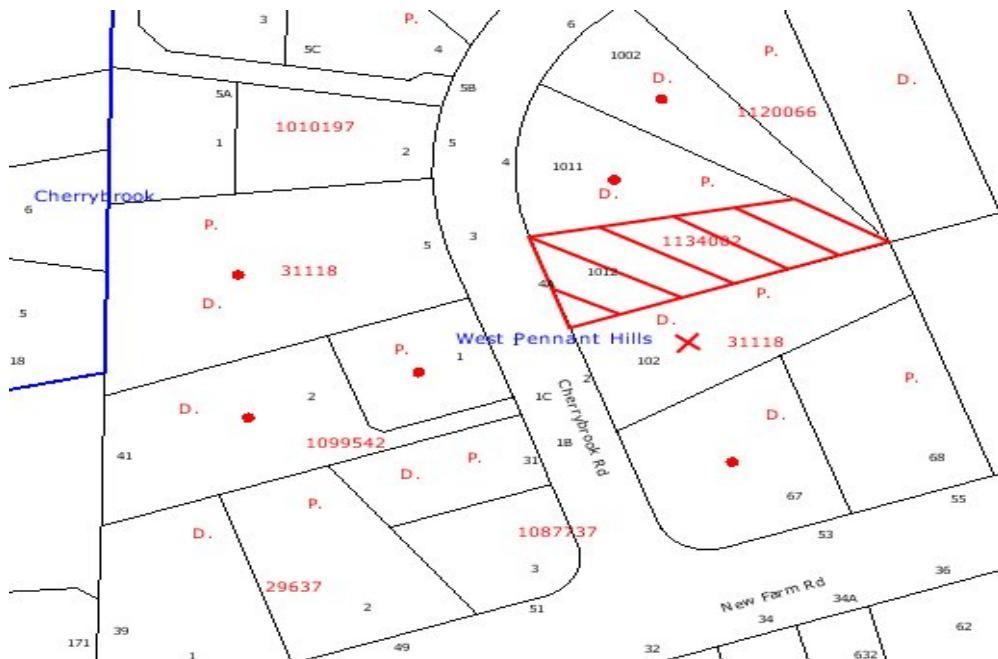
The site is otherwise considered suitable for the proposed development.

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 2 June and 16 June 2009, in accordance with Council’s Notification and Exhibition DCP. The map below illustrates the location of those nearby landowners notified who are in close proximity to the development site.



NOTIFICATION PLAN

<ul style="list-style-type: none"> PROPERTIES NOTIFIED 	X SUBMISSIONS RECEIVED	 PROPERTY SUBJECT OF DEVELOPMENT	
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During this period, Council received a submission from the owner of No.2 Cherrybrook Road and from the Pennant Hills District Civic Trust. These submissions raised concerns about the proposal in terms of

- Bulk and Scale;
- Setbacks;
- Solar Access;
- Height;
- Fencing;
- Flora and Fauna Protection; and
- Privacy.

These issues are addressed as follows:

5.1.1 Bulk and Scale

The dwelling-house has been assessed against the requirements of the Scale element under the Dwelling House DCP. The proposed 0.39:1 floor space ratio and 31% site coverage complies with the 0.4:1 and 40% prescriptive measures respectively.

The scale of the proposal is in keeping with the bulk and scale of development in the area, meets the objectives of the Scale element and is considered acceptable.

5.1.2 Height

The 8.5m height of the proposed dwelling-house complies with the maximum 9m prescriptive measure of the Height element under the Dwelling House DCP.

The height of the proposal is consistent with the height of development in the area, meets the objectives of the Height element and is considered to be acceptable.

5.1.3 Setbacks

The 1.1m southern side boundary setback complies with the 1m prescriptive measure of the Setbacks element under the Dwelling House DCP, is in keeping with side setback separation provided by the established and newly erected dwelling-houses in the area, meets the objectives of the Setbacks element and is considered acceptable.

5.1.4 Solar Access

The shadow diagrams submitted with the application confirm that the development complies with the prescriptive measures of the Solar Access element under the Dwelling House DCP. The shadows cast by the proposal would allow at least 4 hours of sunshine to the private open space of the adjacent allotment No. 2 Cherrybrook Road and would allow 3 hours of sunshine to fall on the northern facing windows to active use living rooms of the adjacent dwelling-house on 22 June (the winter solstice).

The proposal meets the objectives of the Solar Access element and is considered to be acceptable.

5.1.5 Privacy

The concerns raised with respect to a loss of privacy due to the positioning of the windows of the “4 seasons room” and the adjacent “alfresco” area have been addressed in this report.

5.1.6 Fencing

The Civic Trust has raised concerns regarding the erection of boundary fencing. Although the application has not indicated the erection of boundary fencing as part of the development, a condition of consent on the property title under *Section 88B of the Conveyancing Act, 1919* requires the subject allotment to be surrounded by 1.8m side and rear boundary fencing after completion of the dwelling-house.

The Trust has stated that the design of the fence shall “meet the neighbour’s requirements and be at the developer’s expense and be on the property of No. 4B.”

Under the *Diving Fences Act, 1991* (Part 2 Section 7).

- (1) *Adjoining owners are liable to contribute in equal proportions to the carrying out of fencing work in respect of a dividing fence of a standard not greater than the standard for a sufficient dividing fence.*
- (2) *An adjoining owner who desires to carry out fencing work involving a dividing fence of a standard greater than the standard for a sufficient dividing fence is liable for the fencing work to the extent to which it exceeds the standard for a sufficient dividing fence.”*

Additionally the diving fence must be located along the boundary line and any fence must not exceed 1.8m in height, unless approved by Council.

To address this issue, an appropriate condition has been included in the recommended consent.

5.1.7 Flora and Fauna Protection

The Civic Trust has raised concerns about the removal of a tree which that has been incorrectly identified as a significant *Casuarina (Casuarina Sp.)*.

A pre-lodgement meeting on 16 April, 2009 determined that the tree is a *Deodara (Cedrus Deodara)*, is not an indigenous or native species and is not listed as a significant tree under Council’s Tree Preservation Order. The removal of this tree is considered acceptable.

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 one and two storey dwelling-house would be in the public interest.

7. CONCLUSION

The application proposes the erection of a one and two-storey dwelling-house of contemporary design that would be in keeping with the established and recently erected dwelling-houses in the street.

The scale of the development meets the prescriptive measures of Council's Dwelling House DCP and is in accordance with the objectives of the low density zoning stipulated in the HSLEP. It is considered that the development would have a positive impact upon the streetscape and would be in keeping with the built form of the area.

Having regard to the assessment of the proposed development, it is recommended that Council approves 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.

SIMON EVANS
Manager - Assessment Team 1
Planning Division

SCOTT PHILLIPS
Executive Manager
Planning Division

Attachments:

1. Locality Plan
2. Site Plan
3. Floor Plans
4. Elevations
5. Section
6. Shadow
7. Landscaping
8. Survey

File Reference: DA/1622/2009
Document Number: D01323143

SCHEDULE 1**CONDITIONS OF APPROVAL****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 relevant legislation, planning instruments and Council policies affecting the land and does not disrupt the amenity of the neighbourhood or impact upon the environment.

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>
9083 (Sheet 1-8)	Provincial Homes	4/11/2009
Landscape Plan	Not Shown	Not Shown

2. Removal of Existing Trees

This development consent only permits the removal of tree numbered T1 and T2 as identified on the Site Plan No. 9083 prepared by Provincial Homes dated 4/11/2009. The removal of any other trees requires separate approval under Council's Tree Preservation Order.

REQUIREMENTS PRIOR TO THE ISSUE OF 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. Contract of Insurance (Residential Building Work)

In the case of residential building work for which the *Home Building Act, 1989* requires there to be a contract of insurance in force in accordance with Part 6 of that Act, that such a contract of insurance is in force before any building work authorised to be carried out by the consent commences.

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

5. Notification of Home Building Act, 1989 Requirements

Residential building work within the meaning of the *Home Building Act, 1989* must not be carried out unless the principal certifying authority for the development to which the work relates (not being Council) has given Council written notice of the following information:

- a. In the case of work for which a principal contractor is required to be appointed:
 - i. The name and license number of the principal contractor.
 - ii. The name of the insurer by which the work is insured under Part 6 of that Act.
- b. In the case of work to be done by an owner-builder:
 - i. The name of the owner-builder.
 - ii. If the owner-builder is required to hold an owner-builder's permit under that Act, the number of the owner-builder's permit.

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

6. 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

7. 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 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.

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. 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 non-compliance with this requirement without any further notification or warning.

REQUIREMENTS DURING CONSTRUCTION

10. Construction Work Hours

All work on site (including demolition and earth works) must only occur between 7am and 5pm Monday to Saturday. No work is to be undertaken on Sundays or public holidays.

11. 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.

12. 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.

REQUIREMENTS PRIOR TO THE ISSUE OF 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.

13. Fulfilment of BASIX Commitments

The applicant must demonstrate the fulfilment of BASIX commitments pertaining to the development.

14. 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 5 cubic metres, and a maximum discharge (when full) of 8 litres per second.
- 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.

15. Creation of Easement

The following matter(s) must be nominated on the plan of subdivision under s88B of the *Conveyancing Act, 1919*:

- a. The creation of 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.
- b. 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.

16. 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 must not exceed 25 percent and changes in grade must not exceed 8 percent; and

17. 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.
- c. Approval obtained from all relevant utility providers that all necessary conduits be provided and protected under the crossing.

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.

18. 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.

19. Retaining Walls

All required retaining walls must be constructed as part of the development.

20. Installation of Privacy Devices

To maintain an element of privacy towards the adjoining property, No. 2 Cherrybrook Road:

- a. The sill height of the window within the southern elevation of the "4 seasons room" is to be increased to a minimum height of 1.5m above floor level or is to be fitted with fixed, obscure glazing to a minimum height of 1.5m above floor level, as indicated in red on the approved plans.

- b. A privacy screen is to be erected along the southern elevation of the rear “alfresco” area, as indicated in red on the approved plans. The privacy screen must be; 1.5m in height when measured from the floor level, with no individual openings more than 30mm wide and have a total of all openings less than 30 per cent of the surface area of the screen.

21. Boundary Fencing

As stipulated on the *Section 88B Restriction pursuant to the Conveyancing Act, 1919* applying to the subject allotment, the boundaries behind the building line and courtyard areas of the land must be enclosed with a 1.8m fence. An alternative fence may be erected, provided written non-objection is obtained from the registered proprietor of that common boundary to be fenced.

- 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:
- The issue of 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.
- A principal certifying authority to be nominated and Council notified of that appointment prior to the commencement of any works.
- Council to be given at least two days written notice prior to the commencement of any works.
- Mandatory inspections of nominated stages of the construction inspected.
- An occupation certificate to be 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.

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.

5 DEVELOPMENT APPLICATION - MODIFICATION TO MULTI-UNIT HOUSING DEVELOPMENT - AMENDED MATERIALS AND FINISHES AND BOUNDARY FENCE - 23 - 27 RAY ROAD EPPING

Development Application No:	DA/1688/2006/E
Description of Proposal:	Section 96(2) application to change external materials and finishes of balconies, roofs and townhouses and change the western boundary fence from masonry to timber.
Property Description:	Lot 2 DP 555678 (Nos. 23-27) Ray Road EPPING NSW 2121
Applicant:	ABC Planning Pty Ltd
Owner:	Citiscapc Developments (No. 2) Pty Limited and Kys Properties Pty Limited
Statutory Provisions:	Hornsby Shire Local Environmental Plan Residential A (Low Density) Residential C (Medium/High Density) Special Uses A (Community Purposes)
Estimated Value:	\$10,000,000 (original development). No change in value for proposed modification.
Ward:	C

RECOMMENDATION

THAT Development Application No. 1688/2006E for modifications to the demolition of existing buildings, retention and restoration of 'Woodlands House' for a medical centre, erection of 2 x 4 storey residential flat buildings containing 40 dwellings and erection of a 2 storey dwelling house, Torrens title subdivision into 3 lots and strata subdivision, Nos. 23-27 Ray Road Epping be approved as detailed in Schedule 1 of this report.

EXECUTIVE SUMMARY

1. The application proposes to change external material and finishes of apartment balconies, roofs and townhouses and change the western boundary fence from masonry to timber within an approved multi-unit housing development.
2. The proposed change to the western boundary fence was previously considered by Council on 4 February 2009 and was not approved at that time.

3. The proposed modification is substantially the same development as the approved development and is considered acceptable in respect to heritage impact, privacy, visual impact and residential character.
4. Six submissions have been received in respect of the application.
5. It is recommended that the application be approved.

HISTORY OF THE APPLICATION

The site was previously used as a school and was the site of the Emmaus Bible College. The redevelopment of the site for multi-unit housing was initially the subject of Council's consideration in the assessment of DA/360/2004 (withdrawn) prior to the current development (DA/1688/2006).

On 1 August 2007 Council approved DA/1688/2006 for demolition of existing buildings, retention and restoration of 'Woodlands House' for a medical centre, erection of 2 x 4 storey residential flat buildings containing 40 dwellings, erection of 2 x 2 storey buildings containing 15 townhouses and erection of a 2 storey dwelling house, Torrens title subdivision into 3 lots and strata subdivision. The approved development is currently under construction.

On 24 July 2008 Council approved DA/168/2006/B involving changes to floor plans, staging of subdivision, changes to parking, access and loading areas, landscaping, fencing, driveway and boundary adjustments. (The application followed withdrawal of DA/1688/2006/A.)

On 29 January 2009 Council approved DA/1688/2006/D proposing a modification to a condition concerning the demolition of the existing dwelling on lot 1.

On 4 February 2009 Council approved DA/1688/2006/C proposing a modification concerning the conversion of townhouses roof space to provide bedroom accommodation. The proposed change to the western boundary fence from masonry to timber was not approved by Council.

THE SITE

The site has an area of 8,160sqm, is located on the western side of Ray Road and experiences an average fall of 8% to the watercourse which flows west to east along the southern boundary of the site.

The site formally comprised the Emmaus Bible College which included nine low scale buildings and a two storey building with lower ground floor car parking. These buildings have been demolished in the construction of the approved development which is ongoing.

The site includes "Woodlands House" an item of environmental heritage.

Adjacent to the site, three storey walk-up residential flat buildings front Ray Road to the south and opposite the site on Edensor Street. To the north and west of the site are detached dwelling houses.

The site adjoins an item of environmental heritage (dwelling house) at No. 10 Rosebank Avenue, west of the site.

THE PROPOSAL

The proposed modifications as detailed on the submitted plans and statement of environmental effects involve changes to the apartment buildings A & B and townhouse buildings C & D sited on approved lot 3 as follows:

- **Ground Level**

Landscape planting re-positioned off the northern boundary.
Western boundary fence changed from masonry to timber.
Hydrant relocated.

- **First Floor**

Balcony balustrades changed from masonry to glass for units A11, A12, A15, B11 & B15 at the northern and eastern elevations of the apartment buildings.

- **Second Floor**

Balcony balustrades changed from masonry to glass for units A21, A22, A25, B21 & B25.

- **Third Floor**

Balcony balustrades changed from masonry to glass for units A32 & B34.

- **Roof**

Apartment Buildings A & B roofs changed from masonry flat roof to sheet metal skillion roofs with a central box gutter.

- **Townhouses**

Reverse colour scheme render finish Dulux Picaninny to become Dulux Clay Pipe and vice versa.

- **Fence Western Boundary**

Fence changed from masonry to timber over concrete block retaining wall.

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 modification would not be inconsistent with the draft Strategy.

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 regulations*”.

2.1 Environmental Planning & Assessment Act, 1979 - Section 96

The application is lodged pursuant to Section 96(2) of the Act which allows the modification of a consent, where the proposal has been notified in accordance with regulatory requirements, is substantially the same development as approved and Council considers the application with regard to Section 79C of the Act and any submissions.

The proposed modification involving changes to materials and finishes is considered substantially the same development as approved.

The application was notified pursuant to Council's Notification & Exhibition DCP.

2.2 Hornsby Local Environmental Plan 1994

The subject land is zoned Residential A (Low Density), Residential C (Medium/High Density) and Special Uses A (Community Purposes) under the Hornsby Local Environmental Plan 1994 (HSLEP). The objectives of the respective zones are:

Residential A (Low Density) Zone

- 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.*

Residential C (Medium/High Density) Zone

- 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 medium to high density residential environment.*

- (c) *to provide for development that is within the environmental capacity of a medium to high density residential environment.*

Special Uses A (Community Purposes) Zone

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

The proposed development is defined as ‘multi-unit housing’ under the HSLEP and is permissible in the zones with Council’s consent. Approved lot 3, the area of the site subject to the proposed modification, is within the Residential C (Medium/High Density) Zone and partly within the Special Uses A (Community Purposes) Zone.

Clause 18 of the HSLEP sets out heritage conservation provisions within the Hornsby LGA. The site includes an item of environmental heritage ‘Woodlands House’ and adjoins and item (house) at No. 10 Rosebank Avenue Epping.

2.2 State Environmental Planning Policy No. 65 Design Quality Residential Flat Building

The proposed modification involving changes to materials and finishes is considered satisfactory in respect to the Residential Flat Design Code best practice requirement for façade treatment.

2.3 Medium/High Density Multi-Unit Housing Development Control Plan

The proposed development has been assessed having regard to the relevant performance and prescriptive design standards within Council’s Medium/High Density Multi-Unit Housing Development Control Plan (Housing DCP) as follows.

2.3.1 Privacy

The proposal includes changing a number of the apartment balcony balustrades from masonry to glass. The proposed change does not involve units opposite other units or involve privacy impacts.

The proposed change to Unit B34 at the western elevation of apartment Block B on the 4th storey involves a unit with views to the west and Rosebank Avenue. The balcony is located 40m from the rear of the nearest dwelling fronting Rosebank Avenue. Given the relative distance, the change in the balustrade from masonry to glass, would not detract from the privacy of the neighbouring dwellings in Rosebank Avenue.

The balcony of Unit B34 on the 4th level is elevated to the adjoining townhouse Building C and the change in the balustrade from masonry to glass would not detract from the privacy of the adjoining townhouses. At this elevation, the townhouses include formal entry, narrow windows and bedroom accommodation on the 2nd level. The private open space for the townhouses is at the western elevation and would not be affected by the change in balustrade material.

The proposed change to balustrades of Units A11, A15, A21, A25, B11, B15, B21, and B25 would not significantly detract from private open space of townhouses at the eastern elevation of Building D given the orientation of the units at the northern elevation of Building A and Building B.

The proposed modification complies with the Housing DCP requirement in respect to privacy of existing and future residents.

2.4 Heritage Development Control Plan

The approved development includes the restoration and adaptive use of 'Woodlands House', an item of environmental heritage, for a medical centre. The development adjoins No. 10 Rosebank Avenue where the house is an item of environmental heritage.

The proposed modification to change the fence along the western boundary of the development from masonry to timber, would not alter the setting or presentation of 'Woodlands House' or the house at No. 10 Rosebank Avenue and would not detract from heritage significance.

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 proposed modification does not alter the approved development in respect to impacts on the natural environment.

3.2 Built Environment

The proposed modification including changes to ten of the forty apartment balcony balustrades from masonry to glass, the reversed colour scheme for the townhouses and the change in the roof construction from flat concrete to metal skillion roofs, would not detract from the development as approved or the residential character of the locality. The proposed change in roof form is relatively minor in terms of visual impact.

Modification of condition No. 1A is recommended to change the approved plans to incorporate the changes to materials and finishes.

A new condition No. 10A is recommended for the modified colour scheme for the townhouses.

The proposed change in material of the western boundary fence from masonry to timber, is consistent with boundary fencing of neighbouring properties fronting Rosebank Avenue. The approved masonry fence would require substantial foundation support which would increase the visual bulk of the fence particularly at the southern end. The proposed change from masonry to timber would have negligible impact of the overland flow path of the drainage easement at the rear of the adjoining properties along the western boundary. The submitted engineering plans for the retaining wall construction for the proposed fence are satisfactory in this regard.

A new condition No. 5A is recommended for the fence to be in solid timber construction (lapped and capped) to ensure a satisfactory acoustic environment.

It is considered the proposed change in material of the western boundary fence would not detract from the built form of the approved development or neighbouring properties fronting Rosebank Avenue.

Modification of condition No. 5 is recommended to replace the word ‘masonry’ with ‘timber’.

4. SITE SUITABILITY

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

The proposed modification is substantially the same development as approved in respect to site suitability.

5. PUBLIC PARTICIPATION


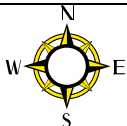
Section 79C(1)(d) of the Act requires Council to consider “*any submissions made in accordance with this Act*”.

5.1 Community Consultation

The proposed development was placed on public exhibition and was notified to adjoining and nearby landowners between 16 November and 2 December 2009 in accordance with Council’s Notification and Exhibition Development Control Plan. During this period, Council received six 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	
<p>ONE SUBMISSION ADDRESS NOT PROVIDED</p>			

Six submissions objected to the development, generally on the following grounds that the development would result in:

- Unacceptable heritage impact on Rosebank Avenue;
- Loss of masonry fence for noise mitigation;
- Loss of privacy;
- Development inconsistent with Council decision for masonry fence;
- Compromise in merit of approved development.

The merits of the matters raised in community submissions have been addressed in the body of the report.

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 modification would be in the public interest.

CONCLUSION

The proposed modification involving changes to the external materials and finishes is acceptable with regard to the approved development, privacy of existing and future residents and the residential character of the area.

The proposed change to the roofs of the two apartment buildings from flat concrete roofs to metal skillion roofs is acceptable in respect to visual impact.

The proposed change to the western boundary fence is acceptable in respect to heritage significance of 'Woodlands House' and No. 10 Rosebank Avenue and is consistent with neighbouring boundary fencing.

ROD PICKLES
Manager - Assessment Team 2
Planning Division

SCOTT PHILLIPS
Executive Manager
Planning Division

Attachments:

1. Locality Plan
2. Section 96 Revision Plans
3. Engineering Plans - Retaining Wall Western Boundary Fence

File Reference: DA/1688/2006/E
Document Number: D01338568

SCHEDULE 1

Date of 1st modification:	24 July 2008
DA/1688/2006/B	
Details of 1ST modification:	BCA compliance, BASIX compliance, subdivision stage, disabled access medical centre and landscaping plan
Conditions Added:	1A, 1B,14A, 15A, 16A, 66A, 75A, 106A,
Conditions Deleted:	2, 67, 104,
Conditions Modified:	66, 75, 106, 115
<hr/>	
Date of 2nd modification:	4 February 2009
DA/1688/2006/C	
Details of 2nd modification:	Conversion roof space townhouses to bedrooms, include residential storage in basement
Conditions Added:	1A, 3A, 116A,
Conditions Deleted:	N/A
Conditions Modified:	1A, 5
<hr/>	
Date of 3rd modification:	29 January 2009
DA/1688/2006/D	
Details of 3rd modification:	Change external finishes of balconies, roofs and townhouses and change the western boundary fence from masonry to timber.
Conditions Added:	N/A
Conditions Deleted:	75A
Conditions Modified:	66(d)
<hr/>	
Date of this modification:	3 March 2010
DA/1688/2006/E	
Details of this modification:	.
Conditions Added:	5A, 10A
Conditions Deleted:	N/A
Conditions Modified:	1A, 5

CONDITIONS OF APPROVAL**GENERAL****Approved Plans and Supporting Documentation**

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

<i>Plan No.</i>	<i>Drawn by</i>	<i>Dated</i>
DA02 Basement Plan	Cracknell & Lonergan	October 2009
DA03 Ground Plan	Cracknell & Lonergan	October 2009
DA04 First Floor Plan	Cracknell & Lonergan	October 2009
DA05 Second Floor Plan	Cracknell & Lonergan	October 2009
DA06 Third Floor Plan	Cracknell & Lonergan	October 2009
DA07 Roof Plan	Cracknell & Lonergan	October 2009
DA08 Sections / Elevations	Cracknell & Lonergan	October 2009
DA09 Sections / Elevations	Cracknell & Lonergan	October 2009
DA10 Sections / Elevations	Cracknell & Lonergan	October 2009
DA11 Sections / Elevations	Cracknell & Lonergan	October 2009
32902L2 Subdivision Plan	Craig & Rhodes	30/05/08
06127 Sheets 13, 14 & 15 Overland Flow Path Western Boundary Fence	Michael Ell and Associates	29.07.2009

Plans on Site

- 1B. A copy of all approved plans, specification and documents (including the construction certificate if required for the work incorporating certification of conditions of approval) shall be kept on site at all times so as to be readily available for perusal by any officer of Council or the Principal Council/Accredited Certifier.
1. The landscape plan is to include a lighting plan of design to enhance the landscape setting and to prevent crime (bollard lighting is not permitted). Details shall be submitted prior to the issue of a Construction Certificate.
 2. Deleted (DA/1688/2006/B).
 3. The development is to include key card access and intercom security for access to Buildings A, B & C and the basement car park.
- 3A. The basement carpark shall include a residential storage facility which forms part of the strata plan entitlement to nominated units within the development.
4. The building security of 'Woodlands House' shall be upgraded for the medical centre use and Council's heritage planner is to be consulted prior to the issue of a Construction Certificate.
 5. The height of the timber fence along the western boundary of the site as detailed on Plan Drawing No. DA09 dated 30.05.2008 shall be not less than 1.3m above the ground floor level of the townhouses at the western elevation and not less than 1.8m above finished ground level.

- 5A. The western boundary fence must be solid lapped and capped timber construction with no gaps.
6. All recommendations made in the acoustic report prepared by RSA Acoustics dated August 2006 accompanying the application which require specialised acoustic treatment of the building and/or the way in which the use is to operate shall be complied with.
7. Strict compliance with the external noise provisions of Hornsby Shire Council's "General Sound Insulation Code for Residential Flat Buildings" is required. Certification by an acoustic engineer is to be submitted with the construction certificate.
8. The submitted landscape plan shall address the requirements of the Department of Natural Resources (refer to conditions Nos. 117 to 175). Details are to be submitted prior to the issue of a Construction Certificate.
9. The recommendations of the Access Review Report dated 5 October 2006 shall be implemented in the working drawings which are to be endorsed by the access consultant prior to the issue of a Construction Certificate.
- 9A. The plans for upgrading 'Woodlands House' shall also be endorsed by the access consultant pursuant to condition 9.
10. The materials and colours to be used in the construction shall be the same as those samples presented to Council (Materials & finishes Plan 27 Ray Rd dated June 06 and Materials And Colours Plan 25 Ray Rd dated 20.10.06), in conjunction with the development application.
- 10A. The external finishes of the townhouses must be in accordance with the submitted Townhouse External Materials and Finishes schedule dated 28 January 2010 (HSC ref D01327828).
11. Pursuant to Clause 97A(3) of the Environmental Planning and Assessment Regulation 2000, all commitments listed in each relevant BASIX Certificate shall be fulfilled.

A relevant BASIX Certificate means a BASIX Certificate that was applicable to the development when this development consent was granted; or

- * if this development consent is modified under Section 96 of the Environmental Planning and Assessment Act 1979, a BASIX Certificate that is applicable to the development when this development consent is modified; or
- * if a replacement BASIX Certificate accompanies any subsequent application for a construction certificate, the replacement BASIX Certificate.

A BASIX Certificate has the meaning given to that term in the Environmental Planning and Assessment Regulation 2000.

HERITAGE

12. The proposed timber paling fence on the northern boundary of lot B shall be not more than 1m in height forward of the new dwelling on lot C.
13. The use of 'Woodlands House' by the applicant for the construction of the development is not permitted and appropriate measures are to be implemented to secure and protect the building during construction of the project.
14. Council's heritage planner shall be consulted in the preparation of plans for the upgrading of 'Woodlands House' for disabled access, prior to the issue of a Construction Certificate.
- 14A. The walls of the access ramp pertaining to the heritage item (Woodlands House) shall be constructed of sandstone blocks, or sandstone facing, to match the verandah base course on the heritage item's eastern elevation. The sandstone shall have the appearance of rough-hewn stone and have similar colour, dimensions and placement to that of the existing verandah stonework.
15. Prior to demolition work commencing a photographic record shall be made of the Emmaus Bible College site in accordance with NSW Heritage Office Guidelines, for inclusion in Council's local studies library (contact Mr Neil Chippendale, Co-ordinator Local Studies on 9847 6807).
- 15A. The eastern verandah steps pertaining to the heritage item (Woodlands House), which would be affected by the proposed access ramp, shall be included in the photographic recording of the premises under Condition No. 15.
16. The driveway and carpark for the medical centre use of 'Woodlands House' shall be of bitumen construction.
- 16A. A subdivision certificate shall only be issued following the completion of all building and restoration work pertaining to the heritage item, Woodlands House. All work shall be completed to a standard which would enable the occupation of the premises as a medical centre and to the satisfaction of Council.

HEALTH & BUILDING

Construction Certificate

17. In order to certify that detailed construction plans and specifications are in accordance with the requirements of the Building Code of Australia, development consent and relevant Australian Standards, a construction certificate must be obtained from either Council or an accredited certifier prior to building works commencing.

The Construction Certificate will not be issued over any part of the site requiring a Part 3A Permit approval until a copy of the Part 3A Permit, issued by the Department of Natural Resources (DNR) has been provided to Council.

Principal Certifying Authority

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

Notifying Council of Commencement of Works

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

Building Code of Australia

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

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

Council Property

21. The land and adjoining areas are to be kept in a clean and tidy condition at all times. Litter and rubbish shall be placed in containers and removed from the site. A waste storage container is to be provided at the commencement of the building work.
22. The cost of repairing any damage caused to Council's assets as a result of construction works associated with the approved development is to be met in full by the applicant/developer prior to the issue of a subdivision certificate.

Dust Control

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

Hours of Demolition Works

24. In order to maintain the amenity of adjoining properties, demolition works shall be restricted to between 7.00 am and 6.00 pm. No demolition works are to be undertaken on Saturdays, Sundays or Public Holidays. Plant, goods or materials shall not be delivered to the site outside the approved hours of site works unless written Council gives consent.

Demolition

25. All demolition work is to be carried out in accordance with the applicable provisions of Australian Standard 2601-2001 'The Demolition of Structures'.

Note: Applicants are reminded that WorkCover NSW requires all plant and equipment used in demolition work must comply with the relevant Australian Standards and manufacturer specifications.

Asbestos Removal

26. Prior to commencement of any work involving the demolition, alteration or addition to any building on the development site, a survey is to be conducted by a competent person to ascertain whether any asbestos materials exist thereon. Asbestos material means any material that contains asbestos.
27. Where asbestos material is found to exist on the development site and that asbestos material is to be removed or disturbed as a result of any proposed demolition, alteration or addition, then all work involving removal and disposal of asbestos material must be undertaken by persons who hold the appropriate licence issued by WorkCover NSW under Chapter 10 of the Occupational Health and Safety Regulation 2001.
28. The collection, storage, transportation or disposal of any type of asbestos waste is to comply with the requirements of clause 29 of the Protection of the Environment Operations (Waste) Regulation 1996.
29. Upon completion of disposal operations, the applicant must lodge with the principal certifying authority, within seven (7) days, all receipts (or certified photocopies) issued by the receiving landfill site as evidence of proper disposal.

Note: The person responsible for disposing of the asbestos material shall consult with the Environment Protection Authority to determine the location of an approved landfill site to receive asbestos material.

Signs for Demolition Sites

30. 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 is to be erected on the site in a prominent position visible from the street. The sign is to be erected prior to any work commencing and is to remain in place until such time as all asbestos material has been removed from the site to an approved waste facility. This condition is imposed for the purpose of worker and public safety and to ensure compliance with Clause 259(2)(c) of the Occupational Health and Safety Regulation 2001.
31. A sign must be erected in a prominent position on the premises, on which the demolition of a building is being carried out, stating that unauthorised entry to the premises is prohibited and showing the name of the builder or other person in control of the premises and a telephone number at which the builder or other person may be contacted during and outside work hours. The sign is to be removed when the demolition of the building has been completed.

Excavation & Backfilling

32. Retaining walls or other approved methods necessary to prevent the movement of excavated or filled ground, are to be constructed together with associated stormwater

drainage measures prior to occupation of the development or before where site conditions require.

Signs for Construction Sites

33. On-site signage is required to clearly identify the PCA and the principal contractor (the coordinator of the building work) pursuant to the *Environmental Planning and Assessment Amendment (Quality of Construction) Act 2003*, s157(1)(c1), Cl 98A, 136C & 227A.

Subterranean Termites

34. The building shall be treated against subterranean termites in accordance with AS 3660 Part 1, "Protection of Buildings from Subterranean Termites".

Sydney Water

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

The consent authority or a private accredited certifier must ensure that a Quick check agent/Sydney Water has appropriately stamped the plans before the issue of any Construction Certificate.

Home Building Act 1989

36. The builder or person who does the residential building work must comply with the applicable requirements of Part 6 of the Home Building Act 1989 and must not contract to do any residential building work unless a contract of insurance that complies with that Act is in force in relation to the proposed work. A copy of the contract of insurance shall be submitted to Hornsby Council before any works commence.

Long Service Levy

37. Under Section 34 of the Building and Construction Industry Long Service Payments Act 1986 any work costing \$25,000 or more is subject to a Long Service Levy. The levy rate is 0.2% of the total cost of the work and shall be paid to either the Long Service Payments Corporation or Hornsby Shire Council. Under section 109F (1) of the Environmental Planning & Assessment Act, 1979 this payment must be made prior to a construction certificate being issued.

Fire Safety Schedule

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

submitted with the Construction Certificate application and distinguish between the existing and proposed fire safety measures. Should the Construction Certificate involve the use of an alternate solution, the application must also be accompanied by details of the performance requirements that the alternate solution is intended to meet and the assessment methods use to establish compliance with those performance requirements.

Fire Safety Certificate – Final

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

Fire Safety Statement - Annual

40. In accordance with Part 9, Division 5 of the Environmental Planning & Assessment Regulation, 2000, at least once in each period of 12 months after the date of the first fire safety certificate, the owner shall provide Council with a further certificate in relation to each essential service installed in the building.

Survey Reports

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

Occupation

42. The building or part thereof shall not be occupied until an occupation certificate has been issued in accordance with Sections 109C and 109H of the Environmental Planning & Assessment Act, 1979.
43. The premises shall be occupied solely for the approved use. No separate occupation or use of any part of the premises shall take place without prior development consent, (other than for exempt or complying development).

Fire Safety

44. The Basement is to be sprinklered to comply with Part E1.5 of the BCA and ventilated to comply with AS1668.2
45. Openings and buildings are to comply with Part 3.2 of the BCA

Acoustics

46. A report regarding Sound Transmission and Insulation under Part F5 of the BCA is to be submitted with any Construction Certificate.

Sanitary Facilities

47. Facilities are to comply with Part F2.3 and F2.5 of the BCA

Strata Subdivision

48. The necessary strata plan shall be lodged with the Council or an Accredited Certifier on completion of the building.

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

49. A Subdivision Construction Certificate must be obtained from either Council or a suitably qualified Accredited Certifier. Engineering design plans and specifications towards the Construction Certificate are to be prepared by a chartered professional engineer for any proposed works. The plans and specifications are to be in accordance with development consent conditions, appropriate Australian standards, and applicable Council standards, in particular “Hornsby Shire Council Civil Works - Design and Construction Specification”. Information required to be submitted with a construction certificate is as follows:-
- (a) copies of compliance certificates relied upon. This includes the Quality Assurance of Engineering Design – Design Certification Report in the Design Specification 2005;
 - (b) Four (4) copies of the detailed engineering plans and specifications in accordance Hornsby Shire Council's Civil Works - Design Specification 2005. The detailed plans may include but are not limited to the earthworks, roadworks, road pavements, road furnishings, stormwater drainage, landscaping and erosion control works;
 - (c) Hornsby Shire Council's approval for any works in the existing public road and works involving Council-controlled drainage systems is required prior to the issuing of a construction certificate for these works;
 - (d) Where development consents provide for the above works but also consent to works for erection or alteration of Class 1-10 Buildings under the BCA, a separate Construction Certificate shall be applied for and approved by Council or an appropriate Accredited Certifier (Building Categories) prior to the commencement of any building work.

The Construction Certificate will not be issued over any part of the site requiring a Part 3A Permit approval until a copy of the Part 3A Permit, issued by the Department of Natural Resources (DNR) has been provided to Council.

Principal Certifying Authority for Subdivisions

50. Before any construction works commence, you are required to appoint a Principal Certifying Authority (PCA) as required by section 81A of the Environmental Planning & Assessment Act, 1979. On the date of this consent the works include Subdivision. In this regard, the PCA **must** be Hornsby Shire Council. The Applicant

must enter into a Service Contract with Hornsby Shire Council outlining the responsibilities of each party prior to the commencement of any design or construction work.

Notifying Council of Commencement of Works

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

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

Sediment & Erosion Control

52. Temporary sedimentation and erosion controls are to be constructed prior to commencement of any work to eliminate the discharge of sediment from the site. The controls are to be designed and installed in accordance with the requirements of the NSW Department of Conservation and Land Management's "Urban Erosion and Sediment Control" manual, Hornsby Shire Council's "Sustainable Water Best Practices" manual and shall:-

- (a) be effectively maintained at all times during the course of construction and shall not be removed until the site has been stabilised or landscaped to the Principal Certifying Authority's satisfaction;
- (b) include a single all weather access way at the front of the property consisting of 50-75mm aggregate or similar material at a minimum thickness of 150mm and 6 metres long, laid over geotechnical fabric and constructed prior to commencement of works;
- (c) include adequate measures to remove clay from vehicles leaving the site so as to maintain public roads in a clean condition;
- (d) ensure that no spoil or fill encroaches upon adjacent roadways, bushland or other properties for the duration of the works;
- (e) ensure disturbed areas are rehabilitated with indigenous plant species, landscaped and treated by approved methods of erosion mitigation such as, mulching, and revegetation with native grasses or other suitable stabilising processes within fifteen days of the completion of works;
- (f) A copy of the Plans are to be submitted to the Principle Certifying Authority, prior to the commencement of any earthworks;
- (g) No site works are to commence until the sediment control installation has been inspected and approved by the Principal Certifying Authority. At least 48 hours notice is to be given for the inspection of such works. A compliance certificate to be submitted to Hornsby Shire Council with the notification for commencement of works.

Demolition

53. All demolition work is to be carried out in accordance with the applicable provisions of Australian Standard 2601-2001 'The Demolition of Structures'.

Note: Applicants are reminded that WorkCover NSW requires all plant and equipment used in demolition work must comply with the relevant Australian Standards and manufacturer specifications.

54. Carrying out of demolition works are restricted to Monday to Friday between the hours of 7.00am and 6.00pm. No demolition works are to be undertaken on Saturdays, Sundays or Public Holidays.
55. Any structure that traverses the proposed allotment boundary/ies shall be demolished prior to the release of the Subdivision Certificate.

Hours of Construction

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

Inspections - Engineering

57. All engineering work required by this consent must be inspected and compliance certificates shall be issued prior to occupancy or issue of the subdivision certificate, whichever occurs first, certifying that the works comply with development consent, construction certificate and Hornsby Shire Council Civil Works - Design and Construction Specification for the following nominated stages:

- Implementation of erosion control
- Implementation of traffic control
- Boxing out
- Excavated trench and before backfilling
- Pipes before backfilling
- Sand backfilling
- Final pipe inspection
- Pits base
- Pit walls
- Concrete pit tops
- Subgrade
- Subsoil laying
- Sub base
- Kerb pre-laying
- Kerb during laying
- Concrete tests
- Street furniture
- Footpath turfing

- Pathway construction (as applicable)
- Lot regrading and trimming
- Re-vegetation
- Interallotment drainage pipes
- Interallotment pit construction
- Final erosion control inspection
- Replacement of redundant gutter crossings (as applicable)
- On-site detention
 - when steel & formwork for tank is ready
 - When control pit is completed
 - When pit's formwork is ready
 - When pipes are laid before backfilling
 - For pipe laid across Council's land
 - At completion of on-site detention system
- Driveways and accessways
- Retaining walls
- Pavement marking
- Final inspection

Sydney Water

58. A Section 73 compliance certificate under the Sydney Water Act 1994 must be obtained. Application must be made through an authorised Water Servicing Coordinator. Please refer to “Your Business” section of Sydney Water’s web site at www.sydneywater.com.au then the “e-developer” icon or telephone 13 20 92.

Following application, a “Notice of Requirements” will detail water and sewer extensions to be built and charges to be paid. Please make early contact with the Coordinator, since building of water/sewer extensions can be time consuming and may impact on other services and building, driveway or landscape design.

The Notice must be submitted to the Principal Certifying Authority prior to the Construction Certificate being issued.

The Section 73 Certificate must be submitted to the Principal Certifying Authority prior to occupation of the development/release of the plan of subdivision.

Pedestrian Access

59. In order to cater for pedestrian access generated by the development, the concrete footpath in Ray Road across the entire Ray Road frontage of the site shall be reconstructed or repaired as required by Hornsby Shire Council after development works.

Spoil Route to be Agreed with Council

60. In order to protect Council’s assets, all vehicular access to and from the site during all stages of the development is to be via the shortest route to the nearest State or Regional (Main) road. If this is not considered practicable, the spoil route shall be nominated by the Applicant for consideration and written approval by Council’s Manager, Subdivisions prior to the release of the Construction Certificate.

Cutting adjacent structures or other property

61. If an excavation extends below the level of the base of the footings of 'Woodlands House' or below the existing finished surface level on an adjoining allotment of land, the person causing the excavation to be made must:
- (a) preserve and protect any adjoining building from damage;
 - (b) underpin and support the building in an approved manner;
 - (c) design and construct appropriate vehicular guard rail fencing and person proof fencing within the developing property;
 - (d) at least 7 days before excavating, give notice of intention to do so to the adjoining owner and furnish particulars to the owner of the proposed work.
 - (e) provide all underpinning, shoring, guard rail and fencing details on the Construction Certificate plans.

Excavation over Rail Corridors

62. In order to ensure adequate provision of transport infrastructure requirements, the proposed development shall be designed and constructed in accordance with the following prior to the commencement of any work:-
- (a) A geotechnical Report prepared by a suitably qualified and chartered geotechnical engineer shall be undertaken on the proposed excavation area in order to permit adequate design of the basement, footings, shorings and underpinning required;
 - (b) The recommendations of the Report shall be utilised in preparation of the Construction Certificate plans;
 - (c) The Construction Certificate plans shall be endorsed by the Transport Infrastructure Development Corporation (TIDC) in writing, with references to the proposed Construction plan numbers, prior to lodgement of the Construction Certificate. The contact details for TIDC are:-

Level 7, Tower A, Zenith Centre
821 Pacific Highway
CHATSWOOD NSW 2067
Ph 9200 0200
Fax 9200 0290
Web - www.tidc.nsw.gov.au
email - mail@tidc.nsw.gov.au

Traffic Control

63. A Traffic Control Plan (TCP), prepared by a suitably qualified work site traffic controller, is to be submitted with any Construction Certificate, demonstrating compliance with the Road & Traffic Authority's Traffic Control at Worksites manual, 1998, and detailing:-

- (a) Public Notification of proposed works;
- (b) Short term, (during actual works) signage;
- (c) Long term signage arrangement;
- (d) Vehicle movement plans, where applicable;
- (e) Traffic Management Plans;
- (f) Pedestrian and cyclist access/safety;

NOTE:

The Plan must be prepared by a person with a *current* RTA Certificate qualifying them for design of Traffic Control At Work Sites. The Plan shall be signed by the qualified person by Printed Name, Signature and Certificate Number on the face of the Plan(s). Plain copies of any appropriate RTA TCP template that are incomplete or without either Speed Zone distance annotations or Designer's details cannot be accepted, and may delay release of the Construction Certificate.

Four copies of the TCP is required to be submitted for consideration and approval prior to the release of the Construction Certificate.

Vehicular Crossings

64. Concrete footpath and gutter crossings are to be constructed as required by development work. The crossings shall be designed and constructed in accordance with the following provisions:-
- (a) Under the provisions of the *Local Government Act 1993* and Section 138 of the *Roads Act 1993* approval for the construction of the proposed concrete footpath and gutter crossing to be sought with the Subdivisions Construction Certificate/Vehicular Crossing Application and the appropriate fees paid prior to the commencement of work;
 - (b) The crossings are to be designed and constructed in accordance with Hornsby Shire Council's standard. The crossing is to have adequate width at the layback as appropriate for the adjacent driveway or car park. A plan of the standard is available on request;
 - (c) A longitudinal section of the driveways are to be provided for consideration with the Application. In order to ensure vehicular access to the car stand areas, the longitudinal sections of the driveways must be drawn at 1:25 Natural scale designed using Hornsby Shire Council's standard vehicle profile from the crown of the road, through the proposed layback and to the car stand or internal driveway. The longitudinal sections shall be along the most critical section of the proposed crossing where the difference in level between the road and the proposed car stand is the largest;
 - (d) Location of the crossings shall not conflict with street trees, kerb inlet pits poles or other street furniture, unless permission to relocate a service or remove a street tree is given by the relevant Authority;

- (e) In order to maintain adequate sight distances for vehicles, the direction of travel on driveways and crossings is to be set perpendicular to the direction of travel in Ray Road. To match basement levels, the inside and outside curvature of the driveway ramps shall be at least that which accommodates all vehicles accessing the facility;
- (f) In order to ensure adequate sight distances for pedestrian traffic along the public way, the driveway gates and abutting fences shall be designed in accordance with Australian Standard AS2890.1 – Off Street car parking Section 3.2.4 provisions for sight distance safety at driveway exits;
- (g) Redundant crossings shall be removed and reinstated to Hornsby Shire Council's standard kerb and gutter;
- (h) The vehicular crossing design and construction must be certified by Hornsby Shire Council's Works or Planning Division as being constructed in accordance with Council's standard, prior to release of any Subdivision Certificate.

Vehicular Access

65. Where required for access from Ray Road to new garages/basements/service bays on individual lots, construction of proposed driveways of access in accordance with the following requirements:-
- (a) Construction of 150mm thick reinforced concrete pavement;
 - (b) Design and construction of driveways and basements in accordance with AS2890.1-2004 and Council's Design and Construction Specification;
 - (c) The pavement shall have a kerb on each side and a one-way crossfall with a minimum gradient of 2%;
 - (d) Construction of retaining walls, as required to support the driveway cuts and their design to the requirements of a practising geotechnical engineer;
 - (e) The provision of a safety rail at appropriate locations along the driveway.
66. In order to provide adequate access to service the Woodlands House consulting rooms, a vehicular crossing, access driveway, carpark and turning area on proposed Lot 2 shall be designed and constructed in accordance with Australian Standard AS2890.1 – 2004 and in accordance with the following:-
- (a) A longitudinal section through the Centre line of the driveway from the kerb line to the proposed car stand areas, showing proposed driveway grades and allowing for suitable transition at changes of grades shall be submitted for examination and approval with the Construction Certificate;
 - (b) To maintain Woodlands House heritage values, the access driveway and turning areas are to be constructed with Council's standard full depth flexible pavement and asphaltic concrete seal (of minimum 40mm thick AC10). This applies regardless of the general pavement requirements of Condition 65. The pavement subgrade must be tested prior to design for the total equivalent standard axle

- loading anticipated for a minimum 25 year life cycle with details submitted with Construction Certificate plans;
- (c) Parking areas and driveways are to be drained. Details of pavement drainage design are to be submitted in the form of calculations and specifications or details. Spot levels, cross sections and/or design contours must be shown on the plans;
 - (d) Where medical centre staff vehicles and patient vehicles are to be accommodated in a stacked parking arrangement, the carpark design shall clearly set out the spaces, linemarkings and space labels required to facilitate same;
 - (e) Details of car park and turning areas to be prepared by a suitably qualified professional Engineer and shown on the Construction plans for examination and approval with the Construction Certificate.
- 66A. In order to provide reasonable access for occasional service by removalist vehicles, a small rigid vehicle (SRV) service bay shall be designed and constructed as per AS2890.2-2002, Cracknell and Lonergan Architectural Plan DA04 and the following requirements:-
- (a) Service bay shall be designed and constructed to accommodate the swept out path of the design vehicle for ingress and egress in a forward direction, with the rear of the SRV abutting the proposed retaining wall on the north side of the service bay;
 - (b) Service bays grades shall wherever possible conform with Section 3.3.3 provisions in respect of grades both parallel and at 90 degrees to the angle of parking. Details to be provided on construction plans;
 - (c) As an on-site detention system is proposed under the service bay, the Engineer is to certify that the detention tank construction is structurally capable of withstanding the maximum anticipated traffic load;
 - (d) A sign shall be displayed within the service bay stating that the area shall be made available for removalist service bay access as required.

67. Deleted (DA/1688/2006/B).

Drainage

68. Stormwater drainage from the site shall be designed to satisfactorily drain rainfall intensities for an average recurrence interval of 20 years. The design shall:-
- (a) Be in accordance with Hornsby Shire Council Civil Works – Design Specification 2005;
 - (b) Provide for drainage discharge to an existing council-controlled drainage system;

- (c) Ensure that the development, either during construction or upon completion, does not impede or divert natural surface water runoff so as to cause a nuisance to adjoining properties.
69. Construction of an interallotment stormwater drainage system to service the proposed lots for drainage of all lots via gravity. The roof and stormwater drainage system from any existing buildings to remain shall be connected into the proposed interallotment or Council-controlled drainage system.
70. Each of the proposed lots serviced by the proposed interallotment drainage easement shall have this burden and benefit created pursuant to Section 88B of the Conveyancing Act 1919.
71. Stormwater drainage plans for the site shall be prepared and designed in accordance with Council's Civil Works - Design and Construction Specification 2005.

Drainage – On-site Detention

72. An on site detention system is to be provided and designed and constructed in accordance with the following requirements:-
- (a) The system shall drain all roofing, driveway and landscape areas in accordance with Hornsby Shire Council's Design and Construction Specification 2005. The developed 20 year average recurrence interval (ARI) flow shall be restricted to the 5 year ARI predevelopment flow rate;
 - (b) In order to prevent stormwater inundation of the on-site detention system, the proposal shall be located outside the flooded extent of the 100 year average recurrence interval (ARI) flow path;
 - (c) Stormwater discharge from the detention system is to be controlled via an orifice plate or variable length of pipe not less than 65mm diameter discharging into a larger diameter pipe capable of carrying the design flow to a Council controlled system;
 - (d) In order to provide for adequate protection against flooding, on-site detention systems shall incorporate in the design an overflow system capable of carrying the 100 year average recurrence interval storm flow and disposal to a Council controlled system;
 - (e) The system must drain dry after cessation of flow to the system. Drainage systems must connect directly with a Council controlled drainage system at a minimum grade of 1%. Tanks must be graded to the outlet invert. Sumps are not permitted anywhere in the system;
 - (f) In order to prevent backwater effects on the system's flow control, the control outlet shall be located above the head level of the 100 year average recurrence interval (ARI) in the adjacent flow or ponding level of the receiving system;
 - (g) Where an OSD system is proposed under a vehicular driveway, the Engineer is to certify that the detention tank construction is structurally capable of withstanding the maximum anticipated traffic load;

- (h) Calculations, details and hydrology of the upstream catchment shall be prepared by a suitably qualified and Chartered Engineer and included on Construction Certificate plans;

Drainage – Overland Flow Paths

73. The development shall be constructed clear of the design overland flow paths in the natural watercourses adjacent to the buildings, courtyard, car stand and driveway areas. The overland flow paths are to be able to carry the 100 year average recurrence interval (ARI) storm flow assuming the Ray Road Culvert has only 50% of its flowing full capacity. In addition;-
- (a) The overland flow paths referred to include the catchment from the Rosen Street sub-catchment to the north of the site running along the rear boundary of the site as well as the Rosebank Avenue catchment from the west;
 - (b) In order to prevent stormwater inundation of the developing areas, the existing and proposed buildings shall be located outside the flooded extent of the 100 year average recurrence interval (ARI) storm flow;
 - (c) The floor levels of all habitable and lockable rooms to be not less than 0.5 m above the 100 year ARI storm level;
 - (d) For safety, no courtyard shall be proposed within any part of the design storm flooded area where the velocity x depth product exceeds $0.4 \text{ m}^2/\text{s}$;
 - (e) For safety, all driveway and car stand areas within the area affected by the 100 year ARI shall have a design flow depth of not more than 200 mm and have velocity x depth product not exceeding $0.7 \text{ m}^2/\text{s}$;
 - (f) Fences across overland flow paths are to be hinged or permeable to above the 100 year ARI flood level and designed to ensure that there is no impediment to flow;
 - (g) Drainage plans showing the following details must be prepared by a suitably qualified Chartered Civil Engineer and submitted for consideration with the Subdivision Construction Certificate Application. The plans are to include:-
 - (i) a catchment plan, including sub-catchments from adjoining streets;
 - (ii) run off calculations (Hydrological and Hydraulic) according to Australian Rainfall and Run off 1987, as well as all electronic files for any computer generated modelling of the flow path;
 - (iii) A detailed site plan including topography of existing and post development levels (if permitted to be different) as well as new Council's standard Headwall and Junction Pit grated covers, showing how the design flow is to be conveyed across the site, as well as;
 - (iv) a site contour plan of the area affected by the 100 year ARI storm flow path.

- (h) A Work-as-Executed (WAE) Plan showing the post developed measurements and details shall be submitted to Hornsby Shire Council's Manager, Subdivisions prior to the release of any Occupation Certificate or Subdivision Certificate, whichever occurs first.

Subdivision Certificate

74. Lodgement and approval of a subdivision certificate is required to authorise the Plan of Subdivision.
75. All engineering works to enable creation of the approved lots 1, 2 & 3, including vehicular crossings and access for lots 1 and 2, stormwater drainage & interallotment drainage, together with the restoration of 'Woodlands House' and associated works for the approved medical centre use, shall be completed to the satisfaction of Council in compliance with the relevant consent conditions, prior to the issue of a Subdivision Certificate for Torrens title.
- 75A. Deleted (DA/1688/2006/D).
76. House numbering can only be authorised by Hornsby Shire Council. Before proceeding to number each lot/occupancy in the development, the allocation of numbers must be obtained from Council's Planning Division.
77. The following documentary evidence is to be obtained and forwarded to the Principal Certifying Authority prior to the release of the subdivision certificate:-
- (a) Submission of a surveyor's certificate stating that all structures within the subject land comply with the development consent in regard to clearance from proposed new boundaries;
 - (b) The submission of a surveyor's certificate stating that no services, drainage lines or access way encroach over the proposed boundary other than as provided for by easements created by the final plan of subdivision;
 - (c) Submission of certification from an appropriately qualified Worksite Traffic Controller that the documentation requirements of Section 6 of the Traffic Control at Work Sites Manual 1998 (RTA) have been complied with. Where necessary, Council may require a copy of all documentation to be submitted to Council for audit purposes prior to the issue of a subdivision certificate. Council may also audit this documentation at any time during the development works.

OSD requirements for Occupation or Subdivision Certificate

78. Prior to issue of the Occupation Certificate or Subdivision Certificate, the following requirements for the On-Site Detention system are to be satisfactorily completed:-
- (a) Where an OSD system is proposed under a vehicular driveway, the Engineer is to certify that the detention tank construction is structurally capable of withstanding the maximum anticipated traffic load;

- (b) Upon completion of the OSD works, Work-as-Executed (WAE) plans shall be prepared by the consulting Engineer/Registered Surveyor to verify that the volume of storage has been attained and that critical water and floor levels are in accordance with design requirements. Any changes or variations to the approved plans shall be highlighted in red;
- (c) Certification must be prepared by a suitably qualified and Chartered Engineer, which must state that the system complies with Council's OSD policy, all relevant codes and standards and also that it is generally in accordance with the approved plans;
- (d) A copy of the WAE plans must be submitted to Hornsby Shire Council's Manager, Subdivisions for consideration and written approval prior to release of the Occupation or any Certificate as applicable;
- (e) For all on-site detention (OSD) systems, including roof guttering and downpipe systems. A Positive Covenant and Restriction on Use of Land shall be required on the Certificate of Title in favour of Hornsby Shire Council. They are created under Section 88B of the Conveyancing Act 1919 for newly created lots. The property titles must be altered prior to the release of either the occupation or subdivision certificate. The purpose of this is to ensure that the registered proprietor has care, control and maintenance obligations of the OSD system including the guttering and downpipe systems. A copy of Hornsby Shire Council's draft terms for the above is available on request.

Overland Flow Path requirements for Occupation or Subdivision Certificate

79. Prior to release of either the Occupation or Subdivision Certificate, a restriction is to be placed over the area affected by the 100 year ARI storm overland flow path which shall be delineated on the linen plan in order to:-
- (a) Prohibit the alteration of the final overland flow path shape;
 - (b) Prohibit the erection of a structure (including fencing) in the overland flow path without the written permission of Hornsby Shire Council;
 - (c) Ensure the floor level of any habitable or lockable room is not to be less than 0.5 m above the 100 year average recurrence interval storm. Such levels to be detailed on the Section 88B instrument and related to Australian Height Datum and submitted for approval prior to finalisation;
 - (d) Permit the wording of the terms using Hornsby Shire Council's standard recital.

Utility Services

80. Certification that the requirements of the relevant utility authorities / company such as Energy Australia and Telstra have been met shall be submitted prior to the issue of the subdivision certificate.
81. Details of constructed services and conduits shall be provided on the Works-as-Executed plans and submitted to Council prior to the release of the Subdivision Certificate.

Council Property

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

WASTE MINIMISATION & MANAGEMENT

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

84. To minimise waste, appropriate project management techniques shall be employed in accordance with C1.01 of the Hornsby Shire Council Waste Minimisation and Management Guide.

C1.01 of the Hornsby Shire Council Waste Minimisation and Management Guide "Project Management" is attached for your guidance.

85. To minimise waste, appropriate work practices shall be employed in accordance with C1.02 of the Hornsby Shire Council Waste Minimisation and Management Guide.

C1.02 of the Hornsby Shire Council Waste Minimisation and Management Guide "Work Practices" is attached for your guidance.

86. Prior to the issue of a Construction Certificate, details shall be submitted for the construction of :-

86.1 Bin bay for the storage of waste and recycling bins,

86.2 Garbage chute and related devices for the transference of garbage waste to the bin bay,

86.3 Concreted area for the presentation of waste and recycling bins for collection service at the property boundary of Ray Road, to accommodate a minimum 9 x 660 litre and 11 x 240 litre bins.

87. The bin bay, garbage chute and related devices shall be designed in accordance with the provisions of Council's *Waste Minimisation and Management Development Control Plan*.

88. The bins for garbage waste and recyclable items to be transferred, shall be stored and presented in accordance with the waste management plan submitted by the applicant for the subject development.

ENVIRONMENTAL HEALTH & PROTECTION

- 89.0 Approved works must be performed in accordance with:

89.1 '*Stormwater Details – File No. 06127-08a, Sheet 8, Revision A*', prepared by Michael Ell Consulting Engineers Pty Ltd, dated 22 August 2006;

- 89.2 *'Site Management/Sedimentation Control Plan – Job Ref 06/1111/DA10, Issue D, Sheet 10'*, prepared by Paul Scrivener Landscape Architect Pty Ltd, dated 22.05.07;
- 89.3 *'Watercourse Rehabilitation Plan'*, prepared by Environmental Resources Management Australia Pty Ltd, dated October 2006;
- 89.4 *'Ground level Stormwater Layout Plan – File No. 06127-02b, Sheet 2, Revision B'*, prepared by Michael Ell Consulting Engineers Pty Ltd, dated 16 August 2006.
- 90.0 The following sediment control measures are required to be provided in conjunction with *'Stormwater Details – File No. 06127-08a, Sheet 8, Revision A'*, prepared by Michael Ell Consulting Engineers Pty Ltd, dated 22 August 2006 and *'Site Management/Sedimentation Control Plan – Job Ref 06/1111/DA10, Issue D, Sheet 10'*, prepared by Paul Scrivener Landscape Architect Pty Ltd, dated 19 October 2006:
- 90.1 All runoff and erosion controls are to be installed before any works are carried out at the site.
- 90.2 All contaminated surface waters and debris from the site must be screened, collected and pollutants captured within the site.
- 90.3 Stormwater kerb inlets and drains receiving stormwater must be protected at all times during work on site.
- 90.4 Movement of water must be controlled by diverting upslope clean surface runoff (via diversion drains and sediment fencing) around the disturbed areas.
- 90.5 Contamination of surface waters on downslope lands must be mitigated by installing sediment control fences downslope of the disturbed areas to capture sediment and debris escaping from the site.
- 90.6 Geofabric sediment fencing must be installed parallel to the proposed works or along the natural contours of the site.
- 90.7 Sediment fencing must be secured by post (where metal star pickets are used, plastic safety caps shall be used) at **two**-metre intervals with the geotextile fabric embedded at 200 mm in soil. One metre returns must be installed at twenty-metre intervals along the sediment fencing.
- 90.8 Topsoil stockpiling stripped from the construction site must be diverted away from drainage lines and stormwater inlets, be suitably covered by impervious membrane material and screened by sediment fencing.
- 90.9 Driveway access paths must be stabilised with needle-punched geotextile covered by a minimum 150mm thick layer of coarse gravel, aggregate, or recycled crushed concrete.
- 90.10 Kerb inlet sediment traps are to be installed downslope of the site to facilitate the capture of sediment.

- 90.11 Street sweeping must be undertaken as required along Ray Road during and after excavation and construction until the site is fully established.
- 90.12 Turfed nature strip areas adjacent to the kerb of the lots under construction shall remain undisturbed during the construction phase.
- 90.13 Erosion and sediment control measures must be maintained in good working order, and be repaired or replaced throughout the course of works on site.
- 90.14 Sediment and erosion controls must be inspected weekly or after each storm event for litter, sediment, and organic waste accumulation. All sediment/debris shall be removed within two (2) working days or when reached 40% capacity.
- 90.15 Disturbed areas must be rehabilitated and landscaped with preferably indigenous plant species or other suitable approved stabilising processes within fifteen days of the completion of works.
91. 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.
92. Any imported soils to the subject site must be Virgin Excavated Natural Material (VENM) as defined in Schedule 1 of the *Protection of the Environment Operations Act 1997*.
93. All noise generated by the proposed development is to be attenuated to prevent levels of noise being emitted to adjacent premises which possess tonal, beating and similar characteristics or which exceeds background noise levels by more than 5dB(A).
94. A buffer set back of 10 metres must be provided from the crest of the watercourse to structures/developments. Accordingly, no land disturbance, buildings or associated structures may encroach within 10 metres from the crest of the bank of the watercourse.
95. Additional sedimentation controls shall be provided, i.e. temporary sediment basin, within the existing watercourse, to prevent any sedimentation of the watercourse. This basin must be monitored and cleaned at 40% capacity.

PARKS & LANDSCAPES

96. To protect trees, the removal of trees numbered 4 and 5 located on the neighbouring property marked on the plan or excavation or filling of soil or the placing of building materials or associated works (i.e. water, sewer, telephone, drainage) within the six metre setback is forbidden without written approval from Council.

To protect trees, the removal of tree number 20 marked on the plan or excavation or filling of soil or the placing of building materials or associated works (i.e. water, sewer, telephone, drainage) within the five metre setback is forbidden without written approval from Council.

To protect stands of trees the removal of stands S1, S2 and S3 or excavation or filling of soil or the placing of building materials or associated works (i.e. water, sewer,

telephone, drainage) within the four metre setback is forbidden without written approval from Council.

Trees numbered 1, 2, 3, 8, 9, 10, 10A, 11, 12, 12A, 12B, 13, 14, 15, 16, 17, 18, 19, 21, 22, 23, 24, 25, 26, 27, 28, 28A, 28B, 28C, 28D, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 58, 64, 65, 66, 67, 69, 70, 71, 72 would be removed or adversely affected.

97. Prior to work commencing, tree protection fencing must be erected around the trees nominated to be retained at the specified setbacks. The tree fencing must be constructed of 1.8 metre cyclone chainmesh fence. The tree protection fencing must be maintained in good working order until the completion of all building or development works. Penalties apply for non-compliance. Affixing signage to trees located on site or located on the nature strip is strictly forbidden.
98. To prevent damage to tree roots, excavation (for services and other works), change of soil level (cut or fill), parking (vehicles or plant), or placement of building materials (including disposal of cement slurry and waste water) within the specified tree protection setbacks, and within 3m of all other trees to be retained onsite, is strictly forbidden. No tree roots located within the specified tree setbacks shall be severed or injured in the process of any site works during the construction or landscaping phases of the approved project. The applicant shall ensure that all underground services (i.e. water, drainage, gas, and sewer) shall not be laid within 3m of any tree located on the property protected under Council's Tree Preservation Order.
99. A Tree Preservation Order exists within the Hornsby Shire whereby the cutting down, topping, lopping, removing or wilful destruction of any tree exceeding 3.0 metres in height (except where exempt as defined under Council's Tree Preservation Order) without prior written consent of Council is prohibited.

Release of the Construction Certificate gives automatic approval to the removal only of those trees located on the subject property within 3 metres of the foundation footprint of an approved residential, commercial or community building, garage or inground swimming pool. Other trees shall not be removed or damaged without an application being made under Council's Tree Preservation Order. Penalties apply for non-compliance.

Fencing to Townhouse D01 courtyard

100. The fence along the northern edge of townhouse D01 courtyard shall be 1800mm high open black metal fence, equal to detail for the rear fencing to other Townhouse courtyards.

Western Boundary Planting (Townhouses)

101. To provide appropriate privacy to adjoining properties along the Western boundary the four (4) *Elaeocarpus reticulatus* (ER) shall be substituted with four (4) *Backhousia citriodora* (BAC) installed at minimum pot size of 25 litres.

Planting between Residential Flat Building and Townhouses

102. To provide appropriate privacy between Residential Flat Building and Townhouses the following additional planting is to be provided:

Planting to the raised planters must include extra:

- * Three (3) *Waterhousia floribundum* (SYF) installed at minimum pot size of 75 litres;
- * Five (5) *Archontophoenix cunnighamiana* (ARC) installed at minimum 3m height.

Planting between Residential Flat Buildings

103. To provide appropriate privacy between Residential Flat Buildings the following additional planting is to be provided:

Planting to the raised planters must include extra:

- * 20 *Archontophoenix cunnighamiana* (ARC) installed at minimum 3m height.

Service access

104. Deleted (DA/1688/2006/B).

Riparian Zone

105. Landscape details to open space area at South of Residential Flat Building shall be amended and adjusted to reflect requirements applied by Department of Natural Resources (DNR) for Riparian Zone. In particular changes shall reflect the extent, plant selection (including turf species), mulch specification and pathway treatments required for Riparian Zones.

Approved Landscape Plan

106. The proposed landscape works must be constructed in accordance with Council's Landscape Code for Development Applications, approved landscape plans No. 06/1111/CC1 Issue H dated 30.05.08 prepared by Paul Scrivener Landscape Architect and the conditions of consent.

- 106A. The landscape plan shall be amended to address the deletion of condition No. 104.

Removal of Camphor Laurel trees

107. The removal of any *Cinnamomum camphora* (Camphor Laurel) from the Riparian Zone is to be undertaken in staged program over a 5 year period as replacement species mature. This staged removal is to be incorporated in the Vegetation Management Plan for the Riparian Zone.

Streetscape

108. Street tree planting is to consist of 13 *Elaeocarpus reticulates* (ER) planted at a minimum pot size of 45 litres, in positions as indicated on the landscape plan

Street tree planting shall include the provision for enclosed timber or other suitable street tree guard that shall provide for the protection of the street trees for a period of not less than 1 year.

Planter Boxes / On Slab Planting

109. On slab planter boxes must include automatic irrigation, subsoil drainage (proprietary drainage cell, 50mm sand and filter fabric), waterproofing, minimum 900mm planting soil for landscape areas, and 75mm mulch to ensure a sustainable landscape is achieved.

Landscape Works To All Areas – Plant sizes and densities

110. Excepting the above specific requirements, all landscape works shall also meet the minimum construction standards identified in the Hornsby Shire Council Landscape Code for Development Applications including the construction of mulched planter beds and planting of trees and shrubs in minimum pot sizes and densities as identified in the submitted landscape plan planting schedule and specification.
111. The landscape works shall be maintained into the future to ensure the establishment and successful growth of plant material to meet the intent of the landscape design. This shall include but not be limited to watering, weeding, replacement of plant material and promoting the growth of all plants through standard industry practices.

Construction Certificate

112. Amended landscape plans are to be prepared and submitted for approval prior to issuing Construction Certificate reflecting the conditions required by the DA.
113. Prior to the issuing of the Final Occupancy Certificate, the completed works shall be inspected and certified by a Registered Landscape Architect or experienced Landscape Architect/Designer as being completed in accordance with the requirements of the Development Consent.

TRAFFIC & ROAD SAFETY

114. All parking and access is to be in accordance with AS/NZS280.1:2004.
115. A loading bay shall be provided on site sufficient to cater for a small rigid vehicle.

CONTRIBUTION PLAN

116. The payment of a contribution towards the cost of transport and traffic management, open space and recreation facilities, library and community facilities, bushland and environmental works, stormwater drainage, bushfire protection and Section 94 administration in accordance with Sections 94, 94B and 94C of the Environmental Planning and Assessment Act, 1979, and Hornsby Shire Council's Development Contributions Plan 2004-2010. **The total contribution shall be \$ 485,005.25** (a credit of \$27,511.80 applies in recognition of the two existing dwelling(s) **if paid prior to 30 September 2007**). Following this date, contributions will be adjusted in accordance with the underlying consumer price index for each quarter, it being noted that there are:-

- * 55 Medium (Townhouse/Villa) / High (Residential Flat Buildings) Density Multi-unit housing @ \$9,318.49 per dwelling

This amount is to be paid to Council prior to issue of the construction certificate or the subdivision certificate, whichever occurs first. The contribution rate will be adjusted on a quarterly basis in accordance with the underlying consumer price index movements if not paid prior to the end of the quarter of the date of consent.

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

Note2: Council's Contribution Plan can be viewed at [www.hornsby.nsw.gov.au/Planning & Development](http://www.hornsby.nsw.gov.au/Planning_&_Development), or a copy may be inspected during business hours at the first floor of Hornsby Shire Council's Administration Building located at No. 296 Pacific Highway, Hornsby.

- 116A. The payment of a contribution of \$24,781.60, for a third bedroom for 8 dwellings, towards the cost of transport and traffic management, open space and recreation facilities, library and community facilities, bushland regeneration, stormwater drainage, civic improvements and section 94 plan administration in accordance with sections 94, 94A and 94C of the Environmental Planning and Assessment Act, 1979 and the Hornsby Shire Council's Development Contributions Plan 2007-2011. The contribution is based on a rate of \$3,097.70 per third bedroom and it is to be paid by the end of the financial quarter in which the development application was determined and prior to the issuing of a construction certificate. The contribution will be adjusted in accordance with the underlying consumer price index for the subsequent financial quarters.

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

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

DEPARTMENT OF NATURAL RESOURCES

Requirement for Permit

117. Any work which requires a permit under Part 3A of the Rivers and Foreshores Improvement Act 1948 ("Part 3A permit") is not to commence until such time as a Part 3A permit has been applied for, and subsequently issued by DNR. Any work the subject of a Part 3A permit must be carried out in accordance with drawings and any other documents required by these conditions, and which are approved by DNR, and which will accompany the Part 3A permit.

Standard of Work

118. All works proposed must be designed, constructed and operated so that they result in NIL or minimal harm to aquatic and riparian environments and do not cause erosion,

sedimentation, or increase flood levels of protected waters. Works that result in net positive outcomes for aquatic and riparian environments are encouraged.

119. All activities at the Site are to be undertaken by persons suitably experienced in that aspect of the work they are doing, and such persons must be under the direction and supervision of a person with knowledge, qualifications and experience to industry standards in the relevant aspect of the operations being undertaken.

Cessation of Works

120. If, in the opinion of a DNR officer, any work is being carried out in such a manner that it may damage or detrimentally affect protected waters or protected land, or damage or interfere in any way with any work, such work shall cease immediately upon oral or written direction of such officer.
121. Should any of the conditions of the Part 3A permit not be complied with, DNR may issue a Stop Order on Part 3A permit related operations at the Site until the conditions have been complied with.

Work as Executed Plans

122. If requested by DNR, work as executed survey plans of a professional standard, and including information required by DNR, shall be forwarded to DNR within 14 calendar days of such request.

Remedial Works

123. The Part 3A permit holder shall carry out any instructions given by DNR with a view to preventing damage to the environment of protected waters or protected land.
124. If any Part 3A permit condition is breached, the permit holder shall follow DNR directions to address the breach and shall rehabilitate the Site as directed by, and to the satisfaction of, DNR. If any breach of the permit conditions requires a special site inspection by DNR, then the permit holder shall pay a supplementary permit fee for this inspection and for each and every subsequent inspection until the breach has been rectified.

Disposal of Vegetation

125. Any vegetation or other material removed from the area of operations shall be disposed of lawfully to an appropriate site where the debris cannot be swept into protected waters during a flood. Burning must not be carried out unless an approval has been obtained from the relevant authority(ies).

Stormwater Outlets

126. Detailed designs of any stormwater outlets and any necessary scour protection works within the riparian zone or any protected waters are to be prepared by a person with relevant knowledge, qualifications and experience to industry standards, and to the satisfaction of Council and DNR, and approved by DNR, **prior to the issue of the Part 3A Permit**. The designs must include one or more representative surveyed cross sections and a long section showing existing and proposed bed and bank profiles and water levels at the outlet point. The sections are to extend beyond the structure for a distance of 5m for the cross section, and for the long section, 5m beyond the landward extent of the riparian zone and 5m from the toe of the bank of the receiving protected waters. Any proposed stormwater outlets are to be designed in accordance with the

DNR guideline: *Stormwater Outlet Structures to Streams (For pipes, culverts, drains and spillways – Version 1)* (**Attachment A**).

127. Stormwater outlets must be designed, located and constructed to minimise any erosion or scour of riparian zones or the bed or banks of any protected waters. The construction methods adopted must ensure that disturbance to soil and vegetation in these areas is kept to an absolute minimum.
128. Construction of stormwater outlets is to be undertaken by persons suitably experienced in such work and they must be under the supervision of a person with relevant qualifications, knowledge and experience to industry standards in such work.

Scour Protection

129. Points of constriction or any other places where scour is likely within or near any protected waters or any part of the riparian zones on the Site, are to be suitably protected against scour. Designs, based on predicted velocities and scour potential, are to be prepared by, and implemented under the supervision of, a person with relevant knowledge, qualifications and experience to industry standards, and to the satisfaction of Council and DNR, and approved by DNR.
130. All permanent rock scour protection must consist of hard and durable run-of-quarry rock, sized to resist predicted scour velocities. Rock must be angular and blocky rather than flat, to ensure a good “bind” and to resist negative hydraulic pressure. Rock is to be placed over a 200mm deep layer of 140mm median size angular cobbles over geotextile to prevent erosion of underlying fine bed sediments and to facilitate placement.
131. All finished rock rip-rap surfaces are to be rough, and evenly aligned with the adjoining bed, bank and floodplain profile and must not reduce the capacity of protected waters in any way.
132. All rock and cobbles installed for scour protection are to be packed with topsoil and the crevasses in the rip-rap planted with local native sedges and rushes, to further stabilise the works and to increase riparian zone values and functions.
133. Wire mesh structures and concrete grouting are not permitted for use with rip rap scour protection unless shown on plans approved by DNR.

Maintenance of Works within Protected Waters

134. All works within protected waters are to be monitored after each major storm event for the duration of any Part 3A permit issued by DNR. Stabilisation works consisting of soft-engineered designs are to be undertaken as required, after seeking advice and approval from DNR, if there are signs of erosion or instability of protected waters.

Works within Protected Waters to satisfy NSW Fisheries

135. All works within protected waters must be consistent with the requirements of NSW Fisheries.

Designation of Riparian Zone

136. Riparian zones, consisting of local native plant species, shall be established and maintained along all edges of all protected waters, including beneath bridges, for their entirety within the Site.

The extent of the riparian zones, unless otherwise approved by DNR, shall be:

Of an average width of 10m measured horizontally from the top of the bank and at right angles to the alignment of the bank.

Peg Out Survey

137. Following the completion of bulk earthworks at the Site, a registered surveyor may be required to a “peg out survey”. The survey must clearly show on the ground the location and extent of the riparian zones described in these conditions. DNR may require inspection and approval of the “peg out survey” prior to the release of any cash bond or bank guarantee associated with the earthworks or structures at the Site.

Site Rehabilitation – Vegetation

138. Site rehabilitation must protect any remnant local native riparian vegetation at the Site and restore any riparian zones, including within protected waters, disturbed or otherwise affected by the development to a state that is reasonably representative of the natural ecotone of the protected waters system and as required in a Vegetation Management Plan (VMP).
139. The VMP is to be prepared by a person with professional qualifications, knowledge and experience in bushland rehabilitation practices and in the preparation of such plans, in consultation with, and with the approval of, DNR **prior to the issue of the Part 3A Permit**. The VMP is to be in accordance with, but not limited to, the guideline: “*How to Prepare a Vegetation Management Plan – Version 4*” (**Attachment B**).
140. The VMP is to fully address all issues relating to the protection, establishment and maintenance of the riparian zone. The VMP is to include drawings that clearly show the approved extent of the riparian zones. The VMP is to clearly state planting densities and the species mix for all areas to be rehabilitated.
141. The riparian zones are to consist of a diverse range of native plant species local to the area and fully structured (i.e. trees, shrubs and groundcovers). The plant species used are to consist of species and communities that emulate the original situation. Planting densities are to be as follows:

At least 1 tree or 1 shrub (in approximately equal numbers) alternately planted at 1 plant per square metre and in addition, groundcover plants at 4 plants per square metre, unless otherwise specified in the VMP.

The riparian zones may be rehabilitated using a combination of methods, such as natural bush regeneration, brush matting, hydro-seeding, direct seeding or tubestock planting, provided the required densities are achieved by the end of the maintenance period. The methods and performance standards necessary to achieve the above are to be identified in the VMP.

Revegetation must be carried out over all areas in the riparian zone affected by the works, including all areas that are temporarily occupied by soil and water management controls, once those controls have been decommissioned and the ground surfaces restored to the correct profile and stabilised.

142. Bush regeneration, for weed control and to promote natural regeneration, is to be undertaken for a minimum distance of 10 metres beyond any disturbed areas in the riparian zones. Revegetation, in accordance with the standards required by these conditions, is to be undertaken in this 10 metre wide area if it is significantly degraded or is likely to give rise to weed invasion due to lack of native vegetation cover before or after weed control.

143. The VMP is to be implemented by persons suitably experienced in such work and they must be under the supervision of a person with professional qualifications, knowledge and experience in bushland rehabilitation practices.
144. DNR is to be advised of the person responsible for any seed propagation prior to the commencement of propagation.
145. The person responsible for implementing the VMP must certify in writing to DNR that plantings (including follow-up plantings) have been carried out using stock propagated from seed or plant material collected only from native plants from the local botanical provenance. This certification is to be provided with the first 6 monthly monitoring report and with the next monitoring report thereafter for any supplementary plantings.

Maintenance of Rehabilitated Areas within Riparian Zones

146. Rehabilitated riparian zones must be maintained and monitored for a period of at least two years after final planting. Maintenance must include sediment and erosion control, watering, weed control, replacement of plant losses, disease and insect control, mulching and any other requirements necessary for achieving successful vegetation establishment.

Maintenance Report

147. A brief and concise report addressing the performance criteria as specified in the VMP and any problems implementing the VMP, as well as means to overcome these, shall be forwarded to DNR every six months for the duration of the maintenance period. The report must also comment on the stability and condition of any associated stream works.

Exotic plant species not to be planted or placed within or near the riparian zone

148. No exotic plant species, other than temporary sterile cover crops, are to be planted within, or within 10 metres of, the riparian zones on the Site, unless otherwise approved by DNR.
149. Only certified weed free and contaminant free mulch is to be used on the Site. This is because mulch products imported onto the Site may contain weed seeds and viable vegetative matter and other contaminants, which could impact adversely on the vegetation, soil, water quality or ecology of the Site.

Works and Activities not to Compromise Implementation of the VMP

150. Works and activities at the Site must not compromise the implementation of the VMP in any way.

Works and Activities not to Compromise Riparian Zones

151. Riparian zones are to function as ecological systems and as such, all works, access routes, roads, recreational areas, service easements and any other non-ecologically functioning work or activity are to be located beyond riparian zones, unless detailed on plans approved by DNR, prior to the issue of a Part 3A permit.

Accessways not to Compromise Protected Waters or Riparian Zones

152. All accessways, being cycleways, pedestrian pathways or other non-vehicular form of accessway that may be proposed for the Site, are to be located preferably beyond the riparian zones. Any accessways that may be required to intrude into a riparian zone must be elevated with a minimum underside clearance of 300mm and with a natural ground surface beneath, and must have a grated or slatted deck sufficient to allow the growth of groundcover vegetation beneath the structure. The width of any accessway is to be kept to an absolute minimum should it intrude into a riparian zone.
153. Any accessway proposed to be located within any riparian zone or protected waters is not to be constructed without consultation with, and prior approval of, DNR.

Vehicular Crossings not to Compromise Protected Waters or Riparian Zones

154. Any vehicular crossing design over protected waters and riparian zones must be sensitive to the ecology, wildlife corridor and geomorphic functions of protected waters and protected land. To achieve this, any crossing design is to consist of a full span bridge with piered approaches for the width of the riparian zone, or a structure with equivalent corridor functions. Any crossing must incorporate a grated deck or alternative design to provide sufficient light and moisture beneath the structure for local native vegetation to grow. The pavement width of the structure must be as narrow as possible. Bankfull flows and floodplain flows are not to be inhibited in any way by the structure itself or by vegetation growing beneath the structure. The crossing is not to cause scour or erosion of the bed, banks or floodplain of protected waters in any storm events.
155. The design of any such crossing is to be prepared by a person with relevant knowledge, qualifications and experience to industry standards, in consultation with, and approved by, DNR **prior to the issue of the Part 3A Permit.**

Bushfire Asset Protection Zones not to Compromise Riparian Zones

156. Any requirements for bushfire asset protection zones are not to compromise in any way the extent, form or function of the riparian zones.

Flooding Issues

157. The development is to satisfy all requirements of Council in relation to flooding issues, but in so doing, must not compromise in any way the form and function of the works and riparian zones required by these conditions.

Drainage Issues

158. The development is to satisfy all requirements of Council in relation to drainage issues, but in so doing, must not compromise in any way the form and function of the works and riparian zones required by these conditions.

Soil Suitability

159. Wherever possible, riparian zone soils should be those naturally occurring at the Site. In the event that importation of soil material into the riparian zone is unavoidable, such soil is to be weed free and similar to that which occurs naturally in local riparian areas. Any soil selected for importation must be suitable for the establishment and on-going viability of riparian vegetation. Such soil must be tested and certified by a NATA registered soils laboratory to be: i) similar to the naturally occurring local

soil, ii) suitable for the establishment and on-going viability of riparian vegetation, iii) free of any weed propagules, and, iv) free of any contaminants. Documentation arising from this testing and certification must be provided to DNR prior to the placement of any soil.

160. Any fill material placed in a riparian zone that is inconsistent with the requirements of the previous condition must be removed and relocated beyond the riparian zone or taken off-Site and disposed of in a lawful manner.

Soils not to be Compacted

161. The structure of the soils in the riparian zones must be suitable for the vegetative rehabilitation of the Site and are therefore not to be proof rolled or subjected to other unsuitable compaction unless otherwise approved by DNR.

Water Quality and Environmental Protection

162. The Applicant must ensure that the amount of dirty water and sediment from the Site that enters protected waters or that is exposed to the flow of protected waters, or that is likely to detrimentally affect water quality, riparian vegetation or habitat or the environment, is minimised in a manner acceptable to DNR.

Site Water & Sediment Runoff Management

163. The Applicant must submit a Soil and Water Management Plan (SWMP) indicating how the works at the Site will achieve the outcome required in the previous condition. The SWMP must be prepared by a person, with professional qualifications, knowledge and experience to industry standards, and to the satisfaction of Council and DNR, and approved by DNR, **prior to the issue of the Part 3A permit**. The SWMP must cover all works on protected land and in protected waters, and staging and maintenance requirements. The SWMP must meet the requirements outlined in the NSW Department of Housing's publication *Managing Urban Stormwater: Soils and Construction* (3rd Ed.)(1998). The SWMP is also to meet any EPA licence requirements.
164. All works and activities at the Site are to satisfy all requirements of Council in relation to water pollution issues. Oils and greases, or any other contaminants, must not be permitted to pass to protected waters.
165. All relevant Site drainage and sediment and erosion control works and measures, and any other pollution controls, as required by these conditions, shall be implemented prior to commencement of any other works at the Site.

Maintenance of Erosion and Sediment Control Measures

166. All erosion and sediment control measures at the Site are to be inspected and maintained as required on a weekly basis and immediately following any rainfall events to ensure the efficient operation of these devices. This obligation remains until the Site has been fully stabilised.

Decommissioning of all Sediment and Erosion Controls and water diversion structures

167. Decommissioning of all sediment and erosion controls and any water diversion structures must be documented in detail to the satisfaction of DNR. Decommissioning must meet the requirements outlined in the NSW Department of

Housing's publication *Managing Urban Stormwater: Soils and Construction* (3rd Ed.)(1998). The timeframes for decommissioning are to be cross-referenced to the implementation of any riparian zone plantings. Decommissioning of sediment and erosion controls is not to detrimentally affect the implementation of the VMP.

Costing to be Provided

168. A costing based on current industry rates is to be provided for all works and activities that are associated with the DA and that are subject to these conditions. The costing is to identify each type of work or activity and is to present the costing in a break-down format that covers each aspect of that work or activity. Costings are to cover labour, equipment and materials and maintenance and reporting where these tasks are relevant. The costing is to cover, but may not be limited to, the following works and activities:
- (a) construction of any stormwater outlets and their revegetation as described in the VMP
 - (b) construction of any scour protection works and their revegetation as described in the VMP
 - (c) construction of any vehicular crossings over protected waters and/or through any riparian zones
 - (d) implementation of the VMP, including monitoring, reporting and maintenance for a period of not less than two years after the date of final planting
 - (e) construction of any accessways in any riparian zones
 - (f) decommissioning of any temporary works in any protected waters or any riparian zone, including sediment and erosion controls, or other pollution controls, and water diversion structures.

Cash Bond or Bank Guarantee

169. The applicant for a Part 3A permit will be required, as a pre-condition to the granting of the Part 3A permit, to provide a cash bond or bank guarantee, prior to the issue of any Part 3A permit, for the amount required to cover the cost of completing the works and activities listed in the previous condition and in accordance with the conditions of the Part 3A permit.
170. Any bank guarantee is to be provided from a bank licensed pursuant to the Banking Act 1959 (Cth) and is to be provided in favour of DNR and it must be in the format provided in **Attachment C**.
171. Any cash or bank guarantee will be held until such time as the works and activities the subject of the cash bond or bank guarantee have been satisfactorily completed in accordance with the conditions of the Part 3A permit.
172. The sum held may be reduced on application to DNR, subject to the satisfactory completion of stages of works or activities required by the Part 3A permit.
173. DNR may at any time, and more than once and without notice to the Part 3A permit holder, utilise any cash provided or demand all or part of the moneys available under a bank guarantee, if in its opinion, the Part 3A permit holder has failed at any time to satisfactorily complete the works or activities in accordance with the requirements of the Part 3A permit.

Resolution of Inconsistencies

174. In the event that there is any inconsistency between the drawings, other documentation and the conditions herein, the interpretation that will result in the best outcome for the stabilisation of the Site and the subsequent rehabilitation and maintenance of the Site and protected land and protected waters is to prevail. Such interpretation is to be applied in consultation with, and with the approval of, DNR.

Any Part 3A permit issued to be kept current

175. Any Part 3A permit issued for works proposed under the DA, and as required by these conditions, must be kept current by payment of the appropriate fee until such time as the Site has been fully stabilised and rehabilitated, and any required maintenance satisfactorily completed and reported on, in accordance with these conditions. Any application for renewal is to be lodged at least 1 month prior to the expiry date of the Part 3A permit.

General Advice

- A. A Part 3A permit, subject to conditions, will be issued for the proposed works upon application.
- B. Any Part 3A permit granted for works the subject of the DA will be for a period of one year.
- C. Prior to the issue of the Part 3A permit the applicant must provide DNR with the following:
 - * A copy of Council's development consent including all conditions of approval.
 - * Any approval from NSW Fisheries required by these conditions.
 - * Sufficient number of sets of plans and other documentation that satisfy DNR's General Terms of Approval, and any associated recommendations, for distribution to: the proponent, Council, DNR and any other approval body likely to be affected by DNR requirements.
 - * The appropriate Part 3A permit fee paid and the required bond provided to DNR.
 - * Full details on land ownership of all areas affected by the proposed works, and authorisation for the works by the relevant land owners.
- D. The rehabilitation of the Site in accordance with the Part 3A permit conditions and to the satisfaction of DNR is the responsibility of the Part 3A permit holder and the owner or occupier of the land.
- E. The Part 3A permit holder and the owner or occupier of the land are responsible for construction of works or any excavation or removal of material undertaken by any other person or company at the Site.
- F. Any Part 3A permit granted is not transferable to any other person or company without written approval from DNR and does not allow operations at any other site.
- G. Any Part 3A permit granted does not give the holder the right to occupy any land without the consent from the owner(s), nor does it relieve the Part 3A permit holder of any obligation which may exist to also obtain permission from local government and

other authorities who may have some form of control over the Site of the work and/or the activities proposed to be undertaken.

- H. A “person” for the purposes of these General Terms of Approval (GTAs), means a person, persons or organisation authorised by the recipient of the consent for the DA, or their agent, should such consent be issued, to undertake any of the requirements of these GTAs.
- I. These GTAs are issued with the proviso that operations shall be carried out on freehold land. Should operations be on Crown Land, any Part 3A permit is rendered invalid for such Crown Land and has no force or effect on the same, and the occupier of Crown Land should contact the Department of Lands and Rural Affairs for their requirements.

6 HERITAGE ADVISORY COMMITTEE - TECHNICAL SPECIALIST REPRESENTATION

EXECUTIVE SUMMARY

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

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

PURPOSE

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

BACKGROUND

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

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

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

- a representative from the general community.

The conduct of meetings requires a quorum of one technical officer and one community representative. Following the recent resignation of one of the technical specialist from the Committee, expressions of interest for a technical specialist from the architectural/planning or other related professions with expertise in heritage were called by letter of invitation to known industry groups and through an advertisement in the local press. Seven submissions were received.

DISCUSSION

This report discusses the expressions of interest for the vacant technical specialist and recommends a nominee to be invited to join the Committee.

Expressions of Interest for a Voluntary Technical Specialist

Expressions of interest were sought via letters of invitation to known industry groups and advertisements in the local press. The industry groups contacted included Progress Associations, Residents' Associations, Trusts, Chambers of Commerce, Historical and Conservation societies of Hornsby Shire. External associations and institutes, including the Royal Australian Institute of Architects, National Trust and NSW Heritage Office were also contacted. Other members of the public were informed via advertisements (copy attached) in the Hills Shire Times, the Northern District Times and the Hornsby Advocate.

The closing date for expressions of interest for the position was 19 December 2009. Written nominations were required to include a summary of the nominee's relevant experience and a minimum of two (2) references. A summary of the expressions of interest (copy attached) is provided below.

Michael Clarke

Michael Clarke is a resident of Normanhurst and has qualifications in Civil Engineering. Mr Clarke was employed as a civil engineer with the Department of Public Works from 1987 until he retired as Chief Engineer in 1992.

Mr Clarke has maintained an interest in a range of heritage and conservation activities in his professional career and in a voluntary capacity. He is currently a member of the NSW Heritage Council: Register Committee and has been a member and held executive roles on both the Sydney Engineering Heritage Committee and on Engineering Heritage Australia. In his involvement with the last two organizations, he managed the oral history programs, including the preparation of oral history policies and procedures.

Mr Clarke is also a member (or a previous member) of the National Trust of Australia, the Friends of the Historic Houses Trust of NSW, the History Council of NSW, Oral History Association of Australia, the Australian Society for the History of Engineering and Technology, the Sydney Opera House Conservation Council and the Department of Public Works and Services Oral History Committee.

Mr Clarke has presented papers on engineering heritage and authored a number of documents relating to heritage including, "*Historic Engineering Plaques of Australia*" and "*Sydney's Engineering Heritage – Walks*", which received a National Trust Award. He has also presented keynote addresses, talks and presentations on various aspects of the history of engineering. Mr Clarke was made a Emeritus Member of the College of Civil Engineers

(Australia) in 2000 and was awarded the Hazel De Berg Award for Excellence in Oral History in 2007.

Margaret Desgrand

Margaret Desgrand, is a resident of Wahroonga and architect with specialist qualifications in heritage conservation. She has in excess of 30 years post graduate experience in the design, construction and management of projects involving heritage assets including in state government in the Government Architect's Branch, in the private sector and in local government. She is a registered architect and is currently a member of the NSW Chapter of the Australian Institute of Architects (RAIA) Heritage Committee and the National Trust of Australia (NSW) Buildings Committee, and a member of the Australian Garden Historical Society. Mrs Desgrand is Senior Heritage Specialist within the Urban Design and Heritage Unit of the City of Sydney Council.

Mrs Desgrand has been nominated by the RAIA to represent the Institute on the Committee. Mrs Diane Jones, Chairwoman, NSW RAIA has been nominated as an alternate representative should Margaret Desgrand be unable to attend.

Jill Gleave

Jill Gleave is a resident of Berowra Waters. She has qualifications in architecture and is a registered architect with the RAIA. She is a sole practitioner and operates Jill Gleave Architects, working predominantly in the Hornsby and North Sydney Local Government Areas. In her role as residential architect, she prepares plans and compiles heritage reports for various sites. These have included the preservation of heritage facades on heritage listed sites at Balmain and Crows Nest. She has also been involved in preparing reports for structures of heritage interest at Berowra Waters, including Fretus Ruins Heritage Track and the reconstruction of stone walls at Collieridge Point. Ms Gleave supports the need to care for heritage items and to involve the community in appreciating their value.

Murray Hook

Murray Hook is a resident of Pennant Hills, with qualifications in Urban Horticulture and Workplace Training. He has been involved in landscaping and horticulture for many years including teaching Horticulture, Garden Design and Water-wise gardening. Mr Hook maintains an interest in heritage, including the history of buildings and landscapes. He is a founding member and Hon. Secretary of the Friends of The Lilian Fraser Garden. He has recently completed archiving work on the records of Yates Ltd and has been invited to write an introductory chapter for the new edition of the Yates Garden Guide.

Mr Hook currently volunteers at Council's Information Centre and works at the Community Nursery at Pennant Hills.

Stephen Ledger

Stephen Ledger is a resident of Thornleigh with qualifications in drafting and architecture. He has been involved in architecture since 1969 and is a registered architect with the RAIA. He maintains an interest in local architectural history and heritage and is currently involved in heritage projects at Millers Point and Glebe. Since 1994, Mr Ledger has been involved with various Council committees and working parties including the Local Approval Review Program, the previous Housing Strategy Review Steering Committee (Stage 1) and the Environment Policy Committee. He was also consulted on past projects in respect to LEPs

and DCPs. As a member of the Hornsby Chamber of Commerce, Mr Ledger also represented the Chamber on Council's Local Agenda 21 Committee.

Mr Ledger operates Stephen Ledger and Associates Architects and is a Director of Archipract Pty Ltd.

Roy Lucas

Roy Lucas is a resident of St Ives and has extensive experience in the building industry within the private sector and in academia. He has a Bachelor of Science Degree, a Diploma in Building (Hons), a Diploma of Architecture and an Associate Diploma in Valuation. He has in excess of sixty years experience in the practical construction, renovation and restoration of the various period styles and materials covering both commercial and residential properties. In the later part of his career, Mr Lucas also became involved in lecturing in construction technology and in the identification of the age of buildings. He is a co-presenter on the Institute of TAFE's series of videos "The Age of Buildings" and author of the "The Age of Buildings" learning guides for TAFE Diploma of Valuation.

Mr Lucas maintains contact with the building industry as an Examiner for the Builders' Licensing Board and as a Judge for The Excellence of Building with the Master Builders' Association NSW.

Ross Walker

Ross Walker is a resident of Beecroft with tertiary qualifications in surveying, town planning and environmental studies. He has forty years experience in property related disciplines within the Federal and State governments. For the past 20 years he has been actively involved in the property management of State government heritage assets, including direct involvement in the preparation and project management of Conservation Management Plans for heritage significant state government assets, including Sydney Harbour Bridge. Currently Mr Walker is managing the Roads and Traffic Authority's (RTA) property disposal program which requires investigation of land use matters including heritage. He also provides property advice on land management matters for RTA officers state-wide and has a role on the RTA's Heritage Committee as property advisor.

Mr Walker has been nominated by the Beecroft Cheltenham Civic Trust to represent the Trust on the Committee.

Evaluation/Recommendation

Council has received a number of impressive nominations for the vacancy of Voluntary Technical Specialist on the Heritage Advisory Committee. Each of the applicants has outlined individual technical expertise, experience and interests that would add significant value to the Committee.

Margaret Desgrand's submission demonstrates sound technical expertise as an architect with specialist heritage qualifications and experience with both the practical and policy aspects of heritage conservation. Her 30 years of work experience in the design, construction and management of projects involving heritage assets including in state government in the Government Architect's Branch, in the private sector and in local government at the NSW Heritage Office would assist in the assessment of development applications affecting heritage items and heritage conservation areas, educating the community on the importance of heritage conservation and making recommendations for financial assistance to conserve items

of heritage significance. Accordingly, it is recommended that Council invite Margaret Desgrand to participate on the Heritage Advisory Committee as a technical specialist.

TRIPLE BOTTOM LINE SUMMARY

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

CONCLUSION

The Heritage Advisory Committee's Constitution identifies that the Committee should consist of eleven members, two of which are technical specialist. One of the technical specialists has resigned. Accordingly, in November – December 2009, expressions of interest were invited from suitably qualified and experienced members of the public for the vacant position on the Committee. Letters were sent to known industry groups and an advertisement was placed in the local press.

Seven submissions have been received. The submissions have been evaluated by Council's Town Planning Services Branch on the basis of relevant professional experience in heritage matters. Margaret Desgrand is recommended as the preferred voluntary technical specialist for the Committee on the basis of her qualifications and heritage experience.

RECOMMENDATION

THAT:

1. Margaret Desgrand be invited to participate on the Hornsby Shire Advisory Committee as a voluntary technical specialist.
2. Submitters be advised of Council's resolution and thanked for their interest in the matter.

JAMES FARRINGTON
Manager - Town Planning Services
Planning Division

SCOTT PHILLIPS
Executive Manager
Planning Division

Attachments:

1. Advertisement Seeking Expressions of Interest
2. Nominations: Expressions of Interest

File Reference: F2009/00088
Document Number: D01334555

7 KU-RING-GAI AND HORNSBY SUB-REGIONAL EMPLOYMENT STUDY - REVIEW OF SUBMISSIONS

EXECUTIVE SUMMARY

The *Ku-ring-gai and Hornsby Subregional Employment Study* was prepared by SGS Economics and Planning and aims to ensure local employment lands strategies facilitate opportunities for the provision of an additional 13,500 jobs within the Subregion by the year 2031 as required by the *Metropolitan Strategy*. The primary objective of the *Study* is to develop a strategy for zoning, land uses and controls for employment lands that is consistent with the hierarchy of commercial centres under the *Metropolitan Strategy* and the State Government's *Standard Instrument*.

This report reviews submissions received in response to the exhibition of the *Employment Study*, which includes key observations and recommendations concerning employment lands within the North Subregion. Six submissions were received. The key issues raised in submissions are addressed in this report.

In accordance with an agreement with the Department of Planning (DOP), SGS was engaged in March 2009 to undertake further investigations in respect of the Dural Service Centre (DSC). This report also presents the findings of the *Dural Service Centre Study*.

It is recommended that Council endorse the general principles and recommendations of the *Employment Study* (as amended) and the findings of the *DSC Study* and progress the actions outlined in this report including:

- a) progression of equivalent *Standard Instrument* zone translations and land use recommendations for centres and employment lands as part of Council's Comprehensive Local Environmental Plan;
- b) identification of an enterprise corridor at Pennant Hills, Thornleigh and Waitara through the introduction of the B6 (Enterprise Corridor) zone along sections of Pennant Hills Road and Pacific Highway;
- c) introduction of a B2 (Local Centre) zone within part of the DSC to facilitate development of additional commercial and retail floor space;
- d) inclusion of *vehicle sales or hire premises* and *bulky goods retailing* as permissible uses within the IN2 (Light Industrial) zoned area of the DSC; and
- e) progression of planning studies for the Epping Town Centre, Hornsby Town Centre, Waitara and Thornleigh as part of Council's Strategic Planning Program.

PURPOSE

The purpose of this report is to review submissions received in response to the exhibition of the *Employment Study* and present the findings of the *Study*. This report also seeks Council's endorsement for the progression of the recommendations of the studies.

BACKGROUND

At its meeting on 15 October 2008, Council considered Executive Manager's Report No. PLN199/08 presenting the outcome of discussions with the DOP concerning progression of the *Employment Study*. The Report noted the endorsement of the exhibition of the *Study* by the DOP subject to an addendum requiring progression of additional work for the DSC. Council resolved to progress the exhibition of the *Study*, including the addendum endorsed by the DOP.

In accordance with Council's resolution, the *Employment Study* was exhibited for community and industry comment for a period of three months. Six submissions were received in the period to 13 February 2009.

In accordance with the agreement with the DOP, following exhibition of the *Employment Study*, SGS was engaged to undertake further investigations in respect of recommendations for the DSC including an analysis of the following:

- a) the amount of retail and commercial floorspace appropriate to support the DSC functioning at full capacity;
- b) the amount of retail and commercial floorspace which could be supported by the DSC without impacting on the role and function of Round Corner;
- c) the amount of office floor space appropriate for the DSC commensurate with similar centres;
- d) the appropriateness of permitting *vehicle sales or hire premises* and *bulky goods retailing* as permissible uses within the DSC; and
- e) the strategies contained within the Hills Council's Draft Employment Lands and Centres Directions. Specifically, the constraints and opportunities provided by Round Corner in respect of existing and future functions within the DSC.

On 19 November 2009, the findings of the *DSC Study* were presented to the Dural Service Centre Review Working Party. The Working Party agreed to endorse the recommendations of the *DSC Study* and that the matter should be reported to Council.

DISCUSSION

This report discusses the *Employment Study* and the findings of the *DSC Study*. This report also discusses submissions received in response to the public exhibition of the *Employment Study*.

Ku-ring-gai and Hornsby Subregional Employment Study

Hornsby and Ku-ring-gai Councils received funding from the DOP to assist with the preparation of the *Employment Study* and entered into a Memorandum of Understanding which outlines the project plan and terms and conditions of the funding. The *Employment Study* was prepared by SGS Economics and Planning and has been overseen by a working party comprised of Council officers and Councillors from Ku-ring-gai and Hornsby Councils and representatives from the DOP.

The main aim of the *Employment Study* is to ensure local employment lands strategies facilitate opportunities for the provision of an additional 13,500 jobs within the Subregion by the year 2031 as required by the *Metropolitan Strategy*. The primary objective of the *Employment Study* is to develop a strategy for zoning, land uses and controls for employment lands that is consistent with the hierarchy of commercial centres under the *Metropolitan Strategy* and the State Government's *Standard Instrument*.

Dural Service Centre Study

The *Employment Study* recognizes that the DSC has a mixed industrial and local service function. Further, there is no zone under the *Standard Instrument* that, either through its objectives or compulsory permissible land uses, reflects the current range of land uses permissible under the current Business E (Service Centre) zoning. The recommended zoning strategy under the *Employment Study* is to apply the IN2 (Light Industrial) zone. However, to introduce some additional variety of local service uses, the *Employment Study* recommends that part of the Centre could be zoned B2 (Local Centre). DOP representatives have affirmed the Department's support for the application of the IN2 (Light Industrial) zone, which is considered appropriate given the role and function of the Centre. However, DOP representatives have previously raised concerns with the *Employment Study* in respect of its recommendations relating to the application of a business zoning to the Centre.

In endorsing the exhibition of the *Employment Study*, the DOP only indicated its support for a small restricted area within the DCS to be zoned to allow for a wider range of retail and commercial land uses to service the needs of the immediate local area. At a meeting with DOP representatives in September 2008, it was agreed that following exhibition of the *Employment Study*, further investigations should be undertaken to demonstrate that any small scale retail and commercial uses within the Centre would not impact on the role and function of Round Corner.

In accordance with the agreement with the DOP, following exhibition of the *Employment Study*, SGS was engaged to undertake further investigations concerning the DSC. The *Dural Service Centre Study* (copy attached) confirms that an additional 2,251sqm of retail floor space could be introduced within the DSC without significant or "critical" impact on turnover at Round Corner. The *DSC Study* also confirms that \$7,092,543 of expenditure is available within the DSC catchment for distribution at the lower end of the centres hierarchy. This expenditure translates into 1,324sqm of additional retail floor space. The introduction of this amount of floorspace within the *DSC Study* is below the "critical" level determined by the *DSC Study* at which impact on trading at Round Corner is significant.

The *DSC Study* also identifies that the DSC has sufficient commercial floor space to support the catchment relative to comparable centres within the Sydney Region. However, when ancillary office activity is excluded from the analysis, the *DSC Study* notes that additional local office floor space provision is appropriate relative to comparable centres.

Additional commercial analysis undertaken by SGS as part of the *DSC Study* determines the mean level of commercial floor space within comparable centres relative to retail floor space. Across comparable centres, a mean value of 2,600sqm of commercial floor space is identified relative to 1,324sqm of retail floor space and a mean value of 4,500sqm of commercial floor space is found to be relative to 2,251sqm of retail floor space. On this basis, 4,500sqm of additional office floor space could be developed within the DSC commensurate with comparable centres, if an additional 2,251 sqm of retail floor space was introduced into the Centre.

The *DSC Study* confirms that The Hills Shire Council's *Centres Direction* supports the development of Round Corner as a Town Centre within the metropolitan centres hierarchy. The *DSC Study* indicates that the expansion of Town Centre retailing activity at Round Corner may place pressure on existing bulky goods activities within Round Corner to relocate from the Centre, in response to pressure being placed on the price of commercial floor space. The DSC is identified as being well placed to accommodate *bulky goods retailing* in a support role for Round Corner.

The suitability of *vehicle hire and sales* within DSC was also reviewed. The *DSC Study* states that *vehicle hire and sales* would not compete with town centre functions or expenditure at Round Corner.

In summary, an additional 2,251sqm of retail floorspace and 4,500sqm of commercial floorspace supported by the introduction of *vehicle hire and sales, bulky goods retailing*, would assist in broadening local retail and professional services within the Centre without "critical" impact on turnover at Round Corner.

Resolve: It is recommended that the following findings be progressed in respect of the Dural Service Centre as part of preparation of Council's Comprehensive LEP:

- a) Introduction of a B2 (Local Centre) zone within part of the Centre to facilitate opportunity for the development of additional retail and commercial floorspace within the Centre.
- b) The inclusion of *vehicle sales or hire premises* and *bulky goods retailing* as permissible uses within the IN2 (Light Industrial) area of the DSC.

Exhibition and Review of Submissions

In accordance with the Consultation Strategy adopted by Council, the *Employment Study* was exhibited from 13 November 2008 to 13 February 2009. Advertisements were placed in local newspapers and on the Council website. The *Employment Study* was also displayed at the Council Administration Centre and libraries. Six submissions have been received including submissions from The Hills Shire Council and Pennant Hills District Civic Trust. The submissions provide specific comments on the zone recommendations for the DSC, Carlingford and Wisemans Ferry and also provide comment regarding the need for a review of the Pennant Hills Masterplan. A summary of submissions is attached. The issues raised in submissions are addressed below.

(i) Dural Service Centre

The *Employment Study* recognizes that the DSC has a mixed industrial and local service profile. Further, there is no zone under the *Standard Instrument* that reflects the current range of land uses permissible under the current Business E (Service Centre) zoning. The recommended zoning strategy under the *Employment Study* is to apply the IN2 (Light Industrial) zone and to introduce some additional variety of local service uses with the introduction of a B2 (Local Centre) zone in a restricted area.

Submissions: Four submissions support the *Employment Study* recommendation for the introduction of a B2 zoning in conjunction with the IN2 (Light Industrial) zone for the DSC. Two submissions provide a detailed assessment of the employment opportunities provided by the DSC in terms of relevant location criteria and the opportunities the down turn in industrial demand forecasting provides for alternate employment opportunities. The submissions detail

the employment and service benefits to the local community and the improved economic viability of the DSC that would result from the introduction of a IN2 (Light Industrial) zone within the Centre. The submissions reference jobs closer to home, a stimulated local economy and potential for additional service industries such as medical centres.

The Hills Shire Council's submission advises that it has undertaken a review of the recommendations for the DSC having regard to The Hills Shire Council's draft *Centres and Employment Directions* (now adopted). The Council advises that any retail zoning at the DSC could potentially undermine the centres hierarchy identified for the The Hills Shire, particularly the operation of Round Corner as a Town Centre.

Comment: The *DSC Study* analyses the potential impact of retailing activity within the DSC on other centres and concludes that 2,251sqm of additional retail activity could be progressed within the DSC without "critical" impact on Round Corner. The *DSC Study* also indicates that the expansion of retailing at Round Corner may place pressure on existing bulky goods activities to relocate from the Centre, in response to pressure being placed on the price of commercial floor space. A copy of the *DSC Study* has been provided to the The Hills Council and the Department of Planning.

Resolve: It is recommended that a B2 (Local Centre) zone be introduced at DSC as part of Council's Comprehensive LEP to facilitate development of 2,251sqm of additional retail floorspace and 4,500sqm of additional commercial floorspace.

(ii) Carlingford Court

The *Employment Study* identifies business lands at Carlingford as a "stand alone shopping centre", consistent with the provisions of the draft *North Subregional Strategy*. The Study recommends a B2 (Local Centre) zone and B5 (Business Development) zone be progressed for business lands within Hornsby Shire at Carlingford as part of Council's Comprehensive LEP.

Submissions: The Hills Shire Council is progressing the development of the Carlingford Precinct as part of its housing strategy to meet its dwelling target under the *Metropolitan Strategy*. The Precinct will support in excess of 3,000 additional dwellings, convenience retail, medical centres, commercial and support services.

The Hills Shire Council's submission advises that the retail analysis completed as part of its master planning of Carlingford (within its local government area) identifies Carlingford as a Town Centre. The Council confirms that it intends to progress business zonings for the Centre on this basis and that the Town Centre designation has regard to accessibility to Carlingford Railway Station, strategic bus corridors and community uses to serve the surrounding populations of the The Hills, Hornsby and Parramatta local government areas. The submission requests that further consideration be given to the relationship of Carlingford Court with existing and proposed development within the The Hills Shire Council in determining the centre typology for Carlingford.

Comment: Business lands within Carlingford are divided between Hornsby, The Hills and Parramatta local government areas. Notwithstanding the "stand alone shopping centre" typology identified in the *North Subregional Strategy* and the *Employment Study*, the B2 (Local Centre) and B5 (Business Development) *Standard Instrument* zone recommendations under the *Study* would be consistent with the Town Centre typology within the The Hills Shire. Further consultation would be undertaken with the The Hills Shire Council and

Parramatta Council in the progression of land use zonings as part of Council's Comprehensive LEP.

Resolve: It is recommended that no amendment be made to the *Employment Study* as a result of the submission commenting on the centre typology for Carlingford.

(iii) Wisemans Ferry

The *Employment Study* proposes the application of the B1 (Neighbourhood Centre) zone in respect of the Shire's Neighbourhood Centres. Although the business lands at Wisemans Ferry are identified under the *Employment Study* as a Neighbourhood Centre, the *Study* also recommends that consideration be given to applying a B2 (Local Centre) zone to remote Neighbourhood Centres such as Wisemans Ferry, to facilitate a broader range of land uses.

Submissions: The Hills Shire Council advises that The Hills Shire *Centres Direction* identifies Wisemans Ferry as a rural centre and identifies opportunities for improving the attractiveness of the Centre. The submission also advises that The Hills Shire *Employment Direction* recognises tourism as a strong niche industry for the rural parts of the Shire and proposes investigation of opportunities to create Wisemans Ferry as a tourist precinct. The Council indicates that it proposes to reflect this intention by pursuing an appropriate zone that will facilitate a viable tourist precinct.

The submission suggests that consistency of zoning and zoning objective across the LGA boundary will be more likely to facilitate a viable tourism precinct that contributes to the attractiveness and economic growth of area.

Comment: The B1 (Neighbourhood Centre) and B2 (Local Centre) zones under the *Standard Instrument* both permit a range of activities that facilitate tourism. Further consultation would be undertaken with The Hills Shire Council in the progression of land use zonings as part of Council's Comprehensive LEP.

Resolve: It is recommended that no amendment be made to the *Employment Study* as a result of the submission commenting on zoning for Wisemans Ferry.

(iv) Pennant Hills

The *Employment Study* identifies Pennant Hills as a village and confirms that it accounts for a significant share of the total office floor space in the Shire. The *Study* provides broad guidance regarding the spatial application of the B2 (Local Centre), B5 (Business Development) and B6 (Enterprise Corridor) zones within the Centre. The *Study* recommends further on ground analysis to determine the optimal utilization of the *Standard Instrument* zones.

The *Study* identifies that the Centre has a shortfall of 211 sqm of commercial/retail floorspace to accommodate forecast demand to 2031. However, the *Study* recommends that the controls not be adjusted for the Centre given the insignificant nature of the shortfall.

Submissions: Pennant Hills District Trust requests that Council undertake master planning to progress the recommendations of the *Study* for Pennant Hills including consideration of issues of commuter parking in the Centre, the viability of the shopping centre, the impact of Pennant Hills Road in dividing the Centre and the amalgamation of land within the locality for residential development.

The submission also questions the floor space gap presented in Table 21 (Pg. 139) of the *Employment Study*, in respect of the recommendations presented for Pennant Hills in the Executive Summary (Pg. 26)

Comment: At its meeting on 19 April 2006, Council considered Executive Manager's Report No. PLN98/06 advising of feedback received at a workshop with key stakeholders to discuss preliminary analysis plans prepared to facilitate the provision of shop top housing within the Pennant Hills Commercial Centre. The report noted that issues raised regarding environmental, social, transport and economic problems currently being experienced within the Centre, were beyond the brief of the project to review height controls to encourage the provision of shop top housing.

The report acknowledged that a comprehensive planning study of the Pennant Hills Commercial Centre may identify opportunities to address issues currently being experienced within the Centre. However, any comprehensive review should be considered in the context of the State Government's *Metropolitan Strategy* and *North Subregional Strategy* which include specific job and dwelling targets for the Shire. Council resolved not to proceed with the review of the Pennant Hills Masterplan until the release of targets under the *Metropolitan Strategy* from the DOP. Accordingly, the masterplan review was deferred from the Strategic Planning Programme.

The initial employment floor space gap analysis undertaken by SGS determined Pennant Hills to have a shortfall of 7,104sqm. Further analysis of all the Shire's employment lands in respect of the 2006 – 2031 period having regard to the subregional housing and employment targets, the existing economic profile, existing and planned population concentrations, proximity to magnet intuitions and access to infrastructure and services, results in a readjustment between centres. As a result of this adjustment, SGS determined Pennant Hills to have a shortfall of 211 sqm of employment floor space to accommodate future demand in the 2006 – 2031 period and recommends not adjusting the land use controls at the Centre given the small scale of this shortfall.

The *Employment Study* does not recommend or provide justification for a review of the Pennant Hills Masterplan to address floor space potential within the Centre. However, should Council be of the view that a comprehensive planning study of the Pennant Hills Commercial Centre should be undertaken to address issues currently being experienced within the Centre, such as parking, urban design, viability of development, such a *Study* should be included on Council's Strategic Programme. The timing of any *Study* should be considered in the context of other projects currently being progressed in accordance with the Programme.

Resolve: It is recommended that no amendment be made to the *Employment Study* as a result of the submission commenting on Pennant Hills.

(v) *Resource Land*

The objectives of the *Employment Study* identify that the focus of the *Study* is employment lands which comprise commercial and industrial lands.

Submissions: The Hills Council advises that The Hills Council's draft *Employment Directions* (now adopted) seeks to identify significant rural resources lands and mechanism to achieve their protection. The *Direction* proposes the creation of a new zone to recognise the mining operations carried out under *Sydney Regional Environmental Plan 9 – Extractive Industry*. The RU1 (Primary Production) zone in the *Standard Instrument* encourages

stainable primary industry production by maintaining and enhancing the natural resource base.

Comment: The consideration of strategies for rural lands is outside the scope of the *Employment Study*. Hornsby Council engaged a consultant to assist in the progression of a separate project to prepare planning controls for the rural areas of the Shire that are consistent with the State Government's *Standard Instrument*. The findings of the *Rural Lands Study* and recommendations of the *Rural Resource Lands Study* are being reviewed as part of the preparation of Council's Comprehensive LEP.

Resolve: It is recommended that Council continue to consult with The Hills Shire Council and the DOP regarding opportunities for the Councils to progress cohesive standard template zones in the preparation of Council's Comprehensive LEP.

PROGRESSION OF RECOMMENDATIONS AND FINDINGS

The *Employment Study* includes key observations and recommendations in respect of each of the employment zones within the Subregion. The *Study* confirms the hierarchy of centres in respect of the *Metropolitan Strategy* and the draft *North Subregional Strategy* and provides strategic direction for the future role and function of employment lands, including the application of zones from the State Government's *Standard Instrument*. The key directions are as follows:

- a) Reinforce the role of the Hornsby Town Centre as the major town centre in the Subregion by preserving a commercial core and identifying adjacent business development areas to facilitate future growth in the Centre.
- b) Strengthen the role of Epping as a Town Centre by increasing opportunities for higher order office and retail activities.
- c) Strengthen the local service role of Villages, Small Villages and Neighbourhood Centres through a reduction in higher order retail and employment uses.
- d) Confirm the hierarchy of centres under the draft *North Subregional Strategy* through the application of *Standard Instrument* zones and land uses.
- e) Protect existing strategic industrial centres and promote the centres as a competitive place for industrial activity.

Following finalisation of the *Employment Study*, Council will be appropriately placed to progress the recommendations of the *Study* and the findings of the *Dural Service Centre Study*, including consideration as part of the preparation of the *Hornsby Comprehensive LEP* and the review/preparation of masterplans for specific centres. These tasks are discussed below.

Comprehensive LEP

Should Council adopt the recommendations of the *Employment Study* and the findings of the *Dural Service Centre Study*, it is appropriate that they be considered in the preparation of Council's Comprehensive LEP as follows:

- **Standard Instrument Zones:** Progression of equivalent *Standard Instrument* zones for the Shire's industrial and business lands, as well as relevant special use zones where required to facilitate the deliver of infrastructure.
- **Land Use Tables:** Progression of recommended permissible and prohibited land uses for each zone, as part of the translation of existing land use tables under the Hornsby Shire LEP.
- **Enterprise Corridor:** The identification of an enterprise corridor at Pennant Hills, Thornleigh and Waitara through the introduction of the B6 (Enterprise Corridor) zone along sections of Pennant Hills Road and Pacific Highway. The enterprise corridors would accommodate businesses that need high exposure or low cost office space for new enterprises.
- **Dural Service Centre B2 zone:** The introduction of a B2 (Local Centre) zone within part of the Centre to facilitate development of additional commercial and retail floor space.
- **Dural Service Centre IN2 permissible uses:** The inclusion of *vehicle sales or hire premises* and *bulky goods retailing* as permissible uses within the IN2 (Light Industrial) area of the DSC.

Planning Studies/Masterplan Reviews

Longer term actions arising from the *Employment Study* should be included as separate projects on Council's Strategic Planning Programme as follows:

- **Hornsby Town Centre Controls Review:** The review should respond to the *Study* recommendations regarding the dedication of a commercial core within the Town Centre and consideration of a business development precinct in Jersey Street. The review should also address the recommendation regarding the development of a business development precinct north of Linda Street. This review will inform the Hornsby Town Centre Control Review which is a current project listed in Council's Management Plan and has been incorporated into the Strategic Plan Programme to be considered by Council at its meeting on 3 March 2010 (Executive Manager's Report No. PLN11/10).
- **Thornleigh Business Lands Controls Review:** The review should identify opportunities to address the supply shortfall of 9,000sqm of employment generating lands identified under the *Employment Study*.
- **Waitara Controls Review:** The review should identify opportunities to address the supply shortfall of 10,000sqm of employment generating lands identified under the *Employment Study*.

The following study is currently included on Council's Strategic Planning Programme and will be informed by the recommendations of the *Employment Study*:

- **Epping Town Centre Study:** Council has endorsed the *Epping Town Centre Study Planning Proposal* for the purposes of seeking "gateway" determination from the DOP to progress the preparation of an amending LEP. Preparation of the *Epping Town Centre Study* will include consideration of the key findings and

recommendations of the *Employment Study*. The amending LEP will be implemented when Council prepares its new Comprehensive LEP.

CONSULTATION

Preparation of the *Employment Study* has been overseen by a working party comprised of Council officers and Councillors from Ku-ring-gai and Hornsby Councils and representatives from the DOP. The Dural Service Centre Review Working Party was consulted in respect of the *Employment Study* and the *DSC Study*. The *Employment Study* has been exhibited in accordance with Council's adopted Consultation Strategy including advertisements in local newspapers, Councils website and displays at Council's Administration Centre and libraries. Ku-ring-gai Council received no submissions on the *Study* and has progressed its recommendations as part of its Town Centres LEP and is progressing other recommendations in the preparation of its Comprehensive LEP.

FINANCIAL

The Minister for Planning approved a contribution of \$40,000 towards the preparation of the *Subregional Employment Study*. The 2008- 2009 Annual Operating Plan for the Town Planning Services Branch included \$20,000 of funding in the consultant budget to progress the project. Ku-ring-gai Council also allocated \$20,000 to the *Study*. These monies have now been expended.

POLICY

At its meeting on 19 September 2007, Council considered Executive Manager's Report No. PLN231/07 detailing progression of a draft LEP for the DSC, to include permitting '*business premises*' and '*motor showrooms*' and expanding the definition of '*service shops*' to include uses such as dry cleaners, grocery shops, hairdressers and liquor shops in the range of permissible uses in the Centre. The report confirms DOP advice that any review of land uses permissible within the DSC should be considered as part of the *Subregional Employment Study* and that Council not proceed with the draft LEP to amend the range of permissible uses in the Business E (Service Centre) zone.

Council resolved (in part) to defer progression of the preparation of a draft LEP to amend the range of permissible uses in the Business E (Service Centre) until Council has the opportunity to review the findings of the *Subregional Employment Study*. As detailed previously, it is recommended that Council progress the findings of the DSC Study as part of the preparation of Council's Comprehensive LEP, including the introduction of opportunities for additional retail/commercial floor space and the inclusion of *vehicle hire and sales* and *bulky goods retailing*. Accordingly, it is recommended that Council resolve not to progress the earlier draft LEP for DSC.

TRIPLE BOTTOM LINE SUMMARY

Triple Bottom Line is a framework for improving Council decisions by ensuring accountability and transparency on social, environmental and economic factors. It does this by reporting upon Council's strategic themes. Triple Bottom Line considerations relevant to the *Study* were addressed in Executive Manager's Report No. PLN130/08.

CONCLUSION

The *Ku-ring-gai and Hornsby Subregional Employment Study* was exhibited for community and industry comment for a period of three months. Six submissions were received in the period to 13 February 2009. The submissions provide specific comments on the zone recommendations for the Dural Service Centre, Carlingford and Wisemans Ferry and provide comment regarding the need for review of the Pennant Hills Masterplan. The issues raised in submissions are addressed in this report.

Following completion of the exhibition, SGS was engaged to undertake further investigations in respect of the DSC in accordance with an agreement with the DOP. This report also presents the findings of the *Dural Service Centre Study*.

It is recommended that Council endorse the general principles of the *Employment Study* and progress actions to implement the recommendations of the *Employment Study* findings of the *Dural Service Centre Study*.

RECOMMENDATION

THAT:

1. The *Ku-ring-gai and Hornsby Subregional Employment Study* and *Dural Service Centre Study* be adopted.
2. The key principles of the *Ku-ring-gai and Hornsby Subregional Employment Study* be endorsed as follows:
 - 2.1 The role of the Hornsby Town Centre as the major town centre in the Subregion be reinforced by preserving a commercial core and identifying adjacent business development areas to facilitate future growth in the Centre.
 - 2.2 The role of Epping as a Town Centre be strengthened by increasing opportunities for higher order office and retail activities.
 - 2.3 The local service role of Villages, Small Villages and Neighbourhood Centres be strengthened through a reduction in higher order retail and employment uses.
 - 2.4 The hierarchy of centres under the draft *North Subregional Strategy* be confirmed through the application of *Standard Instrument* zones and land uses.
 - 2.5 Existing strategic industrial centres be protected and promoted as a competitive place for industrial activity.
3. The recommended actions of the *Ku-ring-gai and Hornsby Subregional Employment Study* be endorsed for progression as part of the Hornsby Comprehensive Local Environmental Plan as follows:

- 3.1 Progression of equivalent *Standard Instrument* zones for the Shire's industrial and business lands, as well as relevant special use zones where required to facilitate the delivery of infrastructure.
 - 3.2 Progression of recommended permissible and prohibited land uses for each zone, as part of the translation of existing land use tables under the Hornsby Shire Local Environmental Plan.
 - 3.3 Identification of an enterprise corridor at Pennant Hills, Thornleigh and Waitara along sections of Pennant Hills Road and Pacific Highway.
 - 3.4 Introduction of a B2 (Local Centre) zone within part of the Dural Service Centre to facilitate additional commercial and retail floor space.
 - 3.5 Inclusion of *vehicle sales or hire premises* and *bulky goods retailing* as permissible uses within the IN2 (Light Industrial) zoned area of the Dural Service Centre.
4. Council's Strategic Planning Programme 2010/2011 include the following projects to commence in July 2011:
 - 4.1 Thornleigh Floor Space Ratio Controls Review; and
 - 4.2 Waitara Floor Space Ratio Controls Review.
 5. Council not progress the preparation of the draft LEP to amend the range of permissible uses in the Business E (Service Centre) zone, prepared in response to the submission from Dural Service Centre Business Group.
 6. Submitters be advised of Council's resolution.

JAMES FARRINGTON
Manager - Town Planning Services
Planning Division

SCOTT PHILLIPS
Executive Manager
Planning Division

Attachments:

1. Dural Service Centre Study
2. Submissions - Summary of Issues

File Reference: F2007/00599-03
Document Number: D01338658

8 STRATEGIC PLANNING PROGRAMME REVIEW - 2010

EXECUTIVE SUMMARY

At its meeting on 17 December 2008, Council adopted the current Strategic Planning Programme. The majority of projects scheduled to be completed under the Programme by December 2009 have been completed or are nearing completion.

An annual review of the Programme is required to ensure it is consistent with Council's strategic planning priorities. An amended Strategic Planning Programme is attached for Council's consideration.

PURPOSE

The purpose of this report is to review the Strategic Planning Programme and seek endorsement of a revised Programme for 2010.

BACKGROUND

The Town Planning Services Branch within the Planning Division of Council is responsible for strategic town planning initiatives in accordance with the Strategic Planning Programme. The Programme is adopted by Council and sets out the major projects of the Branch.

At its meeting on 17 December 2008, Council considered Executive Manager's Report No. PLN246/08 on the Strategic Planning Programme and resolved that:

- 1. The 2009/2010 Strategic Planning Programme attached to Executive Manager's Report No. PLN246/08 be adopted.*
- 2. A six monthly report be prepared for Councillors providing an update on the Strategic Planning Programme.*
- 3. A workshop with Councillors be conducted to discuss the 2009/2010 Strategic Planning Programme and Council priorities for strategic planning over the current Council term.*

In accordance with Council's resolution, on 10 March 2009 a workshop with Councillors was conducted to discuss the Strategic Planning Programme. Councillors noted the projects currently being progressed in accordance with the Programme and the process to incorporate new projects on the Programme.

Executive Manager's Report No. PLN61/09 was presented to Council at its meeting on 5 August 2009. The report provided Council with an update on the status of strategic planning projects. Council resolved that:

- 1. Council note the contents of Executive Manager's Report No. PLN61/09 concerning the status of Strategic Planning Projects currently being undertaken*

by the Town Planning Services Branch in accordance with the Strategic Planning Programme.

2. *Council consider the priority of Strategic Planning Projects in the December review of the Strategic Planning Programme.*

On 10 February 2010, a workshop was conducted with Councillors to provide an update on planning matters including the progression of the Comprehensive LEP and DCP, Waterways Review Planning Proposal and Galston Village Masterplan Review. Councillors noted that the Department of Planning (DOP) has advised that the Department will assist Council in the delivery of the Comprehensive LEP for Hornsby Shire by June 2011, consistent with the timeframe for prioritised Councils. Accordingly, it was agreed that the recommendations of the Waterways Review should be progressed as part of the Comprehensive LEP and the existing Galston Village Masterplan should be updated to include recent developments and be incorporated into Council's Comprehensive DCP.

A summary of the projects under the current Programme is attached (Attachment A). This report enables Council to determine the priorities for strategic planning over the current Council term. The Programme is reviewed annually to enable Council to reconsider priorities as issues evolve and to provide Council with an update on the achievements over the preceding year.

DISCUSSION

The remainder of this report considers the current Strategic Planning Programme, other projects and a revised Programme.

2009 Strategic Planning Programme

The current Strategic Planning Programme is divided into the following sections:

Local Environmental Plans: Two LEP projects (addressing ten planning issues) were identified for completion in 2009. The preparation of a Comprehensive LEP for Hornsby Shire is also identified to be progressed over the next two years.

Development Control Plans: One DCP project was identified for completion in 2009. The preparation of a Comprehensive DCP for Hornsby Shire is also identified to be progressed over the next two years.

Studies: Three studies were identified for completion in 2009, with a further project scheduled for completion in 2010.

Miscellaneous: Four miscellaneous projects were identified for completion in 2009. These projects are annual projects, such as Heritage Week which occurs in April of each year.

Management Plan Projects: The Programme incorporates two projects identified in Council's strategic intent document. The projects were identified to be progressed in 2009.

New Projects: Nine new projects were included on the Strategic Planning Programme to be commenced in 2009. However, no projects were identified for completion in 2009.

The following projects under the current Programme have been completed:

- Amendments LEP (2007) which:
 - rezoned St Judes carpark;
 - rezoned Landcom sites;
 - permits a pharmaceutical facility at Moores Road; and
 - rezoned a Department of Health site at Pennant Hills.
- Amendments LEP (2008) which:
 - rezoned property No. 5 Thornleigh Street;
 - implemented the recommendations of the Open Space Land Acquisition Review;
 - rezoned property No. 122X Berowra Waters Road;
 - rezoned Lot 100 DP 1053594 Pennant Hills Road;
 - rezoned properties Nos. 180-190 Pennant Hills Road; and
 - implemented the recommendations of the Foreshores Planning Provisions Review.
- Hornsby Quarry and Environs LEP and DCP (not progressed by Council);
- Business Lands DCP Amendments;
- River Settlements DCP Amendments; and
- Heritage Review Stage 4.

The following project is nearing completion:

- Ku-ring-gai and Hornsby Subregional Employment Study (a final report on the Study is included on the Business Paper for the Council meeting on 3 March 2010).

The following projects have been adopted for exhibition or have been exhibited:

- Amendments Planning Proposal (2009);
- Housing Strategy Planning Proposal; and
- Heritage Schedule DCP Amendments.

The other projects are in various states of preparation, exhibition or finalisation as summarised in Attachment A.

Projects Outside the Strategic Planning Programme

The Town Planning Services Branch has also undertaken a number of projects outside the Strategic Planning Programme, including:

- Reporting on the State Government's Inquiry into the NSW Planning Framework;
- Reporting on State Environmental Planning Policy (Exempt and Complying Development Codes) 2008 which implemented the NSW Housing Code;
- Advising Council of the process to seek local exclusions and variations from the Codes SEPP and outlining its implications for Hornsby Shire;
- Evaluating the proposed listing of the former school building at property No. 5 Chilcott Road, Berrilee as an item of local heritage significance;
- Reporting on the State Government's Metropolitan Development Programme process and the status of a rezoning submission for South Dural;

- Providing input, and assisting in, coordinating legal actions being progressed by Council concerning the acquisition of Hornsby Quarry; and
- Evaluating nominations for the vacant voluntary industry representative position on the Hornsby Shire Heritage Advisory Committee.

The Branch has also assisted other Divisions in completing projects, including:

- Biodiversity Planning Provisions Review - assist Environment Division;
- Asquith Pedestrian Study - assist Environment Division; and
- Flood Prone Land Mapping - assist Works Division.

Other Projects

A number of other projects have arisen as a result of Council resolutions, Councillor Strategic Planning Workshops, consideration of development applications or State Government initiatives. These projects should be incorporated into the Strategic Planning Programme and include:

- Local Development Contributions Plan;
- Hornsby Town Centre Controls Review; and
- Kangaroo Point Planning Proposal.

The timing of these projects will be required to be determined having regard to the priority of other projects.

Revised Strategic Planning Programme

A Revised Strategic Planning Programme has been prepared on the basis of this report and is attached for Council's consideration (Attachment B).

The DOP has advised that the Department will assist Council in the delivery of the Comprehensive LEP for Hornsby Shire by June 2011, consistent with the timeframe for prioritised Councils. A Comprehensive DCP for the Shire is also required to be prepared with the same timeframe. Accordingly, the Programme aims to prioritise projects that facilitate the preparation and timely delivery of Council's Comprehensive LEP and DCP. The major amendments to the current Programme include:

- Incorporating the preparation of a new Local Development Contributions Plan, Hornsby Town Centre Controls Review and Kangaroo Point Planning Proposal.
- Progressing the recommendations of the Waterways Review as part of Council's Comprehensive LEP. On 4 November 2009, Council resolved to defer a Planning Proposal to implement the recommendations of the Waterways Review for a workshop with Councillors. At a Councillor workshop on 10 February 2010, it was agreed that the Planning Proposal should not be progressed as a separate project and that the recommendations of the Waterways Review be incorporated into Council's Comprehensive LEP.
- Incorporating scheduled reviews of Council's DCP controls (including multi-unit housing, heritage, river settlements, access and mobility, tree preservation, and telecommunications) into the preparation of Comprehensive DCP.

- Progressing the Galston Village Masterplan DCP amendments as part of Council's Comprehensive DCP. At the Councillor workshop on 10 February 2010, it was noted that the majority of land within the Galston Commercial Centre has been developed in accordance with the existing Galston Village Masterplan. All options to amend the Masterplan have either been superseded by recent developments or are outside the scope of the Galston Village Masterplan Review and would require a new study. Therefore, the existing Masterplan should be updated to include recent developments and be incorporated into Council's Comprehensive DCP.
- Postponing Heritage Review Stage 5, the Wisemans Ferry Controls Review, Environmental Management Plan and Commercial and Industrial Sustainability Review to enable resources to be allocated to the progression of the new projects.

The completion of some projects has been delayed in response to community expectations or in an attempt to reach better planning solutions. For example, community feedback has assisted Council in the preparation of amendments to the Hornsby Shire Housing Strategy. After reviewing submissions, changes have been made to amend or remove precincts, or to propose new areas for rezoning. Exhibition of the amended Housing Strategy will commence on 15 March 2010.

The completion of the Ku-ring-gai and Hornsby Subregional Employment Study has been delayed as a consequence of input from the State Government. Following the exhibition period of the Employment Study, the DOP required that Council undertake further analysis of the implications of permitting a wider range of retail and commercial land uses within the Dural Service Centre to service the immediate area. A report on the exhibition of the Employment Study and Dural Service Centre Study has been prepared for consideration by Council at its meeting on 3 March 2010. The Report recommends additional projects be incorporated into the Programme to implement the findings of the Study.

Considerable staff resources have been allocated to progress the Epping Town Centre Study. Staff have assisted in the preparation of the Study Brief, prepared an application for funding under the State Government's Planning Reform Funds and drafted the Memorandum of Understanding between Hornsby and Parramatta Councils and the DOP for the Study. Progression of the Study was delayed to await the allocation of funding for the Study by the Department. To enable the Study to proceed, Council has subsequently resolved to contribute funds to supplement monies contributed by the Department.

The Hornsby Quarry and Environs Land Capability Study recommends the preparation of a draft LEP to rezone portions of the study area to permit concentrated residential development and reclassify parts of the site to operational land. Council resolved to deferred progression of the draft LEP to consider options for the site in view of an expression of interest process. Council has subsequently resolved to obtain approvals to enable filling the Quarry pit with virgin excavated natural material. Accordingly, it is appropriate that the Hornsby Quarry and Environs LEP and DCP projects be deleted from the Programme. It is recommended that projects relating to progressing legal actions and land filling be included on the Programme.

The timeline for each project provides an estimate of the time required to complete the project. It is not possible, nor appropriate, to pre-empt the findings of any study and the likely implications prior to its preparation, nor can Council always accurately predict the level of community interest in a project. Accordingly, the Programme is dynamic as the timeline can be impacted upon by additional consultation, the project being expanded or competing priorities. However, should Council consider amending the priority of projects on

the Programme, it should be mindful that a number of projects on the Programme (such as the Housing Strategy, Epping Town Centre Study and Comprehensive LEP and DCP) incorporate timeframes that are set by the State Government.

Town Planning Services Branch Resources

The Town Planning Services Branch comprises six Town Planners, a Cartographer, a Secretary and a Section 149 Certificate Coordinator. In addition to providing town planning services to Council, the Branch is also responsible for heritage conservation, production of 149 (zoning) certificates, cartography and some aspects of the geographic and land information systems.

As opportunities have arisen, staff from other branches within the Planning Division have been seconded into the Branch to increase the capacity of the Branch to fulfill its requirements under the Strategic Planning Programme.

POLICY

Some Council resolutions to progress strategic planning projects have been superseded by completed, or current, projects as follows:

- At its meeting on 3 September 2003, Council resolved to prepare a draft Tourism LEP to implement the recommendations of the Hornsby Tourism Planning Provisions Review. The progression of the draft LEP was delayed with the release of the Standard Instrument to enable the recommendations of the Review to be progressed as part of Council's Comprehensive LEP. Recommendations concerning bed and breakfast accommodation and short term accommodation were considered in the progression of Annual Amendments LEP (2008). The LEP has been gazetted with deferral of amendments relating to short term accommodation pending the outcomes of a review being undertaken by the DOP.
- Draft LEP (Amendment No. 84) for the establishment of the Mount Errington Heritage Conservation Area was forwarded to the DOP for gazettal on 23 April 2004. In 2004, the Department indicated its unwillingness to make draft LEPs relating to heritage conservation areas until the Department had undertaken a review of heritage conservation areas and determined its position in consultation with the then NSW Heritage Office.

In 2008, the Department advised Council that it should progress the draft LEPs as part of Council's Comprehensive LEP. In 2009, the Department advised that Council was not on the priority list and suggested that the amendments to the Heritage Conservation Area should be progressed using the new gateway process. Accordingly, on 4 November 2009, Council resolved to progress the Annual Amendments Planning Proposal (2009) which includes the expansion of the boundaries of the existing Hornsby West Side Conservation Area to include residential properties that contribute to the heritage significance of the *Conservation Area*. The Planning Proposal is currently on exhibition.

As the above projects have been, or are being, progressed as part of other projects on the Strategic Planning Programme, it is recommended that Council resolve not to progress the preparation of a draft Tourism LEP or the Hornsby West Side LEP (HSLEP amendment No. 84).

FINANCIAL

The Strategic Planning Programme requires financial resources for staff in the Town Planning Services Branch and for consultancy fees. The recommended Programme has been designed in accordance with the typical Town Planning Services Branch budget allocation, including salaries and consultant expenditure. The Programme is considered in the preparation of Annual Operating Plans. The Programme does not commit to expenditure over that typically provided in the budget. The financial implications of the individual projects are also reviewed and reported to Council as a component of the project.

The preparation of the Operating Plan for the Town Planning Services Branch for 2010/2011 includes \$150,000 in Planning Reform Funds which must be expended on consultancy fees to finalise the Hornsby Shire Housing Strategy (\$25,000) and *Epping Town Centre Study* (\$125,000). Under the terms and conditions of the Funds, these monies cannot be reallocated to progress alternative projects. Council has also resolved to commit \$100,000 in the Town Planning Services Budget to fund the balance of monies required to progress the *Epping Town Centre Study*.

TRIPLE BOTTOM LINE SUMMARY

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

CONCLUSION

Council at its meeting on 17 December 2008 adopted the current Strategic Planning Programme. The majority of projects scheduled to be completed under the Programme by December 2009 have been completed or are nearing completion.

An annual review of the Programme is required to ensure it is consistent with Council's strategic planning priorities. An amended strategic planning Programme is attached for Council's consideration.

RECOMMENDATION

THAT:

1. The 20010/2011 Strategic Planning Programme attached to Executive Manager's Report No. PLN11/10 be adopted.
2. The Galston Village Masterplan contained within the Rural Lands Development Control Plan be updated to include recent development approvals and incorporate relevant recommendations from the *Galston Village Masterplan Review* for incorporation into Council's Comprehensive Development Control Plan.
3. The Waterways Review Planning Proposal not be progressed as a separate project and that the recommendations of the *Waterways Review* be incorporated into Council's Comprehensive Local Environmental Plan.

4. Council not progress the following draft Local Environmental Plans:
- a draft Tourism LEP to implement the recommendations of the Hornsby Tourism Planning Provisions Review; and
 - HSLEP (Amendment No. 84) for the establishment of the Mount Errington Heritage Conservation Area;

as the subject of the draft Plans has been, or is being, progressed as part of other projects on the Strategic Planning Programme.

JAMES FARRINGTON
Manager - Town Planning Services
Planning Division

SCOTT PHILLIPS
Executive Manager
Planning Division

Attachments:

1. A - Summary of Projects
2. B - Proposed 2009-2010 Strategic Planning Programme

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