



*the bushland shire*

*creating a living environment*

# **BUSINESS PAPER**

## **PLANNING MEETING**

**Wednesday, 2 June 2010  
at 6.30pm**

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**QUESTIONS OF WHICH NOTICE HAS BEEN GIVEN****SUPPLEMENTARY AGENDA**

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**QUESTIONS WITHOUT NOTICE****AGENDA AND SUMMARY OF RECOMMENDATIONS****PRESENT****NATIONAL ANTHEM****OPENING PRAYER/S**

Rev. Neil Dawson of Thornleigh Community Baptist Church, Thornleigh 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. Speakers are requested to ensure their comments are relevant to the issue at hand and to refrain from making personal comments or criticisms."*

**APOLOGIES / LEAVE OF ABSENCE****POLITICAL DONATIONS DISCLOSURE**

Statement by the Chairperson:

*"In accordance with Section 147 of the Environmental Planning and Assessment Act 1979, any person or organisation who has made a relevant planning application or a submission in respect of a relevant planning application which is on tonight's agenda, and who has made a reportable political donation or gift to a Councillor or employee of the Council, must make a Political Donations Disclosure Statement."*

*If a Councillor or employee has received a reportable political donation or gift from a person or organisation who has made a relevant planning application or a submission in respect of*

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*a relevant planning application which is on tonight's agenda, they must declare a non-pecuniary conflict of interests to the meeting, disclose the nature of the interest and manage the conflict of interests in accordance with Council's Code of Conduct."*

## **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.*

## **CONFIRMATION OF MINUTES**

THAT the Minutes of the Planning Meeting held on 5 May, 2010 be confirmed; a copy having been distributed to all Councillors.

## **PETITIONS**

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**MAYORAL MINUTES****NOTICES OF MOTION****RESCISSION MOTIONS****MATTERS OF URGENCY****ITEMS PASSED BY EXCEPTION / CALL FOR SPEAKERS ON AGENDA ITEMS***Note:*

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

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

- Item 1     PLN106/09 DEVELOPMENT APPLICATION - INCREASE IN STUDENT NUMBERS - LORETO NORMANHURST - MOUNT PLEASANT AVENUE AND PENNANT HILLS ROAD NORMANHURST**

**RECOMMENDATION**

THAT Development Application No. 1277/2004/B to increase student numbers from 915 to 1150 at Loreto Normanhurst at Lot 1 DP 734965, Lot B DP 327538, Lots 11-16, 20-23 and 25-36 DP 6612, Lot 1 DP 809066, Lot 1 DP 34834 (Nos. 8, 10-12, 14, 16-22, 24-28 and 30-62) Mount Pleasant Avenue and (Nos. 91-93) Pennant Hills Road, Normanhurst, be approved as detailed in Schedule 1 of this report.

**C WARD DEFERRED****C WARD****Page Number 23**

- Item 2     PLN15/10 DEVELOPMENT APPLICATION - SECTION 96(2) - REGISTERED CLUB - ALTERATIONS AND ADDITIONS - AMENDED STAGING OF WORKS - 103-109 NEW LINE ROAD CHERRYBROOK**

**RECOMMENDATION**

THAT Development Application No. DA/1046/2007/A for alterations and additions to the West Pennant Hills Sports Club including a new car park, relocation of bowling greens,

tennis courts and cricket nets and the erection of one sign at Lot 2 DP 367373, No. 103 - 109 New Line Road, Cherrybrook be modified as detailed in Schedule 1 of this report.

**Page Number 76**

- Item 3     PLN28/10   DEVELOPMENT   APPLICATION   -   RESIDENTIAL  
ALTERATIONS AND ADDITIONS - 29 GEORGE STREET PENNANT  
HILLS**

**RECOMMENDATION**

THAT Council assume the concurrence of the Director-General of the Department of Planning pursuant to State Environmental Planning Policy No. 1 and approve Development Application No. DA/330/2010 for the erection of alterations and additions to a dwelling-house at Lot 102, DP 875670, No. 29 George Street, Pennant Hills subject to the conditions of consent detailed in Schedule 1 of this report.

**Page Number 90**

- Item 4     PLN30/10 DEVELOPMENT APPLICATION - SUBDIVISION OF ONE  
LOT INTO TWO - 50 SUTHERLAND ROAD, BEECROFT**

**RECOMMENDATION**

THAT Development Application No. 1118/2009 for the subdivision of one lot into two at Lot A DP 349374 (No. 50) Sutherland Road, Beecroft be approved subject to the conditions of consent detailed in Schedule 1 of this report.

**Page Number 109**

- Item 5     PLN33/10 DEVELOPMENT APPLICATION - SUBDIVISION - ONE LOT  
INTO TWO AND CONSTRUCTION OF A NEW DWELLING  
41 CARDINAL AVENUE BEECROFT**

**RECOMMENDATION**

THAT Development Application No. DA/723/2009 for the subdivision of one lot into two and the construction of a dwelling at Lot 2 DP 584894 (No. 41) Cardinal Avenue, Beecroft be approved subject to the conditions of consent detailed in Schedule 1 of this report.

**GENERAL BUSINESS**

**Page Number 133**

- Item 6     PLN29/10 HERITAGE ADVISORY COMMITTEE - TECHNICAL  
SPECIALIST REPRESENTATION**

**RECOMMENDATION**

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1. THAT the *Heritage Advisory Committee Constitution* be amended in accordance with the revised *Constitution* (attached) to:
    - increase the number of Technical Specialists to a minimum of three and a maximum of four;
    - reduce the number of Councillors to three; and
    - require the attendance of three members for a quorum.
  2. Council invite Micheal Clarke, Margaret Desgrand and Roy Lucas to participate on the Hornsby Shire Advisory Committee as voluntary technical specialists.
  3. Submitters be advised of Council's resolution and thanked for their interest in the matter.
  4. Three Councillors (*Council to nominate three Councillors*) be elected as Councillor representatives on the Hornsby Heritage Advisory Committee.

**Page Number 138****Item 7     **PLN31/10 AMENDMENTS PLANNING PROPOSAL 2009 - REPORT ON SUBMISSIONS****

THAT:

1. Council adopt the amended Planning Proposal attached to Executive Manager's Report No. PLN27/10 to:
  - 1.1 rezone and permit strata subdivision at property No. 218 Brooklyn Road, Brooklyn
  - 1.2 update the listing of heritage items in accordance with the recommendations of *Heritage Review Stage 4*, with the exception of the following items:
    - CWA Building, Hornsby Park Pacific Highway, Hornsby
    - Property Nos. 3-5 Hannah Street, Beecroft;
  - 1.3 implement the recommendations of the *Hornsby West Side Conservation Area Review*.
2. Consideration of the heritage listing of "CWA Building, Hornsby Park Pacific Highway, Hornsby" and "Property Nos. 3-5 Hannah Street, Beecroft" be deferred for further consideration following finalisation of the Old Mans Valley Park Masterplan/Hornsby Pool Plans and Council's *Housing Strategy*, respectively.
3. The Planning Proposal be forwarded to the Department of Planning for gazettal.
4. Council endorse the amendments to the *Heritage, Dwelling-House, Residential Subdivision, Low, Medium, and Medium/High Density Multi-Unit Housing, Dural Village Centre, River Settlements, Rural Lands and Extractive Industries Development Control Plans* attached to Executive Manager's Report No. PLN27/10.

5. The Heritage Inventory Sheet for property No 33 Wongala Crescent Beecroft be amended to:
- correct the photograph of the rear garden;
  - remove reference to the radiata pine and concrete cancer; and
  - delete the management recommendations regarding the gate.
6. Submitters be advised of Council's resolution.

**Page Number 147**

**Item 8     PLN34/10   METROPOLITAN   STRATEGY   REVIEW   -   SYDNEY  
                 TOWARDS 2036**

**RECOMMENDATION**

THAT Council forward the submission attached to Executive Manager's Report No. PLN34/10 to the Department of Planning commenting on the State Government's review of the *Metropolitan Strategy*.

**QUESTIONS OF WHICH NOTICE HAS BEEN GIVEN**

**SUPPLEMENTARY AGENDA**

**QUESTIONS WITHOUT NOTICE**



**1 DEVELOPMENT APPLICATION - INCREASE IN STUDENT NUMBERS  
- LORETO NORMANHURST - MOUNT PLEASANT AVENUE AND  
PENNANT HILLS ROAD NORMANHURST**

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<b>Development Application No:</b>	DA/1277/2004/B
<b>Description of Proposal:</b>	Section 96(2) application to increase student numbers from 915 to 1150 at Loreto Normanhurst
<b>Property Description:</b>	Lot 1 DP 734965, Lot B DP 327538, Lots 11-16, 20-23 and 25-36 DP 6612, Lot 1 DP 809066, Lot 1 DP 34834 (Nos. 8, 10-12, 14, 16-22, 24-28 and 30-62) Mount Pleasant Avenue and (Nos. 91-93) Pennant Hills Road, Normanhurst
<b>Applicant:</b>	Loreto Normanhurst
<b>Owner:</b>	Loreto Convent Property Association
<b>Statutory Provisions:</b>	Hornsby Shire Local Environmental Plan 1994 Special Uses A (Community Purposes) Residential A (Low Density)
<b>Estimated Value:</b>	Nil
<b>Ward:</b>	B

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**RECOMMENDATION**

THAT Development Application No. 1277/2004/B to increase student numbers from 915 to 1150 at Loreto Normanhurst at Lot 1 DP 734965, Lot B DP 327538, Lots 11-16, 20-23 and 25-36 DP 6612, Lot 1 DP 809066, Lot 1 DP 34834 (Nos. 8, 10-12, 14, 16-22, 24-28 and 30-62) Mount Pleasant Avenue and (Nos. 91-93) Pennant Hills Road, Normanhurst, be approved as detailed in Schedule 1 of this report.

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**EXECUTIVE SUMMARY**

1. The application proposes to modify a condition of consent to increase student numbers at Loreto Normanhurst from 915 to 1150.
2. The proposal complies with the Hornsby Shire Local Environmental Plan 1994 and Community Uses Development Control Plan.
3. Eleven submissions (including 5 individual submissions and 6 pro forma letters) have been received in respect of the application.
4. It is recommended that the proposed modification to the consent be approved.

## HISTORY OF THE APPLICATION

On 3 November 2004 Council approved DA/1277/2004 for the demolition of an existing classroom building and the erection of a new school classroom building. A condition of consent restricted the maximum number of pupils to 850.

On 12 December 2005 Council approved a Section 96(2) application to increase student numbers to 915.

## THE SITE

The site has an area of 12.85 hectares and is bounded by Osborn Road, Pennant Hills Road and Mount Pleasant Avenue, Normanhurst. The site is occupied by a private Catholic girls' secondary school. Existing buildings are concentrated on the northern portion of the site. The existing school oval, playing fields, bushland and cemetery are located towards the southern end of the site.

The site is partly zoned Special Uses A (Community Purposes) and partly zoned Residential A (Low Density). Most of the buildings on the site are located within the Special Uses zone with the exception of the Principal's residence, the Loreto Community houses and the Director of Boarding Residence. The Loreto Convent, grounds, gates and cemetery on the site are heritage items of regional significance.

The indoor swimming pool and gymnasium complexes are located immediately to the north of the oval towards the Mount Pleasant Avenue side of the site.

Current access to the site is via Mount Pleasant Avenue, Pennant Hills Road and Osborn Road.

## THE PROPOSAL

The application proposes a modification to the approved development by way of an amendment to condition No. 65 to increase student numbers from 915 to 1150. The proposal involves no physical works on the site.

Condition No. 65 of Development Consent No. 1277/2004 states as follows:

- 65. There shall be no increase in the number of students above 915 pupils without the prior written consent of Council. Upon written request by Council, at a frequency of no greater than one occasion per calendar year, the school shall provide written advice of current numbers within twenty-one days of request.*

## ASSESSMENT

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

## 1. STRATEGIC CONTEXT

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

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

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

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

The proposed development would not be inconsistent with the draft Strategy.

## 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 and Assessment Act. 1979

The application has been 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 involves the amendment to a condition of consent to permit the increase in student numbers from 915 to 1150. The modification is considered to be substantially the same development as approved.

The application was notified pursuant to Council's Notification and Exhibition DCP and Council received eleven submissions (refer to Section 5 of this report).

### 2.2 Hornsby Shire Local Environmental Plan 1994

The site is zoned Special Uses A (Community Purposes) and Residential A (Low Density). The existing development is defined as an ‘educational establishment’ which is permissible pursuant to Clause 7.

The zone objectives are:-

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

The proposed modification would not alter the compliance of the original proposal with the objectives of the zone.

### **2.3 State Environmental Planning Policy (Infrastructure) 2007**

The application has been assessed against the requirements of State Environmental Planning Policy (Infrastructure) 2007. This Policy contains State-wide planning controls for developments adjoining rail-corridors and busy roads.

#### **2.3.1 Traffic Generating Development**

The development is classified as a Traffic Generating Development in accordance with Clause 104 of the SEPP (Infrastructure) as it is located on a site that has direct vehicular or pedestrian access to a classified road. In accordance with the SEPP, the application was referred to the RTA for comment. The RTA raised no concerns with regard to the proposed increase in student numbers.

A further assessment of traffic impacts associated with the application is detailed below.

### **2.4 Community Uses Development Control Plan**

The proposal to modify the development consent would not alter the compliance of the original proposal with the relevant performance criteria and prescriptive standards contained within the Community Uses DCP.

The primary impacts of the application concern the availability of car parking spaces (either on-site or on-street) and the capacity of the local road network to accommodate additional traffic. These impacts are described below:

#### **2.4.1 Car Parking**

The prescriptive measures for secondary schools states that the provision of off-street student parking is to be determined on the basis of a "Parking Survey" or "Traffic Impact Study" which has regard to locational factors and existing transport networks or at a rate of 1 space per 2 students of driving age, plus 5 bicycle racks per class for years 5 to 11.

In support of the application, the applicant submitted a Traffic and Parking Report. The report states that the number of students currently driving is 25, however, acknowledges that student drivers currently approach an actual maximum of 30 each year from a school population of 915. The report details that an increase from 915 to 1150 would result in an increased parking requirement to 33 student vehicles and recommends that the student driver permits be capped at a new limit of 50. The current student driver permits are limited to 40.

Notwithstanding the findings of the Traffic and Parking Report, it is considered that the existing cap of 40 student driving permits would be retained. This would still allow the projected extra students who would drive to school the ability to park, whilst not increasing car parking demands beyond the current capacity of the site.

The Traffic and Parking Report further recommends that the informal angle parking located along Mount Pleasant Avenue, located adjacent to the school, be utilised for student parking. However, as there is sufficient car parking on-site (as detailed below), and due to safety concerns regarding visibility when reversing out of angled parking bays, it is considered appropriate to require all student car parking to be accommodated on-site.

Council's Car Parking Development Control Plan requires that 1 parking space be provided per full time staff member. Currently there is provision for 201 on-site parking spaces, which would allow sufficient parking for the projected 171 staff. Accordingly, it is considered that the proposed staff car parking allocation would be acceptable. The Traffic and Parking Report considers that only 80% of staff would be driving and that the increase in car parking for staff associated with the increased student numbers would not be significant.

With respect to the provision of bicycle racks, the school has advised that students are not permitted to ride bicycles to school. Therefore, no bicycle racks would be required to be provided in association with this application. If however the School changed its policy and permitted students to cycle to school, sufficient space is available on-site to accommodate bike racks.

Having regard to the matters above, the proposal is assessed as satisfactory with regard to car parking.

#### **2.4.2 Access**

No changes are proposed to the existing vehicular access arrangements to and from the site. These arrangements are considered adequate and would accommodate the increase in traffic associated with the proposed development.

#### **2.4.3 Traffic**

The traffic engineering assessment concluded that the majority of increased vehicular access to the site would be from Osborn Road. The Traffic and Parking Report records that traffic volumes along this road would be 3000 vehicles per day, which represents an increase of approximately 66, or a projected 33 extra vehicle tips to the school. The impact of this increase on the operation of this street report is considered acceptable.

The current vehicle volumes along Mount Pleasant Avenue are estimated to be 1,600 vehicles per day, and as the result of the proposed changes a minor increase of up to 8 vehicles, or 16 vehicle trips, is expected. The impact of this on the operation of Mount Pleasant Avenue is considered acceptable.

Based on the information provided, the increases on the road network are acceptable, as the proposed hourly distributions would not significantly impact on the current traffic situation.

The existing infrastructure would not require any improvements to service the proposed increase in student numbers. All the necessary infrastructure is currently in place along the major routes.

#### **2.4.4 Recreation Space**

The element '*Recreation Space*' of the Community Uses DCP requires a minimum of 20m<sup>2</sup> of recreation space per student to be provided for education establishments. On the basis of 1150 students, a total of 23,000m<sup>2</sup> of recreation space is required to be provided. The school currently provides well in excess of this requirement.

### **2.5 Heritage Development Control Plan**

The Loreto Convent grounds, gates and cemetery located on Lot 1, DP 734955, Lots 15 & 16, DP 6612 are listed as heritage items of regional significance under the HSLEP. The

application does not involve any works to or result in any impact upon, the heritage items on the site and would satisfy the requirements of Clause 18 of the HSLEP and the Heritage Development Control Plan.

## **2.6 Car Parking Development Control Plan**

The primary purpose of this DCP is to ensure that adequate car parking is provided for development. The issue of parking for students and staff is discussed in detail in section 2.4 of this report.

## **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 not necessitate the removal of any trees or vegetation from the site.

### **3.2 Built Environment**

The modification does not propose any alterations to the built form or change in vehicular access or parking arrangements on the site.

The traffic impacts of the development have been addressed under section 2.4 of this report.

### **3.3 Social Impacts**

The proposed modification would not have a social impact on the locality.

### **3.4 Economic Impacts**

The economic impacts of the development on the local and broader community have been considered with specific reference to the potential employment generation within the school. The development would generate additional employment for teaching staff.

## **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 the application was referred to the Rural Fire Service for comment. This matter is addressed in 5.2.1 of this report.

## **5. PUBLIC PARTICIPATION**



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

### 5.1 Community Consultation

The proposed development was placed on public exhibition and was notified to adjoining and nearby landowners between 20 November 2009 and 10 December 2009 in accordance with Council’s Notification and Exhibition Development Control Plan. During this period, Council received eleven submissions (including five individual submissions and six pro forma letters). 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"> <li>• PROPERTIES NOTIFIED</li> </ul>	X SUBMISSIONS RECEIVED	 PROPERTY SUBJECT OF DEVELOPMENT	
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Eleven submissions objected to the development, generally on the grounds that the development would result in:

- Unacceptable increase in traffic impact on local streets.
- Increase in student parking in Mount Pleasant Avenue.
- Unacceptable impact on egress from Mount Pleasant Avenue to Pennant Hills Road.

- Unacceptable student parking on the grass verge adjacent to the school.
- Unacceptable impact of the Seventh Day Adventist development on the traffic situation.
- Unsafe conditions in Osborn Road would be further exacerbated.

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 Seventh Day Adventist development, Wahroonga**

Several resident submissions raised concerns about the cumulative traffic impacts in light of the announced 'Major Project Application' for the Seventh Day Adventist hospital.

The scale of the approved concept plan for the Seventh Day Adventist development has been considerably reduced and the link from the development to Osborn Road has been deleted. The RTA advised that the traffic issues in Mount Pleasant Avenue have been considered as part of the approval for the Seventh Day Adventist development. Accordingly, it is concluded that there is not a strong nexus between the two developments in terms of traffic impacts.

### **5.2 Public Agencies**

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

#### **5.2.1 Rural Fire Service**

The site is classified as bushfire prone land. The Rural Fire Service raised no objection to the proposal and recommended condition No. 69 be incorporated into the consent.

## **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 proposed modification to the development involves an increase in student numbers from 915 to 1150. The modification to increase student numbers is considered acceptable on the basis that the site has sufficient parking capacity and satisfactory site conditions to cater for the increase in student numbers without resulting in adverse impacts on the road network or surrounding properties.



Eleven submissions were received raising concerns with the development. It is considered that these concerns can be managed though the school maintaining a responsible approach to the provision of on-site car parking for students and staff.

The proposal is recommended for approval.

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

ROD PICKLES  
Manager - Assessment Team 2  
Planning Division

SCOTT PHILLIPS  
Executive Manager  
Planning Division

**Attachments:**

1. Locality Plan
2. Site Plan Showing On-Site Parking

File Reference: DA/1277/2004/B  
Document Number: D01309063

**SCHEDULE 1**

<b>Date of 1<sup>st</sup> modification:</b>	12 December 2005
<b>Details of 1<sup>st</sup> modification:</b>	Increase in student numbers from 850 to 915
<b>Conditions Added:</b>	67
<b>Conditions Deleted:</b>	Nil
<b>Conditions Modified:</b>	65

<b>Date of this modification:</b>	2 June 2010
<b>Details of this modification:</b>	Increase in student numbers from 915 to 1150.
<b>Conditions Added:</b>	68, 69 and 70
<b>Conditions Deleted:</b>	Nil
<b>Conditions Modified:</b>	65

**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.*

**Site Works**

1. No site works, including the removal of vegetation or any demolition works, shall be commenced prior to:
  - 1.1 A construction certificate being issued.
  - 1.2 Sediment and erosion control measures in accordance with condition No. 18 have been implemented;

**Principal Certifying Authority**

2. 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**

3. 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.

### **Building Code of Australia**

4. 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**

5. 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.
6. 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.

### **Hours of Demolition Works**

7. 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**

8. 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.

### **Dust Control**

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

**Disconnection of Utilities**

10. All utilities shall be disconnected in a satisfactory manner so as not to pose any risk or nuisance to the public.

**Asbestos Removal**

11. 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.
12. 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.
13. 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.
14. 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**

15. 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.
16. 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.

### Signs for Construction Sites

17. 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.

### Sediment & Erosion Control

18. 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:-
- 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.
  - 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 7 metres long, laid over geotechnical fabric and constructed prior to commencement of works.
  - include adequate measures to remove clay from vehicles leaving the site so as to maintain public roads in a clean condition.
  - ensure that no spoil or fill encroaches upon adjacent bushland for the duration of the works.
  - 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.
  - 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 be submitted to Hornsby Shire Council with the notification for commencement of works.

### Engineers Certifications -Building

19. A chartered professional structural engineer's "Certificate of Adequacy" certifying the ability of the existing walls and footings to take the proposed additions is to be submitted with the construction certificate application and a copy provided to Hornsby Council.

A qualified practising chartered Structural Engineer shall inspect the slab steel reinforcement prior to the pouring of any concrete and supply the Principal Certifying

Authority and a copy to Hornsby Shire Council with a certification of structural adequacy.

### **Protection of Public Places**

20. If the erection or demolition of a building causes pedestrian or vehicular traffic in a public place to be obstructed or rendered inconvenient, a fence must be erected between the building premises and the public place. The fence must be at least 1.8m high of chainwire and galvanised pipe construction. Welded wire reinforcing fabric is not to be used.
21. The work site is to be kept lit between sunset and sunrise if it is likely to be a source of danger to persons using a public place or upon instruction by Council to enhance the safety and security of the area in which the work is located.
22. Any hoarding, fence or awning is to be removed when no longer required.

### **Hours of Construction**

23. In order to maintain the amenity of adjoining properties, site works shall be restricted to between 7.00 am and 6.00 pm, Monday to Friday and 8.00 am to 1.00 pm Saturday. No work shall be undertaken on Sundays or public holidays. Plant, goods or materials shall not be delivered to the site outside the approved hours of site works unless otherwise approved by Council.

### **Inspections – Building**

24. The building works must be inspected and compliance certificates obtained certifying that the works comply with the development consent and the approved plans and specifications for the following nominated stages:-
  - The levels of each floor prior to the pouring of concrete or other means of construction.
  - The framework including roof members when completed and prior to the fixing of any internal sheets.
  - The building or structure when completed and before occupation or use is commenced.

It is the responsibility of the builder/applicant to organise the required inspections and compliance certificates in accordance with the development consent. Should Council be nominated as the certifier of works, inspections can be arranged by contacting Council on 9847 6760 during normal business hours.

### **Fire Hazard Properties**

25. Materials and assemblies of the building are to comply with Specification C1.10 of the *Building Code of Australia*. Certification in respect of compliance with the above is to be submitted to the PCA and Council.

**Safety Glazing**

26. All glazing is to comply with Part B 1.3 of the *Building Code of Australia* and Australian Standards 1288 & 2047. Certification in respect of compliance with the above is to be submitted to the PCA and Council.

**Ventilation**

27. Ventilation to the building is to comply with Part F 4 of the *Building Code of Australia* and Australian Standards 1668 Part 2-1991. Certification in respect of compliance with the above is to be submitted to the PCA and Council.

**Fire Upgrading**

28. The following works are to be undertaken to ensure that the building is provided with a satisfactory level of fire safety.
29. In order to satisfy Part 3.2 of the BCA the openings to the existing buildings situated less than 6m from the new buildings shall be protected in accordance with Part C3.4 of the Building Code of Australia to restrict the spread of fire from the building to other buildings nearby. Alternatively the option is available to submit a Fire Engineered Report/Solution seeking dispensation in respect of the above works for Councils' consideration. It is to be noted that this Report/Solution is to be prepared in accordance with "Fire Engineering Guidelines-2001 Edition" by-ABCB.
30. Any electricity meter boards, distribution boards or ducts, central telecommunications boards or equipment located in a required exit or any corridor, hallway, lobby or the like leading to a required exit shall be enclosed by a fire-protective covering with openings suitably sealed against smoke spreading from the enclosure, in accordance with Part D2.7 of the Building Code of Australia.
31. Additional Fire Hose Reel/s is/are to be provided in accordance with Part E1.4 of the BCA and AS 2441 should the nozzle end of the fire hose fitted to the existing reel/s does not reach every part of the buildings. It is noted that this requirement does not include classrooms and associated corridors in a primary or secondary school.
32. Any switchboard located within the building which sustains emergency equipment operating in the emergency mode must be separated from any part of the building by construction having an FRL of not less than 120/120/120, and any doorway in that construction protected with a self closing fire door having an FRL of not less than -/120/30 in accordance with C2.13 of the BCA.
33. All switchboards in the electrical distribution system, which sustain the electricity supply to the emergency equipment (i.e. fire hydrant booster pumps, pumps for hose reels), must provide full segregation by way of enclosed metal partition designed to prevent the spread of any fault from non-emergency switchgear to the emergency equipment switchgear.
34. Any enclosure of spaces under stairs are to be removed or upgraded in fire rated construction in accordance with Part D2.8 of the BCA.
35. Hydrant/s are to be provided on site in accordance with E1.3 of the BCA and AS 2419.1.

**Fire Safety Schedule**

36. 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**

37. 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**

38. 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.

**Toilet Facilities**

39. Closet accommodation is to be provided at the work site at all times at the rate of one closet for every 20 persons and be located wholly within the boundaries of the property.

**Occupation**

40. 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.
41. 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).

**Construction Certificate – Subdivision/Engineering Works**

42. A construction certificate must be obtained from either Council or an Accredited Certifier. Engineering design plans and specifications are to be prepared by a chartered professional engineer for any proposed works. The plans and specifications are to be in accordance with the development consent conditions, appropriate Australian Standards, and applicable Council standards, in particular “Hornsby Shire Council Civil Works - Design and Construction Specification”. The information that is required to be submitted with a construction certificate is as follows:



- (a) Copies of any compliance certificates to be relied upon
- (b) Four (4) copies of the detailed engineering plans in accordance Hornsby Shire Council's Civil Works - Design Specification 1999. The detailed plans may include but are not limited to the earthworks, roadworks, road pavements, road furnishings, stormwater drainage, landscaping and erosion control works.
- (c) Hornsby Shire Council's approval for the proposed works in the existing road and public drainage is required before the issuing of a construction certificate for these works.

### **Access Way/Driveway**

- 43. A separate application under the Local Government Act 1993 and Roads Act 1993 shall be submitted to Council for approval for the following:
  - (a) The installation of a vehicular footway crossing servicing the development, and the removal of any redundant crossings.
  - (b) The undertaking of any work within a public road (this includes Laneways, Public Pathways, Footways).
- 44. The vehicular crossing shall be designed and constructed in accordance with Council's Civil Works - Design and Construction Specification 1999.
- 45. The internal driveway is to be designed and constructed in accordance with Australian Standard 2890.1 - 1993.
- 46. The provision of a safety rail at appropriate locations along the driveway where there is a level difference between the driveway and the adjoining ground level of more than 300 mm or a 1:4 batter and 300 mm beam cannot be achieved.
- 47. In order to enable unencumbered movement of traffic and pedestrians in the public road and construction site during construction works, a Construction Traffic Management Plan prepared by a suitably qualified traffic engineer shall be prepared and submitted with the construction certificate according to the following requirements:-
  - (a) The plans shall detail the order of construction works and arrangement of all construction machines and vehicles being used at the same time during all stages.
  - (b) In order to prevent injury, accident and loss of property, no building materials, work sheds, vehicles, machines or the like shall be allowed to remain in the road reserve area without written consent of Hornsby Shire Council.
  - (c) The Plan shall be generally in compliance with the requirements of the Road and Traffic Authority's "Traffic Control at Worksites Manual 1998" and detailing:-
    - (i) Public notification of proposed works;
    - (ii) Long term signage requirements;

- (iii) Short term (during actual works) signage;
  - (iv) Vehicle Movement Plans, where applicable;
  - (v) Traffic Management Plans;
  - (vi) Pedestrian and Cyclist access and safety;
- (d) The plans shall indicate traffic controls including those used during non-working hours and shall provide pedestrian access and two-way traffic in the public road to be facilitated at all times.
- (e) The Applicant and all employees of contractors on the site must obey any direction or notice from the Prescribed Certifying Authority or Hornsby Shire Council in order to ensure the above.

### **Retaining Walls**

48. Retaining walls or other approved methods necessary to prevent the movement of excavated or filled ground, together with associated stormwater drainage measures, are to be designed and constructed by a chartered professional civil engineer or other appropriately qualified person. Details are to be included with plans and specifications to accompany any construction certificate.

### **Drainage**

49. Stormwater drainage from the site shall be designed to satisfactorily drain rainfall intensities for an average recurrence interval of 20 years. The design shall:
- (a) Be in accordance with Hornsby Shire Council Civil Works – Design Specification 1999.
  - (b) Provide for drainage discharge to the existing drainage system.
  - (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.
50. The drainage system for the new building and courtyard is to be constructed with an on-site-detention system, having a capacity of not less than 20m<sup>3</sup> and a maximum discharge, when full, of 24 l/s prior to discharging into the existing site drainage system. The system shall be designed by a chartered professional civil engineer to the following requirements:
- A surcharge/inspection grate is to be located directly above the outlet.
  - Stormwater discharge from the detention system is to be controlled via a one-metre length of pipe not less than 50mm diameter discharging into a larger diameter pipe capable of carrying the design flow to Council's gutter/stormwater pit.
  - Where the on-site detention system is proposed under the vehicular driveway, the engineer is to certify that the detention tank is structurally capable of withstanding the maximum anticipated traffic loads.

- Any alternate design will require the submission of design calculations by a qualified civil engineer. The permissible site discharge from the developed site for the 20 year ARI storm shall be limited to the 5 year ARI discharge for the site prior to development.

A compliance certificate is to be submitted to Council prior to the issue of the occupation certificate that includes work-as-executed details of the on-site-detention system prepared by a chartered professional engineer/registered surveyor verifying that the required storage and discharge volumes have been constructed in accordance with the design requirements. The details are to show the invert levels of the on system as well as the pipe sizes and grades. Any variations to approved plans must be shown in red and supported by calculations.

51. A certificate from a chartered professional civil engineer must be obtained before release of construction certificate verifying that the structures associated with the on-site detention system have been designed to withstand all loads likely to be imposed on them during their lifetime.
52. A certificate from a chartered professional civil engineer/registered surveyor must be obtained before release of construction certificate verifying that the on-site detention system will function hydraulically in accordance with the approved design plans.

### Inspections - Engineering

53. 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
  - Pipes before backfilling
  - Final pipe inspection
  - Final erosion control inspection
  - Replacement of redundant gutter crossing
  - On-site detention
    - when steel & formwork for tank is ready
    - when control pit is completed
    - when pits 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 access ways
  - Retaining walls
  - Final inspection

**Easements & Restrictions on Title**

54. All Section 88B restrictions and covenants created as part of this consent are to contain a provision that they cannot be extinguished or altered except with the consent of Hornsby Shire Council.
55. 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 to ensure the continued maintenance and performance of the stormwater management system in accordance with Council's standard wording. The position of the on-site detention system is to be clearly indicated on the title of the property.

**Works as Executed**

56. A works-as-executed plan prepared by a chartered professional engineer or a registered surveyor must be lodged with Hornsby Shire Council when the engineering works are complete, before the release of the Occupation Certificate.

**Council Property**

57. The cost of repairing any damage caused to Council's assets in the vicinity of the subject site as a result of construction works associated with the approved development is to be paid for by the applicant/developer prior to occupation.

**ENVIRONMENTAL HEALTH AND PROTECTION**

58. 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).
59. The operation and management of the site shall be undertaken in accordance with the Acoustic Report: New Mornane Building Loreto Normanhurst prepared by PKA Acoustic Consulting, project number 204 006 dated March 2004 approved by Council. Activities in the proposed development must not exceed 10:00pm.
60. 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*.
61. 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.

**Parks and Landscape**

62. 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.

### **Landscape Plan**

63. The following issues are to be addressed by the applicant through submission of a new landscape plan prepared by a Landscape Architect with the following information;

Inclusion of 4 *Eucalyptus pilularis* or equivalent capable of reaching 15m in approximately the positions marked in red on the submitted plan;

Plant species locations are currently not identified on the plans; and

Plant schedule including botanical and common names, mature heights, spacing, and quantities divided into three tiers – trees, shrubs, groundcovers and ferns, needs to be prepared.

This detailed landscape concept plan is to be prepared in accordance with the Hornsby Shire Council Landscape Code prior to the release of a construction certificate.

### **Heritage**

64. The approved development shall be constructed generally in accordance with the schedule of external finishes submitted with the application.

### **Staff/student numbers**

65. There shall be no increase in the number of students above 1150 pupils without the prior written consent of Council. Upon written request by Council, at a frequency of no greater than one occasion per calendar year, the school shall provide written advice of current numbers within twenty-one days of request.

### **Traffic Management**

66. In order to minimise impacts on on-street parking, the oval shall be made available and utilised at all times for the parking of construction workers' vehicles. Workers' vehicles shall not be parked on the surrounding streets during the construction period.

### **Osborn Road car park**

67. The Osborn Road carpark must be made available for student parking.

### **Student Permits and Parking**

68. Student driver permits must be limited to 40 and student parking must be provided on-site.

RURAL FIRE SERVICE

**Evacuation and Emergency Management**

69. Arrangements for emergency and evacuation are to comply with section 4.2.7 of 'Planning for Bush Fire Protection 2006.'

ROADS AND TRAFFIC AUTHORITY

**Works and Signposting**

70. All works/regulatory signposting associated with the proposed development must be at no cost to the RTA.

**2 DEVELOPMENT APPLICATION - SECTION 96(2) - REGISTERED CLUB - ALTERATIONS AND ADDITIONS - AMENDED STAGING OF WORKS 103 - 109 NEW LINE ROAD CHERRYBROOK**

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<b>Development Application No:</b>	DA/1046/2007/A
<b>Description of Proposal:</b>	Section 96(2) application to amend the staging of works for alterations and additions to the West Pennant Hills Sports Club including a new car park, relocation of bowling greens, tennis courts and cricket nets and the erection of one sign.
<b>Property Description:</b>	Lot 2 DP 367373, No. 103 - 109 New Line Road, Cherrybrook
<b>Applicant:</b>	West Pennant Hills Sports Club Limited
<b>Owner:</b>	West Pennant Hills Sports Club Limited
<b>Statutory Provisions:</b>	Hornsby Shire Local Environmental Plan 1994 Open Space C (Private Recreation)
<b>Estimated Value:</b>	No change to original
<b>Ward:</b>	C

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**RECOMMENDATION**

THAT Development Application No. DA/1046/2007/A for alterations and additions to the West Pennant Hills Sports Club including a new car park, relocation of bowling greens, tennis courts and cricket nets and the erection of one sign at Lot 2 DP 367373, No. 103 - 109 New Line Road, Cherrybrook be modified as detailed in Schedule 1 of this report.

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**EXECUTIVE SUMMARY**

1. On 3 September 2008 Council approved Development Application No. DA/1046/2007 for alterations and additions to the West Pennant Hills Sports Club including a new car park, relocation of the bowling greens, tennis courts and cricket nets and erection of one sign.
2. The application proposes to modify the consent by way of amending the staging of some works and to allow 'special event' trading outside of prescribed opening hours. Due to the complexity of the original consent and the nature of the proposed amendments, the numbering and sequencing of conditions has also been modified.

3. The proposal complies with the provisions of the Hornsby Shire Local Environmental Plan and the relevant Development Control Plans.
4. Fifty-five submissions from twenty-eight residents have been received in respect of the application.
5. It is recommended that the application be approved.

### **HISTORY OF THE APPLICATION**

On 3 September 2008 Council approved Development Application No. DA/1046/2007 for alterations and additions to the West Pennant Hills Sports Club including a new car park, relocation of the bowling greens, tennis courts and cricket nets and erection of one sign.

### **HISTORY OF THE SITE**

On 29 April 1968, Council approved Certificate of Consent No. 68/63 for the construction of bowling greens, a licensed clubhouse, courts and a pool.

The site has been used as a recreation facility and registered club since that time with various improvements to the site being built since the 1980's.

### **THE SITE**

The site is rectangular in shape with an area of 2.177 hectares. The site is located on the western side of New Line Road, 100m south of Cedarwood Drive and 150m north of Edward Bennett Drive, Cherrybrook and experiences an average fall of 3% to the front of the site. A tributary of Berowra Creek traverses the eastern and southern portions of the site, with a bridge connecting the front landscaped area of the site to the sports club and its facilities. Facilities on the site include two bowling greens, three all-weather tennis courts and ancillary outbuildings, and cricket nets.

The existing building (1754.42 sqm) includes a main entry, gaming room, reception and administration areas, auditorium, TAB and facilities including toilets, bowls room, cool room, kitchen, servery, coffee shop and bar. One hundred and fifty-four (154) line marked car spaces are located around the building to the east, south and west. Vehicular access to the site is available from New Line Road, via separate entry and exit driveways.

Land to the north and south is zoned Residential A (Low Density) and supports detached dwellings (along Bowerman Place) and two-storey townhouses, respectively. Edward Bennett Oval abuts the western boundary of the site with access available via a gate. Across New Line Road to the east the land is zoned Residential A and incorporates detached dwellings.

The alignment of New Line Road adjacent the entry to the site narrows from two lanes in each direction to two lanes northbound and one lane southbound.

### **THE APPROVED DEVELOPMENT**

The approved development involves the re-development of the West Pennant Hills Sports Club comprising the retention of the existing clubhouse with the following alterations and additions:



- A two level building extension adjoining the northern elevation of the existing clubhouse will be constructed comprising:
  - At basement level - a gymnasium, reception area, café, amenities and expanded services area.
  - At ground level - expanded lounge areas, TAB, administration offices, amenities.
- A minor extension to the north western corner of the existing clubhouse to provide a children's play area.
- An open space/ outdoor 'break out' area is provided in response to a design requirement imposed on the Club by the *Smoke-Free Environment Act 2000*. This area will be accessible from the lounge and dining areas of the Club via acoustically rated air locked accessways. The area will be landscaped with undercover seating. An outdoor smoking area for patrons is also provided on the eastern elevation of the building.
- The two existing bowling greens will be reconstructed alongside each other, adjoining the rear western boundary. The northern-most green is to be an almost identical position to the existing whilst the second green will be built in the location of the existing rear open-air car park.
- One and a half levels of enclosed basement parking will be constructed beneath the new bowling greens.
- The three existing tennis courts will be removed to make way for the building extension and additional on grade parking close to the Club's entry. However, two tennis courts will be reinstated to the front of the site with an associated amenities gazebo structure.
- The three cricket pitches along the New Line Road frontage to the Club will be relocated at the front of the site.
- Additional on grade parking will be provided at the front of the site close to the new tennis courts and cricket nets.
- A single lane car bridge will be duplicated over the watercourse alongside a new dedicated pedestrian bridge.
- Existing parking along the length of the southern boundary will be retained but with the addition of new on grade spaces along this boundary towards the front of the site. Lighting to these parking areas will be brought up to current Australian Standards and safety code requirements.
- The existing pedestrian link provided between Edward Bennett Park and the Club premises will be maintained as well as an extra access point created via the bowling greens.
- The proposed new gymnasium has been incorporated into the development to further enhance the quality and variety of sporting facilities that the Club can

offer to its members and the wider local community. Membership to the gymnasium will be limited to Club members only but the Club has indicated its willingness to offer occasional use of this facility to nearby sporting groups and local schools.

- Higher boundary acoustic fencing to both the northern (2.7m high) and southern boundaries (3.6m high) with adjoining properties is to be erected.
- A masonry acoustic wall/ barrier (5.4m high) will be constructed in the central courtyard, set back 6.082 metres from the northern boundary to effectively enclose the central courtyard area and provided complete screening of this area from adjacent residential properties.
- Erection of signage to the New Line Road frontage of the site.

The approved development included a staging plan for undertaking the redevelopment works and the provision of a roundabout at the intersection of New Line Road and Cedarwood Drive to facilitate traffic management at the site.

### **THE MODIFICATION**

The amendments sought by this application do not propose any significant alterations to the master plan concept. Rather the application is a request to amend the staging of works and delete particular conditions of approval which the applicant considers to be either a minor drafting error or unreasonable in that they are impractical and that they would unduly impact the proper functioning of the Club's operations.

Of particular note, the application proposes to modify the dimensions of Sign B to reduce its visual impact as well as seek approval for the construction of the full seagull intersection arrangement proposed by the original application.

The applicant is seeking to modify the staging of the development and a number of the conditions of consent as follows:

- Amend conditions to enable various construction works to be undertaken in accordance with the original staging plan lodged with the DA. The changes relate to landscaping and roadworks specified in the development consent for Stages 1A, 1B, 1C and 2A.
- Amend conditions to extend the southern bowling green hours of use to 9pm.
- Amend conditions to permit the illumination of the southern-most bowling green.
- Amend conditions to permit up to six significant special events annually where the Club may operate extended hours.
- Amend conditions to delete the 45 day monitoring period and require that prior to issue of the occupation certificate a suitably qualified lighting consultant measure and verify the light emanating from the premises complies with the condition.

- Amend conditions to permit inaudible television screens within the central courtyard, any outdoor area and the smoking deck area to enable emergency and paging announcements.
- Amend conditions to allow smoking and alcohol consumption in other suitable areas of the Club.
- Permit the erection of a sign to the Edward Bennett Oval frontage.
- Amend conditions to permit the illumination of the approved sign on the New Line Road frontage.
- Delete the requirement that noise monitoring equipment be installed during construction.
- Amend conditions relating to the riparian corridor to include the wording '*or beyond those areas of riparian landscape depicted on the approved plans*'.
- Amend conditions to correct typographical errors in the plan referencing.
- Delete conditions requiring the installation of a permanent noise monitoring system.
- Delete conditions restricting patron, visitor and staff numbers.
- Delete conditions relating to the construction of a roundabout at Cedarwood Drive.
- Amend conditions to reflect the access arrangements proposed in the current Section 96(2) application.

## ASSESSMENT

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

### 1. STRATEGIC CONTEXT

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

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

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

- Employment capacity to increase by 9,000 jobs; and

- Housing stock to increase by 11,000 dwellings.

The proposed development would be consistent with the draft Strategy by providing additional 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 Environmental Planning and Assessment Act 1979 – Section 96(2)

The proposal constitutes an amendment to the original development consent under Section 96(2) of the Act. Pursuant to Section 96(2), Council may consider an application to amend development consent provided that, inter alia:

- “(a) *it is satisfied that the development to which the consent as modified relates is substantially the same development as the development for which the consent was originally granted and before that consent as originally granted was modified (if any at all), and*
- (b) *it has consulted with the relevant Minister, public authority or approval body (within the meaning of Division 5) in respect of a condition imposed as a requirement of a concurrence to the consent or in accordance with the general terms of an approval proposed to be granted by the approval body and that Minister, authority or body has not, within 21 days after being consulted, objected to the modification of that consent, and*
- (c) *it has notified the application in accordance with the regulations, and*
  - (i) *the regulations, if the regulations so require, or*
  - (ii) *a development control plan, if the consent authority is a council that has made a development control plan that requires the notification or advertising of applications for modification of a development consent, and*
- (d) *it has considered any submissions made concerning the proposed modification within the period prescribed by the regulations or provided by the development control plan, as the case may be.”*

With respect to (a), it is considered that the proposal as amended is substantially the same as the development originally approved.

With respect to (b) the development is integrated development and was referred to the Office of Water, who advised that the proposed modifications do not appear to have any impact upon the GTAs previously issued to Council.

With respect to (c) and (d), the amended application was advertised and 55 submissions from 28 residents were received.

## 2.2 Hornsby Shire Local Environmental Plan 1994

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

- (a) *to ensure there is provision of adequate open space to meet the needs of the community and to enhance the environmental quality of the Hornsby area.*
- (b) *to encourage a diversity of recreational settings and facilities.*
- (c) *to sustain the use of privately owned land for sporting activities.*

The proposed development is defined as 'Registered Club' and 'Recreation Facility' under the HSLEP and is permissible in the zone with Council's consent.

The HSLEP 1994 contains no development standards which apply to the Open Space C (Private Recreation) zone.

Clause 18 of the HSLEP sets out heritage conservation provisions within the Hornsby area. The site is not listed as a heritage item of local significance and is not located within a heritage conservation area.

## 2.3 State Environmental Planning Policy No. 11 Traffic Generating Development

The proposed modification would not alter the development's compliance with the provisions of this SEPP.

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

The Policy defines a 'business identification sign' as a sign that indicates the name of the person and the business carried out at the premises or place at which the sign is displayed and may include the address of the premises or place and a logo or other symbol that identifies the business.

Division 1 Clause 9 of the Policy states that 'business identification signs' are not applicable to the Policy. Accordingly, further assessment of the proposed modification against SEPP 64 is not required.

## 2.5 Sydney Regional Environmental Plan No. 20 Hawkesbury-Nepean River

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

Subject to compliance with the approved conditions of consent the proposed development satisfies the objectives of the Plan. The proposed modification would not alter this compliance.

## 2.6 Cherrybrook Precinct Development Control Plan

The primary purpose of this DCP is to provide controls for the Cherrybrook Precinct. The Plan has no prescriptive development standards which apply to this site, or this form of development. Notwithstanding, the objectives of the Cherrybrook Precinct DCP include

provisions requiring development to be designed to minimise noise to the occupants of adjoining neighbouring dwellings, and to ensure the orderly development of the Cherrybrook Precinct. These issues are addressed in Section 3 of this report where the impacts of the proposed modification are discussed in detail.

### **2.7 Car Parking Development Control Plan**

The primary purpose of this DCP is to provide parking controls for the development. The proposed modification does not alter the approved number of car parking spaces on the site. Matters relating to the proposed amendments to the access of the site from New Line Road are discussed in Section 3 of the report.

### **2.8 Access and Mobility Development Control Plan**

The primary purpose of this DCP is to assist proponents and Council in ensuring the requirements for equitable access are satisfied when building work is proposed. The proposed modification does not alter the development's compliance with this DCP.

### **2.9 Outdoor Advertising Development Control Plan**

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

The modification includes the illumination of the approved Sign A and seeks consent for Sign B fronting Edward Bennett Oval. These matters are discussed in Section 3 of this report.

### **2.10 Waste Minimisation and Management Development Control Plan**

The primary purpose of this DCP is to provide planning strategies and controls to promote waste minimisation and management. The proposed modification would not alter the development's compliance with the DCP.

## **3. ENVIRONMENTAL IMPACTS**

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

As the application involves changes to a number of conditions, each of the conditions proposed to be amended is discussed below. The applicant's justification is provided in *italics*.

Furthermore, due to the complex nature of the original consent, the conditions have been reformatted and renumbered so that the consent is ordered under the headings of when works would occur.

### **3.1 Condition No. 3 - Amend Staging Works**

The existing wording of condition No. 3 is as follows:

3. *The approved staging plan is amended as follows:*

*STAGE 1A*

- *Relocate tennis courts and cricket nets to eastern Club site*
- *Retain western and central bowling greens and on-grade parking areas to west and south of the Club*
- *Construct new on grade parking areas to eastern side of the Club*
- *Construct temporary storage/ back of house undercroft space and overhead slab structure to be converted for future temporary parking and gymnasium*
- *Erect acoustic fences and landscape buffer planting to northern Club boundary as depicted on staging plan*
- *Erect acoustic fences along southern boundary as depicted on staging plan*
- *Construct new vehicular entry to New Line Road*
- *Construct first portion of ground floor Club facilities extensions as depicted on staging plan*
- *Refurbish existing Club kitchen, bars, administration and reception areas to cater for new extensions*
- *Construct new eastern tennis pavilions and amenities block.*
- *Construct new vehicular and pedestrian bridges over creek line*

*STAGE 1B*

- *Extend acoustic fence to southern boundary as depicted on staging plan*
- *Convert temporary storage/ back of house undercroft area to temporary parking for 41 cars spaces to service Stage 1B Club extensions.*
- *Construct second portion of ground floor Club facilities extensions as depicted on staging plan*
- *Complete all riparian zone works and landscape treatments and New Line Road landscaping as per staging plan*

*STAGE 1C*

- *Undertake remaining internal refurbishments and upgrading works to existing Club building*
- *Extend southern and northern acoustic fencing treatments to western boundary.*
- *Complete northern and southern boundary landscape screen treatments*
- *Complete New Line Road landscape treatments and footpath/bus bay*
- *Construct New Traffic Management improvement to New Line Road*

*STAGE 2A*

- *Construct first portion fitout works of new gymnasium*

*STAGE 2B*

- *Deactivate central bowling green*
- *Complete undercroft area as additional temporary parking for Stage 2A Club extension areas*
- *Construct central courtyard areas and western edge of Stage 1B areas*

- *Complete noise walls and landscape treatments to northern boundary buffer zone.*

#### STAGE 2C

- *Construct new western basement parking*
- *Construct new bowling greens*
- *Complete last portion of ground floor Club facilities extensions as depicted on staging plan*
- *Complete fitout of new gymnasium facility*

It is proposed to amend the condition to enable various construction works to be undertaken in accordance with the original staging plan. The changes to the condition relate to landscaping and roadworks specified in the development consent for Stages 1A, 1B, 1C and 2A.

Specifically, the applicant proposes to delay the construction of a roundabout in New Line Road from Stage 1C to Stage 2C. The development would now provide for a seagull traffic arrangement in Stage 1C, with the roundabout constructed in Stage 2C when the Club's facilities are in full operation.

Landscaping and riparian drainage works would be undertaken during the relevant stage following infrastructure works.

To facilitate the new works within the main Club building, the applicant also proposes to relocate the existing Club administration area into temporary demountable building accommodation in the Club Director's parking area and relocate part of the internal gaming area into the existing administration area to enable the installation of protective hoardings and pedestrian barriers to the existing gaming area during Stage 1A works.

No objection is raised to the proposed modifications to the staging plan as detailed in Schedule 1.

### 3.2 Condition No. 4 - Amend Hours of Use of the Bowling Greens

The existing wording of condition No. 4 is as follows:

4. *The hours of operation of the site must be in accordance with the following:*

#### *Club*

*Sunday - Wednesday & Public Holidays: 9am – 11pm*  
*Thursday - Saturday: 9am – 12 midnight*

#### *Gymnasium*

*Monday – Sunday & Public Holidays: 6am – 10pm*

#### *Tennis Courts*

*Monday - Friday: 6am – 10pm*  
*Saturday:*

*7am – 10pm*  
*Sunday & Public Holidays: 8am – 10pm*

#### *Bowling Green*



<i>Monday - Saturday:</i>	<i>7am – Sunset</i>
<i>Sunday &amp; Public Holidays:</i>	<i>8am – Sunset</i>

<i>Monday - Saturday:</i>	<i>7am - Sunset</i>
<i>Sunday &amp; Public Holidays:</i>	<i>8am - Sunset</i>

It is proposed to amend the bowling green hours specified in condition No. 4 to extend the approved hours of use of the southern bowling green to 9pm, as it is also proposed to modify condition No. 5 to permit illumination of the southern bowling green.

Applicant's Justification:

*The Club requests that condition 4 be modified as above to allow the Club to operate the southern-most bowling green in the evening, consistent with that requested by the original DA.*

*The amended hours are considered reasonable on the grounds that the impacts of the lighting of the bowling green were assessed as part of the original DA and it was found that there would be no adverse impacts. In addition, Council's Planning report PLN184/08 did not object to the illumination subject to conditions. Further argument in support of this amendment is detailed in Condition 5 below.*

The assessment of the original application and the acoustic report submitted in support raised no objection to the development and recommended conditions including the following hours of use for the illuminated bowling green:

Monday - Saturday:	7am – 9pm
Sunday & Public Holidays:	8am – 9pm

The supplementary report provided amendments to the proposed conditions incorporating comments received by Councillors at the previous Planning Meeting and the hours of operation were amended so that bowling green activities ceased at sunset.

The approved noise attenuation measures would ensure that noise emissions from mechanical plant and from the operations of the Club meet specific design goals as recommended by the applicant's acoustic consultants and no objection is raised to the amendment of the bowling green hours of use, subject to condition No. 5 also being amended to permit the lighting of the southern green.

### **3.3 Condition No. 5 - Permit lighting of the southern Bowling Green**

The existing wording of condition No. 5 is as follows:

- 5. The bowling greens shall not contain any lighting and the existing lights are to be removed as part of the Stage 1A works.*

It is proposed to amend condition No. 5 to permit illumination of the southern-most Bowling green.

Applicant's Justification:

*The Club requests modification to Condition 5 in order to reflect:*

- *the fact that the existing bowling greens do not have any lights; and*
- *to allow the new southern-most bowling green to have lighting as proposed in the DA submission. This is considered justified on the grounds that:-*

*The lighting report submitted with the DA clearly demonstrated that there were no adverse impacts to neighbouring properties from anticipated lighting to the new bowling greens. There was no objective justification for not allowing the new greens to be lit in a controlled fashion.*

*As stated in the Electrical & Mechanical Services report lodged as Appendix 8.4 to the SOEE for the DA... "The lighting to the southern bowling green will be designed to fall within the requirements of AS/NZS 4282, which specifies the extent of spill lighting to neighbouring properties to an acceptable minimum standard."*

*In Section 2.6 of Council report PLN184/08, concerns regarding lighting of recreational facilities was acknowledged. However, the report recommended these amenity issues can be adequately addressed by imposing a condition ensuring that the lighting complies with the Australian Standards for "Control of the obtrusive effects of outdoor lighting". (p.18, PLN184/08). This requirement was achieved through the imposition of Condition 12 on the final consent. Worthy of note is the fact that Report PLN184/08 did not include any conditions which imposed an outright ban on lighting of the bowling green. At that meeting however it was resolved to defer consideration of the DA to allow further review of the security management plan and other matters.*

*Inexplicably, the subsequent report to Council (PLN194/08) on 3<sup>rd</sup> September 2008 introduced an extra condition (Condition 5 on final consent) prohibiting bowling green lighting. Our investigation of Council's documents indicate that no sound justification was provided to support the imposition of such a condition and it contravenes arguments submitted by Council's planners in their earlier report, which clearly supported bowling green lighting subject to appropriate conditions.*

*In line with Council's Planning Report PLN184/08, Condition 12 should suffice as a mechanism by which light spillage or nuisance to neighbours can be avoided. Hence, the refusal to allow greens to be illuminated is considered unreasonable.*

The assessment of the original application and subsequent further reports noted that concerns have been raised with regards to the proposed lighting of the car park and recreation facilities (tennis courts and bowling greens). To address the amenity impacts of surrounding residents, condition No. 10 was imposed to ensure that the proposed lighting complies with the Australian Standards for 'Control of the obtrusive effects of outdoor lighting'. Furthermore, condition No. 11 was imposed to ensure an automatic time switch is placed on the tennis court lighting to comply with the approved hours of operation.

The supplementary report prepared for the meeting held on 3 September 2008 provided recommended amendments to the proposed consent, incorporating comments received by Councillors at the previous Planning Meeting. As a result the conditions relating to the use of the bowling greens including hours of operation and lighting were either amended and/or deleted.

No objection is raised to the lighting of the southern bowling green and it is recommended to require the fitting of an automatic time switch to all lights associated with the use of the

bowling greens for night time bowls to ensure that they are switched off at 9.00pm, in order to preserve the existing and future residential amenity of the surrounding properties.

### **3.4 Condition No. 6 - Permit up to six special events outside of standard Hours of Use**

The existing wording of condition No. 6 is as follows:

6. *The Club shall obtain the consent of Council if it proposes to extend the opening hours of any component of the Club.*

It is proposed to amend condition No. 6 to permit up to six indoor ‘significant special events’ so as to permit the Club to operate for extended hours.

Applicant’s Justification:

*The Club requests that Condition 6 be modified, to allow some flexibility in trading hours to permit the Club to cater for extraordinary events that are scheduled from time to time. In particular international sporting events are an example where late evening broadcasts due to international time zone differences, necessitates extended trading. The Club already has 24 hour trading under the State Government’s Liquor Licensing provisions and believes that it is reasonable to be able to cater for these one off events without the need for further Council approval on each occasion.*

*The Club requests approval to conduct up to a maximum of six (6) major functions per year. This may include events such as World Cup Soccer / Rugby, Ashes Series, Olympics events and the like which are held overseas in different time zones.*

*To assist management of these special events, the Club will ensure that a parking management strategy is in place. Security staff will direct all vehicles to the proposed new undercover and enclosed parking area at the rear of the Club. Security staff will also ensure that quiet and orderly conduct is observed whilst patrons enter and leave the premises during such events which would be held wholly within the internal areas of the Club.*

The Club has advised that the six ‘special events’ to occur in a calendar year would be held at night. The events would be held wholly within the internal areas of the Club and upon operation of the basement car parking area, all access and parking would be from the rear of the site to minimise acoustic impacts. The ‘Security Management Plan’ has been amended to reflect the operations during such ‘special events’ and subject to recommended conditions, no objections are raised to the inclusion of specific hours of operation for six ‘special events’ per calendar year. The holding of the ‘special events’ would not occur until such time as the works within the main Club building are finished at the complete of Stage 1C.

### **3.5 Condition No. 14 – Delete the requirement to monitor the lighting for 45 days after occupation of the development.**

The existing wording of condition No. 14 is as follows:

14. *During the first 45 days of the occupation of the tennis courts and the Club premises (including the car park areas), the following outdoor lighting control measures shall be undertaken:*

- (a) *A suitably qualified lighting consultant must be appointed to:*

  - (i) *measure and verify that the light emanating from the premises complies with the criteria in condition No. 12, and*
  - (ii) *if necessary make recommendations to ensure that the light emanating from the outdoor lighting at the premises complies with the outdoor lighting criteria in condition No. 12.*

- (b) *The outdoor lighting assessment and any required recommendations must be:*

  - (i) *Undertaken without the knowledge of the applicant, manager, or operator of the premises, and*
  - (ii) *Taken on two different occasions on two different days of the week when the Club is open and the tennis courts are being used, and*
  - (iii) *Taken from 9pm to 12 midnight, and*
  - (iv) *Submitted to the Council within 7 days of testing.*

- (c) *If the lighting consultant recommends that additional treatment or works be undertaken under conditions (a)(ii) above, those recommendations must be:*

  - (i) *submitted to Council with the light readings as required in (b)(iv) above, and*
  - (ii) *implemented to the lighting consultant's satisfaction within 60 days of the receipt of the recommendations of the lighting assessment report.*

- (d) *If the lighting consultant's recommendations are not implemented in accordance with this condition, the use of the tennis courts must cease until such time as the recommendations are implemented and verified.*

It is proposed to amend condition No. 14 to delete the 45 day monitoring period and require that prior to issue of the occupation certificate a suitably qualified lighting consultant measure and verify the light emanating from the premises complies with condition No. 12.

No objection is raised to the modification of this condition, as it did not form part of the original recommended conditions and subject to the lights being tested to ensure compliance with *Australian Standard AS3282:1997 The Control of Obtrusive Effects of Outdoor Lighting* prior to occupation, further monitoring is unnecessary.

### **3.6 Condition Nos. 21, 26 and 32 - Permit inaudible television screens**

The existing wording of conditions Nos. 21, 26 and 32 are as follows:

- 21. *No music, entertainment (including television screens) or amplified music/announcements is permitted in the central courtyard/ outdoor area.*
- 26. *No music, entertainment (including television screens) or amplified music/announcements is permitted in the smoking deck area of the development.*

32. *No music, entertainment (including television screens) or amplified music/announcements is permitted in any outside area, including the awning facing onto the existing bowling greens. The acoustic mitigation measures required under this consent shall be strictly enforced immediately by the patrolling of all outside areas and appropriate signs shall be erected reminding patrons of their obligations to minimise noise in accordance with the Club's requirements.*

It is proposed to amend condition Nos. 21, 26 and 32 to permit inaudible television screens within the central courtyard/ outdoor area (condition No. 21); within the smoking deck area (condition No. 26) and within any outside areas (condition No. 32) to enable emergency and paging announcements. It is also proposed to delete the reference to 'including the awning facing onto the existing bowling green' within condition No. 32.

Applicant's Justification:

*The Club requests that Conditions 21, 26 and 32 be modified as it is impractical and contrary to the provisions of the Building Code of Australia, preventing the Club from activating safety warnings and emergency evacuation announcements required by law as well as being overly restrictive on the use of inaudible television screens. The restriction on the ability to broadcast paging announcements also inhibits the Club's ability to operate in an orderly manner.*

*The Club is willing to accept some restrictions to the provision of live entertainment outside after a certain time but cannot accept restrictions which would compromise its patron's safety in the way of audible warnings or restrictions on non-audible visual displays which allow the Club to run its facility in an orderly manner.*

*This view is supported by the acoustic consultant in their report attached. In summary their report states:-*

*There is no need to prohibit television screens that do not have sound on the basis of the nominated acoustic control measures.*

*Emergency announcements are required by BCA for any evacuation circumstances and as such are assumed to be excluded by this condition.*

*There is a significant degree of acoustic shielding to the courtyard and as such there could be some limited degree of announcements for daylight hours subject to further testing.*

*Some sound is permitted from televisions and background music if limited to a maximum level of 65dB(A) at 1 metre. Such music levels are not considered entertainment.*

The Club has a history of noise complaints and anti-social behaviour. Accordingly, Councillors previously specified that TVs not be provided in the central courtyard/outdoor areas and the smoking decks to reduce the incidence of loud cheering etc, during sporting events.

The condition was not intended to restrict the Club's ability to provide emergency announcements and evacuation messages as required.

Accordingly, conditions relating to acoustic control measures in the outdoor areas and the smoker's balcony (eastern elevation) have been amended to permit the installation of inaudible television screens for emergency and paging announcements.

### **3.7 Condition No. 31 - Permit smoking and alcohol consumption in certain areas of the Club**

The existing wording of condition No. 31 is as follows:

31. *With the exception of the proposed outdoor dining and proposed outdoor central courtyard, no smoking or consumption of alcohol shall occur in any outside area, including the existing awning facing onto the existing bowling greens. The acoustic mitigation measures required under this consent shall be strictly enforced immediately by the patrolling of all outside areas and appropriate signs shall be erected reminding patrons of their obligations to minimise noise in accordance with the Club's requirements.*

The application seeks to amend condition No. 31 to allow smoking and alcohol consumption in other suitable areas of the Club.

Applicant's Justification:

*The Club requests that this condition be modified to also exclude the proposed new outdoor smoker's decks and outdoor gaming area and outdoor gaming courtyard from smoking and drinking restrictions as shown on Plan No. ar 1206 Rev a01. These two areas are specifically provided so that the Club can comply with the State Government's new smoking legislation which requires all clubs by law to now provide segregated outdoor smoking areas for patron use.*

*The acoustic report supports this argument stating that "this condition needs to be amended to permit drinking in the new outdoor areas within the building envelope" (refer to Appendix 9.2).*

*The existing awning facing onto the existing bowling greens has been operational for many years. Of particular concern is the fact that the literal interpretation of condition 31 would have the effect of retrospectively restricting the usage of a previously approved and operational area which is not subject to this Development Consent. This condition should not impose any restrictions on an existing portion of the Club that does not form part of the master plan works, the subject of DA 1046/2007. This wording should therefore be deleted from the condition.*

No objection is raised to the modification of the wording of the condition to clarify that the intent of the condition is not to exclude the consumption of alcohol and smoking within the purpose built smoking decks and outdoor gaming areas.

### **3.8 Condition No. 35 and Condition No. 36 - Permit illumination of Sign A and the erection of Sign B**

The existing wording of conditions Nos. 35 and 36 are as follows:

35. *Sign B identified on the development application plans is not approved and shall not be erected as part of the development.*

36. *The approved sign (Sign A) shall be maintained in a presentable state of repair to Council's satisfaction and shall not be illuminated.*

The applicant has requested that condition No. 35 be deleted and that a smaller sign than originally proposed be permitted to be erected on the Edward Bennett Oval frontage and that condition No. 36 be amended to enable the approved sign on the New Line Road frontage to be illuminated.

Council report PLN128/08 recommended refusal of Sign B on the basis that the erection of a pole sign (Sign B) at the rear of the site fronting Edward Bennett Oval was inconsistent with the open space zone and would have had an undesirable visual impact on the adjoining park and surrounding residential area.

In response to these concerns the sign has now been redesigned as a horizontal sign attached to the rear boundary wall and would be partially obscured by the embankment of the oval.

The modified Sign B design is considered suitable for approval on the following grounds:

- The visual impact on the Oval has been lessened by a reduction in both the size and height of the sign;
- The topography minimises the potential visual impact. The natural ground level of Edward Bennett Oval is higher than the ground level at the rear entry to the Club; and
- The sign would not be illuminated thereby minimising its visual intrusion on the Oval.

Accordingly, no objection is raised to the erection of proposed Sign B or to the illumination of the existing approved Sign A during the approved hours of operation of the Club.

### **3.9 Condition No. 63 - Delete the requirement to undertake noise monitoring during construction works**

The applicant has requested that Condition 63 be deleted which reads as follows:

63. *During construction noise monitoring equipment must be installed at the nearest residential boundary (of residences affected by noise from any use of the site) for a period of no less than three (3) months to ensure that the acoustic amenity of surrounding residents is maintained on an ongoing basis. The noise monitoring results for each month must be submitted to Council within 14 days of the end of the month to which they apply.*

*At the end of the 3 month period the applicant be required to submit to Council an Acoustic Report from a qualified Acoustic Consultant confirming that the results of the monitoring demonstrate that the noise criterion set by Council and the DECC, described in the Acoustic Report prepared by the Acoustic Group dated 8 November 2007 and Supplementary Information dated 18 March 2008, are being met. Where the consultant finds that the criterion set by Council and the DECC are not being met, the applicant is to provide recommendations to reduce the noise to meet the criteria. The recommendations must be submitted to Council within 30 days of the end of the three month monitoring period.*

It is considered appropriate that construction noise is managed. This is legislated through the *Protection of the Environment Operations Act 1997* and administered by the principal certifying authority. Condition 63 imposes requirements on this applicant that are beyond the controls typically imposed on similar developments and developments near residential properties. Consequently, it is considered that the condition is onerous and does not satisfy the legal test for conditions. An alternative condition requiring compliance with the Act is recommended to replace Condition 63.

### **3.10 Condition No. 68 - Clarify buffer setback**

The existing wording of condition No. 68 is as follows:

68. *A buffer set back of an average width of 10 metres must be provided from the crest of the watercourse to structures/developments and be suitably vegetated with native grasses to facilitate the filtration of surface runoff. Accordingly, no land disturbance, buildings or associated structures may encroach within 10 metres from the crest of the bank of the watercourse.*

It is proposed to amend the condition to include the wording '*or beyond those areas of riparian landscape depicted on the approved plans*'.

No objection is raised to the amended wording of the condition as it accurately reflects Council's intention to protect the existing watercourse.

### **3.11 Condition No. 76.1 and 76.2 - Correct error in plan reference**

It is proposed to amend condition Nos. 76.1 & 76.2 to correct the typographical error in the plan referencing with regard to the Riparian Zone Landscape Plan prepared by DEM (Aust) Pty Ltd, (Drawing No. 1a-0504 Rev a07, dated 17/12/2007)

No objection is raised to amending the wording of the condition to correct the reference to the approved plans.

### **3.12 Condition No. 139 - Permanent Noise Monitoring System**

The existing wording of condition No. 139 is as follows:

139. *The Club is required to install a permanent noise monitoring system immediately after the acoustic fencing is built in Stage One and in accordance with the Security Management Plan. These monitors are to be placed along the acoustic fencing adjacent to the neighbours of Bowerman Place and Edward Bennett Drive Cherrybrook. The records for the noise monitoring system are to be made available for inspection by the NSW Police and the Liquor Administration Board at all times.*

The Club has requested that condition No. 139 requiring the installation of a permanent noise monitoring system be deleted as it is inappropriate and impractical. The request was accompanied by a report prepared by The Acoustic Group (TAG).

Condition No. 139 was originally recommended by the NSW Police on the basis of community meetings held and a similar requirement imposed by North Sydney Council as part of the consent issued for an outdoor terrace at North Sydney Leagues Club.



The report prepared by TAG has indicated that the North Sydney Leagues Club system was of no real assistance, kept on tripping on bird noise and was not practical. The consent for North Sydney Leagues Club was subsequently amended to delete this requirement.

On the basis of the North Sydney experience and the findings of the acoustic report, it is recommended that acoustic monitoring equipment be installed in accordance with the recommendations in The Acoustic Group's letter dated 22 March 2010 (Page 4) for a period of 60 days after the completion of site works. In addition, an Acoustic Assessment Report is to be undertaken by a suitably qualified environmental consultant within 90 days of occupying the site in accordance with the *Environment NSW Industrial Noise Policy (2000)*, *Council's Policy and Guidelines for Noise and Vibration Generating Development (Acoustic Guidelines V.5, 2000)* and the *DECC's Noise Guide for Local Government (2004)*. The amended condition requires that the assessment be submitted to Council for review and should the assessment find that noise from the premises exceeds 5dB(A) appropriate measures are required to be employed to rectify excessive noise.

Additionally, a noise management plan outlining how the Club would respond to residents' complaints and high levels of noise in the outdoor areas is required to be prepared.

The NSW Police raised no objection to the deletion of condition No. 139 subject to an alternative noise monitoring device such as the one suggested by TAG in the submitted acoustic report being implemented and that a Noise Management Plan is prepared for the development.

On this basis, no objection is raised to the deletion of the requirement for the installation of a permanent noise monitoring system.

### **3.13 Condition No. 141 - Number of patrons**

It is proposed to delete condition No. 141 which limits the number of patrons, visitors and staff on the premises at any one time. The wording of the condition is as follows:

*141. The combined number of patrons, visitors and staff on site at any one time is to be limited to 750.*

The Club requests that condition No. 141 be deleted as it is considered unreasonable and inappropriate.

The maximum number of patrons was determined based on all car parking spaces being used. This was to limit parking on adjacent residential streets. If there is no cap on the number of patrons and staff using the Club, car parking may occur on local residential streets, extending the area impacted by noise and Club activity.

The number of patrons, visitors and staff should remain capped to a capacity relating to the number of car parking spaces provided. To enforce the maximum occupancy it may be necessary to take bookings for peak events. Cinemas, night clubs and bars have capacity limits, and are able to organise their activities within this constraint. With these considerations in mind, the imposition of a ceiling on patron/staff levels in the Club is considered reasonable. Accordingly, it is recommended to cap patrons et al to a maximum of 1,032, which is the operating capacity of the on-site car parking.

### 3.14 Condition No. 162

The existing wording of condition No. 162 is as follows:

162. *To provide a safe vehicular and pedestrian access to the site considering traffic increases caused by the development, a roundabout is to be designed and constructed at the intersection of New Line Road and Cedarwood Drive in accordance with Hornsby Shire Council Civil Works Specification, the requirements of Austroads Guide to Engineering Practise Part 6 and the requirements of the RTA. The concrete roundabout is to have a minimum thickness of 200mm and reinforced with 2 layers of F72. All costs associated with the construction of the roundabout are to be met by the applicant. The design and construction of the roundabout are to include but not limited to the following:*

- *Linemarking*
- *Service adjustments*
- *Signage*
- *Median strips*
- *Pram ramps and pedestrian footpaths*
- *Public road acquisition*
- *Road furniture*
- *The surface of the roundabout is to be finished with "biscuit marigold" oxide*
- *Reconstruction of the pavement within the roundabout*
- *Footpath construction*
- *Stormwater drainage*

The Club initially proposed deleting condition No. 162 relating to the construction of a roundabout at Cedarwood Drive/New Line Road and a full seagull traffic arrangement be provided at the entrance to the Club.

Following a meeting with the applicant's traffic engineer an alternative traffic arrangement was proposed involving construction of a seagull traffic arrangement during Stage 1C and the second stage (stage 2C) of the new traffic management improvement would involve constructing a roundabout at the intersection of Cedarwood Drive and New Line Road prior to the completion of the new basement car park.

Accordingly, the roundabout is now proposed to be constructed during Stage 2C works. This would maintain safe and efficient traffic flows on the local road network.

### 3.15 Condition No. 165 - New Line Road intersection works

The existing wording of condition No. 165 is as follows:

165. *The intersection design (New Line Road and Club access option No 2) as detailed in the Transport and Traffic Planning Associates report dated 12 Nov 2007 is to be designed and constructed in accordance with the Hornsby Shire Council Civil Works Specification and the requirements of the RTA. All costs associated with the construction of the intersection are to be met by the applicant. The works are to include but not limited to the following;*

- *Linemarking*

- *Service adjustments*
- *Signage*
- *Painted median strips*
- *Pram ramps and pedestrian footpaths*
- *Public road acquisition (where required)*
- *Road furniture*
- *Service adjustment*

This condition has been modified to reflect the new vehicular access arrangements proposed in the current application (as detailed above).

### **3.16 Natural Environment**

Subject to the recommended conditions, the proposed modification would not have a detrimental impact upon the natural environment.

### **3.17 Built Environment**

Subject to the recommended conditions, the proposed modification would not have a detrimental impact upon the built environment.

### **3.18 Social Impacts**

The proposed modification would not have a detrimental social impact upon the locality.

### **3.19 Economic Impacts**

The proposed modification would not have a detrimental economic impact upon the locality.

## **4. SITE SUITABILITY**

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

The suitability of the site has been addressed in the original assessment of the application. The proposed modifications do not alter the suitability of the site for the 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 27 August 2009 and 10 September 2009 in accordance with Council’s Notification and Exhibition Development Control Plan. During this period, Council received 55 submissions from 28 residents. 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"> <li>• PROPERTIES NOTIFIED</li> </ul>	<ul style="list-style-type: none"> <li>X SUBMISSIONS RECEIVED</li> </ul>	 PROPERTY SUBJECT OF DEVELOPMENT	
<p>3 SUBMISSIONS RECEIVED OUT OF MAP RANGE</p>			

Fifty-five submissions from twenty-eight residents objected to the development, generally on the following grounds that the modification would result in:

- Works never being done if changes are made to the Staging Plan.
- Light spillage.
- Noise.
- Non-compliance with previous consents.
- Out of character with the adjoining residential area.
- Increase in hours and associated impacts.
- Traffic generation and parking.
- Pedestrian safety.

The merits of the matters raised in community submissions have been addressed in the original assessment of the application and in the body of this report.

## 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 raised no objection to the proposed modifications and provided recommended amendments to conditions of consent.

### 5.2.2 Office of Water

The Office of Water raised no objection to the proposed modifications and advised that no changes are required to the General Terms of Approval that were granted for the original consent.

### 5.2.3 NSW Police

The following comments were received from the NSW Police:

*'Police recommended that a Noise Management Plan be established by the Club in relation to how they will monitor the noise levels emitting from the outdoor entertaining areas and how they will address any noise issues or concerns.'*

*It was also noted that condition 6 stated that on six occasions the Club is able to trade later on special event nights. If the Club is to trade after midnight, then if possible it is recommended that the outdoor entertaining areas be closed off after midnight to minimize the noise outdoors. In the past, many noise complaints have been in relation to special events such as State of Origin nights and Boxing matches that have been televised and the noise is then carried outside. Where possible television screens which have televised special events should not be seen from the outside entertaining areas as this usually results in loud noises being emitted from people responding to what is being televised.'*

## 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 modifications would be in the public interest.

## CONCLUSION

The approved development is for alterations and additions to the West Pennant Hills Sports Club, involving the refurbishment of the existing clubhouse and extension of the building to create 4374m<sup>2</sup> of floor space to the Club, provide an outdoor courtyard, relocate the existing

tennis courts, bowling greens and cricket nets on the site and the erection of an advertising panel at the New Line Road Entry to the site. The works include the expansion/relocation of existing car parking facilities to provide a total of 388 car spaces, including 10 spaces for disabled access and the continuation of the courtesy bus service.

The proposed modification includes amendments to the staging of construction of the approved works and amendments to 19 conditions of consent. Subject to the imposition of modified conditions and amendments to the staging of some of the works, the proposed development is considered to be within the capacity of the site.

Accordingly, the proposed modification 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. Architectural and Staging Plans

File Reference: DA/1046/2007/A  
Document Number: D01341609

**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 following plans and documentation listed below and endorsed with Council's stamp, except where amended by other conditions of this consent:

*Architectural Plans by DEM*

<b>Drawing No.</b>	<b>Description</b>	<b>Issue</b>	<b>Date</b>
ar-0101	Site Plan	a04	04/08/2009
ar-0102	Interim Staging Plan Basement Floor	a08	29/04/2010
ar-0103	Interim Staging Plan Ground Floor	a07	29/04/2010
ar-0104	Final Staging Plan Basement Floor	a07	29/04/2010
ar-0105	Final Staging Plan Ground Floor	a07	29/04/2010
ar-0201	Basement Floor Masterplan	a03	04/08/2009
ar-0202	Ground Floor Masterplan	a03	04/08/2009
ar-0203	Lower Roof Masterplan	a02	04/08/2009
ar-0204	Roof Masterplan	a02	04/08/2009
ar-1201	Basement Carpark 2	a03	21/11/2007
ar-1202	Basement Carpark 1	a03	11/01/2008
ar-1203	Gymnasium Level	a04	27/03/2008
ar-1204	Tennis Courts & On-grade Carpark	a03	04/08/2009
ar-1205	Bowling greens	a02	21/11/2007
ar-1206	Ground Floor Club	a01	26/07/2007
ar-1207	Lower Roof Plan	a01	26/07/2007
ar-1208	Upper Roof Plan	a01	26/07/2007
ar-2101	Sections Sheet 1	a02	11/01/2008
ar-2102	Sections Sheet 2	a02	11/01/2008
ar-2103	Sections Sheet 3	a02	11/01/2008
ar-2104	Sections Sheet 4	a01	26/07/2007
ar-2400	Site Elevations	a02	11/01/2008

ar-2401	Site Sections	a01	26/07/2007
ar-2501	Elevations	a02	11/01/2008
ar-2502	Elevations	a02	11/01/2008
ar-4901	Club External Signage	a03	26/03/2010

*Landscape Plans by DEM*

Drawing No.	Description	Issue	Date
la-0501	Overall Landscape Plan	a04	27/07/2007
la-0502	Detail Landscape Plan (1 of 2)	a06	17/12/2007
la-0503	Detail Landscape Plan (2 of 2)	a06	17/12/2007
la-0504	Riparian Zone Landscape Plan	a07	17/12/2007
la-2401	Landscape Sections (1 of 2)	a05	17/12/2007
la-2402	Landscape Sections (2 of 2)	a05	17/12/2007
la-2403	Riparian Zone Landscape Sections	a06	17/12/2007
la-2404	Landscape Sections	a01	17/12/2007
la-8901	Landscape Details	a01	09/11/2007
SK0001	lask-0001_Planting Palette	a02	13/10/2006

*Hydraulic Services by Sydney All Services Pty Ltd*

Drawing No.	Description	Issue	Date
30193-C01	Site Plan (1 of 2)	E	30/10/2007
30193-C02	Site Plan (2 of 2)	E	30/10/2007
30193-C04	Details & Notes	C	30/10/2007
30193-C05	Soil & Water Management Plan	C	26/10/2007
30193-C07	Flood Extent Plan	A	26/10/2007
30193-C08	Flood Extent Plan Proposed Site Conditions	A	26/10/2007
30193-C09	Detailed Cross Sections Flood Levels	A	26/10/2007
30193-C10	Details & Notes	A	30/10/2007
06014-C10	Creek Widening Works & Bund Details	A	29/04/2008

*Survey Plan by Danny Linker & Co*

Drawing No.	Description	Issue	Date
060211	Site Survey showing detail & levels	-	03/03/2006

*Supporting Documentation*

Document No.	Title	Date
SK001 Rev A	Project No. 3482-00 Sample Board	July 2008
37.3170.R9:ZJM	Acoustic Report prepared by The Acoustic Group	08/11/2007
38.3170.R11:ZJM	Acoustic Report - Supplementary Information prepared by The Acoustic	18/03/2008



	Group	
40.3170.L15:ZSC	Acoustic Letter - Supplementary Information prepared by The Acoustic Group	22/03/2010
0665	Assessment of Traffic & Parking Implications prepared by Transport & Traffic Planning Associates	May 2007
-	Supplementary Traffic Advice prepared by Transport & Traffic Planning Associates	12/11/2007
	Supplementary Traffic Advice prepared by Transport & Traffic Planning Associates (no. 2)	24/03/2010
-	Access Report prepared by Accessibility Solutions	28/9/2006
6261	Building Code of Australia 2006 Report prepared by DIX Gardiner	26/09/2006
-	Waste Management Plan prepared by DEM	18/7/2007
3842	Landscape Works Specification prepared by DEM	9/11/2007
D00713127	Site Plan Tree Location	28/09/2007
	Security Management Plan	30/03/2010

## 2. Staging of Works

The development must be constructed in accordance with the approved staging plan except as modified by this condition:

### a. STAGE 1A WORKS

- i. Relocate the existing Cub administration area into temporary demountable building accommodation in the Club Director's parking area and relocate part of the internal gaming area into the existing administration area.
- ii. Install protective hoarding and pedestrian barriers to the existing gaming area.
- iii. Relocate the tennis courts and cricket nets to eastern Club site.
- iv. Retain the western and central bowling greens and on-grade parking areas to the west and south of the Club.
- v. Construct the new on grade parking areas to eastern side of the Club.
- vi. Construct the temporary storage/ 'back-of-house' undercroft space and overhead slab structure to be converted for future temporary parking and gymnasium.
- vii. Erect acoustic fences and landscape buffer planting to northern Club boundary as depicted on the staging plan.

- viii. Erect acoustic fences along the southern property boundary as depicted on the staging plan.
  - ix. Construct the new vehicular entry to New Line Road.
  - x. Construct the first portion of ground floor Club facilities extensions as depicted on the staging plan.
  - xi. Refurbish the existing Club kitchen, bars, administration and reception areas to cater for the new extensions.
  - xii. Construct the new eastern tennis pavilions and amenities block.
  - xiii. Construct the new pedestrian bridge over the creek line.
  - xiv. Construct a 1.2m wide footpath, physically separated from the access road, connecting New Line Road and the new at-grade parking area on the eastern side of the Club to the Club building entrance.
  - xv. Construct the pedestrian refuge island in New Line Road to the immediate south of Cedarwood Drive.
  - xvi. Relocate the temporary Club administration and gaming facilities into the final new building locations and remove the temporary demountable accommodation.
  - xvii. Modify channel in watercourse to prevent flooding of the site.
  - xviii. Construction of the On Site Detention system.
- b. STAGE 1B WORKS
- i. Extend the acoustic fence to southern boundary as depicted on the staging plan.
  - ii. Convert the temporary storage/ 'back-of-house' undercroft area to temporary parking for 41 cars spaces to service the Stage 1B Club extensions.
  - iii. Construct the second portion of the ground floor Club facilities extensions as depicted on staging plan.
  - iv. Complete all riparian zone works and landscape treatments and New Line Road landscaping as per the staging plan.
- c. STAGE 1C WORKS
- i. Undertake remaining internal refurbishments and upgrading works to the existing Club building.
  - ii. Extend the southern and northern acoustic fencing treatments to the western boundary.
  - iii. Complete the northern and southern boundary landscape screen treatments.

- iv. Complete the New Line Road landscape treatments and footpath/bus bay.
  - v. Construct the first stage of the new traffic management improvement to New Line Road including seagull traffic management arrangement and bus bay.
- d. STAGE 2A WORKS
- i. Construct the first portion fitout works of the new gymnasium.
  - ii. Complete the final riparian zone works and landscape treatments following the bridge construction.
  - iii. Construct a new vehicular bridge over the creek line.
- e. STAGE 2B WORKS
- i. Deactivate the central bowling green.
  - ii. Complete the undercroft area as additional temporary parking for Stage 2A Club extension areas.
  - iii. Construct the central courtyard areas and the western edge of Stage 1B areas.
  - iv. Complete the noise walls and landscape treatments to the northern boundary buffer zone.
- f. STAGE 2C WORKS
- i. Construct the new western basement car park.
  - ii. Construct the new bowling greens.
  - iii. Complete the last portion of the ground floor Club facilities extensions as depicted on the staging plan.
  - iv. Complete the fitout of the new gymnasium facility.
  - v. Complete the new basement car park.
  - vi. Complete the northern and southern boundary landscape screen treatments following on from basement car park and new bowling green works.
  - vii. Construct the second stage of new traffic management improvement to New Line Road comprising a roundabout at the intersection of Cedarwood Drive and New Line Road prior to the occupation of the basement car park.
  - viii. Complete the New Line Road landscape treatment and footpath/bus bay following on from second stage of new traffic management improvement to New Line Road.

**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. Weed and Creek Management Plan**

The applicant must submit to Council for approval a 'Weed and Creek Management Plan' to direct and inform maintenance staff in weed control and horticultural maintenance activities to ensure that potential noxious and environmental weeds on the site do not spread downstream and are managed in an environmentally sensitive manner. Maintenance works are to achieve a quality landscaping outcome which is not compromised as result of uncontrolled weed invasion.

The Plan must be prepared by a qualified and experienced bushland restoration company that include but not be limited to the following:

- a. weed removal techniques for pre and post construction of the development proposal;
- b. use of environmentally safe herbicide applications where applicable;
- c. maintenance regimes for weeds and proposed plantings post development;
- d. reference to the approved landscaping plan Riparian Zone Landscape Plan prepared by DEM (Aust) Pty Ltd, (Drawing No. la-0504 Rev a07, dated 17/12/2007) for replanting where required to compensate for natural mortality of tube stock lost in early establishment stages;
- e. provide guidelines for best environmental practice considering that the subject site for the plan is a watercourse;
- f. provide minimum qualifications required of maintenance horticultural staff (including those required for use of chemicals if appropriate);
- g. list of weeds previously recorded on site prior to the development that are likely to regenerate following the development proposal; and
- h. identification and control techniques of noxious weeds in Hornsby LGA as listed under *the Noxious Weeds Act 1993*.

**5. Traffic Management Plan – Construction**

In order to enable unencumbered movement of traffic in New Line Road during construction works, a Construction Management Plan, including a Traffic Management Plan and Scaled Construction Plan must be prepared by a chartered engineer and qualified worksite traffic controller and submitted to Council for approval with the construction certificate. The Construction Management Plan and Traffic Management Plan must address the following requirements:

- a. Detail the order of construction works and arrangement of all construction machines and vehicles being used at the same time during all stages.
- b. Be in compliance with the requirements of the *Road and Traffic Authority's "Traffic Control at Worksites Manual 1998"* and detailing:
  - i. Public notification of proposed works;
  - ii. Long term signage requirements;
  - iii. Short term (during actual works) signage;
  - iv. Vehicle Movement Plans, where applicable;
  - v. Traffic Management Plans;
  - vi. Pedestrian and Cyclist access and safety;
- c. Indicate traffic controls including those used during non-working hours and provide pedestrian access and two-way traffic in the public road to be facilitated at all times.

## REQUIREMENTS PRIOR TO THE COMMENCEMENT OF ANY WORKS

### 6. Erection of Construction Sign

A sign must be erected in a prominent position on any site on the site:

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

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

### 7. Protection of Adjoining Areas

A temporary hoarding, fence or awning must be erected between the work site and adjoining lands before the works begin and must be kept in place until after the completion of the works if the works:

- a. Could cause a danger, obstruction or inconvenience to pedestrian or vehicular traffic.
- b. Could cause damage to adjoining lands by falling objects.
- c. Involve the enclosure of a public place or part of a public place.

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

#### **8. Toilet Facilities**

Toilet facilities must be available or provided at the works site before works begin and must be maintained until the works are completed at a ratio of one toilet for every 20 persons employed at the site. Each toilet must:

- a. be a standard flushing toilet connected to a public sewer; or
- b. 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*

#### **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. Erosion Control - Watercourse**

In addition to any other conditions of this consent, the following erosion control measures must be adopted near the watercourse:

- a. All headwall outlets must incorporate flow velocity reduction controls (i.e. bedded boulders and small stones) to minimise erosive and scouring impacts to the watercourse.
- b. Energy dissipater controls must be landscaped to accommodate outlet sheet flow (forced jump).
- c. No engineering works are permitted within the bed of the watercourse.
- d. A buffer set back of an average width of 10 metres must be provided from the crest of the watercourse to any structures and be suitably vegetated with native grasses to facilitate the filtration of surface runoff.
- e. No land disturbance, buildings or associated structures may encroach within 10 metres from the crest of the bank of the watercourse or beyond those areas of riparian landscape depicted on the approved plan.

**11. Tree Protection Barriers**

Tree protection fencing must be erected around Tree Group A, trees numbered T13, T14, T18a, T18c, T32, T33, T34, T35 and T36 T37, T38, T39, T40, T41, T41a, T42, T43, T44, T45, T46, T47, T48 to be retained at a 4 metre setback and Tree Group B, trees numbered T37, T38, T39, T40, T41, T41a, T42, T43, T44, T45, T46, T47, T48 to be retained at a 3 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.

**12. Dilapidation Report**

A 'Dilapidation Report' is to be prepared by a 'chartered structural engineer' detailing the structural condition of all adjoining properties that are within the zone of influence of any works approved under this consent.

**REQUIREMENTS DURING CONSTRUCTION****13. 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.

**14. Demolition**

All demolition work must be carried out in accordance with *Australian Standard 2601-2001 – The Demolition of Structures* and the following requirements:

- a. Demolition material is to be disposed of to an authorised recycling and/or waste disposal site and/or in accordance with an approved waste management plan.
- b. Demolition works, where asbestos material is being removed, must be undertaken by a contractor that holds an appropriate licence issued by *WorkCover NSW* in accordance with Chapter 10 of the *Occupational Health and Safety Regulation 2001* and Clause 29 of the *Protection of the Environment Operations (Waste) Regulation 1996*.
- c. On construction sites where buildings contain asbestos material, a standard commercially manufactured sign containing the words 'DANGER ASBESTOS REMOVAL IN PROGRESS' measuring not less than 400mm x 300mm must be erected in a prominent position visible from the street.

**15. 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.

**16. Street Sweeping**

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

**17. 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 4 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 method(s) used to preserve the tree(s).

*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.*

**18. Council Property**

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

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

**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 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 levels are in accordance with the approved plans.



**REQUIREMENTS PRIOR TO THE ISSUE OF AN OCCUPATION CERTIFICATE  
FOR ANY STAGE OF WORKS**

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

**21. External Lighting - General**

All lighting must comply with the *Australian Standard AS3282:1997 The Control of Obtrusive Effects of Outdoor Lighting*. A suitably qualified lighting consultant must be appointed to measure and verify that the light emanating from the site complies with AS3282:1997.

**22. Patron Signage - Noise**

The applicant must erect prominent notices inside and outside the building advising patrons of the need to not cause any noise disturbance due to the proximity of the neighbouring residences.

**23. Boundary Fence Acoustic Control Measures**

The applicant must construct solid fencing in accordance with all acoustic reports listed in condition 1 and the following:

- a. The fence on the western end of the southern boundary from the western boundary 40 metres past the western façade of the Club building must be no less than 2.5 metres in height.
- b. The fence on the southern boundary 40 metres from the western façade of the Club building to 25 metres from the eastern façade of the Club building must be no less than 3.6 metres in height.
- c. The fence on the northern boundary fence must be no less than 1.8 metres in height.

**24. Carpark Entry Ramp – Acoustic Control Measures**

A minimum 65% of the roof area of the entry ramp of the underground carpark must be constructed using acoustic absorption having an NRC not less than 0.74.

**25. Consumption of Alcohol and Smoking in Outdoor Areas**

With the exception of the outdoor dining, the outdoor central courtyard, the smokers' balcony and the outdoor gaming areas, no smoking or consumption of alcohol is permitted in any outdoor area.

**26. Entertainment in Outdoor Areas**

No music, entertainment or amplified announcements is permitted in any outside area, with the exception of inaudible television screens and emergency and paging announcements essential to the safe and orderly management of the Club and its patrons. The acoustic mitigation measures required under this consent shall be strictly

enforced immediately by the patrolling of all outside areas and appropriate signs shall be erected reminding patrons of their obligations to minimise noise in accordance with the Club's requirements.

**27. Mechanical Plant – Acoustic Control Measures**

All mechanical plant equipment must have noise specifications, locations and orientations reviewed prior to installation on the site to ensure that they will not singularly or in total emit noise levels which possess tonal, beating and similar characteristics or which exceeds background noise levels by more than 5dB(A). Should the calculated noise emissions from the mechanical plant equipment be in excess of the set limits, appropriate acoustic treatment must be implemented by a suitably qualified consultant.

**28. Carpark ventilation stack**

The carpark ventilation must be constructed in a fully enclosed shaft discharging above the roof level and be constructed and located in accordance with the requirements of *Australian Standard AS1668.2*.

**29. Construction of Food Preparation Areas**

The construction, fitout and operation of that part of the development to be used for the manufacture, preparation or storage of food for sale, is to be in accordance with *Australian Standard 4674-2004, Design and Fit Out of Food Premises*, the *Food Act 2003*, and the *Food Regulation 2004* and the following requirements:

- a. Lodgement of an application to Sydney Water for the installation of a grease trap and dry basket arrestors (floor & sink) in accordance with the *Guidelines for the On-Site Pre-Treatment of Trade Wastewater Discharges, Sydney Water, May 2004*.
- b. Mechanical ventilation and the exhaust system is to be designed and installed in accordance with the requirements of *Australian Standard 1668.2* and the *Protection of the Environment Operations Act 1997*.

**30. Riparian Zone Landscape Plan**

In addition to the Riparian Zone Landscape Plan prepared by DEM (Aust) Pty Ltd, (Drawing No. la-0504 Rev a07, dated 17/12/2007) the applicant must adhere to the following requirements:

- a. Use plants purchased from a recognised native plant nursery and grown from provenance seed.
- b. Use trees that are tube stock, or were possible larger, and grown from locally genetic stock.
- c. Replace all plants that die within one calendar month.
- d. Use jute matting or equivalent on the entire embankment prior to landscaping to assist in weed suppression and bank stabilisation.

- e. Use weed free eucalypt mulch.
- f. Prevent the spread of turf or weeds into the creek of the property through the erection of a physical barrier along the edge of the existing turf area using materials such as timber, logs, rock, or concrete. The barrier is to be installed underground as well as above ground to provide a root barrier and to act as a mown strip to delineate the mown area from the bushland area. The physical barrier shall be inserted approximately 20cm below the soil with a minimum 8cm above the soil.
- g. Specify watering regime based on type and size of species of plants.
- h. Maximise the use of fertilisers on site to reduce the impact on the watercourse.
- i. Cross reference the approved Weed and Creek Management Plan for maintenance activities and responsibilities.

### **31. Driveway/Parking Bay – Protection of Trees**

To ensure any work undertaken will not adversely affect the longevity of the tree T3, T13 & T14, the driveway/parking bay is to be laid on existing grade with no excavation or fill within the nominated 4 metre restriction zones. The driveway/parking bay edge must not be within 2 metres of the edge of the trunks.

### **32. Boundary Screen Planting**

To ensure adequate screen planting is provided to adjoining properties, screen planting to the on-grade landscape setback zone adjacent to the property boundaries must include:

- a. Northern Boundary:
  - i. 30 trees capable of reaching a mature height of 8 metres planted at 6 metre centres in mulched planter beds. Trees to be installed at minimum pot size of 45 litres.
  - ii. 60 shrubs/small trees capable of reaching a mature height of 5 metres planted at 2 metre centres in mulched planter beds. Plants to be installed at minimum pot size of 5 litres.
- b. Southern Boundary:
  - i. 30 trees capable of reaching a mature height of 8 metres planted at 6 metre centres in mulched planter beds. Trees to be installed at minimum pot size of 45 litres.

### **33. Landscape Works**

Except as otherwise specified within this consent, all landscape works must meet the construction standards identified in the *Hornsby Shire Council Landscape Code for Development Applications* and the following requirements:

- a. The construction of mulched planter beds, planting of trees in minimum 25 litre pot sizes, shrubs in minimum 5 litre pot sizes and groundcovers in minimum 150mm pot sizes and native grasses in virocell tubes in the densities identified in the submitted planting specification.
- b. Slab planter box areas must include automatic irrigation, subsoil drainage (proprietary drainage cell, 50mm sand and filter fabric), waterproofing, minimum 500mm planting soil for shrubs and minimum 1000mm planting soil for trees and palms, and 75mm mulch.
- c. The landscape works and planting must be monitored and maintained in perpetuity after installation as specified and nominated in landscape specification to ensure successful establishment of all landscape works.
- d. A compliance certificate must be submitted to the principal certifying authority from a registered landscape architect confirming that landscape works have been installed and comply with the approved landscape plan and conditions of consent at the completion of relevant stages of work.

#### **34. Waste Management - Construction**

To confirm compliance with approved Waste Management Plan, the applicant must submit to the principal certifying authority a report of actual destinations and quantities of waste generated by the works carried out under this development consent. This report is to be based on documentary evidence (i.e. tipping dockets/receipts from transfer stations and landfills).

#### **35. Waste Management - Operational**

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

#### **36. Drainage**

Stormwater drainage from the site must be designed to satisfactorily drain rainfall intensities for an average recurrence interval of 20 years. The design shall:-

- a. Be in accordance with Council's *Civil Works – Design Specification 1999* and generally in accordance with plans prepared by Sydney All Services Pty Ltd Job No 06014 Drawing C04 issue C.
- b. Provide for drainage discharge to the existing 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.

#### **37. Works As Executed Plan**

A works-as-executed plan prepared by a chartered professional engineer or a registered surveyor must be lodged with Council when the engineering works are complete, prior to the release of the occupation certificate.

**38. Damage to Council Property**

Any damage caused to Council's assets in the vicinity of the subject site as a result of construction works associated with the approved development is to be repaired by the applicant/developer prior to the issue of the occupation certificate.

**REQUIREMENTS PRIOR TO THE ISSUE OF AN OCCUPATION CERTIFICATE FOR STAGE 1A WORKS**

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

**39. Drainage**

To ensure downstream properties are not flood affected by the increase in flows from the development site, the drainage system must be constructed with an on-site-detention system, having a capacity of not less than 176m<sup>3</sup> and a maximum discharge, when full, of 88 l/s. The system must be designed by a chartered civil engineer to the following requirements:

- a. A surcharge/inspection grate is to be located directly above the outlet.
- b. Stormwater discharge from the detention system is to be controlled via a one metre length of pipe not less than 50mm diameter discharging into a larger diameter pipe capable of carrying the design flow to Council's gutter/stormwater pit.
- c. Where the on-site detention system is proposed under the vehicular driveway, the engineer is to certify that the detention tank is structurally capable of withstanding the maximum anticipated traffic loads.

A compliance certificate is to be submitted to Council which includes work-as-executed details of the on-site-detention system prepared by a chartered engineer verifying that the required storage and discharge volumes have been constructed in accordance with the design requirements. The details are to show the invert levels of the on system as well as the pipe sizes and grades. Any variations to approved plans must be shown in red and supported by calculations. The on site detention system and associated drainage works is to be completed prior to the issue of an occupation certificate for Stage 1A.

**40. Flood Protection – Carpark and Accessways**

To prevent flooding of the carpark and accessways, the existing watercourse is to be modified generally in accordance with the plans prepared by Sydney All Services Pty Ltd Job No 06014 drawing No C10 to prevent inundation of the carpark and bridge. The proposed works are to be consistent with the requirements of the Part 3A permit. Engineering plans are to be prepared by a suitably qualified civil engineer detailing the proposed works. Prior to the issue of a construction certificate for these works, the plans are to be approved by Council. The modifications to the watercourse are to be completed prior to the issue of an occupation certificate for Stage 1A.

**41. Flood Mitigation – Catch Drain**

To prevent flooding of the site a catch drain is to be designed and constructed within the subject property to intercept overland flows from Edward Bennett Oval and direct these flows to the existing creek so as to protect the proposed buildings from overland flows. The work is to be carried out generally out in accordance with plans prepared by Sydney All Services Pty Ltd Job No 06014 drawing No C10. The construction of the catch drain is to be completed prior to the issue of an occupation certificate for Stage 1A.

**42. Vehicular Crossing**

The concrete vehicular crossing (layback) must be designed and constructed in accordance with Council's *Civil Works - Design and Construction Specification 1999* and the following requirements:

- a. Be a minimum of 200mm in depth reinforced with 2 layers of F72 steel reinforcing fabric.
- b. Have a minimum width of 7m each for the entry and exit crossings at the property boundary alignment and shall be separated with a minimum 1m wide median. This width shall extend a minimum of 6m inside the property boundary in accordance with *AS 2890.1*. The maximum grade of the access driveways in this location shall be 1 in 20.
- c. The ingress and egress crossings shall be suitably signposted prior to occupation.

**43. Driveway**

The access driveways must be designed and constructed in accordance with Council's *Civil Works - Design and Construction Specification 1999* and the following requirements:

- a. Construction of 150mm thick reinforced concrete pavement with 150mm of DGS 20 sub base.
- b. The pavement shall have a kerb to one side and a one-way crossfall with a minimum gradient of 2%.
- c. Construction of retaining walls, as required to support the carriageway and the compaction of all filled batters to the requirements of a practising geotechnical engineer.
- d. The provision of a safety rail at appropriate locations along the carriageway where there is a level difference between the driveway and the adjoining ground level of more than 300 mm or a 1:4 batter cannot be achieved.
- e. The construction of a new pedestrian bridge to span the existing watercourse. The underside of the bridge must have a minimum clearance of 300mm above the 1 in 100 year storm event. Prior to the release of the construction certificate a certificate from a chartered civil engineer is to be obtained confirming the

underside of the bridges has been designed 300mm above the 1 in 100 year flood levels.

- f. The construction of a separate 1.2m wide footpath from New Line Road to the Club's building entrance.

#### 44. Pedestrian Refuge

A pedestrian refuge is to be constructed in New Line Road in accordance with Council's *Civil Works - Design and Construction Specification 1999* and Standard Drawing No 19. All costs associated with the construction of the pedestrian refuge are to be met by the applicant. The works are to include but not be limited to the following:

- a. Linemarking.
- b. Service adjustments.
- c. Signage.
- d. Median strips.
- e. Pram ramps and pedestrian footpaths.
- f. Road furniture.
- g. The surface of the pedestrian refuge is to be finished with "biscuit marigold" oxide.
- h. Footpath construction.

#### REQUIREMENTS PRIOR TO THE ISSUE OF AN OCCUPATION CERTIFICATE FOR STAGE 1C WORKS

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

#### 45. Bus Bay

An indented bus bay must be constructed in accordance with Council's *Civil Works - Design and Construction Specification 1999*. The bus bay must be designed for an 18m articulated bus with a minimum length of 40m and all costs must be met by the applicant. The works are to include but not be limited to the following:

- a. Linemarking.
- b. Service adjustments.
- c. Signage.
- d. Median strips.
- e. Pram ramps and pedestrian footpaths.
- f. Public road acquisition (minimum 3.5m wide footpath area).
- g. Road furniture.

- h. Pavement construction.
- i. Footpath construction.
- j. Stormwater drainage.

#### **46. Subdivision Certificate – Road Widening – Bus Bay**

Prior to the principal certifying authority issuing an occupation certificate, the applicant must lodge with Council a subdivision certificate and dedicate the land required for road widening associated with the bus bay at no cost to Council. The applicant must submit a surveyor's certificate certifying that all structures within the land comply with the development consent in regard to clearance from new property boundaries.

#### **47. Road Intersection**

The intersection design (New Line Road and Club access) as detailed in the 'Transport and Traffic Planning Associates report 0655 Figure 1 Proposed Access Arrangement dated 20 July, 2009' must be designed and constructed in accordance with Council's *Civil Works - Design and Construction Specification 1999* and the requirements of the RTA. All costs associated with the construction of the intersection must be met by the applicant. The works are to include but not limited to the following;

- a. Linemarking.
- b. Service adjustments.
- c. Signage.
- d. Painted median strips.
- e. Pram ramps and pedestrian footpaths.
- f. Public road acquisition (where required).
- g. Road furniture.
- h. Service adjustment.

#### **48. Existing Kerb and Gutter**

The existing kerb and gutter must be removed and reconstructed across the frontage of the site in New Line Road. The existing road pavement must be saw cut a minimum of 300mm from the existing lip of kerb and reconstructed. The work must be completed prior to the issue of the occupation certificate.

#### **49. Road Pavement**

Road pavements are to be designed by a professional civil engineer in accordance with Council's *Civil Works - Design and Construction Specification 1999* and must be based upon soil tests performed by a registered NATA Soils Laboratory. The traffic loadings for pavement design must be  $2 \times 10^6$ .



**50. Footpaths**

A 1.2m wide concrete footpath must be designed and constructed across the frontage of the site in New Line Road. The concrete footpath is to be constructed so as to connect to the existing footpath both north and south of the site in accordance with Council's *Civil Works - Design and Construction Specification 1999*. The rear of the footpath must be located 600mm from the property boundary. The footpath area (from the rear of the kerb to the property boundary) must have a grade of 4% from the property boundary down to the top of kerb. Where the level of the rear of the footpath area exceeds 300mm from the existing surface level a masonry retaining wall is to be constructed with a 1.0 metre high safety fence erected on top of the wall.

**REQUIREMENTS PRIOR TO THE ISSUE OF AN OCCUPATION CERTIFICATE FOR STAGE 2A WORKS**

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

**51. Vehicular Bridge**

The vehicular access bridge over the watercourse must be designed and constructed in accordance with Council's *Civil Works - Design and Construction Specification 1999* and the following requirements:

- a. The pavement must have a kerb to one side and a one-way crossfall with a minimum gradient of 2%.
- b. The provision of a safety rail at appropriate locations along the carriageway where there is a level difference between the driveway and the adjoining ground level of more than 300 mm.
- c. The underside of the bridge must have a minimum clearance of 300mm above the 1 in 100 year storm event. Prior to the release of the construction certificate a certificate from a chartered civil engineer must be obtained confirming the underside of the bridges has been designed 300mm above the 1 in 100 year flood levels.

**REQUIREMENTS PRIOR TO THE ISSUE OF AN OCCUPATION CERTIFICATE FOR STAGE 2C WORKS**

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

**52. Construction of Roundabout**

A roundabout must be designed and constructed at the intersection of New Line Road and Cedarwood Drive in accordance with Council's *Civil Works - Design and Construction Specification 1999*, the requirements of *Austroads Guide to Engineering Practise Part 6* and the requirements of the RTA. The concrete roundabout must have a minimum thickness of 200mm and reinforced with two layers of F72. All costs associated with the construction of the roundabout must be met by the applicant. The

design and construction of the roundabout are to include but not limited to the following:

- a. Linemarking.
- b. Service adjustments.
- c. Signage.
- d. Median strips.
- e. Pram ramps and pedestrian footpaths.
- f. Public road acquisition.
- g. Road furniture.
- h. The surface of the roundabout is to be finished with “biscuit marigold” oxide.
- i. Reconstruction of the pavement within the roundabout.
- j. Footpath construction.
- k. Stormwater drainage.

#### **53. Subdivision Certificate Road Widening - Roundabout**

Prior to the principal certifying authority issuing an occupation certificate, the applicant must lodge with Council a subdivision certificate and dedicate the land required for road widening associated with the roundabout at no cost to Council. The applicant must submit a surveyor’s certificate certifying that all structures within the land comply with the development consent in regard to clearance from new property boundaries.

#### **54. Sydney Water – s73 Certificate**

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

### **OPERATIONAL CONDITIONS**

#### **55. Hours of Use**

The hours of operation of the various part of the Club must be in accordance with the following:

##### **CLUB - GENERAL**

Operational upon receipt of an occupation certificate for Stage 1C works

Sunday - Wednesday & Public Holidays:	9am – 11pm
Thursday - Saturday:	9am – 12 midnight

##### **CLUB - SPECIAL EVENT (INTERNAL CLUB AREAS ONLY)**

Operational upon receipt of an occupation certificate for Stage 1C works

Maximum 6 nights per calendar year 11pm – 9am

#### GYMNASIUM

Operational upon receipt of an occupation certificate for Stage 2A works

Monday – Sunday & Public Holidays: 6am – 10pm

#### TENNIS COURTS

Operational upon receipt of an occupation certificate for Stage 1A works

Monday - Friday: 6am – 10pm

Saturday: 7am – 10pm

Sunday & Public Holidays: 8am – 10pm

#### SOUTHERN BOWLING GREEN (ILLUMINATED)

Operational upon receipt of an occupation certificate for Stage 2C works

Monday - Saturday: 7am – 9pm

Sunday & Public Holidays: 8am – 9pm

#### NORTHERN BOWLING GREEN (UNLIT)

Operational upon receipt of an occupation certificate for Stage 2C works

Monday - Saturday: 7am – Sunset

Sunday & Public Holidays: 8am – Sunset

### 56. Lighting – Bowling Greens

All lights used for night time bowls must be connected to an automatic time switch to be switched off at 9.00pm.

### 57. Lighting – Tennis Courts

All lights used for night time tennis must be connected to an automatic time switch to be switched off at 10.00pm.

### 58. Outdoor Area Acoustic Control Measures

The following acoustic measures must be employed within the central undercover outdoor area:

- a. A maximum of 120 patrons in the undercover outdoor area, 200 patrons in the central courtyard and 20 patrons in the outdoor gaming area at any one time.
- b. The northern and western boundary of the area shown as the courtyard 'water feature' must have a barrier not less than 4 metres above ground level (RL 160) and the barrier must be constructed of solid masonry.
- c. The walls of the outdoor gaming room must not be less than 2 metres in height.
- d. No music, entertainment or amplified music/announcements is permitted in the central courtyard/outdoor area, with the exception of inaudible television

screens for emergency and paging announcements essential to the safe and orderly management of the Club and its patrons.

**59. Smokers Balcony (eastern elevation) Acoustic Control Measures**

The following acoustic control measures must be employed within the smokers balcony on the eastern elevation of the building:

- a. A maximum of 60 patrons on the balcony at any one time.
- b. The northern elevation of the smokers balcony must have a physical barrier to the ceiling height of the balcony and a 1.5 metres return on the eastern elevation. The barrier must have a transmission loss not less than Rw of 30.
- c. The underside of roof of the smokers' balcony must be constructed with acoustic absorption having an NRC not less than 0.85.
- d. Air lock doors must be installed at the exits of the Sports Lounge to the smokers' balcony.
- e. No music, entertainment or amplified music/announcements is permitted on the smokers' balcony, with the exception of inaudible television screens for emergency and paging announcements essential to the safe and orderly management of the Club and its patrons.

**60. Advertising Signs**

All advertising signs approved under this consent must be maintained in a presentable state of repair to Council's satisfaction and:

- a. Sign A must be fitted with an automatic timing device to extinguish the illumination outside of the approved hours of use for the Club.
- b. Sign B must not be illuminated.

**61. Fire Safety Statement - Annual**

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

**62. Noise Monitoring**

To ensure that the Club's activities do not unreasonably impact upon the amenity of the adjoining residential population, the applicant must:

- a. Install acoustic monitoring equipment in accordance with the recommendations of *The Acoustic Group's letter dated 22 March 2010* for a period of 60 days after the completion of construction works.
- b. Prepare a noise management plan outlining how the Club will respond to residents' complaints and high levels of noise in the outdoor areas.

- c. Manage any noise complaints under the direct supervision of the Duty Club Manager and to the satisfaction of the NSW Police. The Manager must record all relevant details including date, time, name, contact number and details of the complaint.

### 63. Maximum Persons on Site

The combined number of patrons, visitors and staff on site at any one time must not exceed 1,032.

### 64. Car Parking and Deliveries

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

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

#### GENERAL TERMS OF APPROVAL - OFFICE OF WATER

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.

- GTA1.** Before any works are commenced within 40 metres of any watercourse on or near the site, a Part 3A Permit must be obtained from the Office of Water.
- GTA2.** Works are to be carried out in accordance with the plans and documents presented to the Office of Water for the subject development application and these conditions.
- GTA3.** All documentation and plans and bonds required as part of these conditions must be prepared and provided to the Office of Water prior to the issuing of the Part 3A Permit.
- GTA4.** All engineering, other structural works or natural landscaping proposed must be designed, constructed and operated by suitably qualified professionals, recognised in that specialised field. For any Vegetation Management Plan, this relates particularly to bushland rehabilitation practices, and for any Works Plan, this relates particularly in natural stream processes, design and rehabilitation practices.

The designs and construction methods and activities are to result in NIL or minimal harm to aquatic and riparian environments and do not cause erosion, sedimentation, or increase flood levels of Protected Waters.

- GTA5.** Erosion and sediment control measures are to be implemented prior to any works commencing at the site and must be maintained for as long as necessary after the completion of works, to prevent sediment and dirty water entering the watercourse/foreshore environment. These control measures are to be in accordance with the requirements of Council, and best to follow relevant management practices as outlined in the Landcom manual “*Managing Urban Stormwater: Soils and Construction – Volume 1*” (4<sup>th</sup> Ed., 2004) – the “*Blue Book*”, or other suitable control measures to mitigate erosion where conventional measures are not adequate (such as within bed and banks of a watercourse).
- GTA6.** The Part 3A permit from the Office of Water is issued for works on FREEHOLD land only and is null and void for any works on Crown Land.
- GTA7.** Evidence of Owner’s Consent for all works over any lands within 40 metres of any watercourse is required prior to the issue of the Part 3A permit.
- GTA8.** In the event that there is an 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, the Office of Water.
- GTA9.** The development is to satisfy all requirements of Council in relation to flooding, drainage, stormwater detention and water quality, but in so doing, must not compromise in any way the form and function of any works, on Protected Waters and in riparian zones required by these conditions.
- GTA10.** Works shall not commence for the following, if a licence under the *Water Act (1912)* or the *Water Management Act (2000)* is required:
- a. Install a pump for extraction of water from a surface and/or ground water source. The temporary extraction of water for establishment of vegetation in a Vegetation Management Plan does not require a licence.
  - b. Construct a dam.
  - c. Construct a levee.
  - d. Divert any part of Protected Waters.
  - e. Irrigate from any of the above.
- GTA11.** Operations shall not damage or interfere in any way with:
- a. Vegetation and habitat on Protected Land on the Site outside the area approved.
  - b. The stability of adjacent or nearby bed or banks of Protected Waters.

- c. The stability of Protected Waters and their associated environments.
  - d. The flow of Protected Waters.
  - e. The quality of Protected Waters.
  - f. Any pumps or structures in the vicinity (that are licensed under the *Water Act 1912* or the *Water Management Act 2000*).
- GTA12.** No piping, for the placement of bulk earthworks (including roads), of any watercourse is allowed.
- GTA13.** Any permanent constructed basin/wetlands/flood compensatory area and their associated disturbed areas are not to be located in any riparian area in or on-line and be consistent with the Office of Water Guide: *Constructed Wetlands (and Detention Basins) – Keep Them Off-Line Guideline*.
- GTA14.** Any flood study, are to take into account the effects of the vegetation required in any Vegetation Management Plan and any other vegetation within the flood area.
- GTA15.** The design of any stormwater outlets (including from roads, buildings, constructed basin/wetlands, swales or other drainage) and their spillways must be a “soft engineering solution” and be consistent with the Office of Water Guide: *Stormwater Outlet Structures to Streams (For pipes, culverts, drains and spillways)*.
- GTA16.** Points of constriction or any other places where scour is likely within or near any stream or any part of the riparian zones on the site are to be suitably protected against scour using permanent rock scour protection (rip rap) or any other “soft engineering solution” and be consistent with the Office of Water Guide: *Works and Watercourse Design Guideline*.
- GTA17.** Wire mesh structures (Mattresses and baskets), concrete, spray concrete, concrete grouting, and concrete grouting between rocks comprising rip-rap scour protection crib walling, masonry, car tyres and the like are not permitted.
- GTA18.** Any works that involve any change (including realignment, stabilisation, naturalised enhancement etc) of any watercourse, must emulate a stable natural watercourse system that behaves as, and has the appearance of a stable natural stream system of the area (including floodplains, terraces and other typical natural features.) Part of the form of the watercourse is to create meanders, suitable pool and riffle sequences, with suitable aquatic and terrestrial habitat.
- GTA19.** The extent of the rehabilitation/restoration of Protected Land and/or Protected Waters are to be as indicated by a Works Plan for all works that involve any change (including realignment, stabilisation, naturalised enhancement etc) of any watercourse. Rehabilitation/restoration and watercourse for must be consistent with the Office of Water Guide: *Works and Watercourse Design Guideline*.
- GTA20.** Following the completion of the physical works associated with any watercourse at the site these works and all associated disturbed areas must be maintained for a period of at least three (3) years after practical completion, consistent with the

Office of Water Guide: *Works and Watercourse Design Guideline*, particularly the maintenance and reporting criteria.

- GTA21.** Any crossing structures, including utility crossings and associated works, must be located, designed and constructed consistent with the Office of Water Guides: *Watercourse Crossing Design & Construction Guideline* and *Pipe and Cable Laying Across Watercourses and Riparian Area Guideline*. The Office of Water may require a Works Plan depending upon the potential impact upon the watercourse and must be consistent with the Office of Water Guide: *Works and Watercourse Design Guideline*.
- GTA22.** For any retaining walls and sea walls, their location, design and construction must be consistent with the Office of Water Guide: *Works and Watercourse Design Guideline*.
- GTA23.** Any accessways, (being roads, tracks, cycleways, pedestrian pathways or other form of accessway) that may be proposed for the site, are to be normally located beyond the riparian zones, and be consistent with the Office of Water Guide: *Design and Construction of Paths and Cycleways and Accessways along Watercourses and Riparian Areas Guideline*.
- GTA24.** A permanent physical barrier, (such as a fence, pathway, road etc), to prevent inadvertent damage to riparian zones, is to be placed at their landward extent in all locations, and be consistent with the Office of Water Guide: *How to Prepare a Vegetation Management Plan Guideline*.
- GTA25.** There is to be no permanent or temporary excavation of, or placement of material on, protected land, or anything done that may detrimentally affect the flow of protected waters, and are not to be placed in any area that has existing native riparian vegetation that is identified as part of any riparian zone in any Vegetation Management Plan.
- GTA26.** A riparian zone consisting of local native plant species shall be established and maintained in and adjacent to all Protected Waters, including beneath bridges, for their entirety within the site. The extent of the riparian zones is to be measured horizontally landward from the top of the bank of the watercourse/s, and on both sides of the watercourse, and is to be of an average width of 10 metres on both sides, for their entirety within the site, as shown on the presented plans and associated documentation to the Office of Water.
- GTA27.** All riparian zones at the site must be rehabilitated where they are affected by, or located adjacent to, or located within 10m of, any works on Protected Land that require a Part 3A permit, for the purposes of aiming at naturalised bed and bank stabilisation and giving adequate space for the natural functioning of the watercourse.
- GTA28.** A Vegetation Management Plan for site rehabilitation that demonstrates protection of any remnant local native riparian vegetation at the site and restore any riparian zones disturbed or otherwise affected by the development to a state that is reasonably representative of the natural ecotone of the protected waters system, to achieve sound naturalised watercourse and long term riparian area stabilisation and management by the enhancement/emulation of the native vegetation communities of the subject area is to be prepared, and be consistent with the



Office of Water Guide: *How to Prepare a Vegetation Management Plan Guideline*.

- GTA29.** Seed and propagule sources are to be from local botanical provenance (regarded as from as close as possible and from the same general habitat (same soil type, distance from watercourse, exposure etc)) is required consistent with the Office of Water Guide: *How to Prepare a Vegetation Management Plan Guideline*.
- GTA30.** The riparian zone (and all areas and activities described in the Vegetation Management Plan must be maintained for a period of at least two (2) years after final planting or where other revegetation methods are used, two years after plants are at least of tube stock size and are at the densities required by these conditions and with species richness as described in the Vegetation Management Plan, and three (3) years minimum for those areas required for access and maintenance relating to any Works Plan and being consistent with the Office of Water Guide: *How to Prepare a Vegetation Management Plan Guideline*, particularly the maintenance and reporting requirements.
- GTA31.** The Part 3A permit holder must ensure that all works and activities at the site do not compromise the implementation of the Vegetation Management Plan.
- GTA32.** Any requirements for bushfire asset protection zones, including fire trails, are not to compromise in any way the extent, form or function of the riparian zones. Fuel reduced areas are to be located outside of riparian zones.
- GTA33.** Any property boundary fence should generally be located beyond the riparian zones and be consistent with the Office of Water Guide: *How to Prepare a Vegetation Management Plan Guideline*.
- GTA34.** As a pre-condition to the granting of any Part 3A permit, the applicant for a Part 3A permit will be required to provide a security deposit (bank guarantee or cash bond). The security deposit is to cover the cost, as approved by the Office of Water, of completing selected works and activities listed in the previous GTA conditions in accordance with the conditions of the Part 3A permit.
- GTA35.** 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 the Office of Water and it must be drawn up in the format required by the Office of Water.

- 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](http://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](http://www.environment.nsw.gov.au)

[www.nsw.gov.au/fibro](http://www.nsw.gov.au/fibro)

[www.adfa.org.au](http://www.adfa.org.au)

[www.workcover.nsw.gov.au](http://www.workcover.nsw.gov.au)

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

## Roadworks

A separate application under the *Local Government Act 1993* and *Roads Act 1993* must be submitted to Council for approval prior to the commencement of any works within the road reserve of New Line Road.

## Food Authority Notification

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

*Note: NSW Food Authority can be contacted at [www.foodnotify.nsw.gov.au](http://www.foodnotify.nsw.gov.au).*

## Council Notification – Food Premises

Prior to the commencement of the business, the operator is requested to contact Council's Environmental Health Team to arrange an inspection for compliance against the relevant legislation and guidelines outlined in this approval.

*Note: Council's Environmental Health Officer can be contacted on 02 9847 6745.*

**3 DEVELOPMENT APPLICATION - RESIDENTIAL - ALTERATIONS AND ADDITIONS  
29 GEORGE STREET PENNANT HILLS**

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<b>Development Application No:</b>	DA/330/2010
<b>Description of Proposal:</b>	Alterations and additions
<b>Property Description:</b>	Lot 102, DP 875670, No. 29 George Street, Pennant Hills
<b>Applicant:</b>	Mrs Kathryn Leigh Blackwell
<b>Owner:</b>	Mrs Kathryn Leigh Blackwell
<b>Statutory Provisions:</b>	Hornsby Shire Local Environmental Plan 1994 Residential A (Low Density)
<b>Estimated Value:</b>	\$25,000
<b>Ward:</b>	C

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**RECOMMENDATION**

THAT Council assume the concurrence of the Director-General of the Department of Planning pursuant to State Environmental Planning Policy No. 1 and approve Development Application No. DA/330/2010 for the erection of alterations and additions to a dwelling-house at Lot 102, DP 875670, No. 29 George Street, Pennant Hills subject to the conditions of consent detailed in Schedule 1 of this report.

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**EXECUTIVE SUMMARY**

1. The application proposes the erection of alterations and additions to a dwelling-house.
  2. The proposal generally complies with the Hornsby Shire Local Environmental Plan 1994 and Council's Dwelling House Development Control Plan (DCP).
  3. The proposal does not comply with the 0.4:1 floor space ratio development standard under the Hornsby Shire Local Environmental Plan (HSLEP). Accordingly, the application has been supported by a submission under State Environmental Planning Policy No. 1 (SEPP 1) seeking approval of a variation to the development standard.
  4. No submissions have been received in respect of the application.
-

5. It is recommended that the application be approved.

## THE SITE

The site is located on the northern side of George Street, Pennant Hills and has an area of 612.3m<sup>2</sup>. The site has a 17% fall from the front to the rear with a 21.9m wide frontage to George Street and a 20.41m wide rear boundary. The western boundary is 28m in length and the eastern boundary is 26.5m in length with a 2.1m wide splay at the rear, northeast corner.

The site contains a two storey dwelling-house surrounded by well established landscaping. It is bordered on both sides by accessways for the adjoining battle-axe allotments.

The surrounding residential development is characterised by an eclectic blend of one and two storey dwelling-houses, ranging from modest, post-war design to houses of a more contemporary appearance, each surrounded by well established trees and landscaped areas.

## THE PROPOSAL

The application proposes the erection of a first floor level family room at the rear, north-west corner of the dwelling-house. The additions will increase the floor area of the dwelling-house by 13.6m<sup>2</sup>.

## 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 is consistent with the draft strategy by contributing 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 the 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 a “dwelling-house” under the HSLEP and is permissible in the zone with Council’s consent.

Clause 15 of the HSLEP prescribes that the maximum floor space ratio (FSR) of development within the Residential A (Low Density) zone is 0.4:1. At the time that the dwelling was constructed, it was in compliance with the then definition of floor space ratio development standard. The dwelling-house does not comply with the current development standard under Council’s definition of floor space ratio, as it was constructed during a period when the floor area of the garage area was included within FSR calculations. Council currently specifies the definition of a garage in the Dwelling House DCP to allow no more than 38m<sup>2</sup> for a double garage to be excluded from FSR calculations.

The applicant seeks to erect alterations and additions to the dwelling-house which would increase the FSR from 0.42:1 to 0.45:1. In this regard, a detailed assessment has occurred to determine whether the proposal satisfies the zone objectives and the objectives of the development standard. To address this matter, the applicant has submitted an objection to the FSR development standard under State Environmental Planning Policy No. 1 (SEPP 1).

## 2.2 State Environmental Planning Policy No. 1 – Development Standards

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

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

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

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

Point (1) listed above is the most relevant matter to consider in respect of this application.

The applicant's SEPP 1 submission in support of the proposal is summarised (in italics) below:

*"The variation is minor only with 0.05:1 increase proposed over the standard ratio of 0.4:1 and considering the site coverage of 38% is below the maximum allowed for the site.*

*The land is isolated by access driveways on both sides of the property thus a reduced visual density and increasing its environmental capacity.*

*Provides for the housing needs of a growing young family.*

*Minimal effect on visual streetscape character. The scale of the existing development on the site is low due to the single storey street elevation and the proposed addition will not impact on this scale.*

*No impact on solar access to the property or adjoining dwellings and their private open space will occur as a result of the addition.*

*Private open space and landscaped area provided on the site exceeds the minimum requirement of Council's development controls.*

*This small variation would not have a cumulative impact as it is site specific and all other objective and prescriptive planning requirements are met by the development".*

The submission addresses the objective of the floor space ratio provision in Council's LEP through the design of additions that would not over intensify the scale of the development of the land in regard to the land's environmental capacity and the zone objectives.

Whilst not applying directly to the site (refer to Section 2.3 of this report), Council's assessment has had regard to the provisions of the NSW Housing Code, which provides that the maximum gross floor area for complying development within the Pennant Hills area (outside bushfire prone lands) as being:

- 330m<sup>2</sup>, if the lot has an area of at least 450m<sup>2</sup> but less than 600m<sup>2</sup>
- 380m<sup>2</sup>, if the lot has an area of at least 600m<sup>2</sup> but less than 900m<sup>2</sup>
- 430m<sup>2</sup>, if the lot has an area of at least 900m<sup>2</sup>

Accordingly, the development would satisfy the FSR development standard under the Code if the application qualified as complying development.

Given that the NSW Housing Code is now enacted in many parts of the Shire, it is anticipated that more developments will be approved under this Code, which will change the characteristics of dwelling-houses. Consequently, whilst Council has traditionally applied a maximum FSR of 0.4:1 for dwelling-houses in the low density residential zones within the

Shire under the HSLEP, the introduction of the new NSW Housing Code will change the effect of this standard.

It is considered that the proposal takes into consideration the environmental and topographical constraints of the site. The additional floor space would not impinge on the environmental and amenity aspects of the site and the underlying objectives of the zoning. The addition would provide accommodation that would not detract from the scale and variety of dwelling-houses in the low density areas of the Shire. As the proposal is considered to meet the zone objectives outlined in the HSLEP, the “object of purpose” would be undermined if strict compliance of the prescriptive measure was required.

### 2.3 State Environmental Planning Policy (Exempt and Complying Development)

On 27 February 2009, SEPP (Exempt and Complying Development) commenced operation. Under the SEPP, the Housing Code outlines how residential developments including:

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

can proceed on lots of greater than 450m<sup>2</sup> in size as complying development with council or accredited certifier approval. The subject allotment is excluded from the SEPP on the basis that the land is identified as being bushfire prone.

### 2.4 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 (DCP). The following table sets out the proposal’s compliance with the prescriptive standards of the Plan:

<b>Dwelling House Development Control Plan</b>			
<b>Control</b>	<b>Proposal</b>	<b>Requirement</b>	<b>Compliance</b>
<b>Gross Floor Area</b>	273m <sup>2</sup>	245m <sup>2</sup>	No
<b>FSR</b>	0.45:1	0.4:1	No
<b>Site coverage</b>	38%	40%	Yes
<b>Height</b>	7.6m	<9m	Yes
<b>Car parking</b>	2 spaces	2 spaces	Yes
<b>Length of Building</b>	19.5m	24 m	Yes
<b>Unbroken Wall length</b>	6.4m	10m	Yes
<b>Private Open Space</b>	180m <sup>2</sup>	120 m <sup>2</sup>	Yes
<b>Landscaping</b>	47%	45%	Yes
<b>Setbacks</b>			



- <b>Front (garage)</b>	7m	6 m	Yes
- <b>Side (east)</b>	1.36m	1 m	Yes
- <b>Side (west)</b>	1.0m	1 m	Yes
- <b>Rear</b>	6m	3 m	Yes

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

#### 2.4.1 Scale

The Scale element of the DCP requires that:

*“The maximum floor space ratio for dwelling-houses is 0.4:1. The floor space includes the sum of the areas of each floor of a building where the area of each floor is taken to be the area within the outer face of the external enclosing walls, including voids, but does not include carports, decks, terraces and the like.*

*The floor space also includes the area of any garage in excess of the car parking requirements (refer to the Vehicle Access and Parking element).”*

The applicant's FSR calculation indicates that the gross floor area is 273m<sup>2</sup> which equates to an FSR of 0.45:1.

An assessment of the suitability of the scale of the proposed development is held under Section 2.2 of this report. In summary, it is considered that in the circumstances of the case, the proposed scale of the development would not detract from the character of the locality and therefore, a variation to the development standards is acceptable.

#### 2.4.2 Privacy

The living room is proposed to be located on the first floor of the dwelling-house which does not comply with a prescriptive measure of the Privacy element which seeks to have living and entertaining areas located on the ground floor only.

This room is served by a window in the north elevation which is orientated towards the private open space of the property and has a setback of approximately 7m from the adjoining rear battle-axe allotment, No. 29A George Street. Additionally, the two accessways bordering the western boundary act as a buffer to minimise the loss of privacy to the private open space areas of adjoining properties.

On that basis, the proposal meets the objectives of the Privacy element and is considered acceptable.

#### 2.5 Heritage Impact

The site is not located within a heritage conservation area but is in the vicinity of two heritage listed items, namely the dwelling-houses at No's 6 and 43 George Street. The proposed development would not have any impacts upon the heritage values on these listed items or the character of the streetscape. The proposal is in keeping with the style of the existing dwelling and would not be highly visible from the street.

### **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 is within the footprint of the existing dwelling-house. On that basis, the proposal would not require the removal of any trees and would not result in any adverse environmental impacts.

#### **3.2 Built Environment**

The proposed alterations and additions would not be out of character with the established built form of residential development in the area and would be consistent with the form of development permitted in the locality.

#### **3.3 Social and Economic Impacts**

There are no anticipated adverse social or economic impacts 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*”.

#### **4.1 Bushfire Risk**

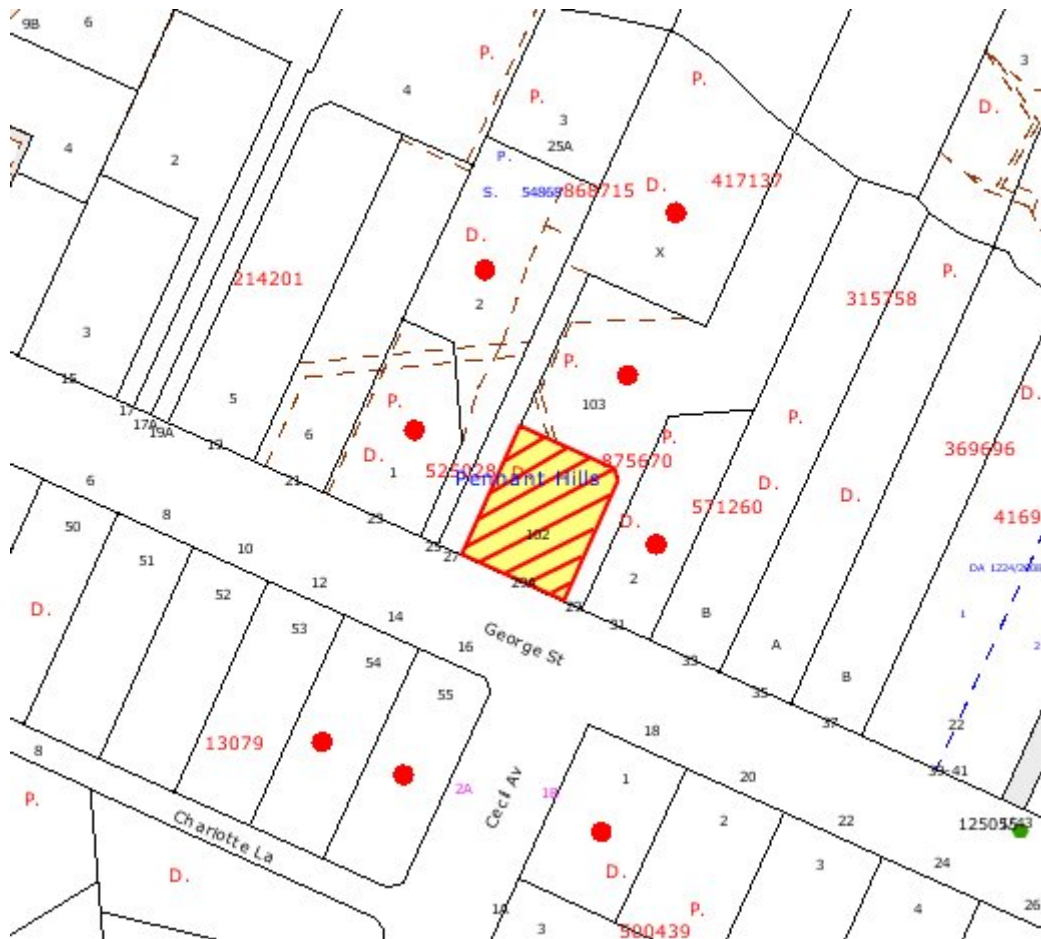
The site is identified as being subject to bushfire risk. The application was referred to the NSW Rural Fire Service (RFS) for comment. The RFS has advised that it raises no objection to the development, subject to relevant bushfire mitigation conditions being imposed on any consent.

### **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 24 March and 7 April 2010 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 proposal.



**NOTIFICATION PLAN**

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

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

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

The application’s departure from numerical development standards would not set an undesirable precedent for other developments in the street or the locality and approval of a variation to the development standards would accord with the aim of SEPP 1 to “*provides flexibility in the application of development standards in circumstances where strict compliance with those standards would, in any particular case, be unreasonable or unnecessary, or tend to hinder the attainment of the objectives of the Act*”.

The 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 alterations and additions would be in the public interest.

## CONCLUSION

The application proposes alterations and additions in the form of a first floor family room at the rear, north-west corner of the dwelling-house.

The addition would increase the gross floor area to 273m<sup>2</sup>, which exceeds the 0.4:1 FSR requirement for the site. The applicant has made a submission under the provisions of SEPP 1 to vary this development standard. It is considered that approval of the development is warranted in the circumstances of this case. The application justifies the non-compliance with the relevant provisions within Clause 15 of the HSLEP and approval of the application would not set an undesirable precedent for the area.

Council did not receive any submissions to the proposed development. The application was referred to the Rural Fire Service to comment on the bushfire impacts of the proposal. The RFS advised that the development would be acceptable subject to the imposition of relevant conditions.

Having regard to the assessment of the proposed development and the circumstances of the case, 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 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 Plan
4. Elevations and Sections

File Reference: DA/330/2010  
Document Number: D01396804

**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:

<i>Plan No.</i>	<i>Drawn by</i>	<i>Dated</i>
928.1/5 – 928.5/5	Ross Morton Sundesign	25-03-2009

**REQUIREMENTS PRIOR TO THE ISSUE OF A CONSTRUCTION CERTIFICATE****2. Building Code of Australia**

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

**3. 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.*

**4. 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.*

### **5. Design and Construction - Bushfire Attack Category**

The new construction must comply with *Australian Standard AS3959-1999 'Construction of buildings in bush fire-prone areas'* Level 1. Roofing must be gutterless or gutters and valleys are to be screened to prevent the build up of flammable material. Any materials used must have a flammability index of no greater than 5 when tested in accordance with the *Australian Standard AS1530.2-1993 'Methods for Fire Tests on Building Materials, Components and Structures – Test for Flammability of Materials'*.

## **REQUIREMENTS PRIOR TO THE COMMENCEMENT OF ANY WORKS**

### **6. Erection of Construction Sign**

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

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

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

**REQUIREMENTS DURING CONSTRUCTION****7. 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.

**8. Demolition**

All demolition work must be carried out in accordance with *Australian Standard 2601-2001 – The Demolition of Structures* and the following requirements:

- a. Demolition material is to be disposed of to an authorised recycling and/or waste disposal site and/or in accordance with an approved waste management plan.
- b. Demolition works, where asbestos material is being removed, must be undertaken by a contractor that holds an appropriate licence issued by *WorkCover NSW* in accordance with Chapter 10 of the *Occupational Health and Safety Regulation 2001* and Clause 29 of the *Protection of the Environment Operations (Waste) Regulation 1996*.
- c. On construction sites where buildings contain asbestos material, a standard commercially manufactured sign containing the words 'DANGER ASBESTOS REMOVAL IN PROGRESS' measuring not less than 400mm x 300mm must be erected in a prominent position visible from the street.

**9. 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.

**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.*

**10. Stormwater Drainage**

The stormwater from the additional roof is to be connected to the existing drainage disposal system.

**11. 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.

**12. Smoke Alarms – Dwelling Additions**

Smoke alarms must be installed in the existing building and the proposed additions in accordance with the requirements of the Building Code of Australia.

**OPERATIONAL CONDITIONS****13. Bushfire Protection Zone**

At the commencement of building works 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 Bushfire Protection 2006' and the NSW Rural Fire Service's document 'Standards for Asset Protection Zones'.

**- 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.

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Prior to commencing any works, the applicant is encouraged to contact *Dial Before You Dig* on 1100 or [www.dialbeforeyoudig.com.au](http://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](http://www.environment.nsw.gov.au)

[www.nsw.gov.au/fibro](http://www.nsw.gov.au/fibro)

[www.adfa.org.au](http://www.adfa.org.au)

[www.workcover.nsw.gov.au](http://www.workcover.nsw.gov.au)

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

**4 DEVELOPMENT APPLICATION - SUBDIVISION OF ONE LOT INTO TWO  
50 SUTHERLAND ROAD, BEECROFT**

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<b>Development Application No:</b>	DA/1118/2009
<b>Description of Proposal:</b>	Subdivision of one lot into two.
<b>Property Description:</b>	Lot A DP 349374 (No. 50) Sutherland Road, Beecroft
<b>Applicant:</b>	Just Property & Planning
<b>Owner:</b>	Mr G Hwang and Mrs Y H Kim
<b>Statutory Provisions:</b>	Hornsby Shire Local Environmental Plan 1994 Residential AS (Low Density – Sensitive Lands) Zone
<b>Estimated Value:</b>	\$22,000
<b>Ward:</b>	C

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**RECOMMENDATION**

THAT Development Application No. 1118/2009 for the subdivision of one lot into two at Lot A DP 349374 (No. 50) Sutherland Road, Beecroft be approved subject to the conditions of consent detailed in Schedule 1 of this report.

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**EXECUTIVE SUMMARY**

1. The application proposes the demolition of the existing dwelling and the subdivision of one lot into two.
2. The proposal complies with the Hornsby Shire Local Environmental Plan 1994 and the Residential Subdivision Development Control Plan.
3. The proposal is integrated development and the General Terms of Approval have been received from the NSW Rural Fire Service.
4. Four submissions have been received in respect of the application including a submission from the Beecroft-Cheltenham Civic Trust.
5. It is recommended that the application be approved.

## THE SITE

The site is a relatively long narrow rectangular lot located on the northern side of Sutherland Road, Beecroft. The site has an area of 2,084m<sup>2</sup>, a frontage of 16.8m and a depth of 124.8m. The site has an average fall of 15% to the rear boundary. A watercourse is located on adjoining land located to the rear of the site.

An existing single-storey fibro and vinyl clad dwelling house with tiled roof is sited on the land. The dwelling includes a lower ground floor laundry and storage space.

The site is located within the Beecroft-Cheltenham Heritage Conservation Area. An area of remnant bushland at the rear of the site is identified as Blackbutt Gully Forest and is within a Bushland Protection Area. The local topography is undulating.

The residential character of the locality along Sutherland Road has undergone a more recent transition with battle-axe subdivisions accompanied with new larger dwelling houses predominating. Sutherland Road has a narrow roadside verge and features large remnant trees adjacent to and within the adjoining rail corridor.

## THE PROPOSAL

The proposal involves the subdivision of one lot into two lots and the demolition of the existing dwelling.

Proposed lot 1 has an area of 812.16m<sup>2</sup> and would front Sutherland Road. A right of carriageway is proposed along the eastern boundary of the site for access to proposed lot 2.

Proposed lot 2 has an area of 1271.84m<sup>2</sup> and includes a Bushland Protection Area as shown hatched on the HSLEP map of approximately 920m<sup>2</sup> in area at the rear of the site. A 4m wide accessway is provided for the lot.

## ASSESSMENT

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

### 1. STRATEGIC CONTEXT

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

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

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

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

The proposed development would be consistent with the draft Strategy by providing additional housing opportunities 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 AS (Low Density - Sensitive Lands) under the 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 and sensitive to the land capability and established character of this environment.*
- (c) *to provide for development that is within the environmental capacity of a sensitive low density residential environment.*

The proposed development is defined as ‘subdivision’ and ‘demolition’ under the HSLEP and is permissible in the zone with Council’s consent.

Clause 14 of the HSLEP prescribes a minimum lot area of 600m<sup>2</sup> for subdivision within the Residential AS (Low Density – Sensitive Lands) Zone. The proposal complies with this requirement.

Clause 18 of the HSLEP sets out heritage conservation provisions within the Hornsby area. The site is located within the Beecroft-Cheltenham Heritage Conservation. The applicant submitted a Statement of Heritage Impact in accordance with the provision.

Clause 19 of the HSLEP requires consent for development on land designated “bushland protection”. The site includes a bushland protection area. A flora and fauna survey was submitted with the application.

### 2.2 State Environmental Planning Policy – Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005

The application has been assessed against the requirements of the Policy which includes planning principles applicable to the site within the upper part of the harbour catchment. The principles incorporate measures to protect water quality, minimise urban runoff, to conserve water and to ensure the catchment watercourses, wetlands, riparian lands and remnant vegetation are protected.

Subject to the implementation of erosion and sediment control measures and stormwater detention, the proposed subdivision would not adversely impact on the catchment or water quality.

### 2.3 Rural Fires Act 1997

The application involves subdivision within a bushfire prone area and forms 'integrated development' requiring the approval of the NSW Rural Fire Service before consent can be granted.

The NSW Rural Fire Service has granted General Terms of Approval for the issue of a Bush Fire Safety Authority subject to development consent.

### 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:

<b>Residential Subdivision Development Control Plan</b>			
<b>Control</b>	<b>Proposal</b>	<b>Requirement</b>	<b>Compliance</b>
<b>Density</b>	Lot 1 – 812.16m <sup>2</sup> Lot 2 – 1271.84m <sup>2</sup>	600m <sup>2</sup>	Yes
<b>Accessway</b>	4m width	4m width	Yes

As detailed in the above table, the proposed development complies with the prescriptive standard within Council's Subdivision DCP. Below is brief discussion on compliance with relevant performance standards.

#### 2.4.1 Accessway Design

The proposed 4m wide accessway along the eastern boundary includes provision for a future turning area on proposed lot 1 and lot 2 enabling vehicles to enter and leave the site in a forward direction. The accessway design avoids duplication of driveways and maintains the streetscape.

A condition is recommended for solid fencing along the eastern boundary of lot 1 to minimise amenity impacts from operation of the driveway on adjoining residents.

The proposed accessway requires cut and fill works to achieve gradient design criteria. A condition is recommended for a dilapidation assessment to be undertaken concerning the adjoining dwelling house. In addition, a condition is recommended for coloured concrete/stencilling to minimise visual impact of the driveway.

Subject to recommended conditions the proposed accessway meets the Subdivision DCP performance criteria.

#### 2.4.2 Allotment Layout and Design

The site occupies a north facing slope maximising solar access. The proposed lots are of adequate size to accommodate residential use with regard to the topography of the site.

The proposed lots comply with the Residential DCP performance criteria for lot layout and design.

### **2.4.3 Drainage Control**

The proposal includes stormwater drainage connection to the watercourse adjoining the rear of the site and located approximately 15m north of the rear boundary. The adjoining owner has provided written consent to granting a drainage easement.

### **2.5 Byles Creek Development Control Plan**

The site is located within the Byles Creek Catchment Area. The watercourse adjacent to the rear of the site forms a tributary of Byles Creek. Stormwater connection is proposed to the watercourse. Subject to stormwater drainage detention system and dissipater/infiltration system at the stormwater outlet, the proposal would not adversely impact on the watercourse.

The proposal retains the existing stand of trees at the rear of the site. The trees are located within a Bushland Protection Area and contribute to the environmental quality of the Byles Creek catchment.

The implementation of erosion and sediment control measures would minimise subdivision construction impacts and maintain water quality.

### **2.6 Heritage Development Control Plan**

The site is located within the Beecroft-Cheltenham Heritage Conservation Area.

Council's Heritage Advisory Committee advised that the remnant Blackbutt Gully Forest, which is to be protected from future development by the imposition of a restriction-as-to-user, would provide a visual back drop to the proposed developed and would continue to contribute to dominant landscape character of the Conversation Area in the locality. Accordingly, the Committee resolved that no objections be raised to the proposal on heritage grounds.

### **2.7 Section 94 Development Contributions Plan 2007-2011**

The proposed additional allotment is subject to a monetary contribution in accordance with the provisions of the 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 site includes a Bushland Protection Area mapped on the HSLEP. The mapped area of the site has an area of approximately 920m<sup>2</sup> (55m x 16.7m). The proposed indicative building envelope on lot 2 is clear of the mapped area. The proposed stormwater drainage easement would be provided through the Bushland Protection Area and appropriate conditions are recommended to protect the trees within the area.

The proposed subdivision works would necessitate the removal of one tree from the site (Tree No. 32). The indicative building envelope on proposed lot 2 would involve the removal of trees Nos. 29, 47, 48, 49 and 51. None of the trees to be removed as a result of the proposed subdivision and future dwellings are identified as significant.

Council's assessment of the proposal included a detailed examination of the existing trees located on the site which identified trees Nos. 1 to 17, 21, 24 and 37 as significant. Appropriate conditions are recommended to protect these trees.

The NSW Rural Fire Service (RFS) has provided amended General Terms of Approval that minimises removal of native vegetation and would allow for the maximum retention of locally significant bushland located at the rear of the site. The proposal would meet the principles of Ecological Sustainable Development in regard to direct and indirect impacts on a locally significant vegetation community and a wildlife corridor which is likely to provide marginal but important habitat for threatened species that rely on remnant vegetation within urban environments.

### **3.2 Built Environment**

The site is located within a low density residential area. The proposed subdivision is of acceptable design in addressing the streetscape and in providing for residential amenity, private open space, landscaping, vehicle access and parking.

### **3.3 Social Impacts**

The proposed subdivision would not result in a social impact.

### **3.4 Economic Impacts**

The proposal would have a minor positive impact on the local economy in conjunction with other new low density residential development in the locality 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 Bushfire Risk**

The land is identified as being subject to bushfire risk from an area of remnant vegetation of approximately 0.9 hectares in area north and northwest of the site.

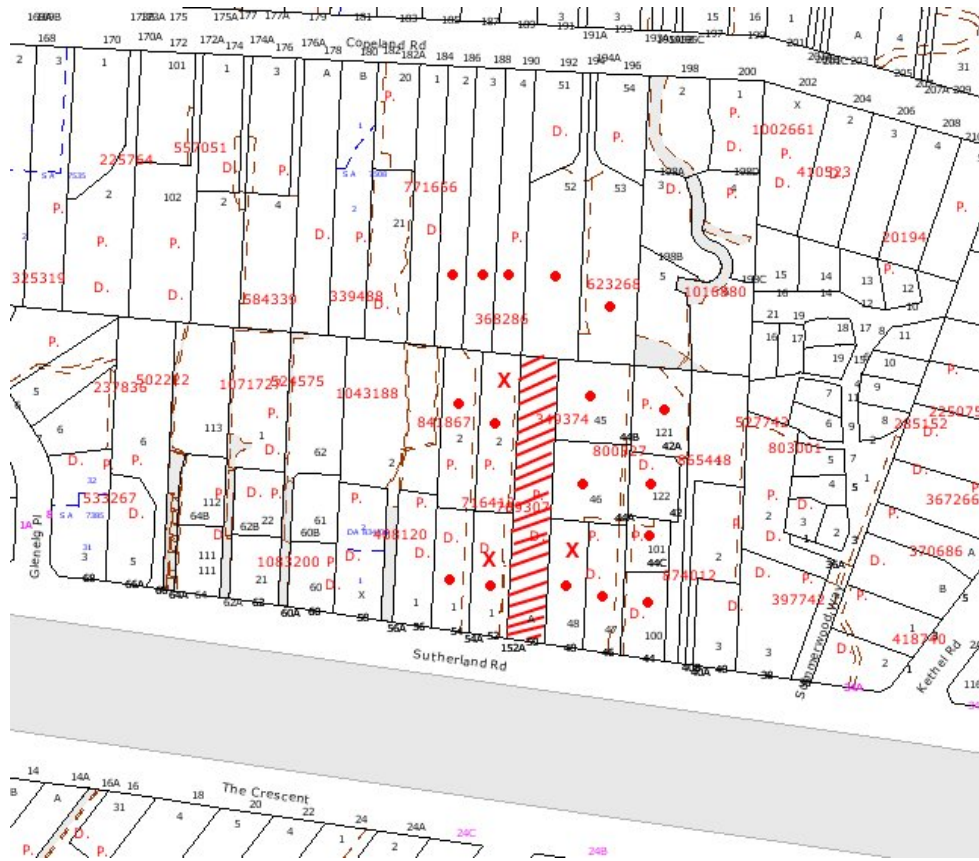
The NSW Rural Fire Service recommends conditions for the implementation of Inner and Outer Asset Protection Zones for the proposed lots in minimise bushfire risk.

## **5. PUBLIC PARTICIPATION**


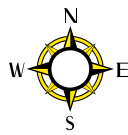
Section 79C(1)(d) of the Act requires Council to consider "*any submissions made in accordance with this Act*".

**5.1 Community Consultation**

The proposed development was placed on public exhibition and was notified to adjoining and nearby landowners between 22 September and 14 October 2009 in accordance with Council’s Notification and Exhibition Development Control Plan. During this period, Council received two resident submissions and a submission from the Beecroft-Cheltenham Civic Trust. The amended plans were notified between 2 February and 16 February 2010. An additional submission was received in response advising of no objection. 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"> <li>• PROPERTIES NOTIFIED</li> </ul>	X SUBMISSIONS RECEIVED	 PROPERTY SUBJECT OF DEVELOPMENT	
1 SUBMISSION RECEIVED OUT OF MAP RANGE			

The submissions objected to the initial proposal, generally on the grounds that the development would result in:

- Unacceptable removal of trees.
- Non-compliance accessway width and design.
- Unacceptable impact on significant tree No. 37.
- Adverse impacts on amenity.



In response, the application was amended and following re-exhibition a fourth submission was received raising 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**

It is considered to be a reasonable request that the applicant be required to construct the boundary fence at nil cost to the neighbouring property owner. A recommended condition of consent has been included in Attachment A.

### **5.2 Public Agencies**

The development application is 'Integrated Development' under the Act and was referred to the NSW Rural Fire Service (RFS) for comment. The RFS has raised no objection to the proposal subject to the General Terms of Approval granted.

## **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 would be in the public interest.

## **CONCLUSION**

The application proposes the demolition of the existing dwelling and the Torrens title subdivision of one allotment into two.

The proposed development maintains the heritage streetscape, retains significant trees and provides for bushfire risk management whilst retaining an area of bushland at the rear of the site. The proposal has been assessed as satisfactory pursuant to Section 79C of the Environmental Planning and Assessment Act, 1979, the Hornsby Shire Local Environmental Plan, 1994 and Council's Residential Subdivision Development Control Plan.

The development is considered to be acceptable in relation to environmental impacts and is considered to be in the public interest.

Approval of the application is recommended.

Note: At the time of the completion of this planning report, no persons have made a *Political Donations Disclosure Statement* pursuant to Section 147 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. Subdivision Plan

File Reference: DA/1118/2009  
Document Number: D01407338

**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:

<i>Plan No.</i>	<i>Drawn by</i>	<i>Dated</i>
4404-1-1	JKL Design	04.08.09

**2. Removal of Existing Trees**

This development consent only permits the removal of trees numbered 29, 32, 47, 48 & 51 as identified on Plan No. 4404-1 prepared by JKL Design dated 04/08/09. The removal of any other trees requires separate approval under Council's Tree Preservation Order.

**REQUIREMENTS PRIOR TO THE ISSUE OF A CONSTRUCTION CERTIFICATE****3. Easement Over Downstream Land**

The proposed drainage easement over Lot 52 DP 623268 must be registered with the *NSW Department of Lands*.

**4. Water/Electricity Utility Services**

The applicant must submit written evidence of the following service provider requirements:

- a. *Energy Australia* – a letter of consent demonstrating that satisfactory arrangements have been made to service the proposed development.
- b. *Sydney Water* – the submission of a 'Notice of Requirements' under s73 of the *Sydney Water Act 1994*.

*Note: Sydney Water requires that s73 applications are to be made through an authorised Sydney Water Servicing Coordinator. Refer to [www.sydneywater.com.au](http://www.sydneywater.com.au) or telephone 13 20 92 for assistance.*

## 5. Dilapidation Report

A 'Dilapidation Report' is to be prepared by a 'chartered structural engineer' detailing the structural condition of adjoining properties located adjacent to the proposed accessway.

## REQUIREMENTS PRIOR TO THE COMMENCEMENT OF ANY WORKS

## 6. Erection of Construction Sign

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

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

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

## 7. 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*

## 8. Tree Protection Barriers

Tree protection fencing must be erected around tree number 37 to be retained at a 4m 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.

## 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. Demolition

All demolition work must be carried out in accordance with *Australian Standard 2601-2001 – The Demolition of Structures* and the following requirements:

- a. Demolition material is to be disposed of to an authorised recycling and/or waste disposal site and/or in accordance with an approved waste management plan.
- b. Demolition works, where asbestos material is being removed, must be undertaken by a contractor that holds an appropriate licence issued by *WorkCover NSW* in accordance with Chapter 10 of the *Occupational Health and Safety Regulation 2001* and Clause 29 of the *Protection of the Environment Operations (Waste) Regulation 1996*.
- c. On construction sites where buildings contain asbestos material, a standard commercially manufactured sign containing the words 'DANGER ASBESTOS REMOVAL IN PROGRESS' measuring not less than 400mm x 300mm must be erected in a prominent position visible from the street.

## 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 4 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 method(s) used to preserve the tree(s).

*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. Council Property

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

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

### 14. Landfill

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

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

#### **REQUIREMENTS PRIOR TO THE ISSUE OF A 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.*

### 15. Boundary Fencing

Solid fencing must be erected along the eastern boundary adjacent to the accessway behind the front building alignment to a height of 1.8 metres, at no cost to the adjoining owner.

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

### 16. Sydney Water – s73 Certificate

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

### 17. Stormwater Drainage

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

- a. Connected directly to the existing watercourse located within Lot 52 DP 623268.

- b. An inter-allotment stormwater drainage system to service the proposed lot with pits being constructed in situ.
- c. The roof and stormwater drainage system from the existing dwelling to be connected to the proposed inter-allotment drainage system.

### **18. Stormwater Drainage – Land Adjoining a Watercourse**

In addition to other stormwater drainage requirements under this consent, all headwall outlets must incorporate flow velocity reduction controls (i.e. bedded boulders and small stones) to minimise erosive and scouring impacts to the watercourse. Energy dissipater controls must be landscaped to accommodate outlet sheet flow (forced jump). No engineering works are permitted within the bed of the watercourse.

### **19. 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. The driveway pavement be a minimum 3 metres wide, 0.15 metres thick reinforced concrete with F72 steel reinforcing fabric and a 0.15 metre sub-base.
- e. The pavement have a kerb to one side and a one-way cross fall with a minimum gradient of 2 percent and a lintel and pit provided at the low point.
- f. 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.
- g. 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.
- h. Planting of landscaping strips 0.5 metres wide along both sides of the length of the driveway.
- i. Conduits for utility services including electricity, water, gas and telephone be provided.

### **20. 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*.

*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.*

## **21. Road Works**

A separate application under the *Local Government Act, 1993* and the *Roads Act, 1993* must be submitted to Council for the construction of kerb and gutter across the frontage of the site. All road works approved under this consent must be constructed in accordance with Council's *Civil Works Design and Construction Specification, 2005* and the following requirements:

- a. A kerb and gutter and pavement, necessary drainage and sealing of road pavement between the existing pavement and lip of the gutter.
- b. The existing road pavement to be saw cut a minimum of 300 mm from the existing edge of the bitumen and reconstructed.

## **22. 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.

## **23. 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.

## **24. Creation of Easements**

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

- a. A right of access and easement for services over the access corridor.
- b. An inter-allotment drainage easement(s) over each of the burdened lots.



- c. The creation of a “*Positive Covenant*” over the proposed Lot A requiring that any future development is to provide an on-site detention system. The on-site detention system is to have a storage capacity of 5m<sup>3</sup> and a maximum discharge of 8 litres per second into Council’s drainage system in accordance with Council’s prescribed wording.

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

## **25. 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.

## **26. Bushfire Protection (survey markers)**

The extent of the 12 metre Inner Protection Area within the approved Asset Protection Zone must be permanently delineated on site by the erection of highly visible non-combustible survey markers or a similar method at a spacing distance of approximately 4 metres apart along the boundary of the Inner Protection Zone in order to prevent the encroachment of clearing for bushfire protection into bushland proposed for retention on site.

## **27. Restriction as to User – Protection of Land from Future Development**

To inform current and future owners that the areas of native vegetation and habitat on the site is to be protected from future development, a Restriction as to User must be created under Section 88B of the *Conveyancing Act 1919* identifying that the northern (rear) area of the site identified on the approved plans as red diagonal lines is restricted from future development or disturbance of any kind.

*Note: The wording of the Restriction as to User must be to Council’s satisfaction and Council must be nominated as the authority to release, vary or modify the Restriction.*

## **28. s94 Infrastructure Contributions**

The payment to Council of a contribution of \$19,748.70\* for 1 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 \$19,748.70 per additional lot and is current as at 13 April 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.*

**OPERATIONAL CONDITIONS****29. Bushfire Protection (manual methods)**

No clearing of native vegetation is to occur within the “*Restricted Development Area*”. Where bushfire mitigation measures are required, the measures must be restricted to manual fuel removal methods including the removal of dead timber and build up of leaf litter (i.e. by raking) to reduce fine fuel loadings. No mulch or garden waste to be placed within the “*Restricted Development Area*”.

**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.

**30. General Condition**

The development proposal is to comply with the subdivision layout identified on the drawing prepared by JKL Design numbered 4404-1-1. dated 4 August 2009, except where altered by the condition below.

**31. Asset Protection Zones**

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 building.

- a. At the issue of subdivision certificate and in perpetuity, the entire property of proposed lot 1 must 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*’.
- b. At the issue of subdivision certificate and in perpetuity the area of proposed lot 2 comprising the proposed building envelope and south, east and west to the boundary and 15m from the proposed building envelope to the north must be managed as an inner protection area (IPA) with a further 12m to the north managed as an outer protection area (OPA) 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*’.

**32. Water Utilities**

Water, electricity and gas must comply with section 4.1.3 and Appendix 5 of ‘*Planning for Bush Fire Protection 2006*’.

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

### 33. Access

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.

Property access roads must comply with section 4.1.13 (2) of 'Planning for Bush Fire Protection 2006'. In this regard the access provided to proposed Lot 2 shall be 4 metres wide.

**- 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.

#### Tree Preservation Order

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

*Note: A tree is defined as a 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 British Standard BS 5837: 2005, "Trees in Relation to Construction – Recommendations".*

#### 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.*

### **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.

Prior to commencing any works, the applicant is encouraged to contact *Dial Before You Dig* on 1100 or [www.dialbeforeyoudig.com.au](http://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.

**5 DEVELOPMENT APPLICATION - SUBDIVISION - ONE LOT INTO TWO AND CONSTRUCTION OF A NEW DWELLING  
41 CARDINAL AVENUE BEECROFT**

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**Development Application No:** DA/723/2009

**Description of Proposal:** Subdivision of One Lot into Two and Construction of a Dwelling.

**Property Description:** Lot 2 DP 584894 (No. 41) Cardinal Avenue, Beecroft

**Applicant:** Mr Lionel Curtin

**Owner:** Mr Brett Mervyn Price  
Mrs Marilla Philomena Price

**Statutory Provisions:** Hornsby Shire Local Environmental Plan 1994  
Residential AS (Low Density – Sensitive Lands) Zone

**Estimated Value:** \$450,000

**Ward:** C

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**RECOMMENDATION**

THAT Development Application No. DA/723/2009 for the subdivision of one lot into two and the construction of a dwelling at Lot 2 DP 584894 (No. 41) Cardinal Avenue, Beecroft be approved subject to the conditions of consent detailed in Schedule 1 of this report.

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**EXECUTIVE SUMMARY**

1. The application proposes the subdivision of one lot into two and the construction of a dwelling.
2. The proposal complies with the *Hornsby Shire Local Environmental Plan 1994* and is generally consistent with Council’s *Residential Subdivision Development Control Plan* and *Dwelling House Development Control Plan*.
3. Five submissions have been received in respect of the application including a submission from the Beecroft-Cheltenham Civic Trust.
4. It is recommended that the application be approved.

## THE SITE

The site has an area of 1,862m<sup>2</sup> and is located on the western side of Cardinal Avenue, Beecroft. The site is an 'L' shaped allotment with a frontage of 18.3 metres to Cardinal Avenue, a depth of 80.6 metres and a rear boundary width of 36.6 metres. The site slopes moderately towards Cardinal Avenue with an average grade of 16%.

An open drainage easement is located on the northern adjoining property near the front of the site.

The site currently contains a two storey brick dwelling and a swimming pool sited within the rear western portion of the site. Access to the dwelling is from an existing driveway from Cardinal Avenue.

The site contains a number of significant trees, introduced exotic trees and non indigenous native trees. Two Sydney Blue Gums are located at the front of the site form part of the Sydney Blue Gum High Forest, a critically endangered community listed under the *Threatened Species Conservation Act 1995*.

The surrounding development comprises low density residential development consisting of one and two storey dwelling houses.

## THE PROPOSAL

The proposal involves the subdivision of one lot into two and the construction of a dwelling on proposed Lot 1.

Proposed Lot 1 has an area of 680m<sup>2</sup> and would front Cardinal Avenue. The application proposes a dwelling to be constructed within this allotment. A right of carriageway is proposed along the southern side of the site for access to proposed Lot 2.

Proposed Lot 2 has an area of 1189m<sup>2</sup> and would contain the existing dwelling on the site. No alterations are proposed to this dwelling as part of this application.

The proposed dwelling within Lot 1 would have a total floor area of 190.5m<sup>2</sup> and would be two storeys in plus a lower ground level double garage. The ground level would contain a living/dining area, rumpus, kitchen, bathroom, laundry and deck and the first floor would contain three bedrooms, two bathrooms a study area and a balcony.

## 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 proposal would be consistent with the draft Strategy by providing an additional dwelling that would improve housing choice in the locality.

## 2. STATUTORY CONTROLS

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

### 2.1 Hornsby Shire Local Environmental Plan 1994

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

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

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

The development would facilitate the provision of housing for the population of the area and would be compatible with the low density residential environment. The proposal complies with objectives (a) and (b) of the zone. The proposal demonstrates that the allotment sizes would be suitable to accommodate the existing and proposed dwellings, private open space areas, car spaces and driveways consistent with Council’s development controls. The development would be within the environmental capacity of the site and complies with objective (c).

#### 2.1.1 Clause 14 – Density

Clause 14 of the HSLEP prescribes the minimum allotment size for sites within the Residential A (Low Density – Sensitive Lands) zone to be 600m<sup>2</sup>.

Proposed Lot 2 has an area of 1189m<sup>2</sup> thereby satisfying this requirement.

Proposed Lot 1 has an area of 680m<sup>2</sup> inclusive of the access handle. Clause 14 of the HSLEP states that in calculating the area of battle-axe or hatchet shaped allotments, the area of any accessway, right of carriageway or the like is to be excluded. Proposed Lot 1 is not a hatchet

or battle-axe allotment, accordingly Lot 1 complies with the density requirements of Clause 14 of the HSLEP.

### 2.1.2 Clause 15 – Floor Space Ratio

Clause 15 of the HSLEP prescribes that the maximum floor space ratio (FSR) of development within the Residential AS (Sensitive Lands) zone is 0.4:1.

The existing dwelling on proposed Lot 2 would result in a FSR of 0.19:1 and the proposed dwelling within Lot 1 would result in a FSR of 0.35:1. The application is therefore consistent with the requirements of Clause 15.

### 2.1.3 Clause 18 – Heritage

Clause 18 of the HSLEP sets out the heritage conservation provisions within the Hornsby area. The site is not located within the Beecroft Cheltenham Heritage Conservation Area and does not adjoin a heritage item.

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

The site is located within the catchments of the Sydney Harbour and requires consideration against the provisions of Sydney Regional Environmental Plan (Sydney Harbour Catchment). The Policy includes planning principals to protect water quality, minimise urban runoff, to conserve water and to ensure the catchment watercourses, wetlands, riparian lands and remnant vegetation are protected.

Subject to the implementation of the recommended condition of consent relating to sediment and erosion control measures, the proposed development would not adversely impact on the catchment or water quality.

## 2.3 Residential Subdivision Development Control Plan.

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

<b>Residential Subdivision Development Control Plan</b>			
<b>Control</b>	<b>Proposal</b>	<b>Requirement</b>	<b>Compliance</b>
<b>Density</b> Lot 1 Lot 2	680m <sup>2</sup> 1189m <sup>2</sup>	600m <sup>2</sup> 600m <sup>2</sup>	Yes Yes
<b>Floor Space Ratio</b> Lot 1 Lot 2	0.35:1 0.19:1	0.4:1 0.4:1	Yes Yes
<b>Site Cover</b> Lot 1 Lot 2	15% 23%	40% 40%	Yes Yes



<b>Car parking</b>			
Lot 1	2 spaces	2 spaces	Yes
Lot 2	2 spaces	2 spaces	Yes
<b>Private Open Space</b>			
Lot 1	270m <sup>2</sup>	120m <sup>2</sup>	Yes
Lot 2	500m <sup>2</sup>	120m <sup>2</sup>	Yes
<b>Access handle width</b>	2.2 – 3m	4m	No
<b>Landscaping</b>			
Lot 1	74%	45%	Yes
Lot 2	55%	45%	Yes
<b>Setbacks</b>			
Lot 1			
Front / Road	6.2m	6m	Yes
Side (north)	1m	1m	Yes
Side (south)	8m	1m	Yes
Rear	18m	3m – 5m	Yes
Lot 2			
Side (north)	1m	1m	Yes
Side (south)	1.3m	1m	Yes
Side (east)	7m	1m	Yes
Rear	17m	3m – 5m	Yes

As detailed in the above table, the proposed development does not comply with the minimum driveway width requirement as stipulated by the ‘Accessway Design’ element of the *Subdivision DCP*. This matter of non compliance is detailed below, as well as a brief discussion on compliance with the relevant performance criteria.

### 2.3.1 Density

The proposal complies with the density requirements of the HSLEP as addressed in Section 2.1.1 of this report.

### 2.3.2 Accessway Design

The prescriptive measures of the ‘Accessway Design’ element of the *Subdivision DCP* requires that private accessways have a minimum width of 4 metres, consisting of a 3 metre wide carriageway excluding kerbs and a landscape verge of 0.5 metres on each side. The proposed driveway would not adjoin the southern side boundary and space for landscaping and open grassed areas would be available on the each side of the driveway. A condition has been recommended for the development to satisfy the Australian Standards for driveways and be a minimum of three metres wide in accordance with Council’s *Subdivision DCP*. Subject to these conditions the accessway is considered acceptable.

Concerns were raised in the community submissions about the failure of the development to provide adequate vehicular turning area within the site. This matter was addressed in the amended plans submitted to Council. The revised layout involves proposed Lot 1 being accessed directly from the street with a separate driveway provided to access Lot 2. The

amended accessway design provides for safe and efficient vehicular access and is considered acceptable subject to the imposition of relevant conditions.

### **2.3.3 Urban Streams**

The proposal is located adjacent to an open drainage easement located on the northern adjoining property.

The prescriptive measure of the 'Urban Streams' element of the *Subdivision DCP* requires that structures be setback a minimum of 10 metres from the crest of a watercourse. The proposed location of the dwelling has been assessed as acceptable despite the non-compliance with the setback requirement. This is due to the fact that no riparian vegetation is located on the site or the surrounding area and does not represent an aquatic habitat. Further to this, the watercourse was observed to be partially piped up and down stream.

The drainage channel is not identified as a watercourse on Council's mapping system and no referral to the NSW Office of Water was required.

Concerns were raised in community submissions about the proximity of the watercourse to the proposed dwelling. The proposed location of the dwelling is assessed as acceptable subject to conditions for sediment and erosion controls, landfill, excavation and environmental management. A flood study submitted confirmed that the habitable floor space of the dwelling would not be inundated in a 1 in 100 year flood event.

### **2.3.4 Setbacks**

The amended plans submitted with the application comply with the prescriptive standards for building setbacks.

The original design proposed a four metre front setback. Community submissions raised concerns with respect to this setback and the impact this would have on the streetscape and character of the area. The amended design involves a 6.2 metre front setback and is in accordance with Council's setback requirements.

### **2.3.5 Drainage Control**

Concerns were raised in the community submissions about stormwater runoff generated by the development.

A condition has been recommended for the stormwater drainage to be designed and constructed for an average recurrence interval of 20 years. The existing dwelling is to be connected to an existing Council kerb drainage system in Cardinal Avenue. The proposed dwelling is to be connected to the street drainage system via an on-site detention (OSD) system.

## **2.4 Dwelling House Development Control Plan**

The proposed development has been assessed having regard to the relevant performance and prescriptive design standards within the *Dwelling House Development Control Plan*.

<b>Dwelling House Development Control Plan</b>			
<b>Control</b>	<b>Proposal</b>	<b>Requirement</b>	<b>Compliance</b>
<b>Floor Area</b> Lot 1 Lot 2	190.5m <sup>2</sup> 231m <sup>2</sup>	N/A N/A	N/A N/A
<b>Floor Space Ratio</b> Lot 1 Lot 2	0.35:1 0.19:1	0.4:1 0.4:1	Yes Yes
<b>Height</b> Lot 1	7.9m	9m	Yes
<b>Unbroken Wall Length</b>	8m	10m	Yes
<b>Building length</b>	13m	24m	Yes
<b>Vehicle Access and Parking</b> Lot 1 Lot 2	2 spaces 2 Spaces	2 spaces 2 spaces	Yes Yes

As detailed in the above table, the proposed development complies with the prescriptive standard within the *Dwelling House Development Control Plan*. Below is a brief discussion on the proposal's compliance with the relevant performance standards.

#### 2.4.1 Height

The proposed development is consistent with the 'Height' element of the *Dwelling House Development Control Plan* which requires dwellings not exceed 9 metres in height.

The proposed dwelling would reach a maximum height of 7.9 metres and would be located at the street frontage. The proposed dwelling would be setback 6.2 metres and proposed screen planting would minimise the impact of the proposal on the streetscape. The proposal would not have any significant impact on the privacy of adjoining properties as the living areas are not located within the upper level. The balconies are proposed to be located at the front of the dwelling and would be orientated towards to the street. The proposal would have no significant impacts on the solar access of adjoining properties as addressed in Section 2.4.2 of this report.

#### 2.4.2 Solar Access

Shadow diagrams were submitted as part of this application which demonstrate the over shadowing impacts of the proposal at 9am, 12pm and 3pm on 22 June. The proposal would not have any significant impact on the solar access to adjoining properties and is within the acceptable limits prescribed by the 'Solar Access' element of the *Dwelling House Development Control Plan*.

### 2.4.3 Privacy

The proposal would not have any significant impact on the privacy of adjoining properties as the living areas are restricted to the ground level and the bedrooms are proposed within the upper level. The proposed balconies are orientated towards the street and would not result in overlooking to the private open space of adjoining properties. Any privacy implications from the development would not be significant and the proposal is acceptable in this regard.

### 2.4.4 Design

Concerns were raised in the community submissions about the design and appearance of the proposed dwelling, which residents considered to be out of character with the area. The submissions raised concerns that the dwelling has the appearance of a three storey dwelling from the street.

The proposed dwelling involves a double garage on the lower ground level, living and amenities on the ground/middle level and bedrooms on the upper level. The garage is recessed and upper levels counter-lever towards the street to minimise the visual dominance of the garage. Whilst the three levels of the dwelling would be seen from the front elevation, the development would be within the height requirements prescribed by the *Dwelling House Development Control Plan*. The development is consistent with Council's front setback requirements and plantings at the front of the site would minimise the impact of the proposal on the streetscape.

The colours and materials of the dwelling as well as the skillion roof design would positively contribute to the streetscape.

The design of the dwelling is sympathetic to the site's natural features by involving the retention of all Sydney Blue Gums. The dwelling is designed with a small building envelope to minimise the impact on the site's existing vegetation. Given the site's constraints and the efforts to minimise the impact on the trees on site, the location of the garage on the lower ground level is considered acceptable.

The prescriptive measures of the 'Design' element of the *Dwelling House Development Control Plan* requires cut and fill to not exceed one metre. The proposal would result in a two metre cut and the deepest point to accommodate the garage within the lower ground level. Whilst the cut does not comply with Council's prescriptive standards, the non compliance occurs within a small section of the site and is considered acceptable as a result of the topography and the natural features within the site.

## 2.5 Sustainable Water Development Control Plan

Subject to compliance with a recommended condition regarding erosion and sediment control measures to be implemented on site during construction works, the proposal would comply with the *Sustainable Water Development Control Plan*.

## 2.6 Waste Minimisation and Management Development Control Plan

A waste management plan was not submitted with the application. A condition has been recommended for a waste management plan to be submitted to the principal certifying authority prior to the issue of a construction certificate.

## 2.7 Section 94 Contributions Plan

Council's *Section 94 Contributions Plan* applies to the development as one additional allotment is proposed. This requirement is recommended as a condition of consent.

## 3. ENVIRONMENTAL IMPACTS

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

### 3.1 Natural Environment

Council's assessment of the proposal included a detailed examination of the existing trees on site. The site contains introduced exotic trees, non indigenous native trees (*Corymbia maculata* and *Eucalyptus microcorys*) and remnant Sydney Blue Gum (*Eucalyptus saligna*) trees at the front of the property which form part of Blue Gum High Forest Critically Endangered Ecological Community listed under the *Threatened Species Conservation Act 1995*.

The proposed development would necessitate the removal of seven trees from the site. Two of the trees identified for removal are non-indigenous Spotted Gums (*Corymbia maculate*) The arborist's report submitted with the application states that both trees exhibit a decline in health which significantly affects their useful life expectancy. The other trees on site identified for removal comprise four introduced exotic species and one non-indigenous Illawarra Flame Tree, none of which are identified as being significant.

The proposal includes the retention of the two large Sydney Blue Gums (*Eucalyptus saligna*) located within the Council's reserve at the front of the site that form part of the Blue Gum High Forest Critically Endangered Ecological Community under the Threatened Species Conservation Act 1995. The proposal involves the retention of two large Spotted Gums (*Corymbia maculata*) and one introduced native Tallowwood. The proposed location of the dwelling and efforts to restrict the size of the building footprint ensures these trees would not be significantly impacted upon providing the applicant adheres to the conditions of consent during construction.

Concerns were raised about the impact the development may have on the stability of large trees to be retained on the site. A condition has been recommended for an arborist to be on site to supervise any works within 5 metres of trees. Conditions for tree protection fencing, bushland protection and driveway construction methods are recommended to minimise the impacts on trees to be retained.

Concerns were raised in the community submissions regarding the impact the proposal would have on the existing vegetation on the site. One submission questioned the necessity for removal of trees numbered 1 – 6 (as identified on the site plan) that are not located within 4 metres of the proposed dwelling. It is considered appropriate to permit the removal of tree number 4, as the arborist's report and Council officers' assessment identifies this tree as being in poor condition. The removal of any other trees (that are not listed in the consent for removal) would be subject to a separate application to Council, except where removal is exempt under Council's Tree Preservation Order.

The impact of the development on the drainage easement near the site has been addressed in Section 2.3.3 of this report.

Subject to conditions the proposal is considered acceptable with respect to its impact on the natural environment.

### **3.2 Built Environment**

The proposal would result in adequate separation between the existing and the proposed dwelling. The proposed height and design of the proposed dwellings is considered acceptable as addressed in Section 2.4 and 2.5 of this report. The proposal is acceptable in terms of its impact on the built environment.

### **3.3 Social Impacts**

The proposal would not result in a social impact.

### **3.4 Economic Impacts**

The proposal would have a minor positive impact on the local economy in conjunction with other new low density residential development in the locality 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*”.

Whilst the site is not identified as flood prone land on Council’s mapping system, the proposal is located within close proximity to an open drainage channel. A flood study was submitted as part of this application which confirmed the habitable floor area of the dwelling would not be inundated in a 1 in 100 year flood event.

The site is not subject to bushfire risk. The site’s attributes are conducive to 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**


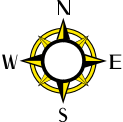
The proposed development was placed on public exhibition and was notified to adjoining and nearby landowners between 15 July 2009 and 5 August 2009 in accordance with Council’s Notification and Exhibition Development Control Plan. During this period, Council received five submissions. Council requested amended plans in response to a number of concerns relating to the development.

Amended plans were submitted to Council on 26 February 2010. The application was re-notified to adjoining and nearby landowners between 26 February 2010 and 12 March 2010. During this period, Council received no additional submissions.

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



**NOTIFICATION PLAN**

<ul style="list-style-type: none"> <li>• PROPERTIES NOTIFIED</li> </ul>	<ul style="list-style-type: none"> <li>X SUBMISSIONS RECEIVED</li> </ul>	 PROPERTY SUBJECT OF DEVELOPMENT	
One submission received out of map range			

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

- Excessive removal of trees on the site. Concerns were raised that the removal of trees would detrimentally impact on the character of the Becroft area.
- Insufficient front setbacks. Concerns were raised that the originally proposed 4 metre front setback of the development would have a detrimental impact on the streetscape.
- The development is out of character with the area. The proposed dwelling has the appearance of a terrace which is not suited to the low density zone.
- The development has the appearance of the 3 storey dwelling when viewed from the street.
- A development with insufficient vehicular turning and manoeuvring area.
- Impacts from storm water runoff to adjoining properties located on the opposite side of the road.

- Insufficient lot size.

The concerns raised in the community submissions have been addressed in the body of this report. The amended plans submitted as part of this application have addressed the front setback non-compliance and modified the vehicular accessway design. Whilst the concerns raised in the community submissions are valid planning considerations, these matters are not considered grounds for refusal of the application.

## 5.2 Public Agencies

The application is not Integrated Development under the Act and was not referred to any external agencies.

The site is located within the vicinity of an open drainage channel. This is not identified as a watercourse on Council's mapping system and therefore no referral was required to the NSW Office of Water.

## 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 relevant 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 would be in the public interest.

## CONCLUSION

The application proposes the subdivision of one lot into two and the construction of a dwelling.

The proposal is assessed as being satisfactory against *Section 79C* of the Act, *HSLEP*, the *Subdivision DCP* and the *Dwelling House DCP*. There is a non-compliance with the 'Accessway Design' and 'Urban Streams' element of the *Subdivision DCP* and the 'Design' element of the *Dwelling House DCP*. These non-compliances have been addressed in this report and have been assessed as satisfactory.

The proposal would not have any significant detrimental impact on the natural, social and economic environment and approval of the proposal is recommended.

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



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. Site Plan
3. Floor Plans
4. Elevation Plans

File Reference: DA/723/2009  
Document Number: D01410323

**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:

<i>Plan No.</i>	<i>Plan Title</i>	<i>Drawn by</i>	<i>Dated</i>
HOR1209 – Page 1	Site Plan	Lionel Curtin Design and Documentation	June 2009 (Amended January 2010)
HOR1209 – Page 2	Upper Level	Lionel Curtin Design and Documentation	June 2009 (Amended January 2010)
HOR1209 – Page 3	Middle Level	Lionel Curtin Design and Documentation	June 2009 (Amended January 2010)
HOR1209 – Page 4	Lower Level	Lionel Curtin Design and Documentation	June 2009 (Amended January 2010)
HOR1209 – Page 5	East Elevation	Lionel Curtin Design and Documentation	June 2009 (Amended January 2010)
HOR1209 – Page 6	South Elevation	Lionel Curtin Design and Documentation	June 2009 (Amended January 2010)
HOR1209 – Page 7	North Elevation	Lionel Curtin Design and Documentation	June 2009 (Amended January 2010)

<i>Document No.</i>	<i>Issued by</i>	<i>Dated</i>
BASIX Certificate No. 256133S	NSW Department of Planning	22 June 2009

**2. Removal of Existing Trees**

This development consent only permits the removal of trees numbered T4 and T10 to T16 as identified within the Schedule of Surveyed Trees prepared by Urban Forestry Australia on 25 September 2008 and the associated Tree Location Plan. 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. Waste Management Plan**

A waste management plan is required to be submitted to the accredited certifier prior to the issue of a construction certificate.

**5. 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.*

**6. 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.*

## 7. Water/Electricity Utility Services

The applicant must submit written evidence of the following service provider requirements:

- a. *Energy Australia* – a letter of consent demonstrating that satisfactory arrangements have been made to service the proposed development.
- b. *Sydney Water* – the submission of a ‘Notice of Requirements’ under s73 of the *Sydney Water Act 1994*.

*Note: Sydney Water requires that s73 applications are to be made through an authorised Sydney Water Servicing Coordinator. Refer to [www.sydneywater.com.au](http://www.sydneywater.com.au) or telephone 13 20 92 for assistance.*

### REQUIREMENTS PRIOR TO THE COMMENCEMENT OF ANY WORKS

## 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. Protection of Adjoining Areas

A temporary hoarding, fence or awning must be erected between the work site and adjoining lands before the works begin and must be kept in place until after the completion of the works if the works:

- a. Could cause a danger, obstruction or inconvenience to pedestrian or vehicular traffic.
- b. Could cause damage to adjoining lands by falling objects.
- c. Involve the enclosure of a public place or part of a public place.

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

## 10. 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*

## 11. 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.*

## 12. Tree Protection Barriers

Tree protection fencing must be erected around trees numbered T7, T8, T9, T20 and T21 to be retained at a 3 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

## 13. 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.

## 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. 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 5 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.*

#### **16. Bushland Protection during Construction**

To ensure the protection of bushland during construction, the applicant must ensure that all machinery is cleaned of soil and debris before entering the site to prevent the spread of weeds and fungal pathogens.

*Note: The site contains Eucalyptus saligna which is listed as an 'Endangered Ecological Community' under the 'Threatened Species Conservation Act 1995'. The Act prohibits the disturbance to threatened species, endangered populations and endangered ecological communities, or their habitat, without the approval of the 'Department of Environment and Climate Change' where such activities are not authorised by a development consent under the 'Environmental Planning and Assessment Act 1979'.*

*Actions such as tree removal, understorey slashing or mowing, removal of dead trees within this vegetation would likely impact upon this endangered ecological community. Such action would qualify as illegally picking or disturbing the habitat and could render any person who carried out such action as liable for prosecution.*

#### **17. Driveway Construction and Tree Protection**

Pier and beam construction of the driveway within the nominated restriction zone must be used with piers being located no closer than 3 metres to the trunks of any trees to be retained. The driveway edge must be no closer than 1 metre to the edge of the trunk. The excavation for the piers within the nominated restriction zone must be hand dug. Any tree roots between 10mm and 50mm diameter, revealed during excavation must be cut cleanly by a sharp hand saw.

All excavation within six metres of the trees must be supervised by a (AQF5) arborist to ensure no roots greater than 50mm in diameter are severed, and root damage is minimised.

#### **18. 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.

**19. 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.

**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 A 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.*

**21. Sydney Water – s73 Certificate**

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

**22. Internal Driveway/Vehicular Areas**

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

- a. Design levels at the front boundary be obtained from Council.
- b. The driveways must be a rigid pavement.
- c. A longitudinal section for the proposed driveways must be prepared by a suitably qualified Engineer or Surveyor and considered for approval. The driveway grades must not exceed 25 percent and changes in grade must not exceed 8 percent per plan metre to avoid vehicle scraping.
- d. The driveway pavement be a minimum 3 metres wide, 0.15 metres thick reinforced concrete with F72 steel reinforcing fabric and a 0.15 metre sub-base.

- e. The pavement have a kerb to one side and a one-way cross fall with a minimum gradient of 2 percent and a lintel and pit provided on grade and at low points.
- f. 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.
- g. 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.
- h. Conduits for utility services including electricity, water, gas and telephone be provided.

#### **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.*

### **23. 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 two new vehicular crossings and the removal of any redundant crossing. The vehicular crossings 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 services are 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.*

### **24. 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 via on-site detention (OSD).
- b. The existing dwelling to be connected to an existing Council's kerb drainage system in Council's road.



## 25. On Site Stormwater Detention

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

- a. Have a capacity of not less than 5.0 cubic metres, and a maximum discharge (when full) of 8.0 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.

## 26. Creation of Easements

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

- a. An inter-allotment drainage easement(s) over each of the burdened lots as required.
- b. A drainage easement 3 metres wide over the affected lot in favour of Council and in accordance with the terms set out in *Memorandum B5341305V* filed with the *NSW Department of Lands* and method available from Council.
- c. A restriction over the pipeline and the flow path for a 100 year average recurrence interval storm. The "*Restriction on the Use of Land*" over the affected lots is to prohibit the alteration of the final floodway shape and the erection of any structures, including fencing, in the floodway without the written permission of Council. The terms of this restriction must be obtained from Council.
- d. A "*Restriction on the Use of Land*" for any lot adjacent to the floodway, requiring the finished floor level of any habitable room to be not less than 500mm and the garage 300mm above the 100 year average recurrence interval storm level. The levels must be related to *Australian Height Datum*.
- e. 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.

- f. 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.*

### **27. s94 Infrastructure Contributions**

The payment to Council of a contribution of \$19478.70\* for one additional lots 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 \$ 19748.70 per additional lot and is current as at 29/04/2010. 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.*

### **28. Maintain Canopy Cover**

To maintain canopy cover, four medium to large trees selected from Council’s booklet ‘*Indigenous Plants for the Bushland Shire*’ such as *Syncarpia glomulifera* (Turpentine) or *Acmena smithii* (Lilly Pilly) are to be planted on the subject site. The planning 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.

### **29. 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.

### **30. Fulfilment of BASIX Commitments**

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

**- 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*.

### **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.

### **Subdivision Certificate Requirements**

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

- 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.
- 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.
- Certification that the requirements of relevant utility authorities have been met.
- 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](http://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.

## 6 HERITAGE ADVISORY COMMITTEE - TECHNICAL SPECIALIST REPRESENTATION

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### EXECUTIVE SUMMARY

The *Heritage Advisory Committee Constitution* states 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 recently due to personal reasons.

Council has sought expression of interest for the technical specialist positions from industry groups and the local community. Council has received submissions from a number of suitably qualified and experienced members of the public with relevant professional experience in heritage matters. The high number of suitable candidates provides Council with an opportunity to increase the level of technical and professional expertise on the Committee from two specialists to a minimum of three and a maximum of four. Accordingly, it is recommended that Council endorse nominees to fill three technical specialist vacancies on the Heritage Advisory Committee and amend the *Constitution* to include further technical specialist representation.

To ensure that the Committee maintains a balance of membership and equality of representation, it is also recommended that the *Constitution* be amended to require that the Committee consist of a minimum of eight members, namely, three Councillor representatives, and a minimum of three technical specialists and two community representatives. Council staff would continue to provide support to the Committee but would not participate in voting.

### PURPOSE

The purpose of this report is to outline options available to Council to increase technical specialist representation 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.

At its meeting on 3 March 2010, Council considered Executive Manager's Report No. PLN5/10 seeking endorsement of a nominee to fill a single technical specialist vacancy. In acknowledgement of the number of high quality expressions of interest from technically based professionals, Council resolved to defer consideration of the matter pending a report being prepared for Council's consideration outlining options to increase technical specialist representation.

## DISCUSSION

This report discusses the composition of the Heritage Advisory Committee and seeks endorsement of an amendment to the *Constitution* to include further technical specialist representation.

The Committee currently comprises four (4) Councillors (Councillors Browne, Evans, Hutchence and Martin), three Council Officers, two technical specialists and two community representatives (being a representative from the general community and a representative from the Hornsby Historical Society). The *Constitution* also states that the quorum of the Committee shall be four members, including a minimum of one community representative and one industry representative.

### Committee Composition

Committee members volunteer significant amounts of their own time to provide heritage advice and recommendations in accordance with Council's *Heritage Development Control Plan* for proposals affecting heritage items and heritage conservation areas. The Committee also assists in organising and promoting Heritage Week events, judging Assistance Funding applications and the annual Heritage Awards. The Committee would benefit from increased technical expertise and professional input, particularly in relation to the assessment of development applications concerning heritage items, which can involve complex technical issues. On some occasions, due to the professional commitments of technical specialists and competing demands on their time, it has not always been possible for them to attend all meetings. Due to the technical role of the Committee, it is important that there is always an appropriate level of technical specialist representation at each meeting. Increasing the number of technical representatives on the Committee would ensure appropriate representation at all meetings.

Executive Manager's Report No. 5/2010, reviews seven expressions of interest received by Council for the vacant technical specialist position. As outlined in the report, expressions of interest were received from a number of suitably qualified and experienced members of the public with relevant professional experience in heritage matters. The high number of suitable candidates provides Council with an opportunity to increase technical expertise and professional input on the Committee to three. Accordingly, it is recommended that the *Constitution* be amended to include a minimum of three technical specialists (and a maximum of four).

Councillor representation on the Committee has also been reviewed. Councillor representation on the Committee has exceeded technical specialist representation since 2004 when Council resolved to increase Councillor representation from three to four. In increasing Councillor numbers, Council acknowledged that there may be occasions where nominated Councillors are not always able to attend meetings due to competing priorities. However, the *Constitution* satisfactorily addresses this concern by allowing all other Councillors to attend meetings as ex officio members and vote in the absence of Councillors who are members.

To ensure appropriate technical specialist representation at all meetings and to ensure that the Committee maintains a balance of membership and equality of representation, it is recommended that the *Constitution* be amended to require:

- Three nominated Councillors.

All other Councillors may be ex officio members of the Committee but are not entitled to vote other than in the absence of Councillors who are members of the Committee.

- A minimum of three and a maximum of four 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.

It is recommended that Council staff continue to provide support to the Committee and participate in Committee debate but not vote. It is also recommended that the *Constitution* be amended to require a quorum of three members to conduct a meeting.

### **Technical Specialist Representation**

A summary of each of the seven expressions of interest is detailed in Executive Manager's Report No. 5/2010. Each of the applicants has outlined individual technical expertise, experience and interests that would add significant value to the Committee. Six of the nominees have confirmed their continued interest in the technical specialist position. However Jill Gleave has withdrawn her nomination.

Should Council resolve to amend the *Constitution*, three technical specialist positions would be vacant. The following nominees are recommended for endorsement (in alphabetical order) in respect of the three technical specialist positions.

#### ***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.

### ***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.

### **Evaluation/Recommendation**

The submissions prepared by Micheal Clarke, Margaret Desgrand and Roy Lucas and demonstrate sound technical expertise in their given fields, with either specialist heritage qualifications and/or heritage experience with both the practical and policy aspects of heritage conservation. Their extensive years of experience in the design, construction and management of projects involving heritage assets 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 Micheal Clarke, Margaret Desgrand and Roy Lucas to participate on the Heritage Advisory Committee as technical specialists.

### **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* requires that the Committee consist of eleven members, two of which are technical specialist. One of the technical specialists has resigned recently due to personal reasons. Council has sought expression of interest for the technical specialist positions from industry groups and the local community.

To ensure appropriate technical specialist representation at all meetings and to ensure that the Committee maintains a balance of membership and equality of representation, it is recommended that the *Constitution* be amended to require that the Committee consist of a minimum of eight members, namely, three Councillors, two community representatives and a minimum of three and maximum of four technical specialists. Council staff will continue to provide support to the Committee but should not participate in voting.

## **RECOMMENDATION**

1. THAT the *Heritage Advisory Committee Constitution* be amended in accordance with the revised *Constitution* (attached) to:
  - increase the number of Technical Specialists to a minimum of three and a maximum of four;
  - reduce the number of Councillors to three; and
  - require the attendance of three members for a quorum.
2. Council invite Micheal Clarke, Margaret Desgrand and Roy Lucas to participate on the Hornsby Shire Advisory Committee as voluntary technical specialists.
3. Submitters be advised of Council's resolution and thanked for their interest in the matter.
4. Three Councillors (*Council to nominate three Councillors*) be elected as Councillor representatives on the Hornsby Heritage Advisory Committee.

JAMES FARRINGTON  
Manager - Town Planning Services  
Planning Division

SCOTT PHILLIPS  
Executive Manager  
Planning Division

### **Attachments:**

1. Revised Heritage Advisory Committee Constitution

File Reference: F2009/00088  
Document Number: D01406208

## 7 AMENDMENTS PLANNING PROPOSAL 2009 - REPORT ON SUBMISSIONS

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### EXECUTIVE SUMMARY

In November 2009, Council considered a report identifying a number of planning anomalies to be rectified and amendments to be made to the *Hornsby Shire Local Environmental Plan 1994 (HSLEP)* as part of its annual Amendments Local Environmental Plan (LEP) 2009. Council endorsed a Planning Proposal for public exhibition proposing to rezone lands, address planning anomalies and make minor amendments to the *HSLEP*.

The Planning Proposal was exhibited for community comment in February and March 2010 along with supporting Development Control Plan (DCP) amendments. Ten submissions were received in response to the exhibition. The key issues raised in submissions are addressed in this report. Minor amendments to the Planning Proposal and draft DCP amendments are recommended in response to the issues raised in submissions.

It is recommended that Council adopt the amended Planning Proposal attached to this report and forward it to the Department of Planning (DOP) for gazettal.

### PURPOSE

The purpose of this report is to review submissions received in response to the exhibition of the Annual Amendments 2009 Planning Proposal and associated draft DCP amendments.

### BACKGROUND

At its meeting on 4 November 2009, Council considered Executive Manager's Report No. PLN89/09 concerning Council's annual amendments review. The report presented a Planning Proposal to rezone lands, address planning anomalies and make minor amendments to the *HSLEP*. Council resolved that:

1. *Council endorse progression of the Planning Proposal attached to Executive Manager's Report No. PLN89/09 to:*
  - 1.1 *rezone and permit strata subdivision at property No. 218 Brooklyn Road, Brooklyn;*
  - 1.2 *update the listing of heritage items in accordance with the recommendations of Heritage Review Stage 4 and East Epping Heritage Review; and*
  - 1.3 *implement the recommendations of the Hornsby West Side Conservation Area Review with the exception of the rezoning of the precinct to Residential AS (Low Density - Sensitive Lands).*
2. *Council forward the Planning Proposal to the Minister for Planning seeking "approval" to progress the preparation of the draft LEP in accordance with Section 56(1) of the Environmental and Planning Assessment Act 1979.*

3. *Should the Minister determine under Section 56(2) of the Environmental Planning and Assessment Act, 1979, that the matter may proceed without significant amendment to the Proposal, Council publicly exhibit the Planning Proposal in accordance with the Minister's determination.*
4. *The draft amendments to the Heritage, Dwelling-House, Residential Subdivision, Low Density Multi-Unit Housing, Medium Density Multi-Unit Housing, Medium/High Density Multi-Unit Housing, Dural Village Centre, River Settlements, Rural Lands and Extractive Industries Development Control Plans as outlined in Executive Manager's Report No. PLN89/09, be exhibited for 28 days with the exhibition of the Planning Proposal.*
5. *Following the exhibition, a report be prepared for Council's consideration on submissions received.*

In accordance with Council's resolution, on 1 December 2009, the Planning Proposal was forwarded to the DOP seeking a Gateway Determination by the Minister in accordance with Section 56 of the *Environmental Planning and Assessment (EP&A) Act*.

On 30 December 2009, Council received a Gateway Determination from the DOP, indicating that the Planning Proposal should be exhibited. The Gateway Determination was issued with a condition that proposed heritage items from the *East Epping Heritage Review* be removed from the Planning Proposal. The DOP advised that this matter would be addressed in the context of the *Epping Town Centre Study* currently being progressed by Council. Accordingly, the Planning Proposal was amended to reflect the Gateway Determination.

In accordance with the adopted Consultation Strategy, the Commissioner of the Rural Fire Service was consulted prior to the commencement of the exhibition period. No objections were received. The NSW Rural Fire Service noted that future development on bushfire prone land would need to comply with Section 79BA or Section 91 of the *EP&A Act* and may require a bushfire safety authority as per Section 100B of the *Rural Fires Act 1997*.

The Planning Proposal and associated draft DCP amendments were exhibited for community comment between 16 February and 19 March 2010 at Council's Administration Centre, Council's libraries and on the Council website. Letters were sent to affected property owners, two community groups and relevant State Government agencies. An advertisement was placed in the local newspapers on two occasions. Relevant Council branches were also invited to comment on the Planning Proposal and draft DCP amendments.

At its meeting on 5 May 2010, Council considered Executive Manager's Report No. PLN27/10 presenting a review of submissions received in response to the exhibition of the Annual Amendments 2009 Planning Proposal and associated draft DCP amendments. Council resolved that:

*Consideration of Executive Manager's Report No. PLN2710 be deferred to the June 2010 Planning Meeting, to allow residents concerns to be addressed.*

On 14 May 2010, the owner of property No. 218 Brooklyn Road, Brooklyn signed an Owner's Agreement to provide two car spaces onsite and a vehicular crossing within 6 months of the issue of the Construction Certificate. A Construction Certificate for the two car spaces and vehicular crossing has been lodged with Council. The owner has also provided Council with an unconditional Bank Guarantee ("Bond") of \$20,000 as security that the works will be undertaken within the specified timeframe.

## DISCUSSION

Ten submissions were received in response to the exhibition. Six submissions are generally supportive, or raise no objection to the Planning Proposal and draft DCP amendments including submissions from Sydney Water and the Roads and Traffic Authority. The key issues raised in submissions are outlined below as they relate to each component of the Planning Proposal.

### **CWA Building and Sandstone Steps, Hornsby Park Pacific Highway, Hornsby**

The Planning Proposal seeks to add the CWA Building and Sandstone Steps within Hornsby Park as a heritage item of local significance to Schedule D (Heritage Items) of the *HSLEP*. The CWA Building and Sandstone Steps are located within Hornsby Park, comprising three separate allotments which run from the Pacific Highway to Rosemead Road.

**Submissions:** Council's Environment Division raises concern with the CWA Building being added as an item of local significance to Schedule D (Heritage Items) of the *HSLEP*. The Environment Division's submission notes that Council is currently progressing two projects (preparation of a park masterplan for Old Mans Valley and the redevelopment of Hornsby Pool) that may potentially impact on the proposed heritage listing. The submission suggests that the listing of the CWA Building as a heritage item should be deferred until current investigations, including development options for the projects, are further progressed.

Representatives from the Environment Division have indicated that there is no objection to the listing of the Sandstone Steps, which are located towards the western end of the park, within a separate Lot and DP to the CWA Building.

**Comment:** Heritage Review Stage 4 recognises that the CWA Building is of local heritage significance. However, the heritage significance of the building should be balanced against the community benefit arising from the projects being progressed by the Environment Division. The submission by the Environment Division indicates that current investigations will involve further consideration of heritage issues. Accordingly, it would be appropriate to defer the listing of the CWA Building as a heritage item until investigations have been completed.

With respect to the Sandstone Steps, further investigation has confirmed that the Sandstone Steps referred to within *Heritage Review Stage 4*, are located at the western end of Hornsby Park on Lot 7017, DP 1052646 and the adjacent unmade road reserve immediately to the south. The CWA Building is located at the eastern entrance to the Park adjacent to Pacific Highway, on Lot 7019, DP 1059310. Accordingly, the listing of the Steps would not impact on the projects being progressed by the Environment Division.

**Resolve:** It is recommended that consideration of heritage listing of the CWA Building be deferred for further consideration following finalization of the Old Mans Valley Park Masterplan and Hornsby Pool Plans. It is recommended that the listing of the Sandstone Steps be amended to reflect the location of the Sandstone Steps on Lot 7017, DP 1052646 and the adjacent unmade road reserve immediately to the south.

### **Property Nos. 3-5 Hannah Street, Beecroft**

The Planning Proposal seeks to add property Nos. 3-5 Hannah Street, Beecroft as a heritage item (Retail Shops) of local significance to Schedule D (Heritage Items) of the *HSLEP*.

**Submissions:** Two submissions from the property owners object to property Nos. 3-5 Hannah Street, Beecroft being added as an item of local significance to Schedule D (Heritage Items) of the *HSLEP*. The submissions comment that the inventory, which forms part of *Heritage Review Stage 4*, contains a number of inaccuracies including the item name, physical description and Statement of Significance. The owners contest the historical importance of the properties and suggest they do not warrant heritage listing.

**Comment:** Council is progressing a *Housing Strategy* that identifies opportunities for additional housing within planned precincts proposed to be rezoned to permit higher density multi-unit housing. Property Nos. 3-5 Hannah Street, Beecroft are within the Beecroft Road, Beecroft precinct and are being considered for possible rezoning to facilitate 5 storey mixed use development as part of the *Strategy*. Council has been advised previously by the DOP that draft LEPs relating to Heritage Conservation Areas and heritage items will not be progressed in areas close to train stations which may assist Council in fulfilling dwelling target obligations under the *Metropolitan Strategy*. Accordingly, it would be appropriate to defer consideration of the listing of property Nos. 3-5 Hannah Street, Beecroft as a heritage item until Council has finalised the *Housing Strategy*.

**Resolve:** It is recommended that consideration of the heritage listing of property Nos. 3-5 Hannah Street, Beecroft be deferred for further consideration following finalization of Council's *Housing Strategy*.

### **Property No. 33 Wongala Crescent, Beecroft**

The Planning Proposal seeks to add property No. 33 Wongala Crescent, Beecroft as a heritage item (House and Garden) of local significance to Schedule D (Heritage Items) of the *HSLEP*. The inventory which forms part of *Heritage Review Stage 4* states that the significant features of the property include a faux timber archway (evidence of concrete cancer), pond and a radiata pine. The inventory also recommends liaising with owners regarding presentation, structural integrity and sympathetic addition of gates.

**Submissions:** One submission from the property owner objects to property No. 33 Wongala Crescent being added as an item of local significance to Schedule D (Heritage Items) of the *HSLEP*. The submission comments that the inventory which forms part of *Heritage Review Stage 4* contains an incorrect photo, which does not depict the property. The submission states that the significant features of the property, especially the pond, have been compromised by tree root damage.

**Comment:** Council's Heritage Consultant was requested to review the issues raised in the submission. The Heritage Consultant advises that the house is typical of its type but has rustic features such as the verandah and entrance arch that reflect the construction of the house in an era when the area would have been semi rural. The house appears in reasonable condition but confirms that the entrance arch is showing signs of deterioration (unlikely to be concrete cancer) and the side walls are cracking. The Consultant confirms that the radiata pine thought to be causing damage has been removed and that the photograph of the rear garden is incorrect. However, the Consultant advises that, subject to the updating of the inventory sheet, the property merits listing. It is also noted that a local heritage listing cannot require property owners of heritage items to undertake works. Therefore, the management recommendations within the inventory regarding the gate should be removed.

**Resolve:** It is recommended that the heritage listing of property No. 33 Wongala Crescent, Beecroft be progressed, and that the inventory be amended to:

- correct the photograph of the rear garden;
- remove reference to the radiata pine and concrete cancer; and
- delete the management recommendations regarding the gate.

### **Hornsby West Side Conservation Area**

The Planning Proposal seeks to implement the recommendations of the *Hornsby West Side Conservation Area Review* by expanding the residential component of the existing Conservation Area.

**Submissions:** Two submissions support the expansion of the residential component of the existing Conservation Area as recommended by the *Review*. However, one of the submissions objects to the reduction of minimum block size within the Conservation Area from 800m<sup>2</sup> to 600m<sup>2</sup>.

**Comment:** The draft Planning Proposal presented to Council at its meeting on 4 November 2009 included the proposed rezoning of properties within the Heritage Conservation Area to Residential AS (Low Density – Sensitive Lands). The rezoning of the lands was proposed to provide a consistent zoning with lands within the Beecroft Cheltenham Heritage Conservation Area and in recognition of the landscape qualities and larger allotment sizes that characterise the area. A rezoning of the area to Residential AS would increase the minimum allotment size to 600m<sup>2</sup> (excluding any accessway).

Council endorsed the progression of the Planning Proposal to (in part) implement the recommendations of the *Hornsby West Side Conservation Area Review* with the exception of the rezoning of the precinct to Residential AS (Low Density – Sensitive Lands).

The underlying zoning of the land as Residential A (Low Density) is proposed to be retained. Therefore, the minimum allotment size that applies under the current zoning of 500m<sup>2</sup> (excluding any accessway) will also be retained. It is understood that in resolving to delete the change in zoning from the Planning Proposal, Council was of the view that existing controls in the *Heritage DCP* including design, streetscape, siting and landscaping are adequate to ensure new development is sympathetic to the identified heritage values of the area.

**Resolve:** It is recommended that no amendment be made to the Planning Proposal as a result of the submissions concerning the *Hornsby West Side Conservation Area Review* and minimum lot sizes.

### **Property No. 218 Brooklyn Road, Brooklyn**

At its meeting on 7 October 2009, Council considered Executive Manager's Report No. PLN78/09 evaluated a submission requesting that the *HSLEP* be amended to permit strata subdivision at property No. 218 Brooklyn Road, Brooklyn.

The Report noted that Development Application No. 2482/02 was approved in April 2003 for alterations and additions to an existing multi-unit housing development and the provision of on-site car parking. The Report noted that works including the construction of balconies and external staircase have been carried out. However, the construction of six car park spaces in the south eastern corner of the site (adjacent to William Street) has not been commenced. The approved vehicle parking area is to be constructed as an elevated concrete slab with retaining wall.

Council resolved that amendments to the *HSLEP* to enable strata subdivision and correct a zoning anomaly at property No. 218 Brooklyn Road be incorporated in Council's Annual Amending Planning Proposal 2009. Council also resolved that prior to forwarding the Planning Proposal to the DOP for gazettal, car parking be provided in accordance with Development Consent No. 2482/2002.

In accordance with Council's resolution, the Planning Proposal seeks to amend Clause 22 – Exceptions of the *HSLEP* to permit strata subdivision at No. 218 Brooklyn Road. The Proposal also seeks to rectify a zoning anomaly by rezoning two small areas of Business A (General) zoned land at the western end of the site to Residential A (Low Density) to provide a consistent zoning across the land. On 27 October 2009, the proponent was requested to undertake the necessary actions to ensure the provision of car parking on-site.

**Comment:** On 22 December 2009, Council received a Section 96(1A) application to delete all the approved carparking on the site pursuant to DA/2482/2002. On 25 February 2010, the Section 96(1A) application was amended to delete four of the six approved carparking spaces. The two spaces identified to be retained are able to be provided at close to existing ground level without the need for extensive retaining walls and cantilevered structures unlike the remaining four spaces.

In the assessment of the application, it was noted that a search of Council's files indicates that historically there were only 4 units in the premises. It is therefore appropriate that carparking be provided on the site as part of DA/2482/2002 to cater for the two additional units. The assessment notes that the provision of 2 additional parking spaces satisfies the requirement in the *Brooklyn DCP* that at least one car parking space be provided per additional dwelling. Accordingly, the amendment to the Development consent was approved on 4 March 2010 under delegated authority.

Notwithstanding the above, the Section 96(1A) amendment does not negate the non-compliance with the Development Consent as car parking has still not been provided on-site. At its meeting on 5 May 2010, Council considered Executive Manager's Report No. PLN27/10 recommending that the provisions of the Planning Proposal relating to property No. 218 Brooklyn Road be deferred for consideration as part of a future Planning Proposal when the car parking works have been undertaken. Council resolved to defer consideration of the Report to the June 2010 Planning Meeting. Since then, the owner of No. 218 Brooklyn Road, Brooklyn has signed an Owner's agreement, lodged a Construction Certificate for the two car spaces and provided Council with a Bank Guarantee. This has given Council the certainty that the required two car spaces will be provided within 6 months of the Construction Certificate being issued.

**Resolve:** It is recommended that the provisions of the Planning Proposal relating to permitting strata subdivision of property No. 218 Brooklyn Road be progressed.

#### **Property Nos. 22-56 Hillmont Road, Thornleigh**

The Planning Proposal seeks to add property Nos. 22-56 Hillmont Avenue, Thornleigh as a heritage item (Trees) of local significance to Schedule D (Heritage Items) of the *HSLEP*. During the exhibition, it was noted that there is a typographical error for the proposed listing of property Nos. 22-56 Hillmont Avenue, Thornleigh. The Planning Proposal should be amended as follows:

Address	Property Description	Item	Significance
22 40-56 Hillmont Road Avenue	Lots 25-26 and 30-34 39, DP 28362, Lots A and B, DP 403196, Lots 4-5 and Lot 7, DP 30002, and Lots 61 and 62, DP 1111312	Trees	L

## STATUTORY CONSIDERATIONS

Statutory considerations are discussed below in terms of both the Planning Proposal and draft DCP amendments.

### Planning Proposal

The Planning Proposal is being progressed as part of the new “gateway plan-making process”. Community consultation forms part of this process and is only complete when Council has considered any submissions made concerning the Planning Proposal.

Under Section 58 of the *EP&A Act*, Council may vary the Planning Proposal based on consideration of submissions and must forward a copy of the revised Planning Proposal to the Minister. The issues identified in submissions are addressed in this report. Minor amendments are recommended to the Planning Proposal as a result of submissions. The amendments are minor in nature and do not warrant the re-exhibition of the Planning Proposal. The amended Planning Proposal addresses relevant Section 117 Directions and State Environmental Planning Policies required to be considered by Council. It is recommended that the amended Planning Proposal be forwarded to the Minister.

### Draft Development Control Plan Amendments

Draft DCP amendments which reflect the amendments to the *HSLEP* were exhibited in accordance with Clause 18 of the *Environmental Planning and Assessment Regulations*. No submissions were received in relation to the draft DCP amendments. Minor amendments are recommended to the draft DCP amendments to reflect the changes to the Planning Proposal and do not warrant re-exhibition. The amended DCP amendments are attached and would come into effect following the gazettal of the LEP amendments.

## CONSULTATION

On 1 December 2009, Council forwarded the Planning Proposal to the DOP seeking Gateway Determination by the Minister in accordance with Section 56 of the *EP&A Act*. On 31 December 2009, the DOP issued Council with a Gateway Determination to exhibit the Planning Proposal. Council consulted with relevant Government agencies concerning the Planning Proposal. No objections were received from Government agencies.

The Planning Proposal was exhibited for community comment in February and March 2010. Ten submissions have been received and are addressed in this report.

## TRIPLE BOTTOM LINE SUMMARY

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



A Triple Bottom Line summary was provided in respect of *Heritage Review Stage 4* in Executive Manager's Report No. PLN32/08, considered by Council on 20 February 2008. A Triple Bottom Line summary was provided in respect of property No. 218 Brooklyn Road, Brooklyn in Executive Manager's Report No. PLN78/09, considered by Council on 7 October 2009. A Triple Bottom Line summary was provided in respect of the *Hornsby West Side Conservation Area Review* in Executive Manager's Report No. PLN89/09, considered by Council on 4 November 2009.

## CONCLUSION

Council has identified a number of planning anomalies to be rectified and minor amendments to be made to the *HSLEP* as part of its 2009 annual Amendments Planning Proposal. A Planning Proposal and associated draft DCP amendments to rectify planning anomalies and make amendments to the *HSLEP* has been prepared in consultation with relevant Government agencies and the community.

No objections were received from Government agencies. Ten submissions were received in response to the exhibition of the Planning Proposal and draft DCP amendments. The issues raised in submissions have been addressed in this report.

It is recommended that Council adopt the Planning Proposal and draft DCP amendments subject to the minor amendments identified in this report and forward the Planning Proposal to the DOP for gazettal.

## RECOMMENDATION

THAT:

1. Council adopt the amended Planning Proposal attached to Executive Manager's Report No. PLN27/10 to:
  - 1.1 rezone and permit strata subdivision at property No. 218 Brooklyn Road, Brooklyn
  - 1.2 update the listing of heritage items in accordance with the recommendations of *Heritage Review Stage 4*, with the exception of the following items:
    - CWA Building, Hornsby Park Pacific Highway, Hornsby
    - Property Nos. 3-5 Hannah Street, Beecroft;
  - 1.3 implement the recommendations of the *Hornsby West Side Conservation Area Review*.
2. Consideration of the heritage listing of "CWA Building, Hornsby Park Pacific Highway, Hornsby" and "Property Nos. 3-5 Hannah Street, Beecroft" be deferred for further consideration following finalisation of the Old Mans Valley Park Masterplan/Hornsby Pool Plans and Council's *Housing Strategy*, respectively.
3. The Planning Proposal be forwarded to the Department of Planning for gazettal.
4. Council endorse the amendments to the *Heritage, Dwelling-House, Residential Subdivision, Low, Medium, and Medium/High Density Multi-Unit Housing, Dural Village Centre, River Settlements, Rural Lands and Extractive Industries Development*

*Control Plans* attached to Executive Manager's Report No. PLN27/10.

5. The Heritage Inventory Sheet for property No 33 Wongala Crescent Beecroft be amended to:
  - correct the photograph of the rear garden;
  - remove reference to the radiata pine and concrete cancer; and
  - delete the management recommendations regarding the gate.
6. Submitters be advised of Council's resolution.

JAMES FARRINGTON  
Manager - Town Planning Services  
Planning Division

SCOTT PHILLIPS  
Executive Manager  
Planning Division

**Attachments:**

1. Planning Proposal - Annual Amendments 2009
2. Draft DCP Amendments

File Reference: F2009/00758  
Document Number: D01408629

## 8 METROPOLITAN STRATEGY REVIEW - SYDNEY TOWARDS 2036

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### EXECUTIVE SUMMARY

In December 2005, the NSW Government released its *Metropolitan Strategy* for Sydney to 2031. Almost five years on, the Department of Planning is undertaking a review of the *Strategy*. The Department has released a discussion paper titled *Sydney Towards 2036* as the first step in the review. The discussion paper highlights key challenges including jobs growth in Western Sydney, making Sydney climate change-ready, placing new homes close to services and infrastructure and revitalising centres. The discussion paper sets out the challenges facing Sydney over the next 25 years.

Specifically, in relation to the North Subregion, the discussion paper identifies that the population is anticipated to increase by 22% to 321,000 by 3036. The paper notes that while the preparation of Council Comprehensive Local Environmental Plans will continue to plan for the short to medium term to meet current housing targets set by the *Metropolitan Strategy* in 2005, updated housing targets will need to be determined in consultation with councils. Furthermore, the paper states that employment capacity targets will also need to be reviewed to reflect the forecast increase in population.

It is recommended that Council forward a submission to the DOP indicating its general support for the review of the *Metropolitan Strategy* and suggesting that planned population growth in Sydney should place commitments on all relevant State government agencies. Population strategies should clearly identify actions and timeframes, assign responsibility and allocate funding for the delivery of actions.

### PURPOSE

The purpose of this report is to advise Council of the State Government's review of the *Metropolitan Strategy* and its implication for Hornsby Shire.

### BACKGROUND

In December 2005, the State Government released the *Metropolitan Strategy* entitled *City of Cities: A Plan for Sydney's Future* to provide a broad framework to facilitate and manage the growth of Sydney over the next 25 years. The *Metropolitan Strategy* divides Sydney into ten subregions. Hornsby Shire has been grouped with Ku-ring-gai to form the North Subregion.

In October 2007, the Department of Planning (DOP) released the *draft North Subregional Strategy* to translate the *Metropolitan Strategy* actions into local housing and employment objectives and capacity targets. The *draft Strategy* requires that Council identify opportunities to provide an additional 11,000 dwellings and 9,000 jobs by 2031.

Almost five years on, a scheduled review of the *Metropolitan Strategy* is underway through the release of a discussion paper, *Metropolitan Strategy Review (Sydney Towards 2036)*. The paper is the first step in a comprehensive review of the *Metropolitan Strategy*. It sets out the challenges facing Sydney over the next 25 years. The paper also outlines a number of directions and questions which councils are invited to consider.

The release of *Sydney Towards 2036* corresponds with the exhibition of the *Metropolitan Transport Plan* for public comment. Direct integration of land use planning and public transport to facilitate employment growth is a key element of both Plans. Following consultation and review, it is anticipated that both documents will be consolidated into the one *Metropolitan Plan* proposed to be finalised toward the end of 2010.

The Department is inviting submissions on *Sydney Towards 2036* until 28 May 2010. A submission has been forwarded to the DOP requesting an extension of time to enable the matter to be considered by Council at its meeting on 2 June 2010.

## DISCUSSION

This report outlines the contents of *Sydney Towards 2036* and identifies its implications for Hornsby Shire.

### **Sydney Towards 2036 (Discussion Paper)**

*Sydney Towards 2036* notes that over the last few years several challenges have arisen, including the Global Financial Crisis, higher than expected population forecasts, housing affordability and climate change. The discussion paper comments that the *Metropolitan Strategy* should address these challenges to ensure the right decisions are made about growth and development. The release of the discussion paper is the first step of the review of the *Metropolitan Strategy*.

The aim of the review is to assess the progress of the *Metropolitan Strategy* and enable the incorporation of the feedback received from the community, stakeholders and local government as well as the latest government policies. *Sydney Towards 2036* is a discussion paper that:

- sets out the key concepts of the *Metropolitan Strategy*;
- looks at what has changed over the last five years and future challenges for Sydney;
- considers what elements of the *Metropolitan Strategy* have been successful over the last five years and will continue for long term planning;
- sets out the areas requiring greater focus to improve the way Sydney is planned to 2036;
- sets key directions for discussion within the community; and
- is integrated with the exhibition of the *Metropolitan Transport Plan*.

The discussion paper outlines revised targets for 2036 (in comparison to existing targets for 2031), with the main targets for Sydney being:

- A population forecast to reach 6 million by 2036;
- A need for 770,00 additional homes by 2036;
- A need to accommodate an additional 760,000 jobs, to a total of 2.9 million jobs.

The discussion paper builds upon the original structure, aim and themes of the *Metropolitan Strategy*, with a focus on the following directions which have been prepared in response to the above issues and challenges:

1. Planning for a growing population;
2. Making Sydney climate change ready;

3. Integrating land use with transport;
4. More jobs in the Sydney region;
5. Growing Sydney's value;
6. Strengthening a City of Cities;
7. Meeting changing housing needs;
8. Balancing land uses on the city fringe;
9. Achieving renewal; and
10. Implementation.

The discussion paper also incorporates the *Metropolitan Transport Plan: Connecting the City of Cities*. The Plan presents a 25 year vision for land use and transport planning for Sydney, accompanied by a 10 year fully funded package of transport infrastructure projects for the Sydney metropolitan area. The *Metropolitan Strategy* and the *Metropolitan Transport Plan* will be reviewed in conjunction with each other. Once this has been completed, they will be integrated to form a Metropolitan Plan that will be released in the second half of 2010.

### **Implications for Council**

The major potential implication for Hornsby Shire identified in *Sydney Towards 2036* is the identification of revised dwelling and employment targets. Specifically, in relation to the North Subregion, the discussion paper identifies that the population is anticipated to increase by 22% to 321,000 by 3036. The paper notes that updated housing targets will need to be determined in consultation with councils. Furthermore, the paper states that employment capacity targets will also need to be reviewed to reflect the forecast increase in population. Until the details are released of how Council's housing and employment targets will be amended, the full implications of the revised figures outlined in the discussion paper cannot be determined.

However, the aim of allocating dwelling and employment targets, identifying strategic centres and corridors, and coordinating local and State agency investment is appropriate and is consistent with the approach taken by Council in the formation of the *Hornsby Shire Housing Strategy* and preparation of the *Hornsby and Ku-ring-gai Subregional Employment Study*. Furthermore, the proposal to integrate the *Metropolitan Transport Plan* with the *Metropolitan Strategy* is a commendable approach. However, Council should reiterate its concerns raised in commenting on both the formulation of the *Metropolitan Strategy* and *draft North Subregional Plan* that the obligation for councils to respond to housing and employment targets should be matched by commitments by State government agencies to deliver associated infrastructure and services. The Strategies should also acknowledge that concessions to councils may be required, should critical infrastructure not be provided by State agencies in a timely manner.

In the preparation of the *Hornsby Shire Housing Strategy*, the State Government has advised that infrastructure and services will be provided by other State agencies to cater for increase in demand. However, the majority of objections received during the exhibition of the Strategy raise concerns in relation to the provision of supporting services and facilities by State agencies and the capacity of the road network and public transport system to cater for the increase in dwelling numbers. It would be appropriate for Council to forward a submission to the DOP commenting that it is sound planning practice for infrastructure and services to be provided prior to development. The submission should note that Council is concerned about the ability of other State agencies to deliver required infrastructure and services in a timely and coordinated manner to supplement Council's Housing Strategy. In progressing the rezoning of areas for increased residential densities, the State Government should be satisfied that services and infrastructure will be provided to cater for increased demand.

In summary, it is recommended that Council forward a submission to the DOP indicating its general support for the review of the *Metropolitan Strategy* and suggesting that planned population growth in Sydney should place commitments on all relevant State government agencies. Population strategies should clearly identify actions and timeframes, assign responsibility and allocate funding for the delivery of actions. The submission should also suggest that the following issues be addressed in the review of the *Metropolitan Strategy*:

- Implementation of the NSW Government's *draft Sea Level Rise Policy* and *draft NSW Coastal Planning Guidelines*, which provide coastal local governments, state agencies, communities and development proponents with clear advice to aid land use planning, development assessment, management responses and adaptation strategies for areas subject to coastal hazards.
- A targeted review focusing on the acquisition of additional open space for active recreation purposes to meet the increased demand for sporting facilities generated by increased population projected under the *Metropolitan Strategy*.
- The prioritised delivery of the following actions identified in the *Metropolitan Transport Plan* for the North Subregion to improve the transport system:
  - North West Rail Link;
  - Improvements to bus networks including the establishment of strategic bus corridors; and
  - Upgrading of the Pacific Highway.
- The delivery of projects such as the Epping to Parramatta Rail Link and the F3 to M2 motorway link which are critical in terms of the quality, efficiency and connectivity of the public transport system and road network to ensure Sydney remains competitive as a Global City.
- The establishment of a clear urban growth boundary to prevent land speculation. The *Metropolitan Development Program* should provide certainty for land owners by clearly identifying areas that may be suitable for future release for urban purposes and those areas that should be protected. In this regard, Council supports the investigation by the Department of the suitability of the release of land at South Dural for urban purposes.
- A focus on reinvigorating existing commercial centres rather than the creation of new centres which may undermine the role and function of centres in the commercial centres hierarchy and generate significant community opposition.
- Confirmation that any variations to existing dwelling and employment targets should not impact on current strategy formation including the *Housing Strategy* or the preparation of Comprehensive LEPs.

A draft submission is attached to this report.

## CONSULTATION

The Manager Traffic and Road Safety Branch, Manager Environmental Sustainability Heath Team and Council's Research and Policy Development Officer were consulted in the preparation of this report.

## **POLICY**

The *Metropolitan Strategy* acts as a framework to guide the preparation of Council land use strategies and planning controls. The discussion paper notes that preparation of Council Comprehensive LEPs and the current *Housing Strategy* will continue to plan for the short to medium term to meet current housing targets set by the *Metropolitan Strategy* in 2005.

## **TRIPLE BOTTOM LINE**

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 review of the *Metropolitan Strategy* includes the preparation of revised dwelling and employment targets. These targets promote higher growth than is currently identified in the *Metropolitan Strategy*. However, until the details of how the revised targets will be translated at the local government level, the full implications of the revised figures outlined in the discussion paper cannot be determined.

It is recommended that Council forward a submission to the DOP indicating its general support for the review of the *Metropolitan Strategy* and suggesting that planned population growth in Sydney should place commitments on all relevant State government agencies. Population strategies should clearly identify actions and timeframes, assign responsibility and allocate funding for the delivery of actions.

## **RECOMMENDATION**

THAT Council forward the submission attached to Executive Manager's Report No. PLN34/10 to the Department of Planning commenting on the State Government's review of the *Metropolitan Strategy*.

JAMES FARRINGTON  
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Planning Division

### **Attachments:**

1. Submission

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