



the bushland shire

creating a living environment

BUSINESS PAPER

PLANNING MEETING

**Wednesday, 7 July, 2010
at 6.30pm**

TABLE OF CONTENTS

AGENDA AND SUMMARY OF RECOMMENDATIONS

MAYORAL MINUTES

NOTICES OF MOTION

RESCISSION MOTIONS

MATTERS OF URGENCY

ITEMS PASSED BY EXCEPTION / CALL FOR SPEAKERS ON AGENDA ITEMS

DEVELOPMENT APPLICATIONS

A Ward Deferred

A Ward

B Ward Deferred

B Ward

- Item 1 PLN32/10 Development Application - Section 96(2) - Alterations and Additions to a Dwelling-House - 16B Osborn Road, Normanhurst 1
- Item 2 PLN38/10 Development Application - Construction of an Industrial Development Comprising of Seven Units - 19-21 Sefton Road, Thornleigh 17

C Ward Deferred

C Ward

GENERAL BUSINESS

- Item 3 PLN41/10 Review of Joint Regional Planning Panels 41
- Item 4 PLN44/10 Hornsby Shire Housing Strategy Planning Proposal - Report On Submissions 44
- Item 5 PLN37/10 Reporting Variations to Development Standards 52

QUESTIONS OF WHICH NOTICE HAS BEEN GIVEN

SUPPLEMENTARY AGENDA

QUESTIONS WITHOUT NOTICE

AGENDA AND SUMMARY OF RECOMMENDATIONS

PRESENT

NATIONAL ANTHEM

OPENING PRAYER/S

Pastor Karina Kreminski of the Community Life Church, Cherrybrook 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 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 2 June, 2010 be confirmed; a copy having been distributed to all Councillors.

PETITIONS

MAYORAL MINUTES

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

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

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

**Item 1 PLN32/10 DEVELOPMENT APPLICATION - SECTION 96(2) -
ALTERATIONS AND ADDITIONS TO A DWELLING-HOUSE
16B OSBORN ROAD, NORMANHURST**

RECOMMENDATION

THAT Development Application No. 1641/2008/A for alterations and additions to a dwelling-house at Lot 18, DP 1120186, No. 16B Osborn Road, Normanhurst be approved as detailed in Schedule 1 of this report.

Page Number 17

**Item 2 PLN38/10 DEVELOPMENT APPLICATION - CONSTRUCTION OF AN
INDUSTRIAL DEVELOPMENT COMPRISING SEVEN UNITS
19 - 21 SEFTON ROAD, THORNLEIGH**

RECOMMENDATION

THAT Development Application No. 55/2010 for the demolition of an existing factory building and the construction of an industrial development comprising seven units at Lot 24 DP 787059 (No. 19 – 21) Sefton Road, Thornleigh be approved subject to the conditions of consent detailed in Schedule 1 of this report.

C WARD DEFERRED**C WARD**

GENERAL BUSINESS**Page Number 41****Item 3 PLN41/10 REVIEW OF JOINT REGIONAL PLANNING PANELS****RECOMMENDATION**

THAT:

1. The contents of Executive Manager's Report No. PLN41/10 be received and noted.
2. Council notes that development applications which have an estimated value in excess of \$2M, are consistent with Council's planning instruments, do not receive any community objection and do not have a 'red sticker' placed against them will hereafter be determined under delegated authority by an appropriate officer as determined by the General Manager.

Page Number 44**Item 4 PLN44/10 HORNSBY SHIRE HOUSING STRATEGY PLANNING PROPOSAL - REPORT ON SUBMISSIONS****RECOMMENDATION**

THAT:

1. Council forward the attached *Housing Strategy Planning Proposal* to the Minister for Planning for gazettal pursuant to Section 59 of the *Environmental Planning and Assessment Act, 1979*, incorporating the following amendments:
 - 1.1 Delete the Dunrossil Avenue, Carlingford precinct;
 - 1.2 Delete the Fleming Street, Carlingford precinct;
 - 1.3 Delete the Milton Street, Carlingford precinct;
 - 1.4 Delete the Darwin Street, Carlingford precinct;
 - 1.5 Reduce the height of the Belair Close, Hornsby precinct to 5 storeys;
 - 1.6 Include a minor western boundary adjustment to the Mount Colah Commercial Centre precinct;
 - 1.7 Delete the Linda Street, Hornsby precinct; and
 - 1.8 Delete the Judith Avenue, Mount Colah precinct.
2. A Development Control Plan be prepared and reported to Council, based on the exhibited key principles diagrams and 5 storey controls and incorporating the following changes:
 - 2.1 Amend the Stokes Avenue, Asquith precinct key principles diagram to specify that access should be provided via Stokes Avenue where possible;

-
- 2.2 Review the controls for the Beecroft Road, Beecroft precinct in the context of the Beecroft/Cheltenham Heritage Conservation Area;
 - 2.3 Specify the use of locally indigenous species in landscaping controls;
 - 2.4 Include mapped pedestrian networks and links to open space; and
 - 2.5 Include a requirement to prevent any single property being left isolated and undevelopable.
3. Council facilitate the exhibition of the attached *Townhouse Planning Proposal* by forwarding it to the Minister for Planning seeking a “gateway determination” pursuant to Section 56(1) of the *Environmental Planning and Assessment Act, 1979*.
 - 3.1 Should the Minister determine under Section 56(2) of the *Environmental Planning and Assessment Act, 1979* that the matter may proceed, Council publicly exhibit the *Townhouse Planning Proposal* in accordance with the consultation strategy outlined in the *Planning Proposal* (or as otherwise directed by the Minister).
 - 3.2 Following the exhibition of the *Townhouse Planning Proposal*, a report on submissions be presented to Council.
 4. Submitters be advised of Council’s resolution.

Page Number 52**Item 5 PLN37/10 REPORTING VARIATIONS TO DEVELOPMENT
STANDARDS****RECOMMENDATION**

THAT Council note the contents of Executive Manager’s Report No. PLN37/10.

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

**1 DEVELOPMENT APPLICATION - SECTION 96(2) - ALTERATIONS AND ADDITIONS TO A DWELLING-HOUSE
16B OSBORN ROAD, NORMANHURST**

| | |
|------------------------------------|--|
| Development Application No: | DA/1641/2008/A |
| Description of Proposal: | Section 96(2) application for alterations and additions to a dwelling-house. |
| Property Description: | Lot 18, DP 1120186, No. 16B Osborn Road, Normanhurst |
| Applicant: | Mrs M J Rando |
| Owner: | Mrs Marisa Jane Rando |
| Statutory Provisions: | Hornsby Shire Local Environmental Plan, 1994 Residential A (Low Density) |
| Ward: | B |

RECOMMENDATION

THAT Development Application No. 1641/2008/A for alterations and additions to a dwelling-house at Lot 18, DP 1120186, No. 16B Osborn Road, Normanhurst be approved as detailed in Schedule 1 of this report.

EXECUTIVE SUMMARY

1. On 3 June 2009 Council approved DA/1641/2008 for the erection of a dwelling-house on the subject property.
 2. The application proposes to modify the consent by way of minor external and internal alterations and additions to the dwelling-house.
 3. The proposed amendments meet the objectives of the zone and comply with the requirements of the Dwelling House DCP.
 4. Five submissions have been received in respect of the application.
 5. The application is referred to Council for determination in accordance with a resolution by Council under DA/70/2005 for subdivision which states that "*all future development applications for this site are to be brought to Council for determination.*"
 6. It is recommended that the application be approved.
-

HISTORY OF THE APPLICATION

DA/1641/2008 was approved by Council at its Planning Meeting on 3 June 2009, subject to conditions.

THE SITE

The site is located at the south-western end of the right-of-way off the western side of Osborn Road, Normanhurst. The irregular shaped site has an area of 1044m², with a western boundary of 12.5m, a southern boundary of 42.32m, an eastern boundary of 35.42m and a northern boundary of approximately 25m.

The site has fall towards the rear, southern boundary at a grade of 1 in 8 and is subject to easements for access, services and drainage.

The site forms part of the Blue Gum High Forest Critically Endangered Ecological Community listed under the *Threatened Species Conservation Act, 1995* and the *Environment Protection and Biodiversity Conservation Act, 1999*. A bushland regeneration area occupies the south western part of the site, with tree species that form part of the Blue Gum High Forest Community including Blackbutts (*Eucalyptus pilularis*) and Sydney Blue Gum (*Eucalyptus saligna*).

THE APPROVED DEVELOPMENT

The approved development is a split level, one and two storey dwelling-house. The ground floor consists of a family room, kitchen, dining room, bedroom/office and laundry. A deck is proposed off the family room. Three bedrooms, a study/rumpus, bathroom and ensuite are located on the first floor. An intermediate level is proposed, containing a lounge room and double garage.

The dwelling-house presents as single storey in height when viewed from the front and two storeys in height when viewed from the rear.

THE MODIFICATION

The applicant is seeking to modify the existing approved development as follows:

Roof form:

- Change from Dutch gable roof to hip design;
- Removal of roof vents within front and rear elevations;
- Addition of a hip roof above entry porch.

North elevation:

- New entry porch;
- Change from single front door to double doors;
- Replace one large window with two narrow smaller windows;
- Deletion of gable window in roof space.

West elevation:

- Tiled roof over deck in place of open beams;
- Relocation and design change of two windows to lounge room;
- Enlargement of upper level window to main bedroom and deletion of window to bathroom;
- Change from timber posts on pergola to brick piers.

South elevation:

- Deletion of small window in kitchen;
- Change from one larger window to two smaller windows to upper floor rumpus room;
- Enlargement of window to ground floor dining room.

East elevation:

- Enlargement of window to bedroom 3 and addition of window to bedroom 2;
- Deletion of window to bathroom;
- Change design of garage window.

Internal alterations:

- Amalgamation of laundry and toilet on ground floor level into one room;
- Deletion of linen closet on ground floor between family room and lounge room;
- Enlargement of bathroom with addition of small linen closet on upper floor level;
- Removal of linen closet from rumpus room on upper level; and
- Addition of walk-in-wardrobe to upper level between bedrooms 2 and 3.

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 proposed development would be consistent 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 – 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 not integrated development.

With respect to (c) and (d), the amended application was advertised and five submissions were received.

2.2 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; and*
- (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 zone is 0.4:1. The applicant addresses this requirement by proposing a floor space ratio of 0.25:1.

Clause 18 of the HSLEP sets out heritage conservation provisions within the Hornsby area. The site is in the vicinity of a heritage item of regional significance, namely Loreto College and Convent at Nos. 91-93 Pennant Hills Road, Normanhurst.

The objective of the Heritage element of the Dwelling House DCP requires “*The retention of heritage items and conservation of the heritage values in heritage conservation areas to provide continuity with the past*”.

It is considered that the proposed development would not impact on the heritage item as the property is located on a battle-axe allotment, behind several existing dwelling-houses at the street frontage, and would not be visible within the streetscape.

The proposal meets the objectives of the Heritage DCP.

2.3 Dwelling House Development Control Plan

The following table sets out the proposal’s compliance with the prescriptive measures of the Council’s Dwelling House Development Control Plan. The data listed in this remains unchanged from the original report.

| Dwelling House Development Control Plan | | | |
|--|-------------------|--------------------|-------------------|
| Control | Proposal | Requirement | Compliance |
| Floor Space Ratio | 0.25:1 | 0.4:1 | Yes |
| Site cover | 21% | 40% | Yes |
| Dwelling Height | 7.5m | 9m | Yes |
| No. of Storeys | 1 and 2 | 1 | No |
| Length of Building | 14m | 24m | Yes |
| Unbroken Wall Length | 8m | 10m | Yes |
| Private Open Space | 600m ² | 120m ² | Yes |
| Landscaping | 74% | 45% | Yes |
| Car parking | 2 spaces | 2 spaces | Yes |
| Cut and Fill | 1.4m | 1m | No |

| | | | |
|--|---------|-------------------|-----|
| Solar access to neighbouring properties | 4 hrs | 4 hrs | Yes |
| BASIX Certificate | 221859S | BASIX Certificate | Yes |
| Setbacks: | | | |
| -Front | 8.7m | 6m | Yes |
| -Side | 1.16m | 1m | Yes |
| -Side | 24m | 1m | Yes |
| -Rear | 9m | 3m | Yes |

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

As the site is part of a Blue Gum High Forest being a Critically Endangered Ecological Community listed under the *Threatened Species Conservation Act, 1995* an ‘Assessment of Significance’ was undertaken with the original development application to determine if the subject proposed dwelling-house and in particular the removal of several nominated trees would have a significant impact on the Blue Gum High Forest, Gang-Gang Cockatoo, Powerful Owl or the five vulnerable species of Micro-chiropteran bats.

Following each assessment of significance for individual and groups of species on the site, it was Council’s assessment that there is not likely to be any significant impacts on the status of the above biota resulting from the development and therefore a Species Impact Statement was not required for any of the individual or groups of species as a result of the development.

Given that the proposed modifications would not result in a development that stands closer to the protected trees the proposed modification would be acceptable, subject to the compliance with the original conditions of development consent.

3.2 Built Environment

3.2.1 Height

The proposed changes to the design of the roof would not result in an increase to the height of the dwelling-house. The finished floor levels also remain unaltered.

3.2.2 Setbacks

No changes are proposed with respect to the location of the current approved development.

3.2.3 Privacy

The applicant seeks to modify the original consent by altering and adding to the number of the windows within the dwelling-house. With the exception of the first floor rumpus room window and the ground floor dining room window, the modified window would serve bedrooms. It is therefore, considered that the changes to the bedroom windows are acceptable given that these rooms are generally used for sleeping purposes.

The first floor rumpus room window would be modified by replacing the single elongated highlight window with two smaller highlight windows. This amendment retains the 1.5m sill height of the original development which prevents overlooking of neighbouring properties.

The ground floor dining room window would be modified by the window being replaced with a full height window. This modified window would not compromise the privacy of the rear property owners given that it serves a ground floor room, its 9m setback from the rear boundary and the requirement under the original consent that an extensive plant screen be provided along the rear boundary.

3.2.4 Solar Access

The shadows cast from the amended proposal would be no greater than those cast from the current approved development.

3.3 Social and Economic Impacts

The proposed modifications would not have a detrimental social or 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 assessment of the original 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*”.

The proposed amendments to the development were notified to adjoining and nearby landowners between 9 April and 24 April 2010 in accordance with Council’s Notification and Exhibition Development Control Plan.

During this period, Council received five submissions. The map below illustrates the location of those nearby landowners who were notified of the proposal.

CONCLUSION

Consent is sought to make external and internal alterations to the approved dwelling-house.

The proposed amendments are considered satisfactory and appropriate for the site. The variations to the existing approved dwelling-house are minor in nature and do not result in any impacts on the Critically Endangered Ecological Community that exists on the site.

Five submissions were received to the development. However, these submissions principally related to the development itself and not the proposed amendments. It is considered that the submissions do not justify Council's refusal of the application.

Approval of these variations to the consent is recommended, without any changes to the original conditions.

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 Plans
4. Elevations
5. Shadow Diagram
6. Schedule of Finishes

File Reference: DA/1641/2008/A
Document Number: D01409818

SCHEDULE 1**CONDITIONS OF APPROVAL****GENERAL CONDITIONS**

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

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

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

1. Approved Plans and Supporting Documentation

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

| <i>Plan No.</i> | <i>Drawn by</i> | <i>Dated</i> |
|---|------------------------|---------------------|
| Drawing No.18336/1 – Site Plan - (1 page) | A.N.S. Design | March 2010 |
| Drawing No.18336/3 – Floor Plan - (1 page) | A.N.S. Design | March 2010 |
| Drawing No.18336/5 – Floor Plan - (1 page) | A.N.S. Design | March 2010 |
| Drawing No.18336/6 – Elevations - (1 page) | A.N.S. Design | March 2010 |
| Drawing No.18336/7 – Elevations - (1 page) | A.N.S. Design | March 2010 |
| Drawing No.18336/8 – Shadow Diagram - (1 page) | A.N.S. Design | March 2010 |
| Ver 1.1/A3 - internal site plan - (1 page) | M. Gyler | 8/2/2009 |
| Ver 1.1/A3 - drainage and sediment control - (1 page) | M. Gyler | 8/2/2009 |
| Ver 1.1/A3 - contour plan - (1 page) | M. Gyler | 8/2/2009 |

2. Retention of Existing Trees

This development consent only permits the removal of trees numbered 21 and 34 as identified on Site Plan 18336/1 prepared by A.N.S Design dated March 2010. The removal of any other trees requires separate approval under Council’s Tree Preservation Order.

REQUIREMENTS PRIOR TO THE ISSUE OF A CONSTRUCTION CERTIFICATE

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

3. Building Code of Australia

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

4. Contract of Insurance (Residential Building Work)

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

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

5. Notification of Home Building Act, 1989 Requirements

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

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

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

6. Sydney Water – Quick Check

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

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

REQUIREMENTS PRIOR TO THE COMMENCEMENT OF ANY WORKS

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

7. Erection of Construction Sign

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

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

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

8. Toilet Facilities

Toilet facilities must be available or provided at the works site before works begin and must be maintained until the works are completed. Each toilet must:

- a. be a standard flushing toilet connected to a public sewer; or
- b. be a temporary chemical closet approved under the *Local Government Act, 1993*.

9. Erosion and Sediment Control

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

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

10. Protection of the ‘Restricted Development Area’

To ensure the protection of Blue Gum High Forest from clearing and damage by equipment or by stockpiling of materials during on-site construction works, the applicant must erect a temporary barrier fence (i.e. start picket and wire fence or high visibility plastic barrier fence) 4m from the edge of the “Restricted Development Area” with the exception of where the proposed deck intrudes within this zone.

11. Protection of Trees

A 1.8m high chain wire fencing (or similar) must be installed 3m from significant trees numbered 22 and 25 identified on the approved plans. All works (including driveways and retaining walls) within 3m of any trees required to be retained (whether or not on the land the subject of this consent), must be carried out under the supervision of an AQF Level 5 arborist or equivalent and a certificate submitted to the principal certifying authority detailing the method(s) used to preserve the tree(s).

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

REQUIREMENTS DURING CONSTRUCTION

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

12. Construction Work Hours

All work on site (including earth works) must only occur between the hours of 7 am to 5 pm Monday to Saturday. No work is permitted on Sundays or public holidays.

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.

14. Disturbance of Existing Site

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

15. Works near Trees

No excavation or filling of soil or placing of building materials is permitted within:

- a. Four metres of any tree.
- b. Any excavation for the installation of any drainage works within the “Restricted Development Area” must be carried out by hand excavation under

the supervision of a qualified arborist in such a manner that is non-injurious to any roots revealed.

16. Cleaning of Machinery

To prevent the spread of weeds and fungal pathogens all machinery, before entering the site must be cleansed of soil and debris.

17. Survey Reports– Finished Floor Levels

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

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

REQUIREMENTS PRIOR TO THE ISSUE OF AN OCCUPATION CERTIFICATE

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

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

18. Internal Driveway/Vehicular Areas

- a. The internal driveway and turning areas are to be designed and constructed in accordance with Australian Standard 2890.1, and 3727. Removal and adjustment of the existing turning area right of access slab to allow proper matching of the finished driveway level must be undertaken, as required.
- b. To ensure any work undertaken will not adversely affect the longevity of tree No. 25, the driveway edge and any footpaths must not be constructed closer than 4.5m to the edge of the tree trunk.

19. Fulfilment of BASIX Commitments

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

20. 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.

21. Retaining Walls

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

22. Replacement Trees

The applicant must plant four indigenous Blue Gum High Forest canopy species to compensate for the removal of trees T21 and T34. Plants are to be tube stock, or larger and grown from locally generic stock obtained from a recognised native plant nursery. All saplings that die must be replaced within 1 calendar month. Plants are to be located at a minimum distance of 4m from the building envelope.

OPERATIONAL CONDITIONS

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

23. Ongoing Protection of Bushland

To ensure that invasive plants identified as weed species are effectively removed and not allowed to proliferate or interfere with a quality landscaping and environmental outcome, the following conditions shall apply:

- a. All environmental and noxious weeds including (but not limited to) *Sida rhombifolia* (Paddy's Lucerne), *Tradescantia flumiensis* (Wandering Jew), *Ehrharta erecta*, *Asparagus aethiopicus* (Asparagus Fern), *Ochna serrulata*, *Bromus carthaticus*, *Bidens pilosa* (Cobbler's Pegs), *Ligustrum sinense* (Small-leaved Privet), *Ligustrum lucidum* (Large-leaved Privet), *Anredra cordifolia* (Madeira Vine), *Cynodon dactylon* (Couch) and *Pennisetum clandestinum* (Kikuyu) on the development sites that have the potential to spread into the "Restricted Development Area" are to be removed and suppressed using an appropriate method as detailed on Council's web site under Environment/ Bushland and Biodiversity/ Weeds: www.hornsby.nsw.gov.au.
- b. All environmental and noxious weeds in the "Restricted Development Area" are to be removed and suppressed in accordance with the restoration strategies and zone objectives stated within the '*Bushland Management Plan*' prepared by Ecohort Pty Ltd on the 13th March 2007 (TRIM Document No. D01054401). All work is to be only undertaken by a suitably qualified and experienced bush regeneration company with the appropriate licenses from the Department of Environment and Climate Change for a minimum period of 12 months. Engaging the bush regeneration contractors is the financial responsibility of the owners of 16B Osborn Road Normanhurst. At the end of the 12 months work period a brief activity and summary report shall be provided to Council's Bushland and Biodiversity Team.
- c. The applicant shall prevent the spread of exotic grasses into the "Bushland Regeneration Area" through the erection of a physical barrier using materials such as timber, logs or rock to act as a mown strip in order to delineate the restricted area
- d. The area is to be kept free of environmental and noxious weeds using recognised bush regeneration methods in accordance with '*Recovering Bushland on the Cumberland Plain: Best Practice Guidelines for the Management and Restoration of Bushland – Department of Conservation 2005*';

- e. Machinery and fertilizer must not be used in the bushland regeneration area for maintenance purposes; and
- f. A dividing fence must not be erected within the “Restricted Development Area” between properties No. 16B and 16C Osborn Road without the written consent of Council.

24. Landscaping

The planting schedule for all landscaping adjoining the ‘Restricted Development Area’ shall only comprise of indigenous species consistent with the listing of Blue Gum High Forest Critically Endangered Ecological Community. Landscaping for remaining areas of the development are to be primarily composed of locally occurring native species, as listed in the Hornsby Council planting guide, *Indigenous Plants for the Bushland Shire*, available at Council or on Council’s web site: www.hornsby.nsw.gov.au

- END OF CONDITIONS -

**2 DEVELOPMENT APPLICATION - CONSTRUCTION OF AN INDUSTRIAL DEVELOPMENT COMPRISING SEVEN UNITS
19 - 21 SEFTON ROAD, THORNLEIGH**

| | |
|------------------------------------|--|
| Development Application No: | DA/55/2010 |
| Description of Proposal: | Demolition of an existing factory building and construction of an industrial development comprising seven units. |
| Property Description: | Lot 24 DP 787059 (No. 19 – 21) Sefton Road, Thornleigh |
| Applicant: | Mr Ian Anthony Hay |
| Owners: | Mr Ian Anthony Hay Mr Anthony James Hay |
| Statutory Provisions: | Hornsby Shire Local Environmental Plan 1994 Industrial A (General) Zone |
| Estimated Value: | \$3,200,000 |
| Ward: | B |

RECOMMENDATION

THAT Development Application No. 55/2010 for the demolition of an existing factory building and the construction of an industrial development comprising seven units at Lot 24 DP 787059 (No. 19 – 21) Sefton Road, Thornleigh be approved subject to the conditions of consent detailed in Schedule 1 of this report.

EXECUTIVE SUMMARY

1. The application proposes the demolition of an existing factory building and the construction of an industrial development comprising seven units.
2. The proposal generally complies with the Hornsby Shire Local Environmental Plan 1994 and the Industrial Lands Development Control Plan.
3. One submission was received in respect of the application.
4. It is recommended that the application be approved.

HISTORY OF THE SITE

On 5 June 1989, DA/268/1989 was approved for alterations to an existing factory and the use of the building for the warehousing of spring water.

On 10 August 2007, DA/2064/2004 was approved for the alterations and additions to the existing industrial building and the change of use to a concrete pump manufacturing and warehouse facility.

THE SITE

The site is located on the southern side of Sefton Road and has a total area of 6,339 square metres. The site is a relatively flat rectangular shaped allotment with a frontage of 53.715 metres to Sefton Road and a depth of 119.7 metres.

The site comprises a two storey industrial building with associated office space. The existing development has a floor area of 3564 square metres, resulting in a FSR of 0.56:1. The site is used for the concrete pump manufacturing and warehouse facility.

The surrounding development comprises industrial uses on the southern side of Sefton Road and predominantly residential use on the northern side of Sefton Road.

THE PROPOSAL

The proposal includes the demolition of the existing two storey industrial building and the construction of a new two storey industrial building comprising seven units.

The total gross floor area of the proposed development is 6131 square metres. The proposal would result in a floor space ratio (FSR) of 0.96:1 and a site coverage of 62%.

Each of the proposed seven units would comprise a warehouse at basement level, a loading dock, warehousing and amenities at ground level and ancillary office space and amenities within a mezzanine level. A total of 64 car spaces are proposed on site.

- **Basement Level**

The basement would be accessed via a new driveway from Sefton Road within the eastern side of the site. The basement would comprise 43 car parking spaces and storage/warehouse rooms for each of the proposed seven units. The basement level also includes a garbage disposal room, plant room, a mechanical services room and fire isolated passage ways.

The basement level storage/warehouse rooms for each unit are accessible from the car park. The basement level component of each unit has a floor area of 300 square metres. Internal stairs are provided within each unit to access the ground floor level warehousing space.

- **Ground Level**

Access to the site and each proposed unit is via a driveway adjacent to the western boundary of the site. At ground level, each unit comprises 465.5 square metres of warehousing space, a loading dock, bathroom and kitchenette facilities. Stairs within

each unit provide access to the upper floor mezzanine and the basement level component of the units. Three car spaces are located in front of each unit, with a total of 21 car spaces being provided at grade level.

A turning area is provided between units 3 and 4 to enable delivery trucks to enter and leave the site in a forward direction.

- **Mezzanine Level**

The mezzanine level of each unit contains office space bathrooms and kitchen facilities. The floor area for the mezzanine of each unit is 107.5 square metres.

The proposed development is to be constructed of pre-cast concrete panels and metal deck roofing. Provision for landscaping is made at the front of the site and a landscaping strip is proposed along the western boundary adjacent to the driveway.

ASSESSMENT

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

1. STRATEGIC CONTEXT

1.1 Metropolitan Strategy – (Draft) North Subregional Strategy

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

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

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

The proposed development would be consistent with the draft Strategy by providing additional employment 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 Industrial A (General) zone under the Hornsby Shire Local Environmental Plan 1994 (HSLEP). The objectives of the zone are:

- (a) *to encourage economic growth and employment opportunities.*
- (b) *to allow a broad range of industrial, warehousing and other compatible land uses to locate within the area.*
- (c) *to promote development that does not adversely impact upon the natural and built environment.*

The proposed development is defined as 'light industry' under the HSLEP and is permissible in the zone with Council's consent. The specific use of each unit would be subject to separate approval.

The proposal is consistent with the zone objectives in that the development would encourage economic growth and employment opportunities, would allow for a broad range of industrial, warehousing and other compatible uses in the area and would not adversely impact on the natural and built environment.

Clause 15 of the HSLEP prescribes that the maximum floor space ratio (FSR) of development within the Industrial A (General) zone is 0.1:1. The proposal would result in a FSR of 0.96:1 and therefore satisfies the above requirement.

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

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

A condition has been recommended requiring erosion and sediment controls to be implemented before any demolition or construction works are carried out. Subject to conditions the proposal is consistent with the objectives of the Policy.

2.3 Industrial Lands Development Control Plan

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

| Industrial Lands Development Control Plan | | | |
|--|-----------------|--|-------------------|
| Control | Proposal | Requirement | Compliance |
| FSR | 0.96:1 | 1:1 | Yes |
| Parking | 64 spaces | 59 spaces (based on 1 space per 100m ² GFA) | Yes |
| Height | 2 storeys | 2 storeys | Yes |
| Setbacks | | | |
| Front | 3m | 3m (local road) | Yes |
| Side - east | 0m | 0m | Yes |

| | | | |
|-------------|----|----|-----|
| Side - west | 9m | 0m | Yes |
| Rear | 2m | 0m | Yes |

As detailed in the above table, the proposed development complies with the prescriptive standards within the Industrial Lands Development Control Plan. The relevant matters of the Plan are discussed below, as well as a brief discussion on the proposal's compliance with relevant performance standards.

2.3.1 Height

The height and massing of the building is compatible with similar development in the locality and would sit comfortably in the existing streetscape.

The 'Building Design' element of the Industrial Lands Development Control Plan states that in determining the height of a building, a mezzanine that serves as an intermediate level between the two main storeys does not represent an additional storey. The proposed mezzanine level is not considered an addition storey as the mezzanine is located within the ground level and would not result in an increase in the perceived bulk and scale of the building. The proposal is two storeys in height and satisfies the height requirements of the DCP.

2.3.2 Car Parking and Vehicular Access

Under the provisions of the 'Vehicle Access and Parking' element of the Industrial Lands Development Control Plan, industrial developments are required to provide one car parking space per 100 square metres of gross floor area (assuming more than one occupant per vehicle and some employees not travelling to the site via private vehicle). The proposal development generates a demand for 61 car spaces to be provided on the site. A total of 64 car spaces are proposed within the site and is therefore consistent with this requirement.

A driveway is proposed along the western boundary of the site to provide access to all units, their associated loading dock and at grade car parking. Separate vehicular access is proposed from Sefton Road to the basement level car park and warehouse areas.

The application included a Traffic and Parking Assessment Report and swept turning path diagrams for trucks entering and leaving the site. The swept turning paths demonstrate vehicular movements for an 8.8 metre medium rigid vehicle, a 12.5 metre heavy rigid vehicle and a 19 metre articulated vehicle. Based on Council's assessment, a 19 metre articulated vehicle would not be able to reverse into the articulated turning area between units 3 and 4. To ensure that all vehicles can enter and leave the site in a forward direction, a condition is recommended for the maximum length of delivery vehicles to enter the site to be 16.9 metres. The recommended condition requires a sign to be erected at the vehicle entry point advising of the maximum permissible length of vehicles entering the site.

The plans submitted indicate that the vertical clearance of the basement level is 3.2 metres. To enable small rigid vehicles to enter the basement level and the associated storage /warehouse areas of each unit, the height clearance of the basement level is required to increase to 3.5 metres to comply with AS 2890.2-2002. A condition has been recommended for the plans to be amended to demonstrate this requirement prior to the issue of a construction certificate.

Council's assessment concludes that the vehicular crossing on the western side of the site, from the property line to Council's kerb and gutter, needs to be designed at right angles to the kerb and gutter line. This is required to allow heavy vehicles to turn left out of the driveway without crossing the centreline of Sefton Road and to improve pedestrian safety. A condition has been recommended for the vehicular crossing to be extended and the plans have been amended in red to reflect this requirement. As a result of amended driveway location an additional tree would be required for removal. This tree has not been identified as significant and its removal is acceptable to ensure safe and efficient ingress/egress to the site.

Subject to these requirements the application is assessed as acceptable on traffic and parking grounds.

2.3.3 Landscaping

The landscape plan submitted as part of this application proposes a landscaped area at the front of the site and along the western boundary.

The 'Landscaping' element requires that an outdoor eating and sitting area should be provided within industrial sites at the rate of 1 square metre per employee, with a minimum total area of 10 square metres. The number of staff to be employed within the development has not been advised as the proposal is for the building only and does not propose the specific use and associated number of employees for each unit. Notwithstanding, it is estimated that 1 worker per 50 square metres of floor area would be employed, resulting in a total of 122.6 potential staff members. This generates a demand for 122 square metres of outdoor area to be provided on the site.

A 36 square metre outdoor seating area for staff was originally proposed between unit 3 and unit 4 adjacent to the articulated turning area. In response to building design issues raised in the assessment of this application, this area is required to be utilised for a goods lift. This requirement is discussed in detail in Section 2.3.7 of this report.

As a result of location of the goods lift, no allocation would be made to outdoor seating, however internal staff amenities and seating areas are proposed within the mezzanine levels of each unit. The non-compliance with the 'Landscaping' element is not considered significant and the proposed internal staff areas are considered sufficient to cater for employees.

2.3.4 Acoustics

A noise assessment report was submitted that indicates the proposed building would meet the EPA's NSW Industrial Noise Policy. The proposal is for the construction of the building only and the approval for the specific use of each unit would be subject to a separate application. Whilst no noise would be generated as a consequence of this development application, the building design allows for the future noise generated from activities within the building to be managed.

Upon lodgement of future applications for the use of each unit, consideration would be made to the noise generating activities associated with the use and appropriate conditions would be applied.

2.3.5 Solar Access

The site adjoins industrial sites and would not overshadow any residential, or open space areas. The orientation of the lot ensures there is no overshadowing to pedestrian areas.

2.3.6 Waste Minimisation and Management

A condition has been recommended for the development to be carried out in accordance with the waste management plan submitted as part of this application.

2.3.7 Building Design

Each of the proposed units comprise a storage/warehouse at basement level, a warehouse and loading dock at ground level and a upper level mezzanine.

The proposed development did not include a goods lift and the only direct access from the ground level warehouse component and the basement level storage/warehouse component of each unit is proposed via an internal staircase. This arrangement does not enable goods to be easily moved between the two levels of each unit. With this arrangement, moving large goods between levels would require delivery vehicles to exit the site and turn on Sefton Road to enter the alternate driveway. This arrangement is not considered efficient or functional. It is considered necessary that a goods lift be provided within the site to enable goods to be efficiently moved from the ground level to basement level of the building.

A condition has been recommended (and the plans have been amended in red) to indicate the required location of the goods lift. The lift would be located at the end of the articulated turning area between units 3 and 4 at the ground level and at basement level be located at the centre of the car park. This is considered the most practical location to enable goods to be distributed to the basement level storage areas of each unit.

The mechanical services room within the basement level would be required to be relocated to the rear south eastern corner of the car park to accommodate the goods lift. This relation has been indicated in red on the plans. Subject to this amendment, the connection between the ground level and basement level of each unit is considered to be functional and consistent with the industrial purpose of the building.

The building design is compatible with the surrounding development and would not adversely impact on the streetscape.

2.4 Car Parking Development Control Plan

The proposal complies with the requirements of the Car Parking Development Control Plan. This matter has been addressed in Section 2.3.2 of this report.

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 Council's Sustainable Water Development Control Plan.

2.6 Section 94 Development Contributions Plan 2007-2011

The proposed industrial building is subject to a monetary contribution in accordance with the provisions of the Plan.

Contribution rates for industrial premises are based on number of employees, with an occupancy rate of 1 worker per 50 square metres of gross floor area. The proposed building has a gross floor area of 6131 square metres and based on the occupancy rate, 122.62 staff would be employed. The Section 94 contribution rates applicable from 1 April 2010 to 30 June 2010 specify that \$2,038.10 is payable for each employee. With 122.62 employees, a contribution fee of \$249,904.50 would apply. The contribution fees have been levied as a condition of consent.

The contribution will be adjusted from this date in accordance with the underlying consumer price index for subsequent financial quarters.

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 proposal included a Stage 1 site contamination report that assessed the potential risk of contamination of the site. The report states that the site can be made suitable for the proposed development providing that further testing and remediation works are completed. These recommendations have been applied as conditions of consent.

The application included a landscape plan that identifies five trees to be removed to accommodate the proposed development. Council’s technical assessment identifies the need for a minor design change in the vehicular cross over at the western side of the site that would result in an additional tree being removed. None of the trees identified for removal have been identified as significant and the removal of these trees would not have a significant environmental or visual impact.

The landscape plan identifies a number of trees within the front setback and western side boundary to be retained. The retention of these trees would improve the visual amenity of the area and the proposal’s impact on the streetscape.

A *Casuarina* species is located on the western adjoining property (No. 17 Sefton Road) that would be located within 4 metres from the proposed building envelope. This tree is not identified as significant and may be adversely affected as a result of the development. To minimise the impact on this tree a condition has been recommended for an arborist to be present on site during construction works within 5 metres of this tree.

The proposed development is considered acceptable with respect to the natural environment subject to conditions for sediment and erosion controls, site remediation works, excavation and landfill procedures and environmental management.

3.2 Built Environment

A model was submitted as part of this application which demonstrates that the proposal adopts a contemporary appearance relating to the function of the building. The proposal is acceptable in bulk and scale and would not adversely impact on the amenity of the surrounding area. The proposal incorporates landscaping at the front and western side of the site and the development contributes positively to the built environment.

3.3 Social Impacts

The social impacts of the development on the local and broader community have been considered with specific reference to the potential employment generation within the complex. The development would generate employment in the locality and is consistent with the North Subregion (Draft) Subregional Strategy that provides a target of 9,000 jobs within the Hornsby LGA by 2031.

There would be a number of multiplier effects that the development would provide throughout the local and regional economies. These multiplier effects would result from the sourcing of goods and services from suppliers to businesses within the complex as well as the increased consumption generated by the increase of employment in the area.

3.4 Economic Impacts

The proposed development would have a positive economic impact by providing employment opportunities and increasing 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 and was referred to the NSW Rural Fire Service for comment. No objections were raised to the proposal subject to conditions for an asset protection zone and design and construction.

Subject to conditions the site’s attributes are considered conducive to the proposed development.

5. PUBLIC PARTICIPATION


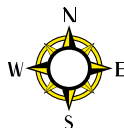
Section 79C(1)(d) of the Act requires Council to consider “*any submissions made in accordance with this Act*”.

5.1 Community Consultation

The proposed development was placed on public exhibition and was notified to adjoining and nearby landowners between 4 February 2010 and 25 February 2010 in accordance with Council’s Notification and Exhibition Development Control Plan. During this period, Council received one submission. The map below illustrates the location of those nearby landowners who made a submission that are in close proximity to the development site.



NOTIFICATION PLAN

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

One submission was received in respect of the development. The submission raised concerns with respect to the impact an additional driveway crossover would have on the availability of on street car parking.

Whilst the additional vehicle cross over would reduce the availability of on street carparking, the second driveway is necessary to provide access to basement level carparking and storage/warehouse space. Whilst the concerns raised in the submission are valid, these are not considered grounds for refusal and do not warrant a request for the re-design of the development.

5.2 Public Agencies

The application was referred to the following Agencies for comment:

5.2.1 Rural Fire Service

The application was referred to the RFS as addressed in Section 4.1 of this report.

6. THE PUBLIC INTEREST

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

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

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

CONCLUSION

The application proposes the demolition of an existing factory building and construction of an industrial development comprising seven units.

The proposal is assessed as being satisfactory against the heads of consideration pursuant to Section 79C of the Act, HSLEP and the Industrial Lands Development Control Plan. There is a non compliance with the 'Landscaping' element of the Industrial Lands Development Control Plan however this matter is not considered significant and the variation is supported in this report.

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

SCOTT PHILLIPS
Executive Manager
Planning Division

Attachments:

1. Locality Plan
2. Architectural Plans

File Reference: DA/55/2010
Document Number: D01420826

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 / Description</i> | <i>Drawn by</i> | <i>Dated</i> |
|------------------------|--|---|---------------------|
| DA.001 | Location Plan | Wibsoma Pty Ltd | 22/03/2008 |
| DA.002 | Ground Floor Plan | Wibsoma Pty Ltd | 22/03/2008 |
| DA.003 | Mezzanine Floor Plan | Wibsoma Pty Ltd | 22/03/2008 |
| DA.004 | Basement Floor Plan | Wibsoma Pty Ltd | 22/03/2008 |
| DA.005 | Northern and Western Elevation | Wibsoma Pty Ltd | 22/03/2008 |
| DA.006 | Southern and Eastern Elevation | Wibsoma Pty Ltd | 22/03/2008 |
| DA.007 | Section | Wibsoma Pty Ltd | 22/03/2008 |
| DA.010 | Proposed factory Unit Development | Wibsoma Pty Ltd | 22/03/2008 |
| 98.08/275 | Landscape Plan | Iscape Landscape Architecture | October 2008 |
| SW01 | Site Plan | Mitchell Howes Civil and Structural Engineering | 13 April 2010 |

| <i>Document No.</i> | <i>Prepared by</i> | <i>Dated</i> |
|------------------------------------|--------------------------------|---------------------|
| Statement of Environmental Effects | Glendinning Minto & Associates | January 2010 |

2. Removal of Existing Trees

This development consent only permits the removal of trees numbered 1, 3, 4, 5, 6 and 8 as identified on Plan No. 98.18/275 prepared by Iscape dated October 2008. The

removal of any other trees requires separate approval under Council's Tree Preservation Order.

3. Amendment of Plans

The approved plans are to be amended as follows:

- a. The vertical clearance to the lower level is to be increased to 3.5m in accordance with AS 2890.2-2002
- b. The vehicular crossing is to be extended to allow heavy vehicles to turn left out of the driveway without crossing the centreline of Sefton Road.
- c. A goods lift is to be provided between the basement and ground level in the location marked in red on the plans. The location of the goods lift at basement level requires the relocation of the mechanical services room to the rear south-eastern corner of the basement level car park as indicated in red on the plans.

REQUIREMENTS PRIOR TO THE ISSUE OF A CONSTRUCTION CERTIFICATE

4. Site Contamination Investigation

Following the demolition of the existing structures on the site and prior to the commencement of any construction works on the site, the following information is to be prepared and certified by an appropriately qualified consultant prior to the issue of a construction certificate.

- a. A detailed investigation of the site must be prepared in accordance with NSW Environment Protection Authority's *Contaminated Sites – Guidelines for Consultants Reporting on Contaminated Sites* and *Contaminated Sites – Sampling Design Guidelines*.
- b. A Remedial Action Plan (RAP) must be prepared and submitted to Council should the detailed investigation reveal contamination exceeding criteria prescribed by the NSW Environment Protection Authority's *Contaminated Sites – Guidelines for the NSW Site Auditor Scheme*.
- c. A validation report must be prepared in accordance with the NSW Environment Protection Authority's *Contaminated Sites – Guidelines for Consultants Reporting on Contaminated Sites* and *Contaminated Sites – Sampling Design Guidelines* validating that the site has been remediated and is suitable for its intended use.

5. Building Code of Australia

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

6. Sydney Water – Quick Check

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

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

7. Stormwater Drainage

The stormwater drainage system for the development must be designed and constructed for an average recurrence interval of 20 years and be gravity drained and connected directly to the existing Council piped drainage system in Sefton Road.

8. Stormwater Detention

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

- a. Have a capacity of not less than 98 cubic metres, and a maximum discharge (when full) of 140 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 the on-site detention system is constructed above ground:
 - i. The depth is to be less than 150 mm.
 - ii. It must be constructed to ensure the ponding of water would not impact on vehicular movements, user access to the basement area and vehicles.

9. 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 must be obtained from Council. Existing footpath grades are to be preserved.
- b. The driveways must be a rigid pavement designed by a chartered engineer.
- c. For car traffic, the driveway grade must not exceed 25 percent and changes in grade must not exceed 8 percent.
- d. The pavements must have a kerb to at least one side and a one-way cross fall with a minimum gradient of two percent and a lintel and pit provided on grade and at low points.
- e. Retaining walls required to support excavated areas and the compaction of any fill batters must be in accordance with the requirements of a chartered structural engineer.

- f. 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.
- g. Conduits for utility services including electricity, water, gas and telephone must be provided and marked on the approved site location plan (Plan No. DA/001, dated March 2008).

REQUIREMENTS PRIOR TO COMMENCEMENT OF ANY WORKS

10. 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.

11. 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*

12. 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.

13. Tree Protection Barriers

To avoid injury or damage, tree numbered 7 must have its trunk protected by 2 metre lengths of 75mm x 25mm hardwood timbers spaced at 80mm secured with galvanised wire (not fixed or nailed to the tree in any way).

REQUIREMENTS DURING CONSTRUCTION

14. 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.

15. Waste Management

Appropriate work practices must be employed to implement the *Waste Management Plan Section One – Demolition Stage and Section Three – Construction Stage* as applicable.

16. 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.

17. 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.

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. Disturbance of Existing Site

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

20. 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.

21. 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.

22. 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 the Casuarina species on the adjoining property (No. 17 Sefton Road) 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.

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. Design and Construction – Bushfire Hazard

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

- a. All openable portions of windows must be screened using a mesh with aperture of 1.8mm made of corrosion resistant steel or bronze.
- b. External doors are to be sealed with draft excluders or weather strips to prevent the entry of embers.

24. Footpath

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

- a. The existing footpath being removed.
- b. Pouring of the concrete footpath, on the existing grade, to the full frontage of the subject site.
- c. The land adjoining the footpath to be fully turfed.
- d. Any public utility adjustments to be carried out, such as the adjustment of the Telstra DA pole, at the cost of the applicant and to the requirements of the relevant public authority.

25. 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 crossing must be constructed in accordance with Council's *Civil Works Design, 2005* and the following requirements:

- a. Any redundant crossings to be replaced with integral kerb and gutter. If any tree is affected it shall be removed and replaced with an approved species.
- b. Approval obtained from all relevant utility providers that all necessary conduits be provided for, or relocated to suit the proposed swept out path of design vehicles on the crossings, and protected under the crossings.

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.

26. Traffic Control Plan

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

- a. Arrangements for public notification of the works.
- b. Temporary construction signage.
- c. Permanent post-construction signage.
- d. Vehicle movement plans.
- e. Traffic management plans.
- f. Pedestrian and cyclist access/safety.

27. 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.

28. Works as Executed Plan

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

29. Creation of Easements

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

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

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

30. s94 Infrastructure Contributions

The payment to Council of a contribution of \$249,904.50* for 122.62 employees 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 \$2,038.10 per employee, derived from a rate of one employee per 50sqm industrial floor area and is current as at 10 June 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.

31. External Lighting

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

32. Compliance with Waste Management Plans

A report covering each stage of the development (either separately or together), must be prepared by an appropriately qualified person certifying that:

Either:

- a. The Waste Management Plan Section One – Demolition Stage and Section Three – Construction Stage was implemented and at least 60 % waste generated was reused or recycled; or
- b. If the 60% diversion from landfill was not achieved in the Demolition Stage and/or Construction Stage, the Report is to include the reasons why this occurred and certify that appropriate work practices were employed in the demolition and construction stages to implement the Waste Management Plan.

The reports must be based on documentary evidence (i.e. tipping dockets/receipts from recycling depots, transfer stations and landfills, audits of procedures etc) and must be attached to the Report.

OPERATIONAL CONDITIONS

33. 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 requirements:

- 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.

34. Traffic Requirements – permissible vehicle length

To enable delivery vehicles to enter and leave the site in a forward direction, the maximum length delivery vehicle is to be limited to a 16.9m articulated vehicle.

A sign must be erected at the vehicular access point advising that the maximum permissible length of vehicles to enter the site is 16.9 metres.

35. 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.

36. Number of Units in Premises

Seven (7) units only are approved as part of this consent. No separate occupation or adaption of the building to facilitate the separate occupation of the lower ground floor level storage / warehouse areas is permitted.

37. Asset Protection Zone – Rural Fire Service

To inform current and future owners that the land surrounding the approved building must be managed as an Inner Protection Area (IPA), the following matter must be created under s88B of the *Conveyancing Act 1919* prior to the issue of an Occupation Certificate:

- a. The creation of a "*Positive Covenant*" over Lot 24 DP 787059 requiring that the entire property be managed as an 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.

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.

Advertising Signage – Separate DA Required

This consent does not permit the erection or display of any advertising signs. Most advertising signs or structures require development consent. Applicants should make separate enquiries with Council prior to erecting or displaying any advertising signage.

Dial Before You Dig

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

Asbestos Warning

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

www.environment.nsw.gov.au

www.nsw.gov.au/fibro

www.adfa.org.au

www.workcover.nsw.gov.au

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

Use of Building – Separate DA Required

This consent does not permit the use of the premises or the fit-out of any tenancy for any purpose. Separate development consent is required for the use of the premises or the fit-out of any tenancy prior to the occupation of the building.

The future use of each unit will be subject to conditions of development consent and the following requirements:

- **Storage of Flammable and Combustible Goods**

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

- **Trade Waste**

Liquid trade waste generated on the site must be discharged in accordance with a trade waste agreement with *Sydney Water* and by a licensed liquid trade waste contractor.

- **Contract with a Licensed Waste Contractor**

All commercial tenants must keep written evidence on site of a valid contract with a licensed waste contractor(s) for the regular collection and disposal of the waste and recyclables that are generated on site.

- **Waste Collection hours**

Due to the close proximity of residential dwellings, waste collection services must only take place within the hours of 9:00 am to 7:00 pm on Sundays and Public Holidays or within the hours of 7:00 am to 7:00 pm on other days.

3 REVIEW OF JOINT REGIONAL PLANNING PANELS

EXECUTIVE SUMMARY

A review of the operation of the Sydney West Joint Regional Planning Panel (JRPP) has been undertaken to investigate the implications for Council.

Since its commencement, Council has not received any development applications in which the JRPP is the consent authority. Accordingly, there have not been any direct implications of the operation of the JRPP on Council.

The Department of Planning has released an interim review of the operation of the JRPPs and has identified possible opportunities for some development applications to be returned to councils as the consent authorities. Council's instrument of delegations to planning officers would need to be amended to take advantage of these opportunities.

PURPOSE

The purpose of this report is to advise Council of the implications of the JRPP twelve months after its commencement.

DISCUSSION

On 1 July 2009, the JRPPs commenced operation as part of the NSW Government's planning reforms.

As requested by the Department of Planning, Council nominated local members and alternate local members to represent Council on the Sydney West JRPP as it applies to planning matters that fall within the Hornsby local government area. At the same time, Council resolved to receive a report twelve months following the commencement of the JRPPs outlining their implications during that period.

Since the commencement of the JRPPs, Council has not received any development applications to which the Sydney West JRPP is the consent authority. Accordingly, the JRPP has not had any direct impacts on decision making within the Hornsby local government area. However, during this period, the Sydney West JRPP received 51 development applications, of which it had determined nine consistent with council's recommendations.

The Department of Planning has released an interim review of the operation of the JRPPs. In its review, the Department has updated its operational procedures, code of conduct, complaints handling policy and its website. In addition, the Department is exploring delegating back to councils (as the consent authority) certain development applications. These may include development applications in certain areas, some designated development and development applications that are 'straight forward' with no community objection. However, with the aim of 'depoliticising' the planning system, these delegations would only be applied to those councils who confer the authority to an appropriate officer level.

Council's current practice is that all development applications that have a value in excess of \$2M be determined by Council at a Planning Meeting; irrespective of whether they are consistent with Council's planning instruments or whether there are any community submissions. Should Council continue this practice, the Department of Planning would not delegate any JRPP development applications back to Council. If however, Council's practice changes so as to facilitate development applications which have an estimated value in excess of \$2M, are consistent with Council's planning instruments and do not receive any community objection, being determined under delegated authority by an appropriate officer as determined by the General Manager, Council would potentially have the opportunity to take back a number of development applications from the JRPP process.

It is considered that it would be in Council's interest to introduce practices to facilitate as many development applications as possible being determined by Council's officers. Those development applications would be determined more quickly and at less expense without compromising the quality of the decision making or the development outcome. Accordingly, this report suggests that the General Manager consider delegating (to appropriate officers) the determination of all development applications which have an estimated value in excess of \$2M, are consistent with Council's planning instruments, do not receive any community objection and no 'red sticker' being placed against them.

The Department of Planning has advised that it intends to continue to monitor and review the operation of the JRPPs, with annual performance reporting to be conducted and included in the local government monitoring report.

Council's current local members; Ms Felicity Findlay and Ms Janelle McIntosh and Council's alternate local member, the General Manager have been appointed for a three year period expiring in October 2012. Council's second alternate local member, Mr Peter Fryar, resigned from his position in March 2010 upon commencing employment in local government. Due to the limited number of JRPP development applications expected to be considered in the Hornsby local government area, it is not considered necessary for Council to replace Mr Fryar at this time.

BUDGET

To date, there have not been any financial implications for Council since the commencement of the JRPPs.

There are no budget implications arising from this report.

POLICY

There are no policy implications arising from this report.

CONSULTATION

The General Manager was consulted in the preparation of this report.

TRIPLE BOTTOM LINE SUMMARY

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

RESPONSIBLE OFFICER

The responsible officer for this report is the Executive Manager Planning Division.

RECOMMENDATION

THAT:

1. The contents of Executive Manager's Report No. PLN41/10 be received and noted.
2. Council notes that development applications which have an estimated value in excess of \$2M, are consistent with Council's planning instruments, do not receive any community objection and do not have a 'red sticker' placed against them will hereafter be determined under delegated authority by an appropriate officer as determined by the General Manager.

SCOTT PHILLIPS
Executive Manager
Planning Division

Attachments:

There are no attachments for this report.

File Reference: F2009/00493
Document Number: D01425792

4 HORNSBY SHIRE HOUSING STRATEGY PLANNING PROPOSAL - REPORT ON SUBMISSIONS

EXECUTIVE SUMMARY

The amended *Hornsby Shire Housing Strategy* was exhibited for public comment earlier this year. Many submissions were received, providing valuable feedback which has assisted identify proposed amendments to the *Housing Strategy Planning Proposal*. Recommended amendments include the deletion of particular precincts and amendments to precinct boundaries or housing form.

The recommended deletion of particular precincts will result in a reduced dwelling yield and overall shortfall in Council's dwelling target. Accordingly, this report presents an additional proposal for consideration. The draft *Townhouse Planning Proposal* identifies precincts for rezoning to permit townhouses in certain parts of Hornsby, Asquith and Mount Colah to assist increase the supply of townhouses and to ensure Council's dwelling target is met.

This report recommends that Council endorse the amended *Housing Strategy Planning Proposal* attached to this report for submission to the Department of Planning (DOP) for gazettal, and the *Townhouse Planning Proposal* attached to this report for submission to the DOP for gateway determination and exhibition.

PURPOSE

The purpose of this report is to present the outcome of the exhibition of the amended *Housing Strategy* and to seek endorsement to:

- submit the *Housing Strategy Planning Proposal* (amended as a result of submissions) to the DOP for gazettal; and
- submit a new *Townhouse Planning Proposal* to the DOP for gateway determination and public exhibition.

BACKGROUND

The original *Housing Strategy* was exhibited in early 2009. Over 1,500 submissions were received and reviewed by Council. At its meeting on 2 December 2010, Council considered a report concerning the exhibition. The report presented a *Planning Proposal*, prepared in accordance with the State Government's new plan-making process, containing amendments to the *Strategy* as a result of consideration of submissions. Council resolved to forward the *Planning Proposal* to the DOP seeking a gateway determination to facilitate the exhibition of an amended *Housing Strategy*.

The *Hornsby Shire Housing Strategy Planning Proposal* was submitted to the DOP on 3 December 2009. A gateway determination was received on 30 December 2009, indicating that the *Planning Proposal* could be exhibited.

The amended *Housing Strategy* was exhibited for public comment from 15 March 2010 to 23 April 2010.

DISCUSSION

This report provides a summary of the outcome of the exhibition of the amended *Housing Strategy*, and presents an amended *Housing Strategy Planning Proposal* for gazettal, along with a new *Townhouse Planning Proposal* for endorsement for exhibition.

Exhibition and Review of Submissions

The amended *Housing Strategy* was exhibited from 15 March 2010 to 23 April 2010. The gateway determination issued by the DOP was subject to conditions including a requirement that the *Proposal* be exhibited for 14 days and notified through a local newspaper, on the Council website and in writing to adjoining landowners.

To ensure the community was fully informed, Council resolved to undertake a comprehensive consultation strategy over a five week period. The consultation exceeded the statutory requirements of the gateway determination and included the same methods of consultation undertaken to exhibit the original *Strategy*. The DOP raised no objection to Council extending the exhibition period from 14 days to five weeks to allow for community drop in sessions and to facilitate the proposed advertising in accordance with Council's adopted consultation strategy.

Advertisements were placed in the *Hornsby Advocate*, the *Northern District Times*, the *Hills News*, the *Monthly Chronicle*, the *Bush Telegraph* and on Council's website. Letters and brochures were sent to property owners within and near the proposed precincts. Letters were also sent to submitters from the 2009 exhibition, along with community groups, industry groups and statutory authorities. An internet discussion forum was established and four community drop-in sessions were held at various locations.

A total of 3,341 submissions were received during the exhibition period, including individually written letters or emails, form letters and petitions. Submissions raised objections to the *Strategy* (or aspects of the *Strategy*), provided constructive feedback on how it could be improved, indicated support for the *Strategy* and suggested other precincts for inclusion. The attached *Housing Strategy Volume 3a - Report on Submissions 2010* provides a summary of submissions. The report does not attempt to capture all of the information put forward in submissions. The report focuses on providing an overview of submissions, along with a snapshot of the reasoning, key local issues identified and suggestions made. A copy of all submissions (including late submissions received up until 14 May 2010) has previously been provided to Councillors. The major reasons for objection to the amended *Strategy* continue to be traffic generation, impacts on character/streetscape and uncertainty surrounding the provision of infrastructure.

Amendments to the Housing Strategy

Council has considered the feedback provided through submissions from the community and government agencies to assist identify proposed amendments to the *Strategy*. The review of submissions and identification of draft amendments to the *Housing Strategy Planning Proposal* was overseen by the Housing Strategy Steering Committee which comprises all Councillors, the General Manager, relevant Executive Managers and staff. The Steering Committee met on two occasions to review submissions and identify potential amendments to

the *Housing Strategy*. At its meeting on 8 June 2010 the Steering Committee agreed that the following amendments to precincts should be considered:

| PRECINCT NAME | RECOMMENDATION |
|------------------------------------|-----------------------------------|
| Berowra | |
| Berowra Commercial Centre | No change |
| Mt Colah | |
| Mt Colah Commercial Centre | Minor western boundary adjustment |
| Pacific Highway | No change |
| Judith Avenue | Delete |
| Asquith | |
| Lords Avenue | No change |
| Baldwin Avenue | No change |
| Stokes Avenue | No change |
| Jersey Street North | No change |
| Hyacinth Street | No change |
| Bouvardia Street | No change |
| Asquith Commercial Centre | No change |
| Pacific Highway | No change |
| Hornsby | |
| Galston Road | No change |
| Belair Close | Reduce height to 5 storeys |
| Linda Street | Delete |
| Waitara | |
| Balmoral Street | No change |
| Park Avenue | No change |
| Palmerston Road | No change |
| Normanhurst | |
| Normanhurst Road Commercial Centre | No change |
| Thornleigh | |
| Station Street | No change |
| Pennant Hills Rd Comm. Centre | No change |
| Pennant Hills | |
| Fisher Ave | No change |
| West Pennant Hills | |
| Thompsons Corner | No change |
| Beecroft | |
| Beecroft Road | No change |
| Carlingford | |
| Dunrossil Avenue | Delete |
| Fleming Street | Delete |
| Milton Street | Delete |

| | |
|------------------|-----------|
| Darwin Street | Delete |
| Carlingford Road | No change |

It is recommended that Council endorse the attached *Housing Strategy Planning Proposal* which reflects the above changes for submission to the DOP for gazettal.

Amendments to the draft Development Controls

Many submissions included constructive feedback and suggestions concerning the draft 5 storey development guidelines and draft key principles diagrams contained in the *Strategy*. It is recommended that the following amendments to development controls be considered:

| |
|--|
| RECOMMENDATIONS |
| Stokes Avenue, Asquith precinct key principles diagram |
| Specify that access should be provided via Stokes Avenue where possible |
| Beecroft Road, Beecroft precinct |
| Review controls in the context of the Beecroft/Cheltenham Heritage Conservation area |
| Landscape design controls |
| Specify the use of locally indigenous species |
| Pedestrian links |
| DCP to include mapped pedestrian networks and links to open space |
| Viability |
| Include a requirement to prevent any single property being left isolated and undevelopable |

It is recommended that a draft Development Control Plan (DCP) be prepared based on the exhibited key principles diagrams and 5 storey controls and incorporating the above changes. A further report should be prepared presenting the draft DCP to Council for endorsement for exhibition.

Preparation of a Townhouse Planning Proposal

The recommended deletion of particular precincts from the *Housing Strategy Planning Proposal* will result in a reduced dwelling yield and overall shortfall in Council's dwelling target. Accordingly, an additional proposal has been prepared for consideration by Council.

In considering submissions on the amended *Housing Strategy* it became clear that residents prefer smaller scale development such as townhouses rather than medium or high density development. Accordingly, the Housing Strategy Steering Committee agreed that a townhouses proposal should be prepared. Council recognises that townhouses are a desired form of housing for which there is limited provision in the *Housing Strategy* due to the need to concentrate densities in centres (i.e.: close to shops and train stations).

A draft *Townhouse Planning Proposal* (attached) has been prepared for Council's consideration, outlining the objectives, intended outcomes and justification for the *Proposal*. Opportunities for the provision of townhouses have been identified in out of centre locations along transport corridors in Hornsby, Asquith and Mount Colah to assist increase the supply of this form of housing and to ensure Council's dwelling target under the *Housing Strategy* is met.

During consideration of submissions, the Steering Committee agreed that an amendment to the boundaries of the Mt Colah Commercial Centre precinct should be considered. A minor

western boundary amendment is recommended as part of the *Housing Strategy Planning Proposal* (identified in the table above). However, a further extension of the north-western boundary at the southern end of the precinct and the inclusion of an additional property in Judith Avenue has been identified for consideration and exhibition in the *Townhouse Planning Proposal*.

The *Townhouse Planning Proposal* contains maps identifying the boundaries of the precincts proposed to be rezoned and a consultation strategy for endorsement by the DOP. It is recommended that Council facilitate the exhibition of the attached *Townhouse Planning Proposal* by forwarding it to the DOP seeking a gateway determination.

CONSULTATION

The review of submissions and preparation of the amendments to the *Housing Strategy Planning Proposal* was overseen by the Housing Strategy Steering Committee which comprises all Councillors, the General Manager, relevant Executive Managers and staff. The Steering Committee met on two occasions to review submissions and identify potential amendments to the *Housing Strategy*. At its meeting on 8 June 2010 the Steering Committee agreed that an amended *Housing Strategy Planning Proposal* should be presented to Council seeking endorsement for gazettal, along with a new *Townhouse Planning Proposal* seeking endorsement for exhibition.

It is proposed that the *Townhouse Planning Proposal* be exhibited prior to the end of 2010. A consultation strategy has been prepared as part of the *Planning Proposal* for endorsement by the DOP. Following the exhibition period, a report on submissions would be presented to Council for its consideration.

STATUTORY CONSIDERATIONS

As part of the consideration of planning proposals, Council is required to consider the relevance of any State Environmental Planning Policy (SEPP) or Ministerial Direction under Section 117 of the *Environmental Planning and Assessment Act, 1979*. An assessment of relevant SEPPs and Section 117 Directions is contained within each of the attached *Planning Proposals*. The *Proposals* are not inconsistent with any SEPP or relevant Section 117 Directions.

Housing Strategy Planning Proposal

The *Housing Strategy Planning Proposal* is being progressed as part of the State Government's "gateway plan-making process". Community consultation forms part of this process and is only complete when Council has considered any submissions made concerning the *Proposal*. This report presents a summary of submissions and recommends amendments to the *Planning Proposal* as a result of community feedback.

Under Section 58 of the *Environmental Planning and Assessment (EP&A) Act 1979*, Council may vary the *Planning Proposal* after consideration of submissions, and must forward a copy of the revised *Planning Proposal* to the Minister. Further community consultation is not required unless directed by the Minister in a revised gateway determination. The amendments recommended in this report do not change the "statement of objectives or intended outcomes" of the *Proposal*. A minor amendment has been made to the "explanation of provisions". However, this does not change the intent of the provisions. The amendments to the *Housing Strategy Planning Proposal* do not warrant re-exhibition.

To facilitate the gazettal of the *Housing Strategy Planning Proposal*, Council must submit the *Proposal* to the DOP for the legal instrument (the LEP) to be drafted and made by the Minister. Draft LEP amendments are contained in the *Housing Strategy Planning Proposal*. The draft LEP amendments have been prepared, where possible, to comply with the State Government's *Standard Instrument Template*, which provides a consistent format for all new comprehensive LEPs. The *Standard Instrument* mandates that height controls be shown in metres, not storeys, on a 'Height of Buildings Map'. Accordingly, the equivalent height in metres for 5 storey and 10 storey development has been identified. An urban design consultant has reviewed the equivalent heights in metres and confirmed their appropriateness in controlling the desired maximum number of storeys. It is recommended that the *Housing Strategy Planning Proposal* be implemented through the following changes to the *Hornsby Shire Local Environmental Plan 1994*.

| Precinct type | Proposed draft LEP amendment |
|-------------------------|--|
| Townhouses | Rezone to Residential B (Medium Density) zone |
| 5 storey residential | Rezone to Residential C (Medium/High Density) zone and include a 5 storey equivalent height restriction in metres (17.5m) |
| 5 storey mixed use | No change to Business zones, include a 5 storey equivalent height restriction in metres (17.5m) |
| 8-10 storey residential | Rezone to Residential D (Medium/High Density) zone and include a maximum 10 storey equivalent height restriction in metres (32.5m) |
| 8-10 storey mixed use | No change to Business zones, include a maximum 10 storey equivalent height restriction in metres (32.5m) |

Townhouse Planning Proposal

A *Planning Proposal* has been prepared to rezone land to permit townhouses in parts of Hornsby, Asquith and Mount Colah. The *Townhouse Planning Proposal* (attached) sets out Council's objectives in preparing the *Proposal*, the intended outcomes of the *Proposal*, justification for the *Proposal*, and the intended community consultation to be undertaken.

To facilitate the exhibition of the *Townhouse Planning Proposal*, Council must submit the *Proposal* to the DOP for a gateway determination under section 56 of the *EP&A Act*.

Development Control Plan

This report recommends that a DCP be prepared based on the key principles diagrams and 5 storey controls exhibited as part of the *Housing Strategy*. The draft DCP would be prepared to incorporate the changes recommended in this report and presented to Council for endorsement for exhibition. In accordance with the *EP&A Act* the draft development control plan would be required to be exhibited for at least 28 days. Following the exhibition, a report on submissions would be presented to Council for its consideration detailing any recommended amendments to the draft DCP.

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 the *Housing Strategy* in Executive Manager's Report No. PLN5/09 considered by Council on 4 February 2009.

CONCLUSION

A number of changes to the amended *Housing Strategy* are proposed based on consideration of submissions received during the public exhibition period. The amended *Hornsby Shire Housing Strategy Planning Proposal* attached to this report should be endorsed by Council for submission to the DOP for gazettal. The *Townhouse Planning Proposal* attached to this report should be endorsed by Council for submission to the DOP for gateway determination to facilitate public exhibition.

RECOMMENDATION

THAT:

1. Council forward the attached *Housing Strategy Planning Proposal* to the Minister for Planning for gazettal pursuant to Section 59 of the *Environmental Planning and Assessment Act, 1979*, incorporating the following amendments:
 - 1.1 Delete the Dunrossil Avenue, Carlingford precinct;
 - 1.2 Delete the Fleming Street, Carlingford precinct;
 - 1.3 Delete the Milton Street, Carlingford precinct;
 - 1.4 Delete the Darwin Street, Carlingford precinct;
 - 1.5 Reduce the height of the Belair Close, Hornsby precinct to 5 storeys;
 - 1.6 Include a minor western boundary adjustment to the Mount Colah Commercial Centre precinct;
 - 1.7 Delete the Linda Street, Hornsby precinct; and
 - 1.8 Delete the Judith Avenue, Mount Colah precinct.
2. A Development Control Plan be prepared and reported to Council, based on the exhibited key principles diagrams and 5 storey controls and incorporating the following changes:
 - 2.1 Amend the Stokes Avenue, Asquith precinct key principles diagram to specify that access should be provided via Stokes Avenue where possible;
 - 2.2 Review the controls for the Beecroft Road, Beecroft precinct in the context of the Beecroft/Cheltenham Heritage Conservation Area;
 - 2.3 Specify the use of locally indigenous species in landscaping controls;
 - 2.4 Include mapped pedestrian networks and links to open space; and
 - 2.5 Include a requirement to prevent any single property being left isolated and undevelopable.
3. Council facilitate the exhibition of the attached *Townhouse Planning Proposal* by forwarding it to the Minister for Planning seeking a “gateway determination” pursuant to Section 56(1) of the *Environmental Planning and Assessment Act, 1979*.

- 3.1 Should the Minister determine under Section 56(2) of the *Environmental Planning and Assessment Act, 1979* that the matter may proceed, Council publicly exhibit the *Townhouse Planning Proposal* in accordance with the consultation strategy outlined in the *Planning Proposal* (or as otherwise directed by the Minister).
 - 3.2 Following the exhibition of the *Townhouse Planning Proposal*, a report on submissions be presented to Council.
4. Submitters be advised of Council's resolution.

JAMES FARRINGTON
Manager - Town Planning Services
Planning Division

SCOTT PHILLIPS
Executive Manager
Planning Division

Attachments:

1. Housing Strategy Planning Proposal Location Map
2. Housing Strategy Volume 3a - Report on Submissions 2010
3. Housing Strategy Planning Proposal (Version 2 / July 2010)
4. Townhouse Planning Proposal

File Reference: F2004/07491-06
Document Number: D01432026

5 REPORTING VARIATIONS TO DEVELOPMENT STANDARDS

EXECUTIVE SUMMARY

In accordance with the Department of Planning's *Planning Circular PS 08-14*, Council is required to report variations to development standards for development applications approved under delegated authority, which relied upon State Environmental Planning Policy No. 1 - Development Standards (SEPP 1).

PURPOSE

The purpose of this report is to advise Council of determined development applications involving a SEPP 1 variation to a development standard relating to the period 1 January 2010 to 31 March 2010.

DISCUSSION

The Department of Planning issued Circular PS 08-014 on 14 November 2008. The purpose of the Circular was to remind councils of their responsibilities to monitor the use of the Director-General's assumed concurrence under State Environmental Planning Policy No. 1. Councils were reminded of the need to keep accurate records of the use of SEPP 1 and to report on a quarterly basis.

The Circular also provides that Councils are required to adopt the following four measures:

1. *Establish a register of development applications determined with variations in standards under SEPP 1;*
2. *Require all development applications where there has been a variation greater than 10% in standards under SEPP 1 to be determined by full council (rather than general manager or nominated staff member);*
3. *Provide a report to each council meeting on the development applications determined where there had been a variation in standards under SEPP 1;*
4. *Make the register of development applications determined with variations in standards under SEPP 1 available to the public on the council's website.*

In accordance with Point 3 of the Department's Circular, attached hereto is a list of development applications determined under delegated authority involving a SEPP 1 variation to a development standard for the period 1 January 2010 to 31 March 2010.

A copy of the attachment to this report is also reproduced on Council's website.

BUDGET

There are no budget implications.

POLICY

There are no policy implications.

CONSULTATION

There was no consultation in the preparation of this report.

TRIPLE BOTTOM LINE SUMMARY

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

As this report simply provides Council with information and does not propose any actions which require a sustainability assessment, no Triple Bottom Line considerations apply.

RECOMMENDATION

THAT Council note the contents of Executive Manager's Report No. PLN37/10.

SCOTT PHILLIPS
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ROD PICKLES
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Planning Division

Attachments:

1. SEPP 1 Returns - Quarter for 1 January 2010 to 31 March 2010

File Reference: F2004/07599
Document Number: D01414707