



*the bushland shire*

*creating a living environment*

# **BUSINESS PAPER**

## **PLANNING MEETING**

**Wednesday, 3 August, 2011  
at 6.30pm**

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## **AGENDA AND SUMMARY OF RECOMMENDATIONS**

### **PRESENT**

### **NATIONAL ANTHEM**

### **OPENING PRAYER/S**

Rev. Bill Hayward of Dural Anglican Church, Dural will be opening the meeting in prayer.

### **ACKNOWLEDGEMENT OF RELIGIOUS DIVERSITY**

Statement by the Chairperson:

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

### **ABORIGINAL RECOGNITION**

Statement by the Chairperson:

*"We acknowledge we are on the traditional lands of the Darug and Guringai Peoples. We pay our respects to elders past and present."*

### **AUDIO RECORDING OF COUNCIL MEETING**

Statement by the Chairperson:

*"I advise all present that tonight's meeting is being audio recorded for the purposes of providing a record of public comment at the meeting, supporting the democratic process, broadening knowledge and participation in community affairs, and demonstrating Council's commitment to openness and accountability. The recordings will be made available on Council's website once the Minutes have been finalised. All 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-*

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*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 6 July, 2011 be confirmed; a copy having been distributed to all Councillors.

## **PETITIONS**

## **MAYORAL MINUTES**

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

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

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

**Item 1      PLN56/11 DEVELOPMENT APPLICATION - SUBDIVISION - TWO LOTS INTO FOUR 6 AND 8 HARWOOD AVENUE, MOUNT KURING-GAI**

**RECOMMENDATION**

THAT Development Application No. 522/2011 for the subdivision of two lots into four at Lot 1 DP 523459 and Lot 2 DP 523459, Nos 6 and 8 Harwood Avenue Mount Kuring-gai be approved subject to the conditions of consent detailed in Schedule 1 of this report.

**Page Number 21**

**Item 2      PLN59/11 DEVELOPMENT APPLICATION - ERECTION OF N AFFORDABLE HOUSING DEVELOPMENT COMPRISING 33 UNITS 8A NORTHCOTE ROAD, HORNSBY**

**RECOMMENDATION**

THAT Development Application No. DA/334/2011 for the construction of an affordable housing development comprising 33 units at Lot A DP 399538 (No. 8A) Northcote Road Hornsby be refused for the reasons detailed in the independent town planning consultant's report – Nexus Environmental Planning Pty Ltd and reproduced in Schedule 1 of this report.

**B WARD DEFERRED**

**B WARD**

**Page Number 25**

- Item 3     PLN54/11 DEVELOPMENT APPLICATION - ADVERTISEMENTS  
            CHERRYBROOK VILLAGE SHOPPING CENTRE 41 - 47 SHEPHERDS  
            DRIVE, CHERRYBROOK**

**RECOMMENDATION**

THAT Development Application No. 510/2011 for the erection of signage at Lot 1 DP 816893 Cherrybrook Village Shopping Centre, 41 – 47 Shepherds Drive, Cherrybrook be approved subject to three external signs being deleted from the development and subject to the conditions of consent detailed in Schedule 1 of this report.

**C WARD DEFERRED**

**C WARD**

**Page Number 41**

- Item 4     PLN58/11 DEVELOPMENT APPLICATION - ERECTION OF A  
            DWELLING-HOUSE 10A REDGUM AVENUE, PENNANT HILLS**

**RECOMMENDATION**

THAT Development Application No. 346/2011 for the erection of a two-storey dwelling-house and in-ground swimming pool at Lot 72, DP 1152456, 10A Redgum Avenue, Pennant Hills, be approved subject to the conditions of consent detailed in Schedule 1 of this report.

**GENERAL BUSINESS**

**Page Number 61**

- Item 5     PLN44/11 POLICY - PROPERTY NUMBERING**

**RECOMMENDATION**

THAT Council adopt the *Property Numbering Policy* attached to Executive Manager's Report No. PLN44/11.

**Page Number 64**

- Item 6     PLN60/11 EPPING TOWN CENTRE STUDY**

**RECOMMENDATION**

THAT

1. Council endorse the *Epping Town Centre Study* for public exhibition.

2. The Study be exhibited for a minimum period of two months generally in accordance with the consultation strategy attached to Executive Manager's Report No. PLN60/11.
3. The General Manager be delegated authority to endorse the exhibition material, including the preparation of an information brochure.

**Page Number 75****Item 7 PLN61/11 HORNSBY QUARRY PLANNING PROPOSAL****RECOMMENDATION****THAT:**

1. Council endorse progression of the Hornsby Quarry Planning Proposal attached to Executive Manager's Report No. PLN61/11 to allow the filling of Hornsby Quarry as permissible development.
2. Pursuant to Section 56(1) of the Environmental Planning and Assessment Act 1979, Council forward the Planning Proposal to the Minister for Planning and Infrastructure seeking Gateway Determination to progress the preparation of the Planning Proposal.
3. Should the Minister determine under Section 56(2) of the Environmental Planning and Assessment Act 1979 that the matter may proceed without significant amendment to the Proposal, Council publicly exhibit the Planning Proposal in accordance with the Minister's determination.
4. A public hearing pursuant to Section 57(6) of the Environmental Planning and Assessment Act be held following the exhibition of the Planning Proposal.
5. An independent facilitator be retained to conduct the public hearing for the reclassification of the land.
6. Following the exhibition, a report on submissions received in response to the public exhibition and at the public hearing be presented to Council.

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

**1 DEVELOPMENT APPLICATION - SUBDIVISION - TWO LOTS INTO FOUR  
6 AND 8 HARWOOD AVENUE, MOUNT KURING-GAI**

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<b>Development Application No:</b>	DA/522/2011
<b>Description of Proposal:</b>	Subdivision of two lots into four lots.
<b>Property Description:</b>	Lots 1 and 2 DP 523459, Nos. 6 and 8 Harwood Avenue Mount Kuring-gai
<b>Applicant:</b>	Mr Richard Benjamin Hunt
<b>Owner:</b>	Mrs B J Richardson, Mr R B Hunt and Mrs L J Hunt
<b>Statutory Provisions:</b>	Hornsby Shire Local Environmental Plan 1994 Residential A (Low Density) Zone
<b>Estimated Value:</b>	N/A
<b>Ward:</b>	A

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**RECOMMENDATION**

THAT Development Application No. 522/2011 for the subdivision of two lots into four at Lot 1 DP 523459 and Lot 2 DP 523459, Nos 6 and 8 Harwood Avenue Mount Kuring-gai be approved subject to the conditions of consent detailed in Schedule 1 of this report.

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**EXECUTIVE SUMMARY**

1. The application proposes the subdivision of two residential lots into four lots.
2. The proposal complies with Hornsby Shire Local Environmental Plan 1994 and generally complies with the Residential Subdivision Development Control Plan.
3. One submission has been received in respect of the application.
4. The application involves land owned by a member of Council's staff and is considered a minor/non-controversial development proposal. In accordance with Council's adopted policy '*PSA1 Proposed Council Developments*' and '*Practice Note No. 7 Assessment Practice*' the application is referred to Council for determination at a Planning Meeting.
5. It is recommended that the application be approved.



## THE SITE

The site has an area of 2,188m<sup>2</sup> and forms a uniform shaped parcel of land on the southern side of Harwood Avenue. The site has an average fall of 6% to the eastern side boundary.

The site is within the eastern suburban area of Mount Kuring-gai accessed off the Pacific Highway via a bridge over the Northern Railway and the F3 Freeway. The freeway, adjoining railway and Pacific Highway form a 120m wide transport corridor which divides the suburb. The area surrounding the suburb is bushland within Kuring-gai Chase National Park and Berowra Valley Regional Park. The subject site however is not within a bushfire prone area.

The site includes a two storey brick and tile dwelling house and an older single storey fibro dwelling house, scattered trees and shrubs. The F3 Freeway, 25m west of the site, is within a shallow sandstone cutting. The neighbouring dwelling houses are single and two storey. A pedestrian bridge over the freeway connects the western cul-de-sac end of Harwood Avenue to Mount Kuring-gai Railway Station.

The Mount Kuring-gai Village Shopping Centre is located 450m south west of the site.

## THE PROPOSAL

The proposal is for the subdivision of two lots into four lots and the demolition of an existing fibro dwelling. A proposed central right of carriageway (ROC) provides access to the rear two lots.

The proposed size and configuration of lots are detailed as follows:

Lot 1 has an area of 528.6m<sup>2</sup> (503.7 m<sup>2</sup> excluding right of carriageway) and is the site of the existing two storey dwelling to be retained with frontage to Harwood Avenue. The lot dimensions are: frontage 15.24m, western boundary 29.84m/7.09m, rear boundary 10.94m and eastern boundary 35.48m. The western side boundary is subject of a 0.82m wide easement for access and services. A proposed easement for stormwater drainage is located along the eastern side boundary.

Lot 2 at the rear has an area of 528.1m<sup>2</sup> (504.1 m<sup>2</sup> excluding right of carriageway) and is a regular shaped lot other than the north west corner which is irregular in shape for the right of carriageway. The lot dimensions are: northern boundary 10.94m/7.09m, western boundary 30.4m/1.3m/11.69m, southern boundary 13.94m and eastern boundary 36.45m. The lot includes three large trees identified as Spotted Gum (*Corymbia maculata*) which are good and worthy of preservation. The lot has an average fall of 6% to the eastern side boundary. A proposed stormwater drainage easement is located along the northern boundary.

Lot 3 at the rear has an area of 502.8m<sup>2</sup> and is a regular shaped lot of dimensions: northern boundary 15.24m, western boundary 30.4m, southern boundary 16.54m and eastern boundary 30.4m. The lot has an average fall of 6% to the eastern boundary. Lot 3 is not burdened by a right of carriageway.

Lot 4 has an area of 633m<sup>2</sup> (500.9m<sup>2</sup> excluding right of carriageway), has frontage to Harwood Avenue and is of regular shape with dimensions 15.24m x 41.53m. The lot is subject to a right of carriageway and easement for services along the eastern side boundary. The lot has an average fall of 6% to the eastern side boundary. The lot includes a large pine

tree (*Pinus radiata*) and a large Brushbox tree (*Lophostemon confertus*). The latter tree is identified as good and worthy of preservation.

## ASSESSMENT

The development application has been assessed having regard to the ‘*Metropolitan Plan for Sydney 2036*’, 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 Plan for Sydney 2036 and (Draft) North Subregional Strategy

The *Metropolitan Plan for Sydney 2036* 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 2036; 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 its preparation of the *Comprehensive LEP* by the end of 2011.

The *Draft North Subregional Strategy* sets the following targets for the Hornsby LGA by 2031:

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

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

### 2. STATUTORY CONTROLS

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

#### 2.1 Hornsby Shire Local Environmental Plan 1994

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

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

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

Clause 14 of the *HSLEP* prescribes a minimum lot area of 500m<sup>2</sup> for subdivision in the Residential A zone. The proposed subdivision complies with this requirement.

Clause 15 of the *HSLEP* prescribes that the maximum floor space ratio (FSR) of development within the Residential A zone is 0.4:1. Proposed Lot 1 complies with this requirement in respect to the existing dwelling to be retained. Proposed Lots 2 to 4 contain indicative building envelopes that demonstrate the ability of future dwellings to comply with this standard.

Clause 18 of the *HSLEP* sets out heritage conservation provisions within the Hornsby area. The site is in the vicinity of two items of heritage: Mt Kuring-gai Railway Station and a connecting pedestrian bridge over the F3 Freeway. The proposed subdivision would not impact or detract from the heritage significance of the railway station or the pedestrian bridge.

## 2.2 State Environmental Planning Policy, Sydney REP 20 – Hawkesbury Nepean River

This Policy provides general planning considerations and strategies requiring Council to consider the impacts of the proposal on water and scenic quality, aquaculture, recreation and tourism. The proposed development would have minimal potential to impact on the water quality of the catchment, subject to the implementation of sediment and erosion control measures.

## 2.3 Residential Subdivision Development Control Plan

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

<b>Residential Subdivision Development Control Plan</b>			
<b>Control</b>	<b>Proposal</b>	<b>Requirement</b>	<b>Compliance</b>
<b>Density Proposed Lots Excluding ROC</b>	Lot 1 – 503.7m <sup>2</sup> Lot 2 – 504.1m <sup>2</sup> Lot 3 – 502.8m <sup>2</sup> Lot 4 – 500.9m <sup>2</sup>	500m <sup>2</sup>	Yes
<b>Floor Space Ratio (Lot 1)</b>	0.35:1	0.4:1	Yes
<b>Car parking (Lot 1)</b>	2 spaces	2 spaces	Yes
<b>Private Open Space (Lot 1)</b>	180m <sup>2</sup>	120m <sup>2</sup>	Yes
<b>Accessway</b>	4m	4m	Yes
<b>Site cover (Lot 1)</b>	36%	40%	Yes

<b>Setbacks (Lot 1)</b>	Rear – 1.5m Side – 1.3m	3m 1m	No Yes
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As detailed in the above table, the proposed development does not comply with the prescriptive rear setback standard within Council's *Residential Subdivision DCP*. The matter of non-compliance is detailed below, as well as a brief discussion on compliance with relevant performance standards.

### 2.3.1 Density

Proposed Lot 1 is subject to an easement for access over the western side boundary effectively reducing the site area for the purpose of floor space ratio to 503.7m<sup>2</sup>. The existing dwelling on the proposed lot complies with the floor space ratio standard.

The proposed lots meet the density performance standard to:

*Be of sufficient area to allow for the siting of a dwelling and ancillary buildings including provisions for private opens space, vehicle access and parking and to permit solar access.*

### 2.3.2 Allotment Layout and Design

The proposed lots are generally of uniform shape other than in providing for the right of carriageway.

The proposed vacant lots accommodate a 200m<sup>2</sup> indicative building envelope clear of setbacks to boundaries and trees to be retained.

The site has an easterly aspect and is generally elevated in relation to neighbouring properties fronting Harwood Avenue and Low Street. Any future dwellings on proposed Lots 2 and 3 would need to be designed with regard to privacy and solar access of adjoining properties. The proposed lots are otherwise not subject to development constraints. It is considered the proposed rear lots include sufficient area to achieve appropriate dwelling design for privacy and solar access.

### 2.3.3 Setbacks

The proposed setbacks of the existing dwelling on proposed Lot 1 comply with setback requirements other than the 1.5m setback of the existing deck from an angular section of the proposed rear boundary. The boundary in this location adjoins the right of carriageway and the non-compliance would not significantly detract from residential amenity subject to boundary fencing. The non-compliance with the required 3m rear setback is therefore considered acceptable.

It is considered the proposed setbacks meet the element objective, i.e:

*To provide setbacks from existing dwellings and proposed building envelopes that will complement the existing or likely future streetscape, provide the opportunity for landscaping and ensure the privacy of and sunlight to existing and future dwellings.*

### 2.3.4 Landscaping and Private Open Space

The proposal retains the majority of existing trees on the site and would not detract from the site's visual quality or the streetscape.

The proposed private open space areas are located on the southern side of existing and future buildings and would be partially overshadowed during winter. It is considered the proposed vacant lots provide opportunity for north facing private open space areas in future dwelling design.

The proposal includes a landscaping plan for the existing dwelling which provides for screening of the accessway and private open space.

It is considered the proposed subdivision is satisfactory in respect to the landscaping and private open space performance criteria.

### 2.3.5 Drainage Control

The site gradient falls to the eastern side boundary. The proposed stormwater drainage system is designed to drain to Council's stormwater drainage system in Harwood Avenue. The proposed design would enable stormwater drainage connection for future dwellings and paved areas.

A condition is recommended for stormwater detention to minimise runoff impacts on downstream water quality.

Subject to recommended conditions the proposal meets the performance criteria:

*Drainage from subdivision sites should be consistent with the pre-development stormwater patterns.*

### 2.3.6 Accessway Design

The proposed accessway is at relatively level grade, complies with the 4m accessway width requirement and is satisfactory in respect to traffic safety at the frontage. The proposal retains the driveway of the existing dwelling house to be retained.

Any future dwelling on the proposed vacant lots would need to be designed to ensure vehicles can enter and leave the site in a forward direction.

### 2.3.7 Acoustics

The site is located in relatively close proximity to the F3 Freeway and Northern Railway. Noise impacts are mitigated by an existing acoustic wall along the eastern side of the motorway.

Future dwellings on the proposed vacant lots would need to be designed to comply with Council's *Code of Practice for Sound Insulation – External Noise Component*.

### **2.3.8 Crime Prevention**

A pedestrian bridge over the F3 Freeway at the western end of Harwood Avenue, near the frontage of the site, provides access for local residents to Mount Kuring-gai Railway Station. The bridge is designed to prevent objects being thrown from the bridge onto the freeway.

The station includes CCTV surveillance providing a measure of security for the access and use of the bridge by future residents and in limiting opportunities for crime.

## **3. ENVIRONMENTAL IMPACTS**

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

### **3.1 Natural Environment**

The proposed development would necessitate the removal of one tree from the site. The tree is not identified as significant. A condition is recommended to protect the remaining trees on the site.

The indicative building envelopes as proposed would not require the removal of any trees.

### **3.2 Built Environment**

The proposed subdivision is consistent with the pattern of infill development occurring within low density residential areas.

The traffic generated by the proposed additional lots would not detract from the efficiency of the local road network.

The existing acoustic wall along the F3 Freeway mitigates noise impacts from the freeway.

The application includes a waste management plan which provides for appropriate reuse and recycling of demolished materials as an outcome of the construction of the subdivision.

### **3.3 Social Impacts**

The proposal would not result in a social impact.

### **3.4 Economic Impacts**

The proposal would have a minor positive impact on the local economy in conjunction with other new low density residential development in the locality by generating an increase in demand for local services.

## **4. SITE SUITABILITY**

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

The site is suitable for residential subdivision subject to future dwellings being of design to mitigate noise impacts from the F3 Freeway.

**5. PUBLIC PARTICIPATION**


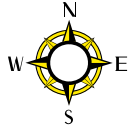
Section 79C(1)(d) of the Act requires Council to consider “any submissions made in accordance with this Act”.

**5.1 Community Consultation**

The proposed development was placed on public exhibition and was notified to adjoining and nearby landowners between 9 June and 30 June 2011 in accordance with Council’s *Notification and Exhibition Development Control Plan*. During this period, Council received one submission. The map below illustrates the location of the landowner who made a submission and the development site.



**NOTIFICATION PLAN**

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

- Loss of privacy and solar access;
- Development not in keeping with neighbourhood character.

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

## 6. THE PUBLIC INTEREST

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

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

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

## CONCLUSION

The proposal is for the subdivision of two lots into four lots and demolition of an existing single storey dwelling. The existing two storey dwelling is to be retained.

The proposed subdivision complies with the requirements of the Residential Subdivision DCP in respect to density, allotment layout and design, landscaping, private open space, drainage control and accessway design. The proposed non-compliance with the 3m rear setback requirement would not detract from amenity and is considered acceptable.

The proposed subdivision is consistent with the pattern of infill development occurring within the Council’s low density residential areas. It is considered future dwelling design could address the aspects of the site in respect to acoustics, solar access and privacy.

The application is therefore recommended for approval.

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

ROD PICKLES  
Manager - Assessment Team 2  
Planning Division

PAUL DAVID  
Manager - Subdivision & Development  
Engineering Services  
Planning Division

SCOTT PHILLIPS  
Executive Manager  
Planning Division



**Attachments:**

1. Locality Plan
2. Demolition Plan
3. Subdivision Plan
4. Landscape Plan

File Reference: DA/522/2011  
Document Number: D01706372

**SCHEDULE 1****GENERAL CONDITIONS**

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

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

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

**1. Approved Plans and Supporting Documentation**

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

<i>Plan No.</i>	<i>Drawn by</i>	<i>Dated</i>
10-190 Demolition Plan	McKittrick Fry & O'Hagan	17-4-2011
10-190 Subdivision Plan	McKittrick Fry & O'Hagan	17-4-2011
10-190 Landscaping	McKittrick Fry & O'Hagan	16-5-2011

<i>Document No.</i>	<i>Prepared by</i>	<i>Dated</i>
D01679735 – Waste Management Plan	Richard Hunt	17-5-2011

**2. Removal of Existing Trees**

This development consent only permits the removal of tree(s) numbered T6 as identified on Plan No. 10-190 prepared by McKittrick Fry O'Hagan dated 17/04/2011. The removal of any other trees requires separate approval under Council's Tree Preservation Order.

**REQUIREMENTS PRIOR TO THE ISSUE OF A CONSTRUCTION CERTIFICATE****3. Water/Electricity Utility Services**

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

- a. *Energy Australia* – a letter of consent demonstrating that satisfactory arrangements have been made to service the proposed development.

- b. *Sydney Water* – the submission of a ‘Notice of Requirements’ under s73 of the *Sydney Water Act 1994*.

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

#### **4. Preservation of Survey Infrastructure**

Prior to the issue of a construction certificate, a registered surveyor shall identify all survey marks in the vicinity of the proposed development. Any survey marks required to be removed or displaced as a result of the proposed development shall be undertaken by a registered surveyor in accordance with Section 24 (1) of the Surveying and Spatial Information Act 2002 and following the Surveyor General’s Directions No. 11 – “Preservation of Survey Infrastructure”.

#### **5. Dilapidation Report**

A ‘Dilapidation Report’ is to be prepared by a ‘chartered structural engineer’ detailing the structural condition of the existing dwelling to be retained.

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

#### **6. Tree Protection Barriers**

Tree protection fencing must be erected on-site around trees numbered 1, 2 & 5 to be retained at a four metre setback. The tree fencing must be constructed of 1.8 metre ‘cyclone chainmesh fence’.

To avoid injury or damage, tree No. 4 must have trunks 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).

*Note: A certificate from a qualified Arborist is to be submitted to the Principal Certifying Authority stating that all tree protection measures are in accordance with AS 4970-2009 (Section 4) prior to commencement of works.*

#### **7. Toilet Facilities**

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

- a. be a standard flushing toilet connected to a public sewer; or
- b. be a temporary chemical closet approved under the *Local Government Act, 1993*; or
- c. have an on-site effluent disposal system approved under the *Local Government Act, 1993*

## 8. Erosion and Sediment Control

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

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

## REQUIREMENTS DURING CONSTRUCTION

### 9. 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.

### 10. Demolition

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

- a. Demolition material is to be disposed of 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 2005*.
- 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.

### 11. Environmental Management

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

**12. Council Property**

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

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

**13. 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.

**14. Works near Trees**

- a. All required tree protection measures are to be maintained in good condition for the duration of the construction period.
- b. Excavation for the installation of the 'gal section drain' within the specified Tree Protection Zones (TPZ) of trees 4 & 5 shall be carried out by using the thrust boring method only. Tunnel boring shall be carried out at a minimum depth of 0.6 metre (600mm) beneath natural ground surface and at a minimum setback radius of 2m to minimise damage to tree/s root systems.
- c. To ensure any work undertaken will not adversely affect the longevity of the Tree No. 4, pier and beam construction of the driveway within the TPZ shall be used with piers being located no closer than 2m to the trunk of the tree. The driveway edge shall be no closer than 1m to the edge of the trunk.
- d. The excavation for the piers and the 'OSD gal pit' within the nominated restriction zone shall be hand dug to reveal the presence of any roots.
- e. All works (including driveways and OSD pits) within five metres of any trees required to be retained (whether or not on the subject property, and pursuant to this consent or the *Tree Preservation Order*), must be carried out under the supervision of an 'AQF Level 5 Arborist' and in accordance with AS 4970-2009 (Section 4 Tree Protection Measures) and a certificate submitted to the principal certifying authority detailing the method(s) used to preserve the tree(s).

**REQUIREMENTS PRIOR TO THE ISSUE OF A SUBDIVISION CERTIFICATE**

*Note: For the purpose of this consent, a reference to 'occupation certificate' shall not be taken to mean an 'interim occupation certificate' unless otherwise stated.*

**15. Sydney Water – s73 Certificate**

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

**16. Stormwater Drainage**

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

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

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

- b. An inter-allotment stormwater drainage system to service the proposed lots with pits being constructed in situ.
- c. A construction certificate is to be obtained prior to commencement of works.
- d. A Road Opening Permit is to be obtained from Council's work division to carry out any works within Council road reserve ( including footpath).

**17. Internal Driveway/Vehicular Areas**

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

- a. Design levels at the front boundary be obtained from Council.
- b. The driveway be a rigid pavement.
- c. The driveway grade must not exceed 25 percent and changes in grade must not exceed 8 percent.
- d. The driveway pavement be a minimum 3 metres wide, 0.15 metres thick reinforced concrete with F72 steel reinforcing fabric and a 0.15 metre sub-base.
- e. The pavement have a kerb to one side and a one-way cross fall with a minimum gradient of 2 percent and a lintel and pit provided at the low point.
- f. Planting of landscaping strips 0.5 metres wide along both sides of the length of the driveway.
- g. Conduit for utility services including electricity, water, gas and telephone be provided.
- h. A passing bay is to be provided at the intersection of the driveway and Harwood Avenue.
- i. A construction certificate is to be obtained prior to commencement of works.

**18. Vehicular Crossing**

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

- a. Any redundant crossings to be replaced with integral kerb and gutter.
- b. The footway area to be restored by turfing.
- c. Approval obtained from all relevant utility providers that all necessary conduits be provided and protected under the crossing.

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

**19. Damage to Council Assets**

Any damage caused to Council's assets including the removal, damage, destruction, displacement or defacing of the existing survey marks as a result of the construction of the development must be rectified in accordance with Council's written requirements and at the sole cost of the applicant.

**20. Creation of Easements**

The following matter(s) must be nominated on the plan of subdivision under s88B of the *Conveyancing Act 1919A* right of access and easement for services over the access corridor.

- a. An inter-allotment drainage easement(s) over each of the burdened lots.
- b. The creation of a "*Positive Covenant*" over two of the proposed lots requiring that any future development is to provide an on-site detention system. The on-site detention system is to have a storage capacity of 5 cubic metres and a maximum discharge of 8 litres per second into Council's drainage system in accordance with Council's prescribed wording.

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

**21. Boundary Fencing**

Fencing must be erected along the access easement over the western boundary of Lot 1 and along the other boundaries of the lot behind the front building alignment to a height of 1.8 metres.

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

**22. Works as Executed Plan**

A works-as-executed plan(s) must be prepared by a registered surveyor and submitted for completed drainage system and driveway. The plan(s) must be accompanied by a certificate from a registered surveyor certifying that all pipelines and associated structures lie wholly within any relevant easements..

**23. Certificate of Preservation of Survey Marks**

A certificate by a Registered Surveyor shall be submitted to the Principal Certifying Authority, certifying that there has been no removal, damage, destruction, displacement or defacing of the existing survey marks in the vicinity of the proposed development or otherwise the re-establishment of damaged, removed or displaced survey marks has been undertaken in accordance with the Surveyor General's Direction No. 11 – "Preservation of Survey Infrastructure".

**24. Maintain Canopy Cover**

To maintain canopy cover, one native tree selected from Council's booklet '*Indigenous Plants for the Bushland Shire*' ([www.hornsby.nsw.gov.au/environment/index.cfm?NavigationID=1521](http://www.hornsby.nsw.gov.au/environment/index.cfm?NavigationID=1521)) such as *Corymbia eximia* (Yellow Bloodwood) is to be planted on the subject site. The planting location shall not be within four metres of the foundation walls of a dwelling or in-ground pool. The pot size is to be a minimum 25 litres and the tree must be maintained until they reach the height of three metres (3m). Trees must be native to Hornsby Shire and reach a mature height greater than ten metres.

**25. s94 Infrastructure Contributions**

The payment to Council of a contribution of \$40,000 for two additional lots towards the cost of infrastructure identified in Council's Development Contributions Plan 2007-2011.

*Note: \* The value of contribution is capped at \$20,000 per additional lot in accordance with Ministerial Direction (Section 94E of the Environmental Planning and Assessment Act 1979) issued on 16 September 2010. In the event that this Direction is repealed or amended, Council will apply the value of the contribution from the date of this consent, adjusted from this date in accordance with the underlying consumer price index for subsequent financial quarters. It is recommended that you contact Council to confirm the value of the contribution prior to payment.*

**- 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 Australian Standard AS4970-2009 "Protection of Trees on Development Sites".*

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

### **Subdivision Certificate Requirements**

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

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

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

### **Fees and Charges – Subdivision**

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

### **Dial Before You Dig**

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

### **Asbestos Warning**

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

[www.environment.nsw.gov.au](http://www.environment.nsw.gov.au)  
[www.nsw.gov.au/fibro](http://www.nsw.gov.au/fibro)  
[www.adfa.org.au](http://www.adfa.org.au)  
[www.workcover.nsw.gov.au](http://www.workcover.nsw.gov.au)

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

### **House Numbering**

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

**2 DEVELOPMENT APPLICATION - ERECTION OF AN AFFORDABLE HOUSING DEVELOPMENT COMPRISING 33 UNITS  
8A NORTHCOTE ROAD, HORNSBY**

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<b>Development Application No:</b>	DA/334/2011
<b>Description of Proposal:</b>	Construction of an affordable housing development comprising 33 units.
<b>Property Description:</b>	Lot A DP 399538 (No. 8A) Northcote Road Hornsby
<b>Applicant:</b>	Northcote Trust
<b>Owner:</b>	Arara Properties Pty Ltd
<b>Statutory Provisions:</b>	Hornsby Shire Local Environmental Plan 1994 Residential A (Low Density)
<b>Estimated Value:</b>	\$8.04 million
<b>Ward:</b>	A

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THAT Development Application No. DA/334/2011 for the construction of an affordable housing development comprising 33 units at Lot A DP 399538 (No. 8A) Northcote Road Hornsby be refused for the reasons detailed in the independent town planning consultant's report – Nexus Environmental Planning Pty Ltd and reproduced in Schedule 1 of this report.

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**EXECUTIVE SUMMARY**

1. The application proposes the construction of an affordable housing development comprising 33 units.
2. The proposal does not comply with the provisions of:
  - Hornsby Shire Local Environmental Plan 1994.
  - State Environmental Planning Policy (Affordable Rental Housing) 2009.
  - State Environmental Planning Policy No.65 - Design Quality of Residential Flat Development.
  - Low Density Multi-Unit Housing Development Control Plan.
3. Due to a legislative amendment to the *State Environmental Planning Policy (Affordable Rental Housing) 2009*, infill affordable rental housing no longer applies to the subject site and therefore the development no longer meets the criteria for

development that must be determined by the Joint Regional Planning Panel. Hornsby Council would therefore be the determining authority with respect to the application.

4. Fifty seven submissions in opposition to the proposed development have been received.
5. An objection has been received from a Council employee. In accordance with Council's adopted Policy '*PSA1 Proposed Council Developments*' and '*Practice Note No. 7 Assessment Practice*', an independent assessment of the development application has been undertaken by *Nexus Environmental Planning Pty Ltd*.
6. It is recommended that the application be refused.

## ASSESSMENT

In accordance with Council's adopted Policy *PS41 Proposed Council Developments* and *Practice Note No. 7 – Assessment Practice*, the assessment of the development application has been referred to an independent town planning consultant. The report by Nexus Environmental Planning is held at Attachment 2 of this report.

## CONCLUSION

The proposal seeks to construct an affordable housing development comprising 33 units.

Fifty seven submissions were received in opposition to the proposed development.

Council has referred the application to an independent planning consultancy to carry out an assessment of the application and to consider public submissions. The assessment concludes that the application should be refused.

It is recommended that Council refuse the application in accordance with the recommended reasons for refusal prepared by *Nexus Environmental Planning Pty Ltd* and held at Schedule 1 of this report.

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. Consultant's Report
3. Site Plans
4. Elevations
5. Floor Plans
6. Shadow Diagram
7. Landscape Plans

File Reference: DA/334/2011

Document Number: D01709372

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**SCHEDULE 1**

1. The proposed development is not affordable housing to which State Environmental Planning Policy (Affordable Rental Housing) 2009 applies.
2. The proposed development would be inconsistent with the design principles of State Environmental Planning Policy No. 65 - Design Quality of Residential Flat Development.
3. The proposed development would be in excess of the floor space ratio development standard of the Hornsby Shire Local Environmental Plan 1994 and no objection to that development standard has been provided pursuant to State Environmental Planning Policy No. 1 - Development Standards.
4. The proposed development is inconsistent with the requirements of the Hornsby Shire Low Density Multi-Unit Housing Development Control Plan.
5. The proposed development would be an overdevelopment of the site.

**3 DEVELOPMENT APPLICATION - ADVERTISEMENTS  
CHERRYBROOK VILLAGE SHOPPING CENTRE  
41 - 47 SHEPHERDS DRIVE, CHERRYBROOK**

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<b>Development Application No:</b>	DA/510/2011
<b>Description of Proposal:</b>	Advertisements
<b>Property Description:</b>	Lot 1 DP 816893 Cherrybrook Village Shopping Centre, 41 – 47 Shepherds Drive, Cherrybrook
<b>Applicant:</b>	Woolworths Limited
<b>Owner:</b>	BNY Trust Company of Australia Limited
<b>Statutory Provisions:</b>	Hornsby Shire Local Environmental Plan 1994 Business A (General)
<b>Estimated Value:</b>	\$150,000
<b>Ward:</b>	B

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**RECOMMENDATION**

THAT Development Application No. 510/2011 for the erection of signage at Lot 1 DP 816893 Cherrybrook Village Shopping Centre, 41 – 47 Shepherds Drive, Cherrybrook be approved subject to three external signs being deleted from the development and subject to the conditions of consent detailed in Schedule 1 of this report.

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**EXECUTIVE SUMMARY**

1. The application proposes the erection of seven external signs and four internal signs advertising *Woolworths* and *Woolworths Liquor* at the Cherrybrook Village Shopping Centre. The four internal signs are exempt from requiring development consent and consequently, this report addresses the proposed external signage only.
  2. The proposal complies with the Hornsby Shire Local Environmental Plan 1994. Matters of minor non-compliance with the Business Lands, Cherrybrook Precinct and Outdoor Advertising Development Control Plans are addressed within the report.
  3. DA/1138/2010 for alterations and additions to the existing '*Woolworths*' tenancy for an internal retail packaged liquor outlet was approved at Council's Planning Meeting on 2/02/2011.
  4. One submission has been received in respect of the application.
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5. It is recommended that Council approves four external signs and not approves three external signs.

### HISTORY OF THE SITE

The site is currently used as a shopping centre known as '*Cherrybrook Shopping Village*'.

On 2 February 2011, Council approved DA/1138/2010 for alterations and additions to the existing '*Woolworths*' tenancy for an internal retail packaged liquor outlet.

### THE SITE

The site, known as Nos. 41-47 Shepherds Drive - Lot 1 DP 816893, is located on the northern side of Shepherds Drive between Kenburn Avenue and Macquarie Drive, Cherrybrook. The size of the land is 2.954 hectares and generally has a rectangular shape with splayed north-eastern and south-western side boundaries.

An existing local shopping centre is constructed on the land, with the buildings set back from the street frontage recessed into the hillside and retained along Shepherds Drive.

The site comprises two components namely, the upper level (Lot 1), which contains the existing shopping centre, car park, car wash and child care centre, and a lower level (Lot 2) at the eastern end of the site, adjacent to the intersection with Macquarie Drive, where a Caltex / Woolworths Service Station outlet is located under separate Stratum title with a concrete slab over, upon which the existing shopping centre car park is partly located.

The site falls approximately 2.5m from the northwest to the southeast edge of the existing car park, which is elevated above Shepherds Drive at a height ranging from 1 to 6 metres.

### THE PROPOSAL

The application proposes the replacement of existing signage advertising '*Woolworths*' with seven external signs, five being illuminated, and four internal illuminated signs, advertising '*Woolworths*' and '*Woolworths Liquor*'.

	Location	Size
Sign No. 1	Main entry facing car park	7.3125m <sup>2</sup>
Sign No. 2		2m <sup>2</sup>
Sign No. 3	Back Dock	0.558m <sup>2</sup>
Sign No. 4	Driveway Entrance, Shepherds Drive	2.025m <sup>2</sup>
Sign No. 5	Internal Supermarket entry	5m <sup>2</sup>
Sign No. 6		0.6m <sup>2</sup>
Sign No. 7	Internal Liquor store entry	4.2m <sup>2</sup>
Sign No. 8	Internal Liquor store entry from supermarket	2.4m <sup>2</sup>
Sign No. 9	Main entry facing car park entrance	5.5m <sup>2</sup>
Sign No. 10	Above petrol station	16.45m <sup>2</sup>
Sign No. 11		4.5m <sup>2</sup>

The internal signage is exempt development under State Environmental Planning Policy (Exempt and Complying Development Codes) 2008 and consequently is not assessed under the development application.

## ASSESSMENT

The development application has been assessed having regard to the ‘*Metropolitan Plan for Sydney 2036*’, 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 Plan for Sydney 2036 and (Draft) North Subregional Strategy

The *Metropolitan Plan for Sydney 2036* 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 2036; 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 its preparation of the *Comprehensive LEP* by the end of 2011.

The *Draft North Subregional Strategy* sets the following targets for the Hornsby LGA by 2031:

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

The proposed development would not be inconsistent with the *Metropolitan Plan for Sydney 2036*.

### 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 Business A (General) under *Hornsby Shire Local Environmental Plan 1994 (HSLEP)*. The objectives of the Business A zone are:

- to encourage economic growth and employment opportunities.*
- to accommodate the retail, commercial and social needs of the community.*
- to encourage development that improves the health, vitality, cultural environment and social environment within the area.*

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

Clause 18 of the *HSLEP* sets out heritage conservation provisions within the Hornsby area. The site is located in the vicinity of heritage items, which are identified in Schedule D as being of local heritage significance. These items include “The Lakes of Cherrybrook” opposite the site in Shepherds Drive and two strands of remnant bushland within the adjoining Greenway Park.

Illuminated signs 1 and 2 are proposed in the direction of “The Lakes of Cherrybrook” and would replace existing illuminated signage. The position of the proposed signs would be approximately 95 metres from this heritage item, and would be obscured by existing vegetation along the frontage of the Shepherds Drive. Sign 9 is proposed at the south-western façade of the shopping centre, adjacent to site’s vehicular access point. The advertisement does not front the heritage areas and as such would have no impact. Sign 3 is located facing Greenway Park. This sign is located at the loading bay, is non-illuminated and of a size that would not impact upon the heritage qualities of the Park. Sign 4 would replace an existing advertising space and is considered acceptable. All internal signs would not impact upon the heritage significance of the subject sites.

Two illuminated signs (10 and 11) are proposed on the parapet of the first floor car park above the Caltex petrol station. The signage would be visible from “The Lakes of Cherrybrook”. This signage is in addition to advertising for Woolworths Caltex, and is considered excessive. The proposed increase in advertising area and the additional illumination from this perspective would impact upon the visual amenity and heritage significance of the site and is inconsistent with the SEPP No. 64. As such, it is recommended that these signs be deleted from the plans A01 and A02 Site Plan and Elevations by EJE Architects dated June 2010.

## **2.2 State Environmental Planning Policy No. 19 - Bushland in Urban Areas**

The site adjoins an area zoned Open Space A (Public Recreation – Local) and therefore requires consideration under SEPP No. 19.

The proposed development is minor in nature and would not impact negatively on open space areas.

## **2.3 State Environmental Planning Policy No. 64**

This SEPP aims to improve the amenity of urban and natural settings by managing the impact of outdoor advertising. In accordance with Part 3, Clause 9, the proposed signs are defined as ‘business identification signs’ and the provisions of Part 3 of the Policy do not apply. However, the SEPP does require consideration of the following design considerations.

### **Character of the Area**

*Is the proposal compatible with the existing or desired future character of the area or locality in which it is proposed to be located?*

The site is characterised by a shopping centre complex and existing business identification signage. Signs 1, 2, 3 and 4 are compatible with existing signage on the site. The internal signs would not impact upon the locality. Signs 9, 10 and 11 set an undesirable precedent for the site in locating advertising on the parapet of the car park, interacting with the adjacent heritage listed reserves. As such, these signs are not compatible with the locality and are recommended to be deleted from the plans.

*Is the proposal consistent with a particular theme for outdoor advertising in the area or locality?*

Signs 10 and 11 are inconsistent with the current confinement of advertising to the façade of the shopping centre.

## Special areas

*Does the proposal detract from the amenity or visual quality of any environmentally sensitive areas, heritage areas, natural or other conservation areas, open space areas, waterways, rural landscapes or residential areas?*

The site is located adjacent to an open space area, sites of heritage significance and residential zones. Signs 1, 2 and 4 replace existing signage and would not create further impact. Sign 3 is located within a loading bay and would not impact upon Greenway Park. Sign 9 would be located on the south-western elevation above an existing awning and would be visible from a residential area. The sign measures 5.5sqm and exceeds Council's controls. The sign is proposed to be illuminated and would impact upon the amenity and visual quality of the residential area. As such, Sign 9 is recommended to be deleted from the plans.

## Views and vistas

*Does the proposal obscure or compromise important views?*

The proposed signs are attached to the façade of existing structures and do not impact upon views.

*Does the proposal dominate the skyline and reduce the quality of vistas?*

The proposed signage is comparable to the scale of the building and does not further impact upon vistas.

*Does the proposal respect the viewing rights of other advertisers?*

The proposed signage is adequately setback and does not negatively impact existing signage.

## Streetscape, setting or landscape

*Is the scale, proportion and form of the proposal appropriate for the streetscape, setting or landscape?*

The proposed signage would replace existing signage and contribute an additional 27.76 sqm of advertising to the site. The scale of sign 9 and its relationship to a residential area is inappropriate and would impact upon the setting. Signs 10 and 11 increase the scale of advertising space opposite the 'Lakes of Cherrybrook' reserves, and are detrimental to the landscape and setting.

*Does the proposal contribute to the visual interest of the streetscape, setting or landscape?*

Signs 9, 10 and 11 would detriment the streetscape, setting and landscape through increased advertising space and proximity to sensitive areas.

*Does the proposal reduce clutter by rationalising and simplifying existing advertising?*

Signs 1, 2, 3 and 4 are considered acceptable as they replace existing signage. While the applicant proposes removing two signs from the southern elevations representing 14.03sqm, signs 9, 10 and 11 would contribute 26.45sqm of advertising space. The location of these proposed signs is considered detrimental to the locality, and does not represent a

simplification or rationalisation of signage. As such, it is recommended that signs 9, 10 and 11 be deleted from the plans.

*Does the proposal protrude above buildings, structures or tree canopies in the area or locality?*

The proposed signs are located below the building parapet.

### **Site and building**

*Is the proposal compatible with the scale, proportion and other characteristics of the site or building, or both, on which the proposed signage is to be located?*

Proposed sign 9 would be located above an existing awning at the entrance to the car park, and visible from a residential area. This would represent the only advertising space on this portion of the building parapet and is not in character with existing signage. Signs 10 and 11 would be located on the façade of the car park above the Caltex petrol station and would set a negative precedent for advertising on the site. As such, these signs are recommended to be deleted from the plans.

*Does the proposal respect important features of the site or building, or both?*

See comments above.

*Does the proposal show innovation and imagination in its relationship to the site or building, or both?*

Signs 9, 10 and 11 are considered excessive and are inappropriate regarding the building and site.

### **Illumination**

*Illumination result in unacceptable glare?*

The illumination is provided internal to the sign and is simply to highlight the acrylic background. The new LED lighting is more efficient and softer.

*Would illumination affect safety for pedestrians, vehicles or aircraft?*

Illumination would not impact on the safety of pedestrians, vehicles or aircraft.

*Would illumination detract from the amenity of any residence or other form of accommodation?*

As previously discussed, signs 9, 10 and 11 would impact upon the visual amenity enjoyed by residents, and would impact upon the heritage significance of the nearby reserves.

*Can the intensity of the illumination be adjusted, if necessary?*

Yes, in the unlikely event that light spillage and illumination issues arise, the intensity of illumination can be modified to suit the locality.

*Is the illumination subject to a curfew?*

No.

### **Safety**

*Would the proposal reduce the safety for any public road?*

The proposed signs are setback from the road and affixed to the shopping centre. Illumination would not impact on vehicles. As such, the proposed development would not reduce the safety of any public road.

*Would the proposal reduce the safety for pedestrians or bicyclists?*

The signs are not located within proximity of a footpath or cycleway.

*Would the proposal reduce the safety for pedestrians, particularly children, by obscuring sightlines from public areas?*

The signs do not reduce visibility from sightlines.

The evaluation of the application having regard to the assessment criteria contained within SEPP 64 indicates that application is acceptable subject to amending the plans to remove signs 9, 10 and 11.

### **2.4 Sydney Regional Environmental Plan No. 20 – Hawkesbury and Nepean Rivers**

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

The potential for the proposed works to impact upon the Hawkesbury and Nepean Rivers would be negligible, as there is no excavation or significant building works included.

### **2.5 Outdoor Advertising Development Control Plan**

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

<b>Outdoor Advertising DCP</b>			
<b>External Signs</b>			
<b>Proposal</b>	<b>Area</b>	<b>Requirement</b>	<b>Compliance</b>
Wall sign – Sign 1 (Illuminated)	7.3125m <sup>2</sup>	4m <sup>2</sup>	No
Wall sign – Sign 2 (Illuminated)	2m <sup>2</sup>	4m <sup>2</sup>	Yes
Wall sign – Sign 3	0.558m <sup>2</sup>	4m <sup>2</sup>	Yes
Wall sign – Sign 4	2.025m <sup>2</sup>	4m <sup>2</sup>	Yes
Wall sign – Sign 9	5.5m <sup>2</sup>	4m <sup>2</sup>	Yes
Wall sign – Sign 10	16.45m <sup>2</sup>	4m <sup>2</sup>	No
Wall sign – Sign 11	4.5m <sup>2</sup>	4m <sup>2</sup>	No
Total signage area	37.79m <sup>2</sup>	300m <sup>2</sup>	Yes

<b>Outdoor Advertising DCP</b>			
<b>Internal Signs</b>			
<b>Proposal</b>	<b>Area</b>	<b>Requirement</b>	<b>Compliance</b>
Wall sign – Sign 5 (Illuminated)	5m <sup>2</sup>	4m <sup>2</sup>	No
Wall sign – Sign 6 (Illuminated)	0.6m <sup>2</sup>	4m <sup>2</sup>	Yes
Wall sign – Sign 7 (Illuminated)	4.2m <sup>2</sup>	4m <sup>2</sup>	No
Wall sign – Sign 8 (Illuminated)	2.4m <sup>2</sup>	4m <sup>2</sup>	Yes

As detailed in the above table, the proposed development does not comply with a number of prescriptive standards within Council's *Advertising DCP*. Signs 1, 5, 7, 9, 10 and 11 exceed the maximum area for advertising. As signs 5 and 7 are located within the shopping centre

and are exempt under the Codes SEPP, no additional assessment is required under the DCP. Sign 1 replaces an existing sign, and is obscured by vegetation along the frontage of Shepherds Drive, and is considered acceptable. Signs 9, 10 and 11 would detrimentally impact upon sensitive areas and are uncharacteristic of the site. As such, it is recommended that they be deleted from the application.

## **2.6 Business Lands Development Control Plan**

The *Signs* element of the DCP restricts business premises to three signs, and a total advertising space of 0.5sqm/metre of road frontage. Signs 1 to 4 and the internal signage are consistent with the objectives of the control, in that they reflect the role and function of the site being a shopping centre, and the number of signs is equitable and in proportion with the existing signage. However, the proliferation of advertising space in the application's current form does not complement and is not compatible with the surrounding area, and does not provide for a pleasant visual environment. The location of signs 9, 10 and 11 is not consistent with the location of existing signage on site, and does not conform to the architecture of the shopping centre. The deletion of these signs from the plan would ensure that the proposed development is consistent with the Business Lands DCP.

The *Bushfire Hazard* element of the DCP requires that development minimise the risk to life, property and the environment from bushfires. The development is within an existing retail development and would not represent a bushfire hazard.

## **2.7 Cherrybrook Precinct Development Control Plan**

The *Commercial Strategy* objective of the DCP states "*land uses should not unduly impinge upon the amenity of the surrounding residential area*", and that development should "*serve the needs of the community without compromising the amenity of residents*". For reasons previously discussed, the deletion of signs 9, 10 and 11 would ensure that the proposal is consistent with these aims.

## **3. ENVIRONMENTAL IMPACTS**

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

### **3.1 Natural Environment**

The proposed development would not impact upon the natural environment.

### **3.2 Built Environment**

The proposal includes the removal of advertising structures, and the installation of additional signage. Signs 9, 10 and 11 are inconsistent with the architecture of the shopping mall. Subject to their removal, the proposal would not have a negative impact upon the built environment.

### **3.3 Social Impacts**

At Council's Planning Meeting on 2 February 2011, Council approved alterations and additions to the existing Woolworths supermarket to accommodate a Woolworths Liquor store. A number of submissions were received regarding potential alcohol related impacts on



the community. Council subsequently wrote to the Office of Liquor, Gaming and Racing objecting to the issuing of a liquor licence. (See section 5.1 for further discussion.)

It is unlikely that the proposed signage would lead to an increase in alcohol related impacts. The Cherrybrook Village Shopping Centre already contains a Liquor land store located adjoining the carpark.

### **3.4 Economic Impacts**

The proposed development would not result in any negative economic impacts.

## **4. SITE SUITABILITY**

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

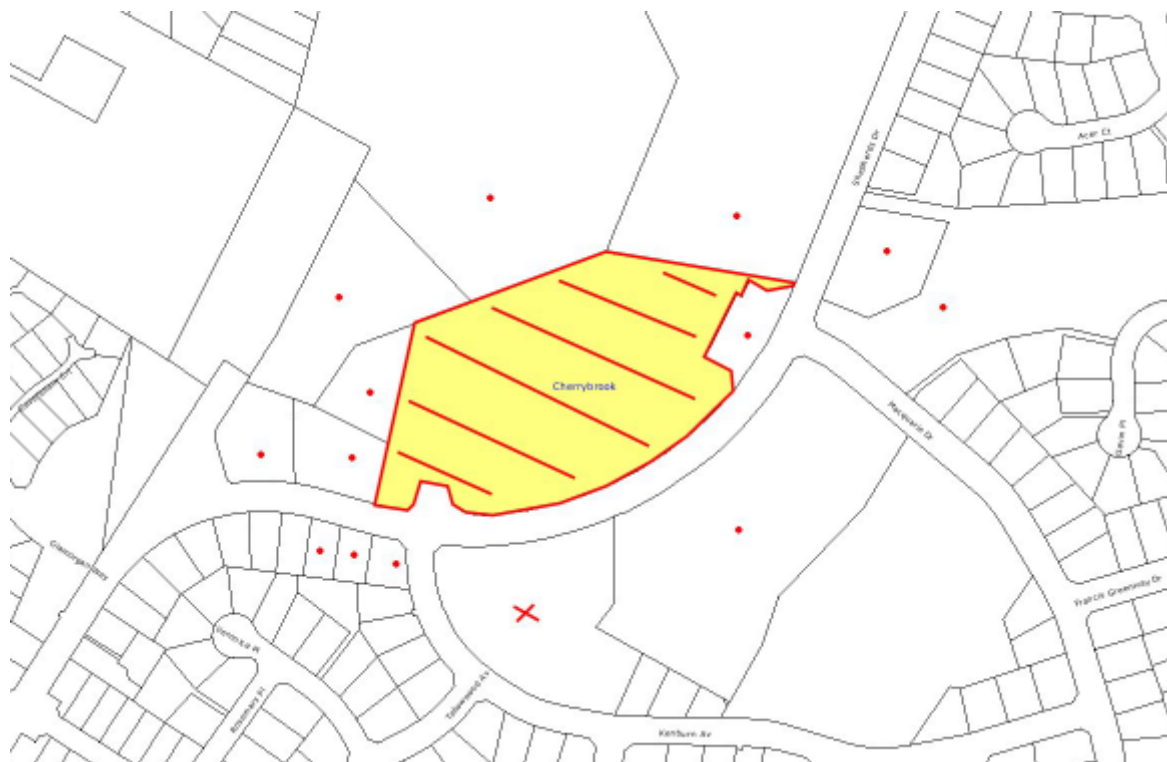
The site is not known to be subject to subsidence, flooding or landslip. A small section in the south of the site is identified as bushfire prone land. In accordance with Section 79BA of the Environmental Planning and Assessment Act 1979 Council is satisfied that the development conforms to the specifications and requirements of ‘*Planning for Bushfire Protection 2006*’.

## **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 date and date in accordance with Council’s *Notification and Exhibition Development Control Plan*. During this period, Council received one submission. The map below illustrates the location of the nearby landowner who made a submission that is in close proximity to the development site.



**NOTIFICATION PLAN**

<ul style="list-style-type: none"> <li>• PROPERTIES NOTIFIED</li> </ul>	<ul style="list-style-type: none"> <li>X SUBMISSIONS RECEIVED</li> </ul>	 PROPERTY SUBJECT OF DEVELOPMENT	
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The submission objected to the development, generally on the grounds that the development would:

- *encourage the consumption of alcohol.*
- *be visible all day and night.*
- *encourage alcohol abuse by the area’s many young people.*
- *be excessive, in that signage should be confined to inside the shopping centre.*

The relevant environmental planning instruments and Council’s controls do not restrict the content of advertising structures relating to business identification signs. It is recommended that the number of signs proposed be reduced in order to protect the visual amenity of the area.

The *Liquor Act 2007* regulates the sale, consumption and provision of alcohol to people under the age of 18 years (minors). Any offences against the Act are enforced by the NSW Police. A Community Impact Statement is undertaken prior to the issuance of a license to sell liquor by the Office of Liquor, Gaming and Racing,

As the subject application is for advertising ancillary to an approved use, the grounds raised by the submission provide insufficient justification to refuse the application.

## 6. THE PUBLIC INTEREST

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

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

Subsequent to the deletion of signs 9, 10 and 11, 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 signage would be in the public interest.

## CONCLUSION

The application proposes the erection of seven external signs and four internal signs advertising Woolworths and Woolworths Liquor to the *Cherrybrook Shopping Village*. Existing signage would be removed.

The development generally meets Council’s planning controls and is satisfactory having regard to the matters for consideration pursuant to Section 79C of the *Environmental Planning and Assessment Act, 1979*.

Council received one submission during the public notification period and appropriate controls and conditions have been imposed to minimise impacts to residential amenity and heritage significance, including the deletion of signs 9, 10 and 11 from the plans.

Having regard to the circumstances of the case, approval of the application is recommended.

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

ROD PICKLES  
Manager - Assessment Team 2  
Planning Division

SCOTT PHILLIPS  
Executive Manager  
Planning Division

### Attachments:

1. Locality Plan
2. Site Plan and Elevations
3. Locality Photos (Part 1)
4. Locality Photos (Part 2)

File Reference: DA/510/2011  
Document Number: D01701655

**SCHEDULE 1****GENERAL CONDITIONS**

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

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

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

**1. Approved Plans and Supporting Documentation**

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

<i>Plan No.</i>	<i>Drawn by</i>	<i>Dated</i>
Site Survey Plan	EJE Architecture	December 2010
Site Survey Plan 2	EJE Architecture	December 2010
Proposal for View 1	EJE Architecture	December 2010
Proposal for View 2	EJE Architecture	December 2010
Proposal for View 3	EJE Architecture	December 2010
Proposal for View 5 & Directional Signs	EJE Architecture	December 2010
Proposal for View 6	EJE Architecture	December 2010
Proposal for View 7 & 8	EJE Architecture	December 2010
Proposal for View 9	EJE Architecture	December 2010
Proposal for View 10	EJE Architecture	December 2010
Proposal for View 11	EJE Architecture	December 2010
A01 Elevations and Site Plan	EJE Architecture	June 2010
A02 Elevations and Signage Details	EJE Architecture	June 2010

**2. Amendment of Plans - Deletion of signs**

Signs 9, 10 and 11 are NOT approved as part of this development consent.

The approved plans are to be amended as follows:

- a. Sign 9 is to be deleted from the plan name *Proposal for View 10*.
- b. Signs 10 and 11 are to be deleted from the plan name *Proposal for View 11*.

- c. Signs 9, 10 and 11 are to be deleted from the plan name *A01 Elevations and Site Plan*.
- d. Signs 10 and 11 are to be deleted from the plan name *A02 Elevations and Signage Details*.

### REQUIREMENTS PRIOR TO THE ISSUE OF A CONSTRUCTION CERTIFICATE

#### 3. Building Code of Australia

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

### REQUIREMENTS DURING CONSTRUCTION

#### 4. 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.

### REQUIREMENTS PRIOR TO THE ISSUE OF AN OCCUPATION CERTIFICATE

*Note: For the purpose of this consent, a reference to 'occupation certificate' shall not be taken to mean an 'interim occupation certificate' unless otherwise stated.*

#### 5. 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.

**- END OF CONDITIONS -**

### ADVISORY NOTES

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

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**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.

**4 DEVELOPMENT APPLICATION - ERECTION OF A DWELLING-HOUSE  
10A REDGUM AVENUE, PENNANT HILLS**

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<b>Development Application No:</b>	DA/346/2011
<b>Description of Proposal:</b>	Erection of a dwelling-house and swimming pool
<b>Property Description:</b>	Lot 72, DP 1152456, 10A Redgum Avenue, Pennant Hills
<b>Applicant:</b>	Design Criteria
<b>Owner:</b>	Mr. Kushan Jayarathne and Ms. Rukshala Singappulige
<b>Statutory Provisions:</b>	Hornsby Shire Local Environmental Plan 1994 Residential A (Low Density)
<b>Estimated Value:</b>	\$390,000
<b>Ward:</b>	C

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**RECOMMENDATION**

THAT Development Application No. 346/2011 for the erection of a two-storey dwelling-house and in-ground swimming pool at Lot 72, DP 1152456, 10A Redgum Avenue, Pennant Hills, be approved subject to the conditions of consent detailed in Schedule 1 of this report.

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**EXECUTIVE SUMMARY**

1. The application seeks development consent for the erection of a two storey dwelling-house and an in-ground swimming pool.
2. The proposal does not comply with the 0.4:1 floor space ratio development standard contained in the HSLEP. Consequently the application has been supported by a submission under State Environmental Planning Policy No. 1 (SEPP 1) seeking approval of a variation to this development standard.
3. One submission has been received in respect of the application.
4. It is recommended that the application be approved.



## THE SITE

The vacant, battleaxe allotment has an area of 808.7m<sup>2</sup> (502m<sup>2</sup> excluding the area of the right-of-carriageway) and is located on the southern side of Redgum Avenue, Pennant Hills. The site was created following approval for a two lot subdivision under DA/1273/2004 on 20 June, 2005. The site is bushfire prone and adjoins Wearne Avenue Reserve along its eastern and southern boundaries.

The site contains two trees consisting of a *Liquidambar styraciflua* (liquidambar) and *Waterhousia floribunda*. These trees have not been assessed as significant and would be removed.

The site is surrounded by low density residential development including two-storey developments on battle-axe allotments.

## THE PROPOSAL

The application proposes the erection of a two storey dwelling-house incorporating a double garage, porch, entry, meals room, kitchen, laundry, family room, terrace, theatre room, two bathrooms, two bedrooms, and a study on the ground floor. The first floor would comprise of a bedroom, retreat, balcony, walk-in-robe and a bathroom.

An in-ground swimming pool is proposed at the rear of the property.

## ASSESSMENT

The development application has been assessed having regard to the '*Metropolitan Plan for Sydney 2036*', 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 Plan for Sydney 2036 and (Draft) North Subregional Strategy

The *Metropolitan Plan for Sydney 2036* 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 2036; 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 its preparation of the *Comprehensive LEP* by the end of 2011.

The *Draft North 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 this strategy by providing an additional dwelling and would contribute towards housing choice in the locality.

### 2. STATUTORY CONTROLS

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

## 2.1 Hornsby Shire Local Environmental Plan, 1994

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

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

The proposed development is defined as “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 Low Density Residential zone is 0.4:1. The development has an FSR of 0.52:1 which does not comply with this standard. To address this matter, the applicant has submitted an objection to the standard under State Environmental Planning Policy No. 1 (SEPP 1).

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

On 27 February 2009, SEPP (Exempt and Complying Development Codes) commenced operation. Under the SEPP, the NSW Housing Code outlines how residential developments including detached one and two storey dwelling-houses, home extensions and other ancillary development, such as swimming pools, can proceed on lots of greater than 450m<sup>2</sup> in size as complying development with Council or accredited certifier approval.

Notwithstanding that the subject allotment is bushfire prone; the property has been assessed as having a Bushfire Attack Level (BAL) of 12.5. On that basis the site qualifies for complying development.

The SEPP is applicable to the subject allotment and relevant development standards under the Code have therefore been taken into consideration in assessing the merits of the proposal against similar development in the locality. The following table sets out the proposal’s compliance with the prescriptive measures of the Code:

NSW Housing Code			
Control	Proposal	Requirement	Complies
Floor area	260m <sup>2</sup>	330 m <sup>2</sup>	Yes
Site cover	50%	50%	Yes
Height	7.93m	8.5m	Yes

Number of storeys	2	2	Yes
Cut	0.8m	1m	Yes
Setbacks			
- Front	3.8m	1.5m	Yes
- Rear single storey	5.8m	3m	Yes
- Rear two storey	5.5m	8m	No
- Side (west)	1.5m	1.5m	Yes
- Side (east)	1.05m	3m	No
First floor deck	14.58m <sup>2</sup>	12m <sup>2</sup>	No
Private Open Space	110m <sup>2</sup>	25m <sup>2</sup>	Yes
Landscaping	45%	24%	Yes
Car parking spaces	2	1	Yes

As documented in the table above, the subject allotment is not complying development on the basis that the dwelling requires greater setbacks from the side and rear boundaries and a slight reduction of the area of the first floor deck.

In summary, should the applicant undertake minor amendments to the design of the development the proposal would not constitute a development application and Council would not necessarily be the consent authority to the application as it would be complying development.

As detailed below, the matters of non-compliance against the SEPP are addressed in Council's DCP. In this respect the development complies with the DCP.

### 2.3 Dwelling House Development Control Plan

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

<b>Dwelling House Development Control Plan</b>			
<b>Control</b>	<b>Proposal</b>	<b>Requirement</b>	<b>Compliance</b>
<b>FSR</b> (excluding access handle)	0.52:1	0.4:1	No
<b>Site coverage</b>	32%	40%	Yes
<b>Height</b>	2 storey	1 storey	No
<b>Car parking</b>	2 spaces	2 spaces	Yes
<b>Length of Building</b>	19m	24m	Yes

<b>Unbroken Wall length</b>	9.3m	10m	Yes
<b>Private Open Space</b>	110m <sup>2</sup>	120m <sup>2</sup>	No
<b>Landscaping</b>	45%	45%	Yes
<b>Setbacks</b>			
- <b>Front (battleaxe)</b>	3.4m	1 m	Yes
- <b>Side (west)</b>	1.5m	1 m	Yes
- <b>Side (east)</b>	1.05m	1 m	Yes
- <b>Rear</b>	5.8m	3 m	Yes

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

### 2.3.1 Scale and Floor Space Ratio

In assessing the environmental capacity of the land, the assessment has had regard to the provisions of the NSW Housing Code which provides that the maximum gross floor area for complying development within the low density residential zones of the Shire as being:

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

Accordingly, the proposed floor area of 260m<sup>2</sup> on a site with an area of 502m<sup>2</sup> (excluding access handle) would satisfy the FSR development standard under the Code.

Given that the recently introduced Code is now enacted in many parts of the Shire, it is anticipated that more developments will be approved under this Code, which will change the characteristics of dwelling-houses. Consequently, whilst Council applies a maximum FSR of 0.4:1 for dwelling-houses in the low density residential zones within the Shire under the HSLEP, the introduction of the Code is changing the effect of this standard.

The proposal takes into consideration the environmental and topographical constraints of the site. The additional floor space would not impinge on the environmental and amenity aspects of the site and the underlying objectives of the zoning.

In assessing the environmental capacity of the site, Council has had regard to the size and scale of developments in the locality. The size of the proposed dwelling, with an area of 260m<sup>2</sup> is commensurate with the floor area of dwellings throughout the locality which are compliant with Council's 0.4:1 development standard and range from 250m<sup>2</sup> to 300m<sup>2</sup> in floor area.

The dwelling-house would provide accommodation that would not detract from the scale and variety of dwelling-houses in the immediate locality and more broadly, the low density areas of the Shire. As the proposal is considered to meet the zone objectives outlined in the HSLEP, the "object of purpose" would be undermined if strict compliance of the prescriptive measure was required.

### 2.3.2 Height

The proposal to erect a two storey dwelling-house on a battle-axe allotment does not comply with the prescriptive measures of the Height element which states that “*dwelling-houses on battle axe allotments should not exceed single storey in height*”. Whilst the DCP favours single storey development on battleaxe allotments it does not preclude two-storey developments.

The purpose of this control is to ensure that buildings are designed and located so that they do not cause unacceptable amenity impacts on neighbouring properties. In this instance, the 7.93m height of the proposal complies with the 9m prescriptive measure and its design, with the first floor partially concealed within the lower floor roof space and siting on the allotment ensures that the proposal would allow for reasonable solar access and privacy to the neighbour properties.

### 2.3.3 Solar Access

The shadows cast from the development would not overshadow any adjoining dwellings or their principal recreational areas. Given the orientation of the lot, the principal private open space for the dwelling is on the southern side. Whilst not desirable, it is considered that the siting of the open space area would minimise amenity impacts on neighbours.

### 2.3.4 Privacy

The living and entertaining areas have been located on the ground floor and orientated towards the Wearne Avenue Reserve at the rear of the property. As a consequence no privacy impacts would result from these windows.

The proposed “retreat”, located on the first floor level, may allow overlooking of the rear of the adjoining property, No. 12 Redgum Avenue. However, as a ‘planning principle’, views from first floor non active rooms such as bedroom or non active room windows are considered to be acceptable, on the basis that views from such windows are much less frequent than from a living room or other actively used room. Also, it is common for such windows to be fitted with curtains or blinds that would further restrict views to neighbouring properties. The neighbour most affected by this design outcome did not object to this development.

The proposal meets the objectives of the Privacy element and is considered acceptable.

### 2.3.5 Private Open Space

The proposed 110m<sup>2</sup> of private open space does not comply with the 120m<sup>2</sup> prescriptive measure of the Private Open Space element. This departure from the DCP is minor and the development would provide adequate, usable private open space to support residential outdoor activities and would enable an extension of the function of the dwelling-house for relaxation, dining, entertainment, and recreation. The proposed upper level balcony and service courtyard on the northern side of the dwelling would positively contribute to the amenity of the development.

The proposal meets the objectives of the Private Open Space element and is considered acceptable.

### 2.3.6 Fencing

Appropriate conditions requiring swimming pool fencing to be erected in accordance with the *Swimming Pools Act, 1992* have been recommended.

The proposal includes the replacement of the existing wire fencing to boundaries with a 1.8m high colour-bonded steel fence or timber paling fence. A condition is recommended requiring that the fencing be at the cost of the applicant.

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

The proposal would have a floor space ratio of 0.52:1, which does not comply with the 0.4:1 development standard as contained within Clause 15 of the HSLEP. To address this matter, the applicant has submitted an objection to the standard under State Environmental Planning Policy No. 1 (SEPP 1).

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

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

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

In regard to whether the objection may be well founded, the applicant contends as follows:

*The underlying purpose of the maximum floor space ratio requirement is to ensure that new housing is of a comparable bulk and scale to existing dwellings in the zone. The proposed single storey plus attic dwelling satisfies the above objectives as follows:*

- The locality is characterised by predominately single and two storey construction, which the proposed dwelling incorporates into the design by incorporating rooms within the roof space, to produce an aesthetically pleasing presentation when viewed from adjoining properties;*

- *The bulk and scale of the proposed dwelling is reduced by accommodating a masonry base element at the ground floor and a distinct middle section (i.e., disguised within the roof space). The traditional pitched tiled roof lines establish a top element;*
- *A nexus between the floor area and the size of land should also take into account small lot situations and even more importantly, design, as often is the case where a compliant development appears more bulky than a well designed non-compliant development.*

*Note: The Land and Environment Court has established that in areas comprising relatively small allotments, restricting the FSR to less than 0.5:1, will produce negative impacts to the amenity of the locality (i.e., degradation), as refurbishment becomes economically unviable where there is no potential to increase the size of the existing dwelling, and in this case establish a dwelling on a currently vacant allotment, which provides the required residential amenities expected in the Pennant Hills locality. This is seen as a hindrance in obtaining the objectives of the EP & A Act 1979, which encourages the orderly and economic use of the land as is proposed with this application;*

- *For all intents and purposes the variation will not be interpreted as a non-compliance given that single storey and two storey dwellings sit comfortably into the surrounding developed area, already displaying even bulkier building forms;*
- *The proposed dwelling is not considered to be excessive in size, being only 247.8m<sup>2</sup> (260m<sup>2</sup> including void areas). It comprises an open floor plan with functional rooms common to most contemporary style dwellings (Note: An average sized dwelling is not inconsistent or antipathetic with the aims and objectives of the zone);*
- *Floor Space Ratio is a poor indicator of true bulk and scale as the relationship involves the size of the land on which the building is to be erected (i.e., if the allotment was slightly longer or wider there would be no issue), yet the appearance of the building when viewed from surrounding properties would be the same; and*
- *Overall the proposed development achieves a reasonable level of amenity and is within the environmental capacity of the zone.*

*In summary, the purpose behind the development standard is achieved through a skilful design that results in a building of a comparable bulk and scale as adjoining and nearby dwellings in the immediate locality, hence, an alternative means of achieving the objectives or purpose behind the development standard has been realised and strict compliance with the standard would be unnecessary (i.e., it is achieved anyway) and unreasonable (no purpose would be served), consequently the SEPP 1 Objection is considered to be well founded.*

The matters listed above have been taken into consideration in assessing the merits of the SEPP 1 objection.

The applicant's SEPP 1 submission in support of the proposal, addresses the objective of the floor space ratio provision in the HSLEP through the design of a dwelling-house that would not overly intensify the scale of the development of the land in regard to the land's environmental capacity and the zone objectives. The additional floor space would not impinge on the environmental and amenity aspects of the site and the underlying objectives of the zoning. In this regard, the objection under SEPP 1 is sustained.

### 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 would necessitate the removal of three trees. None of these trees have been assessed as significant or worthy of preservation.

Three trees located on 12 Redgum Avenue would be in close proximity to the development, consisting of a *Liquidambar styraciflua* (Liquidamber), *Eucalyptus scoparia* (White Gum) and a *Syncarpia glomulifera* (Turpentine). The Liquidamber and Turpentine would not be affected by the development, subject to sensitive construction techniques being implemented under the supervision of a qualified arborist. The White Gum, may be impacted upon by the proposed swimming pool however, this semi mature tree has below average health and is suffering from the sap sucking pest, winter bronzing. An assessment concluded that the tree is likely to continue decline as it is, not related to the works. In this regard, an agreement has been reached between the relevant property owners for the tree to be remove at the applicants cost.

#### 3.2 Built Environment

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

The approval of this development would not detract from the character of the area and would not set an undesirable precedence for similar developments in the immediate neighbourhood.

The proposal also meets the provisions of the recently enacted *NSW Housing Code* and would be typical of the style of development that this Code now permits.

#### 3.3 Social or Economic Impacts

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

### 4 SITE SUITABILITY

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

#### 4.1 Bushfire Risk

The site has been identified as being bushfire prone land.

A recent amendment to Section 79BA of the Act requires Council or a person accredited by the NSW Rural Fire Service, to certify that a development located on bushfire prone land would conform to the specifications and requirements of the document entitled *Planning for Bush Fire Protection, ISBN-0-9751033-2-6*. The certification would identify the applicable



Bush Fire Attack Levels (BAL) and the relevant Asset Protection Zones (APZ) that would apply to the development.

Pursuant to Section 79BA of the Act, Council has undertaken a bush fire attack level (BAL) risk assessment, based on the proposed siting of the building works, and certifies that the development has a bush fire behaviour exposure level equivalent to BAL 12.5. Appropriate conditions have been included in this consent requiring the development comply with *Australian Standard AS3959 - 2009 Construction of buildings in bushfire-prone areas* for BAL 12.5.

A referral to the Rural Fire Service is not required in this instance.

**5 PUBLIC PARTICIPATION**

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

**5.1 Community Consultation**

The proposed development was placed on public exhibition and was notified to adjoining and nearby landowners between 15 April 2011 and 29 April 2011 in accordance with Council’s *Notification and Exhibition Development Control Plan*. During this period, Council received one submission. The map below illustrates the location of the nearby landowner who made a submission who is in close proximity to the development site.



**NOTIFICATION PLAN**

<ul style="list-style-type: none"> <li>• PROPERTIES NOTIFIED</li> </ul>	X SUBMISSIONS RECEIVED	 PROPERTY SUBJECT OF DEVELOPMENT	
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The submission objected to the development, generally on the grounds that the development would result in unacceptable impacts in terms of height, scale, privacy and security.

The merits of the matters raised in submission have been addressed in Section 2 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 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 dwelling-house would be in the public interest.

## CONCLUSION

This application proposes the erection of a two-storey dwelling house and associated works in a style that would be in keeping with the surrounding residential zone.

The development would have a gross floor area of 260m<sup>2</sup> which exceeds the 0.4:1 FSR requirement for the site. The applicant has made a submission under the provisions of SEPP 1 to vary this development standard. It is considered that the approval of the development is warranted in the circumstances of this case as the proposal would be eligible for complying development under the *NSW Housing Code* subject to a minor adjustment to the siting of the dwelling from the eastern side boundary. The application justifies the non-compliance with the relevant provisions within Clause 15 of the HSLEP and approval of the application would not set an undesirable precedent for the area.

One submission was received from a neighbouring property owner objecting to the development generally on the grounds that the development would result in a loss of amenity and a development that is excessive in bulk and scale. Whilst the grounds for objection are valid, it is considered that having regard to the merits of the case, they are not sufficient to warrant Council’s refusal of the application.

Having regard to the assessment of the proposed development and the circumstances of the case, it is recommended that the application be approved.

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

SCOTT PHILLIPS  
Executive Manager  
Planning Division

SIMON EVANS  
Manager - Assessment Team 1  
Planning Division

**Attachments:**

1. Locality Plan
2. Site Plan
3. Floor Plans
4. Sections
5. Elevations

File Reference: DA/1/2011  
Document Number: D01708462

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

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

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

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

**1. Approved Plans and Supporting Documentation**

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

<i>Plan No.</i>	<i>Drawn by</i>	<i>Dated</i>
Sheet 1-6/6	Design Criteria	25.01.2011

**2. Amendment of Plans**

The approved plans are to be amended by changing the maximum height of the swimming pool coping to an R.L 150.65.

**3. Removal of Trees**

This development consent only permits the removal of trees numbered 1, 2 and 3 as identified on plan No. 1 - 6 prepared by Design Criteria dated 25.01.2011. The removal of any other trees requires separate approval under Council's Tree Preservation Order.

The *Eucalyptus Scoparia* (Tree No. 3) which is located at the rear of premises No. 12 Redgum Avenue, must be removed (including the tree stump) at the cost of the applicant.

**REQUIREMENTS PRIOR TO THE ISSUE OF A CONSTRUCTION CERTIFICATE****4. Building Code of Australia**

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

**5. 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.

**6. Notification of Home Building Act, 1989 Requirements**

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

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

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

**7. 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](http://www.sydneywater.com.au) or telephone 13 20 92 for assistance.*

## 8. Design and Construction - Bushfire Attack Category

New construction must comply with the current *Australian Standard AS3959 'Construction of buildings in bush fire-prone areas'* section 5 (BAL 12.5) and section A3.7 Addendum Appendix 3 of Planning for Bushfire Protection. All guttering and valleys must be screened with non-corrosive mesh to prevent the build up of flammable material. Any materials used must have a Flammability index no greater than 5.

*Note: Timbers treated with an applied intumescent paint are no longer recognised by the Rural Fire Service as a fire retardant treated timber or a performance option to increase fire resistance.*

### REQUIREMENTS PRIOR TO THE COMMENCEMENT OF ANY WORKS

## 9. 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.*

## 10. Toilet Facilities

Toilet facilities must be available or provided at the works site before works begin and must be maintained until the works are completed at a ratio of one toilet for every 20 persons employed at the site. Each toilet must be a temporary chemical closet approved under the *Local Government Act, 1993*.

## 11. Tree Protection Barriers

Tree protection fencing must be erected as described in the submitted arborist report prepared by 'The ENTS Tree Consultancy' dated 13 May 2011 (Section 5 – recommendations) "*a tree protection fence for trees 4 & 5 must be installed 1m to the east of the existing boundary fence to assist in protection the root zone of these trees.*" The tree fencing must be constructed of a 1.2 'wire-mesh fence' or star pickets spaced at 2 metre intervals, connected by a continuous high-visibility barrier/hazard mesh at a height of 1.2 metres.

## 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. Bushfire Management – Protection Zones

At the commencement of building works the entire property must be managed as an inner protection area (IPA) as outlined within section 4.1.3 and Appendix 5 of '*Planning for Bush Fire Protection 2006*' and the NSW Rural Fire Service's document '*Standards for asset protection zones*' and in accordance with the following requirements:

- a. The entire property must be maintained as an '*Inner Asset Protection Zone*' in accordance with the following:
  - i. Minimise fine fuel at ground level;
  - ii. Do not plant vegetation that retains dead material or deposits excessive quantities of ground fuel.

*Note: Further information concerning planning for bush fire protection can be found at: [www.rfs.nsw.gov.au](http://www.rfs.nsw.gov.au).*

## REQUIREMENTS DURING CONSTRUCTION

### 14. Works near Trees

- a. All required tree protection measures are to be maintained in good condition for the duration of the construction period. All works (including driveways and retaining walls) within 5 metres of any trees required to be retained (whether or not on the subject property, and pursuant to this consent or the *Tree Preservation Order*), must be carried out under the supervision of an '*AQF Level 5 Arborist*' and a certificate submitted to the principal certifying authority detailing the method(s) used to preserve the tree(s).
- b. To ensure any work undertaken will not adversely affect the longevity of trees numbered 4 and 5, the driveway is to be laid on existing grade with no excavation or fill within 5 meters. Alternatively, pier and beam construction of the driveway or road within the nominated restriction zone shall be used with piers being located no closer than 3 metres to the trunks of the trees. The driveway edge shall be no closer than 1 metre to the edge of the trunk. The excavation for the piers within the nominated restriction zone shall be hand dug to reveal the presence of any roots. A qualified and experienced arborist is to be on site overseeing the work to ensure no roots greater than 50mm in diameter are severed, and root damage is minimised.

*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.*

#### **15. Construction Work Hours**

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

#### **16. 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.

#### **17. Disturbance of Existing Site**

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

### **REQUIREMENTS PRIOR TO THE ISSUE OF AN OCCUPATION CERTIFICATE**

*Note: For the purpose of this consent, a reference to 'occupation certificate' shall not be taken to mean an 'interim occupation certificate' unless otherwise stated.*

#### **18. Fulfilment of BASIX Commitments**

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

#### **19. Stormwater Drainage**

The stormwater drainage system for the development must be designed and constructed for an average recurrence interval of 20 years and connected to the on-site detention system.

#### **20. On Site Stormwater Detention**

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

- a. Have a capacity of not less than 5 cubic metres, and a maximum discharge (when full) of 8 litres per second;
- b. Have a surcharge/inspection grate located directly above the outlet;
- c. Discharge from the detention system to be controlled via 1 metre length of pipe, not less than 50 millimetres diameter or via a stainless plate with sharply drilled orifice bolted over the face of the outlet discharging into a larger diameter pipe capable of carrying the design flow to an approved Council system;



## 21. Creation of Easements

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

- a. The creation of an appropriate "*Positive Covenant*" and "*Restriction as to User*" over the constructed on-site detention/retention systems and outlet works, within the lots in favour of Council in accordance with Council's prescribed wording. The position of the on-site detention system is to be clearly indicated on the title.
- b. To register the OSD easement, the restriction on the use of land "*works-as-executed*" details of the on-site-detention system must be submitted verifying that the required storage and discharge rates have been constructed in accordance with the design requirements. The details must show the invert levels of the on site system together with pipe sizes and grades. Any variations to the approved plans must be shown in red on the "*works-as-executed*" plan and supported by calculations.

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

## 22. 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. The driveway be a rigid pavement.
- b. The driveway grade must not exceed 25 percent and changes in grade must not exceed 8 percent.

## 23. Damage to Council Assets

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

## 24. Retaining Walls

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

## 25. Boundary Fencing

Existing wire fencing to boundaries shall be replaced with appropriate 1.8m high fencing and at the cost of the applicant. Alternative fencing may be erected subject to agreement by the adjoining property owner(s).

*Note: The type of fencing materials to be used is a matter for consideration between the relevant property owners under the Dividing Fences Act, 1991.*

**OPERATIONAL CONDITIONS****26. Swimming Pool Requirements**

The construction and operation of the swimming pool must comply with the provisions of the *Swimming Pool Act 1992*, the *Swimming Pool Regulation, 1998*, *Australian Standards 1926.1-3 – Swimming Pool Safety* and the following requirements:

- a. All waste water from the pool's filtration system must be piped to *Sydney Water's* sewer system;
- b. The filtration motor and pump, or spa heater and blower unit must be housed in a soundproofed structure. Sound from the equipment must not exceed 5(dBA) above ambient noise levels at any residential property boundary; and
- c. The applicant must participate in the 'Static Water Supply Project' initiative of the NSW Fire Brigades and make available the water in the swimming pool for use as a static water supply for fire fighting purposes by the NSW Fire Brigades or the NSW Rural Fire Service.

*Note: On completion of the swimming pool, the applicant is to contact the local NSW Fire Brigade Station or NSW Rural Fire Service Station to arrange the installation of a static water supply identification plate.*

**- 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 Australian Standard AS4970-2009 "Protection of Trees on Development Sites".*

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

### **Dial Before You Dig**

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

### **Asbestos Warning**

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

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

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

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

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

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

## 5 POLICY - PROPERTY NUMBERING

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### EXECUTIVE SUMMARY

Councils have the responsibility to regulate the allocation of street address numbers. The proposed *Property Numbering Policy* provides guidelines for the numbering of properties within Hornsby Shire. The *Policy* would facilitate the identification of properties by using a system of street numbering that is consistent, clear, logical and unambiguous. The *Policy* would also allow for consistent and transparent decisions concerning the establishment of property numbering.

The *Policy* contains provisions for the numbering of newly created allotments, changes to property boundaries of existing allotments, establishment of or conversion to an alternate title, and alteration of existing property addresses.

It is recommended that Council adopt the *Property Numbering Policy* attached to this report.

### PURPOSE

The purpose of this report is to seek Council's adoption of a *Property Numbering Policy*.

### BACKGROUND

Councils have the responsibility to regulate the allocation of street address numbers. Street numbering is a regulatory function of Council under Section 162(1) of the *Roads Act 1993* and Section 124 of the *Local Government Act 1993*.

Property identification is important in ensuring emergency services, utility authorities, the general public and Australia Post are able to locate individual properties with ease.

### DISCUSSION

The *Property Numbering Policy* provides guidelines for the numbering of properties within Hornsby Shire. The *Policy* would facilitate the identification of properties by using a system of street numbering that is consistent, clear, logical and unambiguous. The *Policy* would also allow for consistent and transparent decisions concerning the establishment of property numbering.

The *Policy* contains provisions for the numbering of newly created allotments, changes to property boundaries of existing allotments and establishment of or conversion to an alternate title. The *Policy* includes directions for the commencement and sequential numbering of a street, the use of alphabetical suffixes, the numbering of corner allotments and the correspondence of unit numbers with Strata lot numbers. The *Policy* also provides guidelines to assist in decisions concerning alteration of an existing property address. Council will only consider altering the address of a property if there are difficulties associated with property identification.

The *Property Numbering Policy* applies to all properties within the Hornsby Shire Local Government area. The *Policy* would be used by Council staff and developers when addressing subdivisions, especially Strata subdivisions that can have a wide range of varying number applications.

## **POLICY**

Aside from the adoption of the *Property Numbering Policy*, no other policy implications will arise.

## **STATUTORY CONSIDERATIONS**

Section 162(1) of the *Roads Act 1993* provides that Council may allocate property numbers and road names. Section 124 (Order No. 8) of the *Local Government Act 1993* provides the ability for Council to order an owner or occupier of land to identify their property with a number. Accordingly, Council has prepared a *Property Numbering Policy* to ensure the appropriate allocation of property numbers.

## **CONSULTATION**

Council's Survey Section of the Works Division and Managers of Assessment Teams 1 and 2 were consulted in the preparation of the *Policy*. The *Policy* has also been developed in conjunction with Australia Post to ensure no resident of Hornsby Shire is adversely affected by incorrect or ambiguous numbering.

## **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 an administration policy and does not propose any actions which require a sustainability assessment, no Triple Bottom Line considerations apply.

## **CONCLUSION**

Council has established a *Property Numbering Policy* which would facilitate the identification of properties in the Hornsby Shire by using a system of street numbering that is consistent, clear, logical and unambiguous. The *Policy* was prepared in consultation with Council's Survey Section of the Works Division and Managers of Assessment Teams 1 and 2, and Australia Post.

It is recommended that Council adopt the *Property Numbering Policy* attached to this report.

## **RECOMMENDATION**

THAT Council adopt the *Property Numbering Policy* attached to Executive Manager's Report No. PLN44/11.

SCOTT PHILLIPS  
Executive Manager  
Planning Division

**Attachments:**

1. Property Numbering Policy

File Reference: F2004/08564-02  
Document Number: D01653758

## 6 EPPING TOWN CENTRE STUDY

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### EXECUTIVE SUMMARY

The *Epping Town Centre Study* has been undertaken by JBA Planning on behalf of Hornsby and Parramatta Councils and the Department of Planning and Infrastructure (DP&I) to explore the potential for the Town Centre to accommodate increased residential and employment growth. JBA Planning has completed the *Study* and submitted its final report.

The *Study* details the process and methodology undertaken to determine the capacity of the Town Centre to support additional development. The *Study* concludes that there is opportunity within the Town Centre for an additional 3,200 – 4,300 dwellings across the *Study Area*, with capacity for approximately 1,800 – 2,925 of these within the Town Centre Core. The *Study* identifies infrastructure investment required for public domain and road network improvements. The *Study* delivers a *Structure Plan* for the Centre which details development opportunities within the Town Centre Core and the surrounding residential areas. The *Structure Plan* promotes increased development potential around the railway station with building heights between 4 and 22 storeys. The *Structure Plan* also promotes increased opportunity for residential flat buildings and town house development in five precincts in the surrounding residential areas.

Central to the *Study* has been the preparation of the *Epping Town Centre Traffic Model*, a comprehensive traffic simulation model which has enabled the impacts of the future development scenarios identified under the *Structure Plan* to be tested. The Traffic Model indicates that identified road infrastructure works would adequately cater for identified growth in the short term scenario and go towards improving the capacity of the roads under the long term development scenarios. The majority of the increased traffic in the long term was identified to be caused by development outside the study area.

The *Epping Town Centre Study* Steering Committee has endorsed the exhibition of the *Study*. It is recommended that Council endorse the *Study* for public exhibition for a period of two months.

### PURPOSE

The purpose of this report is to present the findings of the *Epping Town Centre Study* and seek endorsement of the *Study* to be placed on public exhibition.

### BACKGROUND

At its meeting on 1 December 2010, Council considered Executive Manager's Report No. PLN93/10 reporting on the progress of the *Study*.

The *Epping Town Centre Study* Steering Committee (comprising Councillors and relevant staff from Hornsby Shire Council, PCC and the DP&I) has been involved in critical decision making in the preparation of the *Study*. The workplan originally indicated that the *Study* would be finalised in April 2011. However, at its meetings on 21 February 2011, the *Epping Town Centre Study* Steering Committee endorsed an extension of the project to include

additional traffic modelling in recognition of the signing of the *Intergovernmental Agreement for the Parramatta to Epping Rail Link* by the State and Federal Government.

Finalisation of the *Study* was also delayed to enable additional economic feasibility work to be undertaken in respect of the Town Centre Core. In reviewing the draft *Study* at its meeting on 20 April 2011, the Steering Committee noted that the draft *Study* did not include an adequate analysis of the range of development scenarios anticipated within the Town Centre Core sufficient to support the recommendations. The Committee also requested that additional detail be provided in the final *Study* regarding:

- a) Potential impact of increased development;
- b) Public domain and open space requirements;
- c) Implications of traffic recommendations;
- d) Delivery of public domain improvements; and
- e) Infrastructure funding arrangements.

The Committee agreed that subject to the above matters being addressed, the final *Study* be presented to Council seeking endorsement for public exhibition.

Briefings by the consultant held at PCC and Hornsby Shire Council on 16 May and 1 June 2011 respectively, were attended by Councillors and staff. The briefings provided an opportunity for the consultant to present the findings and recommendations of the *Study* and answer Councillors' questions.

The consultant has submitted a final report on the *Epping Town Centre Study* addressing those matters previously raised by the Steering Committee. The final *Study* is available for viewing at [www.hornsby.nsw.gov.au/studies](http://www.hornsby.nsw.gov.au/studies).

## **DISCUSSION**

This report presents the findings and recommendations of the *Epping Town Centre Study*. This report also seeks endorsement of a consultation strategy for the exhibition of the *Study*.

### ***Epping Town Centre Study***

The *Study* comprises two volumes. Volume 1 contains the *Study* report and Volume 2 contains background studies and reports prepared to inform the *Study's* findings and recommendations. Specifically, Volume 1 comprises an executive summary and seven chapters which are summarised below:

#### ***Executive Summary***

Provides an overview of the Epping Town Centre, the background to the *Study* and a summary of the *Study* methodology, findings and recommendations.

#### ***Chapter 1 – Introduction***

The Chapter provides the scope of the *Study*, including the aims and objectives, the extent of the *Study* area and consultation undertaken which are summarised as follows.

The aims of the *Study* are to:



- a) explore the potential for the Epping Town Centre to accommodate increased growth to fulfil its role as a “*Town Centre*” and to maximise the benefits arising from State Government infrastructure investment; and
- b) inform future planning controls and infrastructure requirements to accommodate this growth and provide certainty for Epping residents and businesses.

The objectives of the *Study* are to:

- a) analyse transport issues within the *Study* area and model transport outcomes;
- b) analyse the major issues, development opportunities and constraints for the *Study* area;
- c) explore two growth scenarios for the Epping Town Centre;
- d) identify infrastructure (including transport) upgrades required to accommodate each scenario;
- e) deliver an urban structure plan, including the development of planning controls for the Epping Town Centre; and
- f) identify funding sources for the provision of any proposed works and facilities associated with development.

The extent of the *Study* area is based on the nearest road outside a 800m radius from the Epping Railway Station. This is the distance often considered as reflecting a 10 minute walking trip. Two thirds of the study area is located within Hornsby Shire and one third of the study area is located within Parramatta City.

Consultation methods undertaken to facilitate public participation in the *Study* included Stakeholder Reference Groups, Community Street Stalls, Community Feedback Forms, Public Agency Consultation, Community Group and Organisation Consultation and consideration of community input into earlier studies. The results of this consultation are detailed in the *Community Consultation Report* contained in Volume 2.

### ***Chapter 2 - Metropolitan and Strategic Context***

The Chapter identifies the context of Epping Town Centre within the Sydney Metropolitan region. The chapter establishes the policy framework for the *Study*, including regional, subregional and local strategies, and the key actions or principles within these strategies that apply to Epping. It also identifies the role of Epping as a service centre and its employment and residential role within the surrounding context. Key observations from this Chapter include that:

- Epping is located within the Metropolitan Sydney Global Economic Corridor;
- Epping’s role has more of a residential focus than an employment destination and future development should focus on providing housing opportunities within walking distance;
- By 2036, an estimated 900,000 jobs will be within a 30 minute, high frequency train trip from Epping Town Centre, making Epping an increasingly attractive location for people to live;
- Hornsby and Parramatta Councils existing housing strategies encourage redevelopment of existing centres to provide increased housing opportunities within a walking distance of centres, services and public transport.

### ***Chapter 3 - Study Area Analysis***

The Chapter provides an analysis of the key characteristics of the study area, including the historical evolution of Epping as a centre, existing land uses, demographic profile, environmental characteristics, open space, community facilities and housing stock. The Chapter also reviews the existing planning controls that apply across the study area (i.e. zoning, development standards and heritage) and considers its current and future role in terms of residential and employment uses. Key observations from the chapter include that:

- There are a total of 4,100 dwellings within the study area, including 3,100 dwelling within a 800m walking catchment of the railway;
- Epping currently provides significantly less housing opportunities than envisaged for a “Town Centre” classified by the *Metropolitan Plan for Sydney 2036*. Town Centres generally provide between 4,500 and 9,500 dwellings within a 800m walking catchment;
- Epping could not be considered a major employment centre under the *Metropolitan Plan* due to its proximity to well established, larger employment centres which would make it difficult for Epping to compete and attract significant employment growth;
- The Town Centre Core will continue to provide a local retail and commercial function to service the surrounding residential areas. However, the increasing demand for larger commercial floorplates is likely to reduce demand for the type of commercial office floor space currently provided in Epping;
- Large commercial office sites within Epping will provide the opportunity for redevelopment, particularly for mixed use purposes; and
- Both Councils propose new heritage conservation areas and items within the study area.

### ***Chapter 4 - Transport and Traffic***

Central to the *Study* has been the preparation of the *Epping Town Centre Traffic Model*, a comprehensive traffic simulation model which has enabled the impacts of future short and long term development scenarios to be tested. The Chapter provides an assessment of the existing road, traffic and transport conditions within and around the *Study Area* and details the assumptions of each development scenario. The Chapter also describes the traffic model, how it works and the impact of the short and long term growth scenarios on the transport network. Key observations from the Chapter include that:

- Nearly 90% of traffic over the Bridge Street rail overpass during the am and pm peak periods is through traffic;
- Traffic volumes cause traffic queuing along all arterial roads and key traffic bottle necks are located at the Epping Road/Blaxland Road/Langston Place and Beecroft Road/Carlingford Road intersections;
- A significant proportion of the *Study Area* is located within walking distance of Epping Railway Station and Town Centre but Epping has low levels of walking and cycling compared to wider Sydney;
- Epping residents have high public transport usage with 37% of all journey to work trips using same;
- Modelling results indicate that the recommended road improvements detailed in Chapter 5 will adequately cater for the additional trips generated by the short term development scenario and go some way to improving the capacity of roads required for the long term development scenarios.

- Two long term traffic improvement works, including a tunnel and the removal of 50% of the through traffic were tested to determine the ability to accommodate the additional traffic growth caused by the long term development scenarios.
- The majority of increased traffic volumes experienced in the long term will be caused by through traffic as a result of development outside the *Study Area* and without any long term traffic solutions, the long term growth scenario will result in increased traffic volumes in the Town Centre.

Detailed traffic and transport outcomes are provided in the *Transport Study Outcomes Report* provided in Volume 2 of the *Study*.

### ***Chapter 5 - Epping Town Centre Structure Plan***

The Chapter identifies the approach to preparing the *Epping Town Centre Structure Plan* is consistent with the principles of Transit Orientated Development and best practice urban renewal by providing a mix of new housing opportunities in highly accessible locations. The Chapter presents the proposed *Epping Town Centre Structure Plan*, including redevelopment opportunities within and outside the Town Centre Core. The Chapter also details connectivity, public domain and transport network improvements. Key elements of the *Epping Town Centre Structure Plan* include:

- A compact, high density town centre with increased development potential around the Railway Station. A single mixed use zoning is proposed that permits a wide range of retail, commercial, residential and community uses and adjustment of the Town Centre boundary to include properties Nos. 2 and 4 Epping Road as business zoned land;
- Identification of opportunities for 1,745-2,845 new dwellings within precincts within the Town Centre Core with building heights between 4 to 22 storeys and approximately 1,275 new dwellings outside the Town Centre Core in the form of town houses and residential units;
- Identification of key sites within the Town Centre Core that can accommodate significant redevelopment without requiring site consolidation;
- New recreational facilities and community spaces, including Forest Park Recreation Facility, the upgrading of the Epping Library and Learning and Leisure Centre and a new landscaped plaza at Pembroke Street opposite the Anglican Church;
- New and improved laneways and streets to improve pedestrian connectivity and streetscape improvements;
- New and upgraded traffic, pedestrian and cyclist facilities including the upgrade of key intersections and road alignment/carriageway widening of Epping/Beecroft Roads to manage traffic queuing and improve movements;
- Improved pedestrian priority at key intersections, including an additional pedestrian/cycleway at the railway bridge;
- Progression of recommendations from earlier heritage studies to list new heritage items and create East Epping, Essex Street and Rosebank Avenue Heritage Conservation Areas (HCAs). Properties Nos.30-50 Pembroke Street, Nos. 6-22 Chester Street and Nos. 1-3 Essex Street are not recommended for inclusion in the proposed HCA as they have been identified as having marginal heritage value and are located in precincts identified for higher density development;
- There has been little recent redevelopment and there is opportunity for significant redevelopment, with new development in the Town Centre Core providing opportunity for significant community benefit through public domain works; and

- There is opportunity to expand existing retail services to capture current expenditure loss and provide future growth.

The *Structure Plan* proposes heights ranging from 4 storeys (15 metres) up to 22 storeys (72 metres) in the Town Centre Core. Heights within the Hornsby Shire areas of the Core generally range from 4 storeys (15 metres) up to 12 storeys (42 metres). A height of 22 storeys (72 metres) is recommended in respect of a portion of properties Nos. 12-22 Langston Place to facilitate the development of a tower building to identify the southern and eastern entry to the Town Centre Core.

Key sites and opportunities within the Town Centre Core of Hornsby Shire have been identified and include:

Key Sites	Opportunity
Properties Nos. 264-250 Beecroft Road	Site at a key intersection and entry into the Epping Town Centre Core. Provides the opportunity to extend retail services across Beecroft Road and enhance the environment for pedestrians using Carlingford Road and Beecroft Road.
Properties Nos. 240-242 Beecroft Road	Site provides significant opportunity for high density residential development within close proximity to the railway station. Existing commercial office leases may limit redevelopment of the site.
Properties Nos. 12-22 Langston Place and Nos. 8-10 Pembroke Street	Provides the opportunity to provide new or upgraded library and community facilities and improved public domain through the implementation of the Pembroke Street Plaza. South west portion of the site provides the opportunity for a building to identify entry to the Town Centre Core. Opportunity to amalgamate and redevelop the site along with smaller allotments on Langston Place.
Properties Nos. 3-5 Pembroke Street & Nos. 32-42 Oxford Street	Provides opportunity for a new access laneway, creating additional street frontage, facilitating greater development of the block and improving pedestrian connections.
Properties Nos. 37-41 Oxford Street	Provides the opportunity to extend the retail service centre along Oxford Street, a new access road through the site providing additional street frontage, facilitating greater development block and improving east-west pedestrian connections. Existing commercial office leases may limit redevelopment of the site.

The key recommendations for the residential areas outside the Town Centre Core include the identification of five precincts:

Precinct	Form	Estimated Additional Dwelling Yield
Carlingford/Cliff Road	5 storey residential flat buildings with 2 storey townhouses facing Kent Street and 6-8 storey residential flat buildings closer to the Town Centre Core.	460
Derby Street	2 storey town houses.	65
Essex/Chester Streets	5 storey residential flat buildings along	115

	Essex Street and the corner of Essex and Chester Streets. No change proposed to density in Brenda Way.	
Essex/Pembroke Streets	5 storey residential flat buildings.	315
Forest Grove	5 storey residential flat buildings facing Maida Road and 6 storey residential flat buildings adjacent the Town Centre Core.	315

### ***Chapter 6 - Implementing the Structure Plan***

The Chapter outlines how the *Epping Town Centre Structure Plan* would be implemented by both Hornsby and Parramatta Councils. The key implementation mechanisms include the preparation of Planning Proposals and Development Control Plans (DCPs). Proposed Planning Proposal maps and draft Development Control Plans controls have been provided as appendices to Volume 1. An analysis of the development feasibility and the resulting development yields of the proposed planning controls is identified. A detailed feasibility report has been provided in Volume 2.

The Chapter draws on the recommendations of earlier sections to identify and where possible, cost proposed public domain, open space and transport network improvements required to support the proposed development options. The Chapter also identifies the existing development contributions framework and future options for funding the implementation of local and State infrastructure in the Town Centre. Key recommendations for Hornsby Council include:

- Rezoning the Town Centre Core to B2-Local Centre under Council's *Standard Instrument* based Comprehensive Local Environmental Plans; and
- Rezoning residential areas outside the Town Centre Core, a mix of R4-High Density Residential, R3-Medium Density Residential and R2-Low Density under Council's Comprehensive Local Environmental Plan.

### ***Chapter 7 - Summary of Recommendations***

The Chapter draws from the earlier chapters to present the key recommendations for the *Study*. The Chapter also recommends that both Councils prepare land reservation acquisition maps to identify all land required for the implementation of transport improvements and open space acquisition.

#### **Progression of the Study**

This report recommends that Council endorse the *Epping Town Centre Study* for public exhibition jointly with Parramatta Council. Should Council endorse the *Study* for public exhibition, it is usual practice for Council to exhibit major studies for a period of two months. Exhibition is likely to occur in August/October 2011. A report on submissions would be completed by December 2011. At that time, Council would determine whether to endorse the recommendations of the *Study* to be progressed as part of Council's *Comprehensive LEP* and *Comprehensive DCP* or as an amendment to the *HSLEP* and the current DCPs depending on the timing of the proposal.

It is recommended that the *Study* be progressed to public exhibition to allow the public to view the *Study* and provide comment. Any amendments to the *Study* should be evaluated after exhibition, when community comments can also be taken into consideration. This

report seeks endorsement of the exhibition of the *Study*. A report on submissions would then be presented to Council, discussing submissions received, detailing any recommended amendments and seeking endorsement of the *Study* (subject to any amendments as a result of submissions).

## CONSULTATION STRATEGY

The *Study* should be exhibited jointly with PCC for a minimum period of two months. The period of exhibition is consistent with Council practice for exhibition of major studies and plans. The exhibition would likely commence in August 2011. A detailed consultation strategy for the public exhibition is attached. In summary, notice of the public exhibition of the *Study* would be by:

- inclusion of an advertisement in local newspapers at the start of, and during the exhibition;
- advertising on the Council's website for the duration of the exhibition period;
- notifying relevant State Government agencies and local members of Parliament by letter at the start of the exhibition period;
- notifying relevant community and interest groups by letter at the start of the exhibition period;
- display of *Study* material at Council's Administration Building and local libraries and the holding of Community drop-in sessions.

Written notice of, and material displayed during the exhibition will be generally in accordance with best practice community consultation standards. A report on submissions will be presented to Council for its consideration following the exhibition period.

At the time of writing this report a number of issues, including the content of joint exhibition material, is yet to be endorsed by PCC or DP&I due to the lead times for Council reports. Such material would ordinarily be presented to Council for endorsement. However, to ensure exhibition of the *Study* in a timely manner, Council should delegate authority to the General Manager to endorse exhibition material including information brochures for distribution to the community.

## POLICY

Once the *Study* is adopted by Council, statutory and policy controls are required to be prepared in accordance with the State Government's planning requirements. The rezonings would be required to be incorporated into Council's *HSLEP* or new *Comprehensive LEP* depending on the timing of the proposal. Any new controls arising from the *Study* would be incorporated into Council's *Business Lands DCP* or new *Comprehensive DCP*, depending on the timing of the proposal.

## CONSULTATION

In accordance with the *Epping Town Centre Study Memorandum of Understanding*, a Steering Committee was formed to be involved in critical decision making for the project. The Steering Committee comprises Councillor and staff representatives from Hornsby and Parramatta Councils and DP&I representatives. The Committee met at regular intervals to discuss key tasks and milestones in progression of the project. At its meeting on 20 April 2011, the Committee agreed that, subject to additional information being provided in respect

of a number of issues, the *Study* should be presented to Council seeking endorsement for public exhibition.

Government agencies, service providers and internal divisions of Council were consulted to assist identify potential opportunities and constraints within the study area. Key infrastructure providers have indicated that some existing services are at capacity and future augmentation will be required to service future development.

The DP&I, as a member of the Steering Committee, was consulted in the preparation of the *Study*. At its meeting with representatives from Council's Town Planning Services Branch on 28 June 2011, the DP&I endorsed the exhibition of the *Study*.

At the time of writing this report, PCC advised that a report recommending endorsement of the *Study* for exhibition will be considered at its meeting on 25 July 2011. Further advice will be provided to Council should PCC resolve other than in accordance with the recommendations of the 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. This TBL Statement forms part of Council's efforts towards "creating a living environment".

- \* *Working with our community:* Information on the *Study* will be accessible to all sectors of the community. Details would be available on Council's website and from Council's libraries and Administration Centre. Community drop in sessions will be held and an internet based discussion forum available.
- \* *Conserving our natural environment:* Opportunities for increased development have been identified close to transport and shops to encourage walking and public transport. Areas with high biodiversity value are to be protected.
- \* *Contributing to community development through sustainable facilities and services:* Precincts for additional development have been selected to maximise the use of existing facilities and services.
- \* *Fulfilling our community's vision in planning for the future of the Shire:* The *Study* recommends that the low density character of Oxford Street and the heritage qualities of the proposed HCAs be maintained. Precincts have been chosen on the basis of minimal environmental and infrastructure constraints. Where possible, the identification of proposed Heritage Conservation Areas and heritage items have been progressed. The *Study* will assist to increase affordability by offering housing choice and allowing older residents to downsize in the same area close to established social and support networks.
- \* *Supporting our diverse economy:* The *Study* was prepared having regard to feasibility assessments by economic analysts. Development is viable in the selected precincts. The *Study* will lead to more commencements, providing local construction jobs and resulting in more dwellings being available on the market. The location of the selected precincts aims to assist revitalise the local centre and promote clustering of businesses and services.

- \* *Maintaining sound corporate and financial management:* The *Study* does not directly affect Council's corporate and financial management. The project has been completed within budget with funding being obtained from the State Government's Planning Reform Funds and the Town Planning Services Annual Operating Budget.
- \* *Other Sustainability Considerations:* The *Study* has been prepared by consultants using a triple bottom line approach to ensure a clear understanding of the social, environmental and economic factors being considered in decision making. Potential negative impacts have been minimised through the evaluation process.

## CONCLUSION

*Epping Town Centre Study* details the process and methodology undertaken with respect to determining the capacity of the Epping Town Centre to support additional development. Following the analysis of the study area, the *Study* concludes that there is opportunity within the Town Centre for an additional 3,200 – 4,300 dwellings across the study area, with capacity for approximately 1,800 – 2,925 of these within the Town Centre Core.

The *Study* delivers a *Structure Plan* for the Centre which details development opportunities within the Town Centre Core and the residential areas. The *Study* also identifies infrastructure investment, public domain and road network improvements required to support increased development within the Town Centre. The *Structure Plan* promotes increased development potential around the railway station with building heights between 4 and 22 storeys. There is also increased opportunity for residential flat buildings and town house development within five precincts within the surrounding residential areas.

The DP&I, at its meeting with the Town Planning Services Branch on 28 June 2011, endorsed the exhibition of the *Study*. At the time of writing this report, PCC advised that a report recommending endorsement of the *Study* for exhibition will be considered at its meeting on 25 July 2011. Further advice will be provided to Council should PCC resolve other than in accordance with the recommendations of the report.

This report presents a consultation strategy for the exhibition of the *Study*. Due to lead times for Council reports, a number of issues are yet to be confirmed with PCC regarding the joint consultation. Aspects of the Consultation Strategy and the content of the exhibition material can only be finalised after further discussions with PCC and DP&I. Accordingly, it is recommended that the General Manager be delegated authority to endorse the exhibition material when finalised.

It is recommended that Council endorse the *Epping Town Centre Study* for public exhibition for a period of two months.

## RECOMMENDATION

THAT

1. Council endorse the *Epping Town Centre Study* for public exhibition.
2. The *Study* be exhibited for a minimum period of two months generally in accordance with the consultation strategy attached to Executive Manager's Report No. PLN60/11.
3. The General Manager be delegated authority to endorse the exhibition material, including the preparation of an information brochure.



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SCOTT PHILLIPS  
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**Attachments:**

1. Epping Town Centre Study Consultation Strategy

File Reference: F2010/00546-02  
Document Number: D01717032

## 7 HORNSBY QUARRY PLANNING PROPOSAL

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### EXECUTIVE SUMMARY

In August 2009, Council resolved to seek the necessary approvals to fill the Hornsby Quarry pit with Virgin Excavated Natural Material (VENM). The Department of Planning and Infrastructure (DP&I) has confirmed that a planning proposal to rezone and reclassify the land is the appropriate statutory mechanism to enable the filling of the Quarry. Accordingly, the consultant engaged to progress the project has prepared a Planning Proposal to allow the filling of the Quarry as permissible development.

It is recommended that Council endorse the Hornsby Quarry Planning Proposal attached to this report for submission to the DP&I for Gateway Determination and exhibition.

### PURPOSE

The purpose of this report is to present a planning proposal that seeks to permit the filling of Hornsby Quarry.

### BACKGROUND

At its meeting on 12 August 2009, Council considered a report seeking direction concerning the progression of actions for the future use of Hornsby Quarry and adjoining lands within Old Mans Valley. The report presented preliminary investigations into the possibility of filling the Quarry pit and recommended that, should Council resolve to progress filling the pit, only VENM should be used. Council resolved to fill the pit with VENM and that movement of material to the pit, and in the immediate surrounds, be limited to that necessary for safety, operational reasons or where financially viable.

To progress Council's resolution, Tenders were sought and Cardno (NSW) Pty Ltd was engaged in late May 2010 to seek the planning and environmental approvals to enable filling of the Quarry with VENM to a level to be determined as part of the process. The scope of works notes that there are two options available to obtain approval for filling. Accordingly, the first step in the Tender required that the consultant determine the appropriate approval process in consultation with the DP&I.

In December 2010, the consultant submitted a Preliminary Justification Report to the DP&I on behalf of Council seeking a determination by the Minister for Planning and Infrastructure as to whether a proposal to fill the Quarry constitutes a major project under Section 75B(1)(b) of the *Environmental Planning and Assessment Act 1979 (EP&A Act)* allowing assessment under Part 3A of the *Act*. In April 2011, the Department advised that the Project has not been declared a Major Project.

At its meeting on 18 May 2011, Council considered Executive Manager's Report No. WK30/11 providing an update on progress with seeking approval to fill the Quarry. The report noted the advice from the Department that filling the pit would not be declared a Major Project. Therefore, rezoning and reclassification of the land would be required before a

development application could be progressed for filling. Council resolved to progress with Stage 2B of the Quarry Tender involving progression of a planning proposal.

In accordance with Council's resolution, the consultant has submitted a Hornsby Quarry Planning Proposal for consideration by Council.

## **DISCUSSION**

The Hornsby Quarry and environs are zoned Open Space A (Public Recreation – Local) under the *Hornsby Shire Local Environmental Plan (HSLEP) 1994*. Therefore, any development or use, other than for Recreational purposes is prohibited under the LEP. The land is also classified as Community land under the *Local Government Act 1993*. Any land to be sold or leased on a long term basis would be required to be reclassified as Operational land involving a public hearing process.

The DP&I has advised that the proposed filling of the Quarry has not been declared a Major Project. Therefore, a planning proposal to rezone and reclassify the land is the appropriate statutory mechanism to enable the filling of the Quarry and ensure robust environmental assessment and appropriate community consultation are undertaken. Accordingly, this report presents a planning proposal to implement Council's resolution to seek the necessary planning and environmental approvals to enable filling of the Quarry pit with VENM.

### **Hornsby Quarry Planning Proposal**

The Hornsby Quarry Planning Proposal sets out Council's objectives or intended outcomes, an explanation of the planning provisions that are to be prepared, justification for the proposal, and the intended community consultation to be carried out. The proposal comprises four parts as summarised below.

#### ***Part 1 – Objectives or Intended Outcomes***

The objective of the Planning Proposal is to amend the *HSLEP 1994* to allow the filling of Hornsby Quarry. The intended outcome would be the provision of predominantly public recreation facilities and open space on the lands comprising the Quarry, in accordance with the current zoning.

#### ***Part 2 – Explanation of the Provisions***

The Planning Proposal seeks to facilitate the filling of the Quarry by introducing provisions that:

1. Allow the filling of Hornsby Quarry as permissible development;
2. Declare that the filling of the Quarry is designated development. As such, any subsequent development application would be required to be accompanied by an Environmental Impact Statement in accordance with Section 78A(8)(a) of the *EP&A Act*. The intent is to ensure that a comprehensive assessment of environmental impacts and appropriate community consultation are undertaken prior to the commencement of any filling operations; and
3. Reclassify the land from Community land to Operation land within the meaning of the *Local Government Act 1993*.

### ***Part 3 – Justification***

Part 3 is divided into four sections as follows:

*Need for the Planning Proposal:* The Planning Proposal would allow the filling of the Quarry and the creation of areas of public recreation and open space for community use in accordance with the zoning of the land. Without filling, such a use is neither safe nor possible. Furthermore, the Proposal may also facilitate a broader public benefit through the use of the site as a spoil disposal facility, facilitating the delivery of major infrastructure projects in the region.

*Relationship to Strategic Planning Framework:* The Planning Proposal is consistent with the objectives and actions contained in the *Metropolitan Plan for Sydney 2036* and *draft North Subregional Strategy*. Specifically, the Proposal would facilitate the provision of a significant area of additional open space in close proximity to the Hornsby CBD (which would be the end result of permitting the proposed use of filling) to assist cater for recreational needs of an increase in the number of residents and workers in Hornsby Shire.

*Environmental, Social and Economic Impact:* A number of environmental factors are relevant to filling the Quarry including, traffic and access, noise, dust and vibration impacts, heritage, visual amenity, bushfire, geotechnical constraints and hydrogeology and drainage. A traffic and transport study has been undertaken involving consideration and analysis of access and timing scenarios. The analysis would guide development of mitigation measures to manage impacts on local residents and the road network. However, more detailed consideration of environmental impacts would be undertaken, should they be required, following the Gateway Determination.

*State and Commonwealth Interests:* No consultation has been carried out with State and Commonwealth public authorities in relation to the Planning Proposal. However, written support for the concept of using the Quarry as a spoil disposal facility has been received from two NSW infrastructure agencies namely, the Roads and Traffic Authority and the Transport Construction Authority. Formal consultation would occur following the Gateway Determination.

### ***Part 4 – Community Consultation***

“A *guide to preparing local environmental plans*” has been prepared by the DP&I to assist councils in preparing planning proposals. In accordance with the *Guidelines*, comprehensive community consultation is proposed to be undertaken as part of the progression of the Planning Proposal including, at a minimum, the following:

*Public Authorities:* Notification letters and a copy of the Planning Proposal would be sent to relevant public authorities.

*Advertisement in local newspapers:* An advertisement would be placed in local newspapers identify the purpose of the Planning Proposal and where the Planning Proposal can be viewed.

*Advertisement on the Council website:* The Planning Proposal would be exhibited on the Council website. Council’s libraries have access to the website.

*Letters to affected and adjoining property owners:* A letter would be sent to affected and adjoining property owners advising of the exhibition of the Proposal and inviting submissions.

*Letters to community and industry groups:* A letter would be sent to the relevant community and industry groups advising of the exhibition of the Proposal and inviting submissions.

*Displays at the Council Administration Building and local libraries:* The Planning Proposal would be displayed at the Council Administration Centre and Council libraries.

*Referrals to other Divisions/Branches:* A copy of the Planning Proposal would be forwarded to relevant Divisions/Branches of Council for comment.

*Public Hearing:* Council would hold a public hearing to engage directly with the community and relevant stakeholders. The hearing would be held at a time and location that would aim to maximise community attendance.

*Review of Consultation Strategy:* Where submissions warrant, the consultation strategy may be reviewed to extend the exhibition period and/or the methods of consultation. This may occur where a submission provides reasonable justification for a request for an extension to the exhibition period or where Council is of the opinion an amendment to the consultation strategy would facilitate greater feedback on the draft Plan.

Following the exhibition period, a report on submissions would be presented to Council for its consideration.

The above activities are the minimum level of community consultation that would be undertaken. Council is currently investigating options to further engage with the community throughout the development of the Planning Proposal.

A draft planning proposal is attached to this report.

## CONSULTATION

The Quarry landfill project is being managed by Council's Works Division and a Working Party has been formed to oversee the progression of the project. The Working Party comprises the consultant, Executive Managers of Works, Environment and Planning, Manager of Design and Construction, Manager Water Catchments, Manager Town Planning Services and the Project Coordinator Design and Construction Branch.

## STATUTORY CONSIDERATIONS

In 2009, the State Government announced changes to the way that LEPs are progressed. A new system, known as the "gateway plan-making process", has been established to assist meet the Government's target of reducing the time taken to produce LEPs and to allow the steps in the system to be tailored to the complexity of individual LEPs. In accordance with the system, progression of the Planning Proposal would involve the following steps:

***Planning Proposal:*** Council is responsible for the preparation of a planning proposal for submission to the DP&I which explains the effect of, and justification for, the proposal.

***Gateway:*** The Minister (or delegate) determines whether a planning proposal is to proceed. This gateway acts as a checkpoint to ensure that the proposal is justified before further

studies are done and resources allocated to the preparation of a plan. If necessary, the proposal is amended. A community consultation process is also determined, including consultation with relevant public authorities.

**Community consultation:** The proposal is publicly exhibited for 14 days if deemed to be a “low impact proposal” or 28 days for “other proposals”.

**Assessment:** Council considers public submissions and the proposal is amended as necessary. Parliamentary Counsel then prepares a draft LEP.

**Decision:** With the Minister’s (or delegate’s) approval the plan becomes law and is published on the NSW legislation website.

To implement Council’s resolution to seek the necessary approvals to fill the Quarry, a Planning Proposal has been prepared as summarised in this report. As part of Council’s 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*. The Proposal is not inconsistent with any SEPP or relevant Section 117 Directions. An assessment of relevant SEPPs and Section 117 Directions is contained in the Planning Proposal.

### TRIPLE BOTTOM LINE SUMMARY

Triple Bottom Line (TBL) 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.

**Working with our community:** The future use and management of the Quarry and adjoining lands has been the subject of extensive community consultation including public meetings, workshops and focus groups. It is proposed that public exhibition material concerning the Planning Proposal would be readily accessible and understandable to all sectors of the community by providing a number of locations and means of communication.

**Conserving our natural environment:** A number of environmental factors are relevant to filling the Quarry including, traffic and access, noise, dust and vibration impacts, heritage, visual amenity, bushfire, geotechnical constraints and hydrogeology and drainage. More detailed consideration of environmental impacts would be undertaken, should they be required, following the Gateway Determination.

**Contributing to community development through sustainable facilities and services:** The Planning Proposal would facilitate the provision of a significant area of additional open space to assist cater for recreational needs of an increase in the number of residents and workers in Hornsby Shire.

**Fulfilling our community’s vision in planning for the future of the Shire:** The Planning Proposal would facilitate the provision of predominantly public recreation facilities and open space on the lands comprising the Quarry, in accordance with the current zoning.

**Supporting our diverse economy:** The Planning Proposal would likely have significant wider economic impacts associated with facilitating the delivery of major infrastructure projects by providing a pre-approved spoil disposal site. Furthermore, the Proposal would facilitate the provision of additional recreational facilities within the Hornsby Town Centre to support growth within the Major Centre.

***Maintaining sound corporate and financial management:*** In resolving to seek approval to fill the Quarry, Council also resolved that the process of filling the Quarry should be managed at no cost to Council and that movement of material to the pit, and in the immediate surrounds, be limited to that necessary for safety, operational reasons or where financially viable.

***Other sustainability considerations:*** No other sustainability considerations apply to the Planning Proposal.

## CONCLUSION

The Department of Planning and Infrastructure has confirmed that a planning proposal to rezone and reclassify the land is the appropriate statutory mechanism to enable the filling of the Quarry. Accordingly, the consultant engaged to progress the project has prepared a Planning Proposal to allow the filling of the Quarry as permissible development. It is recommended that Council endorse the Hornsby Quarry Planning Proposal for submission to the DP&I for Gateway Determination and exhibition.

## RECOMMENDATION

THAT:

1. Council endorse progression of the Hornsby Quarry Planning Proposal attached to Executive Manager's Report No. PLN61/11 to allow the filling of Hornsby Quarry as permissible development.
2. Pursuant to Section 56(1) of the *Environmental Planning and Assessment Act 1979*, Council forward the Planning Proposal to the Minister for Planning and Infrastructure seeking Gateway Determination to progress the preparation of the Planning Proposal.
3. Should the Minister determine under Section 56(2) of the *Environmental Planning and Assessment Act 1979* that the matter may proceed without significant amendment to the Proposal, Council publicly exhibit the Planning Proposal in accordance with the Minister's determination.
4. A public hearing pursuant to Section 57(6) of the *Environmental Planning and Assessment Act* be held following the exhibition of the Planning Proposal.
5. An independent facilitator be retained to conduct the public hearing for the reclassification of the land.
6. Following the exhibition, a report on submissions received in response to the public exhibition and at the public hearing be presented to Council.

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**Attachments:**

1. Hornsby Quarry Planning Proposal

File Reference: F2011/00979  
Document Number: D01718602