



the bushland shire

creating a living environment

BUSINESS PAPER

PLANNING MEETING

**Wednesday, 7 March, 2012
at 6:30 pm**

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AGENDA AND SUMMARY OF RECOMMENDATIONS

PRESENT

NATIONAL ANTHEM

OPENING PRAYER/S

Rev. Fergus Semler of Dural Anglican Church, 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-

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 1 February, 2012 be confirmed; a copy having been distributed to all Councillors.

PETITIONS

RESCISSION MOTIONS

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

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

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

**Item 1 PLN4/12 DEVELOPMENT APPLICATION - SUBDIVISION -
 ONE LOT INTO TWO - 30 AND 32 HALL ROAD HORNSBY**

RECOMMENDATION

THAT Development Application No. DA/971/2011 for the subdivision of proposed Lot 2 into two lots at Lot A DP 305378 and Lot B DP 317488, Nos. 30 & 32 Hall Road, Hornsby be approved subject to the conditions of consent detailed in Schedule 1 of this report.

C WARD DEFERRED**C WARD****GENERAL BUSINESS****Page Number 16**

**Item 2 PLN19/12 DRAFT COMPREHENSIVE LOCAL
 ENVIRONMENTAL PLAN - SECTION 65 CERTIFICATE**

RECOMMENDATION

THAT:

1. Council endorse the revised draft Comprehensive Local Environmental Plan (as discussed in Executive Manager's Report No. PLN19/12 and available for viewing at www.hornsby.nsw.gov.au/clep) for public exhibition.
2. A submission be made to the Department of Planning and Infrastructure requesting the Section 65 Certificate be re-issued to enable the revised Plan to be placed on public exhibition.
3. Should conditions of the re-issued certificate only require minor amendment to the draft Comprehensive Local Environmental Plan, the General Manager be delegated

authority to endorse and exhibit the Plan for a minimum of sixty days in accordance with the consultation strategy attached to Executive Manager's Report No.PLN92/10.

4. Following exhibition of the draft Comprehensive Local Environmental Plan, a report on submissions be presented to Council for its consideration.

Page Number 29

**Item 3 PLN20/12 OPTIONS FOR A REVIEW OF PLANNING
 CONTROLS IN GALSTON AND GLENORIE**

RECOMMENDATION

THAT Council determine a position concerning a review of planning controls for the Galston and Glenorie areas based on the options outlined in Executive Manager's Report No. PLN20/12.

CONFIDENTIAL ITEMS

QUESTIONS OF WHICH NOTICE HAS BEEN GIVEN

MAYORAL MINUTES

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QUESTIONS WITHOUT NOTICE

**1 DEVELOPMENT APPLICATION - SUBDIVISION - ONE LOT INTO TWO
30 AND 32 HALL ROAD HORNSBY**

Development Application No:	DA/971/2011
Description of Proposal:	Subdivision of a proposed lot into two lots.
Property Description:	Proposed Lot 2 in the re-subdivision of Lot A DP 305378 and Lot B DP 317488, Nos. 30 and 32 Hall Road, Hornsby
Applicant:	Ms Helen Hoang
Owner:	Hoangs Investments Pty Ltd
Statutory Provisions:	Hornsby Shire Local Environmental Plan 1994 Residential A (Low Density) Zone
Estimated Value:	\$2, 000
Ward:	B

RECOMMENDATION

THAT Development Application No. DA/971/2011 for the subdivision of proposed Lot 2 into two lots at Lot A DP 305378 and Lot B DP 317488, Nos. 30 & 32 Hall Road, Hornsby be approved subject to the conditions of consent detailed in Schedule 1 of this report.

EXECUTIVE SUMMARY

1. The application proposes the subdivision of an approved lot (Lot 2) into two lots.
2. The existing dwelling on proposed Lot 22 would exceed the maximum 0.4:1 floor space ratio development standard of the *Hornsby Shire Local Environmental Plan 1994*. The non-compliance is the subject of an objection pursuant to *State Environmental Planning Policy No. 1 – Development Standards*. The objection is considered well founded and is supported.
3. No submissions have been received in respect of the application.
4. It is recommended that the application be approved.

HISTORY OF THE SITE

On 17 March 2005, Council approved Development Application No. 1685/2004 for the demolition of an existing dwelling and garage at No. 30 Hall Road and subdivision of two lots into four lots and the retention of an existing two storey dwelling (No. 32 Hall Road). The lots have not been registered with the Department of Land and Property Information.

On 22 July 2011, Council approved Development Application No. 504/2011 for the erection of a new two-storey detached dwelling on approved Lot No. 2 to form a multi-unit housing development while retaining the existing dwelling-house. The approved dwelling is currently under construction (refer to attached plans).

THE SITE

The site (approved Lot No. 2) is located on the northern side of Hall Road and experiences an average grade of 4% to the frontage of the site. The site is rectangular in shape, has a frontage of 13.9 metres to Hall Road, a depth of 79.2 metres, and an area of 1,108m².

An existing two storey brick dwelling-house with in-ground swimming pool is located at the northern section of the site. Vehicular access to the dwelling is via a right of carriageway over the existing accessway to the two battleaxe lots approved under DA/1685/2004.

A 3.6 metre wide drainage easement over a piped drainage line crosses the central part of the lot. The site is flood affected as identified by Council's Draft Floodmap 2010. The 1 in 100 year overland flowpath of the drainage line has a width of 8.6 metres to 12.1 metres.

The surrounding area is primarily low density residential with one and two storey dwelling houses. Reddy Park is adjacent to the north of the site. The site is located 850 metres south west of the Hornsby Town Centre.

THE PROPOSAL

The application proposes the Torrens Title subdivision of Lot 2 into two lots.

Proposed Lot 21 is a rectangular shaped allotment with an area of 500m², an average fall of 10.8% and a frontage of 13.9 metres to Hall Road. A drainage easement crosses the proposed rear northern boundary. An in-ground swimming pool is located at the northern end of the allotment. Council approved DA/504/2011 for the construction of a two-storey dwelling-house on the site.

Proposed Lot 22 is a rectangular shaped allotment located at the rear of proposed Lot 21. The lot has an average fall of 8.7% from the northern boundary to the southern boundary and an area of 608m². Access to Lot 22 from Hall Road would be via the existing accessway which serves approved battleaxe lots 3 and 4. The drainage easement is located over the southern part of the proposed lot.

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). 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 2012.

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 the *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 500m² 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 Residential A Zones is 0.4:1. The proposed FSR of the existing dwelling-house on proposed Lot 22 of 0.47:1 is in non-compliance with the development standard. The applicant submitted an objection to the development standard pursuant to the *State Environmental Planning Policy No. 1 – Development Standards*. Refer to discussion in Section 2.2.

Clause 18 of the *HSLEP* sets out heritage conservation provisions within the Hornsby Shire area. Clause 18 is not applicable to this application as the subject property is not located within a Heritage Conservation Area or in the vicinity of a heritage item.

2.2 State Environmental Planning Policy No. 1 – Development Standards

The application has been assessed against the requirements of *State Environmental Planning Policy No. 1 – Development Standards* (SEPP 1). This Policy provides flexibility in the application of development standards in circumstances where strict compliance with those standards would be unreasonable or unnecessary or tend to hinder the attainment of the objectives of the *Environmental Planning and Assessment Act 1979*.

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

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 and 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 that:

“The existing two storey brick home will have all access via the new driveway which has been constructed to serve the new lots created by the approved subdivision. The utility services could utilise the conduits already installed for the approved subdivision thereby leaving the proposed Lots 21 and 22 free of any extra Easement for Services.

Lot 22 has ample private open space areas both front and back of the existing dwelling-house. The existing home is in fine condition and will be an adequate family home on the proposed Lot 22. Accordingly it is considered that the objectives of the Floor Space Ratio provisions and objectives of the zone as set out above are still achieved notwithstanding that the Floor Space Ratio (0.47:1) of the existing dwelling on the proposed Lot 22 slightly exceeds the 0.4:1 development standard.

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

Clause 15 of the *HSLEP* (Floor Space Ratio) states that the objective of the provision is:

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

The dwelling-house on the site is an existing structure. There are no changes proposed to the bulk and scale of the building. In this regard, the intensity and scale of the development remains unchanged albeit the size of the allotment is reduced in area from 1108m² to 608m². Therefore, subdivision would not result in a change to the built form and the amenity impacts on adjoining residential amenity would be consistent with existing development.

The detached dwelling at the frontage approved under DA/504/2011 satisfied both Clause 14 (Density) and Clause 15 (FSR) provisions of the *HSLEP*. The combined floor space ratio of the existing and approved dwelling complied with the floor space ratio requirement of 0.4:1 for the Residential A (Low Density) zone under Clause 15 of the *HSLEP*. In this regard, the subject site has previously been assessed as part of the approved multi-unit housing development as being capable of accommodating the existing dwelling and approved dwelling under construction in respect to the intensity and scale of development that is compatible with the low density residential zone.

The submitted *SEPP 1* objection is therefore considered well founded in respect to the above Principle No. 1 as the objectives of the FSR standard are achieved.

2.3 Sydney Regional Environmental Plan No. 20: Hawkesbury – Nepean Rivers

Sydney Regional Environmental Plan No. 20 aims to protect the environment of the Hawkesbury – Nepean Rivers system by ensuring that the impacts of future land uses are considered in a regional context.

The site is located within the catchment of the Hawkesbury – Nepean Rivers. Part 2 of the *Sydney Regional Environmental Plan No. 20* contains general planning considerations and strategies, and requires Council to consider the impact of any proposal on water quality, riverine scenic quality, aquaculture, recreation and tourism.

Given the location of the site, water quality is the only relevant issue for the assessment of this proposal. The proposed development would have negligible impacts on the water quality of the catchment area as the density and scale of the additional allotment and dwelling under construction would be consistent with the environmental capacity of the site.

2.4 Residential Subdivision DCP

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

Residential Subdivision Development Control Plan			
Control	Proposal	Requirement	Compliance
Site Area	1108m ²	N/A	N/A
Allotment Size			
<i>Lot 21</i>	500m ²	500m ²	Yes
<i>Lot 22</i>	608m ²	500m ²	Yes

As detailed in the above table, the proposed development complies with the prescriptive measures within the *Residential Subdivision DCP*. The merits of the proposal, as well as a brief discussion on compliance with relevant performance measures are detailed below.

2.4.1 Allotment Layout and Design

Proposed Lot 21 has a rectangular shape with a north/south orientation. The allotment would adequately accommodate a building envelope that would be sited clear of the overland flow path. The approved dwelling under construction on the proposed lot is satisfactory in this regard, and in providing sufficient front, side and rear boundary setbacks while providing for adequate private open space.

Proposed Lot 22 has a rectangular shape with north/south orientation. There would be an acceptable level of amenity provided in respect to private open space and vehicular access for the existing dwelling-house, subject to condition for removal of redundant driveway and landscaping.

The proposed allotment would accommodate development consistent with the capacity of the site and the low density residential zone. The proposal meets the objectives of the Allotment Layout element and is considered acceptable.

2.4.2 Density

The existing dwelling on proposed Lot 22 has a gross floor area of 281.6m² which equates to an FSR of 0.47. The FSR does not comply with the 0.4:1 development standard of the *HSLEP 1994*. The proposal is considered acceptable in this instance as the scale of the existing dwelling is consistent with the bulk and scale of existing low density residential development in the locality. The built form of both the existing dwelling and multi-unit housing development under construction has been approved by Council. The subject application is for the subdivision of the multi-unit housing development and would not alter the approved built form of the development.

2.4.3 Setbacks

The proposed setbacks of the existing and approved dwelling are acceptable in respect to the Setbacks element objective and the proposed common boundary.

2.4.4 Landscaping

The proposal includes the removal of the redundant driveway on proposed Lot 22 and replacement with lawn area. The inclusion of this lawn area would achieve a landscaped area

in compliance with the 45% prescriptive measure and provide amenity for the existing dwelling.

A condition requiring landscaping in accordance with the submitted landscape plan has been included in the conditions of consent.

2.4.5 Private Open Space

The existing dwelling on proposed Lot 22 has 98m² of private open space provided at the rear and approximately 60m² of open space at the front of the dwelling. The proposed open space is acceptable as it is in compliance with the prescriptive measure of the Private Open Space element.

The private open space of the approved dwelling on proposed Lot 21 would be reduced to 260m² which remains compliant with the prescriptive measure of the Private Open Space element.

2.4.6 Privacy

The existing dwelling-house on proposed Lot 22 has a balcony located at first floor level. The balcony is 13m² in area and limited in respect to privacy impacts as the small area would not facilitate any intensive entertainment activities.

Any overlooking would be further alleviated by 20 metres of separation from the second storey balcony to the rear boundary of proposed lot 21 and 30 metres of separation to the detached multi-unit housing development approved under DA/504/2011.

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

2.4.7 Vehicle Access and Parking

Proposed Lot 21 would be serviced by a new driveway providing direct access to Hall Road. Proposed Lot 22 would be serviced by the constructed driveway as required for the subdivision of DA/1685/2004. There are existing paved areas providing linkage from the existing dwelling of proposed Lot 22 to the constructed driveway and there is sufficient turning area at the front of the existing dwelling to allow for vehicles to exit in a forward direction.

The redundant driveway which runs across both proposed lots 21 and 22 would be removed to form landscaping for both lots.

2.4.8 Section 94 Contributions

The payment of a contribution towards local infrastructure was required for the additional dwelling-house approved under DA/504/2011. A provisionary condition requiring payment of section 94 contributions in the event the contributions required under DA/504/2011 are not paid has been included.

3. ENVIRONMENTAL IMPACTS

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

3.1 Natural Environment

The proposed development would not necessitate the removal of trees from the site.

3.2 Built Environment

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

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*”.

4.1 Flooding

A piped stormwater drain is located adjacent to the southern boundary of proposed Lot 22 and the northern boundary of proposed Lot 21 and as a consequence, the subject allotment has been identified as flood affected. The existing dwelling on proposed Lot 22 is sited above the 1 in 100 year flood level with the exception of a small portion of the non-habitable garage. In this regard, risk of stormwater inundation would be negligible.

Approved Lot 2 has established floor levels on title above the 1 in 100 year flood level. The approved dwelling on proposed lot 21 complies with this requirement.

The approved detached dwelling under construction on proposed Lot 21 demonstrates the lot accommodates development clear of the overland flowpath.

5. PUBLIC PARTICIPATION


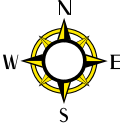
Section 79C(1)(d) of the Act requires Council to consider “*any submissions made in accordance with this Act*”.

5.1 Community Consultation

The proposed development was placed on public exhibition and was notified to adjoining and nearby landowners between 27 September 2011 and 20 October 2011 in accordance with Council’s *Notification and Exhibition Development Control Plan*. During this period, Council received no submissions. The map below illustrates the location of those nearby landowners who were notified that are in close proximity to the development site.



NOTIFICATION PLAN

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

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

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

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

CONCLUSION

The application proposes the subdivision of one lot into two lots.

The existing dwelling on proposed Lot 22 does not comply with the 0.4:1 floor space ratio development standard of the *HSLEP 1994*. Consequently the application has been supported by a submission under *State Environmental Planning Policy No. 1* seeking approval of a variation to this development standard.

The proposal generally complies with the requirements of Council's *Residential Subdivision DCP* other than the maximum floor space ratio which is acceptable with regard to the well founded *SEPP 1* objection.

The multi-unit housing development approved under DA/504/2011 complies with the requirements of both Clause 14 (Density) and Clause 15 (FSR) provisions of the *HSLEP*. In this regard, the proposed subdivision would not alter the approved built form of the development.

No submissions have been received in respect of the application.

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.

JAMES FARRINGTON
Acting Executive Manager - Planning
Planning Division

ROD PICKLES
Manager - Assessment Team 2
Planning Division

PAUL DAVID
Manager - Subdivision & Development
Engineering Services
Planning Division

Attachments:

1. Locality Plan
2. Plan for proposed re-subdivision
3. Surveyor's Plan for approved subdivision
4. Plans for approved dwelling on proposed Lot 21
5. Landscape Plan

File Reference: DA/971/2011

Document Number: D01818529

SCHEDULE 1

GENERAL CONDITIONS

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

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

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

1. Deferred Commencement

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

- a. The registration of the Plan of Subdivision creating proposed Lot 2 in accordance with the conditions of consent of DA/1685/2004. A stamped copy of the registered plan of subdivision must be submitted to Council.

Such information shall be submitted within 12 months of the date of this notice.

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

2. Approved Plans and Supporting Documentation

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

<i>Plan No.</i>	<i>Drawn by</i>	<i>Dated</i>
“Plan for prop. Re-subdivision” (Subdivision plan)	Unnamed	09.09.2011
“Plan for prop. Re-subdivision” (Existing dwelling plan)	Unnamed	09.09.2011
“Surveyor’s plan for approved subdivision”	Terry Edward Bartlett	08.02.2010

REQUIREMENTS PRIOR TO THE COMMENCEMENT OF ANY WORKS**3. 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.

4. 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.

REQUIREMENTS DURING CONSTRUCTION**5. 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.

6. 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 A SUBDIVISION CERTIFICATE**7. Sydney Water – s73 Certificate**

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

8. Creation of Easements

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

- a. An inter-allotment drainage easement(s) to connect all lots to a Council controlled drainage system, over any burdened lot, and a 150 mm diameter pipeline constructed within that easement.
- b. The creation of a “*Positive Covenant*” over the proposed Lot 21 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.

9. 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.

10. Boundary Fencing

Fencing must be erected along all property boundaries 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).

11. Landscaping

Paved areas are to be reinstated to landscaping in accordance with the approved landscape plan.

12. s94 Infrastructure Contributions

In the event that the contribution required under DA/504/2011 is not paid, the payment to Council of a contribution of \$20,000 for one additional lot 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.

OPERATIONAL CONDITIONS

13. Minimum Flood Planning Level (FPL)

All future proposed habitable and lockable rooms for any dwelling or other building on any Lot shall be constructed on a level higher than any level line perpendicular to and coincident with the water flow line represented by joining points “U” and “V” from the relevant deposited plan being at FPL levels 156.60 m AHD and 155.90 m AHD respectively.

- 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.

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 - including Ausgrid and Telstra - have been met.

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

Fees and Charges – Subdivision

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

Dial Before You Dig

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

House Numbering

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

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.

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

2 DRAFT COMPREHENSIVE LOCAL ENVIRONMENTAL PLAN - SECTION 65 CERTIFICATE

EXECUTIVE SUMMARY

In June 2011, Council endorsed a draft Comprehensive Local Environmental Plan (CLEP) for public exhibition and resolved that a submission be made to the Department of Planning and Infrastructure (DP&I) requesting certification to enable the draft Plan to be placed on public exhibition. Accordingly, a submission was made requesting certification of the draft Plan.

In October 2011, Council received a Section 65 Certificate from the Department. The Certificate includes conditions with which Council is required to comply prior to the draft CLEP being placed on public exhibition. The conditions of certification have been reviewed, consultation with the Department undertaken and a revised draft CLEP prepared for Council endorsement.

It is recommended that the revised draft CLEP (available for viewing at www.hornsby.nsw.gov.au/clep) be endorsed for public exhibition and the Department requested to re-issue the Section 65 Certificate based on the revised Plan.

PURPOSE

The purpose of this report is to advise Council of the Section 65 Certificate issued by the DP&I and seek endorsement of a revised draft CLEP for public exhibition that addresses the conditions of the Certificate.

BACKGROUND

At its meeting on 1 June 2011, Council considered Executive Manager's Report No. PLN46/11 reviewing submissions received in response to consultation undertaken with public authorities in the preparation of the draft CLEP. The report notes that the preparation of Council's draft Plan has principally been a process of transferring Council's current planning instrument, the *Hornsby Shire Local Environmental Plan 1994 (HSLEP)*, into the NSW Government's *Standard Instrument LEP* format. The report also notes that the draft Plan has been informed by local planning studies undertaken by Council to respond to obligations under regional planning strategies and to satisfy Section 33A of the *Environmental Planning and Assessment Act* concerning the making of a new principal LEP for the Shire. Council resolved that:

1. *Council endorse the revised draft Comprehensive Local Environmental Plan attached to Executive Manager's Report No. PLN46/11 for public exhibition.*
2. *A submission be made to the Department of Planning and Infrastructure pursuant to Section 64 of the Environmental Planning and Assessment Act, 1979 requesting certification to enable the draft Comprehensive Local Environmental Plan to be placed on public exhibition.*

3. *Should conditions of certification only require minor amendment to the draft Comprehensive Local Environmental Plan, the General Manager be delegated authority to endorse and exhibit the Plan for a minimum of 60 days in accordance with the consultation strategy attached to Executive Manager's Report No. PLN92/10.*
4. *Following exhibition of the draft Comprehensive Local Environmental Plan, a report on submissions be presented to Council for its consideration.*

On 16 June 2011, Council forwarded a submission to the DP&I pursuant to Section 64 of the *EP&A Act* requesting certification to enable the draft CLEP to be placed on public exhibition. On 11 October 2011, Council received a Section 65 Certificate (copy attached) from the DP&I.

The Certificate includes conditions with which Council is required to comply prior to the draft CLEP being placed on public exhibition. These conditions include making a number of amendments to provisions within the draft Plan that implement Council endorsed planning strategies. The Certificate also requires that a number of minor amendments to the format of the written instrument and maps be made after exhibition.

To progress the draft Plan as certified (or a Department accepted variation of same) to public exhibition necessitates further Council endorsement. Accordingly, this report reviews the conditions of certification, identifies further consultation undertaken with the Department and presents a revised draft CLEP for Council endorsement.

DISCUSSION

The following discussion provides a summary of the review process, identifies the Section 65 Certificate conditions that have been included and not included in the redrafting of the Plan, and outlines other matters requiring change to the draft Plan.

1. Peer Review and Consultation

In March 2011, funding was granted to Council by the DP&I for additional planning and GIS mapping services to assist with the accelerated delivery of Council's draft CLEP. In July 2011, Council engaged the services of SJB Planning Consultants to assist in tasks including a peer review of the draft CLEP and reviewing submissions following exhibition of the draft Plan. SJB subsequently embarked on its peer review of the draft Plan.

In December 2011, Council staff met with representatives from the DP&I to discuss the Section 65 Certificate and to seek preliminary feedback on strategies for addressing the conditions requiring amendment to provisions that implement Council endorsed planning strategies. The DP&I advised that Council would need to accept the request, justify the retention of Council's provisions or make recommendations for alternate provisions. Accordingly, the scope of the peer review of the draft Plan was extended to cover the conditions imposed by the Section 65 Certificate.

In January 2012, SJB completed the peer review of the draft Plan. The Review identifies that the draft CLEP (as previously drafted) is generally sound. The Review provides a series of recommendations to address the amendments identified in the Section 65 Certificate. The Review also provides a number of recommendations that respond to changes to planning

legislation, wording in gazetted *Standard Instrument* based LEPs and Council resolutions made since Council last considered the draft CLEP.

In January 2012, Council staff met with representatives from the DP&I to present the recommendations of the peer review. The Department considered the recommendations and provided feedback concerning drafting of the revised Plan.

2. Section 65 Certificate

The following discussion identifies the major amendments to the draft Plan conditioned by the Certificate to be made prior to public exhibition and those amendments that have been included in the revised draft Plan and those that have not.

Conditions Included

The conditions of the Certificate that have been included and an explanation concerning why they can be made without impacting on Council endorsed planning strategies are identified below under the relevant part of the Plan.

Part 1 - Preliminary

- The draft Plan was certified subject to the deletion of the words “*and are compatible with the character and infrastructure capacity of areas*” from Aim 1.2(2)(c). The words are not necessary as the key development standards within the draft Plan require that development proposals are assessed against the “*site constraints, development potential and infrastructure capacity of the locality*”.

Part 2 - Permitted or Prohibited Development

- *Rural Land Use Zones:* The draft Plan was certified subject to deletion of an objective from the rural zones and their replacement with an alternate objective. The alternate objective has been included but modified slightly as follows “*To ensure that development in the area does not unreasonably increase the demand for public infrastructure, services or facilities*” so that it generally achieves the same intent as the original objective.
- *Residential Land Use Zones:* The draft Plan was certified subject to deletion of the objective “*To enable development that is compatible with the character and within the infrastructure capacity of the area*” from the residential zones. The objective is not necessary as key development standards within the draft Plan require that development proposals are assessed against “*site constraints, development potential and infrastructure capacity of the locality*”.
- *Business Land Use Zones:* The draft Plan was certified subject to deletion of the objective “*To encourage appropriate employment opportunities in accessible locations*” from the B5 Business Development zone. As the B5 zone extends along the Pacific Highway and Pennant Hills Road, the objective cannot be achieved in relation to accessibility in all circumstances and therefore has been removed.
- *Industrial Land Use Zones:* The draft Plan was certified subject to prohibition of a number of land uses in the IN1 General Industrial and IN2 Light Industrial Zones as the Department is concerned that some land uses proposed may impact on the

employment/industrial use of the land. Health consulting rooms, hospitals, medical centres, car parks and entertainment facilities have therefore been prohibited in both the IN1 and IN2 zones. Also, registered clubs have been prohibited in the IN1 zone and amusement centres prohibited in the IN2 zone.

- The draft Plan was certified subject to prohibition of dwelling houses in the IN4 Working Waterfront zone. Dwelling houses are inconsistent with the zone objectives and therefore have been prohibited.
- *Special Purpose Land Use Zones:* The draft Plan was certified subject to a minor change in labelling on the Land Zoning Map for a number of special uses zoned sites to reflect definitions within the *Standard Instrument* dictionary.
- *Recreation Land Use Zones:* The draft Plan was certified subject to the prohibition of public administration buildings from the RE2 Private Recreation zone. Public administration buildings are inconsistent with the zone objectives and therefore have been prohibited.
- *Environmental Protection Land Use Zones:* The draft Plan was certified subject to the prohibition of recreation facilities (indoor) in the E3 Environmental Management zone. Recreation facilities (indoor) have been prohibited as the definition permits land uses (eg. bowling alleys and ice rinks) inappropriate on steep lands and floodplains.

Part 4 - Principal Development Standards

- *Minimum Subdivision Lot Size:* The draft Plan was certified subject to the use of two new model provisions, relating to minimum subdivision lot sizes for community title schemes and strata plans. The model provisions preclude community title and strata subdivision of residential accommodation or tourist and visitor accommodation in certain zones and therefore have been included.
- *Floor Space Ratio:* The draft Plan was certified subject to deletion of Area 6 relating to a special FSR provision for the Pennant Hills Hotel site. Area 6 provisions in Council's draft CLEP sought to promote the development of a public car park on the site. However, having regard to commercial viability, redevelopment in accordance with the existing provisions is unlikely. The provision of public carparking within the Centre would be reviewed as part of the review of the Pennant Hills Masterplan scheduled to be undertaken in accordance with the Strategic Planning Programme. Accordingly, the provisions relating to Area 6 have been removed and corresponding changes to the Height of Building Map have been made.

Part 6 - Local Provisions

- *Acid Sulfate Soils:* The draft Plan was certified subject to the deletion of Clause 6.3(7) providing an exemption from the need to submit an acid sulfate soils management plan. Clause 6.3(7) is not necessary as ploughing, scarifying, tilling and ripping are unlikely to penetrate the ground surface by more than a metre (i.e. the requirement for the highest class of Acid Sulfate Soil lands where agriculture is permitted). The clause has therefore been deleted.

- *Natural Resource Biodiversity:* The draft Plan was certified subject to replacement of the Natural Resource Biodiversity clause with the latest model clause. The differences between the clauses are minor and do not materially change the affect of the existing clause.
- *High Risk Flood Planning Areas:* The draft Plan was certified subject to the use of the Department's model clause that includes a definition of "flood planning area". Council included reference to "high risk flood planning areas" in response to recent changes to the *Housing Code SEPP* which permit complying development in "low risk" flood planning areas. The additional reference to "high risk" was included in response to the lack of clear guidelines to certifiers as to what constitutes "high risk" flood planning areas. Rather than pursue a variation on the model clause, the Department has been requested to clarify the relevant guidelines.

Schedule 1 - Additional Permitted Uses

- The draft Plan was certified subject to the deletion of a number of Items or elements of Items under the Schedule. The Items and elements of Items requested to be deleted that should be accepted are:
 - *Item 4 - Use of certain land at Dural in zone RU2:* (i.e. delete recreation areas/facilities at Pacific Hills Christian School subject to site area and student limits). Educational facilities are permitted with consent in the RU2 zone under the *Infrastructure SEPP*. Further, recreation areas and facilities are permitted with consent in the zone under the draft CLEP. Student limits will be included in Council's draft Comprehensive DCP. Accordingly, the additional permitted use is not included;
 - *Item 9 - Use of certain land at Glenorie in zone RU4:* (i.e. delete pharmaceutical research, development and manufacturing facility). A development application has been lodged to formalise the pharmaceutical research, development and manufacturing facility. The application is currently under assessment. The draft CLEP includes savings provisions for DAs lodged but not determined enabling Council to consider the development without the additional permitted use;
 - *Item 10 - Use of certain land at Hornsby and Waitara in zone R4:* (i.e. delete medical centres). Medical centres are permitted with consent in the R4 zone under the *Infrastructure SEPP*. Accordingly, the additional permitted use is not required; and
 - *Item 11 - Use of certain land at Hornsby and Waitara in zone R4:* (i.e. delete office premises and the words "on the ground floor"). Office premises on the ground floor would not promote 'active street frontages' and therefore the use has been removed. The remaining additional permitted uses would, by nature, only be located on the ground floor.

Conditions Not Included

The conditions of the Certificate that have not been included in the revised draft Plan and an explanation concerning why the provisions should be retained, or an alternate response provided, are identified below under the relevant part of the Plan.

Part 1 - Preliminary

- The draft Plan was certified subject to deletion of the first aim of the Plan, namely the aim that provides Council's vision. The aim of the draft Plan has been redrafted having regard to the vision contained in Council's *Community Plan 2010 - 2020* and a best practice example in the recently gazetted *Penrith LEP 2010*.

Part 2 - Permitted or Prohibited Development

- *Rural Land Use Zones:* The draft Plan was certified subject to deletion of additional use provisions for Dural Village. The provisions permitted a number of commercial land uses where limited in gross floor area. The additional use provisions for Dural Village have been deleted and instead (along with shop top housing) included as permitted development under the RU5 Village zone. A 0.5:1 floor space ratio (FSR) on the FSR Map and a local provision to restrict the scale and intensity of development in Dural Village has also been included.
- *Special Purpose Land Use Zones:* The draft Plan was certified subject to deletion of the local objectives from the SP3 Tourist zone. The Department advised that these objectives potentially contradicted the primary objective, namely to promote tourist development. However, the Department also encouraged Council to develop alternate zone objectives that reinforce the primacy of tourism related uses. Accordingly, appropriate objectives have been drafted. A 0.5:1 FSR on the FSR Map to control the scale and intensity of commercial land uses has also been included to reinforce the nature of development that is promoted in the SP3 zone.
- *Recreation Land Use Zones:* The draft Plan was certified subject to the prohibition of car parks, entertainment facilities and public administration buildings from the RE1 Public Recreation zone. Entertainment facilities have been prohibited in the zone. However, there is limited land available for the establishment of car parks (at grade and/or multi storey) in Brooklyn and Berowra Waters to support the identified parking needs of river residents. There are a number of open space lands in these suburbs that could provide for the establishment of same and still maintain a recreation function. These open space lands could also provide for remote Council and/or State Government agency offices that need to be located near the river (eg. Fisheries). Accordingly, car parks and public administration buildings have been retained as permitted land uses in the RE1 zone.
- The draft Plan was certified subject to the change of the zoning of two bowling clubs (located in the suburbs of Epping and North Epping) from RE1 Public Recreation to RE2 Private Recreation. It is understood that the Department is requesting this change in recognition of the private ownership of the lands and as "registered clubs" are permitted under the RE2 zone. The bowling clubs are both marked for acquisition by Council on the Land Reservation Acquisition Map.

Accordingly, Council's intention is to secure the land for public recreation purposes which better aligns with the RE1 zone.

Part 4 - Principal Development Standards

- *Minimum Subdivision Lot Size:* The draft Plan was certified subject to the deletion of local provisions that permit a reduced allotment size where the subdivision facilitates development for the purposes of recreation areas and/or facilities that form part of the Pacific Hills Christian School. The School is zoned RU2 and educational establishments are permitted with consent under the *Infrastructure SEPP*. Further, recreational areas and facilities are permitted with consent under the RU2 zone of the draft CLEP. Accordingly, the local provisions have been deleted however, the minimum lot size on the Minimum Lot Size Map has been reduced to 5,000sqm for the subject land to achieve generally the same intent as the original clause.
- *Floor Space Ratio:* The draft Plan was certified subject to the adoption of redrafted provisions relating to areas that benefit from bonus FSR provisions so that the maximum FSR is shown on the map and the lesser FSR requirement for various land uses is contained in the written provisions. The redrafted provisions provide greater clarity and transparency, with the exception of the special FSR area provisions relating to mixed use development in Council's Housing Strategy precincts (i.e. Area 5). Accordingly, the Department's provisions have been redrafted having regard to Council's intent.

Part 6 - Local Provisions

- *Location of Sex Services Premises:* The draft Plan was certified subject to the replacement of the existing Location of Sex Services Premises clause with the Department's model clause. The existing clause varies the Department's model clause to require Council to consider specified impacts in determining an application in sensitive locations, irrespective of the zone where a sensitive land use is located. The Department's model clause would not require Council to consider the impacts that a sex service premises may have on an amusement centre, entertainment facility or other land use not listed in the model clause that is likely to be regularly frequented by children and could adjoin sex services premises. Accordingly, the existing clause has been retained.
- *Earthworks:* The Earthworks clause in the draft CLEP includes a variation to the Department's model clause. The modified clause aims to prohibit earthworks in the E2, W1 and W2 zones, consistent with recommendations from the *Waterways Review 2006*. However, the draft Plan was certified subject to the model Earthworks clause being used. The principles behind the prohibition of earthworks in the E2, W1 and W2 zones remain relevant, namely to prohibit land reclamation. There is no alternate method available under the draft CLEP to achieve same. Accordingly, the existing earthworks clause has been retained.

Schedule 1 - Additional Permitted Uses

- The draft Plan was certified subject to the deletion of a number of Items or elements of Items under the Schedule. The Items or elements of Items requested to be deleted that should be included or where an alternate response is required

are:

- *Item 3 - Use of certain land at Brooklyn in zone RE1* (i.e. delete boat launching ramps, a caretaker's residence and jetties at Kangaroo Point). A caretaker's residence is not defined under the *Standard Instrument* and could be permitted as ancillary development. Accordingly, its reference has been removed. Boat launching ramps and jetties not primarily used for recreation purposes may not be covered by the Water Recreation Structures definition. Accordingly, boat launching ramps and jetties have been retained as additional permitted uses;
- *Item 5 - Use of certain land at Dural in zone RU5* (i.e. delete various low scale and low intensity commercial uses at Dural Village). As discussed above, the additional use provisions have been deleted and instead included as permitted development under the RU5 Village zone. A 0.5:1 FSR on the FSR Map and a local provision to restrict the scale and intensity of development in Dural Village has also been included;
- *Item 7 - Use of certain land at Dural in zone IN2* (i.e. delete bulky goods premises at Dural Service Centre). Having regard to the zones available under the *Standard Instrument*, the *Dural Service Centre Study (2010)* recommended the IN2 zone be applied to a component of the Dural Service Centre and that bulky goods premises be permitted within that area. The relevance of permitting the land use in the Dural Service Centre has potentially increased with the announcement that the rural zoned areas of "South Dural" and "North Glenhaven" are being considered for residential land release as part of the DP&I's review of potential housing opportunities on landowner nominated sites. Accordingly, bulky goods premises has been retained as an additional permitted use; and
- *Item 8 - Use of certain land at Glenorie in zone RU4* (i.e. delete fruit shop with floor space limits). The fruit shop would potentially benefit from existing use rights (therefore not requiring the additional permitted use). However, due to size of the site (2ha) the use could expand without a floor space limitation. The fruit shop has been removed as an additional permitted use. However, a 0.02:1 FSR has been applied over the land on the FSR Map to limit the size of the existing fruit shop to approximately 400sqm.

3. Changes to Planning Legislation and Council Resolutions

The major peer review recommendations (and corresponding amendments to the draft CLEP) that respond to recent changes to planning legislation, wording in gazetted *Standard Instrument* based LEPs and Council resolutions are identified below under the relevant part of the Plan.

Part 2 - Permitted or Prohibited Development

- *Land Use Zones:* The Review notes that "seniors housing" is permitted in urban zones under the draft CLEP to reflect the *Seniors Housing SEPP*. The *Seniors Housing SEPP* contains detailed development standards for seniors housing. The removal of FSR from residential zones under the draft CLEP removes the primary development control for seniors housing potentially resulting in greater

development opportunity under the draft CLEP than the *SEPP*. Therefore, the peer review recommends that the permissibility of seniors housing should be via the *Seniors Housing SEPP*. Accordingly, reference to “seniors housing” as a permitted land use under the draft CLEP has been removed.

- The Review notes that water supply systems, including water reticulation systems, are permitted under the *Infrastructure SEPP* where constructed by, or on behalf of, a public authority. However, the *SEPP* does not cover situations where private persons seek to connect to water. The draft CLEP has been amended to permit water reticulation systems in appropriate zones.
- The Review notes that mortuaries are prohibited and there are limited sites where cemeteries are permitted in the Shire. The draft CLEP has been amended to permit “cemeteries” under the recreation zones and “mortuaries” under the IN1 General Industrial and IN2 Light Industrial zones.
- The Review notes that garden centres, landscaping material supplies and plant nurseries are permitted in various rural zones under the draft CLEP. Rural supplies are similar in nature to the aforementioned land uses but were not permitted in the rural zones. They are permitted in the Dural Service Centre which was originally established to service the rural needs of the Shire. However, the zone and function of the Centre has changed. Rural supplies are proposed to be permitted in rural zones by the Hills Shire Council. Accordingly, rural supplies have been permitted in various rural zones in the revised draft CLEP.
- On 2 September 2011, the *Housing Strategy LEP* was gazetted and facilitated a mix of higher density housing types in various suburbs throughout the Shire. However, the draft Berowra and Mount Colah Commercial Centre precincts forwarded as part of Council’s *Housing Strategy Planning Proposal* were not gazetted. Accordingly, relevant maps have been revised to no longer promote high density housing in these precincts.
- At its meeting on 5 October 2011, Council considered Executive Manager’s Report No. PLN 71/11 presenting options for promoting affordable housing opportunities in the Shire. The report notes that the preparation of the new CLEP provides the opportunity for Council to introduce previously undefined housing types as permitted land uses should Council see merit in same. Council resolved to defer consideration of the matter to allow an informal briefing of Councillors. A workshop on the matter was held on 22 February 2012. The outcome of the workshop was not known at the date of finalisation of this report.

The *Affordable Housing SEPP* permits secondary dwellings in residential zones. The draft CLEP has been revised to permit “secondary dwellings” in rural zones and the development controls for same be 60m² or 20% of the total floor area of the principal dwelling, whichever is greater. The draft CLEP has been revised to permit “hostels” in the B2 and B4 zones.

Part 4 - Principal Development Standards

- *Floor Space Ratio*: In light of a recent Planning Assessment Commission approval for a day surgery at property No. 1A Northcote Road, Hornsby, rather than rely solely on height limit, it is appropriate to apply a 0.5:1 FSR to control

the scale and intensity of development over those lands currently zoned Residential AM under the *HSLEP* and proposed to be zoned SP2 - Health Services Facility under the draft CLEP. A 0.5:1 FSR is consistent with FSR applied to B1 Neighbourhood zoned land and would best translate Council's adopted planning strategy for the area.

- *Height of Buildings:* Preparation of Council's draft Comprehensive DCP has identified that the building height for the R3 Medium Density Residential zone should increase slightly to enable the development of 2 storey residential flat buildings with an attic. Accordingly, the height of building maps have been revised from 10m to 10.5m for the areas zoned R3 - Medium Density Residential.
- The peer review notes that the building heights proposed for industrial zones restrict appropriate clearance for trucks accessing loading docks. Accordingly, a review of recent industrial building DAs approved within the Shire and the Department's *Commercial and Industrial Code SEPP Discussion Paper* was undertaken to determine appropriate heights. The height for 2 and 3 storey industrial developments, namely the 8.5m height limit has been revised to 10.5m and the 12m height limit has been revised to 14.5m.

Part 5 - Miscellaneous Provisions

- *Relevant Acquisition Authority:* The *Housing Strategy DCP* came into force on 15 September 2011 upon the gazettal of the *Housing Strategy LEP*. The DCP includes a Traffic Management Improvement Plan to facilitate orderly and efficient development in the Asquith Commercial Centre precinct. The Plan involves the acquisition of two properties and extension of Wattle Street. Accordingly, the Relevant Acquisition Authority clause and corresponding map have been revised to implement the Plan.
- Council undertook an *Open Space Land Acquisition Review* in 2006 and identified certain local open space lands that would not address the recreational needs of residents. In 2008, Council resolved to rezone those lands not required, including two parcels of land owned by the Metropolitan Local Aboriginal Land Council (MLALC). Council sought comment from the MLALC to assist in determining an appropriate zone for the lands under the draft CLEP. In June 2011, the Office of Strategic Lands requested the rezoning of regional open space also owned by the MLALC that directly adjoins the subject local open space zoned land. Accordingly, the lands have been zoned E3 Environmental Management and the Land Reservation and Acquisition Map revised.
- In November 2011, the Roads and Maritime Services (RMS) requested a number of changes be made to the classified road reservations on the Land Reservation and Acquisition Map. The RMS provided additional information to support the requests, including certificates of title and property dealings. The requests have been reviewed and revisions made where appropriate.

Part 6 - Local Provisions

- *Stormwater:* The peer review notes that the Stormwater clause is based on the Department's model clause. However, practical implementation of the model clause would be difficult as it seeks to impose the same matters for consideration

for residential, business and industrial development which have different urban forms and impacts. Accordingly, the Stormwater clause has been removed from the draft CLEP and the development specific stormwater management/water sensitive urban design provisions have been included in Council's draft Comprehensive DCP.

Schedule 5 - Environmental Heritage

- At its meeting on 1 June 2011, Council resolved to endorse the Wahroonga North Heritage Conservation Area (HCA) for inclusion in the *HSLEP*. On 2 September 2011, the amendment to include the HCA was gazetted. Accordingly, the schedule in the draft CLEP has been updated.
- Various minor amendments have been made to the property descriptions of heritage items having regard to recently registered subdivisions.

STATUTORY CONSIDERATIONS

Statutory considerations were addressed in Executive Manager's Report No. PLN92/10 considered at Council's meeting on 1 December 2010. This report identifies the conditions of the DP&I's Section 65 certificate and reviews same having regard to Council's ability to implement its previously endorsed planning strategies. This report reviews other provisions of the draft Plan having regard to changes to planning legislation, wording in gazetted *Standard Instrument* based LEPs and Council resolutions made since Council last considered the draft CLEP which have implications for its preparation. This report also presents a revised draft Plan for endorsement for public exhibition. Should Council endorse the revised draft CLEP, the Department would be requested to re-issue the Section 65 Certificate based on the revised Plan.

BUDGET

Council's new Comprehensive LEP has been prepared with resources allocated to the Town Planning Services Branch under the adopted Strategic Planning Program.

In March 2011, \$89,600 was granted to Council by the DP&I as part of its Local Environmental Plan Acceleration Fund. The funding was granted for Council for additional planning and GIS mapping services to assist with the accelerated delivery of its Plan. Monies have been expanded from the grant to fund the preparation of the peer review of the draft CLEP.

CONSULTATION

A peer review of draft Plan having regard to the conditions of certification has been undertaken by SJB Planning Consultants. Council officers have discussed the conditions of certification and recommendations of the Review with the DP&I on two occasions to inform the preparation of the revised draft CLEP.

CONSULTATION STRATEGY

A Consultation Strategy for the draft CLEP was outlined in Executive Manager's Report No. PLN92/10 and endorsed by Council at its meeting on 1 December 2010. In summary, the draft Plan is proposed to be exhibited for a minimum of 60 days, including advertisement in local newspapers and on Council's website, notification of relevant public authorities and

community and interest groups, distribution of a brochure and use of the 'Have Your Say' website.

TRIPLE BOTTOM LINE SUMMARY

The Triple Bottom Line Summary for the draft CLEP was addressed in Executive Manager's Report No. PLN92/10.

CONCLUSION

Council has received a Section 65 Certificate from the Department. However, the Certificate includes conditions within which Council is required to comply prior to exhibiting the draft CLEP.

To progress the draft Plan as certified (or a Department accepted variation of same) to public exhibition necessitates further amendments to the CLEP and Council endorsement. Accordingly, it is recommended that the revised draft CLEP (available for viewing at www.hornsby.nsw.gov.au/clep) be endorsed for public exhibition and the Department requested to re-issue the Section 65 Certificate based on the revised Plan.

RECOMMENDATION

THAT:

1. Council endorse the revised draft Comprehensive Local Environmental Plan (as discussed in Executive Manager's Report No. PLN19/12 and available for viewing at www.hornsby.nsw.gov.au/clep) for public exhibition.
2. A submission be made to the Department of Planning and Infrastructure requesting the Section 65 Certificate be re-issued to enable the revised Plan to be placed on public exhibition.
3. Should conditions of the re-issued certificate only require minor amendment to the draft Comprehensive Local Environmental Plan, the General Manager be delegated authority to endorse and exhibit the Plan for a minimum of sixty days in accordance with the consultation strategy attached to Executive Manager's Report No. PLN92/10.
4. Following exhibition of the draft Comprehensive Local Environmental Plan, a report on submissions be presented to Council for its consideration.

JASON RAWLIN
Acting Manager - Town Planning Services
Planning Division

JAMES FARRINGTON
Acting Executive Manager
Planning Division

Attachments:

1. Section 65 Certificate

File Reference: F2007/00692-04

Document Number: D01868156

3 OPTIONS FOR A REVIEW OF PLANNING CONTROLS IN GALSTON AND GLENORIE

EXECUTIVE SUMMARY

In May 2011, Council resolved that a report be prepared for Council's consideration outlining options to prepare planning controls that provide greater housing choice in the Galston and Glenorie areas. This report outlines Council's existing controls and vision for the areas, discusses opportunities and constraints to the provision of greater housing choice and presents the following options for a review of controls:

- Nominate Galston and Glenorie for investigation for inclusion on the State Government's *Metropolitan Development Program*;
- Reduce allotment sizes in the Galston and Glenorie areas while retaining the rural character and lifestyle; or
- Retain the current controls.

The advantages and disadvantages of each option are outlined in the report. It is acknowledged that the identification of additional housing opportunities in the Galston and Glenorie areas would assist in addressing the dwelling targets under the State Government's *Metropolitan Strategy*. However, this aim should be balanced against the value of rural and resource lands. For rural resource lands to be sustainable they require long term security and without this, there will be insufficient capital investment, undermining the future of rural and resource lands.

Should Council consider the progression of any option to review housing opportunities in the Galston or Glenorie areas, it would be appropriate to consult with the Department of Planning and Infrastructure in this first instance to determine its position. This would enable Council to obtain preliminary advice prior to undertaking the necessary supporting studies and community and stakeholder consultation.

This report recommends that Council determine a position concerning a review of planning controls for the Galston and Glenorie areas based on the options presented.

PURPOSE

The purpose of this report is to outline options for a review of planning controls to provide greater housing choice in the Galston and Glenorie areas.

BACKGROUND

At its meeting on 4 May 2011, Council considered Notice of Motion No. NOM7/11 and resolved that a report be prepared for Council's consideration outlining the proposed planning controls under the *Comprehensive Local Environment Plan* for the Galston and Glenorie areas. Council also resolved that the report include options to prepare planning controls

that provide greater housing choice in the Galston and Glenorie areas having regard to the NSW Government's commitment to construct sewerage infrastructure in the areas in the short term and the Government's commitment to facilitating an increased supply of greenfield housing in the Sydney metropolitan region. The report should also include a preliminary analysis of any constraints to development, including (but not limited to) appropriate allotment sizes, agricultural viability of land, infrastructure and services, transport and environmental constraints.

This report provides the above information in accordance with Council's resolution.

DISCUSSION

This report outlines Council's existing controls and vision for the Galston and Glenorie areas, discusses opportunities and constraints to the provision of greater housing choice within these areas and presents options for a review of planning controls.

In considering options to provide greater housing choice, it is appropriate to consider Council's rural lands strategies, previous reviews of allotment sizes in the Galston area and current and proposed planning controls for the area. It is also appropriate to consider the current State and regional planning context.

1. Hornsby Rural Lands Strategies

Council's rural lands strategies are discussed below in terms of the *Rural Lands Study* undertaken in 1995 and the more recent *Rural Resource Lands Study* prepared in 2006.

1.1 *Rural Lands Study*

In 1995, Council prepared the *Rural Lands Study* which reviewed the environmental, social, economic and planning issues relevant to the rural areas of the Shire. The *Study* notes that although the value of agriculture in Hornsby Shire is a small component of the value of agricultural production in Sydney, agriculture in the Shire is an important contributor to the local economy. The *Study* comments that the major threat to the continuation of agriculture in the Shire derives from the pressure created by the growth of urban and rural/residential development within the region. This pressure leads to more specific threats to agriculture including fragmentation of agricultural land, uncertainty about the future use of the land for agriculture, and the relatively high value placed on the land.

In recognition of the benefits of agriculture and potentially productive agricultural land, and to minimise the pressures on agricultural land uses, the *Study* recommends that agriculture be recognised as a legitimate constraint to urban and rural/residential development. With respect to population growth, the *Study* concludes that demand for rural/residential and urban encroachment should be resisted where inadequate or insufficient infrastructure is available or where natural environments and existing or potentially productive agricultural land may be compromised. Given the availability of existing infrastructure and services and the likely economic benefits to local commerce, the *Study* recognises that the preferred strategy to address demand for additional housing is to accommodate growth within existing villages. The current rural zones embodied in the *Hornsby Shire Local Environmental Plan 1994 (HSLEP)* are based on the recommendations of the *Study*.

1.2 Rural Resource Lands Study

The *Rural Resource Lands Study* was co-ordinated by the Hills Council in 2006 on behalf of a number of Sydney Councils, including Hornsby. The *Study* was undertaken in response to concerns by a number of councils that the protection of rural lands was not being adequately addressed at a regional level.

The *Study* recognises the significance of rural and resource lands and comments that the Councils involved in the *Study* have generally attempted to protect the future of such lands. However, the *Study* notes the absence of a clear strategy for these lands within the Sydney metropolitan region and the lack of regional recognition has led to uncertainty regarding their future, in turn resulting in land banking, property speculation and pressure for subdivision.

The *Study* emphasises that for rural resource lands to be sustainable, they require long term security and that without this there will be insufficient capital investment. The *Study* notes that the establishment of a clear urban growth boundary would assist in preventing land speculation and the resultant pressure on land prices, so that they more closely reflect the current planning controls rather than speculative development potential.

The *Study* establishes a vision for the role of rural lands in the region, addresses the regional rural economy, incorporates links to the *Metropolitan Strategy* and addresses sustainability issues. The *Study* also notes the absence of base information including biodiversity mapping in the release of the *Metropolitan Strategy*. This mapping is needed to inform decisions about land use in the future. Although not part of the *Metropolitan Strategy*, vegetation mapping is now available to Hornsby Council for consideration in planning for Galston and Glenorie and is discussed later in this report.

2. Review of Allotment Sizes in the Galston Area

Council has previously considered the issue of whether to progress a review of minimum allotment sizes in the Galston area. In response to representations from landowners, in February 2003, Council resolved to undertake community consultation concerning the appropriateness of reducing permissible allotment sizes in the Galston area. The consultation included consideration of underlying issues, including agricultural viability, commercial viability of the Galston Village, sustainability, the provision of social services and the appropriateness of half and one acre allotments in Galston. The consultation was undertaken by an independent consultant and included visitor and resident surveys, focus groups, letters to government agencies and service providers and a public meeting. The results of the consultation are summarised as follows:

- 50% of Galston ratepayers supported subdivision to reduced allotment sizes and 50% were opposed.
- Considerable community concern was raised with ongoing temporary electricity service interruptions (also termed 'brown-outs', being less in duration than 'black-outs').
- Service providers and government agencies indicated that core infrastructure services, including water and electricity, are currently at capacity and that new development would be required to fund additional infrastructure. Sydney Water

also confirmed that on-site disposal was not appropriate for increased residential development.

- The Department of Primary Industries stated that it would not support the loss of potentially productive agricultural lands.
- The Department of Planning and Infrastructure indicated that any plan promoting additional subdivision would be contrary to the State Government's housing strategies and would be unlikely to be supported.

In April 2004, Council resolved not to progress a review of allotment sizes for rural zoned lands in Galston, except for School Road and Johnston Road, which are within the Galston Village. Council also resolved to progress a number of initiatives to address issues raised in the community consultation regarding inadequate infrastructure and services in Galston and the viability of the Village. In October 2004, Council considered a report concerning a rezoning proposal in respect of properties Nos. 5, 7 and 9 School Road, Galston. Council resolved not to support the rezoning proposal on a number of grounds, including the potential for unsatisfactory environmental impacts as the proposal did not provide a proven method of effluent disposal.

4. Current Controls

The current vision for Galston and Glenorie is embodied within the *HSLEP 1994* and *Rural Lands DCP* as summarised below.

4.1 Hornsby Shire Local Environmental Plan 1994

The Galston area is comprised of approximately 2,364 hectares and is generally bounded by Galston Road, Mid-Dural Road, Old Northern Road and Arcadia Road. The Galston Commercial Centre is zoned Business C (Neighbourhood) and is supported by a range of community uses on lands zoned Special Uses A (Community Purposes). The Galston Village residential area bounds the Commercial Centre to the north, east and west and is zoned Residential AR (Low Density – Rural Village).

Glenorie is bisected by a local government boundary, with the area to the west of Old Northern Road within the Hills Local Government Area (LGA) and land to the east within Hornsby Shire. Old Northern Road also separates the community uses and residential components of Glenorie Village located within Hornsby Shire from the commercial development with the Hills LGA. The area with Hornsby Shire is comprised of approximately 1,450 hectares and is bisected by a number of roads, including Cairnes Road and Moores Road. The residential area of Glenorie Village is zoned Residential AR (Low Density – Rural Village) with lands zoned Special Uses A (Community Purposes) providing for a variety of community uses supporting the Village.

The general zoning philosophy of the current zones surrounding Glenorie and Galston Villages is based on a combination of retaining the best land for agriculture in the Shire, as well as retaining other land for rural and scenic landscape significance. Rural BA (Small Holdings – Agricultural Landscapes) is the dominant rural zone in the locality reflecting higher agricultural productive lands, with lands zoned Rural BR (Small Holdings – Rural Landscapes) and Rural AR (Large Holdings – Rural Landscapes) identifying lower productive land fringing the environmentally sensitive steeper lands zoned Environmental Protection B (River Catchment). A small area of land north of Glenorie, zoned Rural AA (Large Holdings - Agricultural Landscapes), reflects higher agricultural productive lands held

in large land holdings. The following zone objectives identify Council's adopted vision for the areas:

The primary objectives of the Rural AA (Large Holdings - Agricultural Landscapes) zone are to:

- *to restrain population growth, maintain the rural character of the area and ensure that existing or potentially productive agricultural land is preserved in large land holdings; and*
- *to promote agricultural use of land and provide for a range of compatible land uses which maintain the agricultural and rural environment of the area.*

The primary objectives of the Rural BA (Small Holdings – Agricultural Landscapes) zone are to:

- *to restrain population growth, maintain the rural character of the area and ensure that existing or potentially productive agricultural land is preserved; and*
- *to promote agricultural use of land and provide for a range of compatible land uses which maintain the agricultural and rural environment of the area.*

The primary objectives of the Rural AR (Large Holdings – Rural Landscapes) zone are to:

- *to restrain population growth and maintain the rural character of the area; and*
- *to provide for a range of compatible land uses, including agriculture, which maintain the rural environment of the area.*

The primary objectives of the Rural BR (Small Holdings – Rural Landscapes) zone are to:

- *to restrain population growth and maintain the rural character of the area; and*
- *to provide for a range of compatible land uses, including agriculture, which maintain the rural environment of the area and support the urban populace.*

The *HSLEP* specifies a maximum floor space ratio for the Business C (Neighbourhood) zone of 0.5:1 and a minimum allotment size for the Residential AR zone of 500sqm. The minimum allotment size requirements for non - urban land includes a 10 hectares minimum for the Rural AA (Large Holdings – Agricultural Landscapes) and Rural AR (Large Holdings – Rural Landscapes) zones and a 2 hectares minimum for the Rural BA (Small Holdings - Agricultural Landscapes) and Rural BR (Small Holdings - Rural Landscapes) zones. A minimum allotment size of 40 hectares applies to the Environmental Protection B (River Catchment) zone.

4.2 Rural Lands DCP

The *Rural Lands DCP* contains general controls for development of rural lands as well as strategies to guide development. Strategies address the environment, population, rural character, economic development, community development, transport and Village Masterplans.

The current Council adopted visions for Galston and Glenorie Villages are embodied in the Village Masterplans contained in the *DCP*. The Masterplans aim to enhance the character of the Villages. The Galston Village Masterplan promotes improvements to the character and identity of the commercial area through the development of a scheme focused on a village green. The Glenorie Village Masterplan promotes the strengthening of the rural/bushland character through minor civic improvements to enhance the amenity of the Village.

5. Proposed Controls

The *draft Hornsby Comprehensive Local Environmental Plan (CLEP)* is the subject of a further report to Council at its meeting on 7 March 2012 in response to the conditions of certification for exhibition issued by the Department of Planning and Infrastructure. In the preparation of the *CLEP*, the Department advised that the zoning philosophy embodied in the *Rural Lands Study* and *Rural Resource Lands Study* should be reviewed to provide updated planning controls in respect to the translation of rural zones. Accordingly, Council engaged an independent planning consultant to review the studies.

The *Rural Lands Planning Provisions Review (2009)* informed the selection of zones and includes a land audit to identify land with the highest agricultural potential and other land units including rural/residential development. The land use audit identifies that the rural areas north of Galston Village are the most suitable for agriculture and the rural areas south of Galston Village are generally rural-residential in nature. Three new rural zones (RU1 – Primary Production, RU2 – Rural Landscapes and RU4 – Rural Small Holdings) have been used to implement the findings of the land audit and the existing 2 and 10 hectare subdivision pattern. The table below identifies the translation of rural zones.

Hornsby Shire LEP 1994	Comprehensive LEP 2011
Rural AA (Large Holdings - Agricultural Landscapes)	RU1 - Primary Production
Rural AE (Large Holdings - Extraction)	RU1 - Primary Production
Rural AR (Large Holdings - Rural Landscapes)	RU1 - Primary Production
Rural BA (Small Holdings - Agricultural Landscapes)	RU2 - Rural Landscape (south of Galston Village) RU4 – Primary Production Small Lots (north of Galston Village)
Rural BR (Small Holdings - Rural Landscapes)	RU2 - Rural Landscape (south of Galston Village) RU4 – Primary Production Small Lots (north of Galston Village)

Although the zoning of lands is proposed to be amended under the *CLEP* to reflect the new zone descriptions, the land uses permissible within the zones remains largely unaltered. Furthermore, minimum allotment size is proposed to be controlled via a separate Lot Size Map which reflects the current 2 hectare and 10 hectare requirements under the *HSLEP*.

‘Dwelling-houses’ and ‘rural workers’ dwellings’ are currently permitted with development consent in the rural zones under the *HSLEP*. The bulk and scale of dwelling-houses is

controlled by requirements in the *Rural Lands DCP*. Rural worker's dwellings are defined as 'moveable dwellings' and limited to a maximum gross floor area of 110m² by the *HSLEP*.

'Dwelling houses' and 'rural workers' dwellings' are proposed to be permitted with development consent in rural zones under the *CLEP*. The bulk and scale of dwelling houses and rural workers dwellings will be controlled by requirements in Council's new Consolidated DCP. In addition, secondary dwellings are also proposed to be permitted with development consent in the rural zones. Secondary dwellings will be limited in size to 60m² or 20% of the total floor area of the principal dwelling, whichever is greater. Secondary dwellings cannot be subdivided from the principal dwelling.

The *Review* also provides recommendations concerning the translation of Environmental Protection zones. The Environmental Protection B zone from the existing *HSLEP* has been amalgamated with the Environmental Protection D zone into the E3 Environmental Protection Management zone from the *Standard Instrument*.

The Residential AR (Low Density – Rural Village) zone, currently applying to the residential areas of the Galston and Glenorie Villages has been translated to the R2 – Low Density zone. The Galston Village commercial core has been translated to B1 – Neighbourhood Centre.

6. Planning Context

The above discussion outlines the background to the current planning strategies for Galston and Glenorie that have informed the current and proposed planning controls for the areas. However, in considering a review of planning controls to provide greater housing choice in the Galston and Glenorie areas, it is also appropriate to consider the NSW State Government's current commitment to increase housing supply.

6.1 Metropolitan Plan for Sydney 2036

Through the Government's *Metropolitan Plan for Sydney 2036*, the Department of Planning and Infrastructure continues to plan for the delivery of an additional 770,000 homes in the Sydney metropolitan area by 2036. It aims to maintain a course for a sustainable city by limiting urban sprawl, protecting Sydney's valuable resource land, encouraging more development near public transport and reducing the need for car travel. Furthermore, new housing is encouraged within existing areas, with the majority of new greenfield development being concentrated in the North-West and South-West Growth centres.

The following comments within the *Balancing Land Uses on the City Fringe* component of the *Metropolitan Plan* regarding rural lands are relevant to Council's consideration of residential opportunities within Galston and Glenorie:

- Sydney metropolitan fringe contains significant biodiversity and conservation reserves, cultural landscapes, major agricultural and resource lands;
- Lands outside Sydney's footprint are not simply areas awaiting urbanisation but essential lands providing important employment, scenic, recreational, heritage and environmental benefits as well as the preferred location for sustainable agricultural and resource industries;
- Fringe lands are protected by focusing the majority of urban growth in existing centres and within recognised Growth centres;

- Satisfying the demand for urban land while containing Sydney's urban footprint will provide social, economic and environmental benefits; and
- Modelling indicates potential for more congestion, slower travel times and increasing economic costs if development is not contained within the current footprint.

The *Metropolitan Plan* identifies a dwelling target of an additional 29,000 dwellings within the North Subregion by 2036. This represents an increase of 8,000 dwellings from the target identified in the previous *Metropolitan Strategy* of 21,000 dwellings by 2031.

In considering where the additional housing should be provided, the *Growing and Renewing Centres* component of the *Metropolitan Plan* reflects a concentrated model whereby new development and renewal is promoted in and around centres, towns, villages and neighbourhoods and is focussed on public transport. The *Metropolitan Plan* identifies a target of 70% of all new housing to be provided in existing urban areas.

6.2 Draft North Subregional Plan

The draft *North Subregional Strategy* was released in 2007. It is anticipated that *Subregional Strategies* will be reviewed and finalised based on the new dwelling targets under the *Metropolitan Plan* and will break down the dwelling and employment targets for each Council area. Currently, the draft Strategy identifies that Hornsby Council must provide 11,000 new dwellings by 2031. This target is expected to increase when the *North Subregional Strategy* is finalised to correspond with the *Metropolitan Plan*.

The draft *Subregional Strategy* makes the following recommendations for the Shire's rural and resource lands:

- Council identify significant rural and resource lands in its principal LEP and incorporate measures to protect them from incompatible and inappropriate uses.
- Provide greater certainty to encourage investment in resource lands.

The provision of additional housing opportunities at Galston and Glenorie would assist Council meet its dwelling targets under the State Government's *Metropolitan Plan* and the *draft North Subregional Strategy*. The *Hornsby Shire Housing Strategy* was gazetted on 2 September 2011 providing opportunities for an additional 2,600 dwellings over the next 10 years. However, a future strategy will be required to identify opportunities for a further 3,900 dwellings to meet the balance of Council's current dwelling obligation of 11,000 dwellings. The provision of additional housing opportunities at Galston and Glenorie would contribute to the achievement of Council's dwelling target. However, the need for a potential contribution from these areas should be considered in the context of other projects being progressed by the State Government and Council that may assist in achieving the balance of Council's dwelling obligations. These projects include South Dural, Epping Town Centre Study and the Hornsby West Side Planning Proposal.

6.3 Metropolitan Development Program

Future residential land release in the metropolitan region is required to be included on the NSW Government's *Metropolitan Development Program (MDP)* before it can proceed to formal rezoning for urban purposes. The *MDP* is the State Government's key program for managing housing supply and assisting in coordinating infrastructure provision. Through the *MDP*, the State Government aims to provide smaller dwellings which would be more affordable. The Program covers both infill sites in existing urban areas as well as the releases of land not previously urbanised, known as greenfield areas.

The DP&I is directly responsible for determining whether to include an area on the *MDP* and the State Government has the major involvement in the early stages of the land release process, including inclusion of land on the *MDP*, preparation of structure and infrastructure plans, as well as the servicing of the land. Council's formal role commences in the rezoning process if Cabinet decides to include the land on the *MDP*. Accordingly, depending on the scope of any review of planning controls to provide greater housing choice in the Galston and Glenorie areas, the first step in the process may require inclusion of the areas on the *MDP*.

7. Opportunities and Constraints to Development in the Galston and Glenorie Area

As indicated above, Galston and Glenorie have been the subject of considerable study, analysis and consultation with both the community and stakeholders. Based on this work to date, the following discussion outlines the main opportunities and constraints to further housing development in Galston and Glenorie. However, it should be noted that the extent to which the following issues are relevant would vary depending on the scope of any review of housing opportunities.

7.1 Reticulated Water

Water is piped to the rural areas of the Shire from Sydney's water supply dams, via Prospect Reservoir. The Galston area is served by an elevated reservoir located at Galston Road, Dural. This reservoir also provides sufficient pressure to properties with a high elevation in Arcadia, Dural and Glenorie.

Augmentation of this system would be required to provide for further urban development. Sydney Water has advised that most of the reticulated mains are at their supply limit and that there are few opportunities for extension without the requirement for pumping stations and additional storage reservoirs. Should Council resolve to review the potential for additional housing supply in the Galston and Glenorie areas, the review should include further consultation with Sydney Water concerning water supply.

7.2 Sewerage Services

A reticulated sewerage system is not available in the Galston and Glenorie areas and therefore, residents rely on pump-out septic systems, domestic treatment plants or chemical and composting toilets. The disposal of effluent and waste water is a potential a source of pollution. Accordingly, the development potential of the Galston and Glenorie areas is limited without the provision of a reticulated sewerage system.

Reticulated sewerage services are proposed for the Cowan, Galston and Glenorie communities through Stage 2 of Sydney Water's *Priority Sewerage Program*. In this regard, the Operating Licence of Sydney Water includes that sewerage be provided to Galston and

Glenorie by 30 June 2015 to service an estimated 633 allotments. It is unclear whether the *Program* will have potential to service additional residential development beyond the estimated 633 allotments.

As part of the Galston community consultation undertaken in 2003, Sydney Water advised that the *Program* only includes the Galston village area. In this regard, future developments outside the village are not included in the *Program* and benefits will be limited to existing development. Accordingly, any review of housing opportunities would require further consultation with Sydney Water to confirm the servicing capacity of the *Program*.

7.3 Viability of Agricultural Land

Hornsby Shire is a significant producer of nurseries and cut flowers as well as having some stone fruit orchards and market gardening. There are also a number of farm gate sales and the rural tourism market is growing. There is also an increasing demand for rural residential development in the Shire.

The Department of Primary Industries was consulted as part of the Galston community consultation. The Department advised that it supports the retention of agricultural lands in the Shire and notes the importance of retaining viable agricultural lands in close proximity to Sydney markets. The Department acknowledged that current practices may or may not be economically viable. However, agricultural viability is dependent upon a range of factors such as capital invested, crop varieties selected, yields, market demand, level of management skills, expertise and the personal aspirations of the farmer. Agriculture pursuits are required to operate over a long term to realise investment and any new agricultural investment will consider the land used for agriculture and the constraints from adjoining land uses. Furthermore, improved agricultural practices and technology are providing solutions for farmers.

The Department commented that reducing lot size reduces the flexibility for future agricultural opportunities and increases the likelihood of the property being used solely for the construction of a dwelling. This in turn intensifies the opportunities for land use conflict between differing land uses (eg: due to crop spraying, working hours and the like).

For continued agricultural investment in the Galston area, the Department advised that Council should make a strong commitment to agricultural zoned land. While there is uncertainty regarding the future use of land, people will speculate and this ensures that land prices remain above agricultural land values, making it difficult for new agricultural investment.

7.4 Environmentally Sensitive Areas

The natural environment is a dominant feature of the Galston and Glenorie areas and is well preserved through the reservation of National Parks, bushland reserves, open spaces and other bushland areas. Steep slopes are also a significant constraint to rural and urban development. Lands with slopes in excess of 20% are generally considered to be unsuitable for agriculture, rural or residential development, due to engineering difficulties, site instability and erosion problems. Parcels of land in the Galston and Glenorie areas have been zoned Environmental Protection B (River Catchment) to protect sensitive areas from development and reflect land capability. Should Council resolve to review the residential potential of land in Galston and Glenorie, the review should address the impact of development on environmentally sensitive areas.

7.5 *Flora and Fauna*

Large areas of native bushland within the rural areas of the Shire have been cleared for agricultural activities and the majority of natural vegetation and fauna habitat is located on steeper non-rural lands. Recent updated vegetation mapping for the Shire has confirmed that remnant vegetation within the Galston and Glenorie areas is dominated by Peppermint-Angophora Forest (the most common community within Hornsby Shire), Grey Gum - Scribbly Gum Woodland (a common community in the Shire) and Narrow-leaved Apple Gully Forest (a regionally significant community). The areas also contain remnant pockets of threatened ecological communities including Blue Gum High Forest, Sydney Turpentine Ironbark Forest and Shale Sandstone Transition Forest.

Flora species listed under the NSW *Threatened Species Conservation Act 1995* and recorded within the area include *Acacia bynoeana*; *Darwinia biflora*; *Epacris purpurascens* var. *purpurascens*; *Eucalyptus scoparia*; *Melaleuca deanei*; *Persoonia mollis* subsp. *Maxima*; *Pimelea curviflora* and *Tetratheca glandulosa*.

Fauna species listed under the NSW *Threatened Species Conservation Act 1995* recorded within the area include Barking Owl, Glossy Black-Cockatoo, Grey-headed Flying-fox, Koala, Large-footed Myotis, Powerful Owl and Rosenberg's Goanna, Spotted-tailed Quoll and Turquoise Parrot.

Council's *Biodiversity Conservation Strategy* aims to conserve species, populations and communities of native plants and animals in Hornsby Shire. Should Council resolve to review the residential potential of land in Galston and Glenorie, the review should consider appropriate interfaces between urban uses and bushland areas.

7.6 *Bushfire Prone Land*

Approximately 70% of the land within the Galston and Glenorie areas is identified as bushfire prone on Council's Bushfire Prone Land Map. The bushfire prone land is typically located within those areas with slopes in excess of 20% and in areas containing stands of bushland. Should a review of housing opportunities be progressed, bushfire mitigation measures would be required to be investigated that respect the ecological significance of the areas and threatened ecological communities.

7.7 *Water Quality*

Hornsby Shire's rural lands are located within the Berowra Creek catchment and both rural and urban activities within the area contribute to water quality problems experienced in Berowra Creek and the Hawkesbury River. Council has entered into an agreement with other statutory authorities to achieve ecological sustainable development (ESD) in the Berowra Creek catchment through a *Statement of Joint Intent*.

Sydney Regional Environmental Plan No. 20 also requires that a total catchment management approach be undertaken to planning within the catchment of the Hawkesbury/Nepean River, including a framework for the preparation of LEPs and DCPs. The Hawkesbury/Nepean catchment is nominated in the regional planning strategy as an ecologically sustainable region and involves integrating economic growth with environmental protection and pollution control.

Council's water quality data suggests that the urban and rural-residential catchments have poorer water quality than the rural catchments. Accordingly, further residential development

in the Galston and Glenorie areas may potentially result in further deterioration in water quality. Should Council resolve to review the residential potential of land in Galston and Glenorie, the review should be considered in the context of the principles of ESD and total catchment management.

7.8 Transport Services

The existing public transport system within the rural areas of the Shire provides limited opportunities for residents to access shopping and employment centres. The low level of patronage and limited potential population growth in the Galston and Glenorie areas makes increased public transport services unlikely in the foreseeable future.

7.9 Housing for Seniors or People with a Disability

SEPP Housing for Seniors or People with a Disability facilitates additional housing choice in the rural area by permitting development of serviced self-care housing (i.e. independent living accommodation) on land adjoining land zoned primarily for urban purposes subject to a number of requirements. There are currently 3 Site Compatibility Certificates issued for senior living developments in close proximity to Galston Village.

DA/484/2011 has been approved by the Land and Environment Court for the construction of 76 independent living units and a community facility at No. 392 and No. 5 Mid-Dural Road. DA/850/2011 is the subject of a report recommending approval to the Joint Regional Planning Panel at its meeting on 23 February 2012. The outcome of the meeting was unknown at the time of finalisation of this report. However, approval of the application would permit the construction of 96 independent living units and a community facility at Nos. 330-334 Galston Road. A further site at No. 353 Galston Road has been nominated for 30 dwellings.

Galston Village contains approximately 400 dwellings. The above proposals would increase the number of dwellings in the village by 50%. The implications of the increase in seniors housing has not been the subject of any planning study to examine social impacts, infrastructure provision, environmental impacts or community facilities and services. A number of submissions in response to the Galston community consultation indicated that the progression of reduced allotment sizes may provide an alternative housing form to senior living developments and was a popular response for older residents wanting to stay in Galston by allowing them to sell off at part of their land to fund their retirement. The major reasons advanced in favour of subdivision was that Galston could ‘control its own destiny’ and so that the ‘viability of the shops can be improved’.

7.10 Appropriate Allotment Sizes

A number of options for potential allotment sizes could be evaluated depending on the objective of any review. For instance, options may range from supporting urban release of land or maintaining a rural character. A range of allotment sizes were considered as part of the Galston community consultation. In conclusion, the consultant’s report noted that those against reduced allotment sizes want to preserve a productive rural environment, whereas those in favour supported a prestige garden type suburb set in a rural landscape. Furthermore, the results indicated that should a review of allotment sizes be progressed, the only lot size that had support from the Galston community was 1 acre (4,000sqm) within 1 km of Galston Village. It was acknowledged that the 1 km radius was not identified for any planning reason, except to indicate that further subdivision close to the Village was more acceptable than subdivision across the whole suburb. It was noted that should a review of

allotment sizes be progressed, a number of other factors should be considered in determining the extent of the area to be subject to change in planning controls, including environmental capability, infrastructure and land fertility.

In summary, it is acknowledged that the identification of additional housing opportunities in the Galston and Glenorie areas would assist in addressing the dwelling targets under the State Government's *Metropolitan Strategy*. However, this aim should be balanced against the value of rural and resource lands. There is a need to establish a clear urban growth boundary to assist in preventing land speculation and the resultant pressure on land prices so that they more closely reflect the current planning controls rather than speculative development potential. For rural resource lands to be sustainable, they require long term security and without this, there will be insufficient capital investment, undermining the future of rural and resource lands.

OPTIONS FOR A REVIEW OF PLANNING CONTROLS

The Department of Planning and Infrastructure has not been consulted in the preparation of this report. However, as part of the Galston community consultation, the Department advised that it would be unlikely to support reduced allotment sizes in the Galston area given its remoteness from existing urban areas and that it is unlikely to form part of the *Metropolitan Development Program* in the foreseeable future. Further, the protection of productive agricultural land is a major factor in the Government's identification of new urban release areas in the Sydney Region and the Department indicated that it would not support the fragmentation of lands that would be likely to threaten the overall viability of remaining or future agricultural concerns in the Galston area.

The Department stated that it encourages new residential development in Hornsby Shire in accessible locations. Finally, the Department advised that, at the time, it was developing the *Medium Term Land Release Program*. Accordingly, the Department requested that Council not make any decisions which could pre-empt this work. Given the above comments, should Council consider the progression of any option to review housing opportunities in the Galston or Glenorie areas, it would be appropriate to consult with the Department in this first instance to determine its position. Notwithstanding, the previous advice of the Department, the following options are provided for consideration by Council.

Option 1: Nominate Galston and Glenorie for investigation for inclusion on the Metropolitan Development Program

The *Metropolitan Plan for Sydney 2036* identifies an increased housing target for the North Subregion. This revised target represents an increase of 8,000 dwellings from the *Metropolitan Strategy*. Accordingly, in recognition of the State Government's commitment to sewer Galston and Glenorie by 2015, this option would involve nominating the areas for inclusion on the *MDP* to contribute to the achievement of the revised housing target.

It should be noted that the inclusion of an area on the *MDP* indicates that the area is suitable for investigation for urban purposes (ie. minimum allotment sizes in the order of 500 – 600sqm). Should the release of the areas for urban purposes be supported by the State Government, a comprehensive local environmental study (LES) would then be required addressing the implications of the rezoning and incorporating detailed master planning for the areas. Under this option, it would be appropriate to nominate an indicative study area. It is suggested that a 1 km radius should be identified from Galston and Glenorie villages to indicate that any subdivision should be close to the Villages rather than across the whole

suburb. Furthermore, a 1 km radius generally represents walking distance from the services provided within the Village areas.

It should also be noted that Council's *Housing Strategy* is aimed at providing housing choice and housing affordability through multi-unit housing. The *Hornsby Shire Housing Strategy* aims to provide smaller dwellings which would be more affordable. Affordability is difficult to achieve through the release of new urban sites within Hornsby Shire, as new detached dwellings in the greenfield environment are constructed for the middle and high priced sub market. Greenfield residential development within the Galston/Glenorie area would likely be aimed at the high priced sub-market, which would not represent affordable housing. Furthermore, the Department of Planning and Infrastructure has previously indicated that it would not support the inclusion of Galston on the *MDP* due to its remoteness from existing urban areas. The advantages and disadvantages of this option are outlined below.

Advantages

- Additional housing choice to enable older people to remain in the area by down-sizing and younger couples to bring up families in a rural area.
- Provision of additional population to support local commercial centres.
- Provision of funding through developer contributions towards improvements to services and the public domain.

Disadvantages

- Potential loss of rural character and landscape qualities.
- Potential loss of agricultural land and increase in urban/rural landuse conflicts.
- Existing poor infrastructure supply (particularly water and electricity) may be unable to cope with increased development.
- Out of centre location for housing would place a great reliance on the use of private vehicles.

Should Council be of a mind to support this option, an appropriate resolution would be as follows:

That Council write to the Minister for Planning and Infrastructure to determine whether the NSW Government would support the progression of investigations by Council concerning the potential nomination of land within 1 kilometre of Galston and Glenorie Villages for inclusion on the State Government's Metropolitan Development Program.

Option 2: Reduce allotment sizes in the Galston and Glenorie areas while retaining the rural character and lifestyle

This option would involve retaining the existing rural zoning of lands in Galston and Glenorie or apply the large lot residential zone available under the *Standard Instrument*. The existing minimum allotment sizes would be reviewed to provide additional opportunity for housing provision.

Should this option be supported, Council should be mindful that the issues associated with allotment sizes in these areas are not unique. As part of Council's previous consultations on subdivision potential of rural land, representations were received from residents in many rural areas requesting amendments to zonings or subdivisions standards. These areas include Berrilee, Fiddletown, Arcadia, Middle Dural, Dural and Wisemans Ferry. In consideration of these submissions, Council was consistent in its resolutions that further subdivision should not be supported as it may not be in the public interest as it could result in increased environmental, social, transport and economic problems. The advantages and disadvantages of this option are outlined below.

Advantages

- Additional housing choice to enable older people to remain in the area by down-sizing and younger couples to bring up families in a rural area.
- Maintain the rural character of the area.
- Provision of additional population to support local commercial centres.
- Provision of funding through developer contributions towards improvements to services and the public domain.

Disadvantages

- Potential increase in urban/rural landuse conflicts.
- Existing poor infrastructure supply (particularly water and electricity) may be unable to cope with increased development.
- Out of centre location of housing would place a great reliance on the use of private vehicles.

There are a number of options for subdivision that could be explored under this option including various allotment sizes and the extent of the study area. Therefore, should Council be of a mind to support this option, an appropriate resolution would be as follows:

That a workshop be conducted with Councillors to discuss the aims, objectives, methodology and timing for undertaking a review to reduce allotment sizes in the Galston and Glenorie areas while retaining the rural character and lifestyle.

Option 3: Retain the Current Controls

This option would involve retaining the existing controls for the Galston and Glenorie areas as contained in the *HSLEP 1994* and *Rural Lands DCP*. The existing controls would be translated into the *CLEP* and *Comprehensive DCP*. The advantages and disadvantages of this option are outlined below.

Advantages

- Conserves agricultural and rural landscape qualities.

- Maintain current water quality level in the area and the catchment.
- Maintain current level of biodiversity in the area.
- No increased demand on existing infrastructure.

Disadvantages

- Current level of housing choice maintained.
- Current uncertainty concerning the location and timing of senior living developments.

Should Council be of a mind to support this option, an appropriate resolution would be as follows:

Council not undertake a review of planning controls to provide additional housing opportunities within the Galston and Glenorie areas as:

- 1. It would be inconsistent with the State Government's 'Compact City' strategy and the concentrated housing model embodied in the Hornsby Shire Housing Strategy.*
- 2. There is a low priority to provide additional land in the higher priced sub-market given existing land supplies in the north-west sector.*
- 3. The existing and potential agricultural productivity of the area would be lost.*
- 4. The scenic qualities of the area would be compromised.*
- 5. Increased density of development may result in further deterioration of the water quality of Berowra Creek.*
- 6. The area is poorly serviced by public transport and therefore increased density of development of the area may place an additional reliance on private motor vehicles with consequent impacts on air quality and the road network.*

It is recommended that Council determine a position concerning a review of housing opportunities for Glenorie and Galston based on the options outlined above.

STATUTORY CONSIDERATIONS

Should Council resolve to progress option 1, it would be appropriate to seek the Department's advice regarding the inclusion of the land on the NSW Government's *MDP*. Should Council resolve to progress Option 2, following identification of the aims, objectives, methodology and timing for undertaking a review, it would also be appropriate to consult with the Department concerning its position in light of its previous advice that it would not support the fragmentation of lands that would threaten the overall viability of remaining or future agricultural concerns in the Galston area.

FINANCIAL IMPLICATIONS

Should Council resolve to progress either option 1 or 2, the work would potentially have significant resource implications for Council through the staff and financial resources required to progress the necessary environmental studies and undertake community and stakeholder consultation.

The Annual Operating Plan for the Town Planning Services Branch has been allocated towards other projects in accordance with the Management Plan and Strategic Planning Program and does not include funds or staff resources to undertake a review of housing opportunities in Galston or Glenorie. Accordingly, should Council resolve to progress option 1 or 2, it would be appropriate that a subsequent workshop and/or report to Council address the funding and resource implications of the project.

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. As this report provides Council with information and options, a TBL summary is not required.

CONCLUSION

This report discusses the current controls for the Galston and Glenorie, the opportunities and constraints to increasing housing options within the areas, and outlines the advantages and disadvantages of options for a review of planning controls. It is recommended that Council determine a position concerning a review of planning controls for Galston and Glenorie based on one of the options presented.

RECOMMENDATION

THAT Council determine a position concerning a review of planning controls for the Galston and Glenorie areas based on the options outlined in Executive Manager's Report No. PLN20/12.

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Attachments:

There are no attachments for this report.

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