



the bushland shire

creating a living environment

BUSINESS PAPER

GENERAL MEETING

**Wednesday, 15 August, 2012
at 6:30 PM**

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AGENDA AND SUMMARY OF RECOMMENDATIONS

PRESENT

NATIONAL ANTHEM

OPENING PRAYER/S

Reverend Geoff Collison of St Johns Anglican Church Beecroft, will open 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."

PRESENTATIONS

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 General Meeting held on 18 July, 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.

*Persons wishing to address Council on **non agenda matters**, are permitted to speak after all items on the agenda in respect of which there is a speaker from the public have been finalised by Council. Their names will be recorded in the Minutes under the heading "Public Forum for Non Agenda Items".*

GENERAL BUSINESS

- *Items for which there is a Public Forum Speaker*
- *Public Forum for non agenda items*
- *Balance of General Business items*

GENERAL MANAGER'S DIVISION

Nil

CORPORATE SUPPORT DIVISION**Page Number 1**

Item 1 CS9/12 HORNSBY SHIRE COMMUNITY PLAN 2010-2020 - IMPLEMENTATION AND END OF TERM REPORT

RECOMMENDATION

THAT the contents of Deputy General Manager's Report No. CS9/12 be received and noted.

Page Number 5

Item 2 CS10/12 LOCAL GOVERNMENT ASSOCIATION - 2012 ANNUAL CONFERENCE - SUBMISSION OF MOTIONS

RECOMMENDATION

THAT Council adopt the draft motion in Deputy General Manager's Report No. CS10/12 for submission to the 2012 Local Government Association Conference.

Page Number 9**Item 3 CS11/12 INVESTMENTS AND BORROWINGS FOR 2011/12 - STATUS FOR PERIOD ENDING 30 JUNE 2012****RECOMMENDATION**

THAT the contents of Deputy General Manager's Report No. CS11/12 be received and noted.

Page Number 12**Item 4 CS12/12 PECUNIARY INTEREST AND OTHER MATTERS RETURNS - DISCLOSURES BY COUNCILLORS AND DESIGNATED PERSONS****RECOMMENDATION**

THAT Council note the Disclosure of Pecuniary Interests and Other Matters Returns recently lodged with the General Manager have been tabled as required by the Local Government Act.

ENVIRONMENT AND HUMAN SERVICES DIVISION

Nil

PLANNING DIVISION**Page Number 15****Item 5 PL13/12 DEVELOPMENT APPLICATION - FIVE STOREY MIXED USE DEVELOPMENT 5 AND 7 THORNLEIGH STREET, THORNLEIGH****RECOMMENDATION**

THAT Council assume the concurrence of the Director-General of the Department of Planning and Infrastructure pursuant to State Environmental Planning Policy No. 1 and approve Development Application No. 453/2012 for demolition of existing structures and erection of a five storey mixed use development comprising 1 commercial unit and 21 residential units with basement car parking at Lot 25, 26 and 27 Sec 4 DP 1854, Nos. 5 & 7 Thornleigh Street, Thornleigh subject to the conditions of consent detailed in Schedule 1 of Group Manager's Planning Report No. PL13/12.

Page Number 59**Item 6 PL14/12 REPORTING VARIATIONS TO DEVELOPMENT STANDARDS****RECOMMENDATION**

THAT the contents of Group Manager's Report No. PL14/12 be received and noted.

Page Number 62**Item 7 PL16/12 PRECINCT SUPPORT SCHEME FOR URBAN ACTIVATION PRECINCTS****RECOMMENDATION**

THAT:

1. Council nominate the Epping Town Centre for consideration by the Department of Planning and Infrastructure under the Urban Activation Precincts Scheme as the Scheme provides opportunity for financial support to progress infrastructure upgrades required to service the resultant population growth within the Centre identified under the *Epping Town Centre Study*.
2. Council's nomination recognise that any amendment to planning controls should be progressed generally in accordance with the *Epping Town Centre Study* recommendations subject to further review of a range of matters in response to public submissions including Heritage Conservation Area boundaries, potential heritage items, urban form in the Town Centre Core, residential precinct heights, property acquisition and North West Rail Link impacts.

Page Number 68**Item 8 PL18/12 DEVELOPMENT APPLICATION - TOWNHOUSE DEVELOPMENT
156 - 160 SHERBROOK ROAD, ASQUITH****RECOMMENDATION**

THAT Development Application No. 414/2012 for construction of a townhouse development comprising 20 dwellings and strata subdivision at Lot 2 DP 669154, Lot 1 DP 669153, Lot D DP 402287, Nos. 156-160 Sherbrook Road, Asquith be approved subject to the conditions of consent detailed in Schedule 1 of Group Manager's Planning Report No. PL18/12.

INFRASTRUCTURE AND RECREATION DIVISION**Page Number 94****Item 9 IR5/12 REQUEST TO REMOVE TREE AT 33 HANNAH STREET, BEECROFT****RECOMMENDATION**

THAT Council refuse application TA/37/2012 to remove one *Eucalyptus saligna* (Sydney Blue Gum) from the property at 33 Hannah Street, Beecroft.

Page Number 98

Item 10 IR11/12 REQUEST TO REMOVE TREE AT 23 MILLSTREAM GROVE DURAL

RECOMMENDATION

THAT Council refuse application TA/32/2012 to remove one *Angophora costata* (Smooth-barked Apple) from the property at 23 Millstream Grove, Dural.

PUBLIC FORUM – NON AGENDA ITEMS

QUESTIONS OF WHICH NOTICE HAS BEEN GIVEN

MAYOR'S NOTES

MAYORAL MINUTES

NOTICES OF MOTION

SUPPLEMENTARY AGENDA

MATTERS OF URGENCY

QUESTIONS WITHOUT NOTICE

1 HORNSBY SHIRE COMMUNITY PLAN 2010-2020 - IMPLEMENTATION AND END OF TERM REPORT

EXECUTIVE SUMMARY

- The Division of Local Government's integrated planning and reporting framework requires that all councils develop a long term strategic plan and that at the end of their term, a report is presented outlining the effectiveness of the strategic plan in achieving the council's objectives.
- Council's end of term report comprises a report on the implementation and effectiveness of the Hornsby Shire Community Plan 2010-2020 since its adoption in 2010; and a key achievements/highlights document covering the four-year term of this Council. The intent is for both documents to be combined into a single publication titled "Our Bushland Shire - A snapshot of the Hornsby Shire in 2012".
- An update of the performance measures indicates improvements in social and cultural areas and mixed trends in environmental areas. The key achievements cover a myriad of projects with positive outcomes, ranging from a significant reduction in legal expenses to the construction of numerous local facilities and improvements to parks and sportsgrounds.
- This term of Council has ensured the financial sustainability of the organisation in the longer term. This in turn has enabled the planning and implementation of numerous significant capital works projects, including the Hornsby Aquatic Centre. Council is well placed to continue playing a critical role in delivering local services and providing opportunities for recreation, leisure and cultural expression.
- As Council is currently in caretaker mode prior to the 8 September 2012 election, this Report has been prepared having regard to the requirements of Council's Elections – Caretaker Period Policy. It is considered that the recommended decision below is not a "major decision" within the context of Council's Policy.

RECOMMENDATION

THAT the contents of Deputy General Manager's Report No. CS9/12 be received and noted.

PURPOSE

The purpose of this Report is to present Council's end of term report, including reporting on the implementation of the Hornsby Shire Community Plan 2010-2020 and its effectiveness in achieving social, environmental, economic and civic leadership objectives over the past two years.

BACKGROUND

The Division of Local Government's integrated planning and reporting framework requires that all councils develop a long term strategic plan. The legislation also requires that, at the end of the term of council, a report is presented outlining the effectiveness of the strategic plan in achieving its objectives.

In 2009, Hornsby Shire Council engaged its community in discussing a preferred future for the Shire. The engagement results were translated into the Hornsby Shire Community Plan 2010 – 2020 and then exhibited for public comment in order to confirm the document accurately reflected the outcomes from the community consultations. The Hornsby Shire Community Plan 2010 – 2020 was adopted by Council in June 2010.

Immediately following the formulation of the Hornsby Shire Community Plan, Council published a baseline document describing the state of play in Hornsby Shire in 2010. The document, which includes the community's performance measures, is titled "Our Bushland Shire - A snapshot of the Hornsby Shire in 2010".

DISCUSSION

Council is required to endorse its end of term report at the last meeting of Council. As the end of term report must be aligned to the requirements for integrated planning and reporting, Council's report comprises the following two elements (both of which are attached):

- A report on the implementation and effectiveness of the Hornsby Shire Community Plan 2010-2020 since its adoption in 2010 (through an update of the document to reflect changes over the past two years)
- A key achievements and highlights document covering the four-year term of Council from September 2008 to June 2012

The intent is for both of these documents to be flowed into a single publication titled "Our Bushland Shire - A snapshot of the Hornsby Shire in 2012".

Performance indicators

The performance indicators contained in the Hornsby Shire Community Plan 2010-2020 were established by a community reference group as part of the community planning process.

An update of the performance measures indicates improvements in social and cultural areas. The statistics also suggest the number of healthy waterways has decreased compared to previous measurement – noting that this result is highly influenced by the amount of wet weather. If nitrogen is used as an indicator of waterway health in freshwater creeks, it shows that approximately 40% of sites are improving, 40% of sites are not changing and about 20% are degrading. Potable water consumption by residents continues to decline.

The key points to note from the updating process include:

- There has been a \$1.3 billion increase in gross regional product over two years
- Perceptions of safety when walking in the Shire or travelling on public transport during the day and night increased from 63% in 2010 to 80% in 2012
- In 2011/12 there was no net loss of bushland due to development
- The percentage of local trips using sustainable transport options has declined from 50% in 2010 to 44% in 2012

Achievements during this term of Council

In order to reflect Council's achievements during the full four-year term, the second attachment has been prepared to summarise key achievements and awards from October 2008 to July 2012. The key achievements cover a myriad of projects with positive outcomes, ranging from a significant reduction in legal expenses to the construction of numerous local facilities and improvements to parks and sportsgrounds. Some of the major achievements include:

- Establishment of the Wallarobba Arts and Cultural Centre
- Gazettal of the Hornsby Shire Housing Strategy
- Securing the ability to fund improvements to local facilities via a special rate
- Delivering major bush-care projects
- Completing significant capital works including Oxford Street Epping; Greenway Park Community and Childcare facility; Rural Fire Service headquarters at the old Berowra Tollgates; and the new sportsground facility at John Purchase Primary School at Cherrybrook.

CONSULTATION

The preparation of the Hornsby Shire Community Plan 2010 – 2020 involved consultation with the community about a preferred future for the Shire.

BUDGET

There are no budgetary implications associated with this Report.

POLICY

As Council is currently in caretaker mode prior to the 8 September 2012 election, this Report has been prepared having regard to the requirements of Council's Elections – Caretaker Period Policy. It is considered that the recommended decision is not a "major decision" within the context of Council's Policy.

CONCLUSION

This term of Council has ensured the financial sustainability of the organisation in the longer term through the achievement of an approval from the Minister for Local Government of a special rate variation. This in turn has enabled the planning and implementation of numerous significant capital works projects, including the Hornsby Aquatic Centre. Council is well placed to continue playing a critical role in delivering local services and providing opportunities for recreation, leisure and cultural expression.

RESPONSIBLE OFFICER

The officer responsible for the preparation of this Report is the Manager Strategy and Communications – Julie Williams - who can be contacted on 9847 6790.

JULIE WILLIAMS
Manager - Strategy and Communications
Corporate Support Division

GARY BENSLEY
Deputy General Manager
Corporate Support Division

Attachments:

1. Report on implementation of Hornsby Shire Community Plan 2010-2020 - July 2012
2. Key Highlights and Awards - 2008-2012

File Reference: F2009/00024-02

Document Number: D01958883

2 LOCAL GOVERNMENT ASSOCIATION - 2012 ANNUAL CONFERENCE - SUBMISSION OF MOTIONS

EXECUTIVE SUMMARY

- The 2012 Annual Conference of the NSW Local Government Association (LGA) will be held in Dubbo from 28 October to 30 October 2012. The Conference provides an opportunity for Council to submit motions for debate and decision by delegates from member local governments across NSW.
- In preparing draft motions for Council's consideration, regard has been had to resolutions made by Council over the past 12 months, discussions between Councillors and members of the Executive Committee (ExCo) and recommendations emanating from ExCo members in respect of matters for which their Divisions are responsible.
- One motion is proposed to be submitted to the Conference by Council. That motion deals with the use of media (other than newspapers) for statutory advertising required by the Local Government Act and Regulation as well as other relevant Acts and Regulations. The purpose of the motion is to enable councils to use more cost effective communication mediums, such as the internet, when meeting their advertising obligations under the Acts and Regulations.
- As Council is currently in caretaker mode prior to the 8 September 2012 election, this Report has been prepared having regard to the requirements of Council's Elections – Caretaker Period Policy. It is considered that the recommended decision below is not a "major decision" within the context of Council's Policy.

RECOMMENDATION

THAT Council adopt the draft motion in Deputy General Manager's Report No. CS10/12 for submission to the 2012 Local Government Association Conference.

PURPOSE

The purpose of this Report is to provide an opportunity for Council to formally adopt motions to be submitted to the 2012 Annual Conference of the LGA.

BACKGROUND

The 2012 Annual Conference of the LGA will be held in Dubbo from 28 October to 30 October 2012. The Conference provides an opportunity for Council to submit motions for debate and decision by delegates from member local governments across NSW.

Any motions proposed by councils will be categorised by the LGA as either Category 1 or Category 2 Motions. In this regard:

- Category 1 motions must seek to establish a new policy or position or amend existing policy and must be of regional, state or national significance.
- Category 2 motions are motions which are already covered by existing policy or subject to ongoing lobbying and/or representation.

For motions to be considered at the Conference they must be determined to be Category 1 motions. Category 2 motions will be dealt with by the Executive of the LGA and not by the Conference. Where councils submit similar motions on related topics, these motions may be grouped and the strategic issue debated at the Conference to arrive at a "local government industry" position.

DISCUSSION

The LGA has advised that motions submitted for the 2012 Conference must fall under one of the following four subject headings:

- **Services** (human services, environmental services, library services, cultural programs, recreation programs, health protection and promotion, development approvals, environmental regulatory activity, etc)
- **Infrastructure** (issues relating to transport, roads, bridges, footpaths, open space, water and sewerage facilities, waste facilities and services, recreation facilities, arts facilities, civic buildings, etc)
- **Finance** (revenue raising, government funding, cost shifting, emergency services levy, waste levy, carbon tax, economic development, etc)
- **General** (land use planning, development approvals, environmental regulatory activity, workforce planning and development, industrial issues, etc)

The LGA has also advised that each motion is to be formatted in the following manner:

Name of Council:

Subject Heading *Select from: Services, Infrastructure, Finance, General*

Title: Maximum allowed: 80 characters

Motion: *Insert Motion Text which should commence with*
That the Local Government Association...

Note from Council:

It is noted that the closing date for the submission of motions to the LGA is 15 August 2012. As such, the draft motion contained in this Report has been submitted to the LGA on the basis that it is pending adoption by Council.

Based on feedback received to date from Councillors and members of ExCo, it is proposed that the following motion be submitted by Council for consideration at the Conference.

Name of Council: **Hornsby Shire Council**
Subject Heading **Services**
Title: **Use Of Alternative Media For Statutory Advertising**
Motion: That the Local Government Association make representations to the State Government for the Local Government Act, Local Government (General) Regulation and other Acts and Regulations relevant to local government to be amended to allow councils to use media other than newspapers (e.g. internet and online service providers) for statutory advertising and the provision of public information.
Note from Council: The Local Government Act and Regulation and other Acts and Regulations relevant to local government require councils to advertise certain matters in newspapers. Advances in telecommunications and information technology have provided new methods for society to access and use information. As the readership of newspapers continues to decline over time, councils' use of new technology for statutory advertisements may lead to greater exposure of the advertisements (at reduced cost). The purpose of this motion is to enable councils to use more cost effective communication mediums, such as the internet, when meeting its advertising obligations under the various Acts and Regulations. It is estimated that in respect of statutory development application advertising alone, Hornsby Shire Council could save in the vicinity of \$150,000 per annum by using electronic media instead of newspapers. This could translate to several millions of dollars of savings per annum for councils across the State. Council does not intend that an amendment to the legislation should preclude an individual council from undertaking its statutory advertising in a newspaper if it so chooses.

BUDGET

There are no budgetary implications associated with this Report.

POLICY

As Council is currently in caretaker mode prior to the 8 September 2012 election, this Report has been prepared having regard to the requirements of Council's Elections – Caretaker Period Policy. It is not considered that the recommended decision is a "major decision" within the context of Council's Policy.

CONCLUSION

Having regard to the requirements of the LGA in respect of the submission of motions to its 2012 Annual Conference, and internal discussions that have occurred at Council in respect of this matter, it is appropriate that the proposed motion contained within this Report dealing with the use of alternative media for statutory advertising be submitted to the LGA.

RESPONSIBLE OFFICER

The officer responsible for the preparation of this Report is the Manager Governance and Customer Service – Robyn Abicair - who can be contacted on 9847 6608.

ROBYN ABICAIR
Manager - Governance and Customer Service
Corporate Support Division

GARY BENSLEY
Deputy General Manager
Corporate Support Division

Attachments:

There are no attachments for this report.

File Reference: F2011/00735
Document Number: D01959649

3 INVESTMENTS AND BORROWINGS FOR 2011/12 - STATUS FOR PERIOD ENDING 30 JUNE 2012

EXECUTIVE SUMMARY

- Council may invest funds that are not, for the time being, required for any other purpose. The investments must be in accordance with relevant legislative requirements and Council's policies.
- The Chief Financial Officer must report monthly to Council on the details of funds invested.
- This Report provides details of Council's investment performance for the period ending 30 June 2012. It indicates that for total investments, the annualised return for the period was 4.6% compared to the benchmark of 3.52%.
- In respect of Council's borrowings, the weighted average interest rate payable on loans taken out from June 2002 to June 2012, based on the principal balances outstanding, is 6.96%.
- Consideration of this Report ensures that Council has met and complied with the requirements of the Local Government Act in respect of the investment of funds.
- As Council is currently in caretaker mode prior to the 8 September 2012 election, this Report has been prepared having regard to the requirements of Council's Elections – Caretaker Period Policy. It is considered that the recommended decision below is not a "major decision" within the context of Council's Policy.

RECOMMENDATION

THAT the contents of Deputy General Manager's Report No. CS11/12 be received and noted.

PURPOSE

The purpose of this Report is to advise Council of funds invested in accordance with Section 625 of the Local Government Act and to provide details as required by Clause 212(1) of the Local Government (General) Regulation 2005 and Council's Investment of Surplus Funds Policy.

BACKGROUND

Each month, a report is provided for Council's consideration which details Council's investments and borrowings and highlights the monthly and year to date performance of the investments. Initial investments and reallocation of funds are made, where appropriate, after consultation with Council's financial investment adviser and fund managers.

DISCUSSION

Council may invest funds which are not, for the time being, required for any other purpose. Such investment must be in accordance with relevant legislative requirements and Council's Policies, and the Chief Financial Officer must report monthly to Council on the details of the funds invested. Council's investment performance for the period ending 30 June 2012 is detailed in the attached document and summarised below:

- The At-Call and Term Deposits achieved an annualised return of 5.26% for the period compared to the benchmark of 3.50%.
- NSW T-Corp Long Term Growth Facility achieved a marked to market annualised return of 1.41% for the period compared to the benchmark of 4.22%. This fund has a 70% allocation to growth assets. Short term performance is expected to be volatile and the investment should be viewed over the longer term.
- The Capital Guaranteed Notes achieved annualised returns of 0% for the period compared to the benchmark of 3.51%. No interest will be accrued for the remaining life of the securities. The total value of these Notes was \$3,775,490 as at 30 June 2012.
- For total investments, the annualised return for the period ending 30 June 2012 was 4.6% compared to the benchmark of 3.52%.

In respect of Council borrowings, the weighted average interest rate payable on loans taken out from June 2002 to June 2012, based on the principal balances outstanding, is 6.96%. The Borrowings Schedule as at 30 June 2012 is attached for Council's information.

CONSULTATION

Appropriate consultation has occurred with Council's financial investment adviser and fund managers.

BUDGET

Total year to date investment income for the period ending 30 June 2012 was \$1,976,000. The revised budgeted income for the period was \$1,970,000. Approximately 32% of the total income relates to externally restricted funds and is required to be allocated to those funds.

POLICY

All investments have been made in accordance with the Local Government Act, the Local Government (General) Regulation 2005 and Council's Investment of Surplus Funds Policy.

As Council is currently in caretaker mode prior to the 8 September 2012 election, this Report has been prepared having regard to the requirements of Council's Elections – Caretaker Period Policy. It is considered that the recommended decision is not a "major decision" within the context of Council's Policy.

CONCLUSION

The investment of Council funds for the period ending 30 June 2012 is detailed in the attached document. Council's consideration of this Report and the attached document ensures that the requirements of State legislation and Council protocols have been met in respect of those investments.

RESPONSIBLE OFFICER

The officer responsible for the preparation of this Report is the Chief Financial Officer - Glen Magus - who can be contacted on 9847 6635.

GLEN MAGUS
Chief Financial Officer - Financial Services
Corporate Support Division

GARY BENSLEY
Deputy General Manager
Corporate Support Division

Attachments:

1. HSC Investment Portfolio as at 30 June 2012
2. HSC Borrowings Schedule as at 30 June 2012

File Reference: F2004/06987
Document Number: D01965218

4 PECUNIARY INTEREST AND OTHER MATTERS RETURNS - DISCLOSURES BY COUNCILLORS AND DESIGNATED PERSONS

EXECUTIVE SUMMARY

- Section 449 of the Local Government Act (the Act) details the statutory requirements in respect of the lodgement of Disclosure of Pecuniary Interests and Other Matters Return/s by Councillors and Designated Persons.
- Section 450A(2) of the Act requires that Returns lodged under Section 449 are to be tabled at the next available Council meeting.
- In line with Section 450A(2), this Report seeks to table the Return/s recently lodged with the General Manager.
- As Council is currently in caretaker mode prior to the 8 September 2012 election, this Report has been prepared having regard to the requirements of Council's Elections – Caretaker Period Policy. It is considered that the recommended decision below is not a "major decision" within the context of Council's Policy.

RECOMMENDATION

THAT Council note the Disclosure of Pecuniary Interests and Other Matters Returns recently lodged with the General Manager have been tabled as required by the Local Government Act.

PURPOSE

The purpose of this Report is to table the Disclosure of Pecuniary Interests and Other Matters Returns lodged by Councillors/Designated Persons who have left, commenced with, or internally transferred to a relevant position within Council.

BACKGROUND

Section 449(1) of the Act requires a Councillor or Designated Person to complete and lodge with the General Manager a Disclosure of Pecuniary Interests and Other Matters Return within three months after becoming a Councillor or a Designated Person. Section 449(3) requires a Councillor or Designated Person holding that position at 30 June in any year to complete and lodge with the General Manager a Return within three months after that date. Section 449(5) states that nothing prevents a Councillor or Designated Person from lodging more than one Return in any year.

Section 450A(2) of the Act requires that Returns lodged under Section 449 are to be tabled at a meeting of Council. Returns lodged under Sections 449(1) and 449(3) are to be tabled at the first meeting held after the last day for lodgement under those Sections; and Returns lodged for any other reason are to be tabled at the first meeting after their lodgement.

Council's procedures in respect of the disclosing of interests have been developed to cater for the election/appointment/employment/retirement/resignation/etc of Councillors or Designated Persons. These procedures:

- Require all Councillors and Designated Persons who hold that position at 30 June in any year to submit Returns to the General Manager by 30 September in that year (i.e. they are lodged under S449(3)). These Returns are tabled at Council's October General Meeting for that year.
- Require newly elected Councillors or newly appointed Designated Persons to lodge Returns to the General Manager within three months of their election/appointment (i.e. they are lodged under S449(1)). These Returns are tabled at the next available General Meeting of Council.
- Require those Councillors or Designated Persons who are leaving Council (because of retirement, resignation, etc) to lodge Returns to the General Manager by their last day with Council. These Returns are tabled at the next available General Meeting of Council.

DISCUSSION

Returns Lodged in Accordance with Sections 449(1) and/or 449(5) of the Act and Council's Procedures

Council last considered the tabling of Disclosure of Pecuniary Interests and Other Matters Returns under these Sections of the Act at the General Meeting held on 18 July 2012 (see Deputy General Manager's Report No. CS4/12). Since that time, two additional Returns have been lodged with the General Manager and are now tabled as required by the Act.

Date Lodged	Councillor/Designated Person (Position)	Reason for Lodgement
5 July 2012	Community Liaison Officer	Leaving Council
9 July 2012	Development and Environmental Protection	New employee

Officer - Compliance

BUDGET

There are no budgetary implications associated with this Report.

POLICY

As Council is currently in caretaker mode prior to the 8 September 2012 election, this Report has been prepared having regard to the requirements of Council's Elections – Caretaker Period Policy. It is considered that the recommended decision is not a "major decision" within the context of Council's Policy.

CONCLUSION

In line with the requirements of the Act, it is necessary that the two Returns lodged with the General Manager be tabled at this General Meeting.

RESPONSIBLE OFFICER

The officer responsible for the preparation of this Report is the Manager, Governance and Customer Service – Ms Robyn Abicair - who can be contacted on 9847 6608.

ROBYN ABICAIR
Manager - Governance and Customer Service
Corporate Support Division

GARY BENSLEY
Deputy General Manager
Corporate Support Division

Attachments:

There are no attachments for this report.

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**5 DEVELOPMENT APPLICATION - FIVE STOREY MIXED USE DEVELOPMENT
5 AND 7 THORNLEIGH STREET, THORNLEIGH**

DA No:	DA/453/2012
Description:	Demolition of existing structures and erection of a five storey mixed use development comprising 1 commercial unit and 21 residential units with basement car parking
Property:	Lots 25, 26 and 27 Sec 4 DP 1854, Nos. 5 & 7 Thornleigh Street, Thornleigh
Applicant:	Mr Mario Khaicy
Owner:	Mr R P Zaiter, Mr Barry Whittle, Mrs Julie Anne Bird
Estimated Value:	\$ 4,600,000
Ward:	C

EXECUTIVE SUMMARY

- The application proposes the demolition of existing structures and erection of a five storey mixed use development comprising 1 commercial unit and 21 residential units with basement car parking.
- The proposal does not comply with the *Hornsby Shire LEP 1994* with regard to Clause 15 (Floor Space Ratio). The applicant has made a submission pursuant to *State Environmental Planning Policy (SEPP) No. 1* to vary the standard. The submission is considered well-founded and is supported.
- The proposal complies with the requirements of *SEPP No. 65*, Council's *Housing Strategy Development Control Plan* and *Business Lands Development Control Plan*.
- One submission has been received in response to notification of the application.
- It is recommended that the application be approved.

Council's Policy.

RECOMMENDATION

THAT Council assume the concurrence of the Director-General of the Department of Planning and Infrastructure pursuant to State Environmental Planning Policy No. 1 and approve Development Application No. 453/2012 for demolition of existing structures and erection of a five storey mixed use development comprising 1 commercial unit and 21 residential units with basement car parking at Lot 25, 26 and 27 Sec 4 DP 1854, Nos. 5 & 7 Thornleigh Street, Thornleigh subject to the conditions of consent detailed in Schedule 1 of Group Manager's Planning Report No. PL13/12.

BACKGROUND

The land at No. 5 Thornleigh Street was rezoned from Residential A (Low Density) to Business A (General) in 2009 (Amendment No. 97).

The land at No. 7 Thornleigh Street was rezoned from Residential A (Low Density) to Residential C (Medium-High Density) on 2 September 2011 as part of Council's *Housing Strategy*.

SITE

The site comprises three allotments, (Nos. 5 and 7 Thornleigh Street) located on the northern side of the road with a total area of 1337 m². The site has an average slope of 7.7% towards the street from the north-western corner (rear) to the south-eastern corner (front).

Existing improvements on Nos. 5 and 7 Thornleigh Street include single storey dwelling-houses with garages at the rear. A number of trees are located within the rear setback of both properties.

The surrounding developments on the eastern and southern sides include single and two storey residential dwellings. The adjoining developments on the western and north-western sides include one to three storey high commercial developments. Shops, offices and a gymnasium are located in these commercial buildings.

PROPOSAL

The proposal involves the demolition of the existing structures within the site and construction of a five storey mixed use development comprising one commercial unit and 21 residential units with two levels of basement carpark. The details of the development are provided below:

Commercial component:

The development involves the construction of one commercial unit on the ground floor adjoining the western boundary. The unit would have an area of 133 m² with separate entrance from Thornleigh Street.

Residential Component:

Twenty-one units are proposed to be constructed in five levels. The unit mix would comprise of 4 x 1-bedroom units, 15 x 2-bedroom units and 2 x 3-bedroom units. The units would be accessed via a lift and would include balconies fronting the street, the rear and the side boundaries.

The gross floor area of the residential component of the development is 2133m².

Car parking and access

The building would be accessed from Thornleigh Street via a driveway located on the eastern boundary of the site. A separate pedestrian entry would provide access to the foyer and the lift for vertical circulation. A total of 23 residential spaces, 4 visitor's parking spaces and 3 commercial parking spaces including disabled car spaces and adaptable spaces are proposed in 2 basement levels.

Landscaping

The development would include landscaped areas along the front, rear and side setback areas. The communal open space area is proposed to be located at the rear of the site.

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 an additional 21 dwellings and would contribute towards housing choice in the locality. The development would also include a commercial component and generate employment opportunity in the locality.

2. STATUTORY CONTROLS

2.1 Hornsby Shire Local Environmental Plan 1994

2.1.1 Clause 7 – Permissibility

The subject land is zoned Business A (General) and Residential C (Medium/High Density) under the *Hornsby Shire Local Environmental Plan 1994 (HSLEP)*. The objectives of the zones are:

Residential C zone:

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

This zone would only accommodate the residential units. The proposed landuses are defined as “demolition” and “multi-unit housing” under the *HSLEP* and are permissible in the zone with Council’s consent.

Business A zone:

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

The proposed commercial unit with residential units on top would be located in this zone. The proposed landuses are defined as “demolition”, “business premises” and “multi-unit housing” under the *HSLEP* and are permissible in the zone with Council’s consent.

The proposed commercial unit would facilitate employment opportunities in the locality. The proposal complies with the objectives of the Business A zone in this regard.

2.1.2 Clause 11 - Developments near the Zone Boundaries

The objective of this clause is “*to allow for development near zone boundaries where the development is prohibited by zoning but is not inconsistent with the aims and objectives of this plan*”.

Clause 11 states the following:

- (1) *This clause applies to transitional land.*
- (2) *Regardless of any other provision of this plan, development may, with the consent of the Council, be carried out on land to which this clause applies within a zone, for any purpose for which development may be carried out in the adjoining zone, where the Council is satisfied that:*
 - (a) *the development is not inconsistent with the aims and objectives of this plan and the objectives of both zones, and*
 - (b) *in the case of business or industrial development, suitable land or premises are not available for the development in any business or industrial zone in the locality.*

Transitional land is defined as “*that land which is within 20 metres of a boundary between any two zones.*” Clause 11 of the *HSLEP* applies to the site as it comprises two zones and is transitional land. It is noted that the toilet and storage area for the commercial unit and the commercial car spaces in the basement would be located within the “transitional land” component of the site. In this regard, the location of the landuses, ancillary to the commercial unit, is appropriate as the uses would be integrated as part of the overall development and would promote the orderly development of the site.

2.1.3 Clause 15 – Floor Space Ratio

Clause 15 of the *HSLEP* prescribes the maximum permissible floor space ratio (FSR) for development within the Residential C zone. Subclause (5) of Clause 15 states that “*This clause does not apply to land shown edged heavy black on diagrams 1-8 in Schedule BB.*” The part of the site located in the Residential C zone is identified in Diagram 8 of Schedule BB of the *HSLEP*. Therefore, Clause 15 does not apply to this section of the site.

The part of the site zoned Business A is identified in Schedule B (Diagram 22) of the *HSLEP*. Clause 15(2) of the *HSLEP* prescribes that the maximum FSR for a site identified in Diagram 22 should not exceed 1.5:1. The proposed development results in an FSR of 1.83:1 in the Business A Zone and does not comply with the above requirement. The application is supported by a submission pursuant to *State Environmental Planning Policy No. 1* and is discussed in Section 2.3 of this report.

2.1.4 Clause 15A – Height of Buildings

Clause 15A of the *HSLEP* applies to the Residential C zone of the site and states the following:

“Height of Buildings

- (1) *The height of a building on any land shown edged heavy black on Diagrams 1-15 in Schedule BB is not to exceed the maximum height shown in the Height of Building Map.”*

In accordance with the above, the maximum permissible height of any development on the Residential C component of the site is 17.5 metres. The proposed development complies with this requirement.

2.1.5 Clause 18 – Heritage

Clause 18 of the *HSLEP* sets out heritage conservation provisions for Hornsby Shire. The site does not include a heritage item and is not located in a Heritage Conservation Area. Therefore, no further assessment in this regard is necessary.

2.2 Draft Hornsby Local Environmental Plan

Council, at its meeting in March 2012, endorsed the draft *Hornsby Local Environmental Plan (HLEP)* for public exhibition. The draft *HLEP* is currently being exhibited for public comment. The relevant provisions of the draft *HLEP* that apply to the site are outlined below.

2.2.1 Zoning

The site would be zoned B6 (*Enterprise Corridor*) and R4 (*High Density Residential*) zone pursuant to the Land Use Table of the draft *HLEP*. The proposed development within the B6 zone is defined as ‘Business premises’ and ‘Shop top housing’. The component of the development within the R4 zone is defined as a ‘Residential Flat Building’. The development would be permissible in the respective zones with Council’s consent.

2.2.2 Development near zone boundaries

Clause 5.3 of the draft *HLEP* includes provisions for developments near zone boundaries. This Clause would apply to any land located within 20 metres of a boundary of two zones and would allow flexibility in permissible landuses provided the development is not inconsistent with the objectives of both zones.

This Clause would apply to the site as it is located on a zone boundary. The matter is discussed in detail in Section 2.1.2 of this report.

2.2.3 Height of Building

Clause 4.3 of the draft *HLEP* provides that the height of a building on any land is not to exceed the maximum height shown for the land on the Height of Buildings Map. The maximum permissible height for the subject site within the R4 zone is 17.5 metres and that within the B4 zone is 16 metres. The proposal complies with this provision.

2.2.4 Floor Space ratio

Clause 4.4 of the *draft HLEP* specifies that the floor space ratio of a building on any land is not to exceed the maximum FSR shown for the land on the Floor Space Ratio Map. The maximum permissible FSR for the B6 component of the site is 1.5:1. As discussed above, the proposal would not comply with this requirement and is supported by a submission pursuant to *SEPP 1*.

2.3 State Environmental Planning Policy No. 1 - Development Standards

The application has been assessed against the requirements of *SEPP 1*. This *Policy* provides flexibility in the application of development standards in circumstances where strict compliance with those standards would, in any particular case, be unreasonable or unnecessary or tend to hinder the attainment of the objectives of *the Act*. The relevant objectives of Section 5(a) of *the Act* are to encourage:

- “(i) *the proper management, development and conservation of natural and artificial resources, including agricultural land, natural areas, forests, minerals, water, cities, towns and villages for the purpose of promoting the social and economic welfare of the community and a better environment,*
- “(ii) *the promotion and co-ordination of the orderly and economic use and development of land,*
- “(v) *the provision and co-ordination of community services and facilities,”*

One of the broad objectives of the *HSLEP* is “*to facilitate the orderly and economic development of land within the area*”.

The objective of Clause 15 is “*to control intensity and scale of development of land so that development will be in accordance with the land’s environmental capacity and zone objectives.*”

The proposed development would result in a FSR of 1.83:1 within the Business A zone. The remaining part of the site is zoned Residential C with no FSR control. The applicant submits that the proposal is consistent with the objectives of the Business A zone, Clause 15 of the *HSLEP* and the *Act* in the following ways:

- *“The extent of non-compliance, when considering the whole development site, is approximately 10% and is imperceptible when considering the bulk and scale associated with the development;*
- *The design concept provides for an appropriate distribution of the building mass, noting technical compliance with the control could be achieved through a redistribution of the building mass to the Residential C land however the design outcome would be poor in terms of amenity and the level of presentation to Thornleigh Street;*
- *The design of the development proposal has been carried out to align with the desired future character of the Station Street Precinct, which will adopt building forms of approximately five (5) storeys and 17.5 metres. The current proposal will exhibit a comparable intensity and scale to the future development of the precinct;*
- *The intensity and scale of the development does not exceed the environmental capacity of the land, noting that the design concept ensures that environmental impacts are acceptable. Amenity for future occupants is maximised with 81% of units receiving more than 2 hours of solar access at mid-winter and are cross-ventilated;*
- *The development proposal provides for a ground floor commercial tenancy to activate the street frontage and to contribute to the retail, commercial and social needs of the local community. The ground floor commercial tenancy will also provide future employment opportunities and the overall concept will contribute to the improvement of the health, vitality, cultural and social environment within the area;*
- *The proposal is generally consistent with the provisions of the Draft Hornsby Local Environmental Plan 2012, noting compliance with the 16 metres height limit.*
- *The Business A zone of No. 5 Thornleigh Street is an anomaly in that it has been used for residential purposes for several decades, with the relatively recent development of the adjoining site to the north-west effectively extinguishing any substantive commercial development potential of the 445 m² allotment.*
- *The current proposal ensures that the allotment zoned Business A will not be isolated and facilitates the orderly and economic development of the land by providing an appropriate intensity that aligns with the future scale of development in the Station Street Precinct whilst providing commercial floor area at the ground floor. The dual zoning of the site provides a logical transition at the interface of the commercial zone to the north and west with the residential zoned land to the east”.*

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

1. *The objectives of the standard are achieved notwithstanding non-compliance with the standard;*
2. *The underlying objective or the 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 would be unnecessary and unreasonable.*
5. *The zoning of the particular land is unreasonable or inappropriate so that a development standard appropriate for that zoning is also unreasonable and unnecessary as it applies to the land and compliance with the standard would be unreasonable or unnecessary. That is, a particular parcel of land should not have been included in the particular zone.*

It is considered that the first three of the above points are relevant matters to consider in respect of this application. Having regard to the above points, the following matters are considered relevant:

- The development is consistent with the objectives of Section 5 of *the Act* and the broad objective of the *HSLEP* in that it encourages the improved management of urban land and promotes the orderly use of that land.
- The current development would be a desirable outcome for the site as it would be consistent with Council's vision of accommodating additional housing stock in the area whilst providing employment opportunities in the locality.
- The proposal complies with the objectives of the development standard for "Floor Space Ratio" within the *HSLEP*.
- The site is located at the boundary of a business precinct and a high density residential precinct. This development would provide an appropriate transition between the two areas.
- The proposed additional floor space would not be visible from the public domain and would not result in additional bulk or scale.

Based on this assessment, it is considered that the applicant's *SEPP 1* submission is well founded and that compliance with the development standard would be unreasonable and unnecessary in the circumstances of the case. Accordingly, the *SEPP 1* submission is supported.

2.4 State Environmental Planning Policy No. 55 – Remediation of Land

State Environmental Planning Policy No. 55 (SEPP 55) requires that Council must not consent to the carrying out of any development on land unless it has considered whether the land is contaminated or requires remediation for the proposed use.

The site has been used for residential purposes and is unlikely to be contaminated. No further assessment is considered necessary in this regard. A condition is recommended to notify Council should any contamination be found during construction.

2.5 State Environmental Planning Policy No. 65 – Design Quality of Residential Flat Development

The application has been assessed against the requirements of *State Environmental Planning Policy No. 65 (SEPP 65)*. This *Policy* provides State-wide planning controls for the assessment of residential flat developments and for residential components of mixed use developments. The primary aim of *SEPP 65* is to “improve the design quality of residential flat development in New South Wales”.

An assessment of the design of the proposed development against the ten principles provided in Part 2 of *SEPP 65* is detailed below.

2.5.1 Principle 1: Context

The site is located within a precinct zoned for five storey residential flat buildings in close proximity to Pennant Hills Road and the Thornleigh commercial centre. The desired future character of the area, as outlined in Council's *Housing Strategy Development Control Plan*, is that of a high density residential precinct incorporating five storey developments in a landscaped setting.

The submitted “Design Verification Statement” indicates that the proposal responds to the desired future character of the area visualised by Council. Once the precinct is redeveloped, the development would integrate with the surrounding sites and would be in keeping with the desired urban form. The commercial unit would provide a transitional development on the zone boundary.

This is the first development application lodged with Council for the redevelopment of the precinct. The above argument is supported as the development responds appropriately to the ‘context’ principle of *SEPP 65*, and would contribute to the identity and future character of the precinct.

2.5.2 Principle 2: Scale

The proposed development complies with the maximum height limit permitted in the residential precinct and provides a building envelope which confines itself within the setbacks required by Council's *Housing Strategy Development Control Plan*. The component of the building within the Business zone, however does not comply with the three storey height limit stipulated in the *Business Lands Development Control Plan*. The matter is discussed in Section 2.11 of this report.

The articulated facades of the building provide an appropriate transition between the adjacent, existing two to three storey commercial developments and the future high density residential precinct.

The proposed design and inclusion of No. 5 Thornleigh Street as part of the development would avoid the creation of an isolated site between the commercial centre and residential precinct.

The scale of the development is consistent with the desired future character of the precinct. The application is assessed as satisfactory in this regard.

2.5.3 Principle 3: Built Form

The proposed development presents a distinct architectural design which would set a desirable precedent for the locality. The details of the elements of the built form are assessed in Section 2.10 of this report.

2.5.4 Principle 4: Density

The *HSLEP* does not incorporate any floor space ratio requirements for the residential component of the site within the Housing Strategy precinct. The density of development is guided by the height of the building and the required setbacks from the boundaries. The development does not comply with the FSR requirement of the Business A zone contained within the *HSLEP*. The matters have been discussed in detail in Sections 2.3 of this report.

The proposal achieves a dwelling density consistent with the requirements of the *Housing Strategy Development Control Plan* which establishes the desired future character for the "Station Street, Thornleigh" precinct. The density of the development also provides an appropriate transition between the residential precinct and Thornleigh commercial centre.

2.5.5 Principle 5: Resource, energy and water efficiency

The proposed development includes a BASIX certificate and complies with the requirements with regard to water, thermal comfort and energy. The proposal also complies with the natural ventilation and solar access requirements within the *Residential Flat Design Code (RFDC)*. The details of the above matters are discussed in 2.6 of this report.

2.5.6 Principle 6: Landscape

The application includes a landscape concept plan providing landscaping along the street frontage and the side boundaries. This planting would activate the street frontage and provide a landscaped setting for the proposed development.

The proposed development also incorporates deep soil planting wherever possible and communal recreational area within the rear setback. Given the above, the proposal satisfies the intent of the 'Landscaping' principle of *SEPP 65*.

2.5.7 Principle 7: Amenity

The proposal would provide convenient and safe access to the development via a central lift connecting the basement and all other levels. The application has been assessed against the 'Building Amenity' criteria within the *RFDC* and is discussed in detail in Section 2.6 of this report.

2.5.8 Principle 8: Safety and security

The proposed development is located on a road that experiences a medium level of pedestrian movements. The design has regard to 'Crime Prevention through Environmental Design (CPTED)' principles and does not include any obvious unobserved areas.

The *RFDC* requires the preparation of a formal Crime Assessment Report for development that comprises more than 20 residential units. The proposal includes an assessment of the development against crime prevention controls in the Statement of Environmental Effects. The applicant advises that the safety of the public domain is enhanced by providing apartment layouts that optimize occupant surveillance, well-lit entry lobbies, garden paths and public areas, secured car-park entry and casual surveillance for all communal areas.

The location of the balconies and the card-only access to the premises would assist in passive surveillance and would restrict unauthorized entry. The application is assessed as satisfactory with regard to safety and security subject to a condition requiring lighting of the service areas of the ground floor, the garbage room and the communal open space at the rear.

2.5.9 Principle 9: Social dimensions

The site is located within close proximity to a variety of shopping, recreation and educational facilities. An appropriate mix of landuses, dwelling types and sizes is proposed improving housing choice in the locality. Accordingly, the development is assessed as satisfactory with regard to social dimensions.

2.5.10 Principle 10: Aesthetics

The proposal is generally consistent with the design principles contained within the *RFDC*. It is considered that the aesthetic quality of the building contributes to the desired future character of the precinct. The details of the assessment of the built form and the aesthetics of the development are contained in Section 2.10 of this report.

2.6 SEPP 65 Residential Flat Design Code

Clause 30(2) of *SEPP 65* requires consent authorities to consider the design quality of residential flat development when evaluated in accordance with the design quality principles, and the Department of Planning and Infrastructure's *Residential Flat Design Code (RFDC)*. The following is an assessment of the proposal against the requirements of the *RFDC*:

Residential Flat Design Code			
Control	Proposal	Requirement	Compliance
Deep Soil Zone	>30% within the Res C zone	Min 25%	Yes
Communal Open Space	28% within the Res C zone	25-30%	Yes
Ground Level Private Open Space	25m ² < 4m	25m ² Min Dimension 4m	Yes No
Minimum Dwelling Size	1 br – 50m ² 2 br – 70m ² 3 br – 95m ²	1 br – 50m ² 2 br – 70m ² 3 br – 95m ²	Yes Yes Yes
Unit depth and maximum Kitchen Distance	8m	8m	Yes
Minimum Balcony Depth	2m	2m	Yes
Ceiling heights - Residential floors	2.7m	2.7m (Min)	Yes
Ceiling height-commercial floors	3m	3m (Min)	Yes
Total Storage area	1 br - > 6m ³ 2 br - > 8m ³ 3 br - > 10m ³ > 50% accessible from the apartments	6m ³ (Min) 8m ³ (Min) 10 m ³ (Min) 50% accessible from apartments	Yes Yes Yes Yes
Dual Aspect & Cross Ventilation	76% (16 out of units)	60%	Yes
Adaptable Housing	30%	10%	Yes

As detailed in the above table, the proposed development generally complies with the prescriptive measures within the *RFDC*. The matter of non-compliance with dimensions for open space is discussed below as well as a brief discussion on compliance with the relevant performance standards.

2.6.1 Building Depth and Separation

The proposed building depth and the design of the facades are in accordance with the requirements of Council's *Housing Strategy Development Control Plan* and are discussed in Section 2.10.

The majority of the living areas and single aspect balconies would be setback 6 metres from the side boundaries facilitating a future building separation of 12 metres with adjoining sites in accordance with the *RFDC*. The top level balconies on the eastern side would not provide a 9 metre separation from the boundary (18 metres from adjoining future development). Compliance can however, be achieved via conditions of consent. The matter is discussed in Section 2.10 of this report.

The proposed building separation would not result in unreasonable compromise of natural ventilation and solar access to the proposed, or adjoining future, developments subject to the implementation of conditions of consent.

2.6.2 Apartment Layout

The proposed development includes a mix of single aspect and corner units including, one, two and three bedroom apartments. All units would be well ventilated minimising single aspect areas wherever possible. Each apartment would include one primary balcony with a secondary balcony being provided for most of the units. In accordance with the *RFDC*, the majority of units (52%) have kitchens with access to natural ventilation. Furthermore, no units are proposed as single aspect, south facing.

The apartments include storage areas in accordance with the requirements of the *RFDC*. The storage areas are provided at the basement levels and additional storage areas are also provided within the apartments.

The layout of the apartments and the building configuration comply with the rules of thumb of the *RFDC*.

2.6.3 Ground Floor Apartments and Private open Space

The majority of the ground floor units have been provided with 25 sq metres of courtyard space. Unit No. 4 on the ground floor would not achieve the 4m minimum depth in one direction. However, this ground floor terrace would be elevated above the ground due to the slope of the land. Therefore, strict compliance with the objectives and the prescriptive measure in relation to this standard is not applicable to this unit.

The private courtyards on the eastern side would include privacy screens to alleviate adverse impact on the visual and acoustic privacy of residents on the adjoining allotment whilst maintaining a communal landscaped strip along the boundary for pedestrian access to the rear.

The location and dimensions of the private courtyards for the ground floor apartments are considered satisfactory.

2.6.4 Internal Circulation

The proposal includes barrier free access to all floors via a lift. A maximum of 5 units would be accessed from a double loaded corridor.

2.6.5 Acoustic Privacy

The internal layout of the residential units is designed such that noise generating areas would generally adjoin each other. Storage or circulation zones would act as a buffer between units. Bedrooms and service areas such as kitchens, bathrooms and laundries would be grouped together wherever possible. Measures to reduce noise transmission from common corridors have been provided within the unit layouts. No balconies would front Thornleigh Street at the ground level.

The proposal complies with the 'Acoustic Privacy' requirements within the *RFDC* and is assessed as satisfactory.

2.7 State Environmental Planning Policy (Building Sustainability Index – BASIX) - 2004

The application has been assessed against the requirements of *State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004*. The proposal includes a BASIX Certificate for the proposed units and is considered to be satisfactory.

2.8 State Environmental Planning Policy No. 32 - Urban Consolidation (Redevelopment of Urban Land) (SEPP 32)

The application has been assessed against the requirements of *SEPP 32*, which requires Council to implement the aims and objectives of this *Policy* to the fullest extent practicable when considering development applications relating to redevelopment of urban land. The application complies with the objectives of the *Policy* as it would promote social and economic welfare of the locality and would result in the orderly and economic use of under utilised land within the Shire.

2.9 Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005

The application has been assessed against the requirements of *Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005*. This *Policy* provides general planning considerations and strategies to ensure that the catchment, foreshores, waterways and islands of Sydney Harbour are recognised, protected, enhanced and maintained.

The proposal includes details of stormwater management of the site by providing an on-site detention system. Council's assessment of the proposal in this regard concludes that the development is satisfactory. A condition is recommended with respect to installation of sediment and erosion control measures prior to, and during, construction.

The proposed development would have minimal potential to impact on the Sydney Harbour Catchment subject to implementation of recommended conditions.

2.10 Housing Strategy Development Control Plan

The proposed development has been assessed having regard to the relevant performance and prescriptive design requirements within Council's *Housing Strategy Development Control Plan (Housing Strategy DCP)*. The following table sets out the compliance of the component of the proposed development within the Residential C zone, with the various elements of the *Housing Strategy DCP*:

Housing Strategy Development Control Plan			
Control	Proposal	Requirement	Compliance
Site Width	36.57m	30m	Yes
Height	5 storeys – 17.5m	5 storeys – 17.5m	Yes
Lowest Residential Floor Above Ground	1.2m	1.5m Max	Yes
Maximum Floorplate Dimension	32m	35m	Yes
Building Indentation	4m x 4m	4m x 4m	Yes
Front Setback	10m 8m for 1/3 of building length (6.5m)	10m 8m for 1/3 of building length (6.8m)	Yes Yes
Eastern Side Setback	6m 4m for 1/3 of building length (6.5m)	6m 4m for 1/3 of building length (6.8m)	Yes Yes
Western Side setback	Building extends to Business A zone	N/A	N/A
Rear Setback	11m 8m for 1/3 of building length (6m)	10m 8m for 1/3 of building length (6.8m)	Yes
Additional Top Storey Setback From Ground Floor	<3m	3m	No – Discussed later
Underground Parking Setback	Front & Rear - 7m Eastern Side - 4m	7m 4m	Yes Yes
Balcony setback	Front & Rear - 7m Sides - 4m	7m 4m	Yes Yes

Basement Ramp Setback (6m wide)	2m (Min)	2m (Min)	Yes
Pedestrian access setback	> 2m	2m	Yes
Garbage enclosure setback	2m	2m	Yes
Parking	23 resident spaces 4 visitor spaces 7 bicycle spaces	23 resident spaces 4 visitor spaces 7 bicycle spaces	Yes Yes Yes
Landscaped areas	Front & Rear – 7m wide Sides – 4m wide	7m wide 4m wide	Yes Yes
Private Open Space with Min Width 2.5m	1 br units > 10 m ² 2 br units >12 m ² 3 br units >30 m ²	1 br units 10m ² (min) 1 br units 12m ² (min) 1 br units 16m ² (min)	Yes Yes Yes
Communal Open Space with minimum dimension 2.5m	28%	25%	Yes
Solar Access	71.4%	70%	Yes
Housing Choice (1br, 2 br and 3 br)	10% of each type	10% of each type (min)	Yes
Adaptable Units	30% (6 units)	30%	Yes
Accessible units	10% (2 units)	10%	Yes

As indicated in the above table, the proposal generally complies with the numerical requirements of the *Housing Strategy DCP*. The matters of non-compliance and an assessment of the proposal against the various relevant elements of the *Housing Strategy DCP* are discussed below.

2.10.1 Site Requirements

The *Housing Strategy DCP* requires sites to have a minimum frontage of 30 metres. The site has a frontage of 32.9 metres and complies with this requirement. The site does not result in isolation of adjoining blocks and would not restrict orderly and economic development of any land in the precinct.

2.10.2 Setbacks

Ground Floor courtyard

The private courtyard for Unit 4 on the ground floor is raised to provide level access from the unit. The courtyard is to be enclosed by a 0.8m - 1.5m high retaining wall with a 1.4m high privacy screen on

top, setback 1m from the eastern boundary. This would result in a narrow landscaped strip between the fence and the courtyard not complying with the *Housing Strategy DCP* which requires the maintenance of a 2m wide landscaped strip adjoining ground floor courtyards.

To ensure a reasonably wide landscape strip, a condition of consent is recommended requiring a 2m wide setback from the courtyard wall to the eastern boundary. This would also reduce the height of the wall and the depth of the fill. The additional setback would still retain the required courtyard area. The privacy screen would alleviate overlooking opportunities.

Privacy screens are proposed for all ground level courtyards along the eastern boundary to maintain privacy. This is considered to be an acceptable design outcome.

Setbacks for the top storey

The *Housing Strategy DCP* requires that the top storey be setback an additional 3m from the ground floor. The proposed development generally complies with this requirement except in the following areas:

- Additional 3m setback is not provided for the components of the building which have a setback >10m at the ground level. The subject areas are minor when compared to the total building envelope.

Comment: The minor encroachment is considered reasonable as the 3m additional setback in these areas would not provide any extra amenity to the residents and would reduce useable floor area. The habitable rooms of the building located in these areas would achieve the 18m building separation from an adjoining residential development as required by the *RFDC*. The encroachment would also not have any negative impact on building articulation. Therefore, the numerical non-compliance is considered acceptable.

- The walls of the uppermost level on the eastern side of the building have been setback an additional 3m from the ground floor. However, this additional setback area is utilised as a terrace on the upper level, being setback 4m from the eastern boundary (same as the ground floor). As a result, the balconies on the uppermost level would not achieve the 18m separation (9m from the boundary) at the fifth level as required by the *RFDC*.

Comment: The eastern boundary provides the residential interface for the development. The 3m additional setback requirement for the uppermost level aims to achieve the 18m building separation from a future residential development on the adjoining site as required by the *RFDC* and provides for appropriate privacy to the residential units that would front each other in any future. The proposed location of the terraces would not achieve visual and acoustic privacy for future residents. Further, it would set an undesirable precedent in the locality.

Accordingly, a condition of consent is recommended to align the terraces with the building line fronting the eastern boundary. This can be achieved by setting the balustrades back and would provide a minimum 7m setback of the terraces from the boundary (a minimum 14m building separation in the future assuming similar setbacks are approved for a future development on the adjoining site). Though the setback would not strictly comply with the numerical requirements, it would satisfy the objective of the *Housing Strategy DCP* and the *RFDC* with regard to privacy.

- The terraces of the uppermost level (fifth storey) on the northern side (rear) are setback 7m – 8m from the boundary which would be the same as the ground level terraces. As a result, the balconies would not achieve the 18m separation from a future residential development on the adjoining site.

Comment: The outcome on the northern side is considered reasonable as the terraces would not extend along the entire length of the façade within the Residential C zone, would provide building articulation and maximise the northern aspect. Should similar setbacks be approved for any future five storey residential developments at the rear, a minimum 14m building separation would be achieved separated by landscaping resulting in a desirable outcome.

Subject to recommended conditions, the proposed development would achieve the desired outcomes regarding setbacks as envisaged in the *Housing Strategy DCP*.

2.10.3 Landscaping

The landscaped areas adjoining the front and side setbacks comply with the requirements of the *Housing Strategy DCP*.

The on-site detention system (OSD) is proposed to be located within the deep soil area at the front which would hinder the planting of canopy trees in this section of the site. However, the location of the OSD within the front setback is based on the slope of the site, engineering requirements and to facilitate the connection of the stormwater discharged from the site to the street.

The area in front of the residential component of the building is proposed to be landscaped with shrubs and trees which would soften the streetscape and would achieve the desired outcome as envisaged in the *Housing Strategy DCP*. In this regard, the location of the OSD is considered appropriate.

The rear setback area would be landscaped and would be utilised as the communal open space.

2.10.4 Floorplates, Separations and Articulation

The building complies with the required floorplate lengths/widths and indentations. The indentations would create two separate “building pavilions” rather than a single building mass. This is accentuated by the proposed roof form.

The articulation of the building facades has been achieved in the following ways:

- The building has been vertically stepped, two steps being provided across 50% of the width of each façade.
- Vertical solid planes have been provided intercepting the balconies on the front and rear façade up to the fourth floor. The street elevation would incorporate a continuous vertical floor to divide the façade into two pavilions.
- The facades have been divided into vertical ‘panels’, no wider than 8 metres. Such panels have been visually separated by indentations and projections across the

alignment of the exterior walls, balconies, terraces and pergolas to achieve the desired articulation.

- Wrap around balconies have been provided at the building corners. The balustrades of the balconies would incorporate light weight materials such as glass and steel.
- A flat roof has been provided without parapet.
- Sunscreens and pergolas have been provided at prominent corners.
- The top storey would incorporate penthouses with a large proportion of openings.
- The façade would display a varied pattern of solid to void.
- The building would incorporate contemporary colours in pastel shades.
- The commercial component would blend appropriately with the residential development.

The design of the floor plates, the proposed indentations and the articulation of the facades have been assessed as satisfactory.

2.10.5 Privacy

The matters in relation to acoustic privacy of the units have been discussed in detail under “Residential Flat Design Code” in Section 2.6.5 of this report. The design of the building achieves the ‘building separation’ requirements as required by SEPP 65.

The living areas of the residential units have been positioned to face the front and the rear wherever possible. The ground floor balconies fronting the communal open space at the rear would be suitably screened by landscaping and privacy screens. The proposal has been assessed as satisfactory in this regard and would not compromise the privacy of future occupants.

2.10.6 Housing Choice

Six units are proposed to be adaptable. The submitted plans include details of typical “Accessible Units” and the relevant fit-outs. The application is assessed as satisfactory with regard to housing choice.

2.10.7 Solar Access

Solar access to units

The applicant has submitted solar access diagrams which demonstrate that 71.4% of the units would receive 3 hours solar access during Winter Solstice. Council’s assessment in this regard is satisfactory.

Solar Access to Communal Area

The communal area would be orientated towards the northern boundary and would receive 3 hours of solar access.

2.10.8 Vehicular Access and Parking

The development proposes two levels of basement for residents, commercial users and visitor's car parking with access via a 6 metre wide driveway from Thornleigh Street. The driveway width, ramp gradients, aisle widths, location and number of car parking spaces have been assessed as satisfactory.

Adaptable resident and commercial car spaces with shared zones and one accessible visitor's car space have been demarcated on the basement plan satisfying the requirements of the *Housing Strategy DCP*.

The driveway configuration would allow the parking of a Medium Rigid Vehicle (MRV) at the ground level on the driveway. This would be required for removalist vehicles and garbage trucks to access the site without hindering road traffic. It is anticipated that the Strata Management Plan would incorporate rules and regulations to notify residents of the time and dates when such disruptions would occur. The trucks would be able to reverse in and out of the driveway and this is considered acceptable on an occasional basis.

2.10.9 Station Street, Thornleigh Precinct

The strategy for redevelopment of the precinct is to predominantly incorporate five storey residential flat buildings in garden settings with parking in basements. The proposal complies with this strategy for the precinct.

The development would provide a landscaped setback along the entire frontage. The proposed built-form would achieve the articulation as desired in the *Housing Strategy DCP*.

The proposed development would achieve the desired outcome for the Thornleigh Precinct and is assessed as satisfactory in this regard.

2.11 Business Lands Development Control Plan

The application has been assessed against the requirements of the *Business Lands Development Control Plan* (BLDCP). The *BLDCP* applies to the component of the site located in the Business A Zone. The compliance of the proposal with the various elements of the *BLDCP* is discussed below.

2.11.1 Setbacks

The *BLDCP* requires that a building be setback 6 metres from the boundary fronting Thornleigh Street. The proposed commercial unit on the ground floor complies with this requirement. No other setback requirements are stipulated by the *BLDCP*.

The building within the Business zone would have the same front setback on the upper levels as the component of the development within the Residential C zone. The balconies would be setback 4m from the rear boundary for all upper levels with additional setback for the top floor. The building would be built to the western boundary at the ground level where it would adjoin an existing commercial

premise, with the setbacks increasing on the upper levels to provide solar access and ventilation to the residential units.

The setbacks within the Business A zone are considered satisfactory.

2.11.2 Height

The *BLDCP* permits a maximum building height of three storeys in the Business A zone. The proposed development would have a height of 15.5 metres (5 storeys) within this zone and would not comply with the *BLDCP*. The applicant has provided the following argument in support of the non-compliance:

- The height of the building within the Business A zone has been increased to align with the development controls of the *Housing Strategy DCP*.
- The draft *HLEP* specifies a height limit of 16 metres for the Business zone component of the subject site. The proposal complies with this requirement.
- The variation applies to a small portion of the business zoned land in the area which would otherwise be isolated by the current development.
- The site is within the Thornleigh precinct and the prevailing forms of development in the vicinity of the site will be of comparable form and height in the future.
- The business zoned land has traditionally been used for residential purposes and the development adjoining the western boundary of the subject site has effectively sterilized any viable commercial development on the site.
- Integration of the business zoned land with the adjoining zone has been achieved via the non-compliance with the height control and is considered to be an appropriate planning outcome for the site.

The above argument is considered acceptable and the non-compliance with regard to the height is supported on that basis. The heights proposed would promote an appropriate transition to the adjacent commercial centre.

2.11.3 Residential Development

The *BLDCP* encourages shop-top housing within a business zone that integrates with the relevant commercial precinct. The proposed development complies with the objectives of the element in this regard.

Private Open Space, Solar Access and Natural Ventilation

The *BLDCP* does not include any prescriptive measures regarding provision of private open space for shop-top housing. Notwithstanding, balconies and secondary private open space areas have been provided for each unit complying with the *Housing Strategy DCP*.

The residential units comply with the *RFDC* with regard to provision of solar access and natural ventilation. Sufficient storage areas have also been provided in conjunction with each unit within the Business zone. These matters have been discussed in detail in the earlier sections of this report and are assessed as satisfactory.

2.11.4 Landscaping

The land within the Business A zone would include a paved area at the front setback with soft landscaping along the front boundary. The rear portion of the site has also been appropriately landscaped, integrating it with the communal open space area within the Residential C zone. The private open space area of the ground floor unit would be screened to separate it from the communal landscaped area.

2.11.5 Vehicular Access and Parking

The basement car park includes 3 commercial car spaces including one disabled space. This complies with the requirements of the *BLDCP*. The parking spaces would be separated from the residential spaces. Direct access to the common lobby would be provided via a lift.

2.12 Waste Management and Minimisation Development Control Plan

The proposal includes a waste management plan with details of waste management during the demolition phase and the construction phase of building works.

Level 1 of the basement would accommodate a communal waste storage area with a separate compaction room. There is additional area in the bin storage room for residents to place unwanted bulky items awaiting removal. A separate commercial bin storage area is proposed adjacent to the basement ramp.

The garbage collection area is located at the ground level adjoining the driveway on the eastern boundary within 10 metres of the waste storage area. A site caretaker is required to transfer the bins between the garbage chute room and recycling cupboard on each level to the bin storage room and then to the bin collection point for servicing in accordance with the weekly schedule of garbage collection. This is recommended as a condition of consent. A total of 10 bins would be stored in this collection area. A small rigid garbage collection vehicle would reverse onto the driveway for garbage collection.

The noise and odour from the compaction system in the basement would be eliminated via the mechanical exhaust system.

2.13 Access and Mobility Development Control Plan

The proposed development has been assessed having regard to the relevant performance and prescriptive design requirements within Council's *Access and Mobility Development Control Plan*.

The development proposes continuous barrier free access to all floors via a lift and complies with the requirements of the *Housing Strategy DCP* with regard to the provision of adaptable and accessible units. The width of the corridors and the lift would be suitable for wheelchair access.

The application is assessed as satisfactory with regard to the *Access and Mobility DCP*.

2.14 Car Parking Development Control Plan

The proposed development has been assessed having regard to the relevant performance and prescriptive design requirements contained within Council's *Car Parking Development Control Plan (Car Parking DCP)*. The matter has been discussed in detail under Sections 2.10 and 2.11 of this report.

2.15 Sustainable Water Development Control Plan

Subject to sediment and erosion control measures being implemented on site during construction, the proposal would comply with the requirements contained within the *Sustainable Water Development Control Plan*.

2.16 Section 94 Contributions Plan

Council's *Section 94 Plan* applies to the development as it would result in 19 additional residential units and one commercial unit in lieu of the two existing residences. Accordingly, the requirement for a monetary Section 94 contribution has been recommended as a condition of development consent.

3. ENVIRONMENTAL IMPACTS

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

3.1 Natural Environment

The proposed development would necessitate the removal of a number of trees from the site including one street tree. The application is supported by a Tree Report that assesses existing trees and provides recommendations for retaining one street tree. Council's assessment of the application with regard to its impact on trees concludes that the proposal is satisfactory.

The construction of the building would not result in a negative impact on the natural environment subject to implementation of recommended conditions during construction.

3.2 Built Environment

3.2.1 Built form

The building would be located within a transitional zone between a commercial centre and a five-storey residential flat building precinct. The built form of the proposal would be consistent with the desired future character of the precinct and would provide an appropriate transition between the two zones.

3.2.2 Traffic Impacts

The application is supported by a Traffic Report which is assessed as satisfactory. The proposed development would not result in significant traffic generation within the locality.

3.2.3 Stormwater Management

The proposed development would discharge the stormwater on to the street via an on-site detention system with a pump out system proposed for the basement. The proposed stormwater management system is assessed as satisfactory.

3.3 Social Impacts

The residential development would improve the housing choice in the locality by providing 21 additional units that range in size from one bedroom to three bedroom units.

3.4 Economic Impacts

The development would result in a positive economic impact on the locality via employment generation due to the presence of the commercial component. The residential component of the development would have a minor positive impact on the local economy in conjunction with other new residential development in the precinct 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”*.

There is no known hazard or risk associated with the site with respect to landslip, subsidence, flooding and bushfire that would preclude development of the site. For the reasons detailed in this report, it is considered that the site is suitable to accommodate the development.

5. PUBLIC PARTICIPATION



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

5.1 Community Consultation

The proposed development was placed on public exhibition and was notified to adjoining and nearby landowners between 24/05/2012 and 14/06/2012 in accordance with Council's *Notification and Exhibition Development Control Plan*. During this period, Council received one submission from a resident group namely, the Thornleigh Neighbourhood Residents Group. The map below illustrates the location of those nearby landowners who were notified of the development application.



NOTIFICATION PLAN

<ul style="list-style-type: none"> • PROPERTIES NOTIFIED 	X SUBMISSIONS RECEIVED	 PROPERTY SUBJECT OF DEVELOPMENT	
ONE SUBMISSION FROM THE THORNLEIGH NEIGHBOURHOOD RESIDENTS GROUP.			

The submission objects to the development, generally on the following grounds:

- The proposed balconies include clear glass and no screens which may have adverse privacy impacts on adjoining residents and also on the residents living on the opposite side of the road.
- The balconies do not incorporate satisfactory screened clothes drying areas.
- The development incorporates minimal landscaping which does not blend with the residential character of the Thornleigh precinct.

The merits of the matters raised in the submission have been addressed in the body of the report with the exception of the following:

5.1.2 Privacy Screens and translucent glass for balconies

The proposal complies with Council's *Housing Strategy DCP* with regard to setbacks. The balconies are sufficiently separated from each other to maintain a reasonable level of privacy in accordance with the *Housing Strategy DCP* and the *RFDC*. Further, addition of privacy screens or translucent glass

would cause unreasonable impacts on the solar access and ventilation provisions of the future occupants. The balconies fronting Thornleigh Street would be located a significant distance from the houses on the opposite side of the road minimising any privacy impacts.

Most of the residential units include secondary balconies which can accommodate clothes lines. Further, it has also been observed that Strata Management Plans for high density residential flat buildings often do not allow clothes hanging on the balconies located on the front façade of the buildings to avoid adverse visual impact on the streetscape. Most of the units would be provided with dryers to avoid this situation.

5.2 Public Agencies

The proposal is not required to be referred to any Public Agencies.

6. THE PUBLIC INTEREST

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

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

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

7. POLICY

As Council is currently in caretaker mode prior to the 8 September 2012 election, this Report has been prepared having regard to the requirements of Council's Elections – Caretaker Period Policy. The recommended decision is not a “major decision” within the context of Council's Policy.

CONCLUSION

The application seeks approval for the demolition of existing structures and the construction of a five storey mixed use development comprising a commercial unit on the ground floor and twenty-one residential units with basement car parking. The proposed development would be partly located on a land zoned business and partly within land zoned as a high density residential.

The proposed floor area of the building within the business zone does not comply with the floor space ratio development standard of the *Hornsby Shire Local Environmental Plan 1994*. The applicant has made a submission pursuant to *State Environmental Planning Policy No.1* to support the non-compliance. The submission is considered to be well founded and is supported.

The application has been assessed having regard to Section 79C of the *Environmental Planning and Assessment Act 1979*, the design principles within *SEPP 65*, the provisions within the *Hornsby Shire*

Local Environmental Plan 1994 and the objectives of the development controls within Council's *Housing Strategy Development Control Plan* and *Business Lands Development Control Plan*.

The application is also assessed as satisfactory against the draft *Hornsby Local Environmental Plan* and the draft *Hornsby Development Control Plan*.

The proposal would result in the expansion of an urban built form in keeping with the desired future character of the precinct.

Approval of the proposal is recommended.

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

ROD PICKLES
Manager - Assessments
Planning Division

JAMES FARRINGTON
Group Manager
Planning Division

Attachments:

1. Locality Map
2. Survey Plan
3. Site Plan
4. Landscape Plan
5. Floor Plans
6. Elevations and Sections
7. Shadow Diagrams
8. Photomontage

File Reference: F2004/07599

Document Number: D01959337

SCHEDULE 1

GENERAL CONDITIONS

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

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

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

1. Approved Plans and Supporting Documentation

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

Plan No.	Rev No.	Drawn by	Dated
Survey Plan	-	SDG Land Development Solutions	30/01/2012
Basement Level 2 – DA100	A	Mackenzie Architects	3/07/2012
Basement Level 1 – DA101	A	Mackenzie Architects	3/07/2012
Ground Floor Plan – DA102	A	Mackenzie Architects	3/07/2012
First Floor Plan – DA103	A	Mackenzie Architects	3/07/2012
Second Floor Plan – DA104	A	Mackenzie Architects	3/07/2012
Third Floor Plan – DA105	A	Mackenzie Architects	3/07/2012
Fourth Floor Plan – DA106	A	Mackenzie Architects	3/07/2012
Site/Roof Plan-DA107	A	Mackenzie Architects	3/07/2012
Elevations – DA200	A	Mackenzie Architects	3/07/2012
Elevations (2) – DA201	A	Mackenzie Architects	3/07/2012
Sections – DA300	A	Mackenzie Architects	3/07/2012
Accessible and adaptable Unit layouts – DA401	A	Mackenzie Architects	3/07/2012
Soil and Water Management Plan – DA402	-	Mackenzie Architects	30/04/2012

Document No.	Rev No.	Prepared by	Dated
Shadow Diagrams (9am and 12 noon) – DA500	A	Mackenzie Architects	3/07/2012
Shadow Diagrams (3 pm) – DA501	A	Mackenzie Architects	3/07/2012
Landscape Plan – LDPA 12-331/1		Conzept Landscape Architects	May 2012
Basement Stormwater Management layouts	A	ALW Design	7/05/2012
Site stormwater Management Layouts	A	ALW Design	7/05/2012
Schedule of Finishes	-	Mackenzie Architects	Received by Council on 11/05/2012
Basix Certificate – 426864M	-	Planning Principles	8/05/2012
Access Report	-	Accessibility Solutions Pty Ltd	8/05/2012
Design Verification Statement	-	Mackenzie Architects	10/05/2012
Statement of Environmental Effects	-	Chapman Planning Pty Ltd	7/05/2012
Arboricultural Report for Development Application	-	Ents Tree Consultancy	30/04/2012
Traffic and Planning Assessment Report	-	Varga Traffic Planning Pty Ltd	10/05/2012
Waste Management Plan	-	North Point Construction Group Pty Ltd	7/05/2012
Photo montage	-	Mackenzie Architects	Received by Council on 11/05/2012

2. Removal of Existing Trees

This development consent permits the removal of trees numbered 1,3,4,5,6,7,8,9,10,11,12,13,14,15,16,17,18,19,20,21 and 22 as identified on the *Survey Plan* prepared by *SDG Land Development Solutions* dated 30/01/2012 and all the remaining trees within the property that are exempt from Council's Tree Preservation Order. The removal of any other trees requires separate approval under Council's Tree Preservation Order.

3. Amendment of Plans

- a. The "Fourth Floor Plan – DA106A", "Elevations – DA200A", "Elevations (2) – DA201A" and "Sections – DA300A" prepared by Mackenzie Architects dated 3/07/2012 are to be amended as follows:

- The terraces fronting the eastern boundary are to have a setback of 7m – 8m from as marked in red on the approved plan. No part of the terrace is to protrude beyond the building line at this level.

- b. The following plans are to be amended to incorporate the layouts of the Floor plans as approved in Condition 1 of this development consent:

Plan No.	Rev No.	Prepared by	Dated
Landscape Plan – LDPA 12-331/1		Conzept Landscape Architects	May 2012
Basement Stormwater Management layouts	A	ALW Design	7/05/2012
Site stormwater Management Layouts	A	ALW Design	7/05/2012

- c. The approved Ground Floor Plan – DA102 Rev A prepared by Mackenzie Architects dated 3/07/2012 is to be amended as follows:
- The wall enclosing the courtyard of Unit 4 is to have a setback of 2m from the eastern boundary as marked in red in the approved plans.

REQUIREMENTS PRIOR TO THE ISSUE OF A CONSTRUCTION CERTIFICATE

4. Building Code of Australia

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

5. Contract of Insurance (Residential Building Work)

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

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

6. Water/Electricity Utility Services

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

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

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

7. Accessible units

The details of fit-outs of all accessible units and details of adaptable units must be provided with the Construction Certificate Plans.

8. Letter boxes

The details of letter boxes and meter enclosures must be provided with the Construction Certificate Plans. The letter boxes and meter enclosures must be provided with a minimum setback of 2 metres from all boundaries and must be suitably screened.

9. Dilapidation Report

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

REQUIREMENTS PRIOR TO THE COMMENCEMENT OF ANY WORKS

10. Erection of Construction Sign

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

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

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

11. Protection of Adjoining Areas

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

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

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

12. Toilet Facilities

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

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

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

14. Tree Protection Barriers

Tree protection fencing must be erected around T2 as identified on the *Survey Plan* prepared by *SDG Land Development Solutions* dated 30/01/2012, to be retained at a 3 metre setback. The tree fencing must be constructed of 1.8 metre 'cyclone chainmesh fence' or star pickets spaced at 2 metre intervals, connected by a continuous high-visibility barrier/hazard mesh at a height of 1 metre.

REQUIREMENTS DURING CONSTRUCTION

15. Construction Work Hours

All work on site (including demolition and earth works) must only occur between the following hours:

Monday to Saturday	7 am to 5 pm
Sunday & Public Holidays	No work

16. Demolition

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

- a. Demolition material is to be disposed of to an authorised recycling and/or waste disposal site and/or in accordance with an approved waste management plan.

- b. Demolition works, where asbestos material is being removed, must be undertaken by a contractor that holds an appropriate licence issued by *WorkCover NSW* in accordance with Chapter 10 of the *Occupational Health and Safety Regulation 2001* and Clause 29 of the *Protection of the Environment Operations (Waste) Regulation 2005*.
- c. On construction sites where buildings contain asbestos material, a standard commercially manufactured sign containing the words 'DANGER ASBESTOS REMOVAL IN PROGRESS' measuring not less than 400mm x 300mm must be erected in a prominent position visible from the street.

17. Environmental Management

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

18. Council Property

During construction works, no building materials, waste, machinery or related matter is to be stored on the road or footpath.

19. Excavated Material

All excavated material removed from the site must be classified in accordance with the *NSW Environment Protection Authority's Environmental Guidelines – Assessment, Classification and Management of Liquid and Non-Liquid Wastes* prior to disposal to an approved waste management facility and reported to the principal certifying authority.

20. Landfill

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

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

21. Survey Report – Finished Floor Level

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

- a. The building, retaining walls and the like have been correctly positioned on the site.
- b. The finished floor levels are in accordance with the approved plans.

22. Contamination during construction works

Should the presence of asbestos or soil contamination, not recognised during the application process be identified during demolition, the applicant must immediately notify the Principal Certifying Authority and Council.

23. Waste Management

Waste management during the demolition and construction phase of the development must be undertaken in accordance with the approved Waste Management Plan. Additionally written record of the following items must be maintained during the removal of any waste from the site and such information submitted to the Principal Certifying Authority within fourteen days of the date of completion of the works:

- a. The identity of the person removing the waste.
- b. The waste carrier vehicle registration.
- c. Date and time of waste collection.
- d. A description of the waste (type of waste and estimated quantity).
- e. Details of the site to which the waste is to be taken.
- f. The corresponding tip docket/receipt from the site to which the waste is transferred (noting date and time of delivery, description (type and quantity) of waste).
- g. Whether the waste is expected to be reused, recycled or go to landfill.

Note: In accordance with the Protection of the Environment Operations Act 1997, the definition of waste includes any unwanted substance, regardless of whether it is reused, recycled or disposed to landfill.

24. Works near Trees

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

All works (including driveways and retaining walls) within 3 metres of any trees required to be retained (whether or not on the subject property, and pursuant to this consent or the *Tree Preservation Order*), must be carried out under the supervision of an 'AQF Level 5 Arborist' and a certificate submitted to the principal certifying authority detailing the method(s) used to preserve the tree(s).

Note: Except as provided above, the applicant is to ensure that no excavation, filling or stockpiling of building materials, parking of vehicles or plant, disposal of cement slurry, waste water or other contaminants is to occur within 4 metres of any tree to be retained.

REQUIREMENTS PRIOR TO THE ISSUE OF AN OCCUPATION CERTIFICATE

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

25. Fulfilment of BASIX Commitments

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

26. Sydney Water – s73 Certificate

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

27. Stormwater Drainage

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

- a. Connected directly to Council's piped drainage system in Thornleigh St generally in accordance with the Stormwater Plans listed in Condition 1 of this development consent (as amended).
- b. The inter-allotment stormwater drainage system is to be relocated generally in accordance with the Stormwater Plans listed in Condition 1 of this development consent (as amended) with pits being constructed in situ.

Note: A construction certificate is to be issued prior to the commencement of any works.

28. On Site Stormwater Detention

An on-site stormwater detention system must be designed and constructed for the development. The stormwater drainage system is to be designed in accordance with Council's *Civil Works – Design and Construction Specification 2005* and the following requirements:

- a. Have a capacity of not less than 14 cubic metres, and a maximum discharge (when full) of 28 litres per second.
- b. Have a surcharge/inspection grate located directly above the outlet.
- c. Discharge from the detention system to be controlled via 1 metre length of pipe, not less than 50 millimetres diameter or via a stainless plate with sharply drilled orifice bolted over the face of the outlet discharging into a larger diameter pipe capable of carrying the design flow to an approved Council system.
- d. Not be constructed in a location that would impact upon the visual or recreational amenity of residents.

Note: A construction certificate is to be issued prior to the commencement of any works.

29. Internal Driveway/Vehicular Areas

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

- a. Design levels at the front boundary be obtained from Council.
- b. The driveway be a rigid pavement.
- c. The driveway is to have a minimum width across the road reserve of 5.5 metres and this width is to extend to be 6 metres inside the property boundary. The grade of the driveway at this location must not exceed 5%.
- d. The driveway pavement be a minimum of 0.15 metres thick reinforced concrete with F72 steel reinforcing fabric and a 0.15 metre sub-base.

Note: A separate construction certificate is required to be issued prior to the commencement of any work.

30. Footpath

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

- a. Pouring of the concrete footpath to the full frontage of the subject site.
- b. The land adjoining the footpath to be fully turfed.
- c. The verge and footpath area are to be regarded from the property boundary to the top of kerb at a grade of 4%.
- d. Any public utility adjustments to be carried out at the cost of the applicant and to the requirements of the relevant public authority.

Note: A separate construction certificate is required to be issued prior to the commencement of any work.

Note: Prior to the issue of a Construction Certificate for these works a separate application under the Local Government Act, 1993 and the Roads Act, 1993 must be submitted to Council for the construction of footpaths within the road reserve.

31. Vehicular Crossing

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

- a. Any public utility adjustments to be carried out at the cost of the applicant and to the requirements of the relevant public authority.

Note: A separate construction certificate is required to be issued prior to the commencement of any work.

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

32. Road Works

All road works approved under this consent must be constructed in accordance with Council's *Civil Works Design and Construction Specification, 2005* and a separate application under the *Local Government Act 1993* and the *Roads Act 1993* must be submitted to Council. The engineering plans must address the following requirements:

- a. The existing kerb and gutter across the frontage of the site along Thornleigh Street be removed and reconstructed.
- b. The existing road pavement to be saw cut a minimum of 300 mm from the existing lip of gutter and reconstructed.
- c. Pit No 11244 is to be converted to a kerb inlet pit with a 1.8m long lintel

Note: A separate construction certificate is required to be issued prior to the commencement of any work.

Note: Prior to the issue of a Construction Certificate for these works a separate application under the Local Government Act, 1993 and the Roads Act, 1993 must be submitted to Council for the construction of footpaths within the road reserve.

33. 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.

34. Traffic Control Plan

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

- a. Arrangements for public notification of the works.
- b. Temporary construction signage.
- c. Permanent post-construction signage.
- d. Vehicle movement plans.

- e. Traffic management plans.
- f. Pedestrian and cyclist access/safety.
- g. Details of pedestrian and vehicular access to the property at No. 10 Edgeworth David Avenue, in accordance with the construction management plan.

35. Consolidation of allotments

All allotments of the development site are to be consolidated into one allotment.

36. Creation of Easements

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

- a. The existing interallotment drainage easement as detailed in DP 644307 is to be relocated as detailed on the approved drawings and the existing easement is to be released.
- b. The creation of an appropriate "*Positive Covenant*" and "*Restriction as to User*" over the constructed on-site detention/retention systems and outlet works, within the lots in favour of Council in accordance with Council's prescribed wording. The position of the on-site detention system is to be clearly indicated on the title.
- c. To register the OSD easement, the restriction on the use of land "*works-as-executed*" details of the on-site-detention system must be submitted verifying that the required storage and discharge rates have been constructed in accordance with the design requirements. The details must show the invert levels of the on site system together with pipe sizes and grades. Any variations to the approved plans must be shown in red on the "*works-as-executed*" plan and supported by calculations.

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

37. Garbage Collection Easement

For the purpose of waste collection, an easement entitling Council, its servants and agents and persons authorised by it to enter upon the subject land and to operate thereon, vehicles and other equipment for the purposes of garbage collection must be granted to Council by the owner of the land.

Note: The easement must be in a form prescribed by Council and must include covenants to the effect that parties will not be liable for any damage caused to the subject land or any part thereof or to any property located therein or thereon by reason of the operation thereon of any vehicle or other equipment used in connection with the collection of garbage and to the effect that the owner for the time being of the subject land shall indemnify the Council, its servants, agents and persons authorised by it to collect garbage against liability in respect of any such claims made by any person whomsoever.

38. Works as Executed Plan

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

39. External Lighting

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

40. Section 94 Infrastructure Contributions

- a. The payment to Council of a contribution of \$209,818.90 for nineteen additional residential units towards the cost of infrastructure identified in Council's Development Contributions Plan 2007-2011 in accordance with the following table:
- b. The payment to Council of a contribution of \$9757.55* for four employees towards the cost of infrastructure identified in Council's *Development Contributions Plan 2007-2011*.

*Note: *The value of contribution is based on a rate of \$2439.35 per employee, derived from a rate of one employee per 30sqm commercial floor area and is current as at 12/07/2012.*

The contribution will be adjusted from this date in accordance with the underlying consumer price index for subsequent financial quarters. It is recommended that you contact Council to ascertain the indexed value of the contribution prior to payment.

41. Accessibility Requirements

All accessible units must include the fit outs as approved under this development consent.

42. Construction for a safe environment

The site must include the following elements:

- a. An intercom system be installed at gate locations to ensure screening of persons entering the units and the commercial unit.
- b. The entryway to the site be illuminated in high luminance at all times
- c. The communal open space at the rear of the site be illuminated with high luminance by motion sensor lighting
- d. The service areas of the ground floor and the garbage room at the basement be illuminated with high luminance by motion sensor lighting
- e. The driveway and the basement carpark is to be illuminated with low luminance at all times.
- f. Robust materials which cannot be forced or breached with minimised maintenance requirements are to be used for construction work in the common areas.

43. Waste Management Details

The following waste management requirements must be complied with:

- a. The bin storage rooms at the basement level must include water or a hose for cleaning, graded floors with drainage to sewer, a robust door, sealed and impervious surface, adequate lighting and ventilation.
- b. A report must be prepared by an appropriately qualified person, certifying the following:
 - i. A comparison of the estimated quantities of each waste type against the actual quantities of each waste type.

Note: Explanations of any deviations to the approved Waste Management Plan is required to be included in this report

- ii. That at least 60% of the waste generated during the demolition and construction phase of the development was reused or recycled.

Note: If the 60% diversion from landfill cannot be achieved in the Construction Stage, the Report is to include the reasons why this occurred and certify that appropriate work practices were employed to implement the approved Waste Management Plan. The Report must be based on documentary evidence such as tipping dockets/receipts from recycling depots, transfer stations and landfills, audits of procedures etc. which are to be attached to the report.

- c. Each unit must be provided with an indoor waste/recycling cupboard for the interim storage of a minimum one day's waste generation with separate containers for general waste and recyclable materials.
- d. Space must be provided for either individual compost containers for each unit or a communal compost container;

Note: The location of the compost containers should have regard for potential amenity impacts.

- e. The bin carting route must be devoid of any steps.

Note: Ramps between different levels are acceptable

- f. The bins placed at the bin collection point for servicing must be screened by landscaping from public view and be removed each time after collection.

44. Completion of Landscaping

A certificate must be provided by a practicing landscape architect, horticulturalist or person with similar qualifications and experience certifying that all required landscaping works have been satisfactorily completed in accordance with the approved Landscape plan, the minimum construction standards identified in the Hornsby Shire Council Landscape Code for development applications and the following additional requirements for works within the site:

- a. One *Angophora Costata* tree be planted on the verge fronting Thornleigh Street in a minimum 75 litre pot size.
- b. Four *Waterhousia* "Sweeper" Weeping Lillypilly be planted in the landscaped area in front of commercial unit. The trees must be installed at minimum 25 litre pot size.
- c. On slab planter boxes to include automatic drip irrigation, subsoil drainage (proprietary drainage cell, 50mm sand and filter fabric), and waterproofing.
- d. 500 mm soil depth and 75mm mulch be provided for shrubs.
- e. 1000 mm soil depth and 75 mm mulch be provided for trees and palms.

Note: Any proposed landscaping or fencing must not obstruct the clear sightlines of pedestrians or cyclists travelling along the footpath of Thornleigh Street.

Note: Advice on suitable species for landscaping can be obtained from Council's planting guide 'Indigenous Plants for the Bushland Shire', available at www.hornsby.nsw.gov.au.

OPERATIONAL CONDITIONS

45. Car Parking and Deliveries

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

- a. All parking areas and driveways are to be sealed to an all weather standard, line marked and signposted.
- b. Car parking, loading and manoeuvring areas to be used solely for nominated purposes.
- c. Vehicles awaiting loading, unloading or servicing must be parked on site and not on adjacent or nearby public roads;
- d. All vehicular entry on to the site and egress from the site shall be made in a forward direction.
- e. Visitors must be able to access the basement car park by an audio/visual intercom system located at the top of the ramped driveway at all times.

46. Noise

The level of total continuous noise emanating from operation of the premises including all the plants and air conditioning units (LA10) (measured for at least 15 minutes) in or on the above premises, must not exceed the background level by more than 5dB(A) when measured at all property boundaries.

47. Fire Safety Statement - Annual

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

48. Waste Storage area and waste management

The waste management on site must be in accordance with the following requirements:

- a. Each unit be provided with an indoor waste/recycling cupboard for the interim storage of a minimum one day's segregated garbage and recycling generation.
- b. Site security measures be implemented to prevent access to the waste storage rooms by the residents.
- c. A site manager or caretaker must be employed and be responsible for moving bins from the bin storage area/compactor to the waste collection point, washing bins and maintaining storage areas, arranging the prompt removal of dumped rubbish, and ensuring all residents and commercial tenants are informed of the waste management system.
- d. The residential component and non-residential component of the development must have separate and self-contained waste management systems, including separate bin storage rooms. Commercial tenants must be prevented (via signage and other means) from using the residential waste/recycling bins and vice versa.
- e. All commercial tenants must keep written evidence on site of a valid contract with a licensed waste contractor(s) for the regular collection and disposal of the waste and recyclables that are generated on site.

49. Landscape Establishment

The landscape works must be maintained to ensure the establishment and successful growth of plant material including (but not be limited to) watering, weeding, replacement of failed plant material and promoting the growth of plants through standard industry practices.

- 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:

- 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 issued before occupying any building or commencing the use of the land.

Long Service Levy

In accordance with Section 34 of the *Building and Construction Industry Long Service Payments Act 1986*, a 'Long Service Levy' must be paid to the *Long Service Payments Corporation* or *Hornsby Council*.

Note: The rate of the Long Service Levy is 0.35% of the total cost of the work.

Note: Hornsby Council requires the payment of the Long Service Levy prior to the issue of construction certificate.

Tree Preservation Order

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

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

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

Disability Discrimination Act

The applicant's attention is drawn to the existence of the *Disability Discrimination Act*. A construction certificate is required to be obtained for the proposed building, which will provide consideration under the *Building Code of Australia*, however, the development may not comply with the requirements of the *Disability Discrimination Act*. This is the sole responsibility of the applicant.

Dial Before You Dig

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

Asbestos Warning

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

www.environment.nsw.gov.au

www.nsw.gov.au/fibro

www.adfa.org.au

www.workcover.nsw.gov.au

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

Rain Water Tank

It is recommended that water collected within any rainwater tank as part of the development be limited to non-potable uses. *NSW Health* recommends that the use of rainwater tanks for drinking purposes not occur where a reticulated potable water supply is available.

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.

Tenancy Fit-Out – Separate DA Required

This consent does not permit the fit-out of individual tenancies. A separate development application is required for the fit-out of individual tenancies prior to the occupation of the building.

6 REPORTING VARIATIONS TO DEVELOPMENT STANDARDS

EXECUTIVE SUMMARY

- In accordance with the Department of Planning and Infrastructure's *Planning Circular PS 08-14*, Council is required to report variations to development standards for development applications approved under delegated authority, which relied upon *State Environmental Planning Policy No. 1 - Development Standards (SEPP 1)*.
- As Council is currently in caretaker mode prior to the 8 September 2012 election, this Report has been prepared having regard to the requirements of Council's Elections – Caretaker Period Policy. The recommended decision is not a "major decision" within the context of Council's Policy.

RECOMMENDATION

THAT the contents of Group Manager's Report No. PL14/12 be received and noted.

PURPOSE

The purpose of this report is to advise Council of determined development applications under delegated authority involving a *SEPP 1* variation to a development standard for the period 1 April 2012 to 30 June 2012.

DISCUSSION

The Department of Planning and Infrastructure's *Circular B1*, issued in March 1989, requested that councils monitor the use of the Director-General's assumed concurrence under *SEPP 1* on a quarterly basis. This reporting requirement remains effective.

Monitoring of variations to development standards is important to provide the Department and councils with an overview of the manner in which established development standards are being varied and whether the assumed concurrence is being used as intended. This enables Council and the Department to determine whether development standards are appropriate, or whether changes are required.

The Department issued *Circular PS 08-014* on 14 November 2008. The purpose of the Circular was to remind councils of their responsibilities to monitor the use of the Director-General's assumed concurrence under *SEPP 1*. Councils were reminded of the need to keep accurate records of the use of *SEPP 1* and to report on a quarterly basis.

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

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

In accordance with Point 3 of the Department's Circular, attached is a list of development applications determined under delegated authority involving a *SEPP 1* variation to a development standard for the period 1 April 2012 to 30 June 2012.

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

BUDGET

There are no budget implications.

POLICY

This report addresses Council's reporting obligations on development applications determined where there has been a variation in standards under *SEPP 1*.

As Council is currently in caretaker mode prior to the 8 September 2012 election, this Report has been prepared having regard to the requirements of Council's Elections – Caretaker Period Policy. The recommended decision is not a "major decision" within the context of Council's Policy.

CONSULTATION

There was no consultation required in the preparation of this report.

JAMES FARRINGTON

Group Manager

Planning Division

Attachments:

1. SEPP 1 Return

File Reference: F2004/07599

Document Number: D01961734

7 PRECINCT SUPPORT SCHEME FOR URBAN ACTIVATION PRECINCTS

EXECUTIVE SUMMARY

- The Urban Activation Precincts (UAP) scheme was announced in the 2012-2013 budget as part of the NSW State Government's *Building the State* package. The scheme will provide \$50 million financial support to local councils for infrastructure upgrades required as a result of population growth within UAPs. The aim of the scheme is to identify key urban precincts capable of supporting additional housing and work collaboratively with councils to develop a planning framework to facilitate development.
- Councils who partner the NSW State Government in the UAP scheme will be provided payments through the *Precinct Support Scheme (PSS)* to fund local infrastructure to address increased demand and create high quality urban environments. Local infrastructure projects could include open space, local roads, traffic calming measures and car parking requirements.
- The Department of Planning and Infrastructure (DP&I) is inviting nominations from councils for potential UAPs. The DP&I has had preliminary discussions with Hornsby Council officers regarding the nomination of precincts within Hornsby Shire. Epping Town Centre satisfies nomination criteria in the draft *NSW Urban Activation Precinct Guidelines*. Identification of the Centre as a UAP will assist Council create a high quality environment for existing and new residents.

Policy.

RECOMMENDATION

THAT:

1. Council nominate the Epping Town Centre for consideration by the Department of Planning and Infrastructure under the Urban Activation Precincts Scheme as the Scheme provides opportunity for financial support to progress infrastructure upgrades required to service the resultant population growth within the Centre identified under the *Epping Town Centre Study*.
2. Council's nomination recognise that any amendment to planning controls should be progressed generally in accordance with the *Epping Town Centre Study* recommendations subject to further review of a range of matters in response to public submissions including Heritage Conservation Area boundaries, potential heritage items, urban form in the Town Centre Core, residential precinct heights, property acquisition and North West Rail Link impacts.

PURPOSE

The purpose of this report is to seek endorsement for the nomination of the Epping Town Centre as a potential UAP.

BACKGROUND

The NSW Government announced the UAP scheme in the Budget in June 2012. The program aims to enable the NSW Government to partner with councils to deliver key urban housing and renewal projects. The Department also sought nominations from councils for potential UAPs.

The draft *UAP Guidelines* and associated documentation were placed on exhibition until 4 July 2012 and comment sought. Council made comments on the draft *Guidelines* in respect of funding commitment for Growth Infrastructure Plans and precinct working group representation, as well as seeking clarification on the criteria for urban activation precincts, allocation of funding and the statutory process. The Department acknowledged receipt of Council's submission and confirmed that submissions are currently being considered. Without the release of any revised *Guidelines*, consideration of the draft *Guidelines* continues to be appropriate.

Nominations addressing the criteria contained in the draft *Guidelines* were required to be submitted by 31 July 2012. Accordingly, a letter was sent to the Department advising that Council would be considering the matter of nominations for the scheme at its meeting on 15 August 2012. A preliminary nomination has also been submitted to the Department for the Epping Town Centre prior to the close of submissions. However, it was noted that Council would formally consider the nomination at its August 2012 meeting.

DISCUSSION

This report outlines the UAP scheme and the *PSS*, and presents for endorsement the nomination of the Epping Town Centre as a potential UAP.

Urban Activation Precincts Scheme

Overview

The *NSW 2012 State Plan* states that restoring economic growth is its number one priority. A key task that will support growth is to substantially increase the supply of housing and employment, and improve housing choice and affordability. The *PSS* will provide \$50 million financial support for councils that partner in UAPs. The scheme will assist councils address increased demand for local infrastructure and create high quality urban environments for existing and future residents. The aim of the scheme is to identify key urban precincts capable of supporting additional housing and work collaboratively with councils to develop a planning framework to facilitate development. The scheme is being administered by the DP&I and seeks to better integrate public spaces, provide greater housing choice and improve affordability.

How is the Amount of Funding Calculated?

The UAP process will estimate expected future development in the relevant precinct. This assessment will include an analysis of market conditions and financial feasibility so that it is possible to determine the approximate annual yield for the precinct.

The amount of annual funding provided to participating councils will be determined based on anticipated annual yield. This will provide certainty for councils regarding the amount of annual funding, allowing them to effectively and efficiently plan and deliver new and upgraded community infrastructure within the UAP precincts. PSS funding will be in addition to local development levies collected in the precinct.

How Can the Support Scheme Funding be Spent?

Local councils will be given a degree of flexibility to determine what local infrastructure projects the PSS funding is spent on. The funding must satisfy the definition of local infrastructure. Local infrastructure has been broadly defined so that it captures various types of infrastructure a local council may need to provide. Local infrastructure projects could include open space, local roads, traffic calming measures and car parking requirements. Additionally, the funding is to be spent on projects located within the UAP or in areas where there is a clear nexus to the UAP.

Criteria for Urban Activation

Criteria have been established to ensure that UAPs represent the best opportunity to deliver on the States planning aims. Nominations will be assessed against the following criteria to determine their significance to State and/or regional planning objectives:

- Is the precinct consistent with State, regional and/or local strategies, particularly relating to housing and employment?
- Does the precinct support or maximise the use of existing planned infrastructure, especially transport?
- Is the precinct important to more than one local government area and/or has support from the local council?
- Is the precinct environmentally, socially and economically sustainable and viable?
- Is the development of the precinct financially viable and consistent with market demand?

Precinct Selection

Nominations for potential precincts may come from a number of sources, such as DP&I research and empirical data, and nominations from councils, State agencies and the private sector. The Department will review all nominations and chair a committee that will provide advice to Government on whether nominated precincts should be investigated. The relevant local councils will be consulted and their views will be an integral consideration in making recommendations to Government.

Preliminary Consultation

Before a recommendation is made to investigate a precinct, the Department will consult with the local council and State agencies. An interagency committee will be chaired by the Department to review nominations for potential precincts and provide advice to Government on whether they should proceed.

Role of Working Groups

Working groups will be established to investigate and discuss potential UAPs. Representatives from relevant local councils, Department and State agencies (in particular Transport for NSW), will be invited to participate. It is expected working groups will meet regularly during the detailed investigation process.

If the State decides to progress a UAP, the State will lead the strategic planning investigations with close cooperation and input from local government. The process for the assessment of UAPs by the State Government is documented in the flow chart attached to this report.

Working groups will be responsible for drafting the outcomes brief and planning study requirements for the UAP. The outcomes brief will establish overall objectives and targets for the precinct in terms of housing, employment, land use mix, economic, accessibility and infrastructure connections, urban design and the public domain. The study requirements will identify the relevant planning studies to be completed and further requirements for stakeholder engagement and public consultation.

The Working Party will also determine the need for the delivery of a code based assessment framework for the UAP to enable more streamlined assessment of development within the precinct and to remove unnecessary delays in the delivery of housing approvals.

Planning Studies and Investigations

The draft *Guidelines* indicate that detailed planning studies and investigations will generally be required for UAPs. A considerable amount of work has already been completed in respect of the Epping Town Centre as part of the *Epping Town Centre Study* and therefore, this work would form the basis of the study requirements for a UAP should one be progressed. However, should the Minister decide to proceed with the nomination of Epping Town Centre as a UAP, the DP&I would have the ability to review and amend the development controls recommended in the *Epping Town Centre Study*.

Determination by the Minister

Following completion of the any additional study requirements, the Department will consult with the community for a minimum of 30 days. Once the study has been exhibited and all issues raised in submissions have been considered, the Department will consider the study, the implications of the proposed changes in land use and provide recommendations to the Minister relating to:

- The significance of the precinct;
- The implications of any change in land use; and
- Potential for the streamlining of the subsequent development assessment process for proposals within the precinct through the use of exempt and complying development controls.

Outcome and Delivery

If the Minister decides to proceed with preparing a new statutory framework for the UAP, a State Environmental Planning Policy (SEPP) would be made that contains the planning framework, zonings and controls for the precinct, including exempt and complying development controls where appropriate. The Minister would also decide the appropriate environmental planning instruments for the new planning framework, such as a Local Environmental Plan and/or a SEPP.

If the State Government decides to proceed with rezoning an UAP, the following policies would also assist the delivery of the precinct:

- Growth Infrastructure Plans (GIPs) – identifies capacity within the infrastructure network and outlines the infrastructure required to support the planned growth. The GIP would inform the State Government's budget allocation process to ensure coordinated delivery of State infrastructure for the precinct.
- *Precinct Support Scheme* – funding assistance for local government to provide the local infrastructure needed for the precinct. Payments would be based on the estimated dwelling yield for the UAP and would be paid annually over a six year period.

Nomination

Details of the nomination of the Epping Town Centre, including an assessment of the precinct against the criteria provided in the draft *NSW Urban Activation Precinct Guidelines*, are attached to this report.

In summary, the nomination demonstrates that the Epping Town Centre satisfies the nomination criteria provided in the draft *NSW Urban Activation Precinct Guidelines*. Therefore, if Council is of a mind to promote progression of the Epping Town Centre study recommendations by way of the UAP process, it would be appropriate to forward a submission to the Department nominating the precinct and requesting consideration of the precinct as a draft UAP.

POLICY

The *Metropolitan Plan for Sydney 2036* 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.

If the State Government decides to proceed with rezoning the Epping Town Centre UAP, the precinct has the potential to deliver housing and jobs in accordance with the housing and employment targets under the new *Metropolitan Strategy for 2036*.

Council's endorsement of the progression of a planning proposal generally in accordance with the Epping Town Centre Study recommendations would be superseded by the UAP process should the State Government decide to progress the nomination.

As Council is currently in caretaker mode prior to the 8 September 2012 election, this Report has been prepared having regard to the requirements of Council's Elections – Caretaker Period Policy. The recommended decision is not a "major decision" within the context of Council's Policy.

CONCLUSION

This report outlines the UAP scheme and the PSS, as well as presents for endorsement the nomination of the Epping Town Centre as a potential UAP. The PSS will provide \$50 million financial support to local councils for infrastructure upgrades required as a result of population growth within UAPs. Councils who partner the NSW State Government in UAPs will be provided payments to fund local infrastructure and create high quality urban environments.

It is recommended that Council endorse the nomination of the Epping Town Centre for consideration by the DP&I under the UAP scheme.

RESPONSIBLE OFFICER

The officer responsible for the preparation of this Report is the Acting Manager, Strategic Planning Branch – Jason Rawlin - who can be contacted on 9847 6737.

JASON RAWLIN
Acting Manager - Strategic Planning Branch
Planning Division

JAMES FARRINGTON
Group Manager
Planning Division

Attachments:

1. Urban Activation Precinct Nomination - Epping
2. Urban Activation Guidelines - Extract Flow Chart

File Reference: F2004/07218-03
Document Number: D01969371

**8 DEVELOPMENT APPLICATION - TOWNHOUSE DEVELOPMENT
156 - 160 SHERBROOK ROAD, ASQUITH**

DA No:	DA/414/2012
Description:	Construction of a townhouse development comprising 20 dwellings and strata subdivision
Property:	Lot 2 DP 669154, Lot 1 DP 669153, Lot D DP 402287, Nos. 156-160 Sherbrook Road, Asquith
Applicant:	Playoust Churcher Architects
Owner:	Ms J Mahon and Mr S A Frappell
Estimated Value:	\$5.300,000
Ward:	A

EXECUTIVE SUMMARY

- The application proposes demolition of two existing dwellings and construction of a multi-unit townhouse development comprising 20 dwellings and strata subdivision.
- The proposal complies with the *Hornsby Shire Local Environmental Plan 1994* and the objectives of the Medium Density Multi-Unit Housing Development Control Plan. The non-compliance with prescriptive measures for site width and private open space are considered acceptable on merit.
- Two submissions have been received concerning the proposal.
- It is recommended that the application be approved.
- As Council is currently in caretaker mode prior to the 8 September 2012 election, this Report has been prepared having regard to the requirements of Council's Elections – Caretaker Period Policy. The recommended decision is not a "major decision" within the context of Council's Policy.

RECOMMENDATION

THAT Development Application No. 414/2012 for construction of a townhouse development comprising 20 dwellings and strata subdivision at Lot 2 DP 669154, Lot 1 DP 669153, Lot D DP 402287, Nos. 156-160 Sherbrook Road, Asquith be approved subject to the conditions of consent detailed in Schedule 1 of Group Manager's Planning Report No. PL18/12.

BACKGROUND

The application follows preliminary consideration of the proposed development at a Pre DA Meeting on 7 March 2012 (PL/11/2012).

The site is located within a precinct rezoned for townhouse development as part of Council's Housing Strategy in 2011.

SITE

The site is on the eastern side of Sherbrook Road and comprises two existing battleaxe lots and a lot with street frontage. The site has an area of 3,984m², a depth of 130m and a width of 36.5m reducing to 21.7m within 50m of the frontage. There are two existing dwelling-houses on the site, one at the frontage and one at the rear.

The site is relatively level with a gradual fall towards the rear of the site. An existing stormwater drainage easement adjoins the northern side boundary. The site includes a number of trees at the rear and at the frontage but is otherwise clear of vegetation.

The site is adjoined by Asquith Girls High School which is accessed off Baldwin Avenue to the north and Stokes Avenue to the south. The main school campus adjoins the rear eastern and the southern side boundaries. Part of the school site extends to Sherbrook Road along the northern side boundary forming a more passive area of the school site. The school site is zoned Special Uses A (Community Purposes) Zone. At the rear of the site, two storey classroom buildings are within 1.5m to 10.5m of the boundary. The school site includes a number of significant trees along the rear boundary and southern boundary of the site.

Dwelling-houses fronting Stokes Avenue adjoin the western part of the southern boundary of the site and fronting Sherbrook Road. A number of significant trees are located along the boundary. The surrounding residential area is currently, dominantly comprise of detached dwelling-houses notwithstanding the Residential B (Medium Density) Zoning; other than land recently redeveloped for townhouses adjacent to the rail corridor.

The Asquith Railway Station and commercial centre are located 165m west of the site.

PROPOSAL

The proposal is for demolition of the existing dwellings and construction of a multi-unit townhouse development comprising 20 dwellings, including two adaptable dwellings, and strata subdivision. The development includes six buildings; four with 4 townhouses, one with 3 townhouses and one two storey detached dwelling at the frontage of the site. The dwellings include single car garages. The two larger adaptable dwellings have double garages. All dwellings have three bedrooms.

The proposed townhouses are oriented north south. The proposed private open space areas are mainly located at the rear of the dwellings. All dwellings have access off the proposed accessway.

A waste collection area is proposed at the frontage. Three visitor car parking spaces are proposed.

ASSESSMENT

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*.

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 an additional 18 dwellings 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 B (Medium Density) under the *Hornsby Local Environmental Plan 1994 (HSLEP)*. The objectives of the zone are:

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

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

Clause 15 of the *HSLEP* prescribes that the maximum floor space ratio (FSR) of development within the Residential B zone is 0.6:1. The proposed 0.49:1 FSR complies with this requirement.

Clause 18 of the *HSLEP* sets out heritage conservation provisions within Hornsby Shire. The site is not identified as a heritage item and is not within a heritage conservation area. A heritage listed dwelling at No. 121 Sherbrook Road is located in the vicinity of the site on the corner of Winston

Street 40m from the site. The proposed works would be located at a sufficient distance from the heritage item that the proposal would not result in an adverse impact on the significance of the item.

2.2 Draft Comprehensive Hornsby Local Environmental Plan

The draft *Comprehensive Local Environmental Plan (HLEP)* was placed on exhibition on 5 June 2012. The draft *HLEP* essentially reiterates the current land use zoning.

2.2.1 Zoning

The site would be zoned *R3 Medium Density Residential* zone pursuant to the Land Use Table of the draft *HLEP*. The proposed development is defined as a 'multi dwelling housing' and would be a permissible use in the zone with Council's consent.

2.2.2 Height of Building

Clause 4.3 of the draft *HLEP* provides that the height of a building on any land is not to exceed the maximum height shown for the land on the Height of Buildings Map. The maximum permissible height for the subject site is 10.5 metres. The proposed development complies with this provision.

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

The *Plan* regulates impacts of future land uses on the River through implementation of planning policies and strategies for total catchment management, environmentally sensitive areas, water quantity, cultural heritage, flora and fauna, riverine scenic quality, agriculture/aquaculture and fishing, rural residential development, urban development, recreation and tourism.

The proposed development would not detract from the environmental quality of the river subject to the implementation of sediment and erosion control measures and stormwater detention.

2.4 State Environmental Planning Policy No. 55 – Remediation of Land

State Environmental Planning Policy No. 55 (SEPP 55) requires that Council must not consent to the carrying out of any development on land unless it has considered whether the land is contaminated or requires remediation for the proposed use.

The site has been used for residential purposes and is unlikely to be contaminated. No further assessment is considered necessary in this regard. A condition is recommended should any contamination be found during construction.

2.5 State Environmental Planning Policy (Building Sustainability Index – BASIX) - 2004

The application has been assessed against the requirements of *State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004*. The proposal includes a BASIX Certificate for the proposed townhouses and is considered to be satisfactory.

2.6 Medium Density Multi-Unit Housing Development Control Plan

The proposed development has been assessed having regard to the relevant performance and prescriptive design requirements within Council's Medium Density Multi-Unit Housing Development Control Plan (Housing DCP). The following table sets out the proposal's compliance with the prescriptive requirements of the Plan:

Medium Density Multi-Unit Housing Development Control Plan			
Control	Proposal	Requirement	Compliance
Site Area	3,984m ²	3,620m ²	Yes
Site Area Per Dwelling	11 x 83m ² @ 150m ² 7 x 94m ² @ 210m ² 1 x 136m ² @ 250m ² 1 x 162m ² @ 250m ²	3,620m ²	Yes
Floor Space Ratio	0.49:1	0.6:1	Yes
Site Coverage	32%	40%	Yes
Site Width	21.89m to 36.9m	30m	No
Setbacks	Front – 8m N Side – 3m S Side – 4m Rear – 3.3m	Front – 6m Side – 3m Side – 3m Rear – 3m	Yes Yes Yes Yes
Setback Between Dwellings	5.0m-6.8m	5m	Yes
Building Length	Building 1 – 11.9m Building 2 – 28.8m Building 3 – 28.8m Building 4 – 25.8m Building 5 – 30.3m Building 6 – 30.3m	30m	No
Height	5.5m	7m	Yes
Private Open Space	Unit 1 – 79.7m ² Unit 2 – 60m ² Unit 3 – 50m ² Unit 4 – 40m ² Unit 5 – 60m ² Unit 6 – 60m ² Unit 7 – 40m ² Unit 8 – 40m ² Unit 9 – 57m ²	80m ² 60m ² 40m ² 40m ² 60m ² 60m ² 40m ² 40m ² 60m ²	No Yes Yes Yes Yes Yes Yes Yes No

	Unit 10 – 60m ²	60m ²	Yes
	Unit 11 – 40m ²	40m ²	Yes
	Unit 12 – 80m ²	80m ²	Yes
	Unit 13 – 60m ²	60m ²	Yes
	Unit 14 – 40m ²	40m ²	Yes
	Unit 15 – 40m ²	40m ²	Yes
	Unit 16 – 40m ²	40m ²	Yes
	Unit 17 – 40m ²	40m ²	Yes
	Unit 18 – 40m ²	40m ²	Yes
	Unit 19 – 40m ²	40m ²	Yes
	Unit 20 – 60m ²	60m ²	Yes
Landscaping	50%	50%	Yes
Car parking	Unit 1 – 2 spaces	2 spaces	Yes
	Units 2-11 – 10 spaces	10 space	Yes
	Unit 12 – 2 spaces	2 spaces	Yes
	Units 13-20 – 8 spaces	8 spaces	Yes
	Visitors – 4 spaces	Visitors 4 spaces	Yes

As detailed in the above table, the proposed development does not comply with the prescriptive site width and private open space prescriptive requirements within Council's Housing DCP. The matters of non-compliance are detailed below, as well as a brief discussion on compliance with relevant performance requirements.

2.6.1 Density

The proposed townhouse development is in compliance with the density prescriptive measures for site density, floor space ratio and site coverage and meets the density performance criteria of the Housing DCP. The density of the development is consistent with the desired future character of the area as a townhouse precinct.

2.6.2 Setbacks

The proposed development is in compliance with the prescriptive front, side and rear setbacks and the setback between dwellings.

The proposed setbacks meet the performance criteria to provide landscaping and to complement the streetscape.

2.6.3 Design

The site is relatively level and forms a large battleaxe shaped site essentially cleared of vegetation. The proposed townhouse buildings front a central accessway and generally conform to the physical characteristics of the site.

The front section of the site does not comply with the required site width of 30m. The objective of the control is to encourage amalgamation of properties to form development sites. In this instance,

amalgamation of properties is proposed and the non-compliance is considered acceptable with regard to the 36.9m width of the rear section of the battleaxe shaped site.

The proposed townhouses are of brick and timber frame construction with face brick and fibre cement sheet cladding and tiled roofs. The proposed dwellings are consistent with the residential character of the area and recent townhouse developments. The proposed materials and finishes are considered satisfactory in this regard.

The site adjoins Asquith Girls High School. The operation of the school in close proximity to the proposed townhouses is considered acceptable for residential amenity given the operating hours of the school.

The proposed townhouse development complies with the Housing DCP design performance criteria.

2.6.4 Height

The proposal complies with the Housing DCP height element objective and is satisfactory in respect to solar access to living areas and private open space.

2.6.5 Privacy

The proposed townhouses are designed for privacy with regard to the interface between opposing dwellings either side of the central accessway by variation in setback between the buildings and the location of windows. The proposed dwellings are designed to avoid overlooking of private open space areas within the development.

The site mainly adjoins land that forms part of the Asquith Girls High School site. The proposed development includes first floor bedroom accommodation and would result in minimal privacy impacts on adjoining residents of Stokes Avenue and Sherbrook Road.

The proposal is considered satisfactory in respect to the Housing DCP privacy element objective.

2.6.6 Solar Access

The site benefits from the long northern axis and solar access. All proposed dwellings have north facing living areas. The proposed dwellings would not overshadow windows of adjoining dwelling-houses. The proposal would result in minor overshadowing of adjoining private open space areas but would not be in non-compliance with the Housing DCP prescriptive measures.

The proposal complies with the Housing DCP solar access element objective.

2.6.7 Open Space

The proposed townhouse open space areas are mainly located at the rear of dwellings. A number of dwellings also include open space areas at the respective frontages and side areas of dwellings.

The proposed open space areas are accessible from the dwelling living areas and have access to winter sunlight. A number of dwellings do not comply with minimum area requirement for open space. The non-compliances are minimal and are considered acceptable with regard to the merits of the design for outdoor living and solar access.

2.6.8 Landscaping

A majority of trees recorded for the site are on adjoining land along the side and rear boundaries.

The submitted landscape plan includes a mix of indigenous and exotic plant species and would re-vegetate the un-built upon areas of the site, enhance the site's visual quality and the proposed townhouses.

The proposed landscaping complies with the Housing DCP landscaping element objective subject to recommended conditions.

Refer also to comments in Section 3.1.

2.6.9 Drainage Control

The proposed stormwater drainage system involves connection to the existing stormwater drainage easement and drainage system through the Asquith Girls High School site, to a watercourse tributary of Cockle Creek and the Hawkesbury River.

The proposed drainage system includes stormwater detention and is in accordance with the Housing DCP prescriptive measures. Part of the site, Lot 2 DP 669154, does not have the benefit of the easement adjoining the northern boundary of the site, through land owned by the Department of Education. The consent of the owner has been obtained for granting an easement for the development site.

Subject to recommended conditions the proposal complies with the Housing DCP drainage control element objective.

2.6.10 Vehicle Access and Parking

The proposed accessway includes a common turning area and is designed in accordance with the Housing DCP prescriptive measures for driveway width, vehicle passing and residential amenity.

The proposed resident and visitor car parking provision is in compliance with the prescriptive measures. Adequate parking is proposed for residents and visitors to meet projected demand.

2.6.11 Acoustics

The applicant has submitted an Acoustic Report prepared by Atkins Acoustics & Associates Pty Ltd. The report includes the following comment:

The proposed development is located on existing residential zoned land, and will result in a conversion of the existing low density residential to medium density residential. As the subject land is zoned and utilised for residential use, the subject (Asquith GHS) has obligations under Council's Policy to control noise emissions in accordance with Section 7.2.11.

A review of the noise measurement results confirmed daytime LAeq noise levels of 51dB(A) which encompassed all noise sources, whilst audit measurements confirmed short duration (1-3min) LAeq noise levels of 55-57dB(A) during congregating students after lunch, resulting in estimated Leq,15min level 50-52dB(A). In our opinion the noise levels are consistent with normal school activities and would typically be experienced in other areas where residential properties abut school premises. Any potential noise impacts from these activities are typically ameliorated due to the limited duration, times of use and community benefit.

In terms of the operation of mechanical plant, the review confirmed that Council Policy criteria of background LA90 + 5dB may be exceeded along the northern portion of the development site by 2-9dB. As the development site is already zoned residential, it is our opinion and in accordance with Council's policy that it is the responsibility of the school to address any potential noise impacts.

Having regard to the above comments, the proposal is considered acceptable in respect to the *Housing DCP Acoustics* element objective.

2.6.12 Fencing

The existing site's sheet metal boundary fencing is considered adequate for the proposed development.

2.6.13 Waste Minimisation and Management

A number of the town houses would be located more than 100 metres from the property's street frontage. A bin storage area is provided near dwellings 9 and 10 so that all dwellings are less than 75 metres from a bin storage area. The adaptable units are less than 50 metres from the bin storage area which is consistent with the recommendations of the *Better Practice Guide for Multi Unit Dwellings* and the *State Environmental Planning Policy (Housing for Seniors or people with a Disability) 2004* requirement for a garbage storage area to be in an accessible location. A site caretaker/manager is required to transfer bins from the inner bin storage area to the main one near the street frontage from where all bins will be emptied.

A waste management plan covering all stages of the development has been provided and is acceptable.

The site will require 10 x 240 L garbage bins serviced weekly and 8 x 240 L recycling bins serviced weekly. Although green waste bins are optional for such developments, space in the bin bay should be provided for 1-2 x 240 L green waste bins should the residents request such a service. The bin bay is large enough to accommodate the required number of bins.

The bin bay has the door facing the street. It is recommended that the door be relocated to face the driveway. This would create a greater sense of the bin bay belonging to the residents and would be less inviting for passers by to place rubbish in the bin bay.

A condition is recommended for an area behind the bin bay to be provided for unwanted bulky items awaiting removal.

Subject to appropriate conditions the proposal meets the *Housing DCP* element objectives for waste minimisation and management.

2.6.14 Housing Strategy – Precinct Masterplans

The proposed development is within the Baldwin Avenue Asquith Precinct and is generally consistent with the requirements of the relevant Masterplan for one and two storey multi-unit dwellings in a garden setting, buildings separated by courtyards and driveway lined with canopy trees.

2.6.15 Crime Prevention

The submitted Statement of Environmental Effects includes the following comment:

The design of the development minimises opportunity for crime through legible entrances, passive surveillance of communal areas and Sherbrook Avenue and clearly defined public and private interface. The development layout provides limited areas for entrapment.

The submitted statement concerning the proposal is supported in respect to the crime prevention performance criteria of the *Housing DCP*.

3. ENVIRONMENTAL IMPACTS

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

3.1 Natural Environment

There are 18 trees on the site including trees along the boundary on adjoining land. The proposed development would necessitate the removal of 6 trees from the site. None of the trees to be removed are identified as ‘significant trees’ under Council’s Tree Management Plan.

Turpentine Ironbark Margin Forest is an endangered ecological community that occurs in the local area. The site includes a number of trees that form part of this community including *Angophora costata* (Sydney Red Gum), *Syncarpia glomulifera* (Turpentine), *Eucalyptus pilularis* (Blackbutt), *Eucalyptus paniculata* (Grey Ironbark) and *Eucalyptus haemastoma* (Scribbly Gum). The proposed landscape planting includes species that form part of this community.

3.2 Built Environment

The proposed demolition of the existing dwellings would not detract from the streetscape or the residential character of the area and would contribute to the future medium density character of the area.

Council’s engineering assessment of the proposal concludes that the traffic generated by the proposed development would not detract from the level of service of Sherbrook Road.

3.3 Social Impacts

The proposed development would increase housing opportunities and the range of housing types in the locality.

3.4 Economic Impacts

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

4. SITE SUITABILITY

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

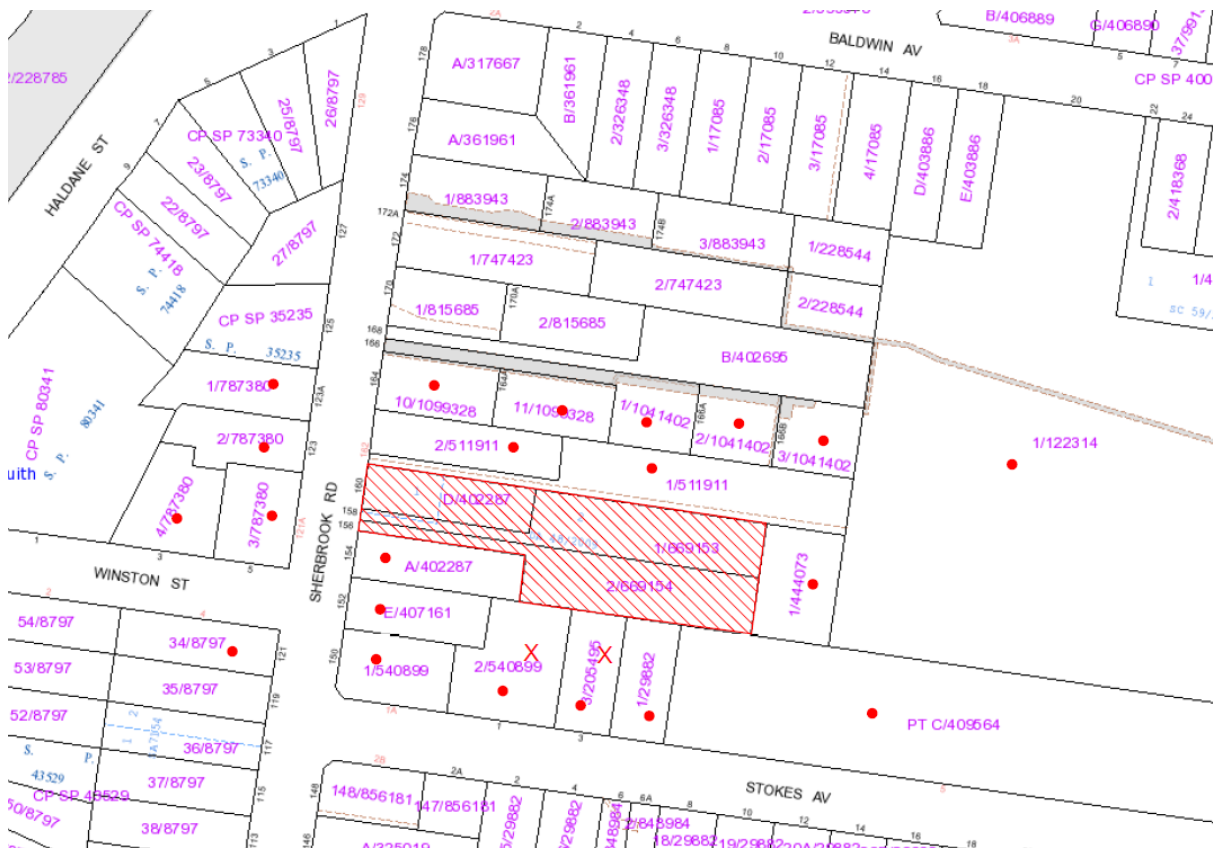
The existing residential site is not subject to development constraints and is suitable for the proposed medium density housing development.

5. PUBLIC PARTICIPATION


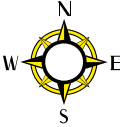
Section 79C(1)(d) of the Act requires Council to consider *“any submissions made in accordance with this Act”*.

5.1 Community Consultation

The proposed development was placed on public exhibition and was notified to adjoining and nearby landowners between 17 May and 7 June 2012 in accordance with Council’s Notification and Exhibition Development Control Plan. During this period, Council received two submissions. The map below illustrates the location of those nearby landowners who made a submission that are in close proximity to the development site.



NOTIFICATION PLAN

<ul style="list-style-type: none"> • PROPERTIES NOTIFIED 	<ul style="list-style-type: none"> X SUBMISSIONS RECEIVED 	 PROPERTY SUBJECT OF DEVELOPMENT	
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Two submissions object to the development, generally on the following grounds:

- Inadequate breaks between buildings;
- Lack of architectural merit;
- Non-compliance with 30m site width;
- Loss of privacy;
- Lack of solar access to private open space;
- Lack of landscaping;
- Traffic generation and waste collection;
- Sherbrook Road safety hazard;
- Location of mail boxes not shown;
- Boundary fencing requires replacing; and
- Sewer requires upgrading.

The merits of the matters raised in community submissions have been addressed in the body of the report with the exception of the following:

5.1.1 Mail Boxes

A condition is recommended for a mail box facility at the frontage to complement the development and the streetscape.

5.2 Sewer Upgrading

The applicant is required to obtain the requirements of Sydney Water pursuant to a Section 73 Certificate. Any necessary works would be the responsibility of Sydney Water.

6. THE PUBLIC INTEREST

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

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

The application is considered to have satisfactorily addressed Council's and relevant agencies' criteria and would provide a development outcome that, on balance, would result in a positive impact for the community by providing additional housing opportunities. Accordingly, it is considered that the approval of the proposed multi-unit townhouse development would be in the public interest.

7. POLICY

As Council is currently in caretaker mode prior to the 8 September 2012 election, this Report has been prepared having regard to the requirements of Council's Elections – Caretaker Period Policy. The recommended decision is not a “major decision” within the context of Council's Policy.

CONCLUSION

The proposed development is for the demolition of two existing dwelling-houses and construction of a multi-unit townhouse development comprising 20 dwellings, and strata title subdivision.

The proposed development is in accordance with Council's Housing Strategy and complies with HSLEP and the element objectives of the Housing DCP in respect to density, setbacks, design, height, privacy, solar access, open space, landscaping, drainage control, vehicle access & parking, acoustics, fencing and waste minimisation & management. The non-compliance with prescriptive measures for site width and private open space are considered acceptable on merit.

The proposed development is consistent with the residential character of the locality and would contribute to the desired future character of the medium density housing precinct. It is considered the amenity of residents of the proposed townhouses would not be adversely affected by the operation of the adjoining school. The numerous trees on the adjoining lands would not be affected by the proposal.

Two submissions were received in response to the proposal.

The application is recommended for approval.

ROD PICKLES
Manager - Development Assessment
Planning Division

JAMES FARRINGTON
Group Manager
Planning Division

Attachments:

1. Locality Map
2. Site Plan/Roof Plan
3. Floor Plan
4. Elevation Plan
5. Shadow Plans
6. Elevations

File Reference: DA/414/2012

Document Number: D01986198

SCHEDULE 1

GENERAL CONDITIONS

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

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

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

1. Approved Plans and Supporting Documentation

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

Plan No.	Drawn by	Dated
000 B Site Analysis	Playoust Churcher Architects	30/04/12
100 B Site Plan	Playoust Churcher Architects	30/04/12
101 B Roof / Site Plan	Playoust Churcher Architects	30/04/12
200 B Townhouse Plans	Playoust Churcher Architects	30/04/12
300 B Colour Scheme	Playoust Churcher Architects	30/04/12
301 B Elevations	Playoust Churcher Architects	30/04/12
11/1636/DA1 D Landscape Site Plan	Paul Scrivener Landscape Architect	26.04.12
11/1636/DA1 D Planting Plan	Paul Scrivener Landscape Architect	26.04.12
11/1636/DA1 D Tree Protection	Paul Scrivener Landscape Architect	26.04.12

Document No.	Prepared by	Dated
D01918278 – Waste Management Plan	Playoust Churcher Architects	24/4/12
D01918284 – Basix Certificate	Playoust Churcher Architects	27 April 2012
D01918285 – Acoustic Report	Atkins Acoustics	30 April 2012
D01918286 – Tree Assessment Report	Earthscape Horticultural Services	November 2011

2. Removal of Existing Trees

This development consent only permits the removal of trees numbered 1, 3, 10, 12, 13 and 14 as identified on Landscape Plan 11/1636/DA1 D prepared by Paul Scrivener Landscape Architect dated 26.04.12. The removal of any other trees requires separate approval under Council's Tree Preservation Order.

3. Amendment of Plans

The approved plans are to be amended as follows:

- a. The development is to include a letterbox facility at the frontage designed to compliment the development and the streetscape.

REQUIREMENTS PRIOR TO THE ISSUE OF A CONSTRUCTION CERTIFICATE

4. Building Code of Australia

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

5. Contract of Insurance (Residential Building Work)

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

6. Notification of Home Building Act, 1989 Requirements

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

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

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

7. Water/Electricity Utility Services

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

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

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

8. Dilapidation Report

A ‘Dilapidation Report’ is to be prepared by a ‘chartered structural engineer’ detailing the structural condition of property No. 154 Sherbrook Road, Asquith.

9. Easements Over Downstream Lands

The proposed drainage easements over the downstream lots must be registered with the *NSW Department of Lands* prior to the issue of any Construction Certificate.

10. Bin Storage Facility

- a. The bin storage facility must be designed in accordance with the *Waste Minimisation and Management Development Control Plan* with regards to water/hose for cleansing, graded floors with drainage to sewer, robust door(s), sealed/impervious surfaces, adequate lighting and ventilation.
- b. The door to the bin storage facility at the front of the site must face the driveway.

REQUIREMENTS PRIOR TO THE COMMENCEMENT OF ANY WORKS
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11. 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.

12. Protection of Adjoining Areas

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

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

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

13. Toilet Facilities

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

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

14. Tree Protection Barriers

Tree protection fencing must be erected around trees numbered 5,7,8,9,11,15,16,17,18 to be retained at a minimum 4 metre setback. The tree fencing must be constructed of 1.8 metre 'cyclone chainmesh fence'.

Where trees are located on adjoining property the fencing will be placed at the relevant distance from the tree on the development site side of the fence.

15. Erosion and Sediment Control

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

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

REQUIREMENTS DURING CONSTRUCTION

16. 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.

17. Demolition

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

- a. Demolition material is to be disposed of to an authorised recycling and/or waste disposal site and/or in accordance with an approved waste management plan.
- b. Demolition works, where asbestos material is being removed, must be undertaken by a contractor that holds an appropriate licence issued by *WorkCover NSW* in accordance with Chapter 10 of the *Occupational Health and Safety Regulation 2001* and Clause 29 of the *Protection of the Environment Operations (Waste) Regulation 2005*.
- c. On construction sites where buildings contain asbestos material, a standard commercially manufactured sign containing the words 'DANGER ASBESTOS REMOVAL IN PROGRESS' measuring not less than 400mm x 300mm must be erected in a prominent position visible from the street.

18. Environmental Management

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

19. Street Sweeping

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

20. Works near Trees

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

All works (including driveways and retaining walls) within 5 metres of any trees required to be retained (whether or not on the subject property, and pursuant to this consent or the *Tree Preservation Order*), must be carried out under the supervision of an 'AQF Level 5 Arborist' and a certificate submitted to the principal certifying authority detailing the method(s) used to preserve the tree(s).

Note: Except as provided above, the applicant is to ensure that no excavation, filling or stockpiling of building materials, parking of vehicles or plant, disposal of cement slurry, waste water or other contaminants is to occur within 4 metres of any tree to be retained.

21. Waste Management

Written records of the following items must be maintained during the removal of any waste from the site and such information submitted to the Principal Certifying Authority within fourteen days of the date of completion of the works:

- a. The identity of the person removing the waste;
- b. The waste carrier vehicle registration;
- c. A description of the waste (type of waste and estimated quantity);
- d. The site to which the waste is to be taken;
- e. The corresponding tip docket/receipt from the site to which the waste was transferred (noting date and time of delivery, description (type and quantity) of waste);
- f. Whether the waste is expected to be reused, recycled or go to landfill.

Note: In accordance with the Protection of the Environment Operations Act 1997, the definition of waste includes any unwanted substance, regardless of whether it is reused, recycled or disposed to landfill.

REQUIREMENTS PRIOR TO THE ISSUE OF AN OCCUPATION CERTIFICATE

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

22. Fulfilment of BASIX Commitments

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

23. Sydney Water – s73 Certificate

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

24. Stormwater Drainage

The stormwater drainage system for the development must be designed and constructed and a construction Certificate issued for these works. The stormwater drainage system is to be designed in accordance with Council's *Civil Works – Design and Construction Specification 2005* and the following requirements:

- a. Connected to the existing inter-allotment drainage system. All new pits are to be a minimum size of 600mm x 600mm and the pits are to be cast in situ.

25. On Site Stormwater Detention

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

- a. Have a capacity of not less than 31 cubic metres, and a maximum discharge (when full) of 91.1 litres per second.
- b. Have a surcharge/inspection grate located directly above the outlet.
- c. Discharge from the detention system to be controlled via 1 metre length of pipe, not less than 50 millimetres diameter or via a stainless plate with sharply drilled orifice bolted over the face of the outlet discharging into a larger diameter pipe capable of carrying the design flow to an approved Council system.
- d. Not be constructed in a location that would impact upon the visual or recreational amenity of residents.

26. Internal Driveway/Vehicular Areas

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

- a. Design levels at the front boundary be obtained from Council.
- b. The driveway be a rigid pavement.
- c. The driveway grade must not exceed 25 percent and changes in grade must not exceed 8 percent.
- d. The pavement have a kerb to one side and a one-way cross fall with a minimum gradient of 2 percent and a lintel and pit provided at the low point.

27. Vehicular Crossing

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

- a. Any redundant crossings to be replaced with integral kerb and gutter.
- b. The footway area to be restored by turfing.
- c. Adjustment of services within the footpath area as required.

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

28. Traffic Control Plan

A Traffic Control Plan (TCP) must be prepared by a qualified traffic controller in accordance with the *Roads & Traffic Authority's Traffic Control at Worksites Manual 1998* and *Australian*

Standard 1742.3 for all work on a public road and be submitted to Council. The TCP must detail the following where required:

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

29. Damage to Council Assets

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

30. Consolidation of Allotments

All lots subject to the application are to be consolidated into one allotment prior to the issue of the Occupation Certificate.

31. Creation of Easements

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

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

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

32. Works as Executed Plan

A works-as-executed plan(s) must be prepared by a registered surveyor and submitted to Council for completed road pavement, kerb & gutter, public drainage systems, driveways and on-site detention system. The plan(s) must be accompanied by a certificate from a registered

surveyor certifying that all pipelines and associated structures lie wholly within any relevant easements.

33. Waste Management

- a. Each dwelling/kitchen must be provided with an indoor waste/recycling cupboard for the interim storage of a minimum one day's waste/recycling generation with separate containers for general waste and recyclable materials.
- b. Space must be provided for either individual compost containers for each dwelling or a communal compost container; the siting of which will have regard for potential amenity impacts.
- c. There must be no steps along the bin carting route(s). Only ramps between different levels are acceptable.
- d. An area of at least 8 square metres near the bin collection area is to be allocated for placement of bulky waste items awaiting removal. This area need not be concreted or paved or a room – a grassed area is acceptable. Bulky items must not be placed on the verge as this causes many problems including illegal dumping.

34. Completion of Landscaping

A certificate must be provided by a practicing landscape architect, horticulturalist or person with similar qualifications and experience certifying that all required landscaping works have been satisfactorily completed in accordance with the approved landscape plans.

Note: Advice on suitable species for landscaping can be obtained from Council's planting guide 'Indigenous Plants for the Bushland Shire', available at www.hornsby.nsw.gov.au.

35. External Lighting

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

36. Dwelling Numbering

The allocation of dwelling numbering must be authorised by Council prior to the numbering of each dwelling in the development.

37. Section 94 Infrastructure Contributions

The payment to Council of a contribution of \$249,220 for 17 additional dwellings towards the cost of infrastructure identified in Council's Development Contributions Plan 2007-2011 in accordance with the following table:

Note*:The value of contribution is current as at 31 July 2012 and includes a credit for the 3 existing allotments. The contribution will be adjusted from this date in accordance with the underlying consumer price index for subsequent financial quarters.

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

OPERATIONAL CONDITIONS

38. Waste Management

A site caretaker must be employed and be responsible for moving bins to and from the bin storage area(s) and the waste collection point, washing bins and maintaining storage areas, managing the communal composting area, arranging the prompt removal of dumped rubbish, and ensuring all residents are informed of the waste management system.

39. Noise

All noise generated by the proposed development must be attenuated to prevent levels of noise being emitted to adjacent premises which possess tonal, beating and similar characteristics or which exceeds background noise levels by more than 5dB(A).

- END OF CONDITIONS -

ADVISORY NOTES

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

Environmental Planning and Assessment Act, 1979 Requirements

- The Environmental Planning and Assessment Act, 1979 requires:
- The issue of a construction certificate prior to the commencement of any works. Enquiries regarding the issue of a construction certificate can be made to Council's Customer Services Branch on 9847 6760.
- A principal certifying authority to be nominated and Council notified of that appointment prior to the commencement of any works.
- Council to be given at least two days written notice prior to the commencement of any works.
- Mandatory inspections of nominated stages of the construction inspected.
- An occupation certificate to be issued before occupying any building or commencing the use of the land.

Long Service Levy

In accordance with Section 34 of the *Building and Construction Industry Long Service Payments Act 1986*, a 'Long Service Levy' must be paid to the *Long Service Payments Corporation* or *Hornsby Council*.

Note: The rate of the Long Service Levy is 0.35% of the total cost of the work.

Note: Hornsby Council requires the payment of the Long Service Levy prior to the issue of a construction certificate.

Tree Preservation Order

To ensure the maintenance and protection of the existing natural environment, it is an offence to ringbark, cut down, top, lop, remove, wilfully injure or destroy a tree outside 3 metres of the approved building envelope without the prior written consent from Council.

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

All distances are determined under Australian Standard AS4970-2009 "Protection of Trees on Development Sites".

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

Disability Discrimination Act

The applicant's attention is drawn to the existence of the *Disability Discrimination Act*. A construction certificate is required to be obtained for the proposed building/s, which will provide consideration under the *Building Code of Australia*, however, the development may not comply with the requirements of the *Disability Discrimination Act*. This is the sole responsibility of the applicant.

Subdivision Certificate Requirements

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

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

- A surveyor's certificate certifying finished ground levels are in accordance with the approved plans.

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

Dial Before You Dig

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

Asbestos Warning

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

www.environment.nsw.gov.au

www.nsw.gov.au/fibro

www.adfa.org.au

www.workcover.nsw.gov.au

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

9 REQUEST TO REMOVE TREE AT 33 HANNAH STREET, BEECROFT

EXECUTIVE SUMMARY

- In January 2012, Council received an application from the owner of 33 Hannah Street, Beecroft to remove a *Eucalyptus saligna* (Sydney Blue Gum), on the grounds that the tree is affected by bracket fungus and that the tree's roots are impacting upon the neighbour's garage.
- The tree is considered to form part of a surrounding, critically endangered Blue Gum High Forest (BGHF) vegetation community.
- Inspections undertaken by separate Council officers noted the presence of the bracket fungus, however were unable to determine the extent of its growth or whether it had caused significant decay.
- Advice from a consulting Arborist commissioned by the applicant recommended additional investigation of the tree by stem sounding and resistograph. To date, these investigations have not been undertaken.
- The application was refused by Council officers on the basis that insufficient information had been provided regarding the bracket fungus.
- This report recommends that Council refuse the application for consent to remove one *Eucalyptus saligna* (Sydney Blue Gum) located in the rear yard of the property at 33 Hannah Street, Beecroft (TA/47/2012).
- As Council is currently in caretaker mode prior to the 8 September 2012 election, this Report has been prepared having regard to the requirements of Council's Elections – Caretaker Period Policy. It is considered that the recommended decision is not a "major decision" within the context of Council's Policy.

RECOMMENDATION

THAT Council refuse application TA/37/2012 to remove one *Eucalyptus saligna* (Sydney Blue Gum) from the property at 33 Hannah Street, Beecroft.

PURPOSE

The purpose of this report is to provide Council with the information required to consider an application by the owner of 33 Hannah St, Beecroft to remove one *Eucalyptus saligna* (Sydney Blue Gum), located at the rear of the property.

BACKGROUND

In January 2012, Council received an application from the owner of 33 Hannah Street, Beecroft to remove a *Eucalyptus saligna* (Sydney Blue Gum), on the grounds that the tree is affected by bracket fungus and that the tree's roots are impacting upon the neighbour's garage. The tree is considered to be part of a surrounding Blue Gum High Forest (BGHF) vegetation community. BGHF is listed as a critically endangered ecological community under both the Environment Protection and Biodiversity Conservation Act 1999 (Commonwealth) and the Threatened Species Conservation Act 1995 (NSW).

A ground based, visual inspection of the tree was conducted by a Council officer who whilst noting the presence of the bracket fungus, was unable to determine the extent of its growth or whether it has caused significant decay. The application to remove the tree was refused on the grounds that insufficient information had been provided regarding the bracket fungus.

In March 2012, the owner and neighbour requested that the matter be reconsidered (Attachments 1 and 2). An email from a consulting arborist was provided in support of the request which recommended further inspection of the tree by stem sounding and resistograph to determine the extent of decay caused by the bracket fungus.

In May 2012, a second inspection was conducted by another of Council's Tree Management Officers, who once again concluded that insufficient information had been provided regarding the bracket fungus. In particular the recommended additional testing had not been undertaken. Accordingly the application was again refused.

Inspections have revealed that recent pruning has been undertaken on the tree in excess of the approved 10%.

DISCUSSION

Tree details:

Species:	<i>Eucalyptus saligna</i>
Common Name:	Sydney Blue Gum
Height:	25 metres
Age Class:	Mature

Photographs of the tree have been included for Council's consideration (Attachments 3 - 7).

Following receipt of the second refusal letter, the owner has requested consideration of the matter at a meeting of Council (Attachment 8). This request was supported by an additional Arborist report that noted there were two viable options to improve the safety and health of the tree - significant pruning (20-30% of the canopy area) or complete removal of the tree. Pruning to this extent is not consistent with AS 4373-2007 Pruning of Amenity Trees and may in fact expose the tree to higher wind loadings increasing the risk of future failure. It should also be noted that neither of these recommendations were based upon the results of additional testing undertaken by stem sounding or resistograph.

Although bracket fungus is noted as being present within the central leader of the tree, the extent of its growth or whether it has caused significant decay is yet to be determined. The extent of decay within a tree cannot be assessed visually and therefore further inspection of the tree such as stem

sounding and resistograph should be undertaken to determine the extent of decay caused by the bracket fungus. Where only minor decay is identified that has not affected the structural integrity of the tree, bracket fungus can be managed through physical removal of the fruiting body thus limiting further decay to the tree.

The owner of 35 Hannah Street has also written to Council in support of the applicants request for the tree to be removed. A recent building inspection has been undertaken at 35 Hannah Street and a copy of the report provided to Council. The building inspection noted that there is a leaning retaining wall along the boundary between 33 and 35 Hannah Street and that support framing to the carport (which is adjacent to the retaining wall) is also leaning heavily. The report recommended that the retaining wall and carport be monitored for further movement, which if evident would require additional structural investigations/repairs. It is unclear to what extent, if any, the tree is responsible for the issues associated with the retaining wall and carport.

The tree is considered to be part of a BGHF vegetation community and where possible, avenues to retain and manage trees within BGHF communities should be explored. Where removal is being considered, full justification should be provided.

1.

BUDGET

There are no budgetary implications associated with this Report.

POLICY

As Council is currently in caretaker mode prior to the 8 September 2012 election, this Report has been prepared having regard to the requirements of Council's Elections – Caretaker Period Policy. It is considered that the recommended decision is not a "major decision" within the context of Council's Policy.

CONCLUSION

Visual inspections undertaken by Council officers have noted the presence of bracket fungus within the tree however the extent of its growth or whether it has caused significant decay is not clear. The removal of trees within BGHF should not be taken lightly and it is recommended that Council seek further information from the applicant regarding the internal trunk condition of the tree to ascertain whether the decay associated with the bracket fungus is sufficient to warrant removal of the tree.

RESPONSIBLE OFFICER

The officer responsible for the preparation of this Report is the Manager, Parks and Recreation – Peter Kemp – who can be contacted on 9847 6792.

ROBERT STEPHENS
Deputy General Manager
Infrastructure and Recreation Division

PETER KEMP
Manager - Parks and Recreation
Infrastructure and Recreation Division

Attachments:

1. Letter from Owner Requesting Tree Application Decision be Reviewed - 33 Hannah Street, Beecroft
2. Letter of Support from Neighbours - Review of Tree Application Decision - 33 Hannah Street, Beecroft
3. Photo - February 2012 - 33 Hannah Street Beecroft
4. Photo 1 - June 2012 - 33 Hannah Street, Beecroft
5. Photo 2 - June 2012 - 33 Hannah Street, Beecroft
6. Photo 3 - June 2012 - 33 Hannah Street Beecroft
7. Photo 4 - June 2012 - 33 Hannah Street Beecroft
8. Letter Requesting Consideration at Council Meeting - 33 Hannah Street, Beecroft

File Reference: TA/47/2012

Document Number: D01951791

10 REQUEST TO REMOVE TREE AT 23 MILLSTREAM GROVE DURAL

EXECUTIVE SUMMARY

- The owner of the property 23 Millstream Grove, Dural has lodged an application to remove a remnant, locally indigenous *Angophora costata* (Smooth-barked Apple), located to the rear of the property on the grounds that the tree is dropping branches and presents a safety risk.
- Inspections of the tree following three applications submitted by the owner have not found the tree to be dangerous and the owner has requested the matter be referred to a Council meeting for a decision.
- The application has not submitted evidence to support the claim that the tree is dangerous, as requested by Council officers.
- An inspection revealed that recent pruning was carried out without sufficient expertise and that dead branches were left on the tree.
- Pruning dead wood from the tree is considered sufficient to make the tree safe.
- A claim that the tree renders the property dangerous for foster care is not supported by the foster care agency involved.
- The report recommends refusal of Tree Application TA/32/2012.
- As Council is currently in caretaker mode prior to the 8 September 2012 election, this Report has been prepared having regard to the requirements of Council's Elections – Caretaker Period Policy. It is considered that the recommended decision is not a "major decision" within the context of Council's Policy.

RECOMMENDATION

THAT Council refuse application TA/32/2012 to remove one *Angophora costata* (Smooth-barked Apple) from the property at 23 Millstream Grove, Dural.

PURPOSE

The purpose of this report is to provide Council with the information required to consider an application by the owner of 23 Millstream Grove, Dural to remove one *Angophora costata* (Smooth-barked Apple), located at the rear of the property.

BACKGROUND

The property known as 23 Millstream Grove, Dural was purchased by the applicant in April 2005. An application to remove the tree was first lodged in April 2007 based on the applicant's claim of damage from falling branches. The application was refused on the grounds that a visual inspection of the tree failed to find evidence to determine that it was dangerous to retain – only minor deadwood was found to have fallen.

A second application in February 2009 was again refused as a visual inspection could not determine that the tree was dangerous, and the applicant had not supplied the suggested additional evidence such as an arborist report recommending the tree's removal.

A further tree application was lodged with Council in January 2012 (TA/32/2012). The application was refused as the tree was found to be in good health and condition. It was recommended to the applicant that pruning, limited to minimal canopy maintenance involving the pruning of the two damaged (lopped) limbs and deadwood would be sufficient to manage any risk presented by the tree.

In May 2012 a request was made by the applicant for a second inspection (TA/32/2012/A). The applicant stated that the tree was in reasonable health; however concerns were related not to the tree's health, but to what the applicant considered to be the 'dangerous' position it occupied over their home and that of their neighbours. It was observed that the tree had been poorly pruned, leaving deadwood in the canopy. It was noted that the condition of the tree had not otherwise changed since the recent application in January 2012 and that the tree was worthy of retention. Removal of the tree was again refused.

DISCUSSION

The applicant has raised the following information in support of the tree's removal.

1. The root system was damaged by cutting away the land around the tree to build retaining walls. The roots of the tree now have nowhere to grow and are sitting on a rock-shelf
2. There was evidence of at least one fairly large cavity in the tree in which birds fly in and out of
3. There was substantial deadwood on the trees which is an indication that the tree is slowly losing its health. When the property was purchased there was next to no deadwood on the tree
4. The tree does not receive enough water as the land is sloped and all the water runs away from the tree.
5. There has already been damage to the property below the tree with falling branches when there is a slight wind.
6. Live in a bushy area and there is no lack of trees in the vicinity.

No evidence from a qualified arborist was submitted or provided with the application. There was no physical evidence that the structural roots of the tree had been damaged as a result of the development of the site.

A 'large cavity' would indicate that more than 50% of the tree's holding wood has been compromised and there would be visible signs such as a bulging of the trunk from reaction wood around the wound. This would entail further investigation to determine the extent of the cavity. It was noted at the time of assessment that there was evidence of one small cavity at 8m near the first branch junction. No evidence has been provided to Council from the applicant on the extent of the cavity or that the tree is hazardous.

There did not appear to be excessive deadwood within the canopy at the time of inspection. The tree was of good health and vigour with fresh tip growth visible on the upper canopy. Deadwood is considered a natural process and the applicant was advised that deadwood may be removed without the need for consent. This advice included the removal of poorly attached epicormic growth, crossing or rubbing branches and damaged or diseased branches. The applicant did not follow this advice and proceeded to have large structural branches removed from the tree well in excess of the 10% permitted under the Tree Preservation Order.

The above works contravened Council's Tree Preservation Order and the Australian Standard 'Pruning of Amenity Trees' AS 4373-2007, and had been carried out by inexperienced and unqualified persons. Deadwood was clearly visible within the upper canopy of the tree and the two lowest, large structural (400-500mm diameter) primary limbs had been lopped and 3 - 4m stubs with epicormic growth retained. No works has been undertaken on the tree since this assessment. Further pruning to remove the remaining deadwood would be sufficient to remove hazards from the tree.

There was no evidence that the tree was not receiving enough water. Roots of most plants, including large trees, grow primarily in the top 800mm of soil. Roots are adventitious and follow the least obstructed path through the soil and will extend laterally for considerable distances depending on the plant and the soil conditions. In infertile soil inadequately supplied with moisture roots are fewer in number but larger and able to grow greater distances from the plant. Roots of trees grown in the open often extend two to three times the radius of the crown (Perry, 1982).

In the latest application (TA/32/2012/A) the applicant stated that the tree was of reasonable health, however concerns were related "*not so much to the tree's health but the dangerous position it holds over not only our home, also our neighbours*". While it is unusual for houses to be built under the drip line of trees this is not sufficient to warrant the removal of a tree.

A letter from the Burnside Foster Care Program was submitted as part of the application. The letter informed Council that the Foster Care Program has approved the applicants as long term carers and that their fears in regard to the potential dangers of the tree in question are very real and genuine. However the Burnside Foster Care Program has assessed the property, including the tree, as being a safe environment for foster care.

No supporting evidence from a qualified arborist has been submitted supporting the removal of the tree.

Tree Details

Species: Angophora costata

Common Name: Smooth-barked Apple
Height: 25m
Age: Mature

Photographs taken of the tree have been included for Council's information (Attachments 2 and 3).

The tree meets Council's criteria for an Individually Significant Tree and although being located in the rear yard of the property it is prominent within the streetscape.

The tree is a remnant locally indigenous species protected by Council's newly adopted Tree Preservation Order (TPO). As stated on Council's Website, trees are of vital importance in improving the visual quality of an area. The predominance of tree cover both in bushland and urban areas forms an integral part of the character of Hornsby Shire.

BUDGET

There are no budgetary implications associated with this Report.

POLICY

As Council is currently in caretaker mode prior to the 8 September 2012 election, this Report has been prepared having regard to the requirements of Council's Elections – Caretaker Period Policy. It is considered that the recommended decision is not a "major decision" within the context of Council's Policy.

CONCLUSION

Three visual inspections by Council officers have recommended the retention of the tree and have found the tree to be generally healthy. The lack of additional supporting evidence in the form of an arborist report or the like has led Council officers to again recommend that that Council refuse the application for consent to remove one remnant, individually significant *Angophora costata* (Smooth-barked Apple), a locally indigenous tree located at the rear of 23 Millstream Grove, Dural. Further pruning to remove the remaining deadwood would be sufficient to remove hazards from the tree.

RESPONSIBLE OFFICER

The officer responsible for the preparation of this Report is the Manager, Parks and Recreation – Peter Kemp - who can be contacted on 9847 6792.

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Infrastructure and Recreation Division

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Attachments:

1. Attachment 1- Letter Requesting Reconsideration of Tree Application
2. Attachment 2 - Photo 1 - 23 Millstream Grove Dural
3. Attachment 3 - Photo 2 - 23 Millstream Grove Dural

File Reference: TA/47/2012
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ITEM 10