



BUSINESS PAPER

GENERAL MEETING

**Wednesday 9 November 2016
at 6:30PM**



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AGENDA AND SUMMARY OF RECOMMENDATIONS

PRESENT

NATIONAL ANTHEM

OPENING PRAYER/S

Reverend Jonathan Shanks, from Hornsby Baptist Church 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 of the non-confidential parts of the meeting 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. No other persons are permitted to record the Meeting, unless specifically authorised by Council to do so."

APOLOGIES / LEAVE OF ABSENCE

POLITICAL DONATIONS DISCLOSURE

Statement by the Chairperson:

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

If a Councillor or employee has received a reportable political donation or gift from a person or organisation who has made a relevant planning application or a submission in respect of a relevant planning application which is on tonight's agenda, they must declare a non-pecuniary conflict of interests to the meeting, disclose the nature of the interest and manage the conflict of interests in accordance with Council's Code of Conduct."

DECLARATIONS OF INTEREST

Clause 52 of Council's Code of Meeting Practice (Section 451 of the Local Government Act, 1993) requires that a councillor or a member of a Council committee who has a pecuniary interest in a matter which is before the Council or committee and who is present at a meeting of the Council or committee at which the matter is being considered must disclose the nature of the interest to the meeting as soon as practicable. The disclosure is also to be submitted in writing (on the form titled "Declaration of Interest").

The Councillor or member of a Council committee must not be present at, or in sight of, the meeting of the Council or committee:

- (a) at any time during which the matter is being considered or discussed by the Council or committee.*
- (b) at any time during which the Council or committee is voting on any question in relation to the matter.*

Clause 51A of Council's Code of Meeting Practice provides that a Councillor, Council officer, or a member of a Council committee who has a non pecuniary interest in any matter with which the Council is concerned and who is present at a meeting of the Council or committee at which the matter is being considered must disclose the nature of the interest to the meeting as soon as practicable. The disclosure is also to be submitted in writing (on the form titled "Declaration of Interest").

If the non-pecuniary interest is significant, the Councillor must:

- a) remove the source of conflict, by relinquishing or divesting the interest that creates the conflict, or reallocating the conflicting duties to another Council official.*

OR

- b) have no involvement in the matter by absenting themselves from and not taking part in any debate or voting on the issue as if the provisions of Section 451(2) of the Act apply.*

If the non-pecuniary interest is less than significant, the Councillor must provide an explanation of why they consider that the interest does not require further action in the circumstances.

CONFIRMATION OF MINUTES

THAT the Minutes of the General Meeting held on 12 October, 2016 be confirmed; a copy having been distributed to all Councillors.

PETITIONS

PRESENTATIONS**RESCISSION MOTIONS****MAYORAL MINUTES****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*

OFFICE OF THE GENERAL MANAGER

Nil

CORPORATE SUPPORT DIVISION**Page Number 1**

Item 1 CS39/16 CLASSIFICATION OF LAND - 7 AMOR STREET, ASQUITH

RECOMMENDATION

THAT pursuant to Section 31 of the Local Government Act 1993, Lot 41 DP 12901 being 7 Amor Street, Asquith be classified as "Operational Land".

Page Number 5

Item 2 CS42/16 HORNSBY SHIRE COUNCIL ANNUAL REPORT 2015/16

RECOMMENDATION

THAT:

1. The Hornsby Shire Council Annual Report 2015/16, which has been made available on Council's website, be received and noted.
2. The Annual Report be supplemented by Council's 2015/16 Audited Financial Statements once they are "presented to the public" at the 9 November 2016 General Meeting.
3. The Annual Report be supplemented by Council's 'A Snapshot of the Hornsby Shire in 2016' publication.
4. A copy of the final Annual Report 2015/16 be submitted to the Office of Local Government by 30 November 2016.

Page Number 8**Item 3 CS43/16 DELIVERY PROGRAM FOR 2013-17 AND OPERATIONAL PLAN (BUDGET) FOR 2016/17 - SEPTEMBER 2016 QUARTER REVIEW****RECOMMENDATION**

THAT the September 2016 Quarter Review of the 2013-17 Delivery Program and the Operational Plan (Budget) for 2016/17 be received and noted.

Page Number 12**Item 4 CS44/16 INVESTMENTS AND BORROWINGS FOR 2016/17 - PERIOD ENDING 30 SEPTEMBER 2016****RECOMMENDATION**

THAT the contents of Deputy General Manager's Report No. CS44/16 be received and noted.

Page Number 15**Item 5 CS45/16 2015/16 AUDITED FINANCIAL STATEMENTS - PRESENTATION TO THE PUBLIC****RECOMMENDATION**

THAT the 2015/16 General Purpose and Special Purpose Financial Statements and associated Auditor's Report, as presented to the public on 9 November 2016, be adopted.

Page Number 18**Item 6 CS46/16 PECUNIARY INTEREST AND OTHER MATTERS RETURNS - DISCLOSURES BY COUNCILLORS AND DESIGNATED PERSONS**

RECOMMENDATION

THAT Council note that 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**Page Number 21**

Item 7 EH12/16 CATCHMENTS REMEDIATION RATE (CRR) ANNUAL EXPENDITURE REPORT 2015/2016

RECOMMENDATION

THAT the contents of Group Manager's Report No. EH27/15 be received and noted.

PLANNING DIVISION**Page Number 25**

Item 8 PL67/16 DEVELOPMENT APPLICATION - BOARDING HOUSE CONTAINING 28 ROOMS - 100 CASTLE HILL ROAD, WEST PENNANT HILLS

RECOMMENDATION

THAT Development Application No. DA/1620/2015 for demolition of an existing dwelling and erection of a boarding house at Lot 1A DP 390145, No. 100 Castle Hill Road, West Pennant Hills be approved as a deferred commencement pursuant to Section 80(3) of the *Environmental Planning and Assessment Act 1979* subject to the conditions of consent detailed in Schedule 1 of Group Manager's Report No. 67/16.

Page Number 67

Item 9 PL65/16 SUBMISSIONS REPORT - HOUSEKEEPING AMENDMENTS TO HORNSBY DEVELOPMENT CONTROL PLAN 2013

RECOMMENDATION

THAT:

1. Council adopt the draft housekeeping amendments to the *Hornsby Development Control Plan 2013* as amended (Document No. D07082176).
2. Notification of the adoption of amendments be placed in local newspapers.

Page Number 77

Item 10 PL74/16 REPORTING VARIATIONS TO DEVELOPMENT STANDARDS

RECOMMENDATION

THAT the contents of Group Manager's Report No. PL74/16 be received and noted.

INFRASTRUCTURE AND RECREATION DIVISION**Page Number 80****Item 11 IR26/16 EXPRESSION OF INTEREST EOI 13/2016 - LICENCE TO OPERATE KIOSK/CAFE AT HORNSBY AQUATIC AND LEISURE CENTRE****RECOMMENDATION**

THAT:

1. Council accept the Expression of Interest submission received from Falato Pty Ltd for EOI 13/2016: Licence to Operate Kiosk/Cafe at Hornsby Aquatic and Leisure Centre.
2. The Acting General Manager be delegated authority to negotiate and execute a suitable Licence Agreement and Rental Fee with Falato Pty Ltd.

Page Number 84**Item 12 IR28/16 REQUEST TO REMOVE TREE - 29 STAR CRESCENT, WEST PENNANT HILLS****RECOMMENDATION**

THAT Council refuse consent to remove one *Eucalyptus saligna* (Sydney Blue Gum) located at the rear of 29 Star Crescent, West Pennant Hills.

CONFIDENTIAL ITEMS**Item 13 CS41/16 PROPOSAL TO CREATE A DRAINAGE EASEMENT ON COMMUNITY LAND AT ASQUITH PARK**

This report should be dealt with in confidential session, under Section 10A (2) (c) of the Local Government Act, 1993. This report contains information that would, if disclosed, confer a commercial advantage on a person with whom the council is conducting (or proposes to conduct) business.

PUBLIC FORUM – NON AGENDA ITEMS**QUESTIONS OF WHICH NOTICE HAS BEEN GIVEN**

MAYOR'S NOTES

Page Number 89

Item 14 MN11/16 MAYOR'S NOTES FROM 1 TO 31 OCTOBER 2016

NOTICES OF MOTION

SUPPLEMENTARY AGENDA

MATTERS OF URGENCY

QUESTIONS WITHOUT NOTICE

1 CLASSIFICATION OF LAND - 7 AMOR STREET, ASQUITH

EXECUTIVE SUMMARY

- Council identified the acquisition of 7 Amor Street, Asquith in the Hornsby Local Environmental Plan 2013 and the Section 94 Plan 2014-2024 to allow the for the extension of Wattle Street through to Amor Street.
- When the property was listed on the open market for sale by public auction in July 2016, Council decided to pursue the opportunity to acquire the property. Council subsequently was able to secure the property and completed the purchase of 7 Amor Street on 26 August 2016.
- Classification of the property as Operational Land will permit its future dedication as public road when the link between Wattle Street and Amor Street is constructed. In the interim, the cottage on the property will continue to be leased for residential purposes.

RECOMMENDATION

THAT pursuant to Section 31 of the Local Government Act 1993, Lot 41 DP 12901 being 7 Amor Street, Asquith be classified as "Operational Land".

PURPOSE

The purpose of this Report is to obtain Council support and resolution to the classification of Lot 41 DP 12901 being 7 Amor Street, Asquith as “Operational Land”.

BACKGROUND

In 2010, Council prepared the Hornsby Shire Housing Strategy in response to the State Government’s then Metropolitan Planning Strategy and draft North Subregional Strategy which required Council to provide additional housing opportunities to accommodate a share of Sydney’s future housing needs. The Housing Strategy identified planned precincts close to shops and public transport for rezoning to permit multi-unit housing. Precincts were identified in Asquith to provide opportunities for housing forms including five storey apartment buildings, townhouses and 10 storey mixed use apartments. The property at No. 7 Amor Street, Asquith is located in the Bouvardia Street Precinct where five storey apartment buildings and a strategy to extend Wattle Street to Amor Street are promoted. The extension of Wattle Street was proposed as part of a traffic management improvement strategy and based on the number of dwellings anticipated in the Asquith Housing Strategy precincts.

The Housing Strategy was implemented in September 2011 when an amendment to the Hornsby Shire Local Environmental Plan (HSLEP) 1994 was made and the Housing Strategy Development Control Plan (DCP) came into effect. In October 2013, the HSLEP 1994 and Housing Strategy DCP were translated into the Hornsby Local Environmental (HLEP) 2013 and Hornsby Development Control Plan (HDCP) 2013. The HDCP 2013 includes a Key Development Principles Diagram and a Traffic Management Improvement Plan which promote the extension of Wattle Street to Amor Street and construction of a new roundabout at their intersection. Provision for the purchase of 7 Amor Street and extension of Wattle Street is included in Council’s Section 94 Development Contributions Plan 2014-2024. The Plan identifies in its works schedule the extension of Wattle Street to Amor Street and proposes the acquisition of 7 Amor Street when development activity in the locality would require the traffic improvements and upon collection of the required amount of contributions from development in the Asquith Housing Strategy precincts.

On 5 July 2016, Council staff became aware that the property at 7 Amor Street, Asquith had been placed on the open market for sale by public auction on Saturday 23 July 2016. As this property had been reserved for acquisition for a “local road” under the Hornsby Local Environmental Plan 2013 with the acquisition provided for in the Hornsby Shire Council’s Section 94 Development Contributions Plan 2014-2024, it was agreed that Council should use the opportunity to acquire this property through the public auction process. The subject property is Lot 41 in DP 12901 and is approximately 752.7 square metres in area. It is a rhombus shape lot, having a street frontage of about 16.7 metres to Amor Street and a depth of about 49.7 metres. Erected on the land is a freestanding, older style two bedroom residential cottage with a single carport. The residence is in reasonable condition and includes a bathroom, laundry, family, dining and lounge rooms.

DISCUSSION

At the 13 July 2016 General Meeting, Council considered Confidential Deputy General Manager’s Report No. CS25/16 dealing with the proposed purchase of 7 Amor Street, Asquith and resolved that:

1. *Subject to a purchase price less than the maximum amount identified by Council’s consultant land valuer, Council approve the purchase of the property identified within Confidential Deputy General Manager’s Report No. CS25/16.*
2. *The Acting General Manager be authorised to negotiate, make offers and execute any documents in relation to this matter deemed appropriate by Council’s legal advisors.*

3. *If required by the absence of the General Manager or by legal statute, Council authorise the use of Council's seal on any legal documents in relation to this matter deemed appropriate by Council's legal advisers, subject to review and authorisation by a Deputy General Manager or Group Manager of Council.*
4. *Upon purchase of the subject property, it be classified as operational land in accordance with Section 31(2) of the Local Government Act 1993.*

In respect to part 1 of the resolution, purchase of the property was negotiated within the range identified by Council's consultant land valuer. Contracts were subsequently exchanged on 25 July 2016 and the purchase was completed on 26 August 2016.

In respect of the subject property's classification, Section 31(2) of the Local Government Act 1993 requires Council to classify land within three months of purchase or the property is deemed to be "Community Land". If this deeming were to occur, Section 47F would restrict Council's ability to dedicate the "Community Land" as a public road. For that reason, Council's resolution on 13 July 2016 authorised a classification as "Operational Land".

Section 34 of the Act, requires Council to give at least 28 days public notice of a proposed resolution to classify a property as "Operational Land". In line with that requirement, the required public notice was given in local newspapers from Thursday, 8 September 2016 to Friday, 7 October 2016 and plans of the land were on public exhibition during this period.

As no submissions were received during the public exhibition period, it is proposed that Council now formally classify the subject property as "Operational Land". This will permit the future dedication of this land as public road when the link between Wattle Street and Amor Street is constructed. In the interim, the cottage on the property will continue to be leased for residential purposes.

BUDGET

There are no budgetary implications associated with this Report.

POLICY

There are no policy implications associated with this Report.

CONCLUSION

Council's formal classification of Lot 41 DP 12901 as "Operational Land" will permit the future dedication of this land as public road when the link between Wattle Street and Amor Street is constructed.

RESPONSIBLE OFFICER

The officer responsible for the preparation of this Report is the Property Asset Manager, Stewart Bates who can be contacted on 9847-6725.

PETER THOMPSON
Manager - Land and Property Services
Corporate Support Division

GARY BENSLEY
Deputy General Manager - Corporate Support
Corporate Support Division

Attachments:

There are no attachments for this report.

File Reference: F2014/00372

Document Number: D07039219

2 HORNSBY SHIRE COUNCIL ANNUAL REPORT 2015/16

EXECUTIVE SUMMARY

- An annual report is one of the key points of accountability between a council and its community. In this regard, NSW councils are required to prepare an annual report within five months of the end of the financial year, place the report on their website and submit the report to the Office of Local Government (OLG).
- The Hornsby Shire Council Annual Report 2015/16 has been prepared in accordance with the requirements of the legislation (Local Government Act and Regulation) and the OLG. The Annual Report also includes information which ensures that annual reporting requirements imposed on Council by other legislation or statutory bodies are met.
- The 2015/16 Annual Report focuses on Council's achievements in implementation of its Delivery Program. Council's 2015/16 audited Financial Statements are to form part of the Annual Report once they are "presented to the public" at the 9 November 2016 General Meeting.

RECOMMENDATION

THAT:

1. The Hornsby Shire Council Annual Report 2015/16, which has been made available on Council's website, be received and noted.
2. The Annual Report be supplemented by Council's 2015/16 Audited Financial Statements once they are "presented to the public" at the 9 November 2016 General Meeting.
3. The Annual Report be supplemented by Council's 'A Snapshot of the Hornsby Shire in 2016' publication.
4. A copy of the final Annual Report 2015/16 be submitted to the Office of Local Government by 30 November 2016.

PURPOSE

The purpose of this Report is to present the 2015/16 Annual Report for Council's consideration.

BACKGROUND

Section 428 of the Local Government Act requires that a council prepare an annual report within five months of the end of the financial year. The council is required to place the report on its website and submit a copy to the OLG. The annual report must contain information required by the Act and the Local Government (General) Regulation as well as the Integrated Planning and Reporting guidelines developed by the OLG in line with section 406 of the Act.

DISCUSSION

The Hornsby Shire Council Annual Report 2015/16 has been prepared in accordance with the requirements of the Local Government Act, the Local Government (General) Regulation and the OLG's Integrated Planning and Reporting Guidelines. The Annual Report also includes information to meet requirements imposed by other legislation and statutory bodies, including information on Voluntary Planning Agreements required by the Independent Commission Against Corruption and a report on implementation of recovery plans required under the Threatened Species Conservation Act 1995. A copy of the Annual Report is held in TRIM (refer Document No. PUB000256) and is also available for viewing on Council's website at hornsby.nsw.gov.au/council/about-council/corporate-documents-and-reports/annual-report.

The Annual Report will formally be supplemented by Council's audited financial statements once Council has considered Deputy General Manager's Report No. CS45/16 – 2015/16 Audited Financial Statements – Presentation to the Public (at the 9 November 2016 General Meeting). It will also include the 'A Snapshot of the Hornsby Shire in 2016' publication, received and noted by Council in August 2016 (Deputy General Manager's Report No. CS26/16), which reflects back over the last four years and contains information on the implementation and effectiveness of Council's community strategic plan. Inclusion of this publication in the Annual Report ensures that the legislative requirements for end of term reporting have been met, albeit the current uncertainty around the end of term with proposed amalgamation.

A copy of the final Annual Report for 2015/16, including the 2015/16 Financial Statements and the 'Snapshot' publication, will then be provided to the OLG by 30 November 2016.

BUDGET

There are no budgetary implications associated with this Report.

POLICY

There are no policy implications associated with this Report.

CONCLUSION

Council's consideration of this Report will ensure that the Hornsby Shire Council Annual Report 2015/16 is submitted to the OLG in line with statutory requirements.

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
Corporate Support Division

ITEM 2

Attachments:

There are no attachments for this report.

File Reference: F2014/00562

Document Number: D07070056

3 DELIVERY PROGRAM FOR 2013-17 AND OPERATIONAL PLAN (BUDGET) FOR 2016/17 - SEPTEMBER 2016 QUARTER REVIEW

EXECUTIVE SUMMARY

- Accountable organisations like Council review their budget and operational performance at least each quarter. In this regard, the September 2016 Quarter Review of the 2013-17 Delivery Program including the 2016/17 Operational Plan and Budget is attached.
- The September Review has taken into account the financial impact of the transfer of the Hornsby Shire Council area south of the M2 Motorway to the new City of Parramatta Council effective from 12 May 2016. This impact was flagged when Council adopted the 2016/17 Budget (refer Acting General Manager's Report No. CS16/16 - 8 June 2016 General Meeting).
- The 2016/17 Original Budget forecast a surplus at 30 June 2017 of \$82K. This September 2016 Review recommends a range of material budget adjustments which are offset by various funding sources including a reduction of \$9.5 million in the planned transfer to the Section 94 Gap restricted asset account. As a consequence of the proposed changes, the forecast budget surplus at 30 June 2017 is able to be retained at \$82K.
- Progress against the adopted Delivery Program 2013-17 and the operational performance of the organisation has been in line with the service delivery standards adopted by Council.

RECOMMENDATION

THAT the September 2016 Quarter Review of the 2013-17 Delivery Program and the Operational Plan (Budget) for 2016/17 be received and noted.

PURPOSE

The purpose of this Report is to present for Council's consideration the September 2016 Quarter Review of the 2013-17 Delivery Program and the 2016/17 Operational Plan.

BACKGROUND

On 19 June 2013, Council adopted its four year Delivery Program 2013-17. The annual Operational Plan and Fees and Charges for 2016/17 were adopted by Council on 8 June 2016. The Delivery Program and Operational Plan set out the manner in which Council intends to deliver services and measure performance.

In line with Office of Local Government requirements, a Quarterly Budget Review Statement (QBRS) must be submitted for Council's consideration at the end of each quarter. The Statement must be based on key financial indicators and the estimate of income and expenditure set out in Council's Operational Plan for the relevant year.

DISCUSSION

Operational Comment

Operational performance for the first quarter of 2016/17 has been satisfactory. A couple of the highlights achieved during the quarter include:

- Construction of a new four lane boat ramp and pontoon at Parsley Bay - completed in August
- Construction of a new playground and nature-based play area at Asquith Park - completed in September.

Other highlights are provided in Attachment 1.

Budget Comment

This Review includes the first quarter results for 2016/17, comparing actual expenditure and income for the first quarter against the Budget. The Net Operating and Capital result after internal funding movements showed a positive variance of \$1.593 million as compared to the September 2016 Quarter Budget. This positive variance is largely the result of timing differences associated with project related works and the initial phasing of the 2016/17 Budget.

The 2016/17 Original Budget forecast a surplus at 30 June 2017 of \$82K, and incorporated a transfer of \$10 million to a restricted asset account to assist in funding Council's Section 94 Development Contributions gap. As noted below, this Review recommends a range of budget changes that will impact on Council's ability to transfer such an amount towards the Section 94 gap.

The significant changes included in the September 2016 Quarter Review, together with details about how they are proposed to be funded, are provided below.

Boundary Adjustment with the City of Parramatta; and Galston Aquatic Centre

On 12 May 2016, the Minister for Local Government proclaimed the creation of 19 new Councils across NSW. This included the creation of the City of Parramatta and confirmed the transfer of the Hornsby Shire Council area south of the M2 Motorway to the new City of Parramatta Council effective from the proclamation date. The likely financial impact of this transfer was previously reported to Council when it adopted the 2016/17 Budget – refer Acting General Manager's Report No. CS16/16 considered by Council on 8 June 2016.

Budget adjustments have been included in this Review to reflect the estimated transfer of rates, grants, leases and user charges to the City of Parramatta Council - approximately \$12.5 million of

reduced income. In order to partially offset this reduced income, budget reductions have been made in respect of facilities/services south of the M2 Motorway e.g. the Epping Library, Epping Aquatic Centre, catchment remediation capital works, major oval and parks maintenance (based on transferred assets), street lighting, statutory levies, insurances and building maintenance (based on transferred assets). These reductions total approximately \$3.4 million and result in an unfavourable cash impact to the 2016/17 Budget of approximately \$9.1 million.

The 2015/16 financial performance of the Galston Aquatic Centre was previously reported at the 14 September 2016 General Meeting when Council considered Acting General Manager's Report No. CS30/16. The Report noted that the Chief Financial Officer (CFO) had requested that a review of the Centre's revenue be undertaken. Subsequent to Council's consideration of the Report, the Manager Parks and Recreation and the Aquatic and Brickpit Manager met with the CFO to review the 2016/17 net budget for the Centre.

At the meeting, it was determined that due to lower than anticipated learn to swim numbers and increased running costs of an 'ageing' asset, it was expected that the Centre would require a subsidy from Council. This is in contrast to the surplus forecast as part of the successful tender bid by Council for the operation of the Centre – refer Deputy General Manager's Report No. IR28/13 considered by Council at the 18 September 2013 General Meeting. The financial impact on the 2016/17 Budget when adjusting to a subsidy arrangement from a surplus position is a negative \$432K change. It is noted, however, that the ongoing subsidy arrangement required for the operation of the Centre and the capital investment in an outdoor learn to swim pool at the Centre is still more favourable to Council than the other tender bids received for the Centre.

The unfavourable net positions resulting from the City of Parramatta Council boundary adjustment and the subsidy of the Galston Aquatic Centre are proposed to be offset by a reduction of \$9.5 million in the funds originally identified to be set aside in this year's budget towards the Section 94 gap. The consequence of such will be that only \$500K will be available to be transferred in 2016/17 to the restricted asset account established for the Section 94 gap.

Hornsby Pedestrian Bridge and Infrastructure Backlog

The forecast expenditure for the construction of the Hornsby Pedestrian Bridge was \$7.35 million. Recent revised forecasts for this project have indicated that a further \$1.2 million will be required. This increase is in part due to the need to fund digital signage, relocate unexpected Ausgrid infrastructure uncovered during construction, provide CCTV cabling, upgrade power to Hornsby Mall poles and to meet other costs which have exceeded their original budgets.

In respect of the infrastructure backlog, independent asset management plans recently developed for Council have identified that a further \$635K budget is required to ensure that Council building facilities are able to be maintained into the future at their current condition. The responsible managers consider this to be a necessary budget increase and this has been supported by ExCo.

To enable the funding of \$1.835 million towards the Hornsby Pedestrian Bridge and asset management plan requirements, a review of funds set aside from special rate levies, restricted assets and road restoration income has been required. Following that review it is proposed that the required funding be provided through the release of Special Rate Variation restricted asset funds (\$910K), the use of higher than anticipated Road Restoration income (\$400K) and the release of various internally restricted asset accounts (\$525K). This proposed course of action is supported by ExCo.

BUDGET

This Report provides the September 2016 Quarter Review of the 2016/17 Operational Plan (Budget), which, if adopted, will retain the forecast surplus at 30 June 2017 of \$82K.

POLICY

There are no policy implications associated with this Report.

CONCLUSION

Council's consideration of this Report ensures that relevant statutory requirements have been met. The September 2016 Quarter Review demonstrates that Council remains in a strong position to deliver local services and facilities in a financially responsible manner.

RESPONSIBLE OFFICER

The officers responsible for preparation of this Report are Julie Williams – Manager, Strategy and Communications and Glen Magus – Chief Financial Officer. They can be contacted on 9847 6790 and 9847 6635 respectively.

GARY BENSLEY
Deputy General Manager - Corporate Support
Corporate Support Division

ROBERT STEPHENS
Acting General Manager
Office of the General Manager

Attachments:

- 1.[View](#) 1st Quarter Review - September 2016
- 2.[View](#) Quarterly Budget Review Statement - September 2016

File Reference: F2015/00473
Document Number: D07070105

4 INVESTMENTS AND BORROWINGS FOR 2016/17 - PERIOD ENDING 30 SEPTEMBER 2016

EXECUTIVE SUMMARY

- This Report provides details of Council's investment performance for the period ending 30 September 2016 as well as the extent of its borrowings at the end of the same period.
- Council invests 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 and the Chief Financial Officer must report monthly to Council on the details of funds invested.
- All of Council's investments have been made in accordance with the Local Government Act, the Local Government (General) Regulation and Council's Investment of Surplus Funds Policy and Investment Strategy.
- In respect of Council's cash and term deposit investments, the annualised return for the month of September 2016 was 2.80% compared to the benchmark of 1.50%.

RECOMMENDATION

THAT the contents of Deputy General Manager's Report No. CS44/16 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; to provide details as required by Clause 212(1) of the Local Government (General) Regulation and Council's Investment of Surplus Funds Policy; and to advise on the extent of Council's current borrowings.

BACKGROUND

A report is required to be submitted for Council's consideration each month detailing Council's investments and borrowings and highlighting 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 invests 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 Policies, and the Chief Financial Officer must report monthly to Council on the details of the funds invested.

Council's investment performance for the month ending 30 September 2016 is detailed in the attached document. In summary, the At-Call and Term Deposits achieved an annualised return of 2.80% for September 2016, compared to the benchmark of 1.50%.

In respect of Council borrowings, the weighted average interest rate payable on outstanding loans taken out from June 2007 to September 2016, based on the principal balances outstanding was 7.25%. The Borrowings Schedule as at 30 September 2016 is also attached for Council's information.

CONSULTATION

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

BUDGET

Budgeted investment income for 2016/17 is \$3,000,000 with an average budgeted monthly income of \$250,000. Total investment income for the quarter ended September 2016 was \$1,004,000 compared to the budget income of \$750,000. Approximately 42% of the investment income received by Council relates to externally restricted funds (e.g. Section 94 monies) and is required to be allocated to those funds. All investments have been made in accordance with the Local Government Act, the Local Government (General) Regulation and Council's Investment of Surplus Funds Policy and Investment Strategy.

CONCLUSION

The investment of Council funds and the extent of its borrowings as at 30 September 2016 are detailed in the documents attached to this Report. Council's consideration of the Report and its attachments ensures that the relevant legislative requirements and Council protocols have been met in respect of those investments and borrowings.

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
Corporate Support Division

Attachments:

- 1.[View](#) HSC Investment Holdings Report - September 2016
- 2.[View](#) HSC Borrowings Schedule - September 2016

File Reference: F2004/06987-02

Document Number: D07070896

5 2015/16 AUDITED FINANCIAL STATEMENTS - PRESENTATION TO THE PUBLIC

EXECUTIVE SUMMARY

- In accordance with Sections 413, 415, 416 and 417 of the Local Government Act, Council must prepare and have audited its General Purpose and Special Purpose Financial Statements within four months of the end of each financial year.
- At the 14 September 2016 General Meeting, Council received and noted the 2015/16 Financial Statements and resolved to refer them for audit. Council also delegated authority to the Acting General Manager to fix the date at which the Financial Statements and Auditor's Report would be presented to the public.
- Following receipt of the Auditor's Report, the Acting General Manager determined that the Financial Statements and Auditor's Report would be presented to the public at the 9 November 2016 General Meeting.
- Following formal presentation of the Financial Statements and Auditor's Reports to the public at the 9 November 2016 General Meeting, members of the public, in accordance with Section 420 of the Local Government Act, have seven days, i.e. until 16 November 2016, to make written submissions about the Statements.
- Any submissions that are received must be referred by Council to the Auditor for his response.

RECOMMENDATION

THAT the 2015/16 General Purpose and Special Purpose Financial Statements and associated Auditor's Report, as presented to the public on 9 November 2016, be adopted.

PURPOSE

The purpose of this Report is to allow Council's 2015/16 General Purpose and Special Purpose Financial Statements and associated Auditor's Reports to be presented to the public in accordance with Section 419(1) of the Local Government Act.

BACKGROUND

In accordance with Sections 413, 415, 416 and 417 of the Local Government Act, Council must prepare and have audited its General Purpose and Special Purpose Financial Statements within four months of the end of each financial year.

At the 14 September 2016 General Meeting, Council considered Deputy General Manager's Report No. CS29/16 – General Purpose and Special Purpose Financial Reports – 2015/16 Financial Year – and resolved that:

1. *The 2015/16 General Purpose and Special Purpose Financial Reports be received and noted and referred for audit.*
2. *The Mayor and Deputy Mayor be authorised to sign the Statutory Statements in connection with the 2015/16 Financial Reports.*
3. *The 2015/16 Financial Reports be authorised for "presentation to the public" on receipt of the Auditor's Report.*
4. *The General Manager be delegated authority to fix the date of the General Meeting at which the 2015/16 Financial Reports and Auditor's Report are formally "presented to the public".*

DISCUSSION

Following the 14 September 2016 General Meeting, the 2015/16 General Purpose and Special Purpose Financial Statements were signed and referred to PricewaterhouseCoopers for audit. PricewaterhouseCoopers have subsequently issued an Auditor's Report and identified no issues, other than minor presentation matters, which required changes to the Financial Statements.

Following receipt of the Auditor's Report, the Acting General Manager authorised, in accordance with Council's resolution of 14 September 2016, that presentation of the Financial Statements and Auditor's Report to the public would occur at the 9 November 2016 General Meeting. As a result, public notices were placed in local newspapers and on Council's website in accordance with Section 418 of the Act.

Hard copies of the Financial Statements and Auditor's Report are available for viewing by members of the public at Council's Administration Centre and Branch Libraries. An electronic copy of the Financial Statements and Auditor's Reports has also been placed on Council's website at <http://www.hornsby.nsw.gov.au/council/about-council/corporate-documents-and-reports/financial-statements> and is available in Council's electronic document management system (refer Document No. D07074655).

Following formal presentation of the Financial Statements and Auditor's Report to the public at the 9 November 2016 General Meeting, members of the public, in accordance with Section 420 of the Local Government Act have seven days, i.e. until 16 November 2016, to make submissions about the documents. Such submissions must be in writing and must be referred by Council to the Auditor for his response.

It is noted that Council's external auditor, Dennis Banicevic of PricewaterhouseCoopers, has indicated his availability to make a presentation about the Financial Statements, Auditor's Report and Council's financial position at the 9 November 2016 General Meeting.

CONSULTATION

In the preparation of this Report there was consultation with Council's External Auditor.

BUDGET

The Income Statement result for 2015/16 is a surplus before capital items of \$17.535 million. This surplus is to be used to assist in funding the embellishment of the former Hornsby Quarry site (refer Council's Long Term Financial Plan for 2014/15 to 2023/24). An Operating Result deficit of \$91 million has also been disclosed for 2015/16. The main reason for this deficit is a loss of \$161 million caused by the transfer on 12 May 2016 of the Hornsby Shire Council assets south of the M2 motorway to the City of Parramatta Council. In this regard, the Minister for Local Government's proclamation of 12 May 2016 determined that no consideration was payable to Hornsby Shire Council in respect of the boundary adjustment between the two Councils.

POLICY

There are no policy implications associated with this Report.

CONCLUSION

The presentation of the 2015/16 Financial Statements and Auditor's Report to the public at the 9 November 2016 General Meeting will ensure that the requirements of the Local Government Act have been met and that the public have an opportunity to make any relevant submissions to Council about the documents.

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
Corporate Support Division

Attachments:

There are no attachments for this report.

File Reference: F2016/00232

Document Number: D07072862

6 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.

RECOMMENDATION

THAT Council note that 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 or November 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), 449(3) 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 Sections 449(1) and (5) of the Act at the General Meeting held on 11 May 2016 (see Deputy General Manager's Report No. CS9/16). Since that time, one additional Return has been lodged with the General Manager and is now tabled as required by the Act.

Council last considered the tabling of Disclosure of Pecuniary Interests and Other Matters Returns under Section 449(3) of the Act at the General Meeting held on 12 October 2016 (see Deputy General Manager's Report No. CS40/16). Those Returns were for the period ending 30 June 2016. Since that time, one outstanding Return has been lodged with the General Manager and is now tabled as required by the Act

Date Lodged	Councillor/Designated Person (Position)	Reason for Lodgement
12 October 2016	Environmental Compliance Officer	Return from Maternity Leave
13 October 2016	Councillor	Annual Return

BUDGET

There are no budgetary implications associated with this Report.

POLICY

There are no policy implications associated with this Report.

CONCLUSION

Council's consideration of this Report satisfies the requirements of the Act regarding the lodgement of Disclosure of Pecuniary Interests and Other Matters Return/s by Councillors and Designated Persons.

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
Corporate Support Division

Attachments:

There are no attachments for this report.

File Reference: F2015/00355
Document Number: D07073551

7 CATCHMENTS REMEDIATION RATE (CRR) ANNUAL EXPENDITURE REPORT 2015/2016

EXECUTIVE SUMMARY

- Revenue received for the Catchments Remediation Rate (CRR) in 2015/16 was \$3,233,000 with the balance of funds at 30 June 2016 being \$366,000. This was as a result of income generated, \$3,233,000 plus \$1,029,000 brought forward from 2014/15, less expenditure of \$3,896,000.
- At the CRR Expenditure Review Panel (the Panel) meeting held on 25 October 2016, the Panel noted that it had sighted and discussed the financial details of CRR expenditure as of 30 June 2016 and considered all reports acceptable and reasonable.
- The Panel noted that the performance of the capital works was excellent, with 14 projects being completed. It was considered that projects were managed efficiently with a high percentage of projects completed within budget. Further discussion took place on the impact to revenue on the CRR due council boundary changes. It was identified that a review was underway to determine how to best accommodate the revenue deficit.

RECOMMENDATION

THAT the contents of Group Manager's Report No. EH27/15 be received and noted.

PURPOSE

The purpose of this Report is to inform Council about the expenditure of CRR funds for the 2015/16 financial year and to table the comments of the external CRR Expenditure Review Panel.

DISCUSSION

Catchments Remediation Capital Works

Capital works projects undertaken across the Shire during 2015/16 included the construction of biofilters/raingardens, storm water harvesting systems, gross pollutant trap and creek stabilisation projects.

As of 30 June 2016, \$1,709M was spent on capital works with 14 catchment remediation projects being completed:

- One combined biofilter/stormwater harvesting system, Dural
- One stormwater harvesting system, Pennant Hills Park
- Two large end-of-pipe biofilters, Cheltenham and Pennant Hills
- Four underground vault gross pollutant traps, Hornsby (x3) and Cheltenham
- Three graduated trash racks, Thornleigh, North Epping and Pennant Hills
- Three raingarden projects, Berowra (x10), Hornsby and Pennant Hills (x2)
- One creek bank stabilisation project, Epping

Non-Capital Expenditure

Non-capital expenditure during 2015/2016 supported various Council operations that contributed to improving water quality Shire-wide including:

- Pro-active maintenance of all stormwater improvement assets, including the removal of 1013 cubic metres of sediment, litter and organic matter
- Water quality monitoring and research
- Street sweeping
- Community project support, e.g. Bushcare, and various committees
- Implementation of a Geographic Information System (GIS)
- Emergency response to spills
- Riparian restoration works
- Salaries, wages, overheads and associated administrative costs for project management

CRR Expenditure Review Panel

Council's CRR Expenditure Review Panel was initially established in 1997 to provide public accountability and transparency to CRR expenditure and it continues to perform this function.

On 25 October 2016, the CRR Expenditure Review Panel met to discuss expenditure for the 2015/16 financial year. The Panel noted that it had sighted and discussed the financial details of the CRR expenditure and considered all reports presented by council officers as acceptable and accountable.

The Panel was presented with a summary for both capital and non-capital expenditure. It was noted that the performance of the capital program in 2016-17 was excellent, with 14 projects being completed and only one project being more than 10% over budget. The significant increase in capital expenditure compared to recent years, successfully reduced the CRR balance, was achieved while not increasing per project costs and suggested that the expenditure in the year had been managed efficiently.

Further discussion took place on the impact to revenue for the CRR due council boundary changes with the City of Parramatta Council. While some assets and their future maintenance and renewal obligations had been transferred, it was identified that consideration would need to be given to which aspects of the CRR program would receive reduced funding. It was explained that this review was currently being undertaken and will be based on value for money and the importance of projects in meeting the overall objectives of the CRR program.

The Panel's report is included as Attachment 1.

BUDGET

The relevant budget and incurred expenditure for the CRR is shown in Attachments 2 and 3.

POLICY

There are no policy implications arising as a result of this Report.

CONCLUSION

\$3,896,000 in CRR funds were spent throughout 2015/16 on a range of capital and non-capital projects designed to improve water quality across the Shire.

In line with its Charter, the CRR Expenditure Review Panel has sighted and discussed the financial details of CRR expenditure as of 30 June 2016, and considers all reports to be acceptable and reasonable.

RESPONSIBLE OFFICER

The officer responsible for the preparation of this Report is the Acting Manager Natural Resources – Peter Coad, who can be contacted on 9847 6766.

PETER COAD
Acting Manager Natural Resources
Environment and Human Services Division

STEPHEN FEDOROW
Group Manager
Environment and Human Services Division

Attachments:

- 1.[View](#) CRR Panel Report
- 2.[View](#) CRR Balance
- 3.[View](#) CRR Summary

File Reference: F2005/00829-03

Document Number: D07080221

8 DEVELOPMENT APPLICATION - BOARDING HOUSE CONTAINING 28 ROOMS - 100 CASTLE HILL ROAD, WEST PENNANT HILLS

EXECUTIVE SUMMARY

DA No:	DA/1620/2015 (Lodged on 14 December 2015)
Description:	Erection of a two storey boarding house containing 28 rooms
Property:	Lot 1A DP 390145, No. 100 Castle Hill Road, West Pennant Hills
Applicant:	Prescott Architects
Owner:	WPH Property Development Pty Ltd
Estimated Value:	\$2,189,000

- The application involves demolition of an existing dwelling and erection of a two storey boarding house containing 28 boarding rooms, including a manager's room.
- The proposal generally complies with State Environmental Planning Policy (Affordable Rental Housing).
- 41 submissions have been received in respect of the application and a petition with 238 signatures.
- A Red Sticker has been placed on the application requiring that it be determined at a Council meeting.
- It is recommended that the application be approved as a deferred commencement consent, subject to a drainage easement being obtained.

RECOMMENDATION

THAT Development Application No. DA/1620/2015 for demolition of an existing dwelling and erection of a boarding house at Lot 1A DP 390145, No. 100 Castle Hill Road, West Pennant Hills be approved as a deferred commencement pursuant to Section 80(3) of the *Environmental Planning and Assessment Act 1979* subject to the conditions of consent detailed in Schedule 1 of Group Manager's Report No. 67/16.

BACKGROUND

On 14 December 2015, Development Application DA/1620/2015 was submitted.

On 10 February 2016, Council wrote to the applicant identifying concerns with the proposal in relation to waste servicing, vehicle manoeuvring, privacy conflicts and stormwater drainage.

On 2 March 2016, Council received comments from Roads and Maritime Services objecting to the development proposal, as the vehicle access and waste collection design was problematic.

On 26 April 2016, the applicant submitted additional information and amended documentation.

On 8 June 2016, Council officers met with the applicant to discuss outstanding concerns with the application.

On 12 July 2016, amended plans and documentation were formally submitted to Council, including the following:

- removal of one boarding house room, resulting in a reduction from 29 to 28 rooms;
- increased internal separation between the two buildings that comprise the boarding house;
- relocation of the waste storage and collection area behind the building line;
- a vehicle manoeuvring area behind the building line;
- additional privacy screens on the eastern and northern elevation at the upper level; and
- an amended stormwater drainage plan indicating a number of drainage easement options to be pursued, rather than a single solution as previously proposed.

On 19 July 2016, the amended documentation was renotified to the community in accordance with the Hornsby Development Control Plan 2013.

SITE

The site is an irregular shaped allotment with an area of 1,661m², width of 25.4m and an angled frontage of 33.82m to Castle Hill Road. The site is occupied by a single storey dwelling house. The site has an average fall of 2% towards the rear of the site.

The surrounding developments include single and two storey dwelling houses on lots that are predominately 800m² in size. The site's southern boundary adjoins the Koala Park, a private zoo, and the eastern and northern boundary adjoin a battleaxe lot at No. 102 Castle Hill Road that has an area excluding the access handle of 1400m².

The site is located within 120m of a bus stop on Castle Hill Road, near the intersection of Victoria Road. This stop is serviced by Bus 632 that links Castle Hill to Pennant Hills and operates 7 days per week. The site is 920m to the west of Thompson Corner shops and 1km to the east of the Franklin Road Cherrybrook Train Station site that is under construction.

PROPOSAL

The application proposes construction of a boarding house comprised of two separate two storey elements containing a total of 28 boarding rooms, including a manager's room. The proposal comprises:-

Ground Floor – manager’s room, 11 x double rooms, communal kitchen/dining, office, laundry, and refuse storage room.

First Floor - 15 x double rooms and 1 x single room.

The proposed boarding house includes 26 x double rooms and 1 x single room that could accommodate 53 persons (excluding manager). The double rooms are predominately 16m² in area, excluding the bathroom and kitchenette and the single room is 12m².

Vehicular access to the site is via a widened driveway to Castle Hill Road. On-site parking is provided for 7 cars, 6 motorbikes, and 6 bicycles.

ASSESSMENT

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

A Plan for Growing Sydney has been prepared by the NSW State Government to guide land use planning decisions for the next 20 years. The Plan sets a strategy for accommodating Sydney’s future population growth and identifies the need to deliver 689,000 new jobs and 664,000 new homes by 2031. The Plan identifies that the most suitable areas for new housing are in locations close to jobs, public transport, community facilities and services.

The NSW Government will use the subregional planning process to define objectives and set goals for job creation, housing supply and choice in each subregion. Hornsby Shire has been grouped with Hunters Hill, Ku-ring-gai, Lane Cove, Manly, Mosman, North Sydney, Pittwater, Ryde, Warringah and Willoughby to form the North Subregion. The *Draft North Subregional Strategy* will be reviewed and the Government will set housing targets and monitor supply to ensure planning controls are in place to stimulate housing development.

The proposed development would be consistent with ‘*A Plan for Growing Sydney*’, by providing additional affordable rental accommodation and would contribute to housing choice in the locality.

2. STATUTORY CONTROLS

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

2.1 Hornsby Local Environmental Plan 2013

The proposed development has been assessed having regard to the provisions of the *Hornsby Local Environmental Plan 2013 (HLEP)*.

2.1.1 Zoning of Land and Permissibility

The subject land is zoned R2 Low Density Residential under the *HLEP*. The objectives of the zone are:

- *To provide for the housing needs of the community within a low density residential environment.*
- *To enable other land uses that provide facilities or services to meet the day to day needs of residents.*

The proposed development is defined as a 'boarding house' and is permissible in the zone with Council's consent.

Pursuant to the *HLEP* a boarding house is defined as follows:

boarding house means a building that:

- (a) *is wholly or partly let in lodgings, and*
- (b) *provides lodgers with a principal place of residence for 3 months or more, and*
- (c) *may have shared facilities, such as a communal living room, bathroom, kitchen or laundry, and*
- (d) *has rooms, some or all of which may have private kitchen and bathroom facilities, that accommodate one or more lodgers,*

But does not include backpackers' accommodation, a group home, hotel or motel accommodation, seniors housing or a serviced apartment.

Note. Boarding houses are a type of residential accommodation.

The proposed boarding house is subject to the provisions of *State Environmental Planning Policy (Affordable Rental Housing) 2009* which prevails to the extent of any inconsistency with *HLEP*.

2.1.2 Height of Buildings

Clause 4.3 of the *HLEP* provides that the height of a building on any land should not exceed the maximum height shown for the land on the Height of Buildings Map. The maximum permissible height for the subject site is 8.5 metres. The proposal complies with this provision.

2.1.3 Heritage Conservation

Clause 5.10 of the *HLEP* sets out heritage conservation provisions for Hornsby Shire.

The property is located adjacent to the Koala Park (Item No. 786) which is located at Nos. 74 - 78 Castle Hill Road, West Pennant Hills and is a heritage item of local significance under the provisions of *Schedule 5* of the *Hornsby Local Environmental Plan 2013*.

The Koala Sanctuary was initially created in the 1930s. The Item is unique and easily visible within the streetscape and is set within a remnant native forest. A number of significant trees such as Blue Gum, Grey Gum and Hoop Pine are also located on the site.

The subject site currently incorporates a cottage believed to be constructed in the 1920's which does not possess any heritage significance. The current dwelling on the site is to be demolished to make way for the erection of the boarding house. The proposed boarding house would not have an adverse impact on the adjacent Koala Park. The materials, finishes of the proposed boarding house would complement the existing streetscape and character of the area. The proposed building envelope would not impact on the setting of the Koala Park as sufficient setbacks and compliant building heights are proposed.

2.1.4 Earthworks

Clause 6.2 of the *HLEP* states that consent is required for proposed earthworks on site. Before granting consent for earthworks, Council is required to assess the impacts of the works on adjoining properties, drainage patterns and soil stability of the locality.

Council's assessment of the proposed works and excavation concludes that the extent of earthworks is limited and would not have a significant impact on the locality, subject to the imposition of appropriate conditions.

2.2 State Environmental Planning Policy (Affordable Rental Housing) 2009

The application has been assessed against the requirements of *State Environmental Planning Policy (Affordable Rental Housing) 2009* (SEPP – ARH). This Policy provides State-wide planning controls for delivery of affordable rental housing through planning incentives to increase rental housing and to expand the role of non-profit housing providers. The Policy also provides for the retention of existing affordable housing and for housing support for disadvantaged people.

The Policy applies to the majority of Council's residential land use zones for sites within 800 metres walking distance of a railway station or 400 metres of a bus stop with an hourly bus service between 6am and 9pm Monday to Friday and between 8am and 6pm Saturday and Sunday.

For the subject site, the Policy provides for a maximum building height in accordance with the *HLEP* of 8.5m.

The Policy provides for a density of development in accordance with the maximum floor space ratio for any form of residential accommodation permitted on the land. A floor space ratio is not applicable to the land under *HLEP*. Notwithstanding, development for seniors housing is permissible on the land in accordance with *State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004* which, under Clause 50 (b) provides a maximum floor space ratio of 0.5:1, which is a development standard that cannot be used as a grounds for refusal.

The Policy includes development standards and applies criteria for boarding house development. The following table sets out the proposal's compliance with the prescriptive standards of the Policy:

SEPP - Affordable Rental Housing			
Control	Proposal	Requirement	Compliance
Site Area	1661.1m ²	N/A	NA
Floor Space Ratio	0.48:1	0.5:1	Yes
Building Height	7.5m	8.5m	Yes
Solar Access - Communal Room	2.5 hours between 9am & 3pm mid-winter	3 hours between 9am & 3pm mid-winter	No
Private Open Space - Lodgers	72m ²	>20m ²	Yes

		min 3m wide	
Private Open Space - Manager	20m ²	>8m ²	Yes
Car Parking	7 spaces	0.2 spaces per room + 1.0 manager's space = 7 spaces	Yes
Bicycle and Motorcycle Parking	6 bicycle spaces + 6 motorcycle spaces	1 space per 5 boarding rooms = 6 spaces	Yes
Accommodation Minimum Size	Single room – 12.84m ² – Double room – 16m ² - 17.17m ²	12m ² 16m ²	Yes Yes
Accommodation Maximum Size	24.46m ² (mezzanine rooms)	<25m ²	Yes

As detailed in the above table, the proposed boarding house generally complies with the prescriptive controls of the SEPP except for solar access to the communal room. Below is a brief discussion concerning the proposal and the mandatory and prescriptive provisions of the SEPP – ARH.

2.2.1 Accessible Area

The SEPP – ARH requires Boarding Houses to be located in an accessible area. The SEPP defines an accessible area as being within 800 metres of a public entrance to a railway station or 400 metres walking distance of a bus stop used by a regular bus service that has at least one bus per hour servicing the bus stop between 06.00 and 21.00 each day from Monday to Friday and between 08.00 and 18.00 on each Saturday and Sunday.

A bus stop is located 120 metres to the north of the site on Castle Hill Road near the intersection of Victoria Road, for bus services travelling in an easterly direction. For bus services travelling to the west, there is a bus stop on the opposite side of Castle Hill Road near Victoria Road. However, there is no pedestrian crossing in the vicinity. During busy periods, pedestrians may need to cross over Castle Hill Road at the traffic signals at New Line Road, with a distance of 530 metres. The bus stops are serviced by a number of bus routes including Bus 632 that links Castle Hill and Pennant Hills, and Bus 620 that links Castle Hill and the City, both of which operate 7 days per week. Bus Route 632 between Castle Hill and Pennant Hills complies with the frequency requirements of the SEPP. Commuters currently park in Victoria Road to access this bus stop and Bus 620 to the City.

The site meets the accessible area criteria applicable for boarding house development in accordance with Clause 27 of the SEPP, that prescribes a 400 metre walking distance to a bus stop. While the future Cherrybrook train station is sited approximately 1 kilometre to the north-west of the site, the

provision of this additional future public transport facility improves accessibility for the boarding house residents.

2.2.2 Floor Space Ratio (FSR)

The proposed boarding house has a FSR of 0.48:1 which complies with the maximum floor space of 0.5:1 (which applies to seniors housing). This FSR provides for two storey development consistent with townhouse and villa development and, subject to design, is compatible with low density built form.

2.2.3 Building Height

A maximum building height of 8.5m is a prescriptive standard pursuant to the SEPP – ARH. The proposed building complies with the maximum height control.

2.2.4 Landscape Area

Pursuant to Clause 29(2)(b), the Council must not refuse consent on the grounds of landscaped area if the landscape treatment of the front setback area is compatible with the streetscape in which the building is located.

The front setback area is 33m wide and 9m deep. The landscape treatment of this area achieves 64% soft landscaping, 13% pedestrian pathways and a two way driveway crossing to accommodate Council's waste vehicle. In comparison a complying dwelling house under the NSW Housing Code would require 50% of the front setback to be soft landscaping. The treatment of the front setback area is compatible with the streetscape and the planning controls applicable to the area.

2.2.5 Solar Access

The SEPP - ARH prescriptive measure is for one communal living room to receive a minimum of 3 hours of direct sunlight between 9am and 3pm in mid-winter.

The proposed ground floor communal kitchen/ living room is located at the western end of the rear building. Since the room is located in the south of the lot behind a stairwell and a cantilevered upper level boarding house room, the room would enjoy direct sunlight from 12.30pm onwards. This clause is a matter which if satisfied cannot be grounds for refusal of a boarding house, it is not a development standard that requires a variation. The provision of sunlight is acceptable as the communal living room includes windows on three elevations and the location of the common room will assist in limiting noise emissions and privacy impacts on neighbouring residential properties.

2.2.6 Private Open Space

The SEPP-ARH prescriptive measure is for one area of at least 20m² with a minimum dimension of 3m (other than the front setback) and an area of at least 8m² adjacent to the boarding house manager's room. The development provides for a dual use open space area between the two buildings of 36m², a rear private open space area of 80m² and a side (southern) 3m wide open space area of 120m². The manager's court yard is 20m². The proposed open space provision complies with this Policy.

2.2.7 Parking

Pursuant to Clause 29(2)(e) of SEPP-ARH, the Council must not refuse consent on the grounds of parking if 0.2 car parking spaces are provided for each boarding room and 1.0 space is provided for the manager. The proposed provision of 7 car parking spaces complies with this Policy.

2.2.8 Accommodation Size

The SEPP-ARH prescriptive measure is for at least 12m² for single rooms and 16m² for double rooms. The boarding rooms must not be more than 25m² in area.

The proposal complies with this requirement.

2.2.9 Mandatory Standards

The proposal generally complies in respect to the SEPP-ARH mandatory standards for communal living room, room sizes, number of persons per room, bathroom and kitchen facilities, manager's accommodation and bicycle and motorcycle parking.

2.2.10 Character of Local Area

Clause 30A of the SEPP-ARH is as follows:

A consent authority must not consent to development to which this Division applies unless it has taken into consideration whether the design of the development is compatible with the character of the local area.

The character of the local area comprises single and two storey dwelling houses on rectangular shaped lots ranging in area from 700m² to 800m². In addition, there are multi dwelling developments in the vicinity of the property on Victoria Road.

The *Land and Environment Court* has provided Planning Principles for compatibility of a proposal with surrounding development in *Project Venture Developments v Pittwater Council [2005]*. The principles advise that two questions need to be considered:

- Are the proposal's physical impacts on surrounding development acceptable? The physical impacts include constraints on the development potential of surrounding sites.
- Is the proposal's appearance in harmony with the buildings around it and the character of the street?

Physical impacts include matters such as noise, overlooking, and overshadowing. The physical impacts of the boarding house are acceptable, as discussed elsewhere in the assessment.

For a new development to be visually compatible with its context, it should contain, or at least respond to, the essential elements that make up the character of the surrounding urban environment. The most important contributor to urban character is the relationship of built form to surrounding space, a relationship that is created by building height, setbacks and landscaping. It is important to note that the Planning Principle acknowledges that compatibility is different to "sameness".

As previously discussed the building height of the development is consistent with the applicable planning controls and the built form in the locality.

Front setbacks and the way they are treated are an important element of urban character. The boarding house is predominately setback 9m from Castle Hill Road which is consistent with the planning controls and the existing streetscape. The front setback area is also predominately landscaped, which is consistent with the desired character of the local area. The building's setbacks to the side and rear boundary are consistent with, or greater than, what could be achieved for a dwelling house in the locality and is acceptable.

The landscaping plan indicates extensive tree planting, including canopy trees in the front setback and smaller trees behind the building line. The landscape plan proposes a total of 6 canopy trees

(12m+), 7 mid-sized trees (7m+), and 183 hedge plants (2-2.5m in height). The recommended consent conditions requires compliance with the landscape plan and also requires that at least 4 canopy trees are indigenous and that a taller landscape screen (3-4m in height) be planted along the eastern rear boundary.

Therefore, the proposed boarding house is compatible with the character of the local area as the proposal has a bulk and scale and landscape setting comparable to two dwelling houses that could be erected on the site.

2.3 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 submitted BASIX Certificate for the proposed boarding house is satisfactory.

2.4 SEPP (Infrastructure) 2007

The application has been assessed against the requirements of *State Environmental Planning Policy (Infrastructure) 2007*.

The proposed development is located over the corridor for the proposed Northwest Rail Link and is subject to the provisions of Clause 86 of the Policy in respect to excavation impacts on the rail corridor. The application was referred to Sydney Trains that advised there was no requirement for concurrence as there was no excavation to a depth of more than 2 metres.

Pursuant to Clause 102 of the SEPP, an acoustic assessment is required if the adjacent road (Castle Hill Road) has an AADT of 40 000 vehicles. The RMS Traffic volume data indicates AADT of 20,000-40,000. Notwithstanding this, the application was accompanied by an acoustic report that recommends that acoustic glazing be provided to all of the boarding house rooms to ensure the Noise guidelines are achievable. The acoustic report advises that following the DA approval, a detail assessment of all mechanical plant and equipment will be conducted. To ensure the impact of any necessary mitigation measures are appropriately controlled, a condition of consent is recommended in this regard.

2.5 SEPP 55 – Remediation of Land

The application has been assessed against the requirements of *State Environmental Planning Policy No. 55 – Remediation of Land* under which consent must not be granted to the carrying out of any development on land unless the consent authority has considered whether the land is contaminated or requires remediation for the proposed use.

One submission contends that the site was occupied by a car repair business for many years and the land may be contaminated. A review of Council's property file does not indicate any consent or compliance investigations suggesting usage of the site as a car repair business. Rather, Council's records indicate that the site has been used primarily for residential purposes. The redevelopment of the site will necessarily involve substantial reconstruction works and the standard consent condition requires any excavated material to be classified and suitably disposed of.

No further assessment is considered necessary in this regard.

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

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

Subject to the implementation of sediment and erosion control measures and stormwater management to protect water quality, the proposal would comply with the requirements of the Policy. The application has addressed the water quality requirements of the *Hornsby DCP 2013*.

2.7 Clause 74BA Environmental Planning and Assessment Act, 1979 - Purpose and Status of Development Control Plans

Clause 74BA of the *Environmental Planning and Assessment Act, 1979* states that a DCP provision will have no effect if it prevents or unreasonably restricts development that is otherwise permitted and complies with the development standards in relevant Local Environmental Plans and State Environmental Planning Policies.

The principal purpose of a development control plan is to provide guidance on the aims of any environmental planning instrument that applies to the development; facilitate development that is permissible under any such instrument; and achieve the objectives of land zones. The provisions contained in a DCP are not statutory requirements and are for guidance purposes only. Consent authorities have flexibility to consider innovative solutions when assessing development proposals, to assist achieve good planning outcomes.

2.8 Hornsby Development Control Plan 2013

The proposed development has been assessed having regard to the relevant desired outcomes and prescriptive requirements within the *Hornsby Development Control Plan 2013 (HDCP)*. Part 7.2 of the HDCP advises that Boarding House developments should comply with the planning controls in SEPP ARH. The compliance of the development with the General Provisions of the HDCP is discussed as follows:

2.8.1 Waste Management

The amended plans submitted provide for a Council waste vehicle to access the site and for a waste collection room to be provided behind the building line. The waste storage and collection arrangements are acceptable.

2.8.2 Stormwater Management

The application has provided stormwater concept plans indicating that a stormwater drainage easement will be obtained to connect into the Council's stormwater system in Victoria Road. The applicant has not obtained land owner's consent for this easement, and this is required to be addressed via a deferred commencement condition. The scheme provides for on-site stormwater detention (OSD) in the form of a detention tank and a water quality treatment device that addresses the requirements of Council's policy.

2.8.3 Disabled Access

The proposal complies with the Building Code of Australia that requires that the boarding house incorporate a minimum of two accessible sole occupancy units and two accessible car parking spaces.

2.9 Section 94 Contributions Plans

Hornsby Shire Council Section 94A Contributions Plan 2014 – 2024 applies to the development as the estimated costs of works is greater than \$100,000. Should the application be approved, an appropriate condition of consent is recommended requiring the payment of a contribution in accordance with the Plan.

3. ENVIRONMENTAL IMPACTS

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

3.1 Natural Environment

3.1.1 Tree and Vegetation Preservation

The proposed development would necessitate the removal of 7 trees from the site. None of the trees to be removed are identified as ‘significant trees’ in accordance with the Tree and Vegetation provisions of the *HDCP*. Appropriate replacement planting is to occur on the subject site to offset the loss of these trees.

The adjoining site is located in a mapped Critically Endangered Ecological Community (CEEC). The species on the adjacent site are consistent with those found in the Blue Gum High Forest (BGHF) Critically Endangered Ecological community. The adjoining property contains a 30m tall Blue Gum tree (Tree No.8) which satisfies Council’s criteria for an Individually Significant tree.

Appropriate tree protection will be required to prevent/minimise potential impacts to retained tree 8 to maintain health and longevity. Tree protection will relate directly to the tree root zone of tree 8 and will be conditioned for the duration of construction required for the development proposal. A condition of consent is recommended requiring the use of sensitive construction measures in accordance with the Australian Standard ‘Protection of Trees on Development Sites (AS 4970-2009).

3.2 Built Environment

3.2.1 Density

The density of the boarding house is reflected in the floor space ratio (FSR) proposed, and the size of the boarding house rooms. As previously discussed at 2.2.2, the proposed boarding house has a FSR that complies with the maximum floor space of 0.5:1. The development also complies with the minimum and maximum size of boarding rooms prescribed within SEPP-ARH.

3.2.2 Built Form

The 1661.1m² site could be subdivided into two lots of 700m² to 800m² in accordance with the provisions of the *Hornsby Local Environmental Plan (HLEP)*. The boarding house is compatible with the bulk, scale and siting of two dwelling houses that could be developed on the site in accordance with the *HLEP* and *HDCP* in the R2 Low Density Residential zone, as detailed in the following table:

Hornsby Development Control Plan 2013 (HDCP)			
Control	Proposal	Requirement for two	Compliance

		lots/dwelling houses	
Building Height	7.5m	8.5m	Yes
Site Coverage	38%	50%	Yes
Floor Area	804m ²	each lot - dwelling house of 380m ² + outbuilding of 60m ² , = total floor area of 880m ²	Yes
Rear Setback			
- Single storey element	3m	3m	Yes
- Two storey element	8m	8m	Yes
Landscaped Area	30%	30% each lot	Yes

A number of the submissions received raised concerns that the development was excessive in bulk and scale, has excessive hard stand areas and inadequate landscaping. While the HDCP controls above are superseded by the provisions of *SEPP – ARH*, the above table demonstrates that the proposed building bulk is compatible with the planning controls that are applicable in the area.

3.2.3 Acoustic Impacts

Residents raise concerns that the premises would be used as tourist or backpackers accommodation and generate significant noise. In accordance with *SEPP-ARH*, rooms within boarding houses are required to be let for three months or more (refer to condition 60). To address noise concerns raised, a consent condition is recommended to require a lapped and capped timber fence be erected along the side and rear boundaries to minimise potential acoustic impacts on neighbouring properties.

3.2.4 Visual Privacy

The boarding house rooms are designed with an outlook primarily towards the front setback, the southern side setback to the Koala Park and internally within the site to minimise overlooking towards the adjacent residential properties to the north and east. Privacy screens are also strategically located on the upper level along the eastern and northern elevations. The recommended lapped and capped timber fence discussed at 3.2.3 above would also assist in mitigating potential visual privacy concerns. The consent conditions also require a vegetated privacy screen be planted along the eastern (rear) property boundary to further mitigate potential privacy impacts.

3.2.5 Overshadowing

The overshadowing plans submitted demonstrate that there will be no significant overshadowing of the adjacent residential property to the east.

3.2.6 Traffic and Parking

A traffic and parking assessment has been submitted with the proposal which estimates that the proposed development would generate an additional 44 daily trips that would not generate any noticeable impacts on the existing road network. The driveway design allows for two vehicles to pass at the front of the site, and for a truck turning area behind the building line.

A number of the submissions raise concerns that the traffic generated by the development would result in unacceptable traffic safety impacts, as there is no median strip on Castle Hill Road preventing right hand turns. Castle Hill Road is a State road under the control of the NSW Roads and Maritime Services (RMS). The application was referred to the RMS and the service has raised no concerns with the proposal. To address the concern raised by residents, the recommended consent conditions require the applicant to confer with the RMS regarding a finger median and if one is required, to provide such to the satisfaction of the RMS.

Some submitters also raise concerns that there would be additional traffic and parked cars on Victoria Road. The amount of on-site parking provided is in accordance with the requirements of SEPP-ARH.

3.3 Social Impacts

The proposed boarding house would provide an extra 27 affordable boarding house rooms in the locality. This would improve housing choice in the locality by providing for a range of household types. This is consistent with Council's Housing Strategy which identifies the need to provide a mix of housing options to meet future demographic needs in Hornsby Shire.

The location of the development is in proximity to the Cherrybrook Railway station that is under construction and Thompson corner shops and bus services.

3.4 Economic Impacts

The proposal would have a minor positive impact on the local economy by generating an increase in demand for local services.

4. SITE SUITABILITY

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

4.1 Bushfire Risk

The land is identified as being subject to bushfire risk. The application was accompanied by a Bushfire Protection Assessment report. The report advises that the separation distance between the proposed boarding house and the nearest hazardous vegetation is greater than 100 metres which means that any buildings are assessed as BAL-LOW. The NSW Rural Fire Service raised no objection to the proposal subject to recommended conditions of consent.

5. PUBLIC PARTICIPATION

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

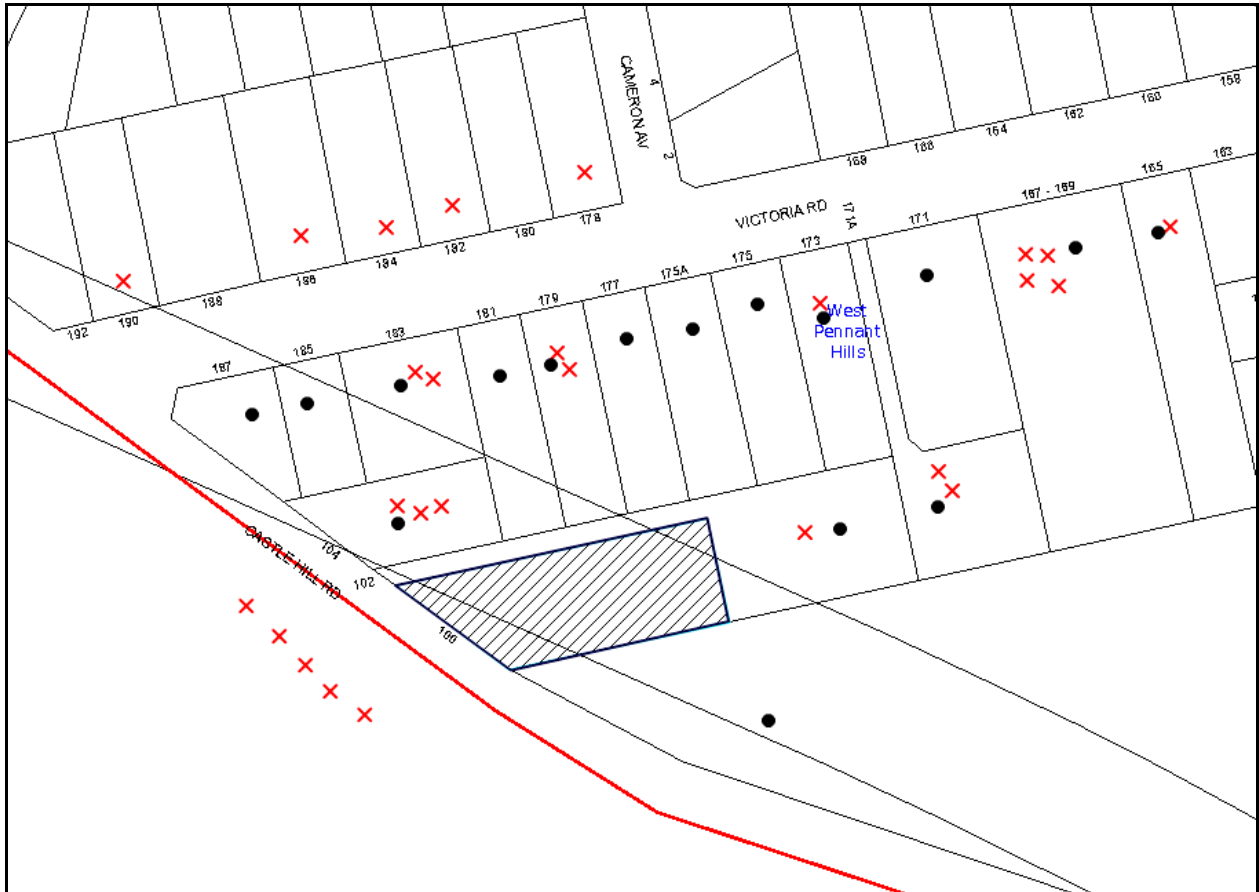
5.1 Community Consultation

The proposed development was placed on public exhibition and was notified to adjoining and nearby landowners between 12 January 2016 to 28 January 2016, and was extended to 3 February 2016 in


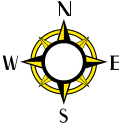
accordance with the Notification and Exhibition requirements of the HDCP. During this period, Council received 31 submissions, and a petition with 238 signatures.

Amended plans were received in July 2016, and renotified to the community and previous objectors between 19 July 2016 and 4 August 2016. During this period, Council received 10 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	
<p>15 SUBMISSIONS RECEIVED OUT OF MAP RANGE</p>			

41 submissions and a petition objected to the development, generally on the grounds that the development would result in:

- Development incompatible with the character of the local area;
- Development with an excessive density, bulk and scale;

- Unacceptable landscape setting and excessive hard stand areas;
- Unacceptable traffic safety impacts;
- Additional traffic along Victoria Road;
- Car parking overflowing to Victoria Road;
- Unacceptable location for garbage bins in front setback;
- Unacceptable noise from residents and visitors;
- Unacceptable drainage impacts as a stormwater easement has not been agreed, and the existing stormwater overflow from the site and Koala Park has not been addressed;
- Unacceptable visual privacy impacts from windows and inadequate fencing;
- Cigarette smoke drifting to adjacent dwellings;
- The land is potentially contaminated;
- Devaluation of adjoining properties;
- Safety impacts from transient population;
- Short term rental use will not be prevented – turn into a back packers or Air BnB;
- Boarding rooms are too small and it will be a slum;
- No demand for low cost affordable housing in the area;
- Unacceptable impacts on infrastructure such as water mains, sewer and electricity;
- Inadequate Management Plan - No measures in place for the boarding house to be inspected annually by Council; inadequate services and support for residents in the disabled rooms,

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 Ongoing Monitoring and Inspections

Submissions raise concerns regarding the ongoing maintenance and management of the facility. In accordance with the provisions of the SEPP-ARH, since the premises has more than 20 boarding rooms, the premises includes a boarding room for an on-site boarding house manager.

Council undertakes inspections of registered boarding houses pursuant to the *Boarding Houses Act*, once they are registered with the Department of Fair Trading. The *Boarding Houses Act* requires an initial compliance inspection to be undertaken only. Any concerns that are raised by residents regarding the ongoing operation of the boarding house would be referred to Council's Planning Compliance team for investigation.

5.1.2 Cigarette Smoke Drifting to Adjacent Properties

Current cigarette smoking legislation regarding outdoor dining, entrances to public buildings, smoking near playgrounds and the like does not apply to boarding houses that are a form of residential development. If Council receives complaints regarding cigarette smoke, these are referred onto the Department of Health's Tobacco Unit for investigation. Notwithstanding, the recommended consent conditions require a 1.8 metre lapped and capped timber fence to be erected behind the building line for visual and acoustic privacy purposes that will assist in minimising potential cigarette smoke drift.

5.1.3 Support Services for Residents with a Disability

The SEPP-ARH requires a proportion of rooms to be designed to be capable of accommodating people with a disability, as is ordinarily required by Council for all residential flat building developments. This ensures that a diverse mix of housing is provided.

5.1.4 Adequacy of State Infrastructure

Submissions raise concerns regarding the adequacy of infrastructure to accommodate this development including water, sewerage and electricity. The recommended consent conditions require adequate infrastructure to be provided.

5.1.5 Potential Short-Term Rental Use

The development approved under this consent is required to be used for a boarding house and not for any other purpose without Council's separate written consent. In this regard, each boarding house room is to provide lodgers with a principal place of residence for 3 months or more. The recommended consent conditions require compliance with this provision.

5.1.6 Safety and Impacts on Property Values

Submissions speculate about who would be moving into the accommodation and claimed that there would be a safety risk to the community. Submissions raise concern that a boarding house would impact on their property value due to the perception that it would accommodate undesirable people. A boarding house is a permissible land use within the R2 zone as it is deemed to be a compatible form of residential housing that provides affordable accommodation.

5.2 Public Agencies

The development application was referred to the following Agencies for comment:

5.2.1 Rural Fire Service

The proposal was referred to the *Rural Fire Service (RFS)* as Integrated Development under the Rural Fires Act. The RFS has provided a Bushfire Safety Authority including conditions of consent.

5.2.2 Roads and Maritime Services

The proposal was referred to *Roads and Maritime Services* for concurrence under the Roads Act. The RMS considered the amended documentation submitted by the applicant in July 2016 and provided concurrence to the scheme including conditions of consent.

5.2.3 NSW Police

The proposal was referred to the NSW Police for comment in relation to Crime Prevention Through Environmental Design. No comments were received. The recommended consent conditions include requirements for security design features.

5.2.4 RailCorp

The proposed development was referred to Railcorp and the subject land is over the corridor for the proposed Northwest Rail Link. The application was referred to Sydney Trains that raised no concerns and requires no conditions.

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 by providing affordable housing in the locality. Accordingly, it is considered that the approval of the proposed development would be in the public interest.

CONCLUSION

The application proposes the construction of a two storey boarding house on a 1,661m² site adjacent to Castle Hill Road. The boarding house is designed to appear as two separate dwelling houses, and incorporates 28 boarding rooms, including a manager's room.

The proposal complies with *State Environmental Planning Policy (Affordable Rental Housing) 2009* that provides a number of development standards that cannot be used as grounds for refusal of the application, including on-site car parking.

It is recommended that the application be approved as a deferred commencement consent, subject to the development obtaining a drainage easement.

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.

RESPONSIBLE OFFICER

The officer responsible for the preparation of this Report is the Manager – Development Assessments – Rodney Pickles, who can be contacted on 9847 6731.

ROD PICKLES
Manager - Development Assessment
Planning Division

JAMES FARRINGTON
Group Manager
Planning Division

Attachments:

1. [View](#) Locality Map
2. [View](#) Site Survey Plan
3. [View](#) Landscape Plan

- 4.[View](#) Floor Plans
- 5.[View](#) Elevation Plans
- 6.[View](#) Stormwater Easement
- 7.[View](#) Shadow Diagrams

File Reference: DA/1620/2015

Document Number: D07048085

SCHEDULE 1

GENERAL CONDITIONS

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

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

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

1. Deferred Commencement

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

- a) The registration and creation of easements to drain water from the site over downstream properties in accordance with one of the options as shown in the Stormwater Drainage Easements Options Plan, Drawing No 030716C by Apex Engineers dated 10.07.2016.

Such information must be submitted within 24 months of the date of this notice.

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

2. Approved Plans and Supporting Documentation

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

Plan No.	Plan Title	Drawn by	Dated
A2100 Rev H	Ground Floor Plan	Prescott Architects	21.06.2016
A2101 Rev H	Level 1 Plan	Prescott Architects	21.06.2016
A2102 Rev H	Roof Plan	Prescott Architects	21.06.2016
A2105 Rev H	Carpark Templates	Prescott Architects	21.06.2016
A2106 Rev I	Carpark Templates	Prescott Architects	25.07.2016
A3100 Rev H	Northeast Elevation	Prescott Architects	21.06.2016
A3101 Rev H	Southwest Elevation and Finishes	Prescott Architects	21.06.2016
A3102 Rev H	Southwest Inner Elevation	Prescott Architects	21.06.2016
A3200 Rev H	Section AA and BB	Prescott Architects	21.06.2016

A9000 Rev H	Perspectives	Prescott Architects	21.06.2016
A800 Rev H	Area Calculation	Prescott Architects	21.06.2016
030716A, 030716B, 030716C	Stormwater Drainage Design	Apex Engineers	10.07.2016
D01, D03	Water Sensitive Urban Design Plan and Details	Australian Consulting Engineers	29.06.2016
SW-03 P1	Erosion and Sediment Control Plan	Sparks and Partners	7.02.14

Document Title	Prepared by	Dated
Access Report	Ergon Consulting	24 August 2015
Acoustic DA Assessment	Acouras Consultancy	20 October 2015
Arboricultural Impact Assessment	All About Trees	3 December 2015
Basix Certificate 658657M	AENEC	20 October 2015
Bushfire Protection Assessment	Eco logical Australia	22 September 2015
Waste Management Plan		Received December 2015
Statement of Environmental Effects	Mark Shanahan Planning	December 2015
Traffic and Parking Assessment	Apex Engineers	July 2016
Stormwater Management Plan	Apex Engineers	July 2016
Construction Traffic Management Plan	Apex Engineers	February 2016

3. Amendment of Plans

- a) To comply with Councils requirement in terms of provide adequate access for service vehicles to the site, the approved plans are to be amended as follows:
- i) The bollards in the shared areas adjacent to the accessible parking spaces are to be moveable and are to be relocated down the shared area to avoid conflict with the heavy vehicle turning into the loading area;
 - ii) The shared area between the two buildings, that is to be utilised as a waste truck manouvering area and private open space area, is to be sealed to an all weather standard and constructed to accommodate a laden waste vehicle. The surface is to be appropriately painted, such as concrete stencilled paving, to indicate its dual use.
- b) To ensure privacy impacts are minimised:

- i) The roof area to the east of Room 25 is to be constructed:
 - a. as a non-trafficable roof so that it is not capable of being used as an outdoor terrace;
 - b. without a balustrade that would facilitate its use as an outdoor terrace.
- c) These amended plans must be submitted with the application for the Construction Certificate.

4. Removal of Existing Trees

- a) This development consent permits the removal of tree(s) numbered 1, 2, 3, 4, 5, 6 and 7 as identified in Appendix 4 contained in the supplied Aboricultural Impact Assessment provided by All About Trees dated 3 December 2015 (Document Number – D06846987).
- b) The removal of any other trees from the site requires separate approval by Council in accordance with Part 1B.6 Tree and Vegetation Preservation of the Hornsby Development Control Plan, 2013 (HDGP).

5. Pruning Works

- a) Any pruning works for tree numbered 8 will require the consent of the owner of that asset; no works are to be undertaken without that consent. Council acknowledges there may be a requirement to provide scope to undertake the construction works. Pruning works are to involve canopy lifting, rather than excessive reduction.
- b) The recommended pruning works must be in the form of the following:
 - i) General crown maintenance as outlined in AS4373-2007
 - ii) Canopy lifting of equal to 10% as outlined in AS4373-2007
- c) All tree works consented will require supervision by a project Arborist (AQF5 qualified). All works are to undertaken by an Arborist holding an AQF level 3 certification in Arboriculture.

6. Construction Certificate

- a) A Construction Certificate is required to be approved by Council or a Private Certifying Authority prior to the commencement of any works under this consent.
- b) A separate Construction Certificate must be obtained from Council for all works within the public road reserve under S138 of the *Roads Act*.
- c) A separate Construction Certificate must be obtained from Council for all works within drainage easements vested in Council.
- d) The Construction Certificate plans must not be inconsistent with the Development Consent plans.

7. Section 94A Development Contributions

- a) In accordance with Section 80A(1) of the *Environmental Planning and Assessment Act, 1979* and the *Hornsby Shire Council Section 94A Development Contributions*

Plan 2014-2024, \$21,890 must be paid to Council to cater for the increased demand for community infrastructure resulting from the development, based on development costs of \$2,189,000.

- b) The value of this contribution is current as at 18 October 2016. If this contribution is not paid within the financial quarter that this condition was generated, the contribution payable will be adjusted in accordance with the provisions of the Hornsby Shire Council Section 94 Development Contributions Plan and the amount payable will be calculated at the time of payment in the following manner:

$$\frac{\$C_{PY}}{CPI_{DC}} = \frac{\$C_{DC}}{CPI_{PY}}$$

Where:

$\$C_{PY}$ is the amount of the contribution at the date of Payment

$\$C_{DC}$ is the amount of the contribution as set out in this Development Consent

CPI_{PY} is the latest release of the Consumer Price Index (Sydney – All Groups) at the date of Payment as published by the ABS.

CPI_{DC} is the Consumer Price Index (Sydney – All Groups) for the financial quarter at the date applicable in this Development Consent Condition.

- c) The monetary contributions must be paid to Council:
- i) prior to the issue of the Subdivision Certificate where the development is for subdivision; or
 - ii) prior to the issue of the first Construction Certificate where the development is for building work; or
 - iii) prior to issue of the Subdivision Certificate or first Construction Certificate, whichever occurs first, where the development involves both subdivision and building work; or
 - iv) prior to the works commencing where the development does not require a Construction Certificate or Subdivision Certificate.

Note: It is the professional responsibility of the Principal Certifying Authority to ensure that the monetary contributions have been paid to Council in accordance with the above timeframes.

Council's S94A Development Contributions Plan may be viewed at www.hornsby.nsw.gov.au or a copy may be inspected at Council's Administration Centre during normal business hours.

REQUIREMENTS PRIOR TO THE ISSUE OF A CONSTRUCTION CERTIFICATE

8. Building Code of Australia

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

9. Contract of Insurance (Residential Building Work)

Where 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, this contract of insurance must be in force before any building work authorised to be carried out by the consent commences.

10. Notification of Home Building Act, 1989 Requirements

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

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

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

11. Utility Services

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

- a) *Ausgrid* – a letter of consent demonstrating that satisfactory arrangements have been made to service the proposed development.
- b) *Telstra* - a letter of consent demonstrating that satisfactory arrangements have been made to service the proposed development.

12. Construction Certificates

- a) A Construction Certificate is required to be approved by Council or a Private Certifying Authority prior to the commencement of any works under this consent.
- b) All works shall be designed by a civil Engineer in accordance with Council's *Design and Construction Specification 2005*, unless a Roads and Maritime Services (RMS) design or construction code is required to be used.
- c) A separate Construction Certificate must be obtained from Council for all works within the public road reserve under s138 of the *Roads Act* for design and construction of the following:-
 - i) Demolition of existing and construction of a new 1.2m wide 100 mm thick concrete footpath across the frontage of the development site;
 - ii) Construction of any Council-controlled drainage within a public road.

- d) Pursuant to s59A and s68 *Local Government Act 1993*, a separate Construction Certificate must be obtained from Council for all works within any drainage easement vested in Council.
- e) A separate Construction Certificate must be obtained from the Roads and Maritime Services' Statewide Delivery Branch for all works within the frontage of the classified Castle Hill Road under s138 of the *Roads Act* including the following:-
 - i) Demolition of existing and construction of 150 mm high SA integral kerb and gutter across the Castle Hill Road frontage of the site and associated road shoulder construction to match.
 - ii) Design and construction of a finger median and appropriate signage in Castle Hill Road to ensure left-in left-out turns only.
- f) The Construction Certificate plans must not be inconsistent with the Development Consent plans.

13. Car Parking and Deliveries

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

- a) All parking areas and driveways must be sealed to an all weather standard, line marked and signposted;
- b) Car parking, loading and manoeuvring areas must be used solely for nominated purposes;
- c) The shared waste vehicle manoeuvring area is to appropriately signposted and managed to ensure it is available and used for waste collection services;
- d) Vehicles awaiting loading, unloading or servicing must be parked on site and not on adjacent or nearby public roads; and
- e) All vehicular entry on to the site and egress from the site must be made in a forward direction.

14. Noise – Castle Hill Road

The development must be carried out in accordance with the recommendations contained within the acoustic report submitted with the development application, titled '*Acoustic DA Assessment*', prepared by *Acouras Consultancy* and dated 20 October 2015 and the requirements of the Department of Planning's *Development Near Rail Corridors and Busy Roads – Interim Guideline* and RailCorp's *Interim Guidelines for Applicants*. This is to involve mitigation measures to the approved boarding house building, not external structures such as acoustic fences.

Note: The Department of Planning's document is available at [www.planning.nsw.gov.au/development assessments](http://www.planning.nsw.gov.au/development%20assessments). The RailCorp document is available at www.railcorp.nsw.gov.au/publications.

15. Stormwater Drainage

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

- a) Connected to an existing Council piped drainage system that is to be connected in accordance with one of the options as shown in the Stormwater Drainage Easements Options Plan, Drawing No 030716C by Apex Engineers dated 10.07.2016.
- b) The internal drainage system shall be designed and constructed to permit natural overland runoff from upstream catchments to be drained to the internal drainage system.
- c) All drainage works that requires laying of pipe within Council road reserve or becomes part of Council's network must be constructed in accordance with Council's civil works Specifications and a construction certificate application is to be submitted to Council for approval.
- d) The connection of any drainage to a Council pit shall be inspected by a Council Engineer in the Planning Division. Prior to the connection, an application shall be made to Council and all fees paid. Further advice and inspection bookings inspection booking can be made by calling 9847 6760. The stormwater drainage system for the development must be designed and constructed for an average recurrence interval of 20 years and be gravity drained via an onsite detention and water quality treaty systems to the following requirements:

16. On Site Stormwater Detention and Water Quality

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

- a) Storage capacity to accommodate volume from up to 20 years ARI (average recurrence interval) and a maximum discharge (when full) limited to 5 years pre development rate.
- b) Stormwater discharging from the development site is to be designed and constructed to be treated to achieve the quality specified in Council's Development Control Plan 2012 (table 1C.1.2(b) Urban Stormwater Quality Targets).
- c) The system shall have a surcharge/inspection grate located directly above the outlet;
- d) Discharge from the detention system must 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;
- e) Where above ground and the average depth is greater than 0.3 metres, a 'pool type' safety fence and warning signs must be installed; and
- f) Not be constructed in a location that would impact upon the visual or recreational amenity of residents.

17. 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 submitted for consideration with the relevant Construction Certificate for Road Works. 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;
- d) Traffic management plans; and
- e) Pedestrian and cyclist access/safety.

18. Waste Management Details

The following waste management requirements must be complied with:

- a) The driveway/access way (and including vehicle turning area, site entry/exit) to be used by waste collection vehicles, must be designed in compliance with Australian Standard AS2890.2-2002 Parking Facilities Part 2: Off-street Commercial Vehicle Facilities for heavy rigid vehicles of 9.9 m length with 5.4m wheelbase, 1.5m front overhang and 3.0m rear overhang.

Note: AS2890.2-2002 includes a maximum gradient of 1:6.5 for forward travel, 1:8 for reverse travel and a minimum vertical clearance of 4.5 m.

- b) The low speed manoeuvring clearance (300 mm on both sides of the waste collection vehicle travel path) must be at the same level as the driveway.

Note: Roll kerb, footpath, lawn or similar low-level ground cover is acceptable within the low speed manoeuvring clearance where it extends beyond the driveway pavement. Structures including, but not limited to, raised garden beds, retaining walls, and bollards, and plants that grow taller than 200 mm, are not acceptable within the low speed manoeuvring clearance.

- c) A Waste Management Plan Section One – Demolition Stage and Section Three – Construction Stage, covering the scope of this project and including the following details, is required to be submitted to Council:
 - i) An estimate of the types and volumes of waste and recyclables to be generated;
 - ii) A site plan showing sorting and storage areas for demolition and construction waste and the vehicle access to these areas;
 - iii) How excavation, demolition and construction waste materials will be reused or recycled and where residual wastes will be disposed;
 - iv) The total percentage (by weight) of demolition and construction waste that will be reused or recycled.

19. Certification of Traffic Engineer

Prior to the issue of a Construction Certificate, a Certificate from an appropriate qualified Traffic Engineer is to be submitted to the Principal Certifying Authority (PCA) certifying that the parking modules, loading areas and garbage collection areas comply with AS 2890.1, AS 2890.2 and the approved Development Consent plans and conditions.

20. Appointment of a Project Arborist

- a) A project arborist (AQF5 qualified) or a site supervisor must be appointed to oversee the installation of tree protection zone fencing and must be in accordance with Australian Standard AS 4970-2009 (1.4.4).
- b) The project arborist (AQF5 qualified) or site supervisor must monitor the integrity of the tree protection methods, recording any modifications or alterations to the tree protection zone fencing for the duration of the construction period.

21. Tree Protection of Tree No.8

- a) Tree protection fencing must be erected around tree numbered 8 in accordance with required tree protection zones as identified in Appendix 4 contained in the supplied Aboricultural Impact Assessment provided by All About Trees dated 3 December 2015 (Document Number – D06846987).
- b) The tree protective fencing must be continuous and constructed of 1.8 metre high cyclone chainmesh fence.
- c) Once erected, the tree protective fencing must not be removed or altered without the prior approval of the project arborist.
- d) Ground Protection is to be provided to the Tree Protection Zone (TPZ) of tree 8 in accordance with Section 5.1.5 in the supplied Aboricultural Impact Assessment provided by All About Trees dated 3 December 2015.
- e) A certificate from the project arborist must be submitted to the Principal Certifying Authority stating compliance with the relevant conditions of this consent for tree protection.

REQUIREMENTS PRIOR TO THE COMMENCEMENT OF ANY WORKS**22. Identification of Survey Marks**

A Registered Surveyor must identify all survey marks in the vicinity of the proposed development. Any survey marks required to be removed or displaced as a result of the proposed development shall be undertaken by a registered surveyor in accordance with Section 24 (1) of the Surveying and Spatial Information Act 2002 and following the Surveyor General's Directions No.11 – "Preservation of Survey Infrastructure".

23. Erection of Construction Sign

- a) A sign must be erected in a prominent position on any site on which any approved work is being carried out:
 - i) Showing the name, address and telephone number of the principal certifying authority for the work;
 - ii) 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
 - iii) Stating that unauthorised entry to the work site is prohibited.

- b) The sign is to be maintained while the approved work is being carried out and must be removed when the work has been completed.

24. 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; and/or
- 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.

25. Toilet Facilities

- a) To provide a safe and hygienic workplace, toilet facilities must be available or be installed 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.
- b) Each toilet must:
 - i) be a standard flushing toilet connected to a public sewer; or
 - ii) be a temporary chemical closet approved under the *Local Government Act 1993*; or
 - iii) have an on-site effluent disposal system approved under the *Local Government Act 1993*.

26. Erosion and Sediment Control

To protect the water quality of the downstream environment, 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 may be issued for any non-compliance with this requirement without any further notification or warning.

REQUIREMENTS DURING DEMOLITION AND CONSTRUCTION

27. Construction Work Hours

All works 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.

28. Demolition

To protect the surrounding environment, 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 must 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*; and
- c) On construction sites where any building contain asbestos material, a standard commercially manufactured sign containing the words ‘DANGER ASBESTOS REMOVAL IN PROGRESS’ and measuring not less than 400mm x 300mm must be displayed in a prominent position visible from the street.

29. 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.

30. Street Sweeping

To protect the surrounding environment, Street sweeping must be undertaken following sediment tracking from the site along Castle Hill Road during works and until the site is established.

The street cleaning services must undertake a street ‘scrub and dry’ method of service and not a dry sweeping service that may cause sediment tracking to spread or cause a dust nuisance.

31. Council Property

To ensure that the public reserve is kept in a clean, tidy and safe condition during construction works, no building materials, waste, machinery or related matter is to be stored on the road or footpath.

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

32. Disturbance of Existing Site

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

33. Landfill

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

- a) Prior to fill material being imported to the site, a certificate shall be obtained from a suitable qualified environmental consultant confirming the fill wholly consists of Virgin Excavated Natural Material (VENM) as defined in Schedule 1 of the *Protection of the Environment Operations Act, 1997* or 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 suitably qualified geotechnical engineer verifying that the specified compaction requirements have been met.
- c) These certificates must be included with the application for an occupation certificate.

34. Excavated Material

All excavated material removed from the site must be classified by a suitably qualified person in accordance with the Department of Environment, Climate Change and Water NSW Waste Classification Guidelines prior to disposal to an approved waste management facility and be reported to the principal certifying authority prior to the issue of an Occupation Certificate.

35. Survey Report

A report(s) must be prepared by a registered surveyor and submitted to the principal certifying authority:

- a) Prior to the pouring of concrete at each level of the building certifying that:
 - i) The building, retaining walls and the like have been correctly positioned on the site; and
 - ii) The finished floor level(s) are in accordance with the approved plans.
- b) Confirming that the waste collection vehicle turning area complies with AS2890.1 – 2004 and AS20890.2 – 2002 for Council's large waste vehicle as described in Condition 18.

36. Traffic Control Plan Compliance

The development must be carried out in accordance with the submitted Traffic Control Plan (TCP).

37. Waste Management Details

Waste management during the demolition and construction phase of the development must be undertaken in accordance with the approved Waste Management Plan. Additionally 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) 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.

38. Works Near Trees

- a) Maintenance and Monitoring of Tree protection
 - i) All required tree protection measures must be monitored by the appointed project arborist or site supervisor to ensure that they are maintained in good condition for the duration of the construction period.
 - ii) The project arborist or site supervisor must supervise and record all works, including excavation within 9 metres of Tree No.8 that is required to be retained.
 - iii) The project arborist must record the method(s) used to preserve tree 8 for the duration of the proposed works and forms part of final certification documentation.

- b) Consenting to Works within Tree Protection Zones

Consent is granted to undertake works within the Tree Protection Zone of tree 8 with the following conditions:

- i) Project Arborist
 - a. A project arborist must be appointed to monitor and assess all consented works within the tree protection zone
 - b. The appointed project arborist must monitor and assess the condition of tree(s) within the growing environment and make recommendations for maintaining tree health/condition and if necessary carry out remedial action to ensure the health and vigour of the tree(s).
 - c. The project arborist must keep a record of the method(s) used to preserve the tree(s).
- ii) Excavation

Prior to any mechanical excavations for the building foundations, exploratory excavation using non-destructive techniques shall be undertaken along the perimeter of the structure to the depth of the foundation or to a maximum of 800mm from surface levels, to locate and expose any woody roots prior to any mechanical excavation. Non-destructive excavation techniques may include the use of hand-held implements, air pressure (using an air spade® device) or water pressure.
- iii) Root Pruning

- a. All Root pruning must be undertaken as specified in Australian Standard AS 4970-2009 Sections 3.3.4, 4.5.4 and 4.5.5.
 - b. Any roots encountered of less than 40mm in diameter may be cleanly severed with clean sharp pruning implements at the face of the excavation.
 - c. Where large woody roots (greater than 40mm diameter) are encountered during exploratory excavations, further advice from the project arborist shall be sought prior to severance.
- c) Installing underground services
- i) The installation of any services within the nominated tree protection zone of any tree to be retained (whether on the subject site or adjoining land) must utilise the Horizontal Directional Drilling (HDD) method.
 - ii) Horizontal Directional Drilling must be carried out so that 'top of pipe' is a minimum (1m) depth beneath existing ground level.

39. Building Materials and Site Waste

The filling or stockpiling of building materials, the parking of vehicles or plant, the disposal of cement slurry, waste water or other contaminants must be located outside the tree protection zones as prescribed in the conditions of this consent or the prescriptive measures of Part 1B.6.1 Tree Preservation of the Hornsby Development Control Plan, 2013, of any tree to be retained.

40. Arborist Certification

A certificate from the appointed project arborist must be submitted with the application for the occupation certificate to the principal certifying authority stating compliance with the relevant conditions of this consent.

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.

41. Fulfilment of BASIX Commitments

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

42. Sydney Water – s73 Certificate

A s73 Certificate must be obtained from Sydney Water and submitted to the PCA..

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.

43. Certification of WSUD Facilities

Prior to the issue of an Occupation Certificate a certificate from a Civil Engineer is to be obtained stating that the WSUD facilities have been constructed and will meet the water quality targets as specified in the Hornsby Shire Councils DCP.

44. Damage to Council Assets

To protect public property and infrastructure, any damage caused to Council's assets as a result of the construction or demolition of the development must be rectified by the applicant in accordance with Council's Civil Works Specifications. Rectification works must be undertaken prior to the issue of an Occupation Certificate, or sooner, as directed by Council.

45. Certification of Survey Infrastructure

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

46. Creation of Easements

The following matter(s) must be nominated on the plan of subdivision under s88E 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 and all drainage leading to and from the 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.

47. Maintain Canopy Cover

- a) The landscape plan is to be modified to ensure that at least four (4) of the proposed canopy trees to be planted on site are indigenous.
- b) The species must be selected from Council's booklet '*Indigenous Plants for the Bushland Shire*' indicative of Blackbutt Gully Forest Vegetation Community and must include canopy trees with a mature growth height of 12 metres or greater.

Location and Size of Plantings

- c) Tree plantings must be located 4 metres or greater from the foundation walls of the approved development.

- d) The pot size of the replacement tree(s) must be a minimum 25 litres.
- e) The replacement tree(s) must be maintained until they reach the height of 3 metres.
- f) Planting methods must meet professional (best practice) industry standards

48. Completion of Landscaping

A certificate must be submitted to the PCA 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.

49. Boundary Fencing

The proposed lapped and capped fencing must be erected along the southern, eastern and northern property boundaries to a height of 1.8 metres, behind the front building line. The fence is to be of continuous, solid construction with no gaps in order to act as an acoustic and privacy barrier to neighbouring properties.

The fencing forward of the building line in the front setback is to comprise an open style fence with a maximum height of 1.2 metres.

50. Installation of Privacy Devices

To establish and maintain a reasonable level of privacy for the adjoining premises:

- a) A dense screen of trees or shrubs (minimum mature growth height of 3-4 metres), as listed in Council's "*Indigenous Plants for the Bushland Shire*" publication must be planted along the eastern rear property boundary;
- b) A 2 metre high close-form lattice screen must be erected on the upper level communal walkways, to minimise direct line of sight to the adjacent properties to the north and east, as indicated in red on the approved plans;
- c) The lattice screen must have no individual openings more than 30mm wide and have a total of all openings less than 30% of the surface area of the screen.

51. External Lighting

- a) To protect the amenity of adjacent premises, all external lighting must be designed and installed in accordance with *Australian Standard AS 4282 – Control of the Obtrusive Effects of Outdoor Lighting*.
- b) Certification of compliance with this Standard must be obtained from a suitably qualified person and submitted to the PCA with the application for the Construction Certificate.

52. Safety and Security

- a) Ground floor windows must be fitted with window locks that can be locked with a key. Sliding patio doors on the ground floor are to have keyed patio bolts.
- b) A graffiti management plan must be incorporated into the maintenance plan for the development for graffiti to be removed within a forty-eight hour period.

- c) Lighting of pedestrian pathways throughout the development must comply with *Australia and New Zealand Lighting Standard 1158.1 – Pedestrian*.
- d) Front fencing to be designed to allow casual surveillance at the frontage.
- e) The street number of the building is to be readily identifiable.
- f) Quality mail box doors and non-tamper proof locks must be fitted to mail boxes.
- g) The bicycle racks are to have secure locking loops bolted into the concrete flooring.
- h) Landscape vegetation located within the common circulation areas and at the street frontage is to be routinely maintained to ensure that vegetation does not obstruct sight lines from the street frontage.

53. 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.

54. Waste Management Details

The following waste management requirements must be complied with:

- a) Prior to an Occupation Certificate being issued or the use commencing, whichever is earlier, the Principal Certifying Authority must obtain Council's approval of the waste and recycling management facilities provided in the development and ensure arrangements are in place for domestic waste collection by Council.

Note: Waste and recycling management facilities includes everything required for on-going waste management on the site. For example the bin storage areas, bulky waste storage area, bin collection area, waste collection vehicle access, doors wide enough to fit the bin through, etc.

- b) The bin storage room 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, and must be lockable.
- c) The bin storage room and every bin within it, must be accessible by persons with a disability while comfortably housing no less than 7 of 240L garbage bins and 6 of 240L recycling bins.

Note: a 240 L recycling bin is 600 mm wide by 750 mm deep; allow for ease around the bin – 75 mm is recommended. These dimensions do not include wall thickness, door thickness, ventilation ducting etc, which must be added.

- d) 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.

- iii) All waste was taken to site(s) that were lawfully permitted to accept that waste.
- e) Each boarding room must be provided with an indoor waste/recycling cupboard for the interim storage of waste with two separate 20 litre containers, one each for general waste and recyclable materials.
- f) Space must be provided for either individual compost containers for each room or a communal compost container;

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

- g) The bin carting routes must be devoid of any steps.

Note: Ramps between different levels are acceptable

- h) A survey of the finished driveway/access way (including site entry/exit, access road/driveway, waste collection vehicle turning area) to be used by the waste collection vehicle, must be carried out by a registered surveyor and submitted to the principal certifying authority. The survey is to include dimensions, gradients and vertical clearance (where applicable). Written confirmation must be submitted to the Principal certifying authority from a qualified Traffic Engineer, that this survey confirms the finished access way within the waste collection vehicle turning path was designed and constructed in compliance with Australian Standard AS2890.2-2002 Parking Facilities Part 2: Off-street Commercial Vehicle Facilities for heavy rigid vehicles of 9.9 m length with 5.4 m wheelbase, 1.5 m front overhang and 3.0 m rear overhang.

Note: encroachments of the heavy rigid vehicle turning path and low speed manoeuvring clearance (300 mm both sides) into parking spaces cannot be tolerated.

- i) "No parking" signage must be erected to prohibit parking in the waste collection turning areas.
- j) A grassed area of at least 8 m² next to the driveway must be allocated for residents to place bulky items awaiting removal.

55. Construction of engineering works

All engineering works identified in this consent are to be completed and a Compliance Certificate issued prior to the release of the Occupation Certificate or Subdivision Certificate

56. Ongoing Car Parking Requirements

All car parking must be constructed and operated in accordance with *Australian Standard AS/NZS 2890.1:2004 – Off Street Car Parking* and *Australian Standard AS 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 solely for nominated purposes;
- c) Vehicles awaiting loading, unloading or servicing shall be parked on site and not on adjacent or nearby public roads;
- d) All vehicular entry to the site and egress from the site shall be made in a left turn forward direction only;
- e) Any proposed landscaping and/or fencing must not restrict sight distance to pedestrians and cyclists travelling along the footpath;
- f) The hedges on the nature strip along the frontage of 104 Castle Hill Road must be pruned to a maximum height of 600mm to provide minimum sight distances when exiting the site;
- g) 7 car parking spaces and 6 motorcycle parking spaces are to be provided;
- h) All parking for people with disabilities is to comply with Australian Standard AS/NZS 2890.6:2009 – Off Street Parking for People with Disabilities;
- i) 6 Bicycle parking spaces are to be designed in accordance with Australian Standard AS 2890.3:1993 – Bicycle Parking Facilities;
- j) Motorcycle parking spaces are to be designed in accordance with *Australian Standard AS 2890.1:2004*
- k) Access for garbage vehicles is to satisfy the requirements of Council's Waste Management Branch.

57. Castle Hill Road Roadworks

A finger median shall be installed along Castle Hill Road in proximity to the approved driveway, to restrict access into the site to left in and left out only, subject to the approval of Roads and Maritime Services.

58. Final Certification - Landscaping

A certificate from a suitably qualified and experienced horticulturalist must be submitted to the principal certifying authority stating compliance with the relevant conditions of this consent.

59. Final Certification - Acoustics

A certificate from a suitably qualified and experienced acoustic consultant must be submitted to the principal certifying authority stating compliance with the relevant conditions of this consent.

OPERATIONAL CONDITIONS

60. Use of Premises

The development approved under this consent shall be used for the purpose of a "Boarding House" as defined by *Hornsby Local Environmental Plan 2013* and not for any other purpose without Council's separate written consent. The use of the premises must comply with the following requirements:

- a) Provides lodgers with a principal place of residence for 3 months or more;
- b) Includes the shared communal living room;
- c) Includes kitchen, bathroom and laundry facilities for each lodger; and
- d) Accommodates a maximum of 53 lodgers at any one time including two accessible rooms.
- e) The boarding house is to have an on site manager at all times;

Note: The premises must not be used as backpackers' accommodation, a group home, hotel or motel accommodation, seniors housing or a serviced apartment as defined by Hornsby Local Environmental Plan 2013

61. Noise

- a) 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).
- b) The boarding house is to be controlled so that any emitted noise is at a level so as not to create an "offensive noise" as defined in the *Protection of the Environment Operations Act 1997* to any affected receiver.

62. Boarding House Management

The use of the premise must be managed in accordance with the recommendations of the Boarding House Plan of Management & House Rules within the Statement of Environmental Effects prepared by Shanahan Planning dated 7th December, 2015.

63. Waste Management

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

- a) A site caretaker must be employed and be responsible for moving bins where and when necessary, washing bins and maintaining waste storage areas, managing the communal composting area(s), managing the bulky item storage area, arranging the prompt removal of dumped rubbish and bulky waste, ensuring the waste collection vehicle turning areas are kept clear of parked cars, and ensuring all residents are informed of the use of the waste management system. The site caretaker must be

employed for a sufficient number of hours each week to allow all waste management responsibilities to be carried out to a satisfactory standard.

64. **Landscape Establishment**

The landscape works must be maintained into the future to ensure the establishment and successful growth of plant material to meet the intent of the landscape design. This must include but not limited to watering, weeding, replacement of failed plant material and promoting the growth of plants through standard industry practices.

GENERAL TERMS OF APPROVAL – Rural Fire Service

The following conditions of consent are General Terms of Approval from the nominated State Agency pursuant to Section 91A of the *Environmental Planning and Assessment Act 1979* and must be complied with to the satisfaction of that Agency.

- 65. At the commencement of building works and in in perpetuity, the entire property shall be managed as an inner protection area (IPA) as outlined within section 4.1.3 and Appendix 5 of 'Planning for Bush Fire Protection 2006' and the NSW Rural Fire Service's document 'Standards for asset protection zones'.
- 66. Electricity and gas are to comply with section 4.1.3 of 'Planning for Bush Fire Protection 2006'.
- 67. Arrangements for emergency and evacuation are top comply with section 4.2.7 Planning for Bush Fire Protection 2006.
- 68. Landscaping shall comply with the principles of Appendix 5 of 'Planning for Bush Fire Protection 2006'.

CONDITIONS OF CONCURRENCE - Roads and Maritime Services

The following conditions of consent are from the nominated State Agency pursuant to Section 79B of the *Environmental Planning and Assessment Act 1979* and must be complied with to the satisfaction of that Agency.

69. **Vehicle Crossing**

The redundant driveway on the Castle Hill Road shall be removed and replaced with kerb and gutter to match existing. The design and construction of the kerb and gutter crossing on Castle Hill Road shall be in accordance with Roads and Maritime requirements. Details of these requirements should be obtained from Roads and Maritime Services, Manager Developer Works, Statewide Delivery, Parramatta (telephone 9598 7798).

Detailed design plans of the proposed kerb and gutter crossing are to be submitted to Roads and Maritime for approval prior to the issue of a Construction Certificate and commencement of any road works.

A plan checking fee (amount to be advised) and lodgement of a performance bond may be required from the applicant prior to the release of the approved road design plans by Roads and Maritime.

Roads and Maritime Services

27-31 Argyle Street, Parramatta NSW 2150 I

PO Box 973 Parramatta NSW 2150 I

www.rms.nsw.gov.au | 131 782

70. All vehicles are to enter and exit the site in a forward direction. Provision for vehicles to turn around must be provided within the property boundary.

71. **Stormwater Drainage**

Detailed design plans and hydraulic calculations of any changes to the Roads and Maritime's stormwater drainage system are to be submitted to Roads and Maritime for approval, prior to the commencement of any works.

Details should be forwarded to:

The Sydney Asset Management

Roads and Maritime Services

PO Box 973 Parramatta CBD 2124.

A plan checking fee will be payable and a performance bond may be required before Roads and Maritime approval is issued. With regard to the Civil Works requirement please contact the Roads and Maritime Project Engineer, External Works Ph: 8849 2114 or Fax: 88492766

72. The developer shall be responsible for all public utility adjustment/relocation works, necessitated by the above work and as required by the various public utility authorities and/or their agents.
73. All demolition and construction vehicles are to be contained wholly within the site and vehicles must enter the site before stopping. A construction zone will not be permitted on Castle Hill Road.
74. A Road Occupancy Licence should be obtained from Transport Management Centre for any works that may impact on traffic flows on Castle Hill Road during construction activities.
75. Any proposed landscaping and/or fencing must not restrict sight distance to pedestrians and cyclist travelling along the footpath of Castle Hill Road.
76. All buildings and structures, together with any improvements integral to the future use of the site are to be wholly within the freehold property (unlimited in height or depth), along the Castle Hill Road boundary.
77. All works/regulatory signposting associated with the proposed development are to be at no cost to Roads and Maritime.

- 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 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 and Vegetation Preservation

In accordance with Clause 5.9 of the *Hornsby Local Environmental Plan 2013* a person must not ringbark, cut down, top, lop, remove, injure or wilfully destroy any tree or other vegetation protected under the Hornsby Development Control Plan 2013 without the authority conferred by a development consent or a permit granted by Council.

Notes: A tree is defined as a long lived, woody perennial plant with one or relatively few main stems with the potential to grow to a height greater than three metres (3M). (HDCCP 1B.6.1.c).

Tree protection measures and distances are determined using the Australian Standard AS 4970:2009, "Protection of Trees on Development Sites".

Fines may be imposed for non-compliance with both the Hornsby Local Environmental Plan 2013 and the Hornsby Development Control Plan 2013.

Disability Discrimination Act

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

Covenants

The land upon which the subject building is to be constructed may be affected by restrictive covenants. Council issues this approval without enquiry as to whether any restrictive covenant affecting the land would be breached by the construction of the building, the subject of this consent. Applicants must rely on their own enquiries as to whether or not the building breaches any such covenant.

Dial Before You Dig

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

Telecommunications Act 1997 (Commonwealth)

If you are aware of any works or proposed works which may affect or impact on Telstra's assets in any way, you are required to contact: Telstra's Network Integrity Team on Phone Number 1800810443.

Asbestos Warning

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

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 prior to the issue of a Subdivision Certificate. The authorised numbers are required to comply with Council's Property Numbering Policy and be displayed in a clear manner at or near the main entrance to each premise.

Boarding Houses Act 2012

Owners must register Boarding Houses (where 5 or more residents are paying for lodgings) with the NSW Department of Fair Trading.

9 SUBMISSIONS REPORT - HOUSEKEEPING AMENDMENTS TO HORNSBY DEVELOPMENT CONTROL PLAN 2013

EXECUTIVE SUMMARY

- At its meeting on 8 June 2016, Council considered Group Manager's Report No. PL32/16 addressing a late submission on the draft housekeeping amendments to the *Hornsby Development Control Plan 2013* and the requirement to re-exhibit amendments to satisfy the *Local Government (City of Parramatta and Cumberland) Proclamation 2016* which commenced on 12 May 2016.
- The draft housekeeping amendments to the Plan were exhibited from 27 June 2016 to 5 August 2016. A total of 6 community submissions and 2 public authority submissions were received.
- At its meeting on 26 September 2016, the City of Parramatta Council considered a report on the DCP amendments and resolved to raise no objections subject to revisions outlined in this Report.
- It is recommended that Council adopt the exhibited housekeeping amendments and endorse further minor amendments to the Draft *Hornsby Development Control Plan 2013* to retain the 30 metre lot width control for the Epping Town Centre Core, introduce a safe, secure and undercover bicycle parking control, clarify the hierarchy of major roads in Hornsby Shire and revise the definition for indigenous trees.

RECOMMENDATION

THAT:

1. Council adopt the draft housekeeping amendments to the *Hornsby Development Control Plan 2013* as amended (Document No. D07082176).
2. Notification of the adoption of amendments be placed in local newspapers.

PURPOSE

The purpose of this Report is to review submissions received during the exhibition of the draft housekeeping amendments to the *Hornsby Development Control Plan 2013* (HDCP) and respond to issues raised. It is recommended that Council adopt the amendments to the HDCP as amended, and available for viewing on Council's website www.hornsby.nsw.gov.au/property/development-applications/hornsby-development-control-plan (Document No. D07082176).

BACKGROUND

At its meeting on 8 June 2016, Council considered Group Manager's Report No. PL32/16 which addressed a late submission on the draft housekeeping amendments to the HDCP and outlined further amendments in response to urban design issues arising from recent applications for high rise development within the Epping Town Centre and Hornsby West Precinct.

The Report recommended that due to the boundary alteration with the City of Parramatta (CoP) Council in accordance with the *Local Government (City of Parramatta and Cumberland) Proclamation 2016*, which commenced on 12 May 2016, that Council re-exhibit the draft housekeeping amendments to facilitate consultation with the new land authority. Council resolved that:

1. *Council re-exhibit draft housekeeping amendments to the Hornsby Development Control Plan 2013 (Document No. D06935504) as amended.*
2. *Parramatta City Council be consulted on the proposed amendments to the Hornsby Development Control Plan as they relate to those parts of the Plan which continue to apply to land south of the M2 motorway.*
3. *Following the exhibition, a report on submissions be prepared for Council's consideration.*

Accordingly, the 2016 draft amendments to the HDCP were re-exhibited from 27 June 2016 to 5 August 2016. The amendments relate to the following matters which are detailed on Council's website www.hornsby.nsw.gov.au/property/development-applications/hornsby-development-control-plan (Document No. D07073728):

- Ensuring that development proposals avoid impact on key aquatic habitats including saltmarsh, seagrass beds and mangroves.
- Consistency of waste management controls with the NSW Better Practice Waste Management Guide for Multi-Unit Dwellings.
- Minimising the impact of disposal systems on remnant vegetation and associated fauna.
- Management of travel demand and impact on rail corridors for development above 10 storeys.
- Discouraging the enclosure of apartment balconies as wintergardens.
- Improving the design of residential flat buildings up to 3 storeys and consistency with the State *Environmental Planning Policy No - 65 Quality of Residential Apartment Development* (SEPP 65).
- Reducing the bulk of residential flat buildings with attics and mezzanine levels.
- Improving vehicle access to basement car parking in residential flat buildings.
- Improving design controls for shop top housing within the Hornsby West Side and Epping Town Centre to support podium style development, with slender towers set back from the street.

- Ensuring that built form controls for child care centres is consistent with the *Children (Education and Care Services) Supplementary Provision Regulation 2012*.
- Ensuring that development of river settlement sites should minimise the impact on the waterway and downstream users.
- Consolidate references to designated, State and Regional roads within a single Annexure.

At its meeting on 26 September 2016, CoP Council considered a report on the draft DCP amendments. The proposed amendments recommended by the CoP are discussed in this Report.

DISCUSSION

This Report presents a summary of submissions received in response to the exhibition of the HDCP housekeeping amendments and addresses proposed amendments in response to issues raised.

1. Public Re-Exhibition

The draft housekeeping HDCP amendments were re-exhibited for community comment between 27 June 2016 and 5 August 2016, to satisfy the *Local Government (City of Parramatta and Cumberland) Proclamation 2016* which commenced on 12 May 2016. The exhibition was carried out in accordance with Clause 18 of the *Environmental Planning and Assessment Regulation (2000)* for 28 days.

The exhibition involved a newspaper advertisement, notification on Council's website and a letter was sent to affected land owners within the Hornsby West Side precinct and all Housing Strategy Precincts zoned R3 Medium Density Residential, with a building height of 2.5 storeys, and Precincts zoned R4 High Density Residential with a building height of 5 storeys.

The draft housekeeping HDCP was displayed in hard copy at Council's Administration Centre, Epping, Hornsby and Pennant Hills libraries and an electronic version was available under 'On Exhibition' on Council's website.

The CoP Council was consulted and was responsible for the notification of land owners south of the M2 within the Epping Town Centre and precincts zoned R4 High Density Residential with a building height of 5 storeys.

2. Public Authority Submissions

Two submissions were received from public authorities, namely CoP Council and the NSW Roads and Maritime Services (RMS).

2.1 City of Parramatta Submission

The CoP submission advises that a Transport Strategy for Epping will be undertaken with a focus on developing transportation options to respond to the growing development in Epping and will address traffic management controls in the HDCP.

The CoP also advises that majority of the draft housekeeping amendments to the HDCP are consistent with the *Parramatta Development Control Plan (DCP) 2011* and SEPP 65 – Apartment Design Guide, with the exception of the following matters:

i) Retention of the minimum lot width control of 30 metres within Epping Town Centre

Parramatta DCP 2011 requires buildings over 6 storeys within Epping Town Centre to have a minimum street frontage of 40 metres. For consistency with this control, CoP requests that the minimum 30 metre lot width control be retained under Part 4.6.3 Site Requirements for the Epping Town Centre in the HDCP.

Comment: The draft amendment to remove the minimum lot width requirement of 30 metres is intended to provide flexibility in site planning and to assist with achieving high quality architectural outcomes that are consistent with the recently published SEPP 65 Apartment Design Guideline, as recommended by a member of Council's Design Excellence Panel. In most cases, development sites would require a site width greater than 30 metres to achieve the building floorplate and separation requirements.

However, to provide consistency with Parramatta DCP controls, it is recommended that the 30 metre lot width requirement be retained for the Epping Town Centre only.

Recommendation: That Council retain the 30 metre minimum lot width requirement for commercial/ shop top housing development within the core of the Epping Town Centre.

ii) **Bicycle parking to be located in a safe, secure and undercover area in residential flat buildings**

CoP Council recommends that the HDCP should include a requirement for residential bike parking to be located in a safe, secure and undercover area in residential flat buildings.

Comment: The exhibited amendments seek to improve access to bicycle facilities by removing the requirement that they be located within the basement car park of medium and high density residential development.

To ensure that alternate locations provide an equivalent level of security, it is appropriate that an additional measure be provided to require that bicycle parking is safe, secure and located undercover to protect personal property.

Recommendation: That Council amend Table 1C.2.1(g) On site bicycle parking and facilities, to require medium and high density development to provide bicycle parking in a safe, secure and undercover location.

iii) **Inclusion of the City of Parramatta local government area with the listing of protected trees and list of State and Regional Roads**

The CoP requests that the 'City of Parramatta LGA' be added to the definition of indigenous trees, and 'parts of City of Parramatta LGA' be added to the HDCP where it refers to State and Regional Roads.

Comment: The Local Government (City of Parramatta and Cumberland) Proclamation 2016 provides transitional arrangements for the application of development control plans and section 94 plans to newly amalgamated authorities. The Proclamation stipulates that until new plans are adopted for an amalgamated area, the existing plan from the previous authority applies.

Therefore, references made to the CoP are considered unnecessary, as the HDCP requirements apply universally to the amalgamated area south of the M2 Motorway. Any reference to Parramatta LGA in the HDCP, may also place emphasis on the control over other Parts of the HDCP and pending the adoption of new controls for the area by the CoP, another housekeeping amendment to the HDCP would be required.

The preferred approach would be to provide a practice note on Council's webpage and cover page of the HDCP making reference to the Proclamation and application of the HDCP to those parts of CoP formerly located within the Hornsby Shire LGA.

Recommendation: No HDCP amendment is required as a result of the submission.

2.2 NSW Roads and Maritime Services (RMS) Submission

The RMS submission requests clarification on the following:

- The hierarchy of Council listed 'main roads' and RMS State and Regional Roads, which require concurrence;
- The removal of Bay Road and Arcadia Road from the list of Council's Main roads; and
- References to the RMS funding traffic management works in prescriptive measures that support the Housing Strategy key principle diagrams within Part 3 Residential and Part 4 Business, and Part 9.6 Beecroft Heritage Precinct of the HDCP.

Comments were also provided on a number of HDCP requirements which are unrelated to the draft housekeeping amendments, including:

- Controls to stipulate fencing, landscaping and building envelopes to meet RMS requirements;
- RMS concurrence and referral requirements for the amendment of roads and traffic facilities required by the HDCP;
- RMS concurrence and referral requirements for development proposals; and
- Access arrangements for Council's Housing Strategy Precincts.

Comment:

Matters related to the HDCP Amendments:

The reference to 'main roads' in various parts of the HDCP relates to roads that require an increased setback or restricted access. The list is comprised of local, regional and main roads according to the RMS road hierarchy.

A review of main roads referenced throughout the DCP indicates that Council's list of 'main roads' differs from the RMS 'main roads', which exclusively relates to roads that are subject to Clause 101 (2a) of the *Infrastructure State Environmental Planning Policy 2007* and require concurrence from the RMS.

To clarify the reference between Council nominated and RMS 'main roads', it is proposed to rename roads that require a greater setback as 'designated roads'. Further, to clarify the requirements that relate to the different categories of roads, it is proposed to provide a single reference within Annexure C.

Bay Road and Arcadia Road were removed from the list of designated roads as a result of amendments to the HDCP in 2013 to permit direct vehicular access from Arcadia Road for properties on the western side of Nancy Place, Galston. This amendment was progressed as it would encourage street facing dwellings instead of rear facades and fences facing the street. To maintain the listing of designated roads that require greater setback, it is proposed to exclude the section of Bay Road/ Arcadia Road beside Nancy Place consistent with Council's previous resolution.

To address the RMS concern regarding the responsible funding authority for traffic works identified in key principle diagrams, it is proposed that reference to the RMS be changed 'to the relevant authority'.

Other matters raised:

Matters raised that are unrelated to draft housekeeping amendments are outside the scope of this review and would be addressed by RMS referral comments in relation to conditions of consent for integrated development.

Council amendments to traffic management facilities follows an established approval process which requires community consultation and referral of facilities regulated by the *Roads Act* to the Hornsby Shire Local Traffic Committee which includes a representative of the RMS.

In accordance with Section 87 of the *Roads Act 1993*, traffic signal design and proposals by Council also require specific RMS approval. As part of this approval process, the RMS often requests that Council provide supporting documentation which includes traffic signal warrants and intersection modelling to demonstrate the impacts of the proposed arrangement.

Recommendation:

- Amend the setbacks note listing in Parts 1,2,3 and 6 of the HDCP by replacing reference to 'main roads' with 'designated roads', describing them as 'Council identified roads that require development to have an increased setback from the road edge, consistent with the established streetscape';
- Update notes to RMS 'Main roads' throughout the HDCP to clarify that development adjoining roads that are subject to Clause 101 (2a) of the *Infrastructure State Environmental Planning Policy 2001* require concurrence from the Roads and Maritime Services;
- Amend Annexure C to list all Council identified urban and rural designated roads, as well as RMS State and Regional Roads; and
- Amend traffic management prescriptive measures that support the Housing Strategy precinct key principle diagrams in Part 3 Residential, Part 4 Business and Part 9.6 Beecroft Heritage Precinct of the HDCP, by replacing the RMS reference with 'the relevant authority'.

3. Community Submissions

A total of 6 community submissions were received in response to the exhibition of the HDCP housekeeping amendments. Two submissions related to land within the boundary adjustment of Parramatta LGA and were referred to CoP for its consideration. Submissions received are summarised and addressed below.

3.1 Berowra Heights Town Centre Masterplan, Linkages and Signage Controls: A submission was received from a land owner in Hornsby Shire regarding the use of 'should' vs 'shall' in the HDCP and requesting that Council:

- Develop a new Berowra Heights Town Centre Masterplan to manage new development occurring within the Centre;
- Clarify the location of a new laneway link indicated on the Berowra Town Centre Masterplan; and
- Clarify the controls and definitions for under awning signs and vertical wall projecting signs.

Comment: Council's approach is that policy documents use 'should' as the HDCP controls do not have legislative force but provide best practice guidance. This approach is confirmed as appropriate by Clause 74BA of the *Environmental Planning and Assessment Act 1979* which states that the principal purpose of a development control plan is to provide guidance on the

aims of any environmental planning instrument that applies to the development, facilitating development that is permissible under any such instrument; and achieving the objectives of land zones under any such instrument. The provisions of a development control plan made for that purpose are not statutory requirements.

In relation to the Berowra Heights Town Centre, the Greater Sydney Commission will shortly release a draft North District Plan which will address residential and employment targets for each LGA. The targets will provide direction for Council to review employment and residential strategies Shire wide, including the Berowra Heights Town Centre.

The Berowra Town Centre Masterplan provided in Part 5 Business of the HDCP indicates that a new laneway should be provided through the Centre to link Pacific Highway and Gully Road. The indicative link would assist future connectivity of the Centre and its exact location would be evaluated upon the submission of a development proposal.

Part 1 General of the HDCP provides controls for signage in categories according to their role and placement on a building or structure. The definitions are a guide but not all signage falls within a category and may be a composite of more than one sign. Signage controls are governed by *State Environmental No. 64 Advertising and Signage* which sets a limit on the number of permissible signs on a building.

Recommendation: No HDCP amendment is required as a result of the submission.

- 3.2 *Indigenous Trees Definition:*** The submission was received on behalf of an environmental protection group which is concerned that the definition of 'indigenous trees' may be misinterpreted as only including trees that occur naturally, deduced from the wording 'locally occurring', and may exclude trees that have been planted either as gardens or street trees. The group's primary concern is that the definition may restrict Council's ability to prosecute unauthorised removal or damage of planted trees within the Shire. To eliminate ambiguity in the definition, the group suggests that the definition should include the words 'both planted and self-seeded'.

Comment: The introduction of an indigenous trees definition in Part 1B.6.1 Tree Preservation formed part of the first exhibited draft housekeeping amendments to the HDCP to clarify the description of native plant species. The draft defines indigenous trees as 'vegetation originating naturally 'locally occurring' in Hornsby Shire LGA.'

To ensure native trees to Hornsby Shire which have been intentionally planted or self-sewn are protected, a revised definition would be required.

Recommendation: That Council amend the Part 1B.6.1 Tree Preservation definition for indigenous trees to 'Species which are native to the Hornsby Shire LGA (planted or self-sown) and are not introduced (exotic)'.

- 3.3 *Station Street Basement Ramp:*** A submission was received on behalf of a landowner on Station Street, Hornsby, in relation to opportunities for a basement ramp and underground carpark to be provided on Station Street, to service the properties bounded by Station Street, Peats Ferry Road and Coronation Street.

Comment: Opportunities to provide a basement ramp and carpark to service properties along Station Street, Hornsby would be a matter addressed via the submission of a development application. Furthermore, such an approach may restrict other concepts for access to the precinct which may be assessed as having merit. An amendment to the Hornsby West Side

controls would be inconsistent with Council's policy that access to, and parking arrangements for, a development be wholly contained on site.

Recommendation: No amendment is required as a result of the submission.

- 3.4 *Hornsby West side Floor Plate Controls:*** A submission was received on behalf of a Hornsby West Side landowner raising concern that the proposed 700m² Gross Floor Area floorplate amendment for residential towers in the West Side Precinct is too restrictive.

The submitter requests that, should Council adopt the 700m² residential tower floorplate control, a sliding scale and site specific controls should be provided and that 'floorplate area' be defined as 'Gross Floor Area' in accordance with the *Hornsby Local Environmental Plan (HLEP) 2013*.

The recommended sliding scale control provides a range of maximum residential tower floorplates according to the following site areas:

- Site Area less than 1,200m²: maximum residential tower floorplate of 700m²
- Site Area 1,200 m² to 2,800 m²: maximum residential tower floorplate of 800m²
- Sites over 2,800 m²: maximum residential tower floorplate of 900m²

Comment: The housekeeping amendment seeks to introduce a 700m² floorplate maximum for residential towers in the Hornsby West Side and Epping Town Centre, to encourage slim towers setback from the podium level, to reduce the bulk and scale of development to the street. This control was developed on the basis that it would be measured as Gross Floor Area consistent with the definition of the HLEP.

Should there be a circumstance where the control is too restrictive due to site dimensions, a merit based design solution may be considered where the objective of achieving a tower of slender proportions is achieved.

It is not considered appropriate to adopt a sliding scale as the proposed floorplate of 700m² is appropriate to achieve a slender building form at 20 – 25 storeys. A sliding control would only be applicable for development of greater height where a different slenderness ratio was appropriate.

Recommendation: No amendment is required as a result of the submission.

- 3.5 *Epping Town Centre Floorplate Control:*** A submission received on behalf of an Epping Town Centre landowner raises concern that the removal of the 18 metre maximum dimension for residential floorplates would result in a development that is inconsistent with the desired character of towers above podium level with slim and slender proportion. Further, it is requested that a 6 metre setback apply consistently along the length of Pembroke Street, Epping.

Comment: The draft amendment to remove the Epping Town Centre 18 metre maximum dimension for residential floorplates formed part of a suite of draft amendments seeking to support the design intent of podium style development, with slender towers set back from the street.

Building form is now proposed to be informed by the 700m² floor plate control which provides greater flexibility in site planning and would assist with achieving high quality architectural outcomes that are consistent with the recently published SEPP 65 Apartment Design

Guideline. This amendment is supported by work undertaken by a member of Council's Design Excellence Panel and is considered appropriate.

The 6 metre setback that applies to the eastern end of Pembroke Street was applied as a result of a detailed urban design study of the Town Centre, and was not a drafted control as part of the HDCP housekeeping amendments. Amendments to the setback is not within the scope of this review.

Recommendation: No amendment is required as a result of the submission.

- 3.6 Epping Town Centre Corner Sites Setback Control:** A submission requests that Council not adopt the draft amendment for corner sites which seeks to apply front setbacks to all street frontages, as the developable floor area would be reduced and there would be more building bulk along the other property boundaries.

Comment: The corner sites setback amendment was introduced to allow for screening of a building's scale along the street edge. The setback would not result in a gross reduction of floor area on the site, as side setbacks would apply to the other boundaries.

Recommendation: No amendment is required as a result of the submission.

BUDGET

There are no budgetary implications associated with this Report.

POLICY

Part 3 of the *Environmental Planning and Assessment (EP&A) Regulation 1994* applies to the making of DCPs. Clause 21 requires that after considering any submissions about the draft development control plan that have been duly made, the council must give public notice of its decision in a local newspaper within 28 days of the decision being made.

A development control plan comes into effect on the date that public notice of its approval is given in a local newspaper, or on a later date specified in the notice.

CONCLUSION

At its meeting on 8 June 2016, Council considered Group Manager's Report No. PL32/16 regarding the requirement to re-exhibit the draft housekeeping amendments to *Hornsby Development Control Plan 2013*, to satisfy the operational requirements of the *Local Government (City of Parramatta and Cumberland) Proclamation 2016* which commenced on 12 May 2016.

Council resolved to publicly exhibit the draft housekeeping amendments to the HDCP from 27 June 2016 to 5 August 2016.

This Report presents a summary of submissions received from the exhibition of the HDCP housekeeping amendments and addresses proposed amendments in response to issues raised. The amendments address submission comments relating to the retention of the 30 metre lot width control for the Epping Town Centre Core, the introduction of a safe, secure and undercover bicycle parking control, clarification on the hierarchy of major roads in Hornsby Shire and a revised definition for indigenous trees.

It is recommended that Council adopt the draft housekeeping amendments to the HDCP 2013 as amended.

RESPONSIBLE OFFICER

The officer responsible for the preparation of this Report is the Manager Strategic Planning Branch – Fletcher Rayner, who can be contacted on 9847 6744.

JAMES FARRINGTON
Group Manager
Planning Division

FLETCHER RAYNER
Manager - Strategic Planning
Planning Division

Attachments:

There are no attachments for this report.

File Reference: F2013/00513#04
Document Number: D07023410

10 REPORTING VARIATIONS TO DEVELOPMENT STANDARDS

EXECUTIVE SUMMARY

- In accordance with Department of Planning and Environment'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)* or Clause 4.6 of the *Hornsby Local Environmental Plan - 2013 (HLEP)*.
- Council's consideration of this report ensures Council's obligation to monitor variations to development standards is complied with.

RECOMMENDATION

THAT the contents of Group Manager's Report No. PL74/16 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* or *Clause 4.6* variation to a development standard for the period 1 July 2016 to 30 September 2016.

DISCUSSION

Department of Planning and Environment's *Circular B1*, issued in March 1989, requested that councils monitor the use of the Secretary'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 Secretary'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 Council 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 Department Circular, attached is a list of development applications determined between 1 July 2016 to 30 September 2016.

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 for development applications determined where there has been a variation in standards under *SEPP 1*. Under the HLEP 2013, the application of the provisions of *SEPP 1* has been replaced by *Clause 4.6* (exceptions to development standards). The Department of Planning and Environment has advised that the current reporting practice for variation to development standards continues to apply for applications involving a submission pursuant to *Clause 4.6* of the HLEP 2013.

CONCLUSION

Council is required to monitor the manner in which development standards are being varied. This assists in determining whether changes are required to relevant standards. This report provides advice to Council on standards varied under delegated authority which relied upon SEPP 1 or Clause 4.6 of the HLEP during the reporting period from 1 July 2016 to 30 September 2016.

RESPONSIBLE OFFICER

The officer responsible for the preparation of this report is the Group Manager Planning Division – James Farrington, who can be contacted on 9847 6750.

JAMES FARRINGTON
Group Manager
Planning Division

Attachments:

1. SEPP 1 Returns Quarter - 1 July 2016 to 30 September 2016

[V](#)
[ie](#)
[w](#)

File Reference: F2004/07599

Document Number: D07076534

11 EXPRESSION OF INTEREST EOI 13/2016 - LICENCE TO OPERATE KIOSK/CAFE AT HORNSBY AQUATIC AND LEISURE CENTRE

EXECUTIVE SUMMARY

- Expression of Interest EOI 13/2016 has been called for the licence of the kiosk/cafe at the Hornsby Aquatic and Leisure Centre.
- Council does not necessarily have the personnel and equipment required to operate the kiosk/cafe and therefore an expression of interest has recently been called in accordance with the Local Government Act.
- The proposed licence will be for five years duration with an option to extend the licence for a further five year period.
- Falato Pty Ltd has been recommended for acceptance of this Expression of Interest.

RECOMMENDATION

THAT:

1. Council accept the Expression of Interest submission received from Falato Pty Ltd for EOI 13/2016: Licence to Operate Kiosk/Cafe at Hornsby Aquatic and Leisure Centre.
2. The Acting General Manager be delegated authority to negotiate and execute a suitable Licence Agreement and Rental Fee with Falato Pty Ltd.

PURPOSE

The purpose of this report is to provide a recommendation for Expression of Interest EOI 13/2016: Licence to Operate Kiosk/Cafe at Hornsby Aquatic and Leisure Centre.

BACKGROUND

Prior to the opening of the newly developed Hornsby Aquatic and Leisure Centre in August 2014, Council appointed an operator for the kiosk/cafe. The operator ceased trading in the second quarter of 2016 and the purpose of this EOI is to enter into a new licence agreement through a public tender process.

Council engaged the services of retail food consultants Brain and Poulter who assisted the process by:

- Developing promotional material
- Reviewing EOI evaluation criteria
- Coordinating site briefings and encouraging proponents to submit a response
- Assessing and evaluating submissions.

The services of Kingsway Financial Assessments Pty Ltd were also engaged to review the financial aspects of the EOI submissions.

DISCUSSION

A summary of all EOI submissions together with full evaluation details have been placed on file (F2016/00288). Excepting this report, the summary and details of the EOI received are to be treated as confidential in accordance with the Local Government Act.

The objective of the EOI is to determine a suitable licensee to enter into a Licence Agreement and pay Council a Rental Fee for the licence to operate the kiosk/cafe.

A public Expression of Interest was placed in the Hills News and Hornsby Advocate together with direct email distribution to a food and industry database provided by Council's consultants, Brain and Poulter. The EOI was issued on 30 August 2016 with a closing date of 20 September 2016.

Five EOI submissions were received from the following companies:

- Falato Pty Ltd
- Sai Asia International Pty Ltd trading as 'Boss Hogs Hot dogs'
- Compass Group B&I Hospitality Services Pty Ltd trading as 'Eurest'
- Advanced Catering Systems Holdings Pty Ltd trading as 'Advanced catering Systems Pty Ltd'
- Bite Size Catering.

TENDER EVALUATION

As part of the process, evaluation criteria were developed and scored by the evaluation panel. The criteria included:

- Financial Offer – Encompassing the rental offer and capital improvement (kiosk/cafe fitout)
- The extent to which the proposal meets Council's vision for community engagement and food and beverage opportunities

- The extent to which the proposal delivers an innovative concept for the site food and beverage operation, “The Kiosk/Cafe”
- The extent to which the proponent demonstrates collaborative behaviour with stakeholders
- Evidence of the proponent’s previous experience and track record including experience in operating similar business models
- Evidence of the proponent’s financial capacity to establish and sustainably operate their proposed concept
- The degree to which the proponent complies with the requirements and conditions of the EOI
- An assessment of the proponent awareness of the HSC’s policies and how they apply to the EOI and the site.

The results of the evaluation indicate that the submission received from Falato Pty Ltd is the most advantageous for Council.

The attached Confidential Memo provides a summary of the evaluation. Full details of the EOI evaluation are in Folder F2016/00288.

BUDGET

The Capex budget and rental fee proposed by the recommended operator are within Council’s market expectations for this facility.

POLICY

There are no policy implications associated with this Report.

CONCLUSION

Based on the evaluation, the submission received from Falato Pty Ltd was found to be the most advantageous to Council. The evaluation panel has recommended that the submission received from Falato Pty Ltd be accepted for Expression of Interest EOI 13/2016: Licence to Operate Kiosk/Cafe at Hornsby Aquatic and Leisure Centre.

RESPONSIBLE OFFICER

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

DAVID SHEILS
Manager - Parks and Recreation
Infrastructure and Recreation Division

PETER POWELL
Acting Deputy General Manager - Infrastructure
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Infrastructure and Recreation Division

Attachments:

- 1.[View](#) Attachment 1 - Evaluation Panel Report - *This attachment should be dealt with in confidential session, under Section 10A (2) (d) of the Local Government Act, 1993. This report contains commercial information of a confidential nature that would, if disclosed (i) prejudice the commercial position of the person who supplied it; or (ii) confer a commercial advantage on a competitor of the council; or (iii) reveal a trade secret.*
- 2.[View](#) Attachment 2 - Confidential Memo - *This attachment should be dealt with in confidential session, under Section 10A (2) (d) of the Local Government Act, 1993. This report contains commercial information of a confidential nature that would, if disclosed (i) prejudice the commercial position of the person who supplied it; or (ii) confer a commercial advantage on a competitor of the council; or (iii) reveal a trade secret.*

File Reference: F2016/00288

Document Number: D07049348

12 REQUEST TO REMOVE TREE - 29 STAR CRESCENT, WEST PENNANT HILLS

EXECUTIVE SUMMARY

- The owner of 29 Star Crescent, West Pennant Hills has sought Council approval to remove a large *Eucalyptus saligna* (Sydney Blue Gum) at the rear of the property. This request has been supported by the owner of the adjacent property at 27 Star Crescent.
- The tree is located adjacent to the rear deck of 29 Star Crescent.
- The initial application (TA/71/2016), lodged in February 2016, was assessed by Council's arborist and refused consent to remove the tree. There has been no other history of concerns raised or previous requests to Council seeking the tree be pruned or removed.
- No evidence has been provided that demonstrates the tree poses a risk of failure and it is recommended that Council refuse consent to remove one *Eucalyptus saligna* (Sydney Blue Gum) located at the rear of 29 Star Crescent, West Pennant Hills.

RECOMMENDATION

THAT Council refuse consent to remove one *Eucalyptus saligna* (Sydney Blue Gum) located at the rear of 29 Star Crescent, West Pennant Hills.

PURPOSE

The purpose of this Report is to provide Council with the information required to consider an application by the owner of 29 Star Crescent, West Pennant Hills to remove one *Eucalyptus saligna* (Sydney Blue Gum), located in the rear yard of the property.

BACKGROUND

In February 2016 the owner of the tree submitted an application to remove the tree on the basis that the tree was located too close to the house and it was starting to damage the foundations.

A Council arborist inspected the tree and observed that the tree had no defects or health issues that would warrant the tree to be removed. The tree did retain some deadwood which was approved to be removed.

The masonry wall of the house was 4.6 metres from the edge of the tree and no visible damage could be observed.

Following the determination to retain the tree, the adjoining property owner at 27 Star Crescent contacted Council seeking reconsideration of the decision. This request was made on the basis that they believed the tree did not look healthy; it was a nuisance as the tree dropped leaves which caused a mess and the roots extended into his property. These roots were discovered when excavating and constructing footings for their new house which is currently nearing completion.

This month the owner of the tree subsequently wrote to Council seeking that the matter be reconsidered.

DISCUSSION

The subject tree is a large *Eucalyptus saligna* (Sydney Blue Gum) and can be identified as a young specimen in detailed aerial photography dated 1943. 29 Star Crescent, Pennant Hills is located in a Heritage Conservation Area and as a result the tree protection measures contained in the Hornsby Development Control Plan apply.

Species:	<i>Eucalyptus saligna</i>
Common Name:	Sydney Blue Gum
Height:	26 metres
Age:	Mature

Recent inspections undertaken by Council's arborist's noted the Blue Gum to be in good health and condition. The canopy coverage was considered to be normal for this species. There was no evidence of structural defects or symptoms of disease within the tree indicating a potential for failure or instability. The most recent application was refused on the basis that the tree was assessed as healthy and insufficient information had been provided to grant consent for removal of the tree. All tree assessments were made by visual external inspections. Internal, underground or aerial investigations were not undertaken.

Observations also did not identify evidence of recent live limb loss of a size that would support removing the tree (i.e. >100mm diameter). As result there was no requirement for canopy maintenance other than the removal of some deadwood.

The owner of the tree has provided a two page statement supporting the request for the tree to be removed. This statement is provided as Attachment 1 to this report.

The following table provides responses to comments made in the statement from Council's arborists.

Comment	Response
A further, more imminent concern of Emergency is the recent increase in tree movement and instability of the swaying trunks and initial root zone area in heavy weather events when the soil was saturated this year.	Council inspections did not identify evidence to confirm the tree was basally unstable (i.e. socketing, soil heaving or subsidence) and no changes to the soil profile around the tree were documented.
The structure of the tree is de-formed and weak due to the triple leader (3 stems) growing from the one footing and was noticeable as our pavers and deck have had slight movement that has not been seen before and has cracked our brick back porch landing – coincidentally after the earthworks and development next door.	The presence of three leaders is in itself not a structural issue. It is not uncommon for trees to have more than one leader. Where multiple leaders do occur, arborists look for evidence of ‘bark inclusions’ as a signal of possible weakness and failure. In this circumstance no bark inclusion exists. There is also no evidence of fungal fruiting bodies, or large open hollows present.
Prior history has noticed the tree has suffered a stress event and symptoms of almost full canopy die back. This was likely due to the drought and earthworks and installation of the underground swimming pool next door. After this sort of stress, the tree would have developed some form of decaying timber, therefore adding to risk and weak points in the deformed structure.	Council’s aerial photography database retains 36 images spanning the last six years and confirms the tree has retained healthy and dense canopy coverage. No evidence has been provided demonstrating decaying timber exists.
It is highly likely that this tree has some rotting heartwood in one of the 3 stems due to the vase like structure and creates an entry point for rot, making even more unstable.	No evidence is provided that demonstrates the existence of fungal decay. Notwithstanding this, the opportunity exists for the applicant to undertake non-invasive testing (via an arborist) to validate whether fungal decay exists.

The neighbour at 27 Star Crescent has supported the removal of the tree on the basis that the tree will be a nuisance caused by falling leaves caused by overhanging foliage. In this regard, staff have provided the neighbour with advice confirming the extent of pruning that could be undertaken to reduce this issue. Notwithstanding this, Hornsby Council’s tree protection measures concerning leaf fall are generally consistent with those of the NSW Land and Environment Court’s (Dispute Between Neighbours) Planning Principle, which states:

“The dropping of leaves, flowers, fruit, seeds or small elements of deadwood by urban trees ordinarily will not provide the basis for ordering removal of or intervention with an urban tree.”

Concerns Regarding Safety

The resident is concerned the tree is unsafe. For trees in the urban environment, arborists are able to undertake risk assessments by following industry accepted risk assessment criteria. Council’s arborists have applied these criteria in their assessments and determined the risk rating to be within an acceptable range.

The recent inspection by Council arborists provides observations of a mature tree located 4.6 metres from the house, with good habit, health, condition and no structural defects which are dysfunctional warranting the tree's removal. Taking these factors into consideration the tree would be assessed with a medium to long term retention value, with high environmental and landscape significance.

These observations and conclusions are consistent across the different Council arborist inspections further supporting the Sydney Blue Gum tree's suitability to be retained.

BUDGET

There are no budgetary implications associated with this Report.

POLICY

The recommendation contained within the report is consistent with Council's Tree Preservation Measures (HDCP) that provides protection to trees that are located in Heritage Conservation Areas such as the *Eucalyptus saligna*. The HDCP permits removal of a tree only in the case of safety concerns if there are signs that the tree is diseased, dying or dangerous.

CONCLUSION

Council's Tree Management Officers consider that the tree is healthy, stable and worthy of retention. There has been no evidence provided which demonstrates the tree poses a threat to safety. It is therefore recommended that Council refuse the application for consent to the *Eucalyptus saligna* (Sydney Blue Gum) located at the rear of 29 Star Crescent, West Pennant Hills.

RESPONSIBLE OFFICER

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

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Manager - Parks and Recreation
Infrastructure and Recreation Division

PETER POWELL
Acting Deputy General Manager - Infrastructure
and Recreation
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Attachments:

1. Attachment 1 - Supporting Statement and Tree Photos

[V](#)
[ie](#)
[w](#)

File Reference: TA/71/2016

Document Number: D07074600

ITEM 12

14 MAYOR'S NOTES FROM 1 TO 31 OCTOBER 2016

Note: These are the functions that the Mayor, or his representative, has attended in addition to the normal Council Meetings, Workshops, Mayoral Interviews and other Council Committee Meetings.

Friday 14 October 2016 – The Mayor attended the opening of Hornsby Musical Society's "The Wedding Singer" at Hornsby RSL Club.

Saturday 15 October 2016 – The Mayor officially opened the Galston Spring Fair at Galston Community Centre.

Monday 17 October 2016 – The Mayor attended the official opening of Epping District Cricket Club's new two lane practice facility at North Epping Oval.

Tuesday 18 October 2016 – The Mayor hosted three Citizenship Ceremonies in the Council Chambers.

Friday 21 October 2016 – The Mayor officially opened the Emerging Artist Exhibition at Wallarobba Arts and Cultural Centre.

Saturday 29 October 2016 – The Mayor attended St Patrick's Catholic School Fete at Asquith.

Sunday 30 October 2016 – The Mayor attended Berowra Christian School's 30 Year Celebration Service and Morning Tea at Berowra.

File Reference: F2004/07053

Document Number: D07081011