



# **BUSINESS PAPER**

## **GENERAL MEETING**

**Wednesday 12 July 2017  
at 6:30PM**



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## **AGENDA AND SUMMARY OF RECOMMENDATIONS**

### **PRESENT**

### **NATIONAL ANTHEM**

### **OPENING PRAYER/S**

Reverend Robert Borg, of Hornsby Cathedral, will open tonight's 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."*

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*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 14 June, 2017 be confirmed; a copy having been distributed to all Councillors.

## **PETITIONS**

**PRESENTATIONS**

Parks and Leisure Australia NSW/ACT - 2017 Playspace Award (<\$0.5m) - High Commendation - Asquith Park Recreation Upgrade.

**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 CS23/17 MERGER PROPOSAL - HORNSBY SHIRE COUNCIL AND CITY OF PARRAMATTA COUNCIL (PART) - RESPONSE TO 14 JUNE 2017 COUNCIL RESOLUTION**

**RECOMMENDATION**

THAT the Acting General Manager be delegated authority to finalise a proposal under Section 218E of the Local Government Act in line with the information contained in Deputy General Manager's Report No. CS23/17 and to submit such proposal to the Minister for Local Government.

**Page Number 20**

**Item 2 CS20/17 INVESTMENTS AND BORROWINGS FOR 2016/17 - STATUS FOR PERIOD ENDING 31 MAY 2017**

**RECOMMENDATION**

THAT the contents of Deputy General Manager's Report No. CS20/17 be received and noted.

**ENVIRONMENT AND HUMAN SERVICES DIVISION**

Nil

**PLANNING DIVISION**

**Page Number 23**

**Item 3 PL33/17 DEVELOPMENT APPLICATION - CHILDCARE CENTRE - 179 BEECROFT ROAD, CHELTENHAM**

**RECOMMENDATION**

THAT Development Application No. DA/1159/2016 for the adaptive re-use of the existing heritage listed Church building for use as a childcare centre for 60 children at Lots 83 and 84, DP 9085 No.179 Beecroft Road, Cheltenham be approved in accordance with the recommendation of the independent town planning consultant's report – *Nexus Environmental Planning Pty Ltd* detailed in Schedule 1 of Group Manager's Report No. PL/33/17.

**Page Number 43**

**Item 4 PL31/17 REVIEW OF PLANNING FOR BUSHFIRE PROTECTION**

**RECOMMENDATION**

THAT a submission be forwarded to the NSW Rural Fire Service supporting the reformatting and restructure of *draft Planning for Bushfire Protection 2017* and raising the concerns identified in Group Manager's Report PL31/17, including:

1. Requirements for land not mapped as bushfire prone land should not be introduced. Bushfire Prone Land Mapping should be sufficiently undertaken to identify land exposed to bushfire threat to which Planning for Bushfire Protection applies.
2. The amendments relating to strategic planning are inconsistent with the current Gateway process for planning proposals as published by the Department of Planning and Environment.
3. Further clarification should be provided regarding hazard complaints and the relevant Bushfire Protection Measures which should apply.
4. Standardised conditions of consent should apply to all councils to ensure the maintenance of Asset Protection Zones in perpetuity.

5. The amendments do not address or provide a solution for Housing Strategy precincts deferred from Council's LEP in 2011 based on concerns raised by the NSW Rural Fire Service.

**Page Number 50**

**Item 5 PL32/17 LAND MANAGEMENT AND BIODIVERSITY CONSERVATION REFORMS**

**RECOMMENDATION**

THAT a submission in line with the issues identified in Group Manager's Report No. PL32/17 be forwarded to the Department of Planning and Environment raising concern with the implementation of the draft Land Management and Biodiversity Conservation Reforms and request that commencement be delayed to allow further detail to be provided and additional consultation to take place on these matters.

**INFRASTRUCTURE AND RECREATION DIVISION**

**Page Number 58**

**Item 6 IR5/17 REQUEST TO REMOVE TREE - 20 DEAN STREET WEST PENNANT HILLS**

**RECOMMENDATION**

THAT Council refuse consent to remove one *Eucalyptus saligna* (Sydney Blue Gum) located at the front of the property at 20 Dean Street, West Pennant Hills.

**Page Number 63**

**Item 7 IR8/17 REQUEST TO REMOVE TREE - 11 HOLLAND STREET NORTH EPPING**

**RECOMMENDATION**

THAT Council refuse consent to remove one *Angophora costata* (Smooth Barked Apple Gum) located at the rear of the property at 11 Holland Street, North Epping.

**Page Number 67**

**Item 8 IR9/17 HORNSBY PARK COMMUNITY CONSULTATION**

**RECOMMENDATION**

THAT Council:

1. Note the findings of the Hornsby Park community engagement and the strong support for developing the parkland as a distinct and attractive open space.
2. Endorse the attached Outcomes Report as a record of the findings of the recent 'Plan Your Parkland' community engagement.



3. Support undertaking further consultations with the community via a range of mechanisms including engagement with stakeholders and the Community Deliberative Forum at key future stages of the park design and development.

#### **CONFIDENTIAL ITEMS**

**Item 9 CS22/17 PROPOSAL TO EXTINGUISH A DRAINAGE EASEMENT AND ACQUIRE A NEW DRAINAGE EASEMENT**

*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 72**

**Item 10 MN7/17 MAYOR'S NOTES FROM 1 TO 30 JUNE 2017**

#### **NOTICES OF MOTION**

**Page Number 73**

**Item 11 NOM5/17 PROVISION OF PLAYGROUND IN MT COLAH**

#### **COUNCILLOR TILBURY TO MOVE**

**THAT:**

1. Council investigate options for the provision of a suitable playground in the area of Mount Colah, east of the railway line. The investigation should:
  - a) Identify suitable locations for the provision of a playground
  - b) Details of the appropriate size (eg local, neighbourhood, district) for a playground at each location option
  - c) The cost of providing and maintaining such a facility at each location
  - d) Funding options.
2. The findings of the investigation be presented to a Councillor briefing session for the newly elected Council to consider.

**Page Number 74****Item 12 NOM6/17 IMPROVEMENT OF PEDESTRIAN AND PASSENGER ACCESS MOUNT COLAH RAIL STATION PEDESTRIAN BRIDGE**

COUNCILLOR TILBURY TO MOVE

That Council:

1. Write to RailCorp to improve pedestrian access at Mount Colah Rail Station.
2. Write to the Member for Hornsby, Mr Matt Kean, seeking his assistance in improving pedestrian access at Mount Colah Rail Station.

**Page Number 75****Item 13 NOM7/17 AUSTRALIA DAY - AUSTRALIAN LOCAL GOVERNMENT ASSOCIATION (ALGA) RESOLUTION**

COUNCILLOR COX TO MOVE

THAT:

1. Hornsby Shire Council (Council) reject resolution 52 from the 2017 National General Assembly of the Australian Local Government Association (ALGA) which stated:  
"That the National General Assembly encourage Australian councils to consider efforts they could take to lobby the Federal Government to change the date of recognition of Australia Day."  
and the reported premise that Australia Day is offensive/racist.
2. Council note that it has viewed attending ALGA conferences as a waste of ratepayer's money and suspects that other councils formed this view as there are 560 local government authorities across Australia but there were only 126 votes cast on this resolution.
3. A report be prepared for Council's consideration on the benefit of the ALGA to the Council and our ratepayers and potential ways to sever ties with this organisation.
4. The Council write to ALGA, the Prime Minister, the Leader of the Opposition and the Minister and Shadow Minister for Local Government to advise them of this resolution.

**SUPPLEMENTARY AGENDA****MATTERS OF URGENCY****QUESTIONS WITHOUT NOTICE**

**1 MERGER PROPOSAL - HORNSBY SHIRE COUNCIL AND CITY OF PARRAMATTA COUNCIL (PART) - RESPONSE TO 14 JUNE 2017 COUNCIL RESOLUTION**

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**EXECUTIVE SUMMARY**

- In line with Council's 10 May 2017 resolution, the Mayor wrote to the Premier and Minister for Local Government requesting the Government to reinstate the area south of the M2 Motorway to Hornsby Shire Council, or alternatively, to provide compensation to Council while it adjusts to a smaller scale operation. No response has yet been received from the Premier or Minister.
- Following consideration at the 14 June 2017 General Meeting of a report about an update to its Long Term Financial Plan, Council authorised the Acting General Manager to commence the preparation of a proposal for submission to the Minister under Section 218E of the Local Government Act to return the land area south of the M2 Motorway to Hornsby Shire Council.
- The information contained in this Report takes account of the statutory requirements relating to proposals; Council's support for the NSW Government's Fit for the Future process; the success of Ku-ring-gai Council in the NSW Supreme Court of Appeal challenging the Hornsby/Ku-ring-gai Council merger; the state of uncertainty that Council has been placed in while the Government considers its next moves on local government reform; the severe recurrent financial impact that the loss of the area south of the M2 Motorway has had on Council; and questions why the Government acted on the transfer of the area south of the M2 Motorway prior to a final decision being made on the proposed Hornsby/Ku-ring-gai merger.
- In drafting Council's new proposal, it has become clear that no independent assessment of a standalone proposal recommending the transfer of the former Hornsby Shire Council area south of the M2 Motorway to the City Of Parramatta Council would have been supported. Yet that is what has practically occurred to Hornsby Shire Council. In the absence of the NSW Government progressing its local government reform program, it is considered appropriate for the area south of the M2 Motorway to be returned to Hornsby Shire Council. This would not only improve Council's long term financial sustainability but would also allow Council to finance the numerous public improvements that it had planned for the Epping area.
- The information recommended for inclusion in Council's proposal is detailed under appropriate headings in the Discussion section of this Report. The intent is that this information be used to finalise the proposal for submission to the Minister.

**RECOMMENDATION**

THAT the Acting General Manager be delegated authority to finalise a proposal under Section 218E of the Local Government Act in line with the information contained in Deputy General Manager's Report No. CS23/17 and to submit such proposal to the Minister for Local Government.

## PURPOSE

The purpose of this Report is to respond to one of the points of a Council resolution emanating from the 14 June 2017 General Meeting following consideration of a report dealing with the update of Council's Long Term Financial Plan. That point required the preparation of a proposal for submission to the Minister for Local Government under section 218E of the Local Government Act seeking the return to Hornsby Shire Council of the former Council area south of the M2 Motorway.

## BACKGROUND

At its 10 May 2017 General Meeting, Council considered Mayoral Minute No. 6/17 – Local Government Reform – and resolved that the Mayor write to the Premier and Minister for Local Government requesting that if an amalgamation of Hornsby and Ku-ring-gai Councils is not to be progressed, that the NSW Government reinstate the area south of the M2 Motorway to Hornsby Shire Council, or alternatively, provide compensation to the residents of Hornsby while Council adjusts to being a smaller scale operation.

The Mayor subsequently wrote to the Premier and Minister for Local Government and made the following points:

- Hornsby Shire Council has found itself in uncertain times since 12 May 2016 when the Government indicated its in principle support for the merger of Hornsby and Ku-ring-gai Councils. Ku-ring-gai Council's recent successful appeal of the Government's proposed merger in the Supreme Court has further exacerbated the uncertainty.
- Although the NSW Government has chosen not to appeal the Supreme Court decision, the Premier has indicated that the Government is still committed to a merger of Hornsby and Ku-ring-gai Councils. For such a merger to occur, it is understood that it would be necessary for a new Hornsby/Ku-ring-gai merger proposal to be developed and then assessed in line with the requirements of the Local Government Act. Given the most recent experience with the proposal process and subsequent Court cases, this could take some time.
- Hornsby Shire Council has generally been supportive of the Government's local government reform agenda and initially made two suggestions - one for an upper north shore council which incorporated Hornsby, all the Epping Business Centre, parts of Ryde as well as the Ku-ring-gai Council area; and the other for a merger the whole of Hornsby and Ku-ring-gai Councils. However, under current circumstances, Council now finds itself unfit for the future, which is contrary to the intent of the local government reform exercise.
- The latest estimate is that Hornsby Shire Council's budget has been affected negatively on a recurrent basis from the 2016/17 financial year onwards by \$9.1 million through the loss of the area south of the M2 Motorway. This equates to a net loss of \$750,000 per month that would otherwise have been available for spending across the Hornsby Shire area.
- This amount does not take account of rate income growth which had been projected in the area south of the M2 Motorway that also would have been available for expenditure across the Shire. It also does not take account of major assets (particularly in the Epping area) that were earmarked for redevelopment or potential sale for many tens of millions of dollars; or the loss of Section 94 funds that would have been generated from development in Epping and available for spending on Shire-wide projects.
- Based on the above, if a merger of Hornsby and Ku-ring-gai Councils is not to be progressed or cannot be guaranteed by the Government in the immediate future, our ratepayers are likely

to question why steps could not be taken to reinstate the area south of the M2 Motorway to Hornsby Shire Council so that it can regain its long term financial sustainability and recommence its planning for the future.

- If the Hornsby/Ku-ring-gai merger does not progress and Hornsby Shire Council is to be maintained in its current state without the area south of the M2 Motorway, Hornsby ratepayers could well be disillusioned and feel that the Government's local government reform process, and this Council's support for the Government's proposal, has seriously disadvantaged the remainder of the Hornsby Shire local government area as follows:
  - A reduction in population from approximately 165,000 to a figure below 150,000 – noting that the only reason Council was not assessed as “Fit for the Future” by IPART in October 2015 was that its population (at 165,000) was considered too small. Council met all of the other “Fit for the Future” benchmarks.
  - A reduction in Council's net recurrent financial position of \$9.1 million from 2016/17 onwards, meaning that to retain some of its previous financial standing, Council will need to cut existing services or increase rates or a combination of both. Council's view is that our ratepayers are likely to judge both Council and the Government harshly if Council seeks a special rate variation to recover a significant portion of the lost revenue.
  - Losing its ranking of being one of the most financially sustainable councils in NSW to being near the bottom of the list, and potentially unsustainable in the long term.
  - Not being able to benefit from the growth and development of the area south of the M2 Motorway through increased rate income and Section 94 contributions, funding which would have been available to deliver regional assets and/or services across the Shire.
  - Losing developable assets in the Epping area worth between \$50 million to \$100 million to the new City of Parramatta Council without any recompense being due to Hornsby Shire from the City of Parramatta.
- The Government needs to urgently commit to a solution to the dilemma now facing Hornsby Shire Council. Time is of the essence for Council and its ratepayers if it is to regain the financial position held up until May 2016.

At this stage, no response has been forthcoming to the Mayor's letters from the either the Premier or the Minister for Local Government.

At the 14 June 2017 General Meeting, Council considered Deputy General Manager's Report No. CS18/17 – Update of Council's Long Term Financial Plan (LTFP). In the Summary of the LTFP it was noted that 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 financial impact of this boundary adjustment was significant to Hornsby Shire Council resulting in the following being transferred to the City of Parramatta:

- Net recurrent revenue of \$9.1 million per annum. Over the period of this Plan, with rate increases applied, this would equate to \$99.6 million.

- Foregone growth in rates income estimated at a minimum of \$2.4 million from current and future development concentrated in this area over the next 10 years.
- Assets that had been identified (in excess of \$50 million) which were to be used towards funding the eventual development of the Hornsby Quarry and Westleigh sites.
- Section 94 funds of \$14 million collected prior to the proclamation date.
- Significant foregone Section 94 funds from projected future development in the area south of the M2 Motorway totalling tens of millions of dollars

Following its consideration of the Report, Council resolved in part that the Acting General Manager be authorised to commence the preparation of a proposal under Section 218E of the Local Government Act which proposes that the land area south of the M2 Motorway (which was transferred from Hornsby Shire Council to the City of Parramatta Council on 12 May 2016) be returned to Hornsby Shire Council. This Report deals with action that has been taken in respect of the preparation of a proposal since the 14 June 2017 General Meeting.

## **DISCUSSION**

### **Statutory Requirements Regarding a Proposal**

On the basis of Council's support for the submission of a proposal, the following is a summary of the statutory requirements relating to proposals:

- Under Section 218E(1) of the Local Government Act, Council is entitled to submit a proposal seeking the return of the former Council area south of the M2 Motorway back to Hornsby Shire Council.
- On receipt of such a proposal from Council, the Minister must refer the proposal for examination and report to the Boundaries Commission or the Chief Executive of the Office of Local Government (OLG).
- Sections 263, 264 and 265 of the Act apply to the examination of a proposal by the OLG Chief Executive in the same way as they apply to the examination of a proposal by the Boundaries Commission.
- Under Section 263 of the Act, the Boundaries Commission/OLG Chief Executive must hold an inquiry, for which reasonable public notice must be given.
- The Boundaries Commission/OLG Chief Executive is required to have regard to the following factors when assessing the proposal:
  - the financial advantages or disadvantages (including the economies or diseconomies of scale) of any relevant proposal to the residents and ratepayers of the areas concerned.
  - the community of interest and geographic cohesion in the existing areas and in any proposed new area.
  - the existing historical and traditional values in the existing areas and the impact of change on them.
  - the attitude of the residents and ratepayers of the areas concerned.
  - the requirements of the area concerned in relation to elected representation for residents and ratepayers at the local level, the desirable and appropriate relationship

between elected representatives and ratepayers and residents and such other matters considered relevant in relation to the past and future patterns of elected representation for that area.

- the impact of the proposal on the ability of the councils of the areas concerned to provide adequate, equitable and appropriate services and facilities.
- the impact of the proposal on the employment of the staff by the councils of the areas concerned.
- the impact of the proposal on rural communities in the areas concerned.
- the desirability (or otherwise) of dividing the resulting area or areas into wards.
- the need to ensure that the opinions of each of the diverse communities of the resulting area or areas are effectively represented.
- such other factors as considered relevant to the provision of efficient and effective local government in the existing and proposed new areas.

### **The Development of a Draft Proposal**

Having regard to the above statutory requirements and Council's decision at the 14 June 2017 General Meeting to submit a proposal to have the area south of the M2 Motorway returned to Hornsby Shire Council, staff have drafted information for incorporation in a final proposal document for submission to the Minister for Local Government.

The information takes account of: the statutory requirements relating to proposals detailed above; Council's support for the NSW Government's Fit for the Future process since 2011; the success of Ku-ring-gai Council in the NSW Supreme Court of Appeal in challenging the Government's proposed amalgamation of Hornsby and Ku-ring-gai Councils; the state of uncertainty that Council has been placed in whilst the Government considers its next moves on local government reform, and in particular the proposed Hornsby/Ku-ring-gai merger; the severe recurrent financial impact that the loss of the area south of the M2 Motorway has had on Council; and questions why the Government acted on the transfer of the area south of the M2 Motorway to the City of Parramatta Council prior to a final decision being made on the proposed Hornsby/Ku-ring-gai merger.

To ensure that Council's proposal contains all relevant information and is in an appropriate format, regard has been had to the content of the multiple proposals made by the Government in early 2016 for council amalgamations across the State, and other merger proposals which have been submitted by councils for the consideration of the Minister since that time.

The information suggested for inclusion in Council's new proposal is detailed under appropriate headings and is shaded below. Because of the short timeframes available, the intent is that this information, together with any other matters that Council determines when formally considering the Report, be used by the Acting General Manager to finalise a proposal for submission to the Minister for Local Government.

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### **Draft Merger Proposal – Hornsby Shire Council and City of Parramatta Council (part)**

#### **Executive Summary**

Hornsby Shire Council is submitting this proposal to the NSW Government asking for the return of the area south of the M2 Motorway. This territory was annexed from Hornsby Shire in May 2016 as part of the Fit for the Future local government reforms and transferred to the City of Parramatta Council.

The purpose of the NSW Government's local government reform was to create larger councils that had sufficient scale and capacity to ensure they could meet the challenges of the future. They were to be more economically viable and of sufficient size to partner with State Government for the delivery of major projects that would benefit communities - but in the case of Hornsby Shire Council it has done the exact opposite.

On 12 May 2016, the NSW Government's Local Government (City of Parramatta and Cumberland) Proclamation 2016 took effect. The proclamation annexed areas south of the M2 Motorway from Hornsby Shire Council and transferred that area to an enlarged City of Parramatta Council. The Government also signalled its support for the proposal for all suburbs north of the M2 Motorway (part of Hornsby Shire) to join with all suburbs in the Ku-ring-gai local government area to form a single large council with the scale and capacity of approximately 250,000 residents, but indicated it would not take action until Ku-ring-gai Council's legal challenge had been heard. In this regard, Ku-ring-gai Council's legal action was based on a number of identified flaws in the NSW Government's process for the implementation of the Hornsby/Ku-ring-gai merger and was ultimately successful in the Court of Appeal.

Hornsby Shire Council was always opposed to the loss of the suburbs south of the M2 Motorway, which had been part of Hornsby Shire since its creation in 1906. However, Council tolerated the move because the proposed amalgamation with Ku-ring-gai Council would ultimately lead to a larger Shire that was better able to deliver services to residents. It is noted that the Government indicated in its analysis of the Hornsby/Ku-ring-gai Council merger that a \$70 million benefit would be provided to the merged Council over a 20 year period if the merger progressed.

Hornsby Shire Council now finds itself in a deleterious situation. The stated purpose of the Fit for the Future initiative was to create larger councils that were more financially sustainable, but the exact opposite has happened to Hornsby Shire Council. The Shire is now 15 percent smaller and Council's financial position is much weaker. With the redrawing of the boundaries Council's budget has dropped from an annual surplus of \$14.638M surplus to an average \$1.4M per annum over the term of Council's recently adopted Long Term Financial Plan.

It should be noted that an IPART assessment of Parramatta City Council prior to the mergers being announced by the Government was that it was rated very similar to Hornsby Shire Council i.e. it met all of the IPART criteria except for Scale and Capacity. What has happened since through the transfer of the area south of the M2 Motorway is that the City of Parramatta has become increasingly strong whilst Hornsby Shire Council has been considerably weakened.

The NSW Government's execution of its local government reform agenda has to date comprehensively failed the residents and ratepayers of Hornsby Shire. Firstly the Government should have had due regard to the Independent Local Government Review Panel's recommendation that whole council mergers take place, and secondly should have instructed the delegate to take account of the excise of the area south of the M2 Motorway in its Hornsby/Ku-ring-gai proposal.

The NSW Government has been silent on any efforts to resolve the dilemma Hornsby Shire Council now faces. The current situation adversely impacts Council and the organisation is demonstrably worse off as a direct result of the process undertaken by the Government. The NSW Government has not committed to resolve the issue in a timely way, and there is a real possibility Hornsby Shire Council, and the people of the Shire, will be left in this precarious position indefinitely.



## Introduction

This is a proposal by Hornsby Shire Council, as a council affected by this proposal, made to the Minister for Local Government under Section 218E(1) of the Local Government Act for the return of the former Council area south of the M2 Motorway back to Hornsby Shire Council. The proposal is made in response to the NSW Government's Local Government (City of Parramatta and Cumberland) Proclamation 2016 which annexed areas south of the M2 Motorway from Hornsby Shire Council and transferred that area to an enlarged City of Parramatta Council.

In 2011, the NSW Government declared its desire to transform the system of local government to ensure that councils are able to deliver the quality services and infrastructure that communities deserve. The Government has consistently stated that reform will create stronger councils and improve the delivery of services and infrastructure. The primary method to achieve these improvements was billed as larger councils with sufficient scale and capacity to effectively partner with the State Government in driving significant community projects. Larger councils would be more efficient, able to achieve substantial budgetary savings, and have the capacity to provide significant benefits to the community.

In Hornsby Shire Council's case, as an unintended consequence of the government's local government reform process, it has done the exact opposite. Hornsby Shire Council is instead smaller, financially weaker, has lost a number of significant assets and rate income, and is feeling abandoned by the NSW Government. The return of the area south of the M2 Motorway will reinstate Hornsby Shire Council's scale and capacity to provide progressive and effective services to the people of Hornsby Shire. It will also reunite communities that Hornsby Shire Council has supported since 1906, communities with similar needs and expectations, communities that have grown together over the past 100 years.

## Background Leading to This Proposal

Reform of local government had been mooted for many years. In 2011 the Mayors and General Managers of all 152 NSW councils and representatives of various local government industry groups met to discuss and plan the future of local government in NSW for the next 25 years.

In 2012 the Independent Local Government Review Panel (ILGRP) was appointed, following a request from the local government sector. The Panel looked at options for local government structures, governance models and boundary changes. It was an evidence-based inquiry that was completed in early 2014. The specific recommendation for Hornsby Shire Council, contained in Table 4 of the Consultation Paper, was for Hornsby Shire Council to amalgamate with Ku-ring-gai Council.

The Panel also recommended, in line with its proposed expansion of the City of Parramatta Council boundaries, that Hornsby's current boundary with Parramatta and/or Ryde Councils be shifted north to the M2 Motorway. It is extremely important to note that this boundary change was suggested only in the context of the Hornsby/Ku-ring-gai merger. The ILGRP consistently stated that mergers of whole councils was its preferred and recommended model.

On 13 August 2014 the NSW Government requested the Independent Pricing and Regulatory Tribunal (IPART) undertake a review of the ILGRP's assessment criteria for 'fit for the future' councils. The NSW Government's stated policy objective at that time was to "*create strategic and Fit for the Future Councils – Councils that are financially sustainable: efficient; with the capacity to effectively manage infrastructure and deliver services; the scale, resources and 'strategic capacity' to govern effectively and partner with the State; and has the capacity to reduce red tape and bureaucracy for*

*business and a scale and structure that is broadly in line with the Panel's recommendations.*" Source – IPART, Review of criteria for Fit for the Future report, page 49

In September 2014, the NSW Government responded to both the ILGRP's recommendations and IPART's assessment criteria by releasing Fit for the Future, A Roadmap of Stronger, Smarter Councils. The Government requested all councils consider voluntary amalgamation options and prepare a plan for moving to a more sustainable position based on IPART's assessed criteria. The Government's roadmap stated, "NSW Government has a vision to rebuild our state and deliver a strong future for the people of NSW. To have a strong future, NSW needs strong councils providing services and infrastructure that communities need." Source – OLG, pg5, A Roadmap for Stronger Smarter Councils.

Hornsby Shire Council conducted research and consulted with neighbouring councils regarding voluntary amalgamation. As no neighbouring council would consider voluntary amalgamation, Hornsby submitted its response to the IPART criteria as a single entity. The Independent Pricing and Regulatory Tribunal (IPART) assessed Hornsby Shire Council as 'not fit' to remain as a standalone entity. IPART's summary for Hornsby was that:

- Hornsby Shire Council does not satisfy the scale and capacity criterion.
- Council satisfies the financial criteria overall. It also satisfies the sustainability, infrastructure and service management and efficiency criteria.
- Scale and capacity is a threshold criterion which councils must meet to be fit for the future, therefore Council is "not fit" for the future.

IPART also assessed Ku-ring-gai Council as 'not fit' to remain as a standalone entity, due to lack of scale and capacity, and recommended that Hornsby and Ku-ring-gai Councils amalgamate.

#### **Current situation – a council in limbo**

On 12 May 2016 the NSW Government proclaimed the expanded City of Parramatta Council, including the former Hornsby Shire area south of the M2 Motorway. The Government also declared its in-principle support for the proposal to amalgamate Hornsby Shire Council (north of the M2 Motorway) with Ku-ring-gai Council, but indicated it would not take action until Ku-ring-gai Council's legal challenge had been heard. At this point, the Government once again reiterated its desire for larger, stronger councils with the strategic capacity to better meet the needs of the community into the future.

Hornsby Shire Council could have become a stronger and more viable council than it previously was, in line with the Fit for the Future goals, if the amalgamation with Ku-ring-gai Council had gone ahead. However, the NSW Government was unable to carry out that merger proposal due to Ku-ring-gai Council's legal action which was ultimately successful. Ku-ring-gai Council's legal action was based, among other objections, on the fact that the delegate considering the Hornsby/Ku-ring-gai merger did not take into account the fact that a large section of Hornsby Shire would be removed before the amalgamation. This was a serious error by the Government, which failed on two counts. Firstly, the Government should have had due regard for the ILGRP's recommendation that whole council mergers take place. Secondly, the Government should have instructed the delegate to take account of the excise of the area south of the M2 Motorway in its Hornsby/Ku-ring-gai proposal, and in particular the negative financial impact on Hornsby Shire Council.

Hornsby Shire Council is now in an extremely difficult position. The NSW Government's stated objective was to strengthen local councils, making them more financially sustainable and giving them greater ability to meet the needs of their communities. Instead the Government's actions have had a

negative impact on Hornsby Shire Council. Council's future financial sustainability has been severely undermined, while its scale and capacity has been reduced. The matter has been made worse by the NSW Government's subsequent inaction and apparent indecision. Hornsby Shire Council is now in a significantly weakened position, unsure of its future and unable to move ahead with primary management decisions. The Council is not even able to carry out something as fundamental as the appointment of a permanent general manager, and has now appointed its third acting general manager since August 2015.

Hornsby Shire Council is of the opinion the two proposals relevant to it, namely transferring the area south of the M2 Motorway and the merger with Ku-ring-gai Council, were co-dependent and therefore needed to occur concurrently. Section 218A of the Local Government Act 1993 specifically refers to amalgamation of two or more areas, not parts of areas. Ku-ring-gai Council's appeal proceedings in the NSW Supreme Court were based on a number of questions, including whether the NSW Government's Hornsby/Ku-ring-gai Council merger proposal involved two local government areas. The Court of Appeal allowed the appeal citing amongst other things, that the proposal did not involve the amalgamation of two areas.

It was a mistake for the Government to proclaim the City of Parramatta thereby removing the area south of the M2 Motorway before the Hornsby/Ku-ring-gai amalgamation was confirmed. This has left Hornsby Shire Council in an appalling state of uncertainty and limbo since May 2016. No other council in NSW has been subjected to such a significant loss of territory, on top of an amalgamation. The situation is worsened by the fact that the NSW Government never signalled its intention to transfer the area south of the M2 Motorway to Parramatta. The NSW Government had only talked about whole council amalgamations. Hornsby Shire Council had been preparing for major changes and upgrades to the Epping area in line with Epping's status as a housing and economic hub. Funds had been invested in research and investigations regarding community requirements in Epping. That was just one of the reasons Hornsby Shire Council opposed the annexure of the territory, both publicly through the media and in its communication to the NSW Government.

Hornsby Shire Council is now 15 percent smaller than it was before the NSW Government began the local government reform process. Its scale and financial capacity has been seriously impacted by the loss of the area south of the M2 Motorway. This area has had significant investment by Council over the past 100 years and has a number of key assets including a library and community centre with a value of at least \$50 million. The loss of the area south of the M2 Motorway has also meant the loss of rates income and the loss of a substantial revenue stream by way of section 94 development contributions. Hornsby Shire Council did not receive any compensation for the loss of assets.

Council has been weakened by the loss of territory and it is not clear whether the Government will rectify the situation by amalgamating Hornsby and Ku-ring-gai Councils. Therefore, Hornsby Shire Council urgently seeks the return of the area south of the M2 Motorway.

### **Hornsby Shire Council's support for the NSW Government**

It is important to note that Hornsby Shire Council is not among the many councils that have opposed local government reform at every step. Hornsby Shire Council has always been a willing participant in the process that has been carried out by the NSW Government. From the very beginning, Council has supported the Government's policy that larger councils are in the best interests of ratepayers, as the stronger financial position makes it much easier to deliver services to residents. This position has been reinforced by three separate independent reports that Council has commissioned to research the amalgamation options, from PriceWaterhouseCoopers, Crosby Textor and KPMG. Each of these indicated there would be significant benefits from an amalgamation between Hornsby and Ku-ring-gai

Councils, such as the Council commissioned KPMG research which showed there would be approximately \$50 million in financial benefits over the first decade of the merger.

In 2015, Hornsby Shire Council submitted two proposals to the Government, each of which would have resulted in a larger council. The first was for Hornsby and Ku-ring-gai Councils to be joined together, along with an expansion of Hornsby Shire Council's existing boundaries at Carlingford, Eastwood, Epping, Marsfield and Macquarie Park. This was part of a broader proposal that would have seen the number of councils in northern Sydney reduced from 11 to three, each of them much larger and with greater financial strength. The second proposal was for the whole of Hornsby and Ku-ring-gai Councils to be amalgamated with no other boundary adjustments.

Hornsby Shire Council's support for the Government's reform agenda can clearly be seen in the public statements that have been made by Council. In late 2015, when the proposals for amalgamations and boundary adjustments were first announced by the Government, Council issued a media release that contained the following remarks by Hornsby Shire Mayor Steve Russell:

"For a long time Hornsby Council has been arguing for amalgamation with Ku-ring-gai as a necessary reform to improve the outcome for ratepayers in both areas"

"We're very pleased that the Government is moving in that direction while still giving residents a chance to have their say to the Boundaries Commission."

Mayor Russell is less enthusiastic about the suggestion that Epping leave Hornsby Shire, but is willing to examine the case being made by the Government.

"Council has invested a lot of money and effort in Epping and we would be very disappointed to say goodbye to it."

"However, we will look into the Government's reasons for this proposal and if it is in the best interests of the local community we will happily support it."

"We will certainly not make any rash, selfish or ill-conceived remarks until we have heard all the evidence."

"A sad fact about the current amalgamation debate is that much of the negative commentary is coming from councillors who are trying to protect their own position and prestige."

"I'm very proud that Hornsby Shire's councillors have remained above that line and are pursuing the best possible result for the residents who elected them, even if it means we will lose our place on Council."

Hornsby Shire Council's support for the amalgamation with Ku-ring-gai Council has always been firm. However, when Council fully examined the proposal to give the territory south of the M2 Motorway to the City of Parramatta Council, it became clear that there would be significant financial losses to the ratepayers of Hornsby Shire. Council made a submission to the Government outlining the reasons that Epping and the other suburbs below the Motorway should remain within the amalgamated Hornsby/Ku-ring-gai Council that was being proposed. That submission was not heeded.

In May 2016, when the Government announced that Hornsby and Ku-ring-gai councils should merge, while the territory below the M2 Motorway should be given to Parramatta, Council once again expressed its support for the Government. On 12 May 2016 Council issued a media release that included the following comments from Mayor Russell:

“This is a big step forward and we’re very pleased to see the Government recognises the benefits it will bring to the ratepayers of both council areas,”

“This is something we have been campaigning for over a number of years and we’re glad to be on the home stretch.”

“There is a great chance that I’ll be unemployed and fishing in a few weeks, but that’s a small price to pay as I’m convinced the merger will bring excellent results and I’ll be proud to have played my part.”

“The benefits will include better services, increased infrastructure spending and a much stronger negotiating position with the government and contractors.

It will also provide a predicted \$70 million in revenue over the next 20 years, on top of the \$20 million the Government is offering to help with the amalgamation process.

Meanwhile, Hornsby Shire Council is affected by the expansion of City of Parramatta Council, with the residents south of the M2 joining the new local government area”.

“We’re not as thrilled about that announcement, as the suburbs around Epping have a long and close connection to Hornsby Council,”

“However, we have long believed the Epping CBD should be in one local government area and we’re pleased to see that will finally happen.”

“To bring about a smooth transition we have been in discussion with Parramatta for some time to ensure services to residents continue without disruption.”

The NSW Government was pleased to have a strong ally from the local government sector. Mayor Russell appeared at the Parliamentary Inquiry into Local Government Reform to speak in favour of the process, one of the few representatives from a council that supported the Government. Mayor Russell also spoke in support of the reform process at LGNSW Conferences when many others were attacking the Government’s reform agenda.

In March 2017, when Ku-ring-gai Council was successful in the NSW Court of Appeal and the Hornsby/Ku-ring-gai amalgamation became suddenly very uncertain, Hornsby Shire Council issued another media release that included the following comments from Mayor Russell:

“For more than a year we have been waiting for Ku-ring-gai Council and the State Government to resolve this issue.”

“We have always been strong supporters of the need for local government reform and that remains our position.”

“We agree that the loss of the area south of the M2 has a significant short-term effect on our Council and any amalgamated council.”

“However, we remain confident that with strong leadership this can be readily overcome.”

From these releases it is clear that Hornsby Shire Council has always supported the NSW Government in its policy of local government reform. Council was not pleased to lose the territory below the M2 Motorway for a number of reasons, but was able to look at the larger picture and acknowledge that the merger with Ku-ring-gai Council would still place the ratepayers in a better position than they were when the reform process began.

The NSW Government could lodge an alternative proposal to merge Hornsby and Ku-ring-gai Councils now but has chosen not to. So far there has been no explanation as to why this has not

happened. If the merger with Ku-ring-gai Council does not take place, the ratepayers of Hornsby Shire will end up losing out as a result of this process. It is not clear whether the NSW Government will push forward with local government reform and at this point Hornsby Shire Council would be happy for the status quo to simply be reinstated.

**The financial advantages or disadvantages (including the economies or diseconomies of scale) of any relevant proposal to the residents and ratepayers of the areas concerned.**

Prior to the 12 May 2016 boundary adjustment with the City of Parramatta, Council's Income Statement Result (before capital and asset sales) had achieved the following results:

- 2013/14 \$6.688 million surplus
- 2014/15 \$14.770 million surplus
- 2015/16 \$14.638 million surplus

Council's operating performance ratio (which is a measure of Council's ability to contain operating expenditure within operating revenue) had achieved a level of 11% and provided capacity to address future infrastructure and service needs without the need to dramatically raise rates to residents.

These results had been achieved through a range of financial initiatives over the last few years which included a 10% reduction in staffing levels, freeze on non-labour related expenditure, outsourcing of some services, performance improvement to business activities, reduced legal fees and increased revenue from development activity to name a few.

Hornsby Shire Council's strong financial performance was recognised by a review conducted in November 2014 by NSW Treasury Corporation that provided a financial sustainability rating of Sound. This Sound financial position was recognised by the NSW Government as part of their assessment process for NSW council amalgamations however due to scale and capacity (population size) a merge with Ku-ring-gai Council was proposed. The ILGRP referred to scale and capacity as "*high capacity councils that can better represent and serve their local communities on metropolitan issues, and be true partners of State and federal agencies*". ILGRP Final Report October 2013 page 98

Council's revised Long Term Financial Plan presented to the 14 June 2017 General Meeting had taken into account the impact of the area transferred to the City of Parramatta Council. Significant adjustments to Council's financial position included:

- Decrease in net recurrent revenue of \$9.1 million per annum. Over the period of this Plan, with rate increases applied, this would equate to \$99.6 million.
- Foregone growth in rates income estimated at a minimum of \$2.4 million from current and future development concentrated in this area over the next 10 years.
- Assets that had been identified (in excess of \$50 million) which were to be used towards funding the eventual development of the Hornsby Quarry and Westleigh sites.
- Section 94 funds of \$14 million collected prior to the proclamation date to be transferred to the City of Parramatta Council.
- Significant foregone Section 94 funds from projected future development in the area south of the M2 Motorway totalling tens of millions of dollars.

As a consequence of the boundary adjustment, a significant decline in Council's operating capacity has been calculated to reduce from 11% to below 1% over the period of the Long Term Financial Plan. Stated in other terms, the 2015/16 surplus of \$14.638M will decline on average over the next

ten years to around \$1.4M. Unfortunately, this result was not predicted by KPMG in their assessment undertaken on behalf of the NSW Government predominantly because it did not take into account the impact of government cross subsidisation principles.

In this regard, as a suburb becomes mature, like the suburbs in the areas south of the M2 Motorway, and they have already benefitted from facilities like a library, an aquatic centre, community centres and sportsfields, part of the revenue collected from rates in this area goes towards funding improvements in other suburbs. The historical establishment of such facilities in the area south of the M2 Motorway has been achieved in the past on the same basis, i.e. by utilising funds derived from other areas of the Shire, including the area north of the M2 Motorway. In essence, the rates being collected in suburbs north of the M2 Motorway were used to establish these facilities based on priority needs at the time.

This decline in operating performance will severely restrict Council's ability to meet future infrastructure and service needs. Renewing infrastructure and buildings will fall below industry benchmarks from 2023/2024 onwards as Council up until this time will depend upon utilising existing cash reserves. The ability to fund significant shortfalls in sporting and recreation needs will also need to be placed on hold due to reduced operating capacity and limited ability to service debt. Major redevelopments such as the Hornsby Quarry and the former Westleigh Water Board site will also need to be placed on hold.

The proposal to return the area south of the M2 Motorway will enable Hornsby Shire Council to restore its operating capacity to levels experienced prior to the 12 May 2016 boundary adjustment. This will enable future infrastructure and service level requirements to be achieved in line with community expectations without burdening residents with rate increases above the rate capping allowance, substantial external loan borrowings or a decrease in service levels.

**The community of interest and geographic cohesion in the existing areas and in any proposed new area.**

Communities of interest evolve from groups that share a common interest. Communities of interest are not defined by delineation such as a Motorway, rather by a shared attachment to a place and its history. Epping and North Epping are some of the earliest settlements in Hornsby Shire having established themselves with the opening of the railway line in 1886. From the beginnings of the incorporation of Epping into Hornsby Shire, Epping has been an important hub in the southern part of the Shire. Hornsby Shire Council invested heavily in providing community facilities and recreational opportunities including establishing parks such as Dence Park. Hornsby Shire Council was also involved in the establishment of the Epping School of Arts in 1907.

**The existing historical and traditional values in the existing areas and the impact of change on them.**

The territory south of the M2 Motorway has been a part of Hornsby Shire since Council's formation in 1906. For more than a century its residents have looked north to Hornsby for local government services and would be much more comfortable once again joining the political landscape they are familiar with.

The first subdivisions of land were made at Epping in 1886, the same year as the railway line opened. In 1906, parts of Epping were incorporated into the newly established Hornsby Shire Council. Although there has been some minor internal Shire boundary adjustments, Epping remained part of Hornsby Shire until 2016. After World War II, there was an increased demand for housing, and the

small farms and orchards were subdivided and sold. This continued throughout the 1940's through to the 1970's with new residential districts being created.

Epping is one of the areas Hornsby Shire Council has invested in heavily over preceding decades. It has always been a significant part of the Shire's community, the southernmost centre of services and infrastructure. Without it the Shire is both smaller and financially weaker, essentially a seriously diminished scale and capacity.

**The attitude of the residents and ratepayers of the areas concerned.**

Since the areas south of the M2 Motorway were removed from Hornsby Shire Council there have been no formal surveys or other research into opinions among the local community. However, the general feedback from residents has indicated that they are less happy being part of the City of Parramatta Council than they were with Hornsby Shire Council. A number of Epping residents have indicated to Hornsby Shire's Mayor, Councillors and staff that they feel ignored by their new Council, that they have gone from being an important centre in Hornsby Shire to an insignificant suburb on the fringes of the City of Parramatta.

There is one element of the research conducted by Crosby Textor, prior to the territory south of the M2 Motorway being taken away from Hornsby Shire, that is relevant to the current discussion. One of the arguments for not returning the lost territory to Hornsby Shire Council is that the suburb of Epping should not be split between two different local government areas, as it was between 1906 and 2016. However, only two percent of residents in Hornsby Shire were concerned by Epping being divided between the Councils, while only seven percent of residents in the northern area of Parramatta were bothered by the split. The concern seems to be a Government concern, not an issue for residents and ratepayers.

**The requirements of the area concerned in relation to elected representation for residents and ratepayers at the local level, the desirable and appropriate relationship between elected representatives and ratepayers and residents and such other matters considered relevant in relation to the past and future patterns of elected representation for that area.**

Hornsby Shire Council's elected representatives have managed the Hornsby local government area very well for over 100 years. The Council is well respected and has always represented its residents and ratepayers cordially and professionally. The Council has never been placed in administration. The area south of the M2 Motorway has been a big winner, with the timely investment in infrastructure that has enabled its growth and prosperity, to the point where it became a 'prize' for the NSW Government to allocate to a neighbouring council.

If this proposal is progressed, there would be little change in the representation that is received by each ratepayer, as this is very similar for both Hornsby Shire Council and the City of Parramatta Council. In Hornsby there are currently 151,000 residents and nine councillors and a popularly elected Mayor, which equates to a representation of one councillor for every 15,100 residents. In Parramatta there are 235,000 residents, which equates to one councillor for every 15,666 residents. The return of the area south of the M2 Motorway has minor impact on representation. Hornsby would have one councillor for every 16,500 residents, Parramatta would have once councillor for 14,666 residents.

**The impact of the proposal on the ability of the councils of the areas concerned to provide adequate, equitable and appropriate services and facilities.**

Placing the area south of the M2 Motorway back under the management of Hornsby Shire Council will have no negative impact on the services and facilities provided to the residents in that area. Hornsby



Shire Council was able to provide excellent services to those residents for more than a century and it would be no challenge to continue doing so. In fact we have continued to provide many services to the community since 12 May 2016 under a contract arrangement with City of Parramatta Council. Council has always invested heavily in the Epping area and had plans for major infrastructure projects, including a new library and community centre, before that area was taken away.

The negative impact will come from not returning that area to Hornsby Shire, with the residents throughout the rest of the Shire certain to suffer because of the loss of that territory. The shrinking of Hornsby Shire has dealt a severe blow to Council's revenue stream and the annual recurrent surplus has dropped from \$14 million to around \$1.4 million on average over the next ten years. This will clearly affect Council's ability to fund new capital items and undertake capital upgrades, as well as providing adequate, equitable and appropriate services and facilities.

Under a 'fee for service' arrangement with City of Parramatta Council, Hornsby Shire Council has continued to provide major services to the residences south of the M2 Motorway including comprehensive rating services, domestic waste management, etc. These are core local government services. Hornsby Shire Council can easily assume control and delivery of all the services it formerly provided to the area south of the M2 Motorway.

**The impact of the proposal on the employment of the staff by the councils of the areas concerned.**

Returning the territory south of the M2 Motorway to Hornsby Shire will have no impact on the staff employed by each Council. At worst, there would be minor reshuffling as the staff who have been transferred from Hornsby to Parramatta, such as those who work in Epping Library, are returned.

Again, the worst impact will come if the territory is not returned to Hornsby. This is because Hornsby Shire Council's much weaker financial position could leave the Council with no option other than to review its various services in an effort to decrease expenditure. Such a review would likely lead to a decrease in staff levels throughout Council.

Hornsby Shire Council continues to provide some major services to the area south of the M2 Motorway as outlined above and would have no difficulty in resuming provision of a full suite of local government services to the area.

**The impact of the proposal on rural communities in the areas concerned.**

There are no significant rural communities in the area south of the M2 Motorway. Hornsby Shire's rural communities are mainly located in the northwest and they would not be affected at all by the proposal, except for the positive impact of joining the rest of the Shire in enjoying a much stronger financial position.

**The desirability (or otherwise) of dividing the resulting area or areas into wards.**

For more than a century, Hornsby Shire Council had a positive experience with three wards that each elected three councillors. Since 2004, Hornsby Shire Council has also had a popularly elected Mayor, which has also been successful. It is suggested that, should the territory south of the M2 Motorway be returned to Hornsby Council, this system continue with ward boundaries similar to those that existed before the area south of the M2 Motorway was removed from the Shire.

**The need to ensure that the opinions of each of the diverse communities of the resulting area or areas are effectively represented.**

For more than a century, Hornsby Shire Council has represented the interests of the various groups and communities that reside in Hornsby Shire. Council's Community Strategic Plan describes what all Shire residents value about living here; it's a feeling of wellbeing that comes from living in an area with clean air, green spaces, serviced with good infrastructure, a place that feels safe and neighbourhoods that are friendly. The people residing south of the M2 Motorway were included in the consultations that described life in Hornsby Shire.

**Such other factors as considered relevant to the provision of efficient and effective local government in the existing and proposed new areas.*****The M2 Motorway as a boundary***

The M2 motorway is not a substantive local government boundary with historical credibility. The motorway has been "retro fitted" with the community able to either transverse under or over the road. Many communities, sporting groups, school catchments and religious groups permeate through this boundary.

Hornsby Shire Council has been seamlessly delivering services to the area south of the M2 Motorway for many years. These services include:

- Waste and recycling services
- Community services including a library, numerous community buildings and community centres
- Recreation services including a swimming pool, parks and ovals, and playgrounds
- Development application assessment
- Receipt of Section 94 contributions
- Planning proposal evaluation
- Principal certifying authority
- Swimming pool inspections
- Food premises inspections
- Major infrastructure improvements including Oxford Street Epping.

Hornsby Shire Council has invested heavily in the area south of the M2 Motorway in the past. That investment continues. Council embarked on a major project to upgrade the Epping area including redeveloping the CBD public spaces and enlivening the town centre.

Annexing the area south of the M2 Motorway has fractured the suburbs of Epping and North Epping. Epping and Epping North are named after Epping Forest in England. Hornsby Shire was created in the 1880's as a result of the construction of the main northern railway line and the north shore line. The suburbs of Epping and North Epping were part of the original Shire area. Epping railway station was opened in 1886 and was vital to the timber getting industry in Hornsby Shire that supplied wood to the burgeoning Sydney town.

Both Epping and North Epping were under the municipal authority of C Ward in Hornsby Shire Council, both are part of the federal electorate of Bennelong and State electorate of Epping. Epping

and North Epping share the same postcode 2121 and community groups in both suburbs contribute to the community website epping2121.com.au.

### ***Parramatta as a second CBD***

The annexure of the area south of the M2 Motorway was principally about giving the Parramatta local government area a bigger geographical land mass and population base. Parramatta has been nominated as a second CBD for many years, however has struggled over the past 40 years to establish itself as such. The failure is often attributed to the State Government's failure over successive decades to provide sufficient support and resources. A larger geographical area does little to change the result. Increasing its population base by transferring an area with large rating capacity means the NSW Government redistributes a valuable funding source from one local government area to another.

By comparison, Sydney City has only a marginally higher population base than Parramatta and that Council also has a very small geographical footprint and was not the subject of any of the 35 merger proposals. This raises the question about the purpose behind transferring the area of Hornsby Shire south of the M2 Motorway. It also points to the fact that the City of Parramatta Council does not require the additional area south of the M2 Motorway, particularly as Epping is on the eastern fringe of the Parramatta area and has very little in common with the social demography of the Parramatta local government area.

### **Conclusion**

This merger proposal being submitted by Hornsby Shire Council is completely new. The ILGRP did not identify it nor did it assess it. The IPART review did not identify it and nor has this merger proposal been assessed by it. However the same is true of the proposal that saw the suburbs south of the M2 Motorway transferred to City of Parramatta Council.

By its very nature, the proposal to transfer suburbs south of the M2 Motorway to the City of Parramatta Council represents a complex boundary adjustment which has had a high cost in any way you measure it and will result in very little benefit. This new proposal aims to rectify that situation and return the suburbs south of the M2 Motorway to Hornsby Shire where they had been for over 100 years.

A whole merger with Hornsby and Ku-ring-gai councils makes more sense in terms of all of the factors of community cohesion, less disruption of staff, less complexities with existing contracts (like garbage services) and preserves historical linkages. If the NSW Government does not progress local government reform further it must act to rectify the consequences that have impacted on Hornsby Shire Council. By the Government's actions and inaction, its strongest supporter of local government reform has been left weaker with less scale and capacity than before. And it is the only local government area where this has occurred.

Hornsby Shire Council was always opposed to the loss of Epping to City of Parramatta Council. We argued against the loss of suburbs south of the M2 Motorway, which had always been part of our Shire, and we were very disappointed by the NSW Government's decision. However, we accepted that decision because the bigger picture led to larger councils and significant savings for ratepayers that would significantly more than offset the financial loss associated with the excision of the area south of the M2 Motorway.

The NSW Government's failure to amalgamate Hornsby and Ku-ring-gai councils means the suburbs south of the M2 Motorway should be returned to Hornsby Shire where they belonged prior to the NSW

Government's boundary adjustment with the City of Parramatta Council. If this does not happen, the NSW Government's local government reform agenda has done nothing for the people of Hornsby Shire. It will have taken one of the best performing councils in NSW and decreased its scale and capacity which is the antithesis of the Government's own aims and policies.

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## **CONSULTATION**

In the preparation of this Report, reference has been made to the content of the multiple proposals made by the Government in early 2016 for the merger of councils across the State as well as other single proposals which have been submitted by councils for the consideration of the Minister since that time. This has ensured a consistency of approach in the development of Council's new draft proposal for the return of the former Council area south of the M2 Motorway.

## **BUDGET**

The financial impact of the position that Council has found itself in as a result of Ku-ring-gai Council's success in the Supreme Court of Appeal combined with the lack of any subsequent action by the Government was detailed in Deputy General Manager's Report No. CS18/17 – Update of Council's Long Term Financial Plan. A summary of the financial impact is included in the Background section of this Report above.

## **POLICY**

Council's current policy position on this issue was determined following its consideration at the 14 June 2017 General Meeting of Deputy General Manager's Report No. CS18/17 – Update of Council's Long Term Financial Plan – when it decided that the Acting General Manager be authorised to commence the preparation of a proposal under Section 218E of the Local Government Act which proposes that the land area south of the M2 Motorway (which was transferred from Hornsby Shire Council to the City of Parramatta Council on 12 May 2016) be returned to Hornsby Shire Council.

## **CONCLUSION**

Throughout the NSW Government's Fit for the Future Process, Council, as a responsible local government authority, has been committed to and has participated in ongoing discussions with the NSW Government and neighbouring councils about the reform of local government and the future of Hornsby Shire. As Council has been in a state of uncertainty for an extended period of time, firstly awaiting the result of Ku-ring-gai Council's legal action, and secondly whilst waiting for the Government's response to Ku-ring-gai Council's success in the Courts, it is now imperative that action be taken to ensure the long term sustainability of Hornsby Shire Council. It is recommended that one of those actions be the submission of a proposal to the Minister for Local Government that the former Council area south of the M2 Motorway be returned to Hornsby Shire Council. As there are statutory requirements that the Minister must meet in considering the proposal, Council's submission of a proposal should elevate the matter within Government and ensure that it is dealt with by the Government in a reasonable timeframe.

## **RESPONSIBLE OFFICER**

The officer responsible for the preparation of this Report is the Deputy General Manager, Corporate Support – Mr Gary Bensley - who can be contacted on 9847-6605.

GARY BENSLEY  
Deputy General Manager - Corporate Support  
Corporate Support Division

STEPHEN FEDOROW  
Acting General Manager  
General Manager Division

**Attachments:**

There are no attachments for this report.

File Reference: F2016/00007

Document Number: D07242405

**2 INVESTMENTS AND BORROWINGS FOR 2016/17 - STATUS FOR PERIOD ENDING 31 MAY 2017**

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**EXECUTIVE SUMMARY**

- This Report provides details of Council's investment performance for the period ending 31 May 2017 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 May 2017 was 2.64% compared to the benchmark of 1.50%.

**RECOMMENDATION**

THAT the contents of Deputy General Manager's Report No. CS20/17 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 31 May 2017 is detailed in the attached document. In summary, the At-Call and Term Deposits achieved an annualised return of 2.64% for May 2017, compared to the benchmark of 1.5%.

In respect of Council borrowings, the weighted average interest rate payable on outstanding loans taken out from June 2007 to date, based on the principal balances outstanding is 7.19%. The Borrowings Schedule as at 31 May 2017 is also attached for Council's information.

**CONSULTATION**

Appropriate consultation has occurred with Council's financial investment adviser in the preparation of this Report.

**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 period ended May 2017 was \$4,119,000 compared to the budgeted income of \$2,750,000. Approximately 40% 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 31 May 2017 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 Investments Holdings Report - May 2017
- 2.[View](#) HSC Borrowings Schedule - May 2017

File Reference: F2004/06987-02

Document Number: D07229527



**3 DEVELOPMENT APPLICATION - CHILDCARE CENTRE - 179 BEECROFT ROAD, CHELTENHAM**

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**EXECUTIVE SUMMARY**

<b>DA No:</b>	DA/1159/2016 (Lodged on 21 September 2016)
<b>Description:</b>	Adaptive re-use of the existing heritage listed Church building for use as a childcare centre for 60 children
<b>Property:</b>	Lots 83 and 84, DP 9085 No.179 Beecroft Road, Cheltenham
<b>Applicant:</b>	David White Architect
<b>Owner:</b>	Tic Investments NSW Pty Ltd
<b>Estimated Value:</b>	\$2,500,000

- The application involves the adaptive re-use of the existing heritage listed Church building for use as a childcare centre for 60 children.
- The development involves land previously owned by Council. In accordance with Council's adopted Policy '*Proposed Council Developments*' an independent assessment of the development application has been undertaken by Nexus Environmental Planning Pty Ltd.
- Twenty-one submissions have been received in respect of the application.
- A Red Sticker has also been placed on the application requiring that it be determined at a Council meeting.
- The report by *Nexus Environmental Planning* is attached to this report for Council's consideration. The report recommends approval.

**RECOMMENDATION**

THAT Development Application No. DA/1159/2016 for the adaptive re-use of the existing heritage listed Church building for use as a childcare centre for 60 children at Lots 83 and 84, DP 9085 No.179 Beecroft Road, Cheltenham be approved in accordance with the recommendation of the independent town planning consultant's report – *Nexus Environmental Planning Pty Ltd* detailed in Schedule 1 of Group Manager's Report No. PL/33/17.

## ASSESSMENT

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

The consultant report concludes that redevelopment of the previously used Church site would have negligible adverse impacts on the natural and the built environment of the locality. Once completed, the development would have a positive social impact on the community.

## CONCLUSION

The application proposes the adaptive re-use of the existing church building for use as a childcare centre for 60 children. The proposal includes alterations and additions to the existing built form, construction of a new facility adjoining the Church building to cater for infants and administration, and the construction of off-street car parking, a playground and landscaping.

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

It is recommended that Council approve the application in accordance with the recommendation in the report prepared by *Nexus Environmental Planning Pty Ltd* and the conditions of consent detailed in Schedule 1 of this report.

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

## 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

FLETCHER RAYNER  
Acting Group Manager  
Planning Division

### Attachments:

- [1.View](#) Locality Plan
- [2.View](#) Consultant's Report

- 3.[View](#) Site Plan
- 4.[View](#) Landscape Plan
- 5.[View](#) Floor Plans
- 6.[View](#) Elevations
- 7.[View](#) Sections
- 8.[View](#) Shadow Diagram
- 9.[View](#) Fencing

File Reference: DA/1159/2016

Document Number: D07232604

## SCHEDULE 1

### GENERAL CONDITIONS

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

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

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

#### 1. Approved Plans And Supporting Documentation

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

##### *Architectural Plans Prepared By David White Architect*

Plan No.	Issue	Plan Title	Dated
A.1000	K	Site Plan	8.06.2017
A.1001	B	Indoor/Outdoor Play Areas Plan	20.09.2016
A.2001	N	Ground Floor Plan	8.06.2017
A.2002	H	Part Ground Floor Plan	31.03.2017
A.2003	K	Upper Floor Plan	31.03.2017
A.3001	I	North & West Elevations	31.03.2017
A.3002	I	South & East Elevations	31.03.2017
A.3101	H	Sections AA & BB	31.03.2017
A.3102	A	Sections CC & DD	31.03.2017
A.3003	B	Fence Street Elevations	31.03.2017
FS.7001	A	Finishes Schedule	19.09.2016

##### *Landscape Plans Prepared By Selena Hannan Landscape Design*

Plan No.	Issue	Plan Title	Dated
LP01C	C	Landscape Plan	1.08.2016

##### *Stormwater Plans Prepared By Acor Consultants*

Plan No.	Issue	Plan Title	Dated
C1	B	Cover Sheet and Notes	3.08.2016
C2	B	Stormwater Management Plan	3.08.2016
C3	B	Stormwater Management Detail Sheet	3.08.2016
C4	B	On-Site Detention Report	28.11.2016

Document Title	Prepared by	Dated
Site Analysis Plan (Reference Drawing No. SA.6001 Issue A)	David White Architect	19.9.2016
Survey Plan (Reference Drawing No. 57469001A)	Hill & Blume Consulting Surveyors	24.08.2015
Sediment and Erosion Control Plan (Reference Drawing No. SC.5001 Issue A)	David White Architect	19.09.2016
Shadow Diagram 21 <sup>st</sup> June 9.00am (Reference Drawing No. SD.4001 Issue A)	David White Architect	19.9.2016
Shadow Diagram 21 <sup>st</sup> June 12 noon (Reference Drawing No. SD.4002 Issue A)	David White Architect	19.9.2016
Shadow Diagram 21 <sup>st</sup> June 3.00pm (Reference Drawing No. SD.4003 Issue A)	David White Architect	19.9.2016
Acoustic Assessment (Reference No. 20161071.1/0408A/R1/HP)	Acoustic Logic	4.08.2016
Management Plan	Ian Glendinning Planning Pty Ltd	September 2016
Statement of Heritage Impact	Graham Brookes and Associates	July 2016
Waste Management Plan	David White Architect	19.09.2016
Plant schedule Images of plants and conceptual planting layout Landscape materials Preliminary landscape softworks specification	Selena Hannan Landscape Design	1 August 2016
Arboricultural Impact Assessment	Footprint Green Pty Ltd	12 July 2016
Arboricultural Comments Tree Root Investigations and Resistograph Testing	Footprint Green Pty Ltd	3 April 2017

Traffic Report (Reference No. 16341)	Varga Traffic Planning Pty Ltd	20 September 2016
Addendum to Traffic Report (Reference No. 16341)	Varga Traffic Planning Pty Ltd	6 March 2017

## 2. Appointment of a Project Arborist

- a) A project arborist with AQF Level 5 qualifications must be appointed to provide monitoring and certification throughout the construction period.
- b) Details of the appointed project arborist must be submitted to Council and the PCA for registration with the application for the construction certificate.

## 3. Removal of Trees

- a) This development consent permits the removal of trees numbered 2, 8, 10, 11, 13, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24 and 28 as identified on sheets 3 and 4 of the Arboricultural Impact Assessment submitted by Footprint Green dated 12 July 2016.
- 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 (HDCCP)*.
- c) The removal of tree 2 located on the nature strip shall be undertaken in accordance with the following:
  - i) A suitably qualified and experienced Arborist (Australian Qualification Level 3 or higher) shall be employed to undertake the works.
  - ii) A copy of the Arborists (Tree Contractors) Public Liability Insurance Certificate and qualifications shall be provided to Council prior to the works date.
  - iii) Notification of the date of works is to be provided one week in advance.

## 4. Amendment of Plans

- a) The approved plans are to be amended as follows:
  - i) The designated pedestrian marking within the car park is to be removed.
  - ii) The metal street boundary fencing should be a dark colour, such as black to be visually recessive in the landscape.
- b) These amended plans must be submitted with the application for the Construction Certificate.

## 5. 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.

#### 6. 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, \$25,000 must be paid to Council to cater for the increased demand for community infrastructure resulting from the development, based on development costs of \$2,500,000.
- b) The value of this contribution is current as at 13 June 2017. 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:

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

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](http://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****7. Building Code of Australia**

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

**8. Utility Services**

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

- a) Ausgrid (formerly Energy Australia) – 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.

**9. 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. The Traffic Control Plan shall be submitted with any application for works within the public road reserve. The TCP must detail the following:

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

**10. Construction Vehicles**

All construction vehicles associated with the proposed development are to be contained on site or in a Local Traffic Committee (LTC) approved "Works Zone" and as follows:

- a) The site supervisor to be advised that the Works Zone will be deemed to be in effect, and fees will apply, between the dates nominated by the supervisor, or when parking spaces are managed for the sole use of construction vehicles associated with the site.
- b) The Works Zone signs shall be in effect only for the times approved by Council, and the time is to be noted on the sign. Eg, 'Works Zone Mon – Sat 7am – 5pm'.
- c) The applicant is required to supply a sign posting installation plan for referral to the Local Traffic Committee, noting on it the duration of the Works Zone.
- d) The Works Zone is only to be used for the loading and unloading of vehicles. Parking of workers' vehicles, or storage of materials, is not permitted.

**11. Pedestrian Access Management Plan**

A Pedestrian Access Management Plan (PAMP) detailing how pedestrian movements will be changed and managed during various stages of development, particularly during any partial



or total closure of footpaths. Council will review the PAMP, agree any modifications with the proponent and enforce the PAMP during construction.

## 12. 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 directly to Council's street drainage system.
- b) The roof and stormwater drainage system from the existing building to be connected to the proposed drainage system including the OSD system.

## 13. On Site Stormwater Detention

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

- a) Have a capacity of not less than 16 cubic metres, and a maximum discharge (when full) of 69 litres per second;
- b) Have a surcharge/inspection grate located directly above the outlet;
- c) 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;

## 14. Internal Driveway/Vehicular Areas

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

- a) Design levels at the front boundary shall be obtained from Council if a private accredited certifier is engaged to obtain a construction certificate for these works.
- b) The driveway be a rigid pavement.

## 15. Vehicular Crossing

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

- a) Design levels at the front boundary must be obtained from Council for the design on the internal driveway;
- b) Any redundant crossings must be replaced with integral kerb and gutter;
- c) The footway area must be restored by turfing;

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

**16. Car Parking**

All car parking must be designed 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.

- a) All parking areas and driveways are to be line marked and signposted;
- b) Car parking, loading and manoeuvring areas to be used solely for nominated purposes;
- c) Vehicles awaiting loading, unloading or servicing shall be parked on site and not on adjacent or nearby public roads;
- d) All vehicular entry on to the site and egress from the site shall be made in a forward direction.
- e) All parking for people with disabilities is to comply with AS/NZS 2890.6:2009 Off-street parking for people with disabilities.

**17. Acoustical Treatment**

The childcare centre development must be carried out in accordance with the recommendations contained within the Acoustic Assessment document number 20161071.1/0408A/R1/HP prepared by Acoustic Logic dated 4 August 2016.

**18. Waste Management Details**

The following waste management requirements must be complied with:

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:

- a) An estimate of the types and volumes of waste and recyclables to be generated;
- b) A site plan showing sorting and storage areas for demolition and construction waste and the vehicle access to these areas;
- c) How excavation, demolition and construction waste materials will be reused or recycled and where residual wastes will be disposed;
- d) The total percentage (by weight) of demolition and construction waste that will be reused or recycled.

The path/route along which the bins are to be carted from the bin storage area to The Promenade is to be no less than 1.5 m wide. There must be no steps along this route.

**19. Photographic Archival Record**

A photographic archival record of the heritage listed property at No.179 Beecroft Road, Cheltenham must be undertaken by a suitably qualified professional prior to commencement of internal and external works to the former church building. The photographic record should be generally undertaken in accordance with the Office of Environment and Heritage, Heritage Branch Guidelines and 1 complete 'hard' copy submitted to Hornsby Council, plus an electronic copy. The photographic and measured drawing record shall include (but not be limited to) an accurate record of the exterior and interior of the building and its setting.

Satisfaction of this condition shall be confirmed by written advice by Council's Strategic Planning Branch prior to issue of the construction certificate.

## REQUIREMENTS PRIOR TO THE COMMENCEMENT OF ANY WORKS

### 20. 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.

### 21. 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.

### 22. 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*.

### 23. 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.*

#### **24. Installation of Tree Protection**

- a) All tree protection fencing for the trees to be retained must be erected around trees numbered 7, 9, 12, 14, 29 and 30 as specified in the submitted Arboricultural Impact Assessment provided by Footprint Green dated 12 July 2016.
- b) Tree protection fencing must be erected around tree numbered 6 in accordance with the relevant requirements of Australian Standard AS 4970-2009 - "Protection of Trees on Development Sites".

#### **25. Tree Protection Certification**

To ensure that all tree protection measures are correctly installed, a certificate from the appointed project arborist must be submitted to the Principal Certifying Authority confirming compliance with the tree protection requirements of this consent.

### **REQUIREMENTS DURING DEMOLITION AND CONSTRUCTION**

#### **26. 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.

#### **27. 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.

#### **28. Asbestos and Soil Contamination (During Construction)**

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

#### **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 The Promenade 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.

**32. 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.

**33. 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.

**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. 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.*

### **36. Traffic Control Plan Compliance**

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

### **37. Works Near Trees**

- a) To maintain tree health and condition, the appointed project arborist must monitor and record any and all necessary remedial actions required for trees numbered 6, 7, 9, 12, 14, 29 and 30 on the approved plans.
- b) The maintenance and monitoring of all tree protection techniques must be recorded by the appointed project arborist during the period of construction for submission with the application for the occupation certificate.

### **38. Works within Tree Protection Zones**

- a) Any necessary excavations within the Tree Protection Zone of trees to be retained on the approved plans, must be undertaken using construction techniques as prescribed in the Australian Standard AS 4970-2009 – “Protection of Trees on Development Sites” Section 4.5.5.
- b) All root pruning must be undertaken in accordance with the relevant requirements of Australian Standard AS 4970-2009 “Protection of Trees on Development Sites” - Sections 3.3.4, 4.5.4 and 4.5.5.

To minimise the environmental impacts of the development within the Tree Protection Zone (TPZ) of trees to be retained:

- i) The installation of any underground services which either enters or transects the designated TPZ must utilise sensitive methods such manual excavation.
- ii) The installation of any underground services must be inspected by the project arborist to monitor the likely impacts of the development on retained trees.
- iii) For manual excavation of trenches the project arborist must advise on roots to be retained and must monitor the works. Manual excavation may include the use of pneumatic and hydraulic tools. Refer Clause 4.5.3.

### **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. Works near trees certification**

- a) The project arborist must submit monthly to the principal certifying authority on a monthly a certificate that the works have been carried out in compliance with the approved plans and specifications for tree protection.
- b) Certification should include a statement of site attendance, the condition of the retained trees, details of any deviations from the approved tree protection measures and their impacts on trees.

*Note: Copies of monitoring documentation may be required by the PCA and/or Council.*

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

**42. 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.

**43. 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](http://www.hornsby.nsw.gov.au).*

**44. Retaining Walls**

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

**45. 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.

**46. Creation of Easements**

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

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

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

**47. Works as Executed Plan**

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

**48. 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.

**49. Occupational Hygienist**

Provide to Council and the Principal Certifying Authority a hazardous materials report prepared by a suitably qualified Occupational Hygienist that the site is clear of contamination and suitable for the intended use. The survey is to be undertaken in accordance with the *Work Health and Safety Regulation 2011 (NSW)* including laboratory analysis for asbestos and lead on the site and within the soil.

**50. Consolidation of Allotments**

All allotments the subject of this consent must be consolidated into one allotment.

*Note: The applicant is recommended to submit the plan of subdivision to consolidate allotments to the NSW Department of Lands at least 4-6 weeks prior to seeking an occupation certificate.*

**51. Food Premises**

The fit out and operation of that part of the building to be used for the manufacture, preparation or storage of food, must be in accordance with Australian Standard 4674-2004 – Design and fit out of food premises, the Food Act 2003, and the Food Regulation 2015 and the Food Standards Code developed by Food Standards Australia New Zealand. Food Standards 3.3.1, 3.2.2 and 3.2.3 are mandatory for all food businesses.

Note: Walls are to be of solid construction.

**52. Kitchen Exhaust Installation**



A kitchen exhaust system must be designed and installed to effectively prevent air pollution in accordance with the Protection of the Environment Operations Act 1997.

### 53. Waste Management Details

The following waste management requirements must be complied with:

The bin storage area must include water or a hose for cleaning, graded floors with drainage to sewer, sealed and impervious surface, adequate lighting and ventilation.

A report must be prepared by an appropriately qualified person, certifying the following:

- a) A comparison of the estimated quantities of each demolition and construction 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*

- b) 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 Demolition and Construction Stages, the Report is to include the reasons why this occurred and certify that appropriate work practices were employed to implement the approved Waste Management Plan. The Report must be based on documentary evidence such as tipping dockets/receipts from recycling depots, transfer stations and landfills, audits of procedures etc. which are to be attached to the report.*

- c) All waste was taken to site(s) that were lawfully permitted to accept that waste.
- d) Space must be provided for a compost container.

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

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

Note: Ramps between different levels are acceptable.

### 54. Final Certification Arborist

- a) The suitably qualified person holding a certificate III in Horticulture must submit to the principal certifying authority a Statement/or/Certification confirming all landscape requirements have been completed in accordance with approved landscape plans and conditions of consent.
- b) The Project supervisor must submit to the principal certifying authority all relevant certificates with the application for the occupation certificate stating compliance with all the conditions of this consent.
- c) The Project arborist must submit to the principal certifying authority a certificate that all the completed works have been carried out in compliance with the approved plans and specifications for tree protection.
- d) Certification must include a statement of overall site attendance, the condition of the retained trees, details of any deviations from the approved tree protection measures and their impacts on trees.

*Note: Copies of monitoring documentation may be required.*

**55. Landscaping and Fencing**

Any proposed landscaping and/or fencing must not restrict sight distance to pedestrians and cyclists travelling along the footpath.

**56. Line Marking**

“Keep Clear” line marking must be installed on Beecroft Road at the Promenade intersection, subject to RMS approval

**57. Kerb and Gutter**

The existing kerb and gutter must be replaced from the new vehicle crossing east to the boundary line with No. 2 The Promenade, Beecroft.

**OPERATIONAL CONDITIONS****58. Use of Premises**

The development approved under this consent shall be used for childcare centre and not for any other purpose without Council’s separate written consent.

**59. Hours of Operation**

The hours of operation of the premise are restricted to those times listed below:

Monday to Friday	7.00 am to 6.30 pm
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**60. Number of Children**

The centre shall accommodate a maximum of 60 children at any one time with a maximum of 20 children in 0-2 years; 20 children in 2-3 years; and 20 children in 3-5 years as at 1 January of each calendar year.

**61. Noise**

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

**62. Fire Safety Statement - Annual**

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

**63. Plan of Management**

The childcare centre is to operate in accordance with the Plan of Management subject to the conditions of consent and applicable legislative requirements. The Plan of Management is to be updated and maintained accordingly.

**64. Waste Management**

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

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

- b) All commercial tenant(s) must have a sufficient number of bins to contain the volume of waste and recycling expected to be generated between collection services.
- c) All bins must be placed along The Promenade for waste and recycling collection services evening before the day of the weekly garbage collection, and the bins are to be returned to the on-site bin storage area promptly afterwards.
- d) A Work, Health & Safety (WHS) risk assessment is to be carried out by a suitably qualified person with qualifications in Work, Health & Safety Legislation with specific regard to waste management. The recommendations of the WHS Risk Assessment are to be implemented as required.

**- 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). (HDCP 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.

### **Advertising Signage – Separate DA Required**

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

### **Dial Before You Dig**

Prior to commencing any works, the applicant is encouraged to contact Dial Before You Dig on 1100 or [www.dialbeforeyoudig.com.au](http://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](http://www.environment.nsw.gov.au)

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

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

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

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

#### **4 REVIEW OF PLANNING FOR BUSHFIRE PROTECTION**

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##### **EXECUTIVE SUMMARY**

- In May 2017, the NSW Rural Fire Service released *draft Planning for Bushfire Protection (PBP) 2017* for public exhibition.
- Major changes include a restructure and reformatting, alignment with Australian Standards, changes to fuel loads, new chapters on strategic planning and grasslands and varied performance criteria for Special Fire Protection Purpose uses.
- Although the new format is supported, concern is raised with the proposed requirements for land not mapped as bushfire prone and inconsistency with the Department of Planning and Environment's guidelines for preparing planning proposals.
- It is recommended that Council forward a submission to the NSW Rural Fire Service supporting the updated format and raising concern that the amendments do not clarify the status of the Housing Strategy precincts north of Hornsby which were not progressed in 2011 due to evacuation concerns raised by the NSW Rural Fire Service.

##### **RECOMMENDATION**

THAT a submission be forwarded to the NSW Rural Fire Service supporting the reformatting and restructure of *draft Planning for Bushfire Protection 2017* and raising the concerns identified in Group Manager's Report PL31/17, including:

1. Requirements for land not mapped as bushfire prone land should not be introduced. Bushfire Prone Land Mapping should be sufficiently undertaken to identify land exposed to bushfire threat to which Planning for Bushfire Protection applies.
2. The amendments relating to strategic planning are inconsistent with the current Gateway process for planning proposals as published by the Department of Planning and Environment.
3. Further clarification should be provided regarding hazard complaints and the relevant Bushfire Protection Measures which should apply.
4. Standardised conditions of consent should apply to all councils to ensure the maintenance of Asset Protection Zones in perpetuity.
5. The amendments do not address or provide a solution for Housing Strategy precincts deferred from Council's LEP in 2011 based on concerns raised by the NSW Rural Fire Service.

## PURPOSE

The purpose of this Report is to outline amendments to *Planning for Bushfire Protection* which have been released for public exhibition by the NSW Rural Fire Service, identify implications for Hornsby Shire and to seek endorsement of a submission.

## BACKGROUND

In 2001, *Planning for Bushfire Protection* was released by the NSW Rural Fire Service to provide councils, developers, consultants, fire authorities and homeowners with information on bushfire protection for consideration in plan-making, development control, design, construction and property maintenance. In 2002, as a consequence of the 2001 bushfires, a Joint Select Committee was established which made several recommendations including that the Planning for Bushfire Protection Guidelines continue to be reviewed and updated as new research about fire impact on buildings becomes available.

Consequently a new version, *Planning for Bushfire Protection 2006*, was published to provide updated development standards for building in bushfire prone areas. The NSW RFS has since published a number of fact sheets to clarify or update the document as a result of the findings from the Victorian 2009 Bush Fires Royal Commission and changes to building construction standards.

*Draft Planning for Bushfire Protection 2017* has been released for public exhibition until 25 June 2017. A copy of Council's submission report has been forwarded to the NSW RFS which will be updated pending Council's resolution.

## DISCUSSION

This report examines the draft document *Planning for Bushfire Protection (PBP) 2017* (copy attached) and its implications for Hornsby Shire.

### 1. PLANNING FOR BUSHFIRE PROTECTION 2017

One of the major changes to *PBP* is a restructure and reformatting of the document for clarification and ease of use. The change in format and structure is welcomed. Separate chapters for different development types simplify the document for the end-user. The standards for infill development and the differentiation between existing or infill development are supported. However, the following concerns are raised in relation to document content.

#### 1.1 Requirements for land not mapped as bushfire prone

Figure 1.5 on pages 12 and 13 provides a step by step flow chart on how to use *PBP*. Step 1 of the flow chart introduces an additional layer of complexity to bushfire protection by identifying land that is not mapped as bushfire prone land which may need to follow *PBP*.

Figure 2.4 on page 21 presents a flow chart identifying that land not mapped as bushfire prone may have bushfire requirements if there are any areas of vegetation nearby that could support a fire. The flow chart advises that the consent authority or certifying authority be consulted to determine the requirements. It is unclear how the consent authority or certifying authority would determine bushfire requirements on land that is not mapped as bushfire prone.

**Recommendation:** Bushfire Prone Land Mapping should be sufficient to identify land to which bushfire requirements apply, without an additional onus on Council or certifiers to determine requirements on land not mapped as bushfire prone.

#### 1.2 Chapter 1 - Introduction

Step 3 of the flow chart on page 12 advises users to read Chapter 2 to determine the type of planning application. However, Chapter 2 does not correspond with the application types and there is no mention of planning proposals or development control plans. Conversely, urban release areas are mentioned in Chapter 2 but are not listed in the flow chart. The terminology is also confusing, as the list is described as types of applications but most of the listings are types of developments.

**Recommendation:** The terminology in Step 3 of Figure 1.5 should be reviewed for consistency and should correspond to matching headings in Chapter 2 for ease of reference, including the addition of urban release areas to the list in Step 3.

### 1.3 Chapter 2 - Framework

The flow chart on page 21 shows the development assessment (DA) process for developments in bushfire prone areas. However, planning proposals are not part of the DA process.

**Recommendation:** Planning Proposals should be addressed separately in the flow chart.

### 1.4 Strategic Planning

Chapter 4 introduces information on Strategic Planning at State, Regional and Local levels. However, the information provided is inadequate for Council to determine when bushfire risk makes it inappropriate for rezoning to occur.

The document states that strategic planning should exclude inappropriate development in bush fire prone areas where evacuation is likely to be difficult or likely to cause issues for both existing and new occupants. However, there are no guidelines on how to measure these factors. The document refers users to the relevant Bushfire Protection Measures (BPMs) in later Chapters which do not specifically identify rezonings or planning proposals.

**Recommendation:** The chapter should be revised to be clear on the requirements for strategic planning involving rezoning in bush fire prone areas.

### 1.5 Planning Proposals

Planning Proposals are discussed under the heading 4.4 Local Environmental Plans. *PBP* requires that planning proposals meet the requirements set out in Ministerial Directions under Section 117 of the *Environmental Planning and Assessment Act 1979* (in particular Ministerial Direction 4.4 – Planning for Bushfire Protection) along with the requirements set out in *PBP*. However, the requirements differ as follows:

117 Direction	PBP
Consult RFS after Gateway Determination, prior to community consultation	Consult RFS prior to the proposal being submitted to the Gateway process
Where development is proposed, provide (in part) an Asset Protection Zone (APZ), or where an appropriate APZ cannot be achieved, provide for an appropriate performance standard, in consultation with the RFS. Provide provisions for two-way access roads which link to perimeter roads and/or to fire trail networks, provisions for adequate water supply for	Where residential rezoning is proposed, provide an indicative development layout and Bushfire Assessment to demonstrate Asset Protection Zones can be achieved and that the road network can support indicative occupant numbers in the event of any emergency and that the development does not increase the level of bush fire risk to the existing community. A traffic report

firefighting purposes	may be required
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There are no guidelines on how to measure any increase in the level of bushfire risk to the existing community. The *PBP* requirement for an indicative development layout for a single site rezoning may be possible to demonstrate APZs, access and evacuation. However, for large precinct level rezonings, detail down to the level of occupant numbers and evacuation procedures would be highly theoretical at the planning proposal stage. Providing such detailed analysis would be inconsistent with the aim of the Department of Planning and Environment's Gateway process which is to limit the amount of information required prior to Gateway Determination.

**Recommendation:** The heading and terminology in part 4.4 of *PBP* should be revised to refer to planning proposals rather than LEPs, consistent with the flow charts in Chapters 1 and 2. The inconsistency between the *PBP* requirements for planning proposals and the Section 117 Direction should be addressed.

### 1.6 Other residential development

Additional requirements for dual occupancy, multi-dwelling housing, secondary dwellings, boarding houses and multi-storey development are outlined in Chapter 8 – Other Development. However these development types are often a form of infill development and may be confused with Chapter 7 – Residential Infill Development. Further, the requirements contained within Chapter 8 are contradictory. The preface to part 8.2 refers to requirements in Chapter 7, however part 8.2.1 refers to requirements in Chapter 5.

**Recommendation:** The title and terminology in part 8.2 should be amended to 'Additional requirements for certain development' rather than "Other residential development" to ensure users do not overlook this Chapter. The contradictory requirements should be clarified.

### 1.7 Multi-storey development

The *draft PBP* categorises residential development over three storeys in height as multi-storey and identifies additional requirements for consideration. Multi-storey development will only be considered on bushfire prone land if an engineering analysis can demonstrate that the location (not along ridges or slopes), existing infrastructure (evacuation of occupants along the road network), external facades (APZs may need to be increased due to radiant heat and convection columns) and egress issues (potential for entrapment) do not pose an unacceptable risk. This requires that the Bush Fire Design Brief (BFDB) process be undertaken involving the RFS.

The BFDB is the first step in a performance based solution and focuses on the methods of analysis which will be used in evaluating whether the proposed design is adequate and appropriate. However, it is not clear which set of performance criteria and acceptable solutions multi-storey development should be measured against to see if a performance based solution is required. The preface to part 8.2 refers to requirements in Chapter 7. However, part 8.2.2 does not refer to any requirements other than those to be addressed in an engineering analysis.

**Recommendation:** The requirements for multi-storey development and the use of the BFDB process should be clarified.

### 1.8 Asset Protection Zones



Appendix 4 contains standards for APZs and requires that an APZ should be maintained in perpetuity to ensure ongoing protection from the impact of bushfires. However, there is no enforceable requirement to ensure this.

**Recommendation:** Standardised conditions of consent should be applied across all councils to require certification of ongoing maintenance of APZs. An example of appropriate controls for ongoing maintenance of critical fire safety measures can be found under clause 175 of the Environmental Planning and Assessment Regulation 2000 – Annual Fire Safety Statements (inspections).

### 1.9 Hazard Complaints

Existing properties located on bushfire prone land developed prior to 2002 will only require Bushfire Protection Measures (APZs, access, water supply, construction standards and landscaping) when a development application is submitted. Concern is raised regarding what Bushfire Protection Measures will be applied when a hazard complaint is processed. It would be potentially incumbent upon the adjoining land owner to clear an appropriate distance to protect the asset rather than utilising a suite of measures (including construction standards) to ameliorate the risk and reduce the bushland area required for clearing. It is unclear whether the document Bushfire Protection for Existing Development or *PBP* is to be applied to hazard complaints for new and existing development.

**Recommendation:** *PBP* should outline the aspects of Bushfire Protection Measures including construction standards which are to be applied to buildings requesting hazard complaint actions. The relationship between *PBP* and Bushfire Protection for Existing Development should be clarified including when each document is to be applied.

## 2. HOUSING STRATEGY IMPLICATIONS

Council has been working with the RFS since 2011 to ensure that the protection of life and property is given the utmost consideration as part of future land use planning in the northern Hornsby area. The complexities of high rise and high density development in bushfire prone areas became apparent when mixed commercial/residential rezonings proposed for the Berowra and Mount Colah Commercial Centres were not progressed as part of the 2011 Housing Strategy due to bushfire concerns.

The RFS has previously identified that there may be issues with existing road infrastructure on the Pacific Highway, north of Yirra Road, Mount Colah and that further rezoning for high rise developments should be avoided in this area. In a submission on the Housing Strategy in 2011, the RFS suggested that Council may consider introducing exclusion mechanisms such as the Bush Fire Evacuation Risk areas depicted on the Ku-ring-gai Council Bush Fire Prone Land Map for development in problematic areas. However, Council does not have adequate information concerning evacuation issues along the Pacific Highway to make such a determination to exclude land from future rezonings. After a meeting discussing the matter in July 2012, the (then) Department of Planning and Infrastructure responded that there was not sufficient evidence or detail of practical concern to initiate the introduction of a further layer of consideration affecting permissible development in the area.

In response to numerous representations made by Council since 2012 to clarify the matter, the RFS has consistently advised that it is working with the CSIRO to finalise a position on high rise development in bush fire prone areas. The CSIRO recommendations were to form part of the revised *PBP* and the RFS was to identify appropriate strategies to address bushfire and evacuation issues

north of Yirra Road, Mount Colah. However, the revised *PBP* does not adequately address the issue or clarify the status of the precincts which were not progressed as part of the Housing Strategy.

Clarification of the issue has also been sought through the District Planning process. In a submission to the Greater Sydney Commission in March 2017, Council indicated that the emergency evacuation concerns north of Mount Colah raised should be resolved in consultation with the RFS. Council requested that should the State Government accept the RFS opinion that land north of Yirra Road Mount Colah is constrained for future increased housing densities, Council's dwelling target in the draft North District Plan should be reduced accordingly.

**Recommendation:** Exclusion of land for particular types of development (such as high density or multi storey) should be addressed at a regional level by the NSW RFS and the Greater Sydney Commission. The RFS should explain the implications of draft Planning for Bushfire Protection 2017 for the areas north of Hornsby and clarify the status of the Housing Strategy precincts which were not progressed in 2011.

#### **BUDGET**

There are no budgetary implications associated with this report.

#### **POLICY**

The *Environmental Planning and Assessment Act 1979* and *Rural Fires Act 1997* require all new development on bush fire prone land to comply with *Planning for Bush Fire Protection*. If *draft Planning for Bushfire Protection 2017* is finalised and adopted, the policy will form the basis for all bush fire planning and bush fire protection measures for new development in NSW.

#### **CONCLUSION**

*Draft Planning for Bushfire Protection 2017* was released for public exhibition until 25 June 2017. The change in format and structure is welcomed. However, there are a number of concerns with the content, particularly in regard to planning proposals and multi-storey development. Furthermore, the amendments do not satisfactorily address the issues with bushfire risk in areas north of Hornsby or clarify status of the Housing Strategy precincts deferred from Council's LEP in 2011 based on bushfire risk.

It is recommended that a submission be made to the NSW Rural Fire Service supporting the reformatting of the document and outlining the concerns raised in this report.

#### **RESPONSIBLE OFFICER**

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

FLETCHER RAYNER  
Acting Group Manager  
Planning Division

**Attachments:**

There are no attachments for this report.

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## 5 LAND MANAGEMENT AND BIODIVERSITY CONSERVATION REFORMS

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### EXECUTIVE SUMMARY

- In November 2016, the *Biodiversity Conservation Act 2016* (BC Act) and *Local Land Services Amendment Act 2016* (LLSA Act) were passed into law. On commencement, which is scheduled for 25 August 2017, the BC Act and LLSA Act will repeal and replace the *Threatened Species Conservation Act*, the *Native Vegetation Act 2003* and the *Nature Conservation Trust Act 2001*.
- In May 2017, the NSW Government placed on exhibition a number of supporting regulations, codes, guidelines, assessment tools, calculators and maps, including a proposal to introduce a new *State Environmental Planning Policy (Vegetation) 2017* (Vegetation SEPP) that would apply to all land in the Sydney Metropolitan Area including Hornsby.
- Council officers have reviewed the information and are concerned about the lack of detail surrounding the administration and implementation of the proposed Vegetation SEPP, incomplete mapping and supporting tools, weak requirements for like-for-like offsetting and reliance on self-assessable codes.
- Accordingly, it is recommended that Council forward a submission to the Department of Planning and Environment outlining its concerns and requesting that the commencement of the reforms be delayed to allow further detail to be provided and additional consultation to take place on these matters.

### RECOMMENDATION

THAT a submission in line with the issues identified in Group Manager's Report No. PL32/17 be forwarded to the Department of Planning and Environment raising concern with the implementation of the draft Land Management and Biodiversity Conservation Reforms and request that commencement be delayed to allow further detail to be provided and additional consultation to take place on these matters.

## PURPOSE

The purpose of this report is to summarise the proposed LMBC reforms, identify their implications for Hornsby Shire and seek endorsement for a submission to the DP&E.

## BACKGROUND

In June 2014, an independent panel of experts Chaired by Dr Neil Byron was appointed to conduct a comprehensive review of biodiversity conservation legislation in NSW. The panel released its final report (*A review of biodiversity legislation in NSW*) with 43 recommendations in December 2014. The NSW Government subsequently committed to implement all the recommendations.

In May 2016, the draft package of reforms was placed on exhibition. The package included the draft Biodiversity Conservation Bill and the draft Bill to amend the *Local Land Services Act 2013*. In November 2016, the NSW Parliament passed the *Biodiversity Conservation (BC) Act 2016* and *Local Land Services Amendment Act 2016*.

The *BC Act* relates to the conservation of biodiversity and repeals the *Threatened Species Conservation Act 1995*, the *Nature Conservation Act 2001* and the animal and plant provisions of the *National Parks and Wildlife Act 1974*. The *LLSA Act* repeals the *Native Vegetation Act 2003* and amends the *Local Land Services Act 2013* in relation to native land management in rural areas.

In May 2017, the NSW Government placed on exhibition a suite of LMBC Reform products, including the:

- Explanation of Intended Effect for State Environmental Planning Policy (Vegetation);
- Draft Biodiversity Conservation Regulation and its supporting regulatory impact statement;
- Draft Local Land Services Amendment Regulation;
- Draft Environmental Planning and Assessment Amendment (Biodiversity Conservation) Regulation;
- Draft Land Management (Native Vegetation Code);
- Draft Biodiversity Assessment Method (BAM) and web-based BAM Tool;
- Draft Accreditation Scheme for the Application of the BAM;
- Draft Sensitive Biodiversity Value Land Map;
- Draft Guidance and Criteria to Assist a Decision Maker to Determine a Serious and Irreversible Impact; and
- Draft Offsets Payment Calculator.

The NSW Government also placed on exhibition a series of fact sheets and submission guides to assist in understanding specific topics related to the LMBC Reforms, including:

- Land Management and Native Vegetation Regulatory Map;
- Land Management (Native Vegetation) Code;
- Ecologically Sustainable Development;
- Native Plants and Animals; and
- Private Land Conservation.

The draft LMBC Reforms were on exhibition until 21 June 2017. Accordingly, a copy of Council's draft submission report has been forwarded to the Department which will be updated pending Council's resolution.

## DISCUSSION

The *Biodiversity Conservation Act 2016*, *Local Land Services Amendment Act 2016* and *Draft Vegetation SEPP* propose a new legislative framework for the management of land and conservation of biodiversity in NSW as outlined below.

### 1. VEGETATION SEPP

The NSW Government has placed on exhibition an Explanation of Intended Effect for the proposed Vegetation SEPP. Whilst the text of the Draft SEPP has not been released, from the explanation of intended effect it is understood that the Draft Vegetation SEPP proposes a consistent approach to the approval framework for the clearing of native vegetation in NSW to conserve local and regional biodiversity. The draft SEPP proposes that the biodiversity offset scheme applies to all native vegetation, regardless of whether development consent is required. The draft SEPP applies to all land in the Sydney Metropolitan Area (including Hornsby Shire).

The Draft SEPP will repeal Clauses 5.9 and 5.9AA Tree and Vegetation provisions of the Standard Instrument LEP. The Biodiversity Offset Scheme will apply to all clearing that exceeds thresholds (unless a listed exemption applies). Councils will continue to regulate below the Offset Scheme Threshold through DCPs by the issuing of permits.

Key requirements for the issuing of permits will be specified in the SEPP, including fees, time for determination, key matters for consideration and conditions of approval. It will no longer be possible to require development consent for vegetation clearing in a DCP, except where the clearing is ancillary to a use that requires development consent or vegetation that forms a heritage item.

### 2. BIODIVERSITY CONSERVATION ACT 2016 AND REGULATION

The Biodiversity Offset Scheme (BOS) includes a Sensitive Values Map and Area Threshold. If either criteria is met then the offsets scheme must be applied unless it is subject to a listed exemption. The Biodiversity Conservation Regulation sets out the following Area thresholds:

Minimum lot size	Proposed area of clearing
Less than 1 hectare	0.25 hectares
Less than 2 hectares	0.5 hectares
2 to 39 hectares	0.5 hectare
40 to 999 hectares	1 hectare
1000 hectares or more	2 hectares

Clearing exempt from the need to comply with the Biodiversity Offset Scheme may occur where Council is satisfied that the vegetation is a risk to human life or property and where plants are declared noxious weeds.

### 3. LOCAL LAND SERVICES AMENDMENT ACT 2016

The *Local Land Services Amendment (LLSA) Act 2016* establishes a new framework for land management in rural areas in specified zones across NSW, by introduction of the Native Regulation (NVR) Map. The NVR Map will show rural land where:

- Clearing of native regulation can occur without approval (category 1 – unregulated land); and
- Unless authorised by other legislation, clearing of native vegetation requires authorisation (category 2 – regulated land).

The NVR Map will also show two sub-categories of regulated land:

- Vulnerable regulated land (sub-category 1); and
- Sensitive regulated land (sub-category 2).

Clearing can occur on unregulated land under the BOS Threshold upon the issue of appropriate tree/vegetation permits from Council. Clearing will be able to occur on regulated land in accordance with the *Land Management (Native Vegetation) Code 2016* unless it is deemed to be “Sensitive Regulated Land” on which clearing under the Code will not be permitted. Specifically, the Code will provide appropriate land management principles for:

- Management of invasive native species;
- Thinning of woody vegetation;
- Harvesting of stock fodder;
- Continuing use;
- Transitioning Property Vegetation Plans;
- Equity clearing; and
- Farm planning.

To support this framework, the Native Vegetation Panel has been established as a new approval authority for clearing that requires approval under the LLS Act. Under the Vegetation SEPP, the Native Vegetation Panel is specified as the approval authority for clearing of native vegetation that exceeds the BAM thresholds. As part of this process, it is intended that Panel may delegate its approval role for clearing in urban areas and on land zoned for environmental conservation.

A table detailing the current and proposed approval pathway in relation to Hornsby Shire is provided in Attachment 1.

#### **4. KEY ISSUES FOR COUNCIL**

Hornsby Shire contains 2,000 hectares of bushland that is home to 34 native vegetation communities and diverse wildlife communities.

In relation to the proposed framework, the following concerns are raised:

- a) The reforms provide the opportunity for types of vegetation clearing which are beyond the scope of the tree preservation controls in the Hornsby Development Control Plan (HDCP). Concern is raised that the current types of clearing considered in a DA process will be assessed by a separate, less rigorous process.

**Recommendation:** That the SEPP excludes clearing of species, populations or communities listed under the provisions of the *Threatened Species Conservation Act 1995*; or their habitats.

- b) The reforms are not clear regarding the ability to require a development application for the removal of trees within heritage conservation areas.

**Recommendation:** The reforms be amended to clarify that development consent is required for the removal of trees that form part of a heritage item or heritage conservation area.

- c) The reforms propose a requirement for accredited third parties to utilise BAM which would be expected to generally increase the quality and reliability of some submitted documentation. However this accreditation is not proposed for consultants preparing assessments of significance.

**Recommendation:** The proposed accreditation scheme is extended to include consultants undertaking assessment of significance, to reduce bias, quality issues and expertise of authors.

- d) The reforms propose to remove the consideration of Key Threatening Processes for assessment of significance, which would reduce the scope of considerations.

**Recommendation:** That consideration of Key Threatening Processes is retained within assessments of significance.

- e) Council will have a role in issuing permits for the clearing of vegetation below the BOS threshold. This will require that the existing Tree Application process, fees and delegations are changed to reflect the new process. As the new reforms will commence on 25 August 2017, Council will not be able to update its fees and charges to reflect the new framework.

**Recommendation:** Commencement of the reforms be deferred to enable councils to consider the resource, delegation and fee structure to process permits. To support this transition, clarification is required concerning the role of council's to investigate and regulate breaches to approvals where clearing is above the BOS threshold.

- f) No details have been provided with respect to the creation of a public register for approvals issued by the Native Vegetation Panel and the timeframe for updating the register.

**Recommendation:** The location of 'set aside areas' should be included on the register and councils formally notified to ensure there are no conflicts with existing restoration orders (associated with previous breaches), consent conditions (associated with a DA) or covenants on existing property title. The registration of set aside areas should also be a mandatory requirements of Section 149(2) Planning Certificates required by Schedule 4 of the *Environmental Planning and Assessment Regulation 2000*.

- g) The Native Vegetation Panel would review applications on rural, urban and environmental zoned land if development consent is not required and a threshold is reached. Concern is raised about the capacity of the Panel to process and accurately assess applications within a timely period. Concern is also raised about the possibility of permits being inconsistent with previous restoration orders or refused development applications. Land holders may attempt to exploit this clearing entitlement to prepare a site for a subsequent development application to diminish the ecological value of the site.

**Recommendation:** More information should be provided to local government about the public register that will store the approved permits. Council's existing property information



system is suitable for storing this information and would provide a more centralised source of information for assessment and compliance staff.

Council staff should also be consulted prior to issuing of permits as they have local assessment experience and understanding of the compliance and development history of land within the LGA.

- h) The BAM sets out a detailed, complex and quantitative assessment methodology for producing Biodiversity Assessment Reports (BAR). Council understands that a limited number of assessors have received training or will require additional support when the framework commences.

**Recommendation:** Free training should be provided for Council staff to undertake report assessments. In addition, the OEH should provide a hotline and workshops to assist assessors navigating through the complex nature of the BAR and BAM.

- i) The BAM methodology sets a framework for decision makers (including Council assessment officers) to determine whether or not the proposal will have 'Serious and Irreversible Impact (SAIL)' for certain threatened species and communities (referred to as 'candidate entities') listed in a Table within Appendix 2 and 3. None of these species occur in the Hornsby Shire with the exception of Blue Gum High Forest. The application of the SAIL appears limited for a majority of the BAR reports within Hornsby Shire Council.

**Recommendation:** Councils should be given the opportunity to nominate certain species, populations or communities to be added to Appendix 2 and 3 of the 'Serious and Irreversible Impact' guidelines. For example all EEC's protected under NSW and Federal legislation should be included.

- j) Previous legislation did not make 'biodiversity offsets' mandatory and bio-banking only applied to major development applications (state significant development). Council's Green Offsets Code (2015) was used in certain appropriate circumstances at Council's discretion to provide offsets on-site, off-site and through Voluntary Planning Agreements or general conditions of consent.

The new mandatory offsets scheme provides greater flexibility for developers to meet offset obligations. However, this may be at a net loss expense to biodiversity conservation. There is no mandatory 'like for like' offsets if financial contributions are paid into the general Biodiversity Trust Fund and spent outside the locality (and LGA) of the development impact area.

**Recommendation:** Offset funds received from a development should remain within the locality and LGA. Further, mandatory 'like for like' offsets should be determined.

- k) The source of information used for Sensitive Values Map is unclear. It is understood that some of the information is based on areas of significant biodiversity values in accordance with SEPP 44 Koala Habitat Protection, SEPP 14 Coastal Wetlands, SEPP 26 Littoral Rainforests and 'other land with sensitive biodiversity values'. However, only lands within the suburbs of Beecroft, Cheltenham and Fiddletown are mapped, which do not include all SEPP lands.

**Recommendation:** As critical Ecological Endangered Communities also exist in many other areas of the Shire, the Sensitive Values Map should be amended to identify these lands and identify what values and characteristics have informed the selection of sensitive lands. It is

also recommended that the definition of 'local vegetation mapping' be amended to incorporate areas of sensitive values in consultation with councils.

- l) The BOS threshold includes a reference to the 'Sensitive Biodiversity Value Map' which has not been finalised. This tool is important to the implementation of the BC Act and needs to be refined and finalised before the legislation commences.

**Recommendation:** The legislation should not commence until the Sensitive Biodiversity Value Map is finalised. As part of this process, councils should be consulted and provided opportunity to nominate land which has significant biodiversity values based upon local knowledge.

- m) Implementation of the legislation relies upon the 'Native Vegetation Regulatory Map' which is not anticipated for release until 2018. This delay is likely to cause confusion about land clearing and has the potential to result in extensive and unauthorised native vegetation clearing. In addition, the ability for land owners to determine the category of their land during this transitional period may lead to abuse of the 'self-assessment' Code resulting in clearing of remnant vegetation.

**Recommendation:** The legislation should not commence until councils and landowners are consulted on the Native Vegetation Regulatory Map. The proposed transitional measures should not proceed due to the opportunity for unauthorised clearing. Further, all endangered ecological communities, not just critically endangered communities, should be omitted from self-assessable codes.

- n) On-site offsetting will be undertaken via 'set aside' areas to be established within the subject property. The Code states that a landholder should make 'reasonable efforts' to manage the 'set aside' area. No definition of 'reasonable effort' is provided within the LLS Act.

**Recommendation:** A definition of 'reasonable effort' should be inserted in the LLS Act to assist with compliance and public enquiries. Set aside areas should also be registered on the property title to ensure protection in perpetuity.

- o) For clearing above the required threshold, the applicant must produce a Biodiversity Assessment Report (BAR) which is reviewed by the NVP. Concern is raised with the capacity of the panel to review applications within a reasonable timeframe, whilst considering the local context and understanding of local planning, long-term conservation and compliance history of a property.

**Recommendation:** Applications for clearing above the required threshold should be referred to councils to ensure that the same site is not subject to multiple applications resulting in cumulative loss of vegetation, and there are no contradictions with previous restoration orders.

## BUDGET

There are no budgetary implications associated with this report.

## POLICY

The draft LMBC contains a number of legislative amendments that may require amendment to the Hornsby Local Environmental Plan 2013 which would be implemented by the DP&E via an amendment to the Standard Instrument – Principle Local Environmental Plan. Council would still be required to amend the Hornsby Development Control Plan 2013 and it is anticipated this could occur as part of a future housekeeping amendment.

Council's Green Offsets Code will continue to be relevant but will require modification with the inception of these reforms. The Code provides a useful framework for offsetting impacts at a Local Government Area level rather than regional level and Council retains the discretion to vary the number of credits in accordance with the *Biodiversity and Conservation Act*.

## CONCLUSION

In May 2017, the NSW Government placed on exhibition a number of Land Management and Biodiversity Conservation (LMBC) Reforms, including *State Environmental Planning Policy (Vegetation) 2017* (Vegetation SEPP).

The proposed Vegetation SEPP is part of a suite of reforms that the State Government suggest will help to deliver ecologically sustainable development in NSW. The centrepiece of the reforms is the new *Biodiversity Conservation Act 2016* and *Local Land Services Amendment Act 2016*.

It is proposed that the Vegetation SEPP will provide assessment and approval pathways for the clearing of native vegetation land for which development consent is not required under a relevant environmental planning instrument. It is also proposed that the Vegetation SEPP will introduce an alternate scheme for issuing permits for the removal of trees or vegetation, including the ability for permits to be issued subject to conditions. The reforms are due to commence on the 25 August 2017.

It is recommended that Council forward a submission to the Department of Planning and Environment (DP&E) raising concern with the lack of detail concerning the administration and implementation of the proposed Vegetation SEPP, weak requirements for like-for-like offsetting, reliance on self-assessable codes and incomplete mapping and supporting tools. It is also recommended that the reforms be delayed to allow further consultation on these matters.

## RESPONSIBLE OFFICER

The officer responsible for the preparation of this report is the Acting Group Manager, Planning Division – Fletcher Rayner – who can be contacted on 9847 6744.

FLETCHER RAYNER  
Acting Group Manager  
Planning Division

## Attachments:

1. Existing versus proposed LMBC Framework

[V](#)

[ie](#)

[w](#)

File Reference: F2004/07599

Document Number: D07231828

**6 REQUEST TO REMOVE TREE - 20 DEAN STREET WEST PENNANT HILLS**

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**EXECUTIVE SUMMARY**

- The owners of 20 Dean Street, West Pennant Hills have sought Council approval for the removal of one *Eucalyptus saligna* (Sydney Blue Gum) located at the front of the property.
- An initial application in 2014 (TA/820/2014) requested the removal of Tree 1, a *Eucalyptus saligna* (Sydney Blue Gum) and pruning of Tree 2, a *Eucalyptus pilularis* (Blackbutt) on the basis of presence of deadwood, termite damage and branches overhanging the garage.
- A partial approval was granted which refused the removal of Tree 1 (due to insufficient evidence); but consented to the pruning of Tree 1 and Tree 2.
- In March 2015 an appeal was lodged (TA/820/2014/A) seeking review of Council's decision to allow for removal of Tree 1. The appeal was accompanied with an Arborist Report (Attachment 1). Council Officers were not satisfied the report proved conclusively that the tree was defective at the major trunk union. As a result Council requested additional information in the form of a sonic tomograph testing. The additional information was not received and the appeal application was subsequently refused.
- In 2016 a further application TA/350/2016 was lodged seeking removal of Tree 1, supported with additional information which was provided in the form of the sonic tomograph testing. This test confirmed the base of the tree was sound.
- The tree applied for under this application is a species characteristic of Blue Gum High Forest (BGHF), adjoins a mapped heritage listed streetscape under Council's Development Control Plan and forms part of the vegetation buffer for an Endangered Ecological Community area.
- The owner has requested that the matter be considered at a General Meeting of Council.
- This Report concludes the *Eucalyptus saligna* (Sydney Blue Gum) is structurally sound, healthy and worthy of retention.

**RECOMMENDATION**

THAT Council refuse consent to remove one *Eucalyptus saligna* (Sydney Blue Gum) located at the front of the property at 20 Dean Street, 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 20 Dean Street, West Pennant Hills to remove one *Eucalyptus saligna* (Sydney Blue Gum), located in the front yard of the property.

## BACKGROUND

In 2014 Council received tree application (TA/820/2014) for consent to remove a Sydney Blue Gum (Tree 1) and reduction pruning on a Blackbutt Tree (Tree 2) on the grounds of deadwood, falling branches and termites. The species is characteristic of Blue Gum High Forest (BGHF) and is in a mapped Endangered Ecological Community area.

The resulting inspection undertaken by a Council officer noted a Sydney Blue Gum (Tree 1) and Blackbutt Tree (Tree 2) to be approximately 14 metres from the dwelling. Both trees were assessed and observed to be in good health, condition, and there was evidence of multiple previous pruning events on the property side of the tree canopies. Tree 1 was refused on the grounds insufficient evidence had been provided to support the removal. However, consent was granted to provide general crown maintenance by up to 10% on Tree 1, a Sydney Blue Gum and up to 15% of the total foliage canopy on Tree 2, a Blackbutt to reduce deadwood and epicormic regrowth within the canopy and reduce selective lateral branches over the garage.

In March 2015 an appeal (TA/820/2014/A) was submitted with an arborist statement (Attachment 1). The statement assessed Tree 1 and made recommendations for the removal of the tree based on assumptions relating to dysfunction of the primary union of the two trunks and presences of termites with minor reference to old wounds on some of the stems.

The Council officer conducting the review was not satisfied that these assumptions could be supported by the content of the report and as such requested additional information in the form of diagnostic testing using sonic tomograph (internal radar) to assess the structural integrity of the tree at the base and union. The additional information was not provided and as a result the appeal was refused.

In June 2016 Council received application TA/350/2016; again seeking the removal of Tree 1. The inspecting officer did not identify any dysfunction or issues which could warrant the removal of the tree; however based on the history of the tree the inspecting officer requested additional information in the form of diagnostic testing using sonic tomograph (internal radar) to assess the structural integrity of the tree at the base and union.

The resident then contacted Council and advised that additional information had been prepared to support their application and the application was re-assessed.

The results of the sonic tomograph clearly indicated that the tree was 96% sound in the area being tested. The owner's arborist who undertook the test prepared a report which concluded the tree to be structurally sound and recommended a review in five years' time.

The re-assessing Council officer refused the request to remove the tree.

All tree assessments made by Council arborists were made by visual external inspections. Internal, underground or aerial investigations were not undertaken.

## Tree Details

### Tree 1

Species:	<i>Eucalyptus saligna</i>
Common Name:	Sydney Blue Gum
Height (Est.)	25 metres
Age:	Mature

### Concerns Regarding Safety

The Sydney Blue Gum was initially requested to be inspected by the owner based on safety concerns regarding excessive deadwood falling where children ride bikes, damage to the driveway, advice from tree loppers and alleged presence of termites.

The initial arborist report submitted by the owner supporting TA/820/2014/A references a dysfunctional primary union for the co-dominant trunks of the tree, but does not state or provide physical evidence of tissue separation or recommending testing to confirm the assumption. There was also reference to the presences of termite activity and a dysfunctional codominant leader associated with a lesion on the trunk and a small bird hollow.

The report did not quantify the proposed risk using an industry accepted risk criteria method i.e. Quantified Tree Risk Assessment (QTRA) or Tree Risk Assessment Qualification (by the International Society of Arboriculture).

The property owner subsequently submitted a further arborist report which relates to the current application which included the results of a sonic tomograph (conducted by an a current industry expert in the use of this technology) that clearly indicated that the tree was 96% sound in the area being tested; and the rate of new growth is consistent with good health and is successfully outcompeting the progress of the small pocket of decay at the hollow in the base. The report did not recommend the tree be removed, rather, it concluded it be re-tested in five years' time.

The Sydney Blue Gum has been inspected by three different Council officers for each different application or review. Council arborists observed well-formed buttress and fluting (indicators of good stability), minor borer damage near base with small pocket cavity. Debris build up at the trunk union was not consistent with termite activity as there is no gallery or similar structure observed at this point or in other parts of the tree. On the west side leader, facing the north there are wounds with the presence of regenerating wood and kino production. This is consistent with a healthy tree response. The same leader has a small cavity opening at seven metres. No swelling present or evidence of structural instability. Previous pruning of lower branches was evident (inconsistent with the Australian Standard for Pruning Amenity Trees), with minor epicormics within middle of crown and deadwood evident in upper canopy. Overall it was concluded the tree is in good condition and has successfully adapted and responding well to the current growing conditions.

For trees in the urban environment arborists are able to undertake risk assessments by following industry accepted risk assessment criteria. Council's tree officers have applied these criteria in their assessments and determined the risk rating to be 'low' and 'acceptable'.

### **Consideration of Retention of the Tree**

The Hornsby Local Environmental Plan and Development Control Plan provide strategic planning instruments aimed at the preservation of Hornsby's trees. The request to remove this tree is measured against these instruments. *Eucalyptus saligna* (Sydney Blue Gum) is a species indigenous to Hornsby Shire and therefore requires an approval to prune or remove.

The tree has been assessed by arborists who have concluded it does not pose a risk to human life or is causing or likely to cause substantial damage to property.

The subject tree is located within the front yard and less than one metre from the edge of the nature strip. The subject tree was retained when the property was redeveloped in 2010 and maintains a setback from the dwelling of approximately 14 metres.

The tree can be retained with minimal remedial works i.e. deadwood removal and there is currently sufficient setback from the residence.

### **Heritage and Significance**

The remanent trees located in Dean Street are listed as heritage items in Council's HLEP as components of the BGHF, an Endangered Ecological Community (EEC) listed for protection by the Commonwealth Environment Protection and Biodiversity Conservation Act and the NSW Threatened Species Conservation Act.

The statement of significance for the HLEP heritage listing describes this corridor of trees as providing dramatic scale and size which contributes to a sense of place and outstanding aesthetic quality to the streetscape. Whilst the public street trees are nominated in this listing, the Sydney Blue Gums located at 20 Dean Street are also included within the heritage item inventory as containing remnant trees that also contribute to the value of this group of trees.

Therefore the removal of this subject tree will diminish the quality of the Dean Street heritage landscape item.

### **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 indigenous to Hornsby Shire such as the *Eucalyptus saligna* (Sydney Blue Gum) and only permits removal of a tree in the case of safety concerns if there are signs that the tree is diseased, dying or dangerous.

### **CONCLUSION**

The Sydney Blue Gum is a mature and healthy specimen that forms part of the remnant BGHF Community in West Pennant Hills. The tree also contributes to the streetscape which is a listed heritage item.

The tree was determined to be in good condition and the risk posed by the tree was assessed in the field using the QTRA system which concluded the risk to be low and acceptable. This is supported with the results from the diagnostic testing by an arborist engaged by the owner.

There is no reason to believe that the tree is at imminent risk of failure or decline and, therefore, can be retained.

Council officers conclude that the tree is worthy of retention and therefore it is recommended that Council refuse the application for consent to the *Eucalyptus saligna* (Sydney Blue Gum) tree located at the frontage of 20 Dean Street, 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.

DAVID SHEILS  
Manager - Parks and Recreation  
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ROBERT STEPHENS  
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Infrastructure and Recreation Division

**Attachments:**

1. [View](#) Attachment 1 - Arborist Report - 20 Dean Street West Pennant Hills
2. [View](#) Attachment 2 - Sonic Tomograph Report - 20 Dean Street West Pennant Hills

File Reference: TA/350/2016  
Document Number: D07219408



## 7 REQUEST TO REMOVE TREE - 11 HOLLAND STREET NORTH EPPING

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### EXECUTIVE SUMMARY

- The owner of 11 Holland Street, North Epping has sought Council approval for the removal of one *Angophora costata* (Smooth Barked Apple Gum) tree located in the rear yard of the property. The tree within the subject site contributes to a corridor of similarly large trees located in the rear yards of Holland Street and Grayson Road.
- The initial application (TA/652/2016), lodged in December 2016, was assessed by Council's arborist and refused consent to remove the tree. The owner sought to remove the tree due to concerns it was unhealthy as it was dropping sap and branches and had holes caused by insects in the trunk. Insufficient evidence was presented at this time to enable permission to be granted under Council's tree preservation measures. However, approval was given to undertake general crown maintenance.
- The owner requested a review of Council's refusal (TA/652/2016/A), supported by an Arborist Report. The owner's arborist report suggests the death of the tree in the future is certain with the tree only surviving for several years.
- The owner's arborist report indicates there is also an intention that a new dwelling be constructed on the site that may encroach into the Tree Protection Zone.
- A second Council arborist observed the tree to be in good health and vigour which is typical for the species. The tree has minor borer damage which is generating kino (red gum substance) which is the tree's natural defence. Evidence also existed that the tree retains a health canopy and is developing wound wood around the areas of previous borer activity.
- The owner has requested that the matter be considered at a General Meeting of Council.
- This Report concludes the tree to be typical of a Smooth Barked Apple Gum in habit, is healthy and worthy of retention.

### RECOMMENDATION

THAT Council refuse consent to remove one *Angophora costata* (Smooth Barked Apple Gum) located at the rear of the property at 11 Holland Street, North Epping.

## PURPOSE

The purpose of this Report is to provide Council with the information required to consider an application by the owner of 11 Holland Street, North Epping to remove one *Angophora costata* (Smooth Barked Apple Gum) tree located in the rear yard of the property. Site photographs of the tree are provided in Attachment 2 and a Location Plan in Attachment 3.

## BACKGROUND

The owner of 11 Holland Street, North Epping has sought Council approval for the removal of one *Angophora costata* (Smooth Bark Apple Gum), located in the rear yard of the property. The tree contributes to a corridor of similarly large trees located in the rear yards of Holland Street and Grayson Road.

The initial application (TA/652/2016), lodged in December 2016, was assessed by Council's arborist and refused consent to remove the tree. The owner sought to remove the tree due to concerns it was unhealthy as it was dropping sap and branches and had holes caused by insects in the trunk. Insufficient evidence was presented at this time to enable permission to be granted under Council's tree preservation measures. However, approval was given to undertake general crown maintenance.

The owner requested a review of Council's refusal (TA/652/2016/A), supported by an Arborist Report (Attachment 1). The owner's Arborist Report suggests:

- The tree may survive for several years but will eventually die
- An application for the construction of a new dwelling is proposed and the any new dwelling will need to consider the calculated Tree Protection Zone (TPZ).

In circumstances where a new dwelling is proposed adjacent to a protected tree such as this, the merits of tree retention, or removal and replacement, is normally considered through the development application process.

Council's arborist has observed the tree to be in good health and vigour which is typical for the species. The tree has minor borer damage which is generating kino which is the tree's natural defence to combat this activity. Evidence also existed that the tree was developing wound wood around the areas of previous borer activity.

The tree forms part of a corridor of large remnant native trees that exist in the rear yards of Holland Street and Grayson Road (Attachment 3).

Site photographs are provided as Attachment 2.

### Tree Details

Species:	<i>Angophora costata</i>
Common Name:	Smooth Barked Apple Gum
Height:	15 metres
Age:	Mature

### Concerns Regarding Safety

The applicant's arborist has concluded the tree is in a state of decline and has made an assumption that it is decayed which poses a threat to possible branch failure. Council arborist's are not satisfied these assumptions can be supported by the content of the report.

For trees in the urban environment arborists are able to undertake risk assessments by following industry accepted risk assessment criteria. Council arborists have applied these criteria using a Qualified Risk Assessment (QTRA) in their assessments and determined the risk as being 'low'.

The Hornsby Local Environmental Plan and Development Control Plan provide strategic planning instruments aimed at the preservation of Hornsby's trees. The request to remove this tree is measured against these instruments. *Angophora costata* (Smooth Barked Apple Gum) is a species indigenous to Hornsby Shire and therefore requires an approval to prune or remove.

### **Significance, Health and Longevity**

The subject tree is a locally indigenous remnant specimen that contributes to a corridor of trees that extend along the rear yards of adjacent properties. This tree is visible from Holland Street, Grayson Road and adjoining properties.

The owner's arborist concludes the tree appears to have entered a morbid spiral where its health will greatly decline over several years. Council arborists do not agree with this proposition as the tree:

- Retains a normal and healthy crown density which has been verified using aerial photography
- Evidence of active wound wood developing in areas of past borer activity.

The owner's Arborist Report indicates that if the tree is removed, that it be replaced with the same species in a 200Lt container which would be between two and three metres in height.

### **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 indigenous to Hornsby Shire such as the *Angophora costata* (Smooth Barked Apple Gum). The HDCP only permits removal of a tree in the case of safety concerns if there are signs that the tree is diseased, dying or dangerous.

### **CONCLUSION**

The tree is a mature specimen that forms part of a corridor of similar large trees that occur along the rear yards of properties in Holland Road and Grayson Road.

Council inspections have found the tree to be healthy with evidence that past insect activity is repairing with no justifiable reason for removal based upon the information available. Therefore it is recommended that Council refuse the consent for the Smooth Barked Apple Gum located in the rear yard of 11 Holland Street, North Epping to be removed.

### **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

ROBERT STEPHENS

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Manager - Parks and Recreation  
Infrastructure and Recreation Division

Deputy General Manager - Infrastructure and  
Recreation  
Infrastructure and Recreation Division

**ITEM 7**

**Attachments:**

1. [View](#) Attachment 1 Arborist Report - 11 Holland Street North Epping
2. [View](#) Attachment 2 - Tree Photos
3. [View](#) Attachment 3 - Aerial Site Plan - 11 Holland Street North Epping

File Reference: TA/652/2016

Document Number: D07223382

## **8 HORNSBY PARK COMMUNITY CONSULTATION**

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### **EXECUTIVE SUMMARY**

- Over the last few years Council has been working towards a solution that involves opening an expanded Hornsby Park in 2023.
- Council has just completed a community engagement that has confirmed our intention to create a successful park that will be well embraced. The engagement sought ideas from the community and explained Council's program and funding.
- Feedback has been very positive with strong support received through various forums.
- Key themes that have emerged are:
  - That Council should aim to create a multi-use parkland that meets the needs of a diversity of recreation pursuits while also respecting the site's environmental qualities.
  - There is an opportunity to create a unique destination where visitors are drawn through the crusher plant area and into a large scale amphitheatre and attractive lake, focused on the diatrema rock wall.
  - The crusher plant buildings could be adapted to suit new uses associated with café, arts and community facilities.
  - Old Mans Valley is an important complementary area that can provide sportsground and mountain biking facilities, improved access to the broader site via walking and cycle trails and support facilities such as carparking.
- The consultants assisting Council have recommended that Council continue to engage the community via a combination of media events and community engagements at least every six months from now right through to the identified park opening date in 2023.

### **RECOMMENDATION**

THAT Council:

1. Note the findings of the Hornsby Park community engagement and the strong support for developing the parkland as a distinct and attractive open space.
2. Endorse the attached Outcomes Report as a record of the findings of the recent 'Plan Your Parkland' community engagement.
3. Support undertaking further consultations with the community via a range of mechanisms including engagement with stakeholders and the Community Deliberative Forum at key future stages of the park design and development.

**PURPOSE**

The purpose of this Report is to advise on the findings of the 'Plan Your Parkland' community engagement for Hornsby Park and seek endorsement of the attached Outcomes Report (Attachment 1).

**BACKGROUND**

For many years Council has been investigating options for the development of the Hornsby Quarry open space lands.

In 2014 Council resolved to support in principle the option of placing limited fill from NorthConnex in Hornsby quarry to achieve a landform best suited to recreation. This followed Council's consideration of a study that identified the potential of the site to meet both local recreation demands and to become a regional attraction by developing it as parkland that reflects its quarry character.

In 2015 a Plan of Management was adopted that confirmed Council's intention to retain the quarry within a larger contiguous parcel of parkland to be known as Hornsby Park. This parkland includes the Crown Land occupied by the Hornsby Aquatic and Leisure Centre, the adjoining quarry site and the lands known as Old Mans Valley.

In 2016 NorthConnex gained planning approval to place approximately one million cubic metres of fill into the Hornsby quarry void. NorthConnex have recently completed the construction of a new permanent road into Old Mans Valley and commenced placement of fill in the quarry void.

**DISCUSSION**

Council has identified a program of works focused on the restoration of Hornsby Park and opening the new parkland in 2023. Going forward, key stages in this work are:

- NorthConnex place fill material in the quarry void – 2017 to 2019
- Council prepare to undertake further restoration works by seeking planning approval for creation of a final landform for the parklands – 2017 to 2018
- Council undertake major earthworks to create a final landform and restore the site, following conclusion of NorthConnex filling. Council develops detail designs for the parkland – 2019 to 2021
- Council undertake landscape construction, including development of various park facilities and access provisions for the public to utilise – 2021 to 2023.

As the works will involve a significant funding commitment from Council it was considered important to engage with the Hornsby Shire community to:

- Inform them of Council's current intentions to retain the land as open space
- Seek ideas for what sort of park the community desire and engage the community in current and future planning and design. This approach will ensure the community has a strong sense of 'owning' the park in the community.
- Explain the program of works and funding requirements.

**Long Term Communications Strategy**

Council engaged Elton Consulting to assist in identifying the key elements of a long term communications strategy aimed at ensuring the community remain interested and supportive of park development. This work recognised that there will need to be continuing and ongoing engagement

with the community. It will also ensure the community retain a sense of ownership in the final outcome.

The consultants have recommended that a combination of media events and direct engagements are employed regularly and at least every six months from now right through to the identified park opening date in 2023.

They also recommend the ongoing referral of issues and options for park development to a Community Deliberative Forum who can assist Council in decision making.

### **'Plan Your Parkland' Engagement**

A community engagement was undertaken through the first half of 2017 with the aim of seeking ideas and informing the community of Council's resolve to develop distinct and unique parkland that is strongly supported by our community.

The engagement sought input from a cross section of the community by various mechanisms which included:

- Advertising in local papers, distributing flyers and posters in various locations and sending an email 'blast' to approximately 40,000 addresses in a Council database.
- Council launch of a specific Hornsby Park website 'hornsbypark.com.au' that includes:
  - extensive baseline information on the qualities and characteristics of the site
  - a range of videos and images demonstrating the discrete areas within the parkland
  - council's program and budget
  - background information including a library of available resource material.
- Forming a Community Deliberative Forum (CDF) of 16 randomly selected residents from across Hornsby Shire to consider the opportunities and constraints of the site and provide direction from a deeper understanding of the issues.
- Writing to neighbours and stakeholders informing them of the engagement and inviting them to make submissions.
- Meetings with key stakeholders including bushwalkers, environmentalists, mountain bikers, Hornsby Chamber of Commerce, Council's Heritage Advisory Committee and Aboriginal and Torres Strait Islander Committee and seeking their comments on the proposal.
- Advising the community of the initial findings of the surveys and other submissions via Community Information and Feedback sessions in Hornsby Mall.

A key element of the website was to seek ideas from the community via an online survey titled 'Plan Your Parkland'.

The direct meetings with stakeholders and the CDF sought to directly gather up and discuss the merits of ideas.

The website survey asked what sort of uses should be accommodated in different parts of the site, including the crusher plant, the quarry void and Old Mans Valley.

### **Engagement Findings**

Key results of the consultation:

- There were 1,236 responses received to the online questionnaire and 74% of these were from Hornsby Shire residents. The consultants noted that the age profile of respondents is representative of Hornsby Shire's community profile.
- There were 118 written and email submissions received.
- The range and scope of submissions received were discussed with the CDF and their input was sought on the key points to take forward.
- The consultants noted that a high level of engagement was achieved and the response from the community was very positive.

The attached Outcomes Report summarises the findings of the survey and other submissions received.

Key themes to guide future activities and facilities:

- Council should aim to create a multi-use parkland that meets the needs of a diversity of recreation pursuits while also respecting environmental qualities.
- The quarry void and crusher plant represent an opportunity to create a distinct recreation attraction responding to the unusual landform and site qualities. The community and CDF recognise these places provide valuable open space lands that can be enhanced by adapting existing elements and features to create a special and distinct attraction.
- Old Mans Valley is an important complementary area for providing access to the site, providing space for a range of organised sporting and informal activities as well as support facilities such as car parking, walking and cycle trails.

In addition the Outcomes Report recommends that:

- Council continue to engage the community to inform them on the progress of this important project and to seek their input at key future stages of design development and approvals.
- Council continue to promote the planning for the site via various media and consultative forums.

It is recommended that the findings of the 'Plan Your Parkland' community engagement and future consultations is published at the Hornsby Park website and this site is retained as a key source of information on where Council is up to on the park development.

### **CONSULTATION**

The 'Plan Your Parkland' community engagement included a six week consultation period from 15 February to 29 March 2017. During this period a range of community members, stakeholders and representatives were invited to submit their ideas. The attached Outcomes Report records the findings of all submissions received during this consultation period.

### **BUDGET**

There are no budgetary implications associated with this Report.

### **POLICY**

There are no policy implications associated with this Report.



## CONCLUSION

The Hornsby community recognises the potential for Hornsby Park to become a large and distinctive new parkland. The quarry void and crusher plant are seen as distinct places that should be enhanced. Old Mans Valley is a valuable complementary area of parkland.

The attached Outcomes Report finds that our community strongly supports the development of this land as a park and has made many suggestions for future uses. However, given that the project is still only at an early planning phase, it is important that Council continue consulting with the community as details of the site's opportunities and constraints become known.

The consultation framework that has been established has effectively engaged our community and stakeholders in a balanced and constructive manner that promises to ensure continuing strong community support for the park development.

## 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

ROBERT STEPHENS

Deputy General Manager - Infrastructure and  
Recreation  
Infrastructure and Recreation Division

## Attachments:

1. Plan Your Parkland Outcomes Report

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

File Reference: F2016/00295

Document Number: D07236660

**10 MAYOR'S NOTES FROM 1 TO 30 JUNE 2017**

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*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 2 June 2017 – The Mayor attended the Children's Voices for Reconciliation at Hornsby Mall.

Friday 2 June 2017 – The Mayor attended 1<sup>st</sup> Cherrybrook Scout Group Annual Report Presentation at 1<sup>st</sup> Cherrybrook Scout Hall, Appletree Drive, Cherrybrook.

Friday 2 June 2017 – The Mayor attended the official opening of Re-magine 2017 exhibition at Wallarobba Arts and Cultural Centre.

Friday 2 June 2017 – The Mayor attended the SES Annual Mayoral Dinner at Boronia Room, Hornsby RSL Club.

Monday 5 June 2017 – The Mayor attended the Harbour to Hawkesbury MPs and Mayors' Briefing at Lifeline Headquarters, 4 Park Avenue, Gordon.

Tuesday 6 June 2017 – The Mayor hosted three Citizenship Ceremonies in the Council Chambers.

Thursday 8 June 2017 – The Mayor attended the official opening by Mr Julian Lesser MP of Extension to Senior School Building at Pacific Hills Christian School, Dural.

Wednesday 14 June 2017 – The Mayor attended the Triple H and Small Biz Matters at Event Cinemas Hornsby.

Thursday 15 June 2017 – The Mayor attended the Networking morning tea at Hornsby Tafe, Hornsby

Monday 19 June 2017 – The Mayor attended the Mobile Muster Award - Australian Local Government Association (ALGA) Conference at the National General Assembly in Canberra.

Friday 23 June 2017 – The Mayor attended the Hornsby Girls High School English Event at Hornsby Girls High School, Hornsby.

Friday 23 June 2017 – The Mayor attended the Rotary Club of Dural's 50<sup>th</sup> Anniversary Gala Dinner at Dural County Club, Dural.

There are no attachments for this report.

File Reference: F2004/07053

Document Number: D07229036

**11 PROVISION OF PLAYGROUND IN MT COLAH**

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COUNCILLOR TILBURY TO MOVE

THAT:

1. Council investigate options for the provision of a suitable playground in the area of Mount Colah, east of the railway line. The investigation should:
  - a) Identify suitable locations for the provision of a playground
  - b) Details of the appropriate size (eg local, neighbourhood, district) for a playground at each location option
  - c) The cost of providing and maintaining such a facility at each location
  - d) Funding options.
2. The findings of the investigation be presented to a Councillor briefing session for the newly elected Council to consider.

Note from Councillor

I have been separately approached by a number of residents asking for a playground in Mount Colah, east of the railway line. Currently there isn't a playground for residents in this area.

I am asking Council to investigate options for the provision of a playground in this area.

**Attachments:**

There are no attachments for this report.

File Reference: F2004/09976-02

Document Number: D07244068

**12 IMPROVEMENT OF PEDESTRIAN AND PASSENGER ACCESS MOUNT COLAH RAIL STATION PEDESTRIAN BRIDGE**

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COUNCILLOR TILBURY TO MOVE

That Council:

1. Write to RailCorp to improve pedestrian access at Mount Colah Rail Station.
2. Write to the Member for Hornsby, Mr Matt Kean, seeking his assistance in improving pedestrian access at Mount Colah Rail Station.

Note from Councillor

I have been approached by residents, particularly mothers with prams and disabled persons, regarding the need to negotiate many steps to cross over the pedestrian bridge as well as access the rail station at Mount Colah. There are 15 steps on the eastern side of the rail station and 4 steps on the western side and this bridge is the only pedestrian access across the railway line at Mt Colah.

I am requesting that Council write to RailCorp and the Local State MP to improve pedestrian access to and from the station.

**Attachments:**

There are no attachments for this report.

File Reference: F2005/00064

Document Number: D07246340

**13 AUSTRALIA DAY - AUSTRALIAN LOCAL GOVERNMENT ASSOCIATION (ALGA) RESOLUTION**

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COUNCILLOR COX TO MOVE

THAT:

1. Hornsby Shire Council (Council) reject resolution 52 from the 2017 National General Assembly of the Australian Local Government Association (ALGA) which stated:  
  
"That the National General Assembly encourage Australian councils to consider efforts they could take to lobby the Federal Government to change the date of recognition of Australia Day."  
  
and the reported premise that Australia Day is offensive/racist.
2. Council note that it has viewed attending ALGA conferences as a waste of ratepayer's money and suspects that other councils formed this view as there are 560 local government authorities across Australia but there were only 126 votes cast on this resolution.
3. A report be prepared for Council's consideration on the benefit of the ALGA to the Council and our ratepayers and potential ways to sever ties with this organisation.
4. The Council write to ALGA, the Prime Minister, the Leader of the Opposition and the Minister and Shadow Minister for Local Government to advise them of this resolution.

**Attachments:**

There are no attachments for this report.

File Reference: F2004/07061

Document Number: D07247007