



# **BUSINESS PAPER**

## **GENERAL MEETING**

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



---

## TABLE OF CONTENTS

### AGENDA AND SUMMARY OF RECOMMENDATIONS

### RESCISSION MOTIONS

### MAYORAL MINUTES

### ITEMS PASSED BY EXCEPTION / CALL FOR SPEAKERS ON AGENDA ITEMS

### GENERAL BUSINESS

#### Office of the General Manager

Nil

#### Corporate Support Division

Item 1	CS7/17 Investments and Borrowings for 2016/17 - Status for Period Ending 28 February 2017 .....	1
Item 2	CS8/17 Operational Plan (including Budget and Fees and Charges) for 2017/18 - Adoption of Draft Documents for Public Exhibition .....	4
Item 3	CS9/17 Pecuniary Interest and Other Matters Returns - Disclosures by Councillors and Designated Persons .....	10

#### Environment and Human Services Division

Nil

#### Planning Division

Item 4	PL19/17 Further Report - Development Application - Dwelling house - 8A Kirkham Street, Beecroft .....	13
Item 5	PL11/17 Strategic Planning Program 2017/18 .....	38
Item 6	PL15/17 Draft State Environmental Planning Policy (Educational Establishments And Childcare Facilities) 2017 .....	46
Item 7	PL17/17 Planning Legislation Updates .....	57
Item 8	PL18/17 Infrastructure SEPP Review - Submission Report.....	71

#### Infrastructure and Recreation Division

Item 9	IR3/17 Waitara Park - Destination Park Development .....	78
--------	--	----

### PUBLIC FORUM – NON AGENDA ITEMS

### QUESTIONS OF WHICH NOTICE HAS BEEN GIVEN

### MAYOR'S NOTES

Item 10 MN4/17 Mayor's Notes from 1 to 31 March 2017 ..... 83

**NOTICES OF MOTION**

**SUPPLEMENTARY AGENDA**

**MATTERS OF URGENCY**

**QUESTIONS WITHOUT NOTICE**

## **AGENDA AND SUMMARY OF RECOMMENDATIONS**

### **PRESENT**

### **NATIONAL ANTHEM**

### **OPENING PRAYER/S**

Pastor Ejay Mbakwe of The Awesome Rock Church, Asquith will open the meeting in prayer.

### **ACKNOWLEDGEMENT OF RELIGIOUS DIVERSITY**

Statement by the Chairperson:

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

### **ABORIGINAL RECOGNITION**

Statement by the Chairperson:

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

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

Statement by the Chairperson:

*"I advise all present that tonight's meeting is being audio recorded for the purposes of providing a record of public comment at the meeting, supporting the democratic process, broadening knowledge and participation in community affairs, and demonstrating Council's commitment to openness and accountability. The recordings of the non-confidential parts of the meeting will be made available on Council's website once the Minutes have been finalised. All speakers are requested to ensure their comments are relevant to the issue at hand and to refrain from making personal comments or criticisms. No other persons are permitted to record the Meeting, unless specifically authorised by Council to do so."*

### **APOLOGIES / LEAVE OF ABSENCE**

### **POLITICAL DONATIONS DISCLOSURE**

Statement by the Chairperson:

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

---

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

## **DECLARATIONS OF INTEREST**

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

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

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

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

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

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

*OR*

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

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

## **CONFIRMATION OF MINUTES**

THAT the Minutes of the General Meeting held on 8 March, 2017 be confirmed; a copy having been distributed to all Councillors.

## **PETITIONS**

**PRESENTATIONS****RESCISSION MOTIONS****MAYORAL MINUTES****ITEMS PASSED BY EXCEPTION / CALL FOR SPEAKERS ON AGENDA ITEMS**Note:

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

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

**GENERAL BUSINESS**

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

**OFFICE OF THE GENERAL MANAGER**

Nil

**CORPORATE SUPPORT DIVISION****Page Number 1**

**Item 1 CS7/17 INVESTMENTS AND BORROWINGS FOR 2016/17 - STATUS FOR PERIOD ENDING 28 FEBRUARY 2017**

**RECOMMENDATION**

THAT the contents of Deputy General Manager's Report No. CS7/17 be received and noted.

**Page Number 4**

**Item 2 CS8/17 OPERATIONAL PLAN (INCLUDING BUDGET AND FEES AND CHARGES) FOR 2017/18 - ADOPTION OF DRAFT DOCUMENTS FOR PUBLIC EXHIBITION**

**RECOMMENDATION**

THAT:

1. Council adopt for public exhibition and make available for public comment from 13 April to 15 May 2017, the draft Operational Plan 2017/18 which includes the draft Budget, Fees and Charges and Rating Structure for 2017/18.
2. Council note that the rating information contained in the draft Operational Plan 2017/18 is in line with the Independent Pricing and Regulatory Tribunal's rate increase approval for NSW councils (i.e. a 1.5% rate increase for 2017/18).
3. Following the public exhibition period, and before 30 June 2017, a further report be prepared for Council's consideration which provides details of any submissions received and recommends the adoption of a final Operational Plan 2017/18, including the Budget, Fees and Charges and Rating Structure for that year.

**Page Number 10****Item 3 CS9/17 PECUNIARY INTEREST AND OTHER MATTERS RETURNS - DISCLOSURES BY COUNCILLORS AND DESIGNATED PERSONS****RECOMMENDATION**

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

**ENVIRONMENT AND HUMAN SERVICES DIVISION**

Nil

**PLANNING DIVISION****Page Number 13****Item 4 PL19/17 FURTHER REPORT - DEVELOPMENT APPLICATION - DWELLING HOUSE - 8A KIRKHAM STREET, BEECROFT****RECOMMENDATION**

THAT Development Application No. DA/802/2016 for construction of a dwelling house at Lot 9 DP1089650, No. 8A Kirkham Street, Beecroft be approved subject to the conditions of consent detailed in Schedule 1 of Group Manager's Report No. PL19/17.

**Page Number 38****Item 5 PL11/17 STRATEGIC PLANNING PROGRAM 2017/18****RECOMMENDATION**

THAT:

1. The 2017/2018 Strategic Planning Program attached to Group Manager's Report No. PL11/17 be adopted.
2. Council renew its subscription to the Cities Leadership Institute to January 2018.

**Page Number 46****Item 6 PL15/17 DRAFT STATE ENVIRONMENTAL PLANNING POLICY (EDUCATIONAL ESTABLISHMENTS AND CHILDCARE FACILITIES) 2017****RECOMMENDATION**

THAT:

1. A submission be forwarded to the Department of Planning and Environment raising concern with Draft SEPP (Educational Establishments and Childcare Facilities) 2017, and addressing the major issues for Hornsby Shire identified in Group Managers Report No.PL15/17, including:
  - a) Ensuring the planning controls are consistent with the priorities in the Draft North District Plan to discourage urban development in the primary production rural areas;
  - b) Requiring that significant private school developments are subject to an independent merit assessment to ensure works respond to the existing or desired future character of the locality;
  - c) Amending the design controls for exempt and complying school developments to appropriately respond to a low density residential and rural environment;
  - d) Limiting the extent of school intensification as complying development that has the potential to impact on local road infrastructure; and
  - e) Avoiding and mitigating the clearing of native vegetation.
2. Council prepare and exhibit amendments to the Hornsby Development Control Plan 2013 to provide consistency with SEPP (Educational Establishments and Childcare Facilities) 2017 as gazetted, including removal of the existing cap on the size of child care facilities.

**Page Number 57****Item 7 PL17/17 PLANNING LEGISLATION UPDATES****RECOMMENDATION**

THAT a submission be forwarded to the Department of Planning and Environment indicating Council's general support for the *Planning Legislation Updates*, subject to the Department addressing the major issues for Hornsby Shire identified in Group Manager's Report No. PL17/17, including:

1. Community Participation Plan Regulation should not fetter Council consultation practices and "public notification" be defined for Statements of Reasons for Decisions as a website notice.
2. Local Strategic Planning Statements be incorporated in LEPs and Regional and District Plans be reviewed every five years.

3. A maximum timeframe for the Secretary and a “dedicated integrated development assessment team” be established to resolve delays in the provision of concurrence.
4. Delete categories of Complying Codes which are not routine and remove the need for certifiers to refer complying development proposals to Council for review prior to approval.
5. Provide councils the option to include additional specialists on local planning panels and identify circumstances in which Government can appoint a local planning panel.

**Page Number 71****Item 8 PL18/17 INFRASTRUCTURE SEPP REVIEW - SUBMISSION REPORT****RECOMMENDATION**

THAT a submission be forwarded to the Department of Planning and Environment raising concern with the *Draft SEPP (Infrastructure) Amendment (Review) 2016*, addressing the major issues for Hornsby Shire identified in Group Manager’s Report No.PL18/17, including:

1. Continuing to prohibit health services facilities in low density residential and neighbourhood business zones;
2. Restricting the commercial premises that are permitted with consent and as complying development in the grounds of a health services facility;
3. Ensuring that car parks in the grounds of a health services facility may only be approved as complying development where they meet height and setback standards;
4. Avoiding and mitigating the clearing of native vegetation associated with health services facilities;
5. Restricting the physical size and intensity of use of a police station based on a set increase of its existing size before consent is required; and
6. Including reference to all relevant land use terms in the *Standard Instrument* that form traffic generating development.

**INFRASTRUCTURE AND RECREATION DIVISION****Page Number 78****Item 9 IR3/17 WAITARA PARK - DESTINATION PARK DEVELOPMENT****RECOMMENDATION**

THAT Council:

1. Support the development of a new building to serve the needs of the flexible sports space adjacent to Edgeworth David Avenue and visitors to the inclusive playground and other areas of Waitara Park at an estimated capital cost of \$1.2 million.
2. Reaffirm its support for the construction of a new inclusive playground and landscape works in the north-west corner of Waitara Park at an estimated capital cost of \$1.3 million.

**PUBLIC FORUM – NON AGENDA ITEMS**

**QUESTIONS OF WHICH NOTICE HAS BEEN GIVEN**

**MAYOR'S NOTES**

**Page Number 83**

**Item 10 MN4/17 MAYOR'S NOTES FROM 1 TO 31 MARCH 2017**

**NOTICES OF MOTION**

**SUPPLEMENTARY AGENDA**

**MATTERS OF URGENCY**

**QUESTIONS WITHOUT NOTICE**

**1 INVESTMENTS AND BORROWINGS FOR 2016/17 - STATUS FOR PERIOD ENDING 28 FEBRUARY 2017**

---

**EXECUTIVE SUMMARY**

- This Report provides details of Council's investment performance for the period ending 28 February 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 February was 2.72% compared to the benchmark of 1.50%.

**RECOMMENDATION**

THAT the contents of Deputy General Manager's Report No. CS7/17 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 28 February 2017 is detailed in the attached document. In summary, the At-Call and Term Deposits achieved an annualised return of 2.72% for February 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 7.23%. The Borrowings Schedule as at 28 February 2017 is also attached for Council's information.

**CONSULTATION**

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

**BUDGET**

Budgeted investment income for 2016/17 is \$3,000,000 with an average budgeted monthly income of \$250,000. Total investment income for the period ended February 2017 was \$2,897,000 compared to the budgeted income of \$2,000,000. Approximately 41% 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 28 February 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 Investment Holdings Report February 2017
- 2.[View](#) HSC Borrowings Schedule - February 2017

File Reference: F2004/06987-02  
Document Number: D07168815

**2 OPERATIONAL PLAN (INCLUDING BUDGET AND FEES AND CHARGES) FOR 2017/18 - ADOPTION OF DRAFT DOCUMENTS FOR PUBLIC EXHIBITION**

---

**EXECUTIVE SUMMARY**

- A draft Operational Plan for 2017/18 has been developed which includes budget information at the branch and organisational levels, the rates proposed to be charged to ratepayers and the fees to be charged for the domestic waste service. Other fees and charges proposed for 2017/18 are included in a separate document.
- The draft Operational Plan also details proposed capital works over the coming four year period, 2017/18 to 2020/21, which is the end of the 10 year timespan of the infrastructure program tied to a special rate variation approved by the Independent Pricing and Regulatory Tribunal (IPART) in June 2011.
- The draft Operational Plan is based on the 1.5% rate increase approved by IPART for the 2017/18 financial year and provides for a budget surplus of \$78K based on a Net Operating and Capital Result after Funding.

**RECOMMENDATION**

**THAT:**

1. Council adopt for public exhibition and make available for public comment from 13 April to 15 May 2017, the draft Operational Plan 2017/18 which includes the draft Budget, Fees and Charges and Rating Structure for 2017/18.
2. Council note that the rating information contained in the draft Operational Plan 2017/18 is in line with the Independent Pricing and Regulatory Tribunal's rate increase approval for NSW councils (i.e. a 1.5% rate increase for 2017/18).
3. Following the public exhibition period, and before 30 June 2017, a further report be prepared for Council's consideration which provides details of any submissions received and recommends the adoption of a final Operational Plan 2017/18, including the Budget, Fees and Charges and Rating Structure for that year.

## **PURPOSE**

The purpose of this report is to present to Council for adoption the draft Operational Plan 2017/18 (incorporating the Budget, Fees and Charges and Rating Structure for 2017/18) such that the draft documents can be publicly exhibited from Thursday 13 April to Monday 15 May 2017 prior to being reconsidered for final adoption by Council in June 2017.

## **BACKGROUND**

By 30 June in the year following local government elections, all councils are required to develop a 10 year community strategic plan, a four year delivery program and a one year operational plan as well as a resourcing strategy. The purpose is to identify the main priorities and aspirations for the future of the local government area and the resources required to move to that preferred future. Your Community Plan 2013-2023, Council's 10 year community strategic plan, was adopted on 19 June 2013 together with a Delivery Program for 2013-17 and a 2013/14 Operational Plan.

Due to legal action by Ku-ring-gai Council opposing the NSW Government's intention to amalgamate Hornsby and Ku-ring-gai Councils, the current Hornsby Shire Council's term of office has been extended past its original four years and the Operational Plan 2017/18 will continue to operate under Your Community Plan 2013-2023 and the four year Delivery Program 2013-2017 (see Circular No. 16-50 dated 21 December 2016 from the Office of Local Government).

The Office of Local Government requires that the four year delivery program and one year operational plan be reviewed annually. This review process has occurred for the 2014/15, 2015/16 and 2016/17 financial years.

## **DISCUSSION**

### **Delivery Program 2013-17**

The Delivery Program for 2013-17 is Council's response to the aspirations detailed in Your Community Plan 2013-2023. The Delivery Program describes Council's commitment to the community during this current term of office and contains the principal activities to be undertaken. Those principal activities are aligned to the services Council carries out, the funding required, and the service delivery indicators to measure the success of those activities. The rolling four year program of principal activities in the Delivery Program 2013-17 has been reviewed and is recommended to remain unchanged.

### **Draft Operational Plan 2017/18**

The Operational Plan for 2017/18 is a subset of the Delivery Program. It spells out the Key Actions that will be undertaken in 2017/18 and includes Council's detailed annual budget and statement of revenue policy which includes the proposed rates, fees and charges. The draft Operational Plan 2017/18 includes a capital works program which covers the next four years. It is noted that in June 2011, IPART approved a special rate variation (SRV) which was premised on implementation of a ten year infrastructure program from 2011/12 to 2020/21. Therefore, the capital works program completes the 10 year timespan of the SRV infrastructure program.

Research undertaken in the development of Your Community Plan 2013–2023 demonstrated a strong recognition of the good quality of life provided in the Council area which residents want to retain and enhance. In essence, Hornsby Shire is a community that has high expectations for the quality of life and services enjoyed by residents, businesses and visitors. These expectations can best be met by Council if it continues to provide services at the levels provided in the past, including a strong focus on capital works.

Council staff commenced preparation of the 2017/18 Budget in December 2016. To minimise some of the financial constraints and considerations impacting on local government, and to avoid excessive bids for funding which could not be met, the 2017/18 Budget parameters included:

- A general rate increase of 1.5% for 2017/18 – i.e. the percentage increase approved by IPART and advised to Council in November 2016.
- Zero external loan borrowing and the continuation of prudent financial management.
- A nil increase to Divisional expenditure (net of direct labour) for material and contract expenditure - this is despite substantial price increases, particularly for construction materials. Any increase has been required to be offset by productivity improvements, service reductions or increased fees.
- Direct salaries and wages to include provision for the Local Government (State) Award increase. A labour increase of 2.5% for 2017/18 has been estimated (subject to Award negotiation finalisation) and calculated on 50 pay weeks. The two week reduction from a full year represents organisational savings which occur as a result of the average delay in replacing staff members who retire/resign/etc and/or productivity improvements that are required.
- The use of Council staff where possible to undertake SRV projects; Section 94 Development Contributions projects; and other funded projects.
- Continuation of increased budget allocations approved in previous financial years. This included \$200K for tree inspections and removal; \$805K towards asset management of community facilities; and \$650K towards maintaining Council's sealed road pavement network at an acceptable standard. A further amount of \$400K was required in 2017/18 towards maintaining community facilities as identified in council's asset management plans. The increased budget allocation for maintaining community facilities is based on previous years and for 2017/18 totals \$1.205 million.
- The December Quarterly Budget Review 2016 was used as the starting point for 2017/18 budget estimates.

The draft Budget for 2017/18 has been developed in line with the above parameters. Those parameters, together with savings achieved over the past few years and the achievement of further productivity measures targeted across the organisation, has initially achieved a cash-funding surplus of \$1.978 million. This amount was reduced to \$78K based on the following allocations:

- \$1.2 million towards funding the Section 94 funding gap identified in Council's 2014-2024 Section 94 Development Contributions Plan. These funds are to be restricted to ensure Council is able to meet demand generated from new development in the future and will be used to provide additional community infrastructure, local services and facilities.
- \$300K for a planning study on the Hornsby Eastside
- \$400K towards Galston Aquatic Centre structural improvements

This is consistent with Council's goal to maintain prudent management of its finances and to set aside funds to contribute towards a number of significant financial challenges over the next 10 years.

It is noted that the cash-funding surplus has declined significantly to prior year results due to the boundary adjustment with the City of Parramatta which was proclaimed by the Minister for Local Government on 12 May 2016. The proclamation transferred the Hornsby Shire Council area south of

the M2 Motorway to the new City of Parramatta Council. This included assets identified to be realised to fund significant capital projects over the next 10 years and substantial net recurrent revenue and future rate growth income from development concentrated in the area south of the M2 Motorway. The financial effect of this transfer was previously reported to Council (refer Deputy General Manager's Report CS43/16).

The financial impact of the boundary adjustment on Hornsby Shire Council is evident in the substantial reduction in the projected cash-funding surplus for 2017/18 when compared to prior years. This substantial reduction in the projected cash-funding surplus most likely will become the norm for Hornsby Shire Council with its current boundaries. This will severely weaken the financial position of Hornsby Shire Council over the medium to long term and will necessitate a re-evaluation of many longer term capital projects and service levels. Based on the above, a revision of the long term financial plan is currently underway.

### **Aquatic Centres**

The third year for the tender of the Hornsby Aquatic Centre operations finishes on 30 June 2017. In determining the 2017/18 budget for this Centre, the third year of the tender surplus has been used, less \$100K. This reduction has been required due to increased operational costs, most notably electricity, of above 20%. In regards to determining the Galston Aquatic Centre budget for 2017/18, the 2016/17 December Revised Budget Review was used as the starting point. After allowing for significant electricity and gas price increases for 2017/18, offset by increased learn to swim classes, the subsidy for this Centre has been able to be reduced by \$100K. The Aquatic Centre consolidated net budget result therefore remains at the same levels determined at the 2016/17 December Quarterly Budget Review.

### **Fees and Charges**

The proposed Fees and Charges for 2017/18 have been reviewed and increased by the CPI or by an amount which has regard to market conditions and the appropriate cost recovery level. Opportunities to recover administrative and overhead costs in respect of business activities have also been investigated and implemented where appropriate. Where applicable, the final price includes GST which does not contribute revenue to Council but is forwarded to the Federal Government.

For 2017/18, the following should be noted:

- The majority of fees for the Hornsby and Galston Aquatic and Leisure Centres and all fees for the Thornleigh Brickpit Stadium remain at 2016/17 levels.
- The Domestic Waste Management charges remain at 2016/17 levels.
- The addition of a fee for the impounding of clothing bins abandoned on Council property or road reserves.
- The charging of not for profit organisations the same amount as regular hirers for community and cultural facilities hire. In most instances the fee difference is minimal. Galston Community Centre is the exception – discrete rates for not for profit organisations remain under Casual Hire, as the rates for regular hirers would disadvantage not for profit organisations.
- Three new fees for Property Services, including an application fee for lease of telecommunication sites; processing fees for Deeds of Caveat; and a processing fee for Consent to Mortgage of Lease.

## Rating Structure

Council reviewed its rating structure at the April 2006 Ordinary Meeting when it considered Executive Manager's Report No. CC20/06. That structure has applied in respect of the calculation of the rates since that time and it is recommended that the same rating structure continue in 2017/18. Details of the rates types and yields, rating categories, base amounts, minimum rates for business properties, ad valorem amounts and other statutory rating information are set out in the draft Operational Plan document.

The Valuer General supplied Council with new land values for properties across the Shire as at 1 July 2016. These values have been used for the 2017/18 financial year and will continue to be used for the 2018/19 and 2019/20 financial years. The rating information is in line with the 1.5% increase approved by IPART for 2017/18. The base amount for ordinary, residential and farmland rates will increase from \$519 in 2016/17 to \$527 in 2017/18.

[N.B. The new land values for Hornsby Shire Council were issued a year earlier than would have normally been the case due to the need to have such values available for the imposition of the NSW Government's Fire Emergency Services Levy (FESL)]

## Fire and Emergency Services Levy (FESL)

Appearing on rates notices for the first time in 2017/18 will be the NSW Government's FESL. The Levy contributes to supporting the work of Fire and Rescue NSW, the NSW Rural Fire Service and the NSW State Emergency Service and will replace the current levy on property insurance. The FESL will be collected from property owners by local councils and it will be clearly listed as a separate item on rates notices or as part of a standalone statement for non-rateable properties. The amount collected from FESL by local councils will be forwarded to the NSW Government. FESL contributions in 2017/18 will be based on the budget of the emergency services agencies for the year, individual property's land classification and its unimproved land value as at 1 July 2016.

At the time of writing this Report, councils have not been informed by the NSW Government as to the rates that will apply to property owners.

## Local Government Reform – Proposals with Ku-ring-gai Council and Parramatta City Council

The draft Operational Plan 2017/18 has been prepared on the basis of Hornsby Shire Council proceeding as a single entity in 2017/18. The information will need to be reviewed if the NSW Government proceeds with the merger proposal affecting the Hornsby local government area.

## CONSULTATION

The formal public exhibition period of the Draft Operational Plan 2017/18 is scheduled to occur from Thursday 13 April to Monday 15 May 2017. Comments received during the formal exhibition period will be considered and reported to Council prior to adoption of the final documents in June 2017.

## BUDGET

Any budget implications have been included in the Discussion section of this Report.

## POLICY

The Delivery Program describes Council's commitment to the community during this term of office and contains the principal activities to be undertaken aligned to the services Council carries out, the funding required, and the service delivery indicators to measure the success of those activities.

---

**CONCLUSION**

The Draft Operational Plan 2017/18 (including the Budget, Fees and Charges and Rating Structure) encompass Council's prudent and financially viable response to the priorities and expected levels of service voiced by the community. Public exhibition of these documents provides an opportunity for the community to give feedback on any proposed action or activity for 2017/18. That feedback will be considered by Council prior to final adoption of the Draft Operational Plan in June 2017.

**RESPONSIBLE OFFICER**

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

GARY BENSLEY  
Deputy General Manager - Corporate Support  
Corporate Support Division

ROBERT STEPHENS  
Acting General Manager  
Office of the General Manager

**Attachments:**

- 1.[View](#) Draft Operational Plan 2017/18
- 2.[View](#) Draft Fees and Charges 2017/18

File Reference: F2016/00368  
Document Number: D07169812

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

---

**EXECUTIVE SUMMARY**

- Section 449 of the Local Government Act (the Act) details the statutory requirements in respect of the lodgement of Disclosure of Pecuniary Interests and Other Matters Return/s by Councillors and Designated Persons.
- Section 450A(2) of the Act requires that Returns lodged under Section 449 are to be tabled at the next available Council meeting.
- In line with Section 450A(2), this Report seeks to table the Return/s recently lodged with the General Manager.

**RECOMMENDATION**

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

## PURPOSE

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

## BACKGROUND

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

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

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

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

## DISCUSSION

### Returns Lodged in Accordance with Sections 449(1), 449(3) and/or 449(5) of the Act and Council's Procedures

Council last considered the tabling of Disclosure of Pecuniary Interests and Other Matters Returns under Sections 449(1) and (5) of the Act at the General Meeting held on 9 November 2016 (see Deputy General Manager's Report No. CS46/16). Since that time, one additional Return has been lodged with the General Manager and is now tabled as required by the Act.

<b>Date Lodged</b>	<b>Councillor/Designated Person (Position)</b>	<b>Reason for Lodgement</b>
13 February 2017	Principal Strategic Town Planner	Resignation

## BUDGET

There are no budgetary implications associated with this Report.

**POLICY**

There are no policy implications associated with this Report.

**CONCLUSION**

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

**RESPONSIBLE OFFICER**

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

ROBYN ABICAIRE  
Manager - Governance and Customer Service  
Corporate Support Division

GARY BENSLEY  
Deputy General Manager - Corporate Support  
Corporate Support Division

**Attachments:**

There are no attachments for this report.

File Reference: F2017/00069  
Document Number: D07171992

**4 FURTHER REPORT - DEVELOPMENT APPLICATION - DWELLING HOUSE - 8A KIRKHAM STREET, BEECROFT**

---

**EXECUTIVE SUMMARY**

<b>DA No:</b>	DA/802/2016 (Lodged on 27 June 2016)
<b>Description:</b>	Erection of a dwelling house on a vacant allotment
<b>Property:</b>	Lot 9 DP 1089650, No. 8A Kirkham Street, Beecroft
<b>Applicant:</b>	Mr Matthew John Pearce
<b>Owner:</b>	Mr Peter Benedict Gibbs
<b>Estimated Value:</b>	\$700,000

- The application is for the construction of a two storey dwelling on a vacant allotment.
- On 14 December 2016, Council resolved to defer the matter to enable an onsite meeting to discuss concerns with bulk and scale, privacy, heritage, stormwater management, vehicular access and parking.
- On 9 February 2017, the onsite meeting was held. In response to the issues raised at the meeting, revised plans were submitted to Council on 27 February 2017.
- The proposal generally complies with the *Hornsby Local Environmental Plan (HLEP) 2013* and the *Hornsby Development Control Plan (HDCP) 2013*.
- 11 submissions have been received from 5 objectors in respect of the application.
- A Red Sticker has been placed on the application requiring that it be determined at a Council meeting.
- It is recommended that the application be approved.

**RECOMMENDATION**

THAT Development Application No. DA/802/2016 for construction of a dwelling house at Lot 9 DP1089650, No. 8A Kirkham Street, Beecroft be approved subject to the conditions of consent detailed in Schedule 1 of Group Manager's Report No. PL19/17.

## BACKGROUND

On 19 April 2002, Council approved DA/1131/2001 for the subdivision of 8 Kirkham Street into two allotments and the demolition of a carport. The subject site was created as part of the subdivision.

## SITE

The vacant, 630m<sup>2</sup> battle-axe site is located on the north-west side of Kirkham Street, Beecroft.

The site experiences a fall of 2.5 metres from the north-east, side boundary towards the south-west, side boundary.

The site is not bushfire or flood prone.

The site is located within an R2- Low Density Residential zone and surrounded by a mix of single and two storey detached dwelling houses of various architectural styles.

The site is burdened by a right of carriageway and easement for services 4 metres wide and variable benefiting No. 8 Kirkham Street located at the front of the Lot. The site is benefited by an easement to drain water 1 metre wide over No. 8 Kirkham Street.

The site is located within the Beecroft/Cheltenham Heritage Conservation Area and is in the vicinity of a heritage item, namely a house at No. 8 Kirkham Street which is listed in Schedule 5 of the *Hornsby Local Environmental Plan 2013*.

## APPLICATION HISTORY

On 27 June 2016, the subject application was lodged.

On 1 July 2016, Council requested amended plans and additional information as no heritage statement or BASIX certificate was submitted with the application and the submitted plans did not comply with the HLEP requirement for Height of Buildings. On 12 July 2016, a BASIX certificate, a heritage statement and revised plans were submitted.

On 3 August 2016, Council issued a request for amended plans and additional as the proposal did not comply with the HDCP requirements for privacy and tree preservation. On 24 August 2016, an arborist impact assessment was submitted by the applicant.

On 31 August 2016, a meeting was held between Council officers and the applicant to discuss the progress of the application. On 12 September 2016, Council issued a further request for amended plans and additional information as the proposal did not comply with the HDCP requirements for scale, setbacks, privacy and heritage and the *Australian Standard AS 2890.1* for the proposed driveway.

On 26 September 2016, revised plans were submitted by the applicant deleting the elevated porch on the western side of the dwelling house and increasing the western setback, deleting the gymnasium from the basement, reducing the height of the outdoor tiled living area and the swimming pool and including screen plating on the western side of the dwelling house. On 11 October 2016, stormwater concept plans were submitted by the applicant.

On 13 October 2013, a meeting was held between Council officers and the applicant and amended driveway plans were requested as the proposal still did not comply with the *Australian Standard AS 2890.1* for the proposed driveway. On 18 October 2016, revised plans were submitted by the applicant reducing the driveway gradient.

On 14 December 2016, Council considered Group Manager's Report No. PL72/16, which recommended that the proposal be approved. Council resolved that the matter be deferred to enable an onsite meeting to be arranged by the Group Manager Planning to discuss the issues raised in submissions including bulk and scale, privacy, heritage, stormwater management, vehicular access and parking.

On 9 February 2017, an onsite meeting was held with available Councillors, the applicant, objectors and Council staff. At the conclusion of the meeting, it was noted that the application would be reported back to Council at its meeting for consideration.

In response to concerns raised at the onsite meeting, revised plans were submitted to Council on 27 February 2017. The revised plans include:

- The deletion of the basement carpark;
- The deletion of the swimming pool;
- A 0.65 metre reduction in the overall height of the dwelling;
- A 1.4 metre reduction of the first floor level from RL 126.8 to RL125.4;
- A 1.4 metre reduction of the ground floor level from RL 123.8 to RL122.4;
- A reduction in the floor area from 535m<sup>2</sup> to 380m<sup>2</sup>;
- A reduction in the southern side setback from 3.6 metres to 2.25 metres;
- A reduction in the northern side setback from 2.5 metres to 1.5 metres; and
- A double garage and vehicle turntable in front of the dwelling house.

## PROPOSAL

The application proposes the construction of a two storey dwelling house, vehicle turntable and associated landscaping works.

The ground floor would comprise a front entry porch, foyer, two car garage, guest bedroom, bathroom, study, kitchen, butler's pantry, dining room, living room and outdoor patio.

The first floor would comprise a master bedroom with an ensuite and balcony, bathroom, three additional bedrooms, and sitting/play area.

Three trees would be removed and ten trees would be impacted by the development.

## ASSESSMENT

The development application has been assessed having regard to 'A Plan for Growing Sydney', the 'Draft North District Plan' and the matters for consideration prescribed under Section 79C of the *Environmental Planning and Assessment Act 1979* (the Act). The following issues have been identified for further consideration.

### 1. STRATEGIC CONTEXT

#### 1.1 A Plan for Growing Sydney and (Draft) North District Plan

A Plan for Growing Sydney has been prepared by the NSW State Government to guide land use planning decisions for the next 20 years. The Plan sets a strategy and actions for accommodating Sydney's future population growth and identifies dwelling targets to ensure supply meets demand.

The Plan identifies that the most suitable areas for new housing are in locations close to jobs, public transport, community facilities and services.

The NSW Government will use the subregional planning process to define objectives and set goals for job creation, housing supply and choice in each subregion. Hornsby Shire has been grouped with Hunters Hill, Ku-ring-gai, Lane Cove, Mosman, North Sydney, Ryde, Northern Beaches and Willoughby to form the North District. The Greater Sydney Commission has realised the draft North District Plan which includes priorities and actions for the Northern District for the next 20 years. The identified challenge for Hornsby Shire will be to provide an additional 4,350 dwellings by 2021 with further strategic supply targets to be identified to deliver 97,000 additional dwellings in the North District by 2036.

The proposed development would be consistent with *'A Plan for Growing Sydney'* and *'Draft North District Plan'* by providing an additional dwelling contributing to Council's housing target.

## 2. STATUTORY CONTROLS

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

### 2.1 Hornsby Local Environmental Plan 2013

The subject land is zoned R2 (Low Density-Residential) under the *Hornsby Local Environmental Plan 2013 (HLEP)*. The objectives of the R2 zone are:

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

The proposed development is defined as a *"dwelling house"* under the *HLEP* and is permissible in the zone with Council's consent.

#### 2.1.1 Height of Buildings

Clause 4.3 of the *HLEP* states that the height of a building on any land should not exceed the maximum height shown for the land on the Height of Buildings Map. The maximum permissible height for the subject site is 8.5 metres. The amended plans have lowered the height of the proposed dwelling by 0.65 metres. The 7.85 metre height of the proposal complies with the maximum height provision.

#### 2.1.2 Heritage Conservation

Clause 5.10 of the *HLEP* sets out heritage conservation provisions for Hornsby Shire. The site is located within the Beecroft/Cheltenham Heritage Conservation Area and is located adjacent to a house at No. 8 Kirkham Street, which is listed as a heritage item of local significance in Schedule 5 of the *HLEP*.

The objectives of Clause 5.10 *Heritage conservation* in the *HLEP* are to:

- (a) *to conserve the environmental heritage of Hornsby,*

- (b) to conserve the heritage significance of heritage items and heritage conservation areas, including associated fabric, settings and views,
- (c) to conserve archaeological sites,
- (d) to conserve Aboriginal objects and Aboriginal places of heritage

Clause 5.10(4) of the HLEP states that “*the consent authority must, before granting consent under this clause in respect of a heritage item or heritage conservation area, consider the effect of the proposed development on the heritage significance of the item or area concerned*”.

A heritage statement, completed by Econstruct Consulting, dated July 2016 was included in the application. The statement notes that the building and landscaping materials selected for the dwelling house would be consistent with the surrounding environment including face brick, window brick seals, sandstone sub floor walls and roof tiles. In addition, it notes that the architectural design of the dwelling would be sympathetic to neighbouring dwellings due to the use of the proposed front verandah, porch, pitched roof and ridge shape. Overall the statement concludes the proposal is in line with Council’s controls.

In assessing the impact of the proposal in regard to the Beecroft-Cheltenham Conservation area, the site is surrounded by a mix of single and two storey dwelling houses of various sizes and architectural styles. A federation bungalow is located to the east, a rendered two storey house to the south and a single storey weatherboard house to the north.

When viewed from the street, it is anticipated that only a small portion of the house would be visible as it would be setback approximately 55 metres from the street and would also be located behind several large trees fronting No. 8 Kirkham Street. The visible portion of the dwelling house would be of dark coloured face brick and tiles which are consistent with those found in the surrounding conservation area and listed within the HDCP character statement.

In regard to the adjacent heritage item at No. 8 Kirkham Street, the site consists of a single storey federation bungalow. The subject site is located directly behind No. 8 Kirkham Street and is accessed via a 50 metre long driveway running parallel to the heritage listed dwelling. An existing *Quercus robur*, *English Oak* tree is located on the northern side of the driveway and provides screening along the access handle when viewed from the street. Screening vegetation also exists between the boundary of No. 8 and No. 8A Kirkham Street which was required as a condition of consent under DA/1131/2001 for the subdivision.

It is anticipated that the proposed dwelling house would not have any detrimental impacts to the heritage significance of the item as a building separation of 13 metres would be provided and the existing screen planting would provide a visual barrier between the two dwellings. The amended plans lower the height of the dwelling and therefore, reduce the bulk of the dwelling when viewed from the rear of the adjacent item.

In summary, the development would not result in any significant physical change to the streetscape given the battleaxe site would not be highly visible. The proposed dwelling would be constructed of materials that would be consistent with those found in the surrounding conservation area. As a consequence, the development would have negligible impacts on the heritage significance of either the adjacent item or the conservation area and is considered acceptable in regard to Clause 5.10 of the HLEP.

### 2.1.3 Earthworks

The objective of Clause 6.2 Earthworks in the HLEP is “to ensure that earthworks for which development consent is required will not have a detrimental impact on environmental functions and processes, neighbouring uses, cultural or heritage items or features of the surrounding land”.

Under Clause 6.2, Council is required to assess the impacts of the works on adjoining properties, drainage patterns and the soil stability of the surrounding environment.

The amended plans remove the basement level which required between 2.8 – 0.8 metres of excavation. The amended proposal would involve a maximum cut of 1.25 metres and fill of 900mm as the site slopes downward from the north-east corner towards the south-west corner. No objections are raised to this level of cut and fill given it would occur within appropriate setbacks to adjacent properties.

The proposed earthworks are satisfactory in respect to Clause 6.2 of HLEP.

## **2.2 State Environmental Planning Policy (Exempt and Complying Development Codes) 2008 – NSW Housing Code**

The application has been assessed against the requirements of *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008 – NSW Housing Code*. The Policy provides exempt and complying development codes that have State-wide application. The Policy also identifies types of development that are of minimal environmental impact that may be carried out without the need for development consent and types of complying development (including dwelling houses) that may be carried out in accordance with a complying development certificate.

However, the proposed dwelling house may not be approved as complying development, as the subject site is located within the Beecroft/Cheltenham Heritage Conservation Area and is located adjacent to a heritage listed house at No. 8 Kirkham Street. This precludes the application from being assessed as complying development.

However, the proposal would comply with the other requirements of the NSW Housing Code including height, floor area, number of storeys, site coverage, setbacks, private open space, landscaping and car parking.

## **2.3 Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005**

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

Subject to the installation of sediment and erosion control measures and stormwater management to protect water quality, the proposal would have minimal potential to impact on the Sydney Harbour Catchment.

## **2.4 State Environmental Planning Policy (Building Sustainability Index – BASIX) 2004**

The application has been assessed against the requirements of *State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004*. BASIX Certificate No. 737188S has been submitted for the dwelling house in compliance with the requirements of the *SEPP*.

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

On 1 March 2013, the *Environmental Planning and Assessment Act, 1979* was amended so that a DCP provision will have no effect if it has the practical effect of “*preventing or unreasonably restricting development*” that is otherwise permitted and complies with the development standards set out in relevant Local Environmental Plans and State Environmental Planning Policies.

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

## 2.6 Hornsby Development Control Plan 2013

The proposed development has been assessed having regard to the relevant desired outcomes and prescriptive requirements within the *Hornsby Development Control Plan 2013 (HDCP)*. The following table sets out the proposal’s compliance with the prescriptive requirements of the Plan:

<b>Hornsby Development Control Plan 2013</b>			
<b>Control</b>	<b>Proposal</b>	<b>Requirement</b>	<b>Compliance</b>
Site Area	630m <sup>2</sup>	N/A	N/A
Height	7.85m	8.5m	Yes
No. Storeys	2	Max 2 + attic	Yes
Site Coverage	38%	50% Max	Yes
Floor Area	380m <sup>2</sup>	380m <sup>2</sup>	Yes
<b>Setbacks Ground Floor</b>			
Front (Battle-axe)	5.9m	0.9m	Yes
Side (north)	1.5m	0.9m	Yes
Side (south)	2.25m	0.9m	Yes
Rear	3.4m	3m	Yes
<b>Setbacks First Floor</b>			

Front (Battle-axe)	6.5m	1.5m	Yes
Side (north)	3m	1.5m	Yes
Side (south)	4.45m	1.5m	Yes
Rear	8m	8m	Yes
Landscaping	34%	30%	Yes
Private Open Space			
- <i>minimum area</i>	31m <sup>2</sup>	24m <sup>2</sup>	Yes
- <i>minimum dimension</i>	4.4m	3m	Yes
Car Parking	2 spaces	2 spaces	Yes

As detailed in the above table, the proposed development generally complies with the prescriptive measures within the HDCP. A brief discussion on compliance with relevant performance requirements and Part 1C General Controls is provided below.

### 2.6.1 Scale

The desired outcome of Part 3.1.1 Scale in the HDCP is to encourage “*development with a height, bulk and scale that is compatible with a low density residential environment.*”

Objections have been received raising concerns regarding the height, scale, floor area and the relationship of the proposed dwelling to the topography of the site.

The proposed dwelling design that was considered by Council at its meeting on 14 December 2016, comprised two habitable storeys above existing ground level and a predominantly below-ground basement comprising car parking. The proposal was considered three storeys and had a maximum floor area of 535m<sup>2</sup> (including the basement). Due to concerns raised by Council and through submissions, amended plans were submitted on 27 February 2017 deleting the basement car parking, reducing the height and reducing the floor area of the dwelling.

In addressing the objections regarding height and the scale of the development, the 7.85 metre building height complies with the 8.5 metre prescriptive measure. The 38% site coverage of the proposal complies with the 50% prescriptive measure and the 380m<sup>2</sup> floor area complies with the maximum prescriptive measure. Further, the maximum RL of the dwelling would be RL 130.6. This would not exceed the height of the dwelling at No. 6 Kirkham Street with an RL of 131.31. The RL of No. 8 Kirkham Street is RL 128.53. It is considered that the 2.07 metre height difference would not be significant when viewed from the street given it would be set back approximately 55 metres.

In addressing the objections regarding the setting of the building, it is noted that the development would not exceed the 8.5 height limit at any point. As a consequence, stepping the dwelling down to follow the topography of the site is not considered necessary.

In conclusion, the development would result in an outcome that is consistent with the current and desired future character of the area. As a consequence, the proposal meets the desired outcomes of Part 3.1.1 in the HDCP and is considered acceptable.

### 2.6.2 Setbacks

The desired outcomes of Part 3.1.2 Setbacks in the HDCP are to encourage *“setbacks that are compatible with adjacent development and complement the streetscape”* and *“setbacks that allow for canopy trees to be retained and planted along the front and rear property boundaries.”*

Objections have been raised regarding the side and front setbacks of the proposal.

The amended plans submitted to Council reduce the southern rear setback from 3.6 metres to 2.5 metres, reduce the northern side setback from 2.5 metres to 1.5 metres but increase the front setback from 5.1 to 5.9 metres. It is noted that no submissions were received relating to setbacks when the amended plans were notified.

In addressing any concerns, the dwelling house proposal complies and exceeds the setback prescriptive measures of the HDCP for all boundaries. Therefore, it is considered that the proposed setbacks of the dwelling house are consistent with the surrounding low-density residential environment.

The proposal would meet the desired outcomes of Part 3.1.2 Setbacks of the HDCP and is considered acceptable.

### 2.6.3 Privacy

The desired outcomes of part 3.1.6 Privacy in the HDCP is to *“encourage development that is designed to provide reasonable privacy to adjacent properties”*.

In support of these outcomes, the prescriptive measure 3.1.6(a) states that *“living and entertaining areas should be located on the ground floor and orientated towards the private open space of the dwelling house and not the side boundaries”*.

In addition, the prescribe measures 3.1.6(c) and 3.1.6(d) notes that *“a deck, balcony, terrace or the like should be located within 600mm of existing ground level where possible to minimise potential visual and acoustic privacy conflicts”* and *“decks and the like that need to be located more than 600mm above existing ground should not face a window of another habitable room, balcony or private open space of another dwelling located within 9 metres of the proposed deck unless appropriately screened”*.

Objections have been raised that the proposed dwelling would cause direct overlooking into the adjoining residences at No. 10 and No. 8 Kirkham Street.

In response to privacy concerns raised at the on-site meeting, amended plans were received on 27 February 2017 that reduced the ground and first floor finished floor levels by 1.4 metres.

In addressing privacy concerns for the southern adjacent premises at No. 10 Kirkham Street, the applicant submitted amended plans reducing the impact of the proposal by removing the proposed swimming pool, side patio and the lowering of the outdoor patio. Further, the four first floor windows facing south would service non-active rooms. The HDCP does not contain provisions that first floor windows should include privacy screens for non-active use rooms. As a consequence, minimal privacy issues are anticipated.

In addressing privacy concerns with the eastern facing premises at No. 8 Kirkham Street, the four first floor windows would service non-active rooms which do not require privacy screens. Given the 13 metre building separation and existing landscaping, it is considered that the ground floor “guest bedroom” would not cause any significant overlooking. In regard to the first floor balcony, it is noted that it would only be 880mm wide and would be accessed from a bedroom. Therefore, it is considered that its limited use would not cause unreasonable privacy impacts. It is also noted that privacy concerns have been raised regarding the front entry porch. In addressing these concerns, the entry porch has been lowered by 1.28 metres from the original proposal to reduce any overlooking.

The proposal has acceptable privacy and amenity impacts on adjacent properties, meets the desired outcomes of Part 3.1.6 Privacy of the HDCP and is considered acceptable

#### **2.6.4 Design**

The desired outcome of Part 3.1.8, Design Details in the HDCP is to encourage development *“compatible with a low density residential environment that complements the zone objectives.”*

An objection raises concerns that the proposed dwelling would have an impact on the streetscape.

The prescriptive measures of Part 3.1.8(a) of the HDCP state that *“dwelling houses should be orientated primarily towards the street and the rear boundary”*.

The streetscape is characterised by a mixture of single and double storey detached dwellings. The dwelling-house is primarily orientated towards the street and rear boundary in accordance with the HDCP. The dwellings finishes would be consistent with the surrounding environment including face brick, window brick seals, sandstone sub floor walls and dark tone roof tiles. As a consequence, the dwelling would not have a significant impact upon the streetscape character of the area as the dwelling-house would be situated on a battle axe allotment and setback approximately 55 metres from Kirkham Street.

The proposal meets the desired outcomes of Part 3.1.8 Design Details in the HDCP and is considered acceptable.

#### **2.6.5 Earthworks and Slope**

The desired outcome of Part 1C1.4 Earthworks and Slope in the HDCP encourage *“development that is designed to respect the natural landform characteristics and protects the stability of land”* and *“development that limits landform modification to maintain the amenity of adjoining properties and streetscape character”*.

An objection raises concerns regarding the amount of excavation required for the dwelling house. In response to this concern, the amended plans received have deleted the basement from the proposal. As a consequence, the amount of cut required has reduced from 2.8 to a maximum of 1.25 metres and is considered appropriate to reduce the maximum height of the dwelling.

The proposal meets the desired outcomes of the Part 1C 1.4 Earthworks and Slope of the HDCP and is considered acceptable.

#### **2.6.6 Sunlight Access**

The desired outcome of Part 3.1.5(b) Sunlight Access of the HDCP is to encourage *“development designed to provide reasonable sunlight to adjacent properties”*.

Objections have been received raising concerns that the development would overshadow the eastern and southern adjacent properties located at No. 8 and No. 10 Kirkham Street, Beecroft.

In addressing this concern, the prescriptive measure 3.1.5(b) in the HDCP states “*On 22 June, 50 percent of the required principal private open space on any adjoining property should receive 3 hours of unobstructed sunlight access between 9am and 3pm*”. There are no prescriptive measures for Council to consider in terms of overshadowing of windows serving adjacent properties.

Shadow diagrams have been submitted with the application demonstrating that the principal private open space of adjacent properties would receive at least 3 hours of unobstructed sunlight access between 9am and 3pm on 22 June, which complies with this measure. The amended plans have further increase the sunlight access for adjacent properties as the dwelling house has been lowered.

The proposal meets the desired outcomes of Part 3.1.5 Sunlight Access of the HDCP and is considered acceptable.

### **2.6.7 Vehicle Access and Parking**

The desired outcome of Part 3.1.7 Vehicle Access and Parking in the HDCP is to encourage “*development that provides sufficient and convenient parking for residents with vehicular access that is simple, safe and direct*”.

Objections have been raised relating to the proposed basement carparking and modification to the existing right of carriageway benefiting No. 8 Kirkham Street. The objection notes that no consent is given to modify the existing driveway.

In response to this concern, the amended plans delete the proposed basement carparking and therefore, the creation of a steep access ramp is not required. In place of the access ramp, a proposed vehicle turntable has been provided. The revised plans were re-notified and no objections were received regarding the vehicle turntable. Further, Council's engineering assessment raises no objections to the proposal.

The proposal meets the desired outcomes of Part 3.1.7 of the HDCP and is considered acceptable.

### **2.6.8 Heritage**

The site is located within the Beecroft/Cheltenham Heritage Conservation Area and is in the vicinity of a heritage item, namely a house at No. 8 Kirkham Street which is listed in Schedule 5 of the HLEP. As a consequence, the proposal is subject to assessment under Part 9.3 and 9.4 in the HDCP.

The desired outcome of Part 9.3.1 *General Design Provisions* in the HDCP is to encourage “*development that complements and is sympathetic to the existing character of the conservation area and the elements that are significant to that character*”.

The desired outcome of Part 9.4.1 *Development in the Vicinity of Heritage Items and Heritage Conservation Areas* is to encourage “*new work that is sympathetic to the heritage significance of nearby heritage items, or adjoining heritage conservation area, and their settings*”.

Objections have been raised regarding the impact of the proposal on the Heritage Conservation Area and the adjoining heritage listed dwelling at No. 8 Kirkham Street.

In addressing these concerns, a condition of consent is recommended that the white window frames be amended to a dark recessive tone. In addition, the amended plans reduce the bulk of the proposed structure. No objections were received on heritage grounds when these plans were re-notified.

As discussed in Part 2.1.2 of this report, the design and siting of the proposal on a battle-axe allotment would not have significant impacts on the adjoining heritage item or the conservation area given appropriate building separation, construction materials and distance from the street.

The proposal meets the desired outcomes of Part 9.3 and 9.4 in the HDCP and is considered acceptable.

### **2.6.9 Boundary Fencing**

Objections have been raised regarding a proposed front picket fence between No. 8 and No. 8A Kirkham Street as it would reduce privacy between the two properties given the existing fence is higher.

In addressing this concern, the proposed picket fence has been deleted from the amended plans.

In addition, a submission has been received that notes that the eastern, front boundary fence should include a 600mm extension to allow for screen planting to be extended. It is recommended that this be included as a condition of consent.

## **3. ENVIRONMENTAL IMPACTS**

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

### **3.1 Tree and Vegetation Preservation**

Part 1B6.1 Tree Preservation in the HDCP lists protected tree species indigenous to Hornsby Shire. All trees at the subject site are protected as the site is located within the Beecroft-Cheltenham Conservation Area.

An Arborist Impact Assessment (AIA), prepared by McArdle Arboricultural Consultancy was submitted on 24 August 2016 as requested by Council. The AIA notes that the development would necessitate the removal of two non-native Liquid Amber trees (*Liquidambar styraciflua*) which are located within the proposed building envelope of the dwelling. Council's tree assessment notes that another non-native *Prunus avium* tree would be significantly impacted by the development and would be required to be removed. The AIA and Council's tree assessment note that a further ten trees on the subject and adjacent sites would have the potential to be impacted by the development unless appropriate tree protection measures are undertaken.

A submission has been received that raises concerns regarding the retention of the existing boundary trees located adjacent to the south-western corner of the site due to the installation of a stormwater pipe. Further, concerns were raised at the on-site meeting regarding the protection of a large oak tree located adjacent to the access handle.

Council's tree assessment raises no objections to the proposal in regard to tree preservation subject to conditions. These conditions require a project arborist to be appointed to monitor the implementation of appropriate tree sensitive construction techniques to retain existing trees. This includes a condition requiring services to be installed via directional drilling or in manually excavated trenches and for tree protection fencing to be installed around retained trees. No pruning of any tree is authorised unless separate consent is obtained in accordance with Part 1B.6.1 of the HDCP.

### **3.2 Stormwater Management**

A desired outcome of Part 1C.1.2 *Stormwater Management* in the HDCP is to encourage *“water management systems that minimise the effects of flooding and maintains natural environmental flows”*.

Objections have been raised regarding the potential impacts of stormwater runoff into the adjacent premises, No. 10 Kirkham Street and that the existing inter-allotment drainage system is not satisfactory.

Stormwater concept plans were submitted to Council on 11 November 2016. The stormwater plan indicates that stormwater runoff from the dwelling house is to be captured in rainwater tanks located adjacent to the southern side of the dwelling house. Overflow from the rainwater tank would then enter an on-site detention (OSD) tank before being directed through an existing 150mm stormwater pipe located within the Easement to Drain Water running parallel to the southern boundary of No. 8 Kirkham Street to reach Council's street drainage system. Stormwater runoff from the driveway and the backyard would be directed to the OSD via grated drains.

The proposed stormwater method is satisfactory subject to conditions included in schedule 1 of this report requiring the stormwater system (including the OSD) to be designed by a qualified engineer and constructed in accordance with relevant discharge and capacity standards. No objections are raised to the existing 150mm stormwater pipe as its maximum flow rate is sufficient for the proposal in accordance with relevant Australian Standards.

An objection has been raised concerns regarding the 150mm stormwater pipe diameter given a proposed subdivision occurring on the north-western adjacent premises, Nos. 7-9 Welham Street. It is noted that the sub-division proposes the installation of a 300mm diameter stormwater pipe. This diameter would be sufficient to drain the newly created lots in Nos. 7-9 Welham Street and 8A Kirkham Street.

The proposal meets the desired outcomes of Part 1.C.1.2 Stormwater Management in the HDCP and is considered acceptable.

### **3.3 Built Environment**

The development would have reasonable and acceptable impacts on the character and amenity of the surrounding built environment. The amended plans reduce the bulk of the development and the proposal is consistent with the established character of the area of detached dwellings on landscaped allotments.

### **3.4 Social and Economic impacts**

The proposal would have a minimal additional impact on the local economy and the local community. The dwelling house would provide a single residential occupancy which would generate a marginal increase in demand for local services.

## **4. SITE SUITABILITY**

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

The site is capable of accommodating the proposed development. The scale of the proposed development is consistent with the capability of the site and is considered acceptable.

## **5. PUBLIC PARTICIPATION**

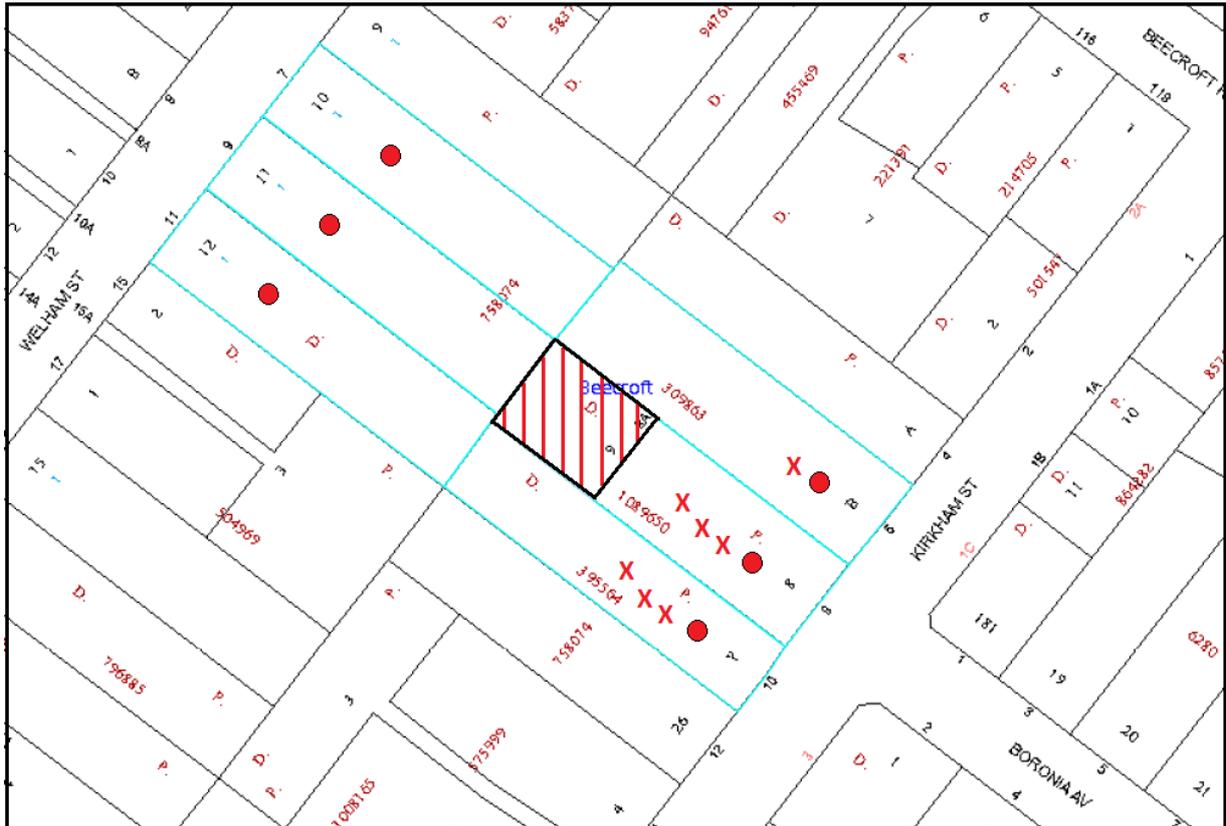
Section 79C(1)(d) of the Act requires Council to consider *"any submissions made in accordance with this Act"*.

### **5.1 Community Consultation**

The proposed development was placed on public exhibition in accordance with the Notification and Exhibition requirements of the HDCP. The proposal was notified to adjoining and nearby landowners between 4 July and 18 July 2016 and five submissions were received. The application was further exhibited between 30 September and 14 October 2016 and four submissions were received. Revised plans received 27 February 2017 were exhibited between 27 February 2017 and 13 March 2017 and two submissions were received.

A total of eleven submissions from five objectors including the Beecroft Cheltenham Civic Trust were received.

The map below illustrates the location of those nearby landowners who made a submission that are in close proximity to the development site.



**NOTIFICATION PLAN**

 <p>PROPERTIES NOTIFIED</p>	 <p>SUBMISSIONS RECEIVED</p>	 <p>PROPERTY SUBJECT OF DEVELOPMENT</p>	
<p>FOUR SUBMISSIONS RECEIVED OUT OF MAP RANGE</p>			

The submissions objected to the development, generally on the following grounds:

- Stormwater;
- Privacy loss;

- Heritage;
- Overshadowing;
- Bulk and Scale;
- Excavation;
- Tree Preservation
- Power pole;
- Construction hours;
- Boundary fencing; and
- Driveway design.

The matters raised in the submissions have been addressed in the body of this report with the exception of following.

### **5.2 Power Pole**

A submission notes that a power pole would need to be installed on No. 8 Kirkham Street and that no consent is provided for this to occur. In particular, the objection notes that this would impact on the amenity and heritage values of the area.

In response to this concern, a condition of consent is recommended requiring electricity to the site to be provided underground within the existing conduit for services installed under the driveway as part of the subdivision work for DA/1131/2001.

### **5.3 Construction Hours**

An objection raises concerns regarding construction hours. In response to this concern, a Condition of Consent is recommended that requires all works on site to be in accordance with Council's standard construction. These hours are between 9am-5pm Monday to Saturday with no work on Sundays or Public Holidays.

## **6. THE PUBLIC INTEREST**

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

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

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

## **CONCLUSION**

The application proposes a two storey dwelling house, landscaping and a vehicle turntable. Amended plans been received in response to concerns raised at an on-site meeting that reduce the bulk of the dwelling house and increase the privacy to adjacent properties.

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

Council received eleven submissions during the public notification period. The matters raised have been addressed in the body of the report and conditions are recommended to minimise disruption to residential amenity.

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

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

#### **RESPONSIBLE OFFICER**

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

ROD PICKLES  
Manager - Development Assessment  
Planning Division

JAMES FARRINGTON  
Group Manager  
Planning Division

#### **Attachments:**

1. [View](#) Locality Map
2. [View](#) Floor Plans
3. [View](#) Site Plan
4. [View](#) Elevations and Sections
5. [View](#) Roof Plan
6. [View](#) Landscape Plans
7. [View](#) Environmental Plan
8. [View](#) Stormwater Plans

File Reference: DA/802/2016  
Document Number: D07176824

## 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:

<b>Plan No.</b>	<b>Title</b>	<b>Drawn by</b>	<b>Dated</b>
Project No: 396D Sheet: A004 Rev: 9	Site Plan	Econstruct Consulting	24/02/2017
Project No: 396D Sheet: A005 Rev: 9	Ground Floor	Econstruct Consulting	24/02/2017
Project No: 396D Sheet: A006 Rev: 9	Backyard Plan	Econstruct Consulting	24/02/2017
Project No: 396D Sheet: A007 Rev: 9	First Floor	Econstruct Consulting	24/02/2017
Project No: 396D Sheet: A008 Rev: 9	Roof Plan	Econstruct Consulting	24/02/2017
Project No: 396D Sheet: A009 Rev: 9	Elevations	Econstruct Consulting	24/02/2017
Project No: 396D Sheet: A010 Rev: 9	Elevations	Econstruct Consulting	24/02/2017
Project No: 396D Sheet: A011 Rev: 9	Sections	Econstruct Consulting	24/02/2017
Project No: 396D Sheet: A013 Rev: 9	Landscape Plan	Econstruct Consulting	24/02/2017
Project No: 396D Sheet: A014 Rev: 9	Stormwater Plan	Econstruct Consulting	24/02/2017
Project No: 396D Sheet: A015 Rev: 9	Environmental Plan	Econstruct Consulting	24/02/2017
Project No: 396D Sheet: A022 Rev: 9	Detail Landscape Plan	Econstruct Consulting	24/02/2017
Project No: SWC-01 Rev: A	Stormwater Concept Plan	Smart Plumbing Services	14/10/2016
Project No: SWC-02 Rev: A	Stormwater Concept Plan	Smart Plumbing Services	10/2016

<b>Document No.</b>	<b>Title</b>	<b>Author</b>	<b>Dated</b>
N/A	Arborist Impact Assessment	Mcardle Arboricultural Consultancy	23/08/2016

<b>Document No.</b>	<b>Title</b>	<b>Author</b>	<b>Dated</b>
737188S_02	BASIX Certificate	Econstruct Consulting	20/02/2017

## 2. Removal of Existing Trees

- a) This development consent permits the removal of trees numbered 10, 11 and 16 as identified on page 30 in the approved Arboricultural Impact Assessment prepared by McArdle Arboricultural Consultancy, dated 23 August 2016.
- b) The removal of any other trees requires separate approval in accordance with the Tree and Vegetation Chapter 1B.6 Hornsby Development Control Plan (HDCP).

## 3. Amendment of Plans

- a) To comply with Councils requirement in terms of stormwater drainage, easements and heritage, the approved plans must be amended as follows:
  - i) The stormwater plans, Drawing No. SWC-01 and SWC-02, Revision A, dated October 2016 are to be amended to be consistent with the approved architectural plans.
  - ii) The aluminium window frames must be amended to a dark recessive colour.
- b) These amended plans must be submitted with the application for the Construction Certificate.

## 4. Appointment of a Project Arborist

- a) A project arborist (AQF Level 5) must be appointed to provide monitoring and certification throughout the development process.
- b) Details of the appointed project arborist must be submitted to the PCA and Council for registration with the approved 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.

## REQUIREMENTS PRIOR TO THE ISSUE OF A CONSTRUCTION CERTIFICATE

### 6. Building Code of Australia

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

### 7. Contract of Insurance (Residential Building Work)

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

#### **8. Notification of Home Building Act 1989 Requirements**

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

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

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

#### **9. Sydney Water – Approval**

This application must be submitted to *Sydney Water* for approval to determine whether the development would affect any *Sydney Water* infrastructure, and whether further requirements are to be met.

Building plan approvals can be obtained online via *Sydney Water Tap in™* through [www.sydneywater.com.au](http://www.sydneywater.com.au) under the Building and Development tab.

#### **10. Stormwater Drainage**

The stormwater drainage system for the development must be designed for an average recurrence interval (ARI) of 20 years and be connected to the existing inter-allotment drainage system.

#### **11. 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 5 cubic metres, and a maximum discharge (when full) of 8 litres per second;
- b) Have a surcharge/inspection grate located directly above the outlet;
- c) Discharge from the detention system 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;

- d) Where above ground and the average depth is greater than 0.3 metres, a 'pool type' safety fence and warning signs must be installed; and
- e) Not be constructed in a location that would impact upon the visual or recreational amenity of residents.

## 12. 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) The driveway be a rigid pavement.
- b) All vehicles must enter and leave the site in a forward direction at all times.
- c) Longitudinal sections along both sides of the access driveway shall be submitted to the principal certifying authority in accordance with the relevant sections of *AS 2890.1*. The maximum grade shall not exceed 1 in 4 (25%) with the maximum changes of grade of 1 in 8 (12.5%) for summit grades and 1 in 6.7 (15%) for sag grades. Any transition grades shall have a minimum length of 2 metres.

### REQUIREMENTS PRIOR TO THE COMMENCEMENT OF ANY WORKS

## 13. 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.

## 14. Toilet Facilities

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.

## 15. 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.*

#### **16. Tree Protection**

- a) Tree protection fencing must be erected around trees numbered 3, 4, 5, 6, 7, 8, 14, 15, 17 and 20 as identified on page 30 in the approved Arboricultural Impact Assessment completed by McArdle Arboricultural Consultancy, dated 23 August 2016.
- b) All Tree Protection Zones must have a layer of wood-chip mulch installed prior to works commencing and must be maintained throughout the period of construction at a depth of 100mm – 150mm using material that complies with *Australian Standard AS4454-2012*.
- c) Tree numbered 6 must have trunk and branch protection installed by 1 - 2 metre lengths of 75mm x 25mm hardwood timbers spaced at 80mm secured with galvanised wire (not fixed or nailed to the tree in any way).
- d) A certificate from the project arborist must be submitted to the Principal Certifying Authority and Council stating compliance with the relevant tree protection conditions of this consent.

#### **17. 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.*

### **REQUIREMENTS DURING CONSTRUCTION**

#### **18. 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.

#### **19. 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.

#### **20. 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.

#### 21. Survey Report

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

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

#### 22. Works Near Trees

- a) The appointed project arborist must monitor and record all changes or modifications to required tree protection measures for the period of construction.
- b) Any necessary excavation must be undertaken by sensitive methods such as pneumatic or by hand as prescribed in AS 4970-2009 Section 4.5.5 to a depth of 1 metre.
- c) The installation of all services (including stormwater) which enter or transects a designated TPZ must utilise sensitive methods of installation such as directional drilling or in manually excavated trenches and must be monitored by the project arborist.
- d) 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 of any tree to be retained.
- e) The project arborist must submit 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.

#### 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:*

#### 23. Fulfilment of BASIX Commitments

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

#### 24. 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.

**25. Retaining Walls**

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

**26. Final Certification Arborist**

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. 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. Copies of monitoring documentation may be required.

**27. 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.*

**28. Works as Executed Plan**

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

**29. Boundary Fencing**

- a) The exact location, design and costing for the erection of boundary fencing are to be the subject of negotiation and agreement in accordance with the relevant requirements of *the Dividing Fences Act, 1991*.
- b) A 600mm chain wire extension must be affixed to the top of existing fence on the south-eastern boundary.

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

**30. Electricity**

Electricity to the site must be provided unground within the existing services trench located under the driveway.

**- 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; and
- 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). (HDGP 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.*

**Dial Before You Dig**

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

**Asbestos Warning**

Should asbestos or asbestos products be encountered during demolition or construction works, you are advised to seek advice and information 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.

**5 STRATEGIC PLANNING PROGRAM 2017/18**

---

**EXECUTIVE SUMMARY**

- At its meeting on 11 May 2016, Council adopted the current Strategic Planning Program. The majority of projects scheduled to be completed under the Program by 2016 have been completed, or are currently ongoing.
- An annual review of the Program is required to ensure it is consistent with Council's strategic planning priorities. An amended Strategic Planning Program is attached for Council's consideration.
- Council's subscription to the Cities Leadership Institute (formerly known as the Future Cities Collaborative) has expired and renewal has been invited. Renewal would enable Professor Blakely to continue to participate on the Project Control Group for the Brooklyn Master Plan project.

**RECOMMENDATION**

THAT:

1. The 2017/2018 Strategic Planning Program attached to Group Manager's Report No. PL11/17 be adopted.
2. Council renew its subscription to the Cities Leadership Institute to January 2018.

## PURPOSE

The purpose of this report is to review the Strategic Planning Program and seek endorsement of a revised Program for 2017 and to seek Council's agreement to renew its subscription to the Cities Leadership Institute.

## BACKGROUND

The Strategic Planning Branch within the Planning Division of Council is responsible for strategic planning initiatives in accordance with the Strategic Planning Program. The Program is adopted by Council and sets out the major projects of the Branch.

At its meeting on 11 May 2016, Council considered Group Manager's Report No. PL33/16 on the Strategic Planning Program and resolved that the current Program be adopted. A summary of the projects under the Program is attached (Attachment 1).

This report enables Council to determine the priorities for strategic planning over the current Council term. The Program is reviewed annually to enable Council to reconsider priorities as issues evolve and to provide Council with an update on the achievements over the preceding year.

## DISCUSSION

The remainder of this report considers the current Strategic Planning Program, other projects and a revised Program.

### 1. 2016 – 2017 STRATEGIC PLANNING PROGRAM

The current Strategic Planning Program is divided into the following sections:

Project Category	Matters for Completion in 2016	Status
<i>Planning Proposals</i>	Six Planning Proposals, including: <ul style="list-style-type: none"> <li>• 10 Pembroke Street, Epping</li> <li>• 12 Schofield Parade, Pennant Hills</li> <li>• Comprehensive LEP Amendment No.1</li> <li>• Rural Lands Planning Proposal</li> </ul>	<ul style="list-style-type: none"> <li>• Complete</li> <li>• Complete</li> <li>• Awaiting Gazettal</li> <li>• Complete</li> </ul>
<i>Development Control Plans</i>	<ul style="list-style-type: none"> <li>• Draft Hornsby Development Control Plan – Housekeeping Amendment No.1</li> </ul>	<ul style="list-style-type: none"> <li>• Complete</li> </ul>
<i>Contributions Plans</i>	<ul style="list-style-type: none"> <li>• Nil</li> </ul>	
<i>Studies</i>	<ul style="list-style-type: none"> <li>• Hornsby East Side Floorspace Review</li> <li>• Pennant Hills Master Plan – Community Survey</li> </ul>	<ul style="list-style-type: none"> <li>• Complete</li> <li>• Report to Council in May 2017</li> </ul>

<i>Miscellaneous</i>	<p>The Program includes two miscellaneous projects. These projects include participation on the Future Cities Program and participation on working group meetings for the Greater Sydney Commission draft North District Plan.</p> <p>Annual projects such as Heritage Events to coincide with the Bushland Festival and the Metropolitan Development Program are also on the Program.</p>	
----------------------	--	--

The remaining projects on the Strategic Planning Program are in various states of preparation, exhibition or finalisation as summarised in Attachment 1.

## 2. CITIES LEADERSHIP INSTITUTE

At its meeting on 10 December 2014, Council resolved to subscribe to the Future Cities Collaborative for a period of 12 months. The Collaborative provides Council with access to independent high-level advice and input regarding town centre, planning strategy, place making and public domain projects.

In November 2015, Council invited the Collaborative to participate in the Brooklyn Improvement Master Plan project to provide guidance, peer review of recommended outputs and attendance at key Project Control Group and Community Reference Group meetings. The Collaborative nominated Professor Edward Blakely as its representative.

In January 2017, the Collaborative advised that its partnership with the United States Study Centre has ended and that it has re-located to the John Grill Centre within the Sydney University as an independent centre of excellence for urban leadership. Accordingly, the Collaborative has been re-branded as the Cities Leadership Institute and can now look beyond the United States to connect with urban leaders, economies and communities across the globe.

In January 2017, the Cities Leadership Institute invited Council to renew its subscription. The ongoing involvement of the Institute and Professor Edward Blakely in the Brooklyn Master Plan will provide a level of independent overview and professional advice about processes and outcomes that will value-add to the project. Accordingly, it is appropriate that Council renew its subscription to January 2018 which would align with the anticipated duration of the Brooklyn Master Plan project.

## 3. NEW PROJECTS

A number of projects have arisen as a result of Council resolutions, Councillor strategic planning workshops, consideration of development applications, State Government initiatives and recommendations of planning studies. These projects should be incorporated into the Strategic Planning Program and include:

- On 12 May 2016, extensive council boundary changes occurred as part of the State-wide Boundary Review Process. Under the new boundaries, the Hornsby Local Government Area south of the M2 Motorway became part of the City of Parramatta Council (CoP). The CoP is currently undertaking a planning review for Epping and has advised that a S94 Contributions Plan is under preparation. Once in force, this plan will repeal that part of Council's S94 and S94A Plans that apply to the former Council area. This outcome necessitates a review of Council's plans to ensure that the needs of the future population are updated.

- At its meeting on 8 March 2017, Council considered Mayoral Minute MM5/17 in relation to the Hornsby Town Centre and resolved that Council consider the resource and budget implications of prioritising a strategic review of the planning controls for the east side of the town centre as part of its annual review of the Strategic Planning Program.
- A project outline was presented to an informal briefing of Council on 29 March 2017. A strategic review of planning controls would require various consultancies to support a future planning proposal and would cost approximately \$300,000 over the current and next financial year.
- At its meeting on 8 February 2017, Council considered Group Manager's Report No. PL7/17 in relation to the Hornsby RSL Club Planning Proposal. Council resolved to forward the proposal to the Department of Planning and Environment (DP&E) for a Gateway Determination with amendments to permit development up to 5 storeys on property Nos. 7-19 Ashley Street and 2-4 Webb Avenue, Hornsby, only if the development is for the purpose of a seniors housing development.
- The proposal has been referred to the DP&E for Gateway Determination with a response likely in April 2017.
- At its meeting on 8 February 2017, Council considered Mayoral Minute MM1/17 in relation to the South Dural Planning Proposal and resolved (in part) to discontinued its evaluation of the South Dural Planning Proposal until an agreed infrastructure plan is prepared to service the precinct with the support of the State Government including costings and timeframes for upgrading New Line Road and Old Northern Road. Council also resolved to discuss the opportunity with the State Government and Hills Shire Council to develop a clear vision for the rural areas in the region including an infrastructure and funding plan to cater for existing and future development.
- In accordance with Council's resolution, representations to the relevant Ministers have been made. Council officers are also liaising with The Hills Shire Council to develop a project plan and funding strategy which will be presented to Council.
- In February 2017, the Department of Planning and Environment commenced exhibition of *Draft State Environmental Planning Policy (Educational Establishments and Childcare Facilities) 2017*. The draft SEPP provides that any requirement of a development control plan that is inconsistent with the Policy, does not apply for the purpose of a childcare centre.
- Therefore, upon finalisation of the SEPP, relevant controls in the HDCP will require amendment to ensure consistency with the SEPP (Educational Establishments and Childcare Facilities) 2017, as gazetted, including removal of the existing cap on the size of child care facilities.

The timing of the above projects would be required to have regard to the priority of existing projects and future proponent led applications which require evaluation within statutory timeframes.

#### **4. REVISED STRATEGIC PLANNING PROGRAM**

A Revised Strategic Planning Program (Attachment 2) has been prepared on the basis of this report and is consistent with the outcome of the Councillors briefing held on 29 March 2017. At the briefing, Councillors were advised of the available resources to undertake new projects and priorities with respect to existing and new projects.

It is recommended that the program be amended in relation to the following major projects:

a) *Draft North District Plan*

The draft North District Plan was exhibited from November 2016 until March 2017. At its meeting on 8 March 2017, Council considered Group Managers Report PL9/17 in relation to the draft plan and resolved to make a submission addressing the majoring issues for Hornsby Shire. The Greater Sydney Commission has indicated that it proposes to finalise the Plan in 2017 and will undertake further engagement with councils during the year. A series of Technical Working Groups involving the North District Council's will be held over the year to address submission issues and to also investigate opportunities to identify a future 20 year dwelling target. Councillors would be briefed on progress and issues arising from these workshops.

b) *South Dural Planning Proposal*

The Gateway Determination for the South Dural Planning Proposal requires that the matter be finalised by March 2018. Upon request from the proponent, the DP&E may consider extending the Gateway. Given Council's resolution to discontinue its evaluation until an agreed infrastructure plan is prepared, the completion date for this application and associated plans has been extended until 2019.

Similarly, the timeframe to complete the Planning Proposal for the adjoining shopping centre at Nos. 268 - 278 New Line Road, Dural should also be extended to 2019. The Gateway Determination for this proposal expires in July 2017. Advice has been sought from the proponent in relation to the status of the proposal and whether the required information outlined in the Gateway Determination will be submitted.

c) *Villa and Town House Review*

The current program identifies completion of a project to identify new opportunities for villa and town house development by 2017. The recent exhibition of the *Medium Density Housing Code* by the DP&E and *draft North District Plan* by the Greater Sydney Commission will impact the scope of this project in relation to the range of land uses to be addressed, the approval pathway and relationship to dwelling targets and requirement that Council's give effect to the North District Plan when made. Therefore, the completion date to present a medium density housing strategy to Council has been extended until 2018.

d) *Pennant Hills Master Plan and Community Survey*

The Pennant Hills Master Plan Community Survey was undertaken during November 2016. The results of the survey were presented to an informal briefing of Council on 29 March 2017. Pending a resolution of Council to proceed with the master plan review, the project has been extended until 2018.

e) *Cherrybrook Station Precinct*

Urban Growth NSW is responsible for the procurement and project management of technical studies and investigations for the urban renewal of the Cherrybrook Precinct. To facilitate the detailed technical investigations required to support a future plan, the anticipated completion date has been extended until 2018. This timeframe makes allowance for the submission, evaluation / public consultation and finalisation of a future plan.

f) *Hornsby Quarry Land Filling*

Provision to undertake amendments to the *Hornsby Local Environmental Plan 2013* to support future land filling of the quarry is no longer required. Filling associated with the North Connex project and a

future development application to undertake stabilisation works will be sufficient to create a future landform suitable for development into parkland. Accordingly, this project has been removed from the program.

In accordance with the above comments, the revised Strategic Planning Program is summarised below:

Project Category	Matters for Completion in 2017/2018
<i>Planning Proposals</i>	<ul style="list-style-type: none"> <li>• Comprehensive LEP Amendment No.1</li> <li>• Comprehensive LEP Amendment No.2</li> <li>• South Dural Land Release (subject to a response from the State Government)</li> <li>• 268 - 278 New Line Road, Dural</li> <li>• Hornsby RSL Club</li> <li>• Landcom Sites</li> </ul>
<i>Development Control Plans</i>	<ul style="list-style-type: none"> <li>• South Dural Land Release Development Control Plan</li> <li>• Cherrybrook Station Precinct Development Control Plan</li> </ul>
<i>Contributions Plans</i>	<ul style="list-style-type: none"> <li>• 2014 – 2014 S94 and S94A Contributions Plan Review</li> <li>• South Dural Land Release Section 94 Contributions Plan</li> <li>• Cherrybrook Station Precinct Section 94 Contributions Plan</li> </ul>
<i>Studies</i>	<ul style="list-style-type: none"> <li>• Brooklyn Improvement Master Plan</li> <li>• Cherrybrook Station Precinct Planning</li> <li>• Opportunities for Town House and Villa Development</li> <li>• Hornsby Town Centre East Side Review</li> <li>• Affordable Housing Discussion Paper</li> <li>• Community Survey to Inform the Pennant Hills Master Plan</li> <li>• Rural Planning Vision and Infrastructure Strategy</li> <li>• Waitara and Thornleigh Employment Floorspace Review</li> <li>• Heritage Review Stage 6</li> </ul>
<i>Miscellaneous</i>	<p>The Program includes four miscellaneous projects. These projects include participation in workshops for the draft North District Plan, participation on the Future Cities Program and annual projects such as Heritage Awards and the Metropolitan Development Program are also on the program.</p>

Future risks to achieving the above program include amalgamation with Ku-ring-gai Council and tasks that may be required in relation to planning reforms currently under consideration by the DP&E.

### **Strategic Planning Branch Resources**

The Strategic Planning Branch is comprised of a Manager, five Town Planners, a GIS officer, two Administrative Assistants and a Section 149 Certificate Coordinator. In addition to providing strategic planning services to Council, the Branch is also responsible for heritage conservation, production of Section 149 (zoning) certificates, cartography and some aspects of the geographic and land information systems.

### **BUDGET**

The Strategic Planning Program requires financial resources for staff in the Strategic Planning Branch and for consultancy fees. The recommended Program has been designed in accordance with the typical Strategic Planning Branch budget allocation, including salaries and consultant expenditure. The Program is considered in the preparation of Annual Operating Plans and does not commit to expenditure over that typically provided in the budget. The financial implications of the individual projects are also reviewed and reported to Council as a component of the project.

The consultant budget for the Strategic Planning Branch remains unchanged at \$100,000 for the next financial year. However, to undertake the Hornsby Town Centre Eastside Review, allocation of monies will need to be considered in the preparation of the 17/18 budget as discussed in this report.

### **CONCLUSION**

At its meeting on 11 May 2016, Council adopted the current Strategic Planning Program. The majority of projects scheduled to be completed under the Program by December 2016 have been completed or are nearing completion.

An annual review of the Program is required to ensure it is consistent with Council's strategic planning priorities. An amended strategic planning Program for 2017/2018 is attached for Council's consideration.

### **RESPONSIBLE OFFICER**

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

FLETCHER RAYNER  
Manager - Strategic Planning  
Planning Division

JAMES FARRINGTON  
Group Manager  
Planning Division

### **Attachments:**

1. [View](#) Attachment 1 - Summary of Projects (2017)

[2.View](#) Attachment 2 - Strategic Planning Program

File Reference: F2004/10086

Document Number: D07148123

**6 DRAFT STATE ENVIRONMENTAL PLANNING POLICY (EDUCATIONAL ESTABLISHMENTS AND CHILDCARE FACILITIES) 2017****EXECUTIVE SUMMARY**

- In February 2017, the Department of Planning and Environment commenced exhibition of *Draft State Environmental Planning Policy (Educational Establishments and Childcare Facilities) 2017*. Submissions are invited until April 2017.
- The Draft SEPP proposes changes to make it easier for childcare providers, schools and Tertiary Education facilities to build new facilities.
- Key issues for schools relate to extending the range of exempt and complying development to include buildings up to 22 metres in height, treating non-government schools as public authorities and permitting works as complying development that currently require merit assessment. Key issues for childcare centres include introduction of non-discretionary development standards and the implementation of State-wide design guidelines.
- The Hornsby Development Control Plan 2013 should be amended to be consistent with the Draft SEPP when it is finalised.

**RECOMMENDATION**

## THAT:

1. A submission be forwarded to the Department of Planning and Environment raising concern with Draft SEPP (Educational Establishments and Childcare Facilities) 2017, and addressing the major issues for Hornsby Shire identified in Group Managers Report No.PL15/17, including:
  - a) Ensuring the planning controls are consistent with the priorities in the Draft North District Plan to discourage urban development in the primary production rural areas;
  - b) Requiring that significant private school developments are subject to an independent merit assessment to ensure works respond to the existing or desired future character of the locality;
  - c) Amending the design controls for exempt and complying school developments to appropriately respond to a low density residential and rural environment;
  - d) Limiting the extent of school intensification as complying development that has the potential to impact on local road infrastructure; and
  - e) Avoiding and mitigating the clearing of native vegetation.
2. Council prepare and exhibit amendments to the Hornsby Development Control Plan 2013 to provide consistency with SEPP (Educational Establishments and Childcare Facilities) 2017 as gazetted, including removal of the existing cap on the size of child care facilities.

## PURPOSE

The purpose of this report is to outline the Draft Education and Childcare SEPP, identify implications for Hornsby Shire and provide recommendations for a submission to the Department of Planning and Environment.

## BACKGROUND

Currently, planning provisions for schools and tertiary institutions are contained within State Environmental Planning Policy (Infrastructure) 2007 (*SEPP Infrastructure*). Early childhood education and care facilities are regulated through several policies, including national regulations, State requirements and localised provisions in Local Environmental Plans (LEPs) and Development Control Plans (DCPs).

New South Wales is experiencing significant population growth and subsequent increased school enrolments both in public and non-government schools. To assist in delivering additional school capacity, the NSW Department of Planning and Environment (*DP&E*) is proposing changes to the planning framework applying to child care and school development through *Draft State Environmental Planning Policy (Educational Establishments and Childcare Facilities) 2017*.

In February 2017, the DP&E released the Draft Education and Childcare SEPP for exhibition until April 2017. This includes the concurrent exhibition of amendments to *SEPP Infrastructure* and the *Environmental Planning and Assessment Regulation 2000*, to facilitate the implementation of the new Policy.

## DISCUSSION

This section provides an overview of the Draft SEPP and identifies key implications for Hornsby Shire.

### 1. CONTEXT

The Draft Education and Childcare SEPP provides statutory planning controls to simplify and standardise the approval process for childcare centres, schools, TAFEs and universities and broaden the range of developments that can be undertaken as exempt and complying development.

- The key changes for educational establishments are:
  - Extending the permissibility of schools to include the *RU1 Primary Production Zone*;
  - Allowing all new schools and extensions to existing schools to be approved as complying development (up to 22 metres and four storeys);
  - Treating an existing non-government school site as a *public authority* for the purposes of exempt development and development without consent;
  - Lowering the threshold for State significant development to \$20 million for schools;
  - Permitting State significant development to contravene a development standard in a local environmental plan; and
  - Introducing a certificate of compliance from Roads and Maritime Services in relation to traffic for school expansion under complying development.
- The key changes for childcare facilities are:
  - Enabling school-based childcare to be approved as exempt or complying development;
  - Mandating the permissibility of childcare centres in all R2 and IN2 Zones;

- Introducing non-discretionary development standards for childcare centres;
- Identifying that DCP controls cannot limit the number or mix of children; and
- Applying a State-wide planning guideline for childcare centres subject to a DA.

## 2. ISSUES

The DP&E is seeking feedback on the Draft SEPP including proposed amendments to the Environmental Planning and Assessment Act and Regulations, the LEP template and associated assessment and design guidelines. Accordingly, it is recommended that Council's submission be based on the following issues in accordance with the suite of documents that form part of the Draft SEPP.

### 2.1 Extending School Permissibility

*SEPP (Infrastructure)* currently permits schools with consent in the RU2 and RU4 Rural Zones. These land use zones in Hornsby Shire comprise 2 hectare lots. The Draft SEPP proposes to permit schools in the *RU1 Primary Production Zone*. In the Hornsby Local Government Area, the RU1 Zone is generally located north of Galston, with a 10 hectare minimum lot control.

- a) The provision of dispersed private schools through the RU1 rural area would be contrary to the priorities of the draft North District Plan that seek to discourage urban development in the Metropolitan Rural Areas and protect sustainable primary industry.

**Recommend:** Clause 27 should be amended to delete reference to the RU1 Primary Production Zone.

- b) The Draft SEPP proposes to enable Planning Panels to issue *Site Compatibility Certificates* to permit schools and child care centres on land where they are prohibited, if the land adjoins a zone that permits these uses. The Draft SEPP advises that this does not apply to land that is zoned for conservation purposes. This approach is inconsistent with the *Standard Instrument LEP* and the *Hornsby LEP 2013* where Clause 5.3 provides land use flexibility for property adjacent to a zone boundary. Clause 5.3 does not apply to land zoned RE1 Public Recreation, Zone E1 National Parks and Nature Reserves, Zone E2 Environmental Conservation, Zone E3 Environmental Management or Zone W1 Natural Waterways, or land within the coastal zone. The steep bushland areas within the rural areas of the Shire are generally zoned E3 Environmental Management.

**Recommend:** Clause 14 should be amended so that it does not apply to environmentally sensitive zones, as listed in Clause 5.3 of the Standard Instrument LEP, including the E3 Environmental Management Zone.

### 2.2 Amending the Consent Authority for Schools

The Draft SEPP allows registered non-government schools to undertake development without consent utilising Part 5 of the *Environmental Planning and Assessment Act*, and significantly widens the scope of exempt and complying development. For complying development, the modifications to the Regulation requires that a certifying authority must not issue a complying development certificate unless it has been provided with a written statement by a qualified designer that verifies the development achieves the *design qualities principles* set out in Schedule 4 of the draft SEPP. If a school expansion is not exempt or complying development, it would then likely become State Significant Development. While the Draft SEPP requires some consultation with Local Government, the Policy largely removes the assessment function of councils.

- a) The scope of exempt school development is extended to apply to non-government schools and to widen the range of works permitted. Some of the works may have significant impacts and the setback controls do not differentiate between low and high density residential areas. Furthermore, the setback controls are inadequate for schools in rural zones where larger setbacks are required to minimise landuse conflict.

**Recommend:** Clause 32 be amended to delete works that require a merit assessment to enable mitigation measures to be considered including the construction of buildings in close proximity to a boundary in a rural zone, the clearing of 2 hectares of native vegetation to facilitate a recreation facility with no locational requirements, and the use of existing facilities for profit based community purposes (the scope of which is undefined).

- b) Development permitted without consent includes administration, classroom buildings, and carparks that are not more than 1 storey high, and modifications to external façades. The DP&E has developed a Code of Practice for the assessment of these works by private schools. This approach permits a private organisation to undertake its own merit assessment, with no public accountability.

**Recommend:**

- Merit assessments should not be undertaken by a private school.
- The prescribed building height of 1 storey be defined as 4 metres between natural ground and the highest point of the building.
- Development without consent be limited or removed for heritage items and conservation areas, as this necessarily requires a site specific assessment.

- c) The draft SEPP requires some consultation and notification to council for development carried out without consent. This requires local council resources to review the application documentation and provide advice without the costs incurred being funded.

**Recommend:** That councils be funded for any assessment services they provide.

- d) The draft SEPP permits new school buildings up to four storeys (or 22 metres) in height, to be approved as complying development. The *EP&A Regulations* are to be amended to require a certifying authority to be issued with a complying development certificate by a qualified designer verifying that the *design quality principles* have been achieved, for buildings in excess of 12 metres in height.

The *design quality principles* involve a merit assessment, such as requiring schools to be designed to respond to the positive qualities of its setting, that would be completed by the applicant's architect. The Department's explanatory notes indicate an option being considered is that complying development certificates for school infrastructure should only be issued by council certifiers. There is no design quality assessment required for buildings up to 12 metres in height, which is equivalent to a 3 storey apartment building.

**Recommend:**

- Complying development should be limited to works that do not require merit assessment.
- Council should not be appointed the sole certifier for complying development for school infrastructure, as the community may assume that this gives the Council a merit assessment function.

- All private school buildings in excess of 2 storey (8.5 metres) in height should be required to comply with the design quality principles in Schedule 4 of the Draft SEPP and be subject to a merit assessment, through a development application process.
- e) The draft SEPP requires a certificate to be issued by the Roads and Maritime Services (RMS) for complying development that will result in a school being able to accommodate 50 or more additional students. The RMS is the roads authority for State and Classified Regional Roads, while Council is the roads authority for local and unclassified regional roads. The inability of Council to consider the impact of the development on the local road network may result in necessary road work ancillary to the school expansion such as intersection upgrades, improved footpaths or pedestrian crossings, failing to occur.

**Recommend:** The scale of complying development should be limited to not more than 50 additional students, to enable an assessment of the need for upgrades to local road infrastructure.

- f) The complying development controls do not make provision for consideration of site contamination. The provisions allow for significant expansion of existing schools on rural and industrial land that would ordinarily require a preliminary contamination assessment and possibly a remediation action plan.

**Recommend:** That all works in potentially contaminated zones require a development application to enable a merit assessment to be undertaken and appropriate consent conditions for remediation applied.

- g) The complying development controls allow for stormwater drainage to be conveyed by gravity or a charged system. A charged system results in stormwater being directed to a catchment that would not naturally accept that water, and may result in wider stormwater catchment issues. The controls also require that drainage systems obtain an approval under Section 68 of the Local Government Act or comply with the controls in a DCP. Some applications may require a Section 68 approval for a new stormwater connection but should also comply with DCP controls in relation to stormwater detention and water quality measures.

**Recommend:** That Schedule 2 (10) Drainage be amended to limit stormwater for complying development to a gravity fed system, and require on-site stormwater detention and water quality control in accordance with DCP controls.

- h) The Draft SEPP proposes to classify all new schools (regardless of capital investment value) and all major expansions of existing schools with a value of \$20 million or more as State Significant development. The State has identified the need to pursue this path due to the urgency in delivering more facilities. As a result, development assessment reports will not be prepared by Council officers with detailed local knowledge.

**Recommend:** That the classification of schools as 'State Significant' should be determined based on a significant increase in school capacity of more than 200 children.

- i) The Draft Policy does not include any savings provisions for applications currently being assessed by Council or the JRPP.

**Recommend:** That savings provisions be included for undetermined development applications.

### 2.3 Local Character Impacts from Enlarged Schools

The Draft SEPP permits school buildings up to four storeys (or 22 metres) in height, to be approved as complying development, with limited design controls. The complying development controls do not adequately respond to a low density residential or rural environment. The most important contributor to urban character is the relationship of built form to surrounding space, a relationship that is created by building height, setbacks and landscaping. The draft controls are not compatible with a low density residential or rural environment where the character of the area is dominated by the landscape setting. Furthermore, complying development does not require the massing or design of development be planned to reduce external impacts.

- a) The complying development building height controls do not differentiate between a low density residential or rural environment and a high density residential area.

**Recommend:** That Schedule 2 Clause 2 Building Height be amended to reduce the building height controls for R2 Low Density Residential Zones and Rural Zones, to introduce a maximum height of 2 storeys or 8.5 metres, whichever is the greater.

- b) The setback controls do not differentiate between a low density residential or rural environment and a high density residential area. For example, the complying controls allow a 12 metre high building, similar in scale to a 3 storey residential flat building, to be setback 5 metres to any residential zone or 1 metre to any other zone. In contrast, SEPP 65 Guidelines has interface controls that require an additional 3 metre boundary setback where a 3 storey apartment building adjoins a low density residential area. Furthermore, the 1 metre setback control would have a significant impact on land within Council's rural zones, or where a school adjoins a local park or local shopping centre.

**Recommend:** That Schedule 2 Clause 3 Side and Rear Setbacks be amended to include:

- o A 10m setback for all buildings within or adjoining a Rural Zone;
  - o A 5m setback for land adjoining an R2 Zone, for building heights up to 8.5m;
  - o A 1m setback for land adjoining a B1 or B2 Zone, for building heights up to 8.5m; and
  - o A 3m setback for land adjoining a B1 or B2 Zone, for building heights up to 12m.
- c) There are no front setback controls for schools in the Draft SEPP, such as those for complying dwellings where the front setbacks are required to respond to the existing building line.

**Recommend:** That Schedule be amended to include a front setback control that the building must have a setback from the road that is the average distance of the setbacks of the nearest buildings having the same primary road boundary and located within 40m of the lot on which the building is erected.

- d) The Design and Materials element permits the erection of unarticulated walls without any consideration of good design principles for buildings up to 12 metres in height.

**Recommend:** That Schedule 2 Clause 4 Design and Materials be amended to require all new external walls greater than 4m in height that face a side or rear boundary to include façade articulation, including windows, unless the façade is obscured by a landscape screen on the school site that is equivalent in height to the new building. All external walls that face a public road or reserve must contain articulation and windows.

- e) The privacy provisions do not require consideration of the location of windows or private open space on an adjacent residential property. The controls do not afford the same level of privacy protection between properties that is expected of residential development.

**Recommend:** That Schedule 2 Clause 6 Privacy be amended to include the requirement that a new window be separated by at least 12 metres to a habitable room window or principal private open space area on adjoining residential land.

- f) The Landscaping controls do not require canopy trees to be planted within the vicinity of significant buildings to be constructed as complying development. The controls are inner-city centric and do not respond to low density residential areas or rural areas where the character of the locality is dominated by the landscape setting.

**Recommend:** That Schedule 2, Clause 7 Landscape be amended to require:

- o 3m wide landscape area along the front and side boundary in a residential zone, for the full length of the new building;
  - o 5m wide landscape area along the rear boundary in a residential zone, for the full length of the new building, that contains small trees/shrubs 3m in height and also canopy trees capable of growing to a mature height of 10 metres;
  - o landscaping 6m wide along all boundaries of a Rural Zoned property, and contain canopy trees capable of growing to a mature height of 10 metres; and
  - o landscaping of the 3m setback with screening shrubs to the boundary of a B1 or B2 Zone, for buildings with a height between 8.5m and 12m.
- g) The Earthwork controls permit significant land modification that has the potential to impact on the streetscape and character of the locality.
- Recommend:** That Schedule 9 Clause 3 Earthworks be amended to reduce the extent of fill permitted as complying development from 2 metres to 1 metre.
- h) There is no requirement to consider the potential acoustic impacts from recreation facilities permitted as complying development, which is inconsistent with the approach proposed for Tertiary Establishments.

**Recommend:** That Schedule 2 Schools include Noise provisions similar to those proposed for Universities in Schedule 3 Clause 7.

#### 2.4 Bushland Impacts from Enlarged Schools

The Draft SEPP permits exempt and complying school buildings and sporting fields to be constructed that requires the removal of bushland.

- a) The exempt development provisions permit sporting fields, tennis courts and the like to be constructed as exempt development if the work does not involve the clearing of more than 2 hectares of native vegetation. This may result in significant impacts on the landscape character of the locality and biodiversity.

**Recommend:** That Clause 32 Existing Schools – exempt development Clause 1(g) be removed.

- b) When complying development requires an enlarged Asset Protection Zone (APZ) to comply with *Planning for Bush Fire Protection*, there is no requirement to consider the impact on

bushland from the enlarged APZ or how siting of the new building should be located to reduce impacts.

**Recommend:** That Schedule 11 - Bush fire prone land, be amended to not permit complying development where it requires an enlarged Asset Protection Zone (APZ) into bushland. This would enable the impact on the bushland to be assessed and impacts mitigated.

## 2.5 Non-discretionary Development Standards for Childcare Centres

The Draft SEPP prescribes non-discretionary development standards for centre based childcare centres. A consent authority is not to require more onerous standards. Some of the controls of concern are noted below:

- The draft Policy proposes that development may cover any part of the site. This is inconsistent with the scale controls at 7.1.2 of the HDCP that prescribes site coverage controls that otherwise apply to the zone, and 7.1.4 that prescribes the minimum landscaped area.

**Recommend:** That Clause 23(2)(c) be modified to delete reference to “cover any part of the site” as the development of appropriate site coverage and landscape controls are important elements in the character of an area.

- The draft Policy requires that the design is to satisfy the design criteria in the Childcare Planning Guideline, as a non-discretionary development standard. The inclusion of this provision in Clause 23 is problematic as the guideline is extensive and many of the controls may be incompatible with each other. Including this provision is unnecessary as Clause 21 requires consideration of the guideline prior to the determination of the application.

**Recommend:** That Clause 23(2)(e) be deleted, as this is required to be addressed by Clause 21 of the Draft SEPP.

## 2.6 Design Criteria for Childcare Centres

The Draft Childcare Planning Guideline includes extensive design controls for the construction of childcare centres. Within Hornsby Shire, childcare centres are commonly proposed within low density residential areas, with residential interfaces. Concerns with these applications typically include local character, noise and parking.

- a) The design controls do not adequately address the inter-relationship between building design and acoustic mitigation. In residential areas with low background noise levels, acoustic reports often recommend the erection of acoustic fencing in excess of 2m in height. In contrast, the Design Criteria requires a 2m high acoustic fence to a residential property boundary. To achieve appropriate noise levels with a 2m high fence in a residential area with low background noise levels, this typically requires an operational management plan that limits outdoor play time, where a small number of children (often 10 to 12 children) are permitted outside at any one time. The restricted play time approach limits the ability of children to play and may become an ongoing compliance and enforcement matter. In addition, the Code adopts the NSW Industrial Noise Policy levels for child care centres that is inconsistent with noise levels accepted by the Land and Environment Court.

**Recommend:** That the Design Code be reviewed to address:

- the inter-relationship between design and acoustic mitigation;

- encourage and include examples of how centres could be developed on corner sites to function as an acoustic barrier to avoid high acoustic fences;
  - amend the fencing controls at Design Criteria 3E to address secondary frontages; and
  - that Appendix 3 Checklist of Specialist Studies require an acoustic assessment to address the noise generated by a childcare facility.
- b) The building envelope controls state that building height should be limited in accordance with an LEP or DCP, or if no controls apply, 8.5 metres on residential zoned land. The Code also identifies that basement parking is not to project more than 1 metre above ground. All of the examples in the Code assume a single storey child care centre, on a relatively flat block of land, with at grade parking. The Code does not identify what is the acceptable form of a 8.5 metre (2 storey) childcare centre in a residential zone.

**Recommend:** Provide clarification where and how a 2 storey building comprising a ground level carpark and first storey child centre is able to be constructed. That the Code discourage second storey play areas in low density residential zones.

- c) The design controls allow small childcare centres to provide for parking on-street, rather than on site, where this does not affect the safety and amenity of the adjacent area. The Hornsby DCP provides a similar dispensation for dwelling-house conversions, not for purpose built centres in residential zones. The Code also introduces a rate of 1 parking space per 10 children for sites within 400m of a metropolitan train station. Appendix 3 Checklist of Specialist Studies requires a traffic study for centres in residential or industrial zones with places for 90 or more children and not for rural zoned land.

**Recommend:**

- That the off-street parking dispensation at Design Criteria 3L(4) be deleted. Alternatively, if the clause is retained, to include a definition of a small centre to comprise a maximum of 30 children, with at least half of the required parking provided on-site for parent drop off/ pick up.
- That the Design Code be reviewed to require a traffic study to be submitted for centres within rural zones.

## 2.7 Impact on Hornsby Development Control Plan 2013

The draft SEPP provides that any requirement of a development control plan that is inconsistent with the Policy, does not apply for the purpose of a childcare centre. Therefore, if finalised, the draft SEPP would require an amendment to the HDCP to address the following areas of inconsistency:

- That the development may be located any distance from an existing or proposed childcare centre. This is inconsistent with 7.1.2(d) of the HCP that limits the number of childcare centres to one per allotment.
- That the ages, age ratios, or numbers of children is not a matter for consideration in the Draft SEPP or Guideline. This is inconsistent with 7.1.2 of the HDCP that provides intensity controls to limit the size of childcare centres.

- That the indoor and outdoor space provisions comply with the Education and Care Services National Regulations. This is inconsistent with 7.1.2 of the HCP that requires a larger play space ratio for centres with more than 40 children.

On 8 March 2017, Council considered Group Manager's Report No. PL8/17 on DA/1109/2016 for the construction of a 136 place childcare centre at Quarry Road Dural. Council resolved to defer the determination of the application to undertake a site inspection. Council also resolved that a report be prepared outlining the background and objective of the existing limit on child numbers for childcare centres contained within the Hornsby Development Control Plan 2013 and addressing the merits of retaining the control in light of the State Government's *Draft State Environmental Planning Policy (Educational Establishments and Childcare Facilities) 2017* which does not include a maximum total for child placements.

The *Hornsby Childcare Planning Review 2006* addressed the required size of a centre to be viable. The review recommended a maximum size for childcare centres in residential areas of 60 children and rural areas of 90 children which is a requirement of Council's HDCP. Since the completion of the above review, there have been various reforms to National and State controls for child care centres, including the requirement for higher quality facilities, qualified staff, and lower staff to children ratios. These reforms, in addition to other development cost factors, are now generating the need for larger childcare centres to be viable.

The objective of the Draft SEPP is to respond to the demand for quality childcare centres and to require centres to be assessed on their merits, and not be constrained by an artificial cap on the scale of facilities. The explanatory notes for the Draft SEPP report that an additional 2,700 long day care centres would be required by 2036 to address shortages and meet projected demand. Council officers recently attended workshops with the Department of Planning and Environment regarding the Draft SEPP and were advised that on the gazettal of the SEPP, any cap within a DCP would have no effect. Therefore, when the SEPP is finalised, Council will no longer be able to mandate a maximum centre size and should amend the HDCP to be consistent with the SEPP.

**Recommend:** Upon finalisation of the SEPP, relevant controls in the HDCP be amended to ensure consistency with the SEPP (*Educational Establishments and Childcare Facilities*) 2017, as gazetted, including removal of the existing cap on the size of child care facilities.

## BUDGET

There are no budgetary implications associated with this report.

## POLICY

The *Draft SEPP (Educational Establishments and Childcare Facilities) 2017* is to be considered as a Draft Planning Instrument during the assessment of development applications, pursuant to Section 79C of the *Environmental Planning and Assessment Act*. If the Draft SEPP is gazetted, the Policy will come into effect and supersede Council's planning controls as discussed in this report.

## CONCLUSION

In February 2017, the NSW Government placed the *Draft SEPP (Educational Establishments and Childcare Facilities) 2017* on public exhibition until April 2017. The draft policy includes provisions to amend the approval process for a number of school developments to remove assessment and determination by Local Councils and develop alternative planning controls for schools and childcare facilities that over-ride local considerations.

It is recommended that a submission be made to the NSW Department of Planning and Environment supporting the intent of the Policy to rationalise the controls for childcare providers, schools and Tertiary Education facilities, and suggesting amendments to maintain independent merit address of applications and consideration of local character.

If progressed, the draft SEPP will require amendments to the HDCP to ensure consistency. Accordingly, it is also recommended that an amendment to the HDCP be progressed upon finalisation of the draft SEPP to harmonise our local requirements.

**RESPONSIBLE OFFICER**

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

FLETCHER RAYNER  
Manager - Strategic Planning  
Planning Division

JAMES FARRINGTON  
Group Manager  
Planning Division

**Attachments:**

There are no attachments for this report.

File Reference: F2004/07599  
Document Number: D07163017

## 7 PLANNING LEGISLATION UPDATES

---

### EXECUTIVE SUMMARY

- In January 2017, the NSW Government placed on exhibition a draft Bill that proposes a number of updates to the *Environmental Planning and Assessment (EP&A) Act 1979*.
- The draft Bill seeks to update the objects, enhance community participation, enhance the strategic planning framework, improve local and State significant development processes, facilitate infrastructure delivery, promote fair and consistent planning agreements, promote confidence in decision making, provide clearer building provisions, elevate the role of design, and enhance the enforcement toolkit.
- The objectives that the draft Bill is seeking to achieve are supported in principle. However, there a number of initiatives proposed that would not achieve the objectives. In some instances, the initiatives would place additional burden on councils and reduce their ability to perform their planning functions efficiently and effectively.
- It is recommended that Council forward a submission to the Department of Planning and Environment (DP&E) identifying its general support for the draft Bill subject to addressing the issues identified in this report.

### RECOMMENDATION

THAT a submission be forwarded to the Department of Planning and Environment indicating Council's general support for the *Planning Legislation Updates*, subject to the Department addressing the major issues for Hornsby Shire identified in Group Manager's Report No. PL17/17, including:

1. Community Participation Plan Regulation should not fetter Council consultation practices and "public notification" be defined for Statements of Reasons for Decisions as a website notice.
2. Local Strategic Planning Statements be incorporated in LEPs and Regional and District Plans be reviewed every five years.
3. A maximum timeframe for the Secretary and a "dedicated integrated development assessment team" be established to resolve delays in the provision of concurrence.
4. Delete categories of Complying Codes which are not routine and remove the need for certifiers to refer complying development proposals to Council for review prior to approval.
5. Provide councils the option to include additional specialists on local planning panels and identify circumstances in which Government can appoint a local planning panel.

## PURPOSE

The purpose of this report is to outline the proposed Planning Legislation updates, identify implications for Hornsby Shire and seek endorsement for a submission to the DP&E.

## BACKGROUND

In May 2016, the NSW announced a review of the *EP&A Act* with the intention of drafting amendments to modernise the planning system that build upon areas of previous agreement from the *2013 White Paper: A New Planning System for NSW* and in response to the recently introduced Greater Sydney Commission. The review included consultation on planning issues and policy proposals with key stakeholders via forums, targeted on-line surveys and correspondence.

In January 2017, the NSW Government released exhibition documents for the *Planning Legislation Updates*, including a draft Bill. The underlying objectives of the proposed initiatives are to:

- Enhance community participation;
- Promote strategic planning;
- Increase probity and accountability in decision making; and
- Promote simpler, faster processes for all participants.

The draft Bill was on exhibition until 31 March 2017. Accordingly, a copy of Council's submission report has been forwarded to the Department which will be updated pending Council's resolution.

## DISCUSSION

This report outlines the proposed initiatives and identifies the key issues for Hornsby Shire. The initiatives are grouped under headings which relate to the key objectives of the planning legislation updates.

### 1. UPDATED OBJECTS

The draft Bill proposes to modernise the objects to provide a more contemporary base for the planning legislation and decisions made thereunder. In summary, the update reduces the number of objects from ten to eight. The eight objects are achieved by the deletion of four, modification of four, and retention of two unchanged existing objects, and the inclusion of two new objects.

#### Key issues for Council

- a) The modification of the existing object that seeks the *"promotion and coordination of the orderly and economic use and development of the land"* to *"promote the timely delivery of business, employment and housing opportunities"* creates a legislative framework which is reactive rather than strategic. The new modified object does not properly recognise that urban land release or renewal projects are often rolled out in many stages over a number of years to align with major infrastructure provision. The change in terminology to **"timely delivery"** could inadvertently support an increase in the lodgement of ad-hoc proponent led planning proposals. The change to terminology could also inadvertently limit the ability of councils to approve development with a deferred commencement condition requiring the necessary infrastructure to be provided up front to support the entire development precinct or a wider area. The staging of development through such conditions would ensure an equitable share of the burden of infrastructure works.

**Recommend:** The updated object relating to promoting employment and housing opportunities should be amended to remove reference to “the timely delivery” and instead include “and coordinate the orderly and economic delivery”.

## 2. COMMUNITY PARTICIPATION

A key part of the DP&E’s reform agenda is to improve community participation in planning processes. Community participation ensures the accountability of decision makers and promotes transparency and confidence in the planning system. Community participation also improves planning outcomes by providing additional information and diverse perspectives to inform decision making. The DP&E proposes a number of initiatives to improve community participation.

### **Key issues for Council**

- a) The principle of preparing **community participation plans** in accordance with the **community participation principles** as a contract with the community to ensure a minimum level of consultation has merit. However, the Regulations that specify the form, content and process required for developing community participation plans have not yet been released. Any future Regulations prepared should not impose community participation plan preparation processes on Council that are onerous or require significant variation from the notification and exhibition requirements already contained in the *Hornsby Development Control Plan (HDCP) 2013*. Further, any future Regulations should not fetter Council’s already established practice of developing a customised consultation strategy for strategic planning projects (egs. planning study/strategy or masterplan).

**Recommend:** Future Community Participation Plan Regulations should retain the agility of process and flexibility in design that councils require to develop consultation strategies which are proportionate to the planning issue and resources available, and best targets the communities affected.

- b) Councils are currently required to publish a notice of determinations, including the decision and date of decision, in the local newspaper. The draft Bill does not specify whether the more detailed **statement of reasons for decisions**, including how the development has regard to statutory requirements and how community values have been taken into account, will need to be published in local newspapers. Publication of such detail in local newspapers is not practical or cost effective.

**Recommend:** The DP&E should draft Regulations to include a more contemporary definition of “public notification” so that statements of reasons for decisions only have to be attached as an annexure to the Notice of Determination and posted on council websites.

## 3. STRATEGIC PLANNING

Strategic plans set the vision and content for an area in consultation with the community to assist guide the efficient distribution of resources and facilitate coordinated and orderly development outcomes. In 2015, the DP&E updated its regional and district plans to establish the base for a strong strategic planning framework. The DP&E proposes a number of additional initiatives to improve the strategic planning framework.

### **Key issues for Council**

- a) The introduction of stand-alone **local strategic planning statements** to provide a ‘line of sight’ with regional, district and community strategic plans would add further complexity to the

planning system. The inclusion of clearer directions for the preparation of plans and evaluation of planning proposals within the Regional and District Plans, along with the establishment of *local strategic planning statements* in LEPs and DCPs, would best deliver a clear line of sight between all plans.

The establishment of *local strategic planning statements* in LEPs and DCPs, rather than stand-alone documents, would strengthen consideration of the strategic context in the assessment of planning proposals and development applications. Council currently includes relevant strategic context and vision statements for the zones, key development standards and land constraint provisions in the *Hornsby Local Environmental Plan (HLEP) 2013 Explanatory Notes* and at the front of each chapter of the *HDCP 2013*. Should the DP&E progress the establishment of stand-alone *local strategic planning statements*, they should be given the same legislative status as environmental planning instruments so that they must be considered in the evaluation of planning proposals and development applications.

**Recommend:** The draft Bill should be amended to require the inclusion of local planning strategic statements in LEPs and DCPs. Should a stand-alone document be progressed, they should be given the same legislative status as environmental planning instruments.

- b) Undertaking **regular LEP and local strategic planning statement checks** is supported in principle. However, as it is already legislated that Council is required to give effect to Regional and District Plans, it is more appropriate that the higher order plans are subject to a mandatory five year review than requiring councils to undertake a comprehensive review of LEPs and local strategic planning statements every five years without any new regional direction being provided.

Council's current LEP, the *HLEP 2013*, was principally informed by the *draft North Subregional Plan* released by the DP&E in 2007. The *draft North District Plan* released by the Greater Sydney Commission (GSC) in late 2016 provides new directions which will guide significant revision to the *HLEP 2013*. Accordingly, nearly ten years have elapsed between the 2007 draft Plan and the current draft District Plan. Given the past record of Regional and District Plan delivery, to require councils to complete a comprehensive review of LEPs and local strategic planning statements every five years would either not be required or may duplicate a review already undertaken.

**Recommend:** The draft Bill should be amended to require the Regional and District Plans to be reviewed every five years.

- c) The proposal to establish a **standard DCP format** may make them easier to understand by the broader community and more accessible as they can be uploaded to the NSW Planning Portal. It is understood the DP&E will develop the standard format with councils to provide a balance between consistency and flexibility to recognise local context. However, as the Regulations which specify their form, structure and subject matter are yet to be released, Council is unable to determine whether the introduction of a one size fits all DCP format will be of benefit. Notwithstanding, concern is expressed in relation to the DP&E's intention to place a limitation on the subject matters included as it could reduce Council's ability to respond to emerging planning issues.

**Recommend:** The DP&E should undertake further consultation on the form, structure and subject matter prior to a requirement being included in the *EP&A Act* mandating a standard DCP format.

- d) The **optional model DCP provisions** to be developed should ensure that councils still have control over the content of DCPs. The yet to be released DCP Regulations should not designate any “mandated optional provisions”, like that included in the *Standard Instrument LEP* template, which require them to be used where council seeks to include provisions of a subject matter that is the same or similar.

**Recommend:** Optional model DCP provisions should not be mandated where council seeks to include provisions of a subject matter that is the same or similar.

#### 4. LOCAL DEVELOPMENT

Making local development processes simpler and faster for all participants is one of the DP&E’s goals. The DP&E suggests the legislative updates would reduce the cost and delay for proponents, and allow interested members of the community to better understand the assessment process, and how they can access information and participate. The DP&E also advises that improvements in this area would deliver faster housing approvals, which is a key priority for the NSW Government. The DP&E proposes a number of initiatives to improve local development processes.

##### **Key issues for Council**

- a) The proposal to introduce **incentives for early consultation** into the *EP&A Regulations* may add value to the development process. However, there are a number of practical problems in ensuring that the proponent has entered into meaningful consultation with the community prior to lodgement of a development application. For example, a developer may purport to have consulted and produce proposed development plans and documentation that were referred to neighbours for comment. However, there is no way to determine that the plans and documentation produced are the ones referred or that the developer has amended the proposal in response to feedback received.

It is necessary that Council continue to exhibit development proposals for community comment. Accordingly, should the DP&E wish to introduce incentives for early consultation, a reduction in assessment fees or public exhibition requirements in exchange for consultation prior to DA lodgement should not be introduced.

**Recommend:** The Department should not pursue a reduction in assessment fees or minimum statutory public exhibition requirements as incentives for early consultation.

- b) The Secretary of DP&E’s **step-in powers for integrated development** to provide advice, concurrence or general terms of approval may not necessarily promote more timely approvals. Councils currently have the ability to approve integrated development applications where an agency has not provided advice within statutory timeframes. There is no statutory timeframe placed on the Secretary to provide advice and/or resolve conflicting approval body advices. Accordingly, the proposal may only result in placement of an additional agency into the development assessment process before Council is allowed to approve an integrated application. Also, given councils local development assessment functions, they are more likely to have the relevant staff to address matters requiring concurrence than the DP&E.

**Recommend:** The draft Bill should be amended to establish a maximum timeframe for the Secretary to resolve delays in the provision of concurrence. The DP&E should also establish a “dedicated integrated development assessment team” with the relevant staff to be able to address all matters requiring concurrence.

- c) The proposed **transparent digital platform** for inclusion on the NSW Planning Portal to promote collaborative work practices and to track, concurrences and referrals treats the applicant as part of the project team. Details of how the proposed integrated development assessment model would work are yet to be released and may involve information sharing among all participants in the project team.

Concern is raised that the proposed model does not provide adequate separation between the applicant, approvals bodies and councils as determining authority. Experience has shown that council assessing officers need to make an assessment based on multiple advices and seek to resolve any conflicting agency advices before seeking information from the applicant or determining the application. Given the Secretary's proposed step in powers, the recommended "dedicated integrated development assessment team" within the DP&E should form part of the project team.

The transparent digital platform should also not be open to public viewing as this would cause similar problems in the assessment process to involving the applicant.

**Recommend:** The DP&E should refine the proposed concurrence and referral workflows to remove the applicant from the project team and instead include the DP&E's "dedicated integrated development assessment team". The transparent digital platform should also not be open to public viewing.

- d) The proposal to **strengthen the deterrence of unauthorised works** by preventing retrospective modifications to consents for unauthorised works would limit Council's options in dealing with unauthorised works. Council would be restricted to either ordering demolition or rectification works, or the issue of a Building Certificate to ensure its structural integrity and compliance with the Building Code of Australia (BCA). Where the latter is issued, Council cannot undertake a merit assessment of the proposal having regard to impact on amenity. Council also cannot subsequently issue compliance and occupation certificates to ensure that all other conditions of development consent have been complied with and occupation is lawful.

The original intention that consents can only be modified to correct minor errors or where they are substantially same development gives certainty to the community that the development constructed matches that approved. However, this does not provide a practical solution where unauthorised works are undertaken to provide a pragmatic response to difficulties encountered in construction.

**Recommend:** The draft Bill should be amended to retain the ability to regularise works through the Section 96 process which enables merit assessment.

- e) The proposal that councils must **consider a statement of reasons for the original consent** when evaluating a modification application anticipates that the statement would provide significant detail setting out the reason for the decision and the conditions. These reasons would already be discussed in council's original assessment report. Mandating the need to consider detailed statements of reasons of a specified format may result in duplication in the assessment process.

**Recommend:** The draft Bill should be amended to remove the need to consider the statement of reasons for the original consent and the DP&E should prepare model examples of such reasons.

## 5. COMPLYING DEVELOPMENT

The DP&E advise that the complying development pathway is a key mechanism for delivering new housing to meet the demand created by population growth and demographic changes. Complying developments were originally designed to be low impact, routine proposals that meet development standards set out in an environmental planning instrument. If a proposal meets all the standards, an accredited council or private certifier can approve the development by issuing a complying development certificate. The DP&E proposes a number of initiatives relating to the complying development pathway.

### **Key issues for Council**

- a) The proposal to require certifiers to provide **information to councils and neighbours** (i.e. a copy of the plans and certificate) before and after issuing CDCs and providing **additional powers and resources** to assist councils monitor CDCs issued by private certifiers demonstrates that complying development should not be expanded beyond the current framework. Given the current proposal to expand complying development to also include schools and child care centres, this proposal would likely put ever increasing burden on councils. Complying development was meant to be low impact, routine proposals that were easy to assess. The State Government should remove complying development forms which are not routine proposals rather than increasing the monitoring role of councils.

Concern is raised regarding the resourcing implications of council monitoring CDCs and whether the proposed levy to support councils' role in monitoring CDCs would be adequate. The proposed amendments would also disregard the role the Building Professionals Board plays in ensuring independent certifiers operate appropriately. The referral of information to council and neighbours before independent certifiers issue CDCs is particularly problematic. This suggests that Council will be expected to peer review independently certified CDCs prior to their release. This will place the onus on councils rather than independent certifiers to make decisions, even though they are receiving payment for the service. Council's monitoring role should be limited to that of overseer which only responds to complaints from neighbours about approved CDCs.

**Recommend:** Complying development categories should be removed from the Codes which are not routine proposals. The draft Bill should be amended to remove the requirement for independent certifiers to refer a copy of the plans, compliance table and certificate to Council and the neighbours prior to approving complying development.

- b) The proposal to declare a complying development certificate invalid where **development does not meet standards** and Court proceedings are brought within three months of certificate being issued, relies on councils peer reviewing complying development certificates issued by independent certifiers. Neighbours or persons impacted may find it difficult to determine and subsequently allege non-compliance of development until it is well under construction or completed.

The additional stop work orders that are proposed to give councils the opportunity to investigate non-compliances is in theory a positive contribution to council's enforcement toolkit. However, in practice, council may be reluctant to use these new powers as it may be held liable for costs associated with stalling construction when alleged non-compliances are found to be spurious.

**Recommend:** The draft Bill should be amended to remove reference to the three month time limitation in which Court proceedings must be brought against non-complying

development and instead include a time limitation which is better aligned with the timeframe for the construction of complying development forms. Should the DP&E proceed with the amendment, the draft Bill should confirm councils are not liable to claims when issuing stop work orders in good faith to investigate alleged non-compliance of CDCs.

- c) The *EP&A Regulations* do not specify the **sensitive categories of complying development** for which only a council certifier is authorised to approve. Notwithstanding, the proposal to specify certain sensitive categories of complying development conflicts with the State Government's original philosophies for establishing complying development, that being the quick and easy evaluation of low impact, routine development against a set of predetermined standards. Introducing an additional development pathway will further complicate the planning system and the introduction of any categories of development that are deemed sensitive would better be considered by Council on their merit as a development application.

**Recommend:** The draft Bill should be amended to remove provisions which seek to introduce sensitive categories of complying development and the associated requirement that only councils be able to determine same.

- d) The proposal that enables State Infrastructure Contribution (SIC) levies to be applied to complying development by condition and/or a voluntary planning agreement (VPA) may address **complying development anomalies** with development requiring consent. However, it is unclear how a SIC levy can be imposed on a CDC when satisfactory arrangements clauses requiring contributions to designated State public infrastructure are contained in LEPs and complying development has to meet predetermined standards in separate Complying Codes. Also, where a SIC levy is wholly or partly imposed by a VPA, it would result in the timeframe for evaluating the CDC exceeding the maximum statutory timeframe of 10 days. A VPA is required to be exhibited for 28 days and may only be prepared and adopted by a local council or other relevant authority.

**Recommend:** The draft Bill should be amended to clarify how satisfactory arrangements clauses in LEPs are enacted by the Code SEPP. The draft Bill should also be amended to clarify how SIC levies can be imposed within the maximum statutory timeframe for CDCs.

## 6. STATE SIGNIFICANT DEVELOPMENT

The DP&E advises that better processes are needed for State significant development to reduce complexity and overall assessment times while also providing for greater transparency and accountability. It is understood that these processes are being promoted so the State Government achieves its commitment of halving the assessment times for State significant development. The DP&E propose a number of initiatives to improve State significant development processes.

### **Key issues for Council**

- a) The proposal to introduce **transferrable conditions** for conditions no longer needed when there are equivalent regulatory approvals or licenses issued should remove duplication and associated uncertainty. It is understood that any transferrable conditions will be specified in the original consent and the conditions will only cease if the consent authority is satisfied that the other approvals or licences suitably address the regulated matters. However, for good governance and transparency, legislation should require the new conditions to be referenced in the development consent.

**Recommend:** The draft Bill should be amended to require the regulatory approvals or licences that replace the transferrable conditions to be referenced in the development consent.

## 7. INFRASTRUCTURE

The DP&E advises that it is important to ensure the strategic and cost effective delivery of major infrastructure projects, such as major road and rail projects. Accordingly, the planning framework should enable consideration of all development within road and rail corridors from the Government agencies responsible for delivering the infrastructure. The DP&E proposes a number of initiatives to facilitate infrastructure delivery.

### **Key issues for Council**

- a) The proposal to require **concurrence for Part 5 activities** in road and rail corridors not requiring consent is a positive step. However, the proposal appoints the Planning Secretary or Minister as the relevant authorities to undertake a review of Part 5 activities if concurrence is refused by an approval authority. There are no decision making principles proposed that the Minister or Planning Secretary must consider to ensure the right decision is made.

The *EP&A Act* currently appoints the Court as the authority to undertake a review of proposed development requiring consent in road and rail corridors where concurrence is refused by an approval authority. The Court's decision making is governed by case law principles. Accordingly, the Court should also be appointed as the authority responsible for undertaking a review of Part 5 activities if concurrence is refused by an approval authority.

**Recommend:** The draft Bill should be amended so that the Court is responsible for reviewing decisions to refuse concurrence for Part 5 activities.

## 8. PLANNING AGREEMENTS

Voluntary Planning Agreements (VPAs) to provide or fund infrastructure are entered into by a planning authority and a developer. The current legislative framework was intended to set a clear basis for legal agreements to deliver public benefits. However, as planning agreements are intended to be voluntary, there are opportunities for parties to a planning agreement to make unfair or unreasonable demands. The DP&E proposes a number of initiatives to promote fair and consistent planning agreements.

### **Key issues for Council**

- a) The proposal to issue **clearer directions for VPAs** to ensure there is clear public benefit, agreement negotiations are fair and transparent, and infrastructure meets community needs is a positive initiative. However, the revised policy framework for VPAs recently released by the DP&E should be refined to address the following issues:
- The artificial cap on developer contributions has remained unchanged since 2008 and does not cover the costs of delivering infrastructure and services after strategic land within town centres is up-zoned. At a minimum, the cap on developer contributions should be indexed to ensure the value of contribution plans is maintained over time.
  - The Practice Note identifies that VPAs should not be used to capture "windfall gains" associated with rezoning of land. However, it provides no guidance on what is a

windfall gain or reasonable profit, nor provides a methodology for valuations. The Practice Note should clarify terminology and standardise the valuation process.

- o The Practice Note suggests that councils are entitled to seek value capture. However, VPAs are often only negotiated with individual land owners of strategic, up-zoned land within town centres. Adjoining residents are forced to shoulder the burden of increased densities without the necessary infrastructure and community services being provided in parallel to the development. A fairer way of sharing the infrastructure cost burden is to partly fund the infrastructure from capturing a part of the uplift in property values after the strategic lands in town centres are up-zoned. Accordingly, a review of legislation should be undertaken to provide councils with a tool to capture a share of value uplift.

**Recommend:** The DP&E should address the artificial cap on developer contributions and develops best practice value capture principles and tools within the revised policy framework for VPAs.

- b) The commitment to make other **improvements to infrastructure contributions**, including application of **State Infrastructure Levy** contributions for regional infrastructure to support high growth areas (i.e. priority precincts and priority growth areas) is a positive initiative. However, the State Government should confirm that the “Cherrybrook Station Urban Transformation Precinct” meets this definition and that State Infrastructure Levy contributions may apply to the Precinct.

**Recommend:** The Cherrybrook Station Precinct should be eligible as a future high growth area for application of the State Infrastructure Levy.

## 9. DECISION MAKING

The DP&E advises that a key objective of the proposed changes to the *EP&A Act* is to build community confidence through enhancing the probity and accountability of decision making in the planning system. This involves improving transparency and balance in assessment and determination processes, and the independence and expertise of the decision makers. The DP&E proposes a number of initiatives to promote confidence in decision making.

### **Key issues for Council**

- a) The proposal to establish **Local Planning Panels** to replace Independent Hearing and Assessment Panels (IHAPs) and standardise the constitution, membership, functions, and performance reporting of panels is a positive initiative as it will enable the State Government to more accurately evaluate the performance of individual councils in determining applications. However, concern is raised in relation to limiting the membership of local planning panels to only three members (i.e. an independent expert chair, independent expert member and community representative). Given the variety of built and natural environments and associated specialist planning issues likely to be encountered in Hornsby Shire, it would be appropriate to enable additional specialists to serve on the local planning panel on an as needs basis.

**Recommend:** The draft Bill should be amended to provide councils the option for inclusion of additional specialists on the local planning panel on an as needs basis.

- b) The proposal to provide the Minister powers to direct councils to **appoint a local planning panel** where warranted (i.e. improve the quality and timeliness of determinations or manage

conflicts of interest or corruption) appears to be a legitimate exercise of the State Government's power. However, as the Regulations identifying the detailed circumstances in which State Government can exercise this power have not yet been released, it is premature for Council to determine its position on this proposal. The Regulations should be placed on public exhibition and submissions considered prior to introducing this power.

**Recommend:** The DP&E should place on exhibition the Regulations identifying the detailed circumstances in which the State Government can exercise a power to appoint a local planning panel before the Act is amended.

- c) The proposal to replace the Planning and Assessment Commission (PAC) with the **Independent Planning Commission** (IPC) may reduce duplication of assessment and untimely determination times. However, the process would only provide an opportunity for an applicant to respond to matters raised by the community and other stakeholders during the exhibition of the EIS and the first public hearing. The PAC process enables matters raised both in the technical assessment by the DP&E and the community to be addressed by the applicant. Accordingly, the proposed determination process should be re-ordered so the technical assessment is undertaken by the DP&E immediately after the first public hearing. The applicant will then have the opportunity to respond to both technical and community issues. The IPC's final determination responsibility should be to review whether the applicant's revised proposal responds to the matters raised in the technical assessment and community submissions received at the second public hearing and to make an appropriate determination.

**Recommend:** The DP&E should review the proposed determination process of the IPC so that both technical and community issues identified can be addressed by the applicant before an application is determined.

## 10. BUILDING PROVISIONS

Building and certification provisions in the *EP&A Act* describe the requirements for certifying building work from design through to construction and occupation. A review of the *Building Professionals Act 2005* identified areas for improvement in the current building regulation and certification system. The areas included providing a clearer, more logical structure to building regulation and certification in the *EP&A Act*. The DP&E proposes a number of initiatives to provide clearer building provisions.

### **Key issues for Council**

- a) The simplification and **consolidation of building regulation** and certification provisions into one part of the *EP&A Act* should assist industry in applying them efficiently and effectively. The Bill Guide suggests that the majority of the simplified and consolidated provisions are the same as that in Part 4A of the *EP&A Act*. However, in many instances they differ significantly.

Of note, the proposed legislation no longer provides the opportunity to issue an interim occupation certificate for use of a partially completed new building or to commence a new use of part of a building resulting from a change of use for an existing building. It consolidates interim occupation certificates with final occupation certificates and specifies that an "occupation certificate" revokes any earlier occupation certificate issued for that building. The intention is to issue revised occupation certificates for each part of the building fit for occupation until fully certified. However, an interim and final occupation certificates currently

provides no doubt as to whether there is need for another occupation certificate and should be retained.

In addition to the above, there is also a need to include a time limitation on interim occupation certificates as they currently provide the opportunity for a building to be occupied where non-building related matters, such as landscaping, remain outstanding. These conditions may never be completed if occupation of the building is certified.

**Recommend:** The draft Bill should be amended to retain the existing terminology for occupation certificates and an appropriate time limitation should be placed on the interim certificate.

- b) The proposal to require that construction certificates are **consistent with development approval** otherwise they can be declared invalid where Court proceedings are brought within three months of the certificate being issued, relies on councils peer reviewing all construction certificates issued by independent certifiers. Council cannot rely on neighbours alleging non-compliances with the plans as the construction of the building may not even start within three months of the date the certificate is issued and they often don't have the expertise to interpret detailed plans. Neighbours may only allege non-compliance to Council once development is well under construction or completed.

**Recommend:** The draft Bill should be amended to remove reference to the exemption to have occupation certificates declared invalid where they are inconsistent with the development approval. The draft Bill should also amended to remove reference to the three month time limitation in which Court proceedings must be brought against non-complying construction certificates and instead include a time limitation which is better aligned with the timeframe for the construction of complying development forms.

## 11. DESIGN

Future productivity and liveability is influenced by the design of the built environment and given that significant housing and jobs are required to meet future population needs, the DP&E advises it is important that the planning system delivers well designed urban areas. The DP&E proposes a number of initiatives to elevate the role of design.

### **Key issues for Council**

- a) The proposal to include a **new design object** in the EP&A Act will emphasise the importance of promoting good design from the start of the planning process. However, the new object "*to promote good design in the built environment*" is by itself too broad in its construct and may be misinterpreted to only be a test of the aesthetics of development. The new object should be better paired with the Government's **design led planning strategy**.

**Recommend:** The DP&E should draft a new S79C head of consideration, S117 Direction and design principles in relevant *State Environmental Planning Policies* requiring LEPs, DCPs and DAs to address the design principles in the NSW Government Architect's draft Architecture and Design Policy for NSW "*Better Placed*".

## 12. ENFORCEMENT TOOLKIT

The current enforcement system in the *EP&A Act* primarily provides for fines and Court actions to hold proponents accountable for any community and environmental harm that may result due to breaches of consent. The DP&E proposes a number of initiatives to enhance the enforcement toolkit.

**Key issues for Council**

- a) The proposal to enable **enforceable undertakings** which require consent holders to rectify harm and to commit to improved behaviour in the future is a welcome initiative. The initiative should reduce litigation for breaches of the *EP&A Act*, which is both adversarial and costly, and replace it with a more conciliatory process. However, to ensure good governance and transparency in the application of enforceable undertakings, the legislation should be amended to require all councils to establish an Enforceable Undertaking Policy.

The guidance material yet to be released by the DP&E to assist councils in employing enforceable undertakings should provide the basis for council drafting their policies. Policies should identify when Council will accept and how it will evaluate an enforceable undertaking (eg. sets of principles), how enforceable undertakings will be notified (eg. a website register) and what format an enforceable undertaking will take (eg. standard template). Policies should also identify what must be included in an undertaking (egs. parties to the agreement, details of the breach, and actions to cease the undesirable behaviour/rectify the breach) and how an enforceable undertaking will be verified (eg. officer inspections).

**Recommend:** The draft Bill should be amended to require that councils establish an Enforceable Undertaking Policy and the DP&E should release guidance material that provides the basis for council drafting their policies.

**BUDGET**

There are no budgetary implications associated with this report.

**POLICY**

The draft Bill contains a number of legislative amendments that may require amendment to the *Hornsby Local Environmental Plan 2013 and Hornsby Development Control Plan 2013* and revision to, or establishment of new, Council policy.

**CONCLUSION**

In January 2017, the NSW Government placed on exhibition a draft Bill that proposes a number of updates to the *EP&A Act*.

The draft Bill seeks to update the objects of the Act, enhance community participation, enhance the strategic planning framework, improve local and State significant development processes, facilitate infrastructure delivery, promote fair and consistent planning agreements, promote confidence in decision making, provide clearer building provisions, elevate the role of design, and enhance the enforcement toolkit.

The objectives that the draft Bill is seeking to achieve are supported in principle. However, there a number of initiatives proposed in the draft Bill that in practice will not achieve the objectives. In some instances, the initiatives would place additional burden on councils and reduce their ability to perform their planning functions efficiently and effectively.

It is recommended that Council forward a submission to the DP&E identifying its general support for the draft Bill subject to addressing the issues identified in this report.

**RESPONSIBLE OFFICER**

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

FLETCHER RAYNER  
Manager - Strategic Planning  
Planning Division

JAMES FARRINGTON  
Group Manager  
Planning Division

**Attachments:**

There are no attachments for this report.

File Reference: F2004/07180-02  
Document Number: D07172962

## **8 INFRASTRUCTURE SEPP REVIEW - SUBMISSION REPORT**

---

### **EXECUTIVE SUMMARY**

- In June 2015, the Department of Planning and Environment (DP&E) announced a review of the 66 existing State Environmental Planning Policies (SEPPs). In February 2017, the DP&E placed *Draft SEPP (Infrastructure) Amendment (Review) 2016* on exhibition.
- The Draft Infrastructure SEPP proposes new or expanded provisions for health services facilities, correctional centres, emergency and police services, public administration buildings, Council services on operational lands, commuter hubs and lead-in water and sewerage infrastructure.
- Key issues relate to permitting health service facilities in additional residential and business zones and the broad range of commercial uses that may be permitted ancillary to health services facilities. Other key issues relate to facilitating an annual increase in the size of police services facilities without consent and revising the development types to be referred to Roads and Maritime Services (RMS) for comment as part of development assessment.
- It is recommended that a submission be forwarded to the DP&E raising concern with the Draft Infrastructure SEPP having regard to the key issues.

### **RECOMMENDATION**

THAT a submission be forwarded to the Department of Planning and Environment raising concern with the *Draft SEPP (Infrastructure) Amendment (Review) 2016*, addressing the major issues for Hornsby Shire identified in Group Manager's Report No.PL18/17, including:

1. Continuing to prohibit health services facilities in low density residential and neighbourhood business zones;
2. Restricting the commercial premises that are permitted with consent and as complying development in the grounds of a health services facility;
3. Ensuring that car parks in the grounds of a health services facility may only be approved as complying development where they meet height and setback standards;
4. Avoiding and mitigating the clearing of native vegetation associated with health services facilities;
5. Restricting the physical size and intensity of use of a police station based on a set increase of its existing size before consent is required; and
6. Including reference to all relevant land use terms in the *Standard Instrument* that form traffic generating development.

**PURPOSE**

The purpose of this report is to outline the Draft Infrastructure SEPP, identify implications for Hornsby Shire and provide recommendations for a submission to the DP&E.

**BACKGROUND**

The *Infrastructure SEPP* provides a regulatory regime to facilitate the delivery of infrastructure across the State. The *SEPP* includes 26 infrastructure classes ranging from transport, utilities, to social infrastructure, public administration and environmental works.

Given the significant provision of housing and the need for supporting infrastructure projects in recent years, the *Infrastructure SEPP* review has a focus on the delivery of social infrastructure. To this end, a number of amendments have been made to the social infrastructure based provisions in the Draft SEPP. The Draft SEPP also includes a number of operational and housekeeping amendments throughout the balance of the SEPP, including the schedules and mapping.

In February 2017, the DP&E released the Draft Infrastructure SEPP for exhibition until 7 April 2017. This includes the concurrent exhibition of the *Draft SEPP (Educational Establishments and Child Care Facilities) 2017* and amendments to *SEPP (Exempt and Complying Development Codes) 2008* to facilitate the implementation of the new policy.

**DISCUSSION**

The Draft Infrastructure SEPP proposes an updated regulatory regime to better facilitate the delivery of infrastructure across the State, particularly social infrastructure. The Draft SEPP includes new provisions for health services facilities, correctional centres, emergency and police services, public administration buildings, council services on operational lands, and commuter hubs and lead-in water and sewerage infrastructure. The Draft SEPP also includes a number of operational and housekeeping amendments, including amendments to the roads and traffic provisions.

- The key changes for “health services facilities” are:
  - Permit health services facilities in additional residential and business zones;
  - Allow a public authority to carry out an expanded number of developments with and without consent to service patients, staff or visitors, such as child care centres; and
  - Introduce a new exempt and complying development regime within health services facility grounds.
- The key changes for “police service facilities” and “correctional centres” are:
  - Allow the NSW Police Force to access the same provisions as the Ambulance Services of NSW and Fire and Rescue NSW which includes allowing the demolition, restoration and alterations and additions to existing facilities without consent on any land;
  - Allow police services facilities in certain rural, industrial, special purpose and business zones without consent and require development consent for police services facilities in residential zones, and certain rural, recreation and environmental protection zones; and
  - Extend the provisions already applying to existing correctional centres in “prescribed zones” to existing correctional centres on “any land”.
- The key changes for “public administration buildings” are:

- Provide for broader alterations and additions to public administration buildings as development permitted without consent, other than just “minor” works; and
- Permit occupation of existing buildings by Government agencies and associated internal fitouts without the need for consent, by including a new exempt development regime.
- The key changes for the provision of “services on council owned lands” are:
  - Extend the exempt development and development permitted without consent provisions which councils can currently undertake on their public reserves to council operational lands;
  - Provide exempt development provisions that range from walking tracks to shelters and development without consent provisions that range from roads to landscaping; and
  - Expand the existing development permitted without consent provisions carried out by a council on a public reserve.
- The key changes for “commuter hubs” are:
  - Provide new provisions for railway stations, transport interchanges, commuter carparks, bus stops and bus depots, to assist transport operators with constructing and optimising infrastructure, and to benefit transport users by providing more services and conveniences at commuter hubs;
  - Expand the development with consent provisions to include tourist and visitor accommodation above railway stations and retail or business premises in a railway complex, interchange or commuter carpark; and
  - Provide a new complying development regime for works at existing bus depots for public authorities and certain accredited bus service operators.
- The key change for “lead-in sewer and water infrastructure” is:
  - Allow lead-in sewer and water infrastructure that connects developments into the existing water supply and sewerage network to be undertaken as complying development.

The DP&E is seeking feedback on the Draft Infrastructure SEPP, including proposed amendments to *SEPP (Exempt and Complying Development Codes) 2008*. Accordingly, it is recommended that Council’s submission be based on the following issues.

### 1.1 Health services facilities

Division 10 of the *Infrastructure SEPP* currently sets out the development approval pathways for health services facilities, including day surgeries, medical centres, community health service facilities, health consulting rooms, hospitals and facilities for the transport of patients. The DP&E has advised that the various amendments proposed are to lower the costs and reduce timeframes for the delivery of health services facilities.

- a) Health services facilities are proposed to be permitted in the R2 Low Density Residential and B1 Neighbourhood Centre zones by referencing them in the definition of “prescribed zone” under Clause 56 of the *Infrastructure SEPP*. The proposal is inconsistent with the land use strategy for the R2 zone under the *Hornsby Local Environmental Plan 2013*. All forms of

“health services facilities” are prohibited in the zone. The proposal is also inconsistent with the land use strategy for the B1 Neighbourhood Centre. “Health consulting rooms” and “medical centres” are permitted with consent. However, “hospitals” are prohibited.

The land use strategy for the R2 zone reflects the primary function of the zone to provide for the housing needs of the community within a low density residential environment. Council’s previous experience with permitting “health consulting rooms” within the low density residential area is the amount of traffic generated and on street car parking required conflicts with residential amenity. Accordingly, to permit all forms of “health services facilities” will have a undesirable impact on the amenity of low density residential areas in Hornsby Shire and potentially detract from the viability of commercial centres in which these uses are encouraged.

The land use strategy for the B1 zone reflects the primary function of the zone to provide a range of small scale retail, business and community uses that serve the needs of people who work and live in the surrounding neighbourhood. Accordingly, to permit “hospitals” is inconsistent with the local service role of neighbourhood centres in Hornsby Shire.

**Recommend:** Continue to prohibit health services facilities in low density residential and neighbourhood business zones by not including reference to them in the definition of “prescribed zone” under Clause 56 of the *Infrastructure SEPP*.

- b) “Commercial premises” is a group term under the *Standard Instrument* that permits a broad range of business, office and retail uses. Many of these uses, including “bulky goods premises”, “hardware and building supplies” and “vehicle sales or hire premises”, would not form development which is ancillary to the function of a “health services facility” or other development which is proposed to support its function (eg. child care centres). Clauses 57(2)(b) and 58C(1)(c) of the Draft Infrastructure SEPP include the words “(or other premises within the boundaries of the facility)” to limit commercial development to that which supports legitimate ancillary uses like child care centres. However, it does not achieve this intent as such reference could also be used to justify “commercial premises” uses with no relationship to the primary land uses. The reference should be removed so that only uses that are ancillary to the function of a “health service facility” are permitted.

**Recommend:** Restrict “commercial premises” that are permitted with consent and as complying development in the grounds of a health services facility by deleting the words “(or other premises within the boundaries of the facility)” from proposed Clauses 57(2)(b) and 58C(1)(c) under the Draft Infrastructure SEPP.

- c) The approval pathways of “development that is permitted without consent” and “complying development” for providing car parking in the grounds of a health services facility are essentially the same. This creates uncertainty concerning which approval pathway may be utilised to facilitate development. The “complying development pathway” should only apply in this instance given the predetermined standards such as the 12m height limit and 5m setbacks for car parking from any property boundary. These complying development standards provide the community more certainty about development than would a review of environmental factors.

**Recommend:** Ensuring that car parks in the grounds of a health services facility may only be approved as complying development by deleting Clause 58(1)(e) of the Draft Infrastructure SEPP as it relates to car parks forming development that is permitted without consent.

- d) The new provisions which promote “health services facilities” and associated development as “development permitted without consent” include the opportunity to clear any vegetation to facilitate a future health services facility prior to the review of environmental factors or development assessment of a proposal. This is inappropriate as it would enable clear felling of vegetation over the entire site to facilitate the development rather than the development being designed to respond to natural constraints.

**Recommend:** Avoid and mitigate the clearing of native vegetation by deleting Clause 58(2)(a) of the Draft Infrastructure SEPP as it relates to providing the opportunity to clear any vegetation to facilitate a future health services facility.

## 1.2 Police service facilities

Division 6 of the *Infrastructure SEPP* currently sets out the development approval pathways for the Ambulance Services of NSW and Fire and Rescue NSW.

Clause 48(2AA)(b) of the Draft SEPP proposes to facilitate an annual increase in the physical size and intensity of use (i.e. staff numbers) of a police service facility up to 10% without the need for development consent. The ability to perpetually increase the physical size and intensity of use of a police service facility without a formal development assessment would not provide for the transparent evaluation of its impact on the amenity of the surrounding neighbourhood. Also, annual increases in physical size and intensity of use make it difficult for regulatory authorities to monitor development for non-compliance. Accordingly, it would be more appropriate to restrict the physical size and intensity of use of a police service facility based on a set increase of its existing size when the Draft Infrastructure SEPP amendments are made.

**Recommend:** The physical size and intensity of a police station should be restricted based on a set increase of its existing size before consent is required by modifying Clause 48(2AA)(b) of the Draft Infrastructure SEPP.

## 1.3 Operational and housekeeping amendments

There are various operational improvements and housekeeping amendments that are proposed as part of the Infrastructure SEPP Review.

Significant revision is proposed to Schedule 3 of the SEPP relating to traffic generating development in an effort to provide more clarity and make the Schedule consistent with the *Standard Instrument*. However, the proposed Schedule 3 excludes a significant number of land uses defined in the *Standard Instrument* that would be traffic generating development.

This is problematic as the size or capacity requirements for development “of any other purpose” are proposed to be changed from a threshold of “200 or more motor vehicles” to “any size or capacity”. This would require referral of all land uses not referenced in the Schedule (eg. secondary dwellings) where they directly access a classified road or associated intersection, irrespective of whether it forms traffic generating development. Accordingly, the Schedule should be reviewed to reference all relevant land use terms in the *Standard Instrument* that form traffic generating development.

**Recommend:** Schedule 3 of the *draft Infrastructure SEPP* be amended to include reference to all relevant land use terms in the *Standard Instrument* that form traffic generating development, namely:

- Amusement centres;
- Camping grounds;
- Caravan parks;

- Community facilities;
- Eco-tourist facilities;
- Commercial premises (other than listed elsewhere in the Schedule) – to replace “Commercial premises (other than restaurants and cafes)”;
- Entertainment facilities;
- Function centres;
- Industries – to replace “Industry”
- Industrial retail outlets;
- Information and education facilities;
- Highway service centres;
- Places of public worship;
- Public administration building;
- Recreation facilities (indoor);
- Recreation facilities (major);
- Recreation facilities (outdoor);
- Registered clubs;
- Residential accommodation – to replace “Residential Flat Buildings”
- Tourist and visitor accommodation;
- Vehicle sales or hire premises; and
- Wholesale supplies.

#### **BUDGET**

There are no budgetary implications associated with this report.

#### **POLICY**

The *Draft SEPP (Infrastructure) Amendment (Review) 2016* forms a draft environmental planning instrument for the purpose of assessing development applications pursuant to Section 79C of the *Environmental Planning and Assessment Act 1979*. If the Draft SEPP is made, the Policy will come into effect and supersede Council’s planning controls wherever there is any inconsistency.

#### **CONCLUSION**

In June 2015, the DP&E announced a review of the 66 existing SEPPs. In February 2017, the DP&E placed *Draft SEPP (Infrastructure) Amendment (Review) 2016* on exhibition.

The Draft Infrastructure SEPP proposes new or expanded provisions for health services facilities, correctional centres, emergency and police services, public administration buildings, Council services on operational lands, commuter hubs and lead-in water and sewerage infrastructure.

Key issues relate to permitting health service facilities in additional residential and business zones and the broad range of commercial uses that may be permitted ancillary to health services facilities. Other

key issues relate to facilitating an annual increase in the size of police services facilities without consent and revising the development types to be referred to RMS for comment.

It is recommended that a submission be forwarded to the DP&E raising concern with the Draft Infrastructure SEPP having regard to the key issues discussed in this report.

**RESPONSIBLE OFFICER**

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

FLETCHER RAYNER  
Manager - Strategic Planning  
Planning Division

JAMES FARRINGTON  
Group Manager  
Planning Division

**Attachments:**

There are no attachments for this report.

File Reference: F2004/07599

Document Number: D07174567

## **9 WAITARA PARK - DESTINATION PARK DEVELOPMENT**

---

### **EXECUTIVE SUMMARY**

- In September 2015 Council adopted a Plan of Management (PoM) for Waitara Park which outlined a range of new development objectives for the land. The aims of the PoM were to deliver an increase in the area of parkland available for local recreation use to meet the needs of the growing population of Waitara.
- The main elements outlined in the PoM included creation of a new PCYC facility and plaza space at the southern end of the park, relocation of six tennis courts and ancillary building to the northern end of the park, public toilets, a flood detention structure built as part of the new tennis courts (including a vegetated overland swale), removal of all off-street car parking within the park with construction of formalised parking on Park Avenue and construction of a new playground in the northwest corner of the park adjacent to the a new building serving users of the additional open space and relocated tennis courts.
- Space occupied by the relocated tennis courts has been designed to accommodate other sports such as basketball and futsal if and when required. It is outlined in the PoM that the existing bowling club building would require a substantial reduction in size in order to accommodate the new playground.
- Of the above objectives, the new playground and building incorporating space for users of the new flexible sports space and the proposed new playground are yet to be developed. It is proposed that in order to complete the objectives of the PoM, the existing bowling club building will be required to be demolished after it is vacated by the PCYC to make room for a new inclusive playground occupying an area of about 2,500 square metres.
- Options to retain part of the former bowling club building were examined and it was independently determined that the best solution was to construct a new smaller building.

### **RECOMMENDATION**

THAT Council:

1. Support the development of a new building to serve the needs of the flexible sports space adjacent to Edgeworth David Avenue and visitors to the inclusive playground and other areas of Waitara Park at an estimated capital cost of \$1.2 million.
2. Reaffirm its support for the construction of a new inclusive playground and landscape works in the north-west corner of Waitara Park at an estimated capital cost of \$1.3 million.

## PURPOSE

The purpose of this Report is to:

- Confirm the open space, playground and amenities building requirements for the Waitara Park redevelopment
- Determine the way forward for the development of an inclusive playground and associated amenities building and clubhouse on Crown Land in Waitara Park.

## BACKGROUND

At the 9 September 2015 General Council Meeting, Council considered Executive Manager's Report No. IR28/15 and resolved in part to:

- “2. Adopt the amended Draft Plan of Management for Waitara Park.
4. Note that Crown Lands have written to Council indicating support of the transfer of the Management of Crown Reserve 1036828 to Council”.

## DISCUSSION

### 1994 and 2014 Housing Strategies

Council's 1994 Housing Strategy has delivered 1,970 new units to the west of Waitara Park in an area with a density of 275 dwellings per hectare. It is estimated this equates to approximately 4,000 new residents.

Council's 2014 Housing Strategy is expected to deliver approximately 1,500 new units to the east and south of Waitara Park at an equal or higher density, estimated to provide an further 3,000 residents to the area.

As a result, a population of 7,000 people is expected in the Waitara redevelopment area. By comparison, the suburbs of Westleigh and Berowra each have a population of approximately 5,000 people.

### Options for Meeting Open Space Demands

An historic benchmark for the provision of open space is a standard that calls for the provision of 2.83 hectares of open space per 1,000 people population, which equates to approximately 8 hectares of passive open space and 12 hectares for active open space to serve the Waitara area.

This approach has been modified over the years, with the focus now on ensuring that a range of high quality open space opportunities to meet the needs of the community, rather than simply providing an adequate area. To meet this objective, it is considered important that a reasonable range of recreation opportunities are available within walking distance, while other larger parks that are further afield, are also made available.

Local parks within walking distance of the Waitara development area include Rotary Park, Willow Park, and Waitara Park, with a total area of approximately 4.4 hectares.

The 1994 Housing Strategy proposed a new village green at Orara Street Park which, when completed, will provide 0.6 hectares of new open space, giving a total area of approximately 5 hectares. The development of Orara Street Park is expected to be completed within the next year, following the dedication of the final key parcel of land for this park in late 2016.

Following adoption of the 2014 Housing Strategy, Council considered options for open space delivery in the Waitara area. The acquisition of approximately 0.5 hectares of land for open space purposes

was considered, but was ultimately discounted in favour of a solution that involved redevelopment of Waitara Park to cater for increased use. The acquisition of new open space was deemed significantly more expensive, and it was recognised that the potential use of any newly acquired parkland may be limited due to its shape, size and proximity to adjoining residents.

While it is recognised that there are other parks in the area that will contribute to meeting the open space needs of this community, access to these parks from the development area is limited by busy roads and distance. These include James Park which is approximately 800m away and Hornsby Park which is even further afield.

While Council is proceeding with planning for various other parks in the local area, including Hornsby Park and the Quarry, it is considered critical that Waitara Park is developed to deliver as many recreation opportunities for this expected population of 7,000 people, especially in the context that there are only a few small alternative parks available within walking distance.

### **Waitara Park Plan of Management Strategy**

Adopted in September 2015, the Waitara Park PoM proposes significant redevelopment aimed at changing the park from being solely sportsground focused to being more diversified. Indoor recreation, a new plaza area, tennis courts, and other informal parklands as well as a large playground are planned for the enjoyment of local residents. The tennis courts have been designed in a manner that allows them to be used for a variety of sports in the future, should there be a demand for alternative activities such as small-sided soccer, basketball or similar.

The new tennis courts also provide a dual function as a flood detention structure, with the north east corner of the park being designed as a vegetated overland flow area. The new playground is proposed in the north-west corner of the park and to be complemented by new public toilets and kiosk, built together as part of the ancillary tennis clubhouse building.

### **Playground Options**

Prior to adoption of the PoM, alternative sites for a playground within Waitara Park were considered. However it was determined that other areas within Waitara Park are either too small, are flood constrained or are programmed with other uses such as cricket nets. Orara Street Park will have some new playground features, but must be a less intensive space due to its proximity to apartments with minimal setbacks. Furthermore, a large playground in this site would likely lead to regular complaints from residents.

The consequence of this planning is that there is a need to maximise open space opportunities in the north-west corner of Waitara park, as identified in the PoM. The area being considered covers approximately 3,000m<sup>2</sup>, with approximately 1,000m<sup>2</sup> currently occupied by the old bowling club building. A substantial reduction of the existing building is therefore required to enable the development of a new inclusive playground.

### **Inclusive Play**

To enable the development of a quality inclusive playground, the largest amount of space possible is needed to meet the typical needs of children with disabilities and their care providers. The site proposed for the playground is approximately 2,500m<sup>2</sup> which is comparable with best practice inclusive playgrounds throughout Sydney such as Livvi's Place at Ryde. The requirements include a range of active play equipment which stimulates senses and provides physical challenges; a number of quiet spaces where children can withdraw from 'noisy play'; a number of shade structures, picnic shelters and barbecues; and fencing around the entire perimeter.

Appropriate toilet facilities are fundamental to the success of an inclusive play space, as well as adequate parking facilities and dedicated drop off/set down zones. The inclusion of a small kiosk as part of the proposed new development will also help reinforce this as a 'go to' playground.

### **Building Options**

As part of the Waitara Park development works and in keeping with the adopted PoM a new amenities and tennis clubhouse building has been identified to be located adjacent to the proposed playground area and ancillary to the new tennis courts. The new building is required to provide public toilets for the park, plus a leasable area and kiosk for the tennis court operator (currently Kim Warwick Tennis Academy), or any future lease holder following conclusion of the KWTA lease agreement.

Architectural investigations have identified that a building of approximately 300m<sup>2</sup> internal area is required to meet the park's requirements.

A number of options have been explored on how best to provide this facility, with consideration of the demolition of part of the existing building, and renovating the remaining section to suit; or demolition of the entire building and construction of a new facility being examined. Following review of a number of design options, and in light of a dilapidation report undertaken for the building (which advises that the existing building services, finishes and roof are in poor condition), it is considered that demolition of the existing building and construction of a new facility will provide both a superior design solution, and be more cost effective to Council.

A newly constructed building will be attractive, accessible and energy efficient with a low risk of construction cost escalation. It will provide a flexible layout for future use, improved access and a relationship with the tennis courts, together with a large covered outdoor area overlooking the playground. The alternative option of modifying a portion of the existing building will not provide as efficient site layout or as attractive an outcome. It also creates a solution that does not provide an ideal solution for access to the building. In addition, a Hazardous Materials Investigation report of the building has identified asbestos present in the eaves and the ceiling cavity.

### **CONSULTATION**

There have been consultations with inclusive playground experts during the preparation of this Report.

### **BUDGET**

Council's Section 94 Plan identified funding of \$10.6 million for the redevelopment of Waitara Park. \$2.5 million of these funds are required to complete the playground and amenities building. Capital cost of the new building facility has been estimated at \$1.2 million, with \$1.3 million remaining for construction of the playground.

### **POLICY**

There are no policy implications associated with this Report.

### **CONCLUSION**

It is concluded that the maximum amount of open space possible is required to meet the needs of the estimated 7,000 new residents expected to be living in Waitara in the foreseeable future.

Council has committed to the development of an inclusive playground in this area.

The adopted PoM committed to providing a building to specifically service the sports courts, playground and park.

Compared with the reduction and renovation of the existing building, a new building will deliver superior outcomes in a cost effective manner to Council, and with less financial risk.

**RESPONSIBLE OFFICER**

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

DAVID SHEILS  
Manager - Parks and Recreation  
Infrastructure and Recreation Division

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

**Attachments:**

There are no attachments for this report.

File Reference: F2014/00341-02

Document Number: D07176904

**10 MAYOR'S NOTES FROM 1 TO 31 MARCH 2017**

---

*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 3 March 2017 – The Mayor attended Asquith Girls' High School's Annual International Women's Day Breakfast at the School.

Friday 3 March 2017 – The Mayor officially opened the Seniors Expo as part of Seniors' Week at Hornsby RSL Club.

Saturday 11 March 2017 – The Mayor attended Hornsby North Public School's Autumn Fair and 50<sup>th</sup> Anniversary Celebrations at the School.

Saturday 11 March 2017 – The Mayor attended the Iranian Senior Women's Association Norooz and Harmony Day Celebrations at Pennant Hills.

Wednesday 15 March 2017 – The Mayor attended the formal launch of Hornsby Connect at Hornsby.

Wednesday 15 March 2017 – The Mayor attended the official launch of the new Hornsby/Ku-ring-gai Branch of Street Work at Hornsby.

Friday 17 March 2017 – The Mayor attended the opening of Granny Flat Solutions new Showroom at Thornleigh.

Tuesday 21 March 2017 – The Mayor hosted three Citizenship Ceremonies in the Council Chambers.

Saturday 25 March 2017 – The Mayor officially opened the Ferry Artists Exhibition at Wisemans Ferry.

Saturday 25 March 2017 – On behalf of the Mayor, Deputy Mayor Councillor Michael Hutchence attended the Lions Clubs International "District N5 Youth of the Year Final" at Hornsby RSL Club.

Thursday 30 March 2017 – The Mayor attended The Hawkesbury-Hills Student Leadership Programme Launch Dinner at Hawkesbury Race Club, Clarendon.

File Reference: F2004/07053

Document Number: D07177704