



BUSINESS PAPER

GENERAL MEETING

**Wednesday 13 December 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

Item 1	GM1/17 Code Of Conduct Complaints - Annual Report	1
Item 2	GM2/17 Draft Model Code of Conduct and Procedures - Public Consultation - Submission to Office of Local Government.....	4

Corporate Support Division

Item 3	CS44/17 PCYC Indoor Recreation Centre - Waitara Park - 30 Year Lease	10
Item 4	CS45/17 Investments and Borrowings for 2017/18 - Status For Period Ended 31 October 2017	14
Item 5	CS43/17 Pecuniary Interest and Other Matters Returns - Disclosures by Councillors and Designated Persons	17
Item 6	CS42/17 Outstanding Council Resolutions - Period Until 31 August 2017	20

Environment and Human Services Division

Item 7	EH9/17 Catchments Remediation Rate (CRR) Annual Expenditure Report 2016/2017	23
--------	---	----

Planning Division

Item 8	PL61/17 Development Application - Torrens Title Subdivision of One Allotment into Two and Construction of A Dwelling House on Each Lot - 15 Brooklyn Road, BROOKLYN	26
Item 9	PL63/17 Development Application - Residential Flat Buildings Containing 30 Units - 29 - 31A Balmoral Street and 5 Park Lane, Waitara.....	71
Item 10	PL58/17 Revised Hornsby Town Centre East Side Planning Proposal	103
Item 11	PL62/17 Review of Environmental Planning and Assessment Regulation 2000.....	109
Item 12	PL65/17 Draft Greater Sydney Region Plan - 2056	122
Item 13	PL66/17 Revised Draft North District Plan - 2036	132

Infrastructure and Recreation Division

Item 14	IR15/17 Beecroft Village Gardens and Community Centre Access Improvements	142
Item 15	IR18/17 PCYC Indoor Recreation Centre - Waitara Park - Drainage Easement.....	150
Item 16	IR19/17 Hornsby Development Control Plan Tree and Vegetation Preservation Amendment	154
Item 17	IR20/17 Request for Tree Removal - 12A Victory Street, Asquith	159

CONFIDENTIAL ITEMS

- Item 18 EH10/17 Recycling Contract Extension
- Item 19 EH11/17 Park and Street Litter Bin Contract Extension

PUBLIC FORUM – NON AGENDA ITEMS**QUESTIONS OF WHICH NOTICE HAS BEEN GIVEN****MAYOR'S NOTES**

- Item 20 MN12/17 Mayor's Notes from 1 to 30 November 2017 162

NOTICES OF MOTION

- Item 21 NOM16/17 Cities Power Partnership 164
- Item 22 NOM17/17 Public Domain Strategies 166
- Item 23 NOM18/17 Public Transport Improvements 169

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

AGENDA AND SUMMARY OF RECOMMENDATIONS

PRESENT

NATIONAL ANTHEM

OPENING PRAYER

Father Robert Borg, from Our Lady of the Rosary Cathedral, Waitara 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 November, 2017 be confirmed; a copy having been distributed to all Councillors.

THAT the Minutes of the Extraordinary General Meeting held on 22 November, 2017 be confirmed; a copy having been distributed to all Councillors.

THAT the Minutes of the Extraordinary General Meeting held on 29 November, 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

Page Number 1

Item 1 GM1/17 CODE OF CONDUCT COMPLAINTS - ANNUAL REPORT

RECOMMENDATION

THAT the contents of General Manager's Report No. GM1/17 be received and noted.

Page Number 4

Item 2 GM2/17 DRAFT MODEL CODE OF CONDUCT AND PROCEDURES - PUBLIC CONSULTATION - SUBMISSION TO OFFICE OF LOCAL GOVERNMENT

RECOMMENDATION

THAT:

1. The draft submission to the Office of Local Government on the Draft Model Code of Conduct and Procedures outlined in the General Manager's Report No. 2/17 be endorsed.
2. The Acting General Manager be authorised to sign and submit the endorsed submission to the Office of Local Government.

CORPORATE SUPPORT DIVISION**Page Number 10****Item 3 CS44/17 PCYC INDOOR RECREATION CENTRE - WAITARA PARK - 30 YEAR LEASE****RECOMMENDATION**

THAT Council:

1. Respond to the submission advising the author that the proposed lease is considered satisfactory because it requires Police Citizens Youth Clubs NSW Limited (PCYC) to maintain the leased premises with Council being responsible for maintaining sections of Waitara Park and surrounds outside the leased area.
2. Endorse a resolution of the previous Council to support and seek the Minister's consent to a 30 year lease term for the PCYC over 1 Park Lane, Waitara.

Page Number 14**Item 4 CS45/17 INVESTMENTS AND BORROWINGS FOR 2017/18 - STATUS FOR PERIOD ENDED 31 OCTOBER 2017****RECOMMENDATION**

THAT the contents of Deputy General Manager's Report No. C45/17 be received and noted.

Page Number 17**Item 5 CS43/17 PECUNIARY INTEREST AND OTHER MATTERS RETURNS - DISCLOSURES BY COUNCILLORS AND DESIGNATED PERSONS****RECOMMENDATION**

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

Page Number 20

- Item 6 CS42/17 OUTSTANDING COUNCIL RESOLUTIONS - PERIOD UNTIL 31 AUGUST 2017**

RECOMMENDATION

THAT the contents of Deputy General Manager's Report No. CS42/17 be received and noted.

ENVIRONMENT AND HUMAN SERVICES DIVISION**Page Number 23**

- Item 7 EH9/17 CATCHMENTS REMEDIATION RATE (CRR) ANNUAL EXPENDITURE REPORT 2016/2017**

RECOMMENDATION

THAT the contents of Group Manager's Report No. EH9/17 be received and noted.

PLANNING DIVISION**Page Number 26**

- Item 8 PL61/17 DEVELOPMENT APPLICATION - TORRENS TITLE SUBDIVISION OF ONE ALLOTMENT INTO TWO AND CONSTRUCTION OF A DWELLING HOUSE ON EACH LOT - 15 BROOKLYN ROAD, BROOKLYN**

RECOMMENDATION

THAT Development Application No. DA/224/2017 for demolition of existing structures, Torrens Title subdivision of one allotment into two lots and construction of two dwelling houses as a staged development at Lot 2 DP 570352, No.15 Brooklyn Road, Brooklyn be approved subject to the conditions of consent detailed in Schedule 1 of Group Manager's Report No. PL61/17.

Page Number 71

- Item 9 PL63/17 DEVELOPMENT APPLICATION - RESIDENTIAL FLAT BUILDINGS CONTAINING 30 UNITS - 29 - 31A BALMORAL STREET AND 5 PARK LANE, WAITARA**

RECOMMENDATION

THAT Development Application No. DA/1549/2016 for demolition of existing structures and the erection of two x 4-5 storey residential flat buildings comprising 30 units at Lot 211 and Lot 212 DP 868605, Lot 202 DP 1097256, Nos. 29-31A Balmoral Street and No. 5 Park Lane, Waitara be refused for the reasons detailed in Schedule 1 of Group Manager's Report No. PL63/17.

Page Number 103**Item 10 PL58/17 REVISED HORNSBY TOWN CENTRE EAST SIDE PLANNING PROPOSAL****RECOMMENDATION**

THAT:

1. Council adopt the revised Hornsby East Side Town Centre Planning Proposal attached to Group Manager's Report No. PL58/17 that rezones B3 Commercial Core land to B4 Mixed Use and expands the study area to include railway and town centre land up to Bridge Road.
2. Tender documents be finalised for consultant engagement to undertake the necessary technical studies outlined in the Gateway Determination issued by the Department of Planning and Environment.
3. Council agree to enter into the Memorandum of Understanding with Transport for NSW attached to Group Manager's Report No. PL58/17 and delegate authority to the General Manager to sign the agreement subject to any minor amendments required by the parties.

Page Number 109**Item 11 PL62/17 REVIEW OF ENVIRONMENTAL PLANNING AND ASSESSMENT REGULATION 2000****RECOMMENDATION**

THAT a submission be forwarded to the Department of Planning and Environment indicating Council's general support for the review of the *Environmental Planning and Assessment Regulation 2000* and requesting the Department address the major issues for Hornsby Shire identified in Group Manager's Report No. PL62/17, including:

1. The Regulation should clarify what constitutes a submission;
2. Councils should maintain responsibility for controls within Development Control Plans;
3. Prescribed timeframes for Development Assessment should be increased;
4. Reviews of Environmental Factors by public authorities should be made publicly available;
5. Councils should be responsible for determining fees for evaluation of planning proposals;
6. Section 94 Contribution caps should be indexed in accordance with Consumer Price Index;
7. Section 149 Certificates should be retained to identify the planning affectations for land; and
8. Information to be publicly available through the DA process should be clarified.

Page Number 122**Item 12 PL65/17 DRAFT GREATER SYDNEY REGION PLAN - 2056**

RECOMMENDATION

THAT a submission be forwarded to the Greater Sydney Commission indicating its general support for the *draft Greater Sydney Region Plan 2056* subject to the Commission addressing the major issues for Hornsby Shire identified in Group Manager's Report No. PL65/17, including:

1. Government commit to up-front investment for critical infrastructure and then recoup monies;
2. Planning proposals for housing demonstrate they are required to meet dwelling targets;
3. Councils only need to address affordable housing targets to meet overall dwelling targets;
4. Nominate Hornsby Town Centre as a "Health and Education Precinct";
5. Include a category of "agricultural precincts" to manage important agricultural use clusters;
6. Government funding be available for provision of open space near new residential areas; and
7. Councils be consulted as part of the annual reporting on performance against the metrics.

Page Number 132**Item 13 PL66/17 REVISED DRAFT NORTH DISTRICT PLAN - 2036****RECOMMENDATION**

THAT a submission be forwarded to the Greater Sydney Commission indicating Council's general support for the revised draft North District Plan subject to the Commission addressing the major issues for Hornsby Shire identified in Group Manager's Report No. PL66/17, including:

1. Changes to planning controls for Priority Precincts be conditional upon road improvements;
2. Identify incentives other than planning mechanisms to facilitate affordable housing;
3. Council only need to address affordable housing targets to meet overall dwelling targets;
4. Dwelling targets be reduced in recognition of limitations to increased density in north of Shire;
5. Whole of precinct planning and critical infrastructure for Cherrybrook be delivered up front;
6. Council be protected from planning proposals until the industrial lands review is completed;
7. Seniors housing not be approved until a clear vision for the South Dural region is developed.

INFRASTRUCTURE AND RECREATION DIVISION**Page Number 142****Item 14 IR15/17 BEECROFT VILLAGE GARDENS AND COMMUNITY CENTRE ACCESS IMPROVEMENTS****RECOMMENDATION**

THAT:

1. Council not accept any Tender and negotiate with *Regal Innovations Pty Ltd* to arrive at an acceptable lump sum tender price.
2. Council *decline* to invite fresh tenders or seek fresh applications from tenderers or persons expressing interest in the contract for the following reasons:
 - a) Council has tested the market for the project and further tendering or fresh applications are not likely to produce a better result.
 - b) Timing constraints will unduly delay this project.
3. Subject to the conclusion of successful negotiations with *Regal Innovations Pty Ltd*, the Acting General Manager be delegated authority to enter into a Contract for the construction of Beecroft Village Gardens and adjoining Beecroft Community Centre surrounds.
4. If *negotiations* with *Regal Innovations Pty Ltd* are unsuccessful then Council enter into negotiations with *Glascott Landscape and Civil Pty Ltd* and the outcomes of these negotiations be reported back to Council.

Page Number 150**Item 15 IR18/17 PCYC INDOOR RECREATION CENTRE - WAITARA PARK - DRAINAGE EASEMENT****RECOMMENDATION**

THAT:

1. Council agree to the creation of a drainage easement including a positive covenant and restriction on use over Lots 300 and 301 DP 832745 being land within Waitara Park.
2. The Acting General Manager be authorised to negotiate detailed terms and conditions of the agreement generally as outlined in Deputy General Manager's Report No. IR18/17 and to execute documents in relation to creation of the easement as deemed appropriate by Council's legal advisors.
3. Council authorise the use of Council's seal on any legal, survey or other documents directly related to creation of the easement as deemed appropriate by Council's legal advisors.

Page Number 154**Item 16 IR19/17 HORNSBY DEVELOPMENT CONTROL PLAN TREE AND VEGETATION PRESERVATION AMENDMENT****RECOMMENDATION**

THAT:

1. The proposed amendments to the Section 1B.6 and 1B.6.2 of the *Hornsby Development Control Plan 2013* (Attachment 1) be publicly exhibited in accordance with the requirements of the *Environmental Planning and Assessment Regulation 2000*.

2. Following the exhibition, a report on submissions be presented to Council at the earliest opportunity.

Page Number 159**Item 17 IR20/17 REQUEST FOR TREE REMOVAL - 12A VICTORY STREET, ASQUITH****RECOMMENDATION**

THAT:

1. Council refuse consent to remove one *Eucalyptus botryoides* (Bangalay) located at the rear of the property at 12A Victory Street, Asquith.
2. Up to a 15% crown reduction be permitted for the canopy overhanging 17 Baldwin Avenue.

CONFIDENTIAL ITEMS**Item 18 EH10/17 RECYCLING CONTRACT EXTENSION**

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

Item 19 EH11/17 PARK AND STREET LITTER BIN CONTRACT EXTENSION

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

PUBLIC FORUM – NON AGENDA ITEMS**QUESTIONS OF WHICH NOTICE HAS BEEN GIVEN****MAYOR'S NOTES****Page Number 162****Item 20 MN12/17 MAYOR'S NOTES FROM 1 TO 30 NOVEMBER 2017****NOTICES OF MOTION**

Page Number 164**Item 21 NOM16/17 CITIES POWER PARTNERSHIP**

COUNCILLOR NICITA TO MOVE

THAT:

1. Council join the Cities Power Partnership (CPP) and advise the CPP of its pledge within six months.
2. A report be presented to Council within six months, noting five actions undertaken as part of the program in areas such as energy efficiency, transport, renewable energy and advocacy to maintain participation in the partnership program.

Page Number 166**Item 22 NOM17/17 PUBLIC DOMAIN STRATEGIES**

COUNCILLOR MCINTOSH TO MOVE

THAT:

1. As an addition to the report due back to Council in early 2018 regarding tree planting in public places, Council seek further information on two key focus areas:
 - a) Public Domain Improvements surrounding identified Housing Precincts, and
 - b) Public Domain Plans for town centres and road corridors
2. Public domain strategies should specifically address tree planting in the identified precincts, but would also include footway treatments, street bins, bike racks, seating and opportunities for public art. Within the housing precincts, strategies should address connections between the new developments and existing infrastructure such as parks and playgrounds.
3. Within town centres and where possible, opportunities to include outdoor dining that would enhance the commercial viability and vitality of the town centre should also be encouraged. Further investigation should outline Council's possible participation in the NSW Small Business Commissioner's "Outdoor Dining Trial" which aims to encourage business participation through the streamlining of approval processes.
4. All of these public domain plans whether they be for housing precincts or town centres should look for opportunities to expand and enhance the bicycle network, with connected bike paths and explore options for underground power lines, providing further opportunities to enhance the tree canopy.

Page Number 169

Item 23 NOM18/17 PUBLIC TRANSPORT IMPROVEMENTS

COUNCILLOR MARR TO MOVE

THAT Council write to the NSW Minister for Transport and the State Member for Hornsby acknowledging the recent improvements to train frequencies north of Hornsby, and requesting that Transport for NSW consider further improvements to train and interconnecting bus service frequencies for areas between Hornsby and Hawkesbury River Stations.

SUPPLEMENTARY AGENDA

MATTERS OF URGENCY

QUESTIONS WITHOUT NOTICE

1 CODE OF CONDUCT COMPLAINTS - ANNUAL REPORT

EXECUTIVE SUMMARY

- Clause 12.1 of Council's Procedures for the Administration of the Code of Conduct requires the Complaints Coordinator to report annually to Council on Code of Conduct complaints made about Councillors and/or the General Manager.
- No Code of Conduct complaints were received about Councillors and/or the Acting General Manager in the year to September 2017.

RECOMMENDATION

THAT the contents of General Manager's Report No. GM1/17 be received and noted.

PURPOSE

The purpose of this Report is to meet the requirements of Council's Procedures for the Administration of the Code of Conduct (Procedures) in respect of the receipt of Code of Conduct complaints during the period 30 September 2016 to 30 September 2017.

BACKGROUND

Clause 12.1 of Council's Procedures for the Administration of the Code of Conduct states:

The Complaints Coordinator must arrange for the following statistics to be reported to the Council within 3 months of the end of September of each year:

- a) *the total number of code of conduct complaints made about Councillors and the General Manager under the code of conduct in the year to September,*
- b) *the number of code of conduct complaints referred to a conduct reviewer,*
- c) *the number of code of conduct complaints finalised by a conduct reviewer at the preliminary assessment stage and the outcome of those complaints,*
- d) *the number of code of conduct complaints investigated by a conduct reviewer,*
- e) *the number of code of conduct complaints investigated by a conduct review committee,*
- f) *without identifying particular matters, the outcome of code of conduct complaints investigated by a conduct reviewer or conduct review committee under these procedures,*
- g) *the number of matters reviewed by the Office of Local Government (OLG) and, without identifying particular matters, the outcome of the reviews, and*
- h) *the total cost of dealing with code of conduct complaints made about Councillors and the General Manager in the year to September, including staff costs.*

DISCUSSION

There were no Code of Conduct complaints made against Councillors and/or the General Manager in the period from 30 September 2016 to 30 September 2017. Statistics in relation to these matters are shown in the summary table below:

Total number of code of conduct complaints made	0
Number of code of conduct complaints resolved by Acting General Manager by alternate means in accordance with clause 5.18 of the Procedures	0
Number of code of conduct complaints referred to a conduct reviewer	0
Number of code of conduct complaints finalised by a conduct reviewer at the preliminary assessment stage and the outcome of those complaints	0
Number of code of conduct complaints investigated by a conduct reviewer	0
Without identifying particular matters, the outcome of code of conduct complaints investigated by a conduct reviewer or conduct review committee under these procedures	0

Number of matters reviewed by the OLG and, without identifying particular matters, the outcome of the reviews	0
Total cost of dealing with code of conduct complaints made about Councillors and the General Manager in the year to September, including staff costs	\$0

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 ensures the requirements of Council's Procedures for the Administration of the Code of Conduct are met. As specific details of the Code of Conduct complaints are not reportable, the only action required is for Council to receive and note this Report.

RESPONSIBLE OFFICER

The officer responsible for the preparation of this Report is the Risk and Audit Manager (and Council's Complaints Coordinator) – Scott Allen, who can be contacted on 9847 6609.

STEPHEN FEDOROW
Acting General Manager
General Manager Division

Attachments:

There are no attachments for this report.

File Reference: F2006/00554
Document Number: D07315894

**2 DRAFT MODEL CODE OF CONDUCT AND PROCEDURES - PUBLIC CONSULTATION -
SUBMISSION TO OFFICE OF LOCAL GOVERNMENT**

EXECUTIVE SUMMARY

- On 23 October 2017 the Office of Local Government (OLG) published a draft Model Code of Conduct and Procedures. The OLG is now seeking the views of councils prior to finalising the two documents and submissions are permitted to be made on or before 14 December 2017.
- A draft submission has been prepared for consideration by Council.

RECOMMENDATION

THAT:

1. The draft submission to the Office of Local Government on the Draft Model Code of Conduct and Procedures outlined in the General Manager's Report No. 2/17 be endorsed.
2. The Acting General Manager be authorised to sign and submit the endorsed submission to the Office of Local Government.

PURPOSE

The purpose of this Report is to endorse the submission to the Office of Local Government in response to its release of a new draft Model Code of Conduct and Procedures.

BACKGROUND

Pursuant to Section 440 of the Local Government Act 1993, all councils must adopt a Code of Conduct that incorporates the provisions of the Model Code prescribed by the Office of Local Government (OLG). The Model Code comprises two documents - a Model Code of Conduct, and Procedures for the Administration of the Model Code of Conduct. The Hornsby Council Code of Conduct was last updated in February 2016 and the Procedures last updated in April 2015.

On 23 October 2017 the OLG published a revised (draft) Model Code of Conduct and Procedures. The OLG is now seeking the views of councils prior to finalising the two documents and submissions are permitted to be made on or before 14 December 2017.

A draft submission has been prepared and outlined below for consideration by Council.

The draft Model Code and Procedures from the OLG can be viewed via the following link.

<https://www.olg.nsw.gov.au/content/consultation-drafts-new-model-code-conduct-local-councils-nsw-and-procedures>

DISCUSSION

The proposed wording to be included in the submission to the OLG is set out hereunder.

Model Code of Conduct

The following comments are made in respect of the draft Model Code only where Council is of the view that amendments are required. No commentary is provided on proposed wording changes which are supported. For ease of reference, the full wording of each section is replicated with comments set out beneath.

Clause 3.15 You must keep a written record of all meetings and other communications with applicants or objectors to planning applications. Councillors must disclose in writing any meetings and other communications with applicants or objectors to a planning application at a council or committee meeting where the planning application is under consideration.

Comment: The need for a written record of all meetings and communications is considered to be onerous and unworkable. In particular, Councillors are regularly invited to attend street meetings or local public meetings where applicants and objectors may discuss a particular planning matter. It is not reasonable to expect that a Councillor will be able to faithfully record each individual position or let alone, know the name of every individual present. Similarly, a Councillor may simply be approached at the local shopping centre, sporting event or community festival by an applicant or objector at a time when they are not equipped to make a written record of the conversation.

Although from a Council employee perspective, the requirement for a written record can be accommodated in most situations, there are occasions where enquiries by applicants and objectors are made verbally over the counter to the Duty Planner or Customer Service Officers. These front counter services typically provide general planning advice and document lodgement support and it is not considered reasonable that a written record be required of such communications.

It is assumed this suggested amendment to the Model Code is designed to increase transparency and accountability in decision making around planning applications. The question needs to be asked, however, whether these written reporting requirements will actually capture the small number of public officials who are wilfully engaging in misconduct? A reasonable assumption is that such individuals will either not keep a written record of their communications or will otherwise keep false and misleading written records.

Clause 4.27 The general manager must cause the information contained in returns made and lodged by councillors and the general manager under clause 4.21, other than information disclosing the address of the councillor's or general manager's principal place of residence, to be published on the council's website as soon as practicable after the returns are lodged. The general manager must cause the information published on the council's website to be kept up to date.

Comment: The publishing of pecuniary interest returns for Councillors and the General Manager on the public website is not supported on the basis it compromises the balance between individual rights of privacy and the need for disclosure. The pecuniary interest returns are already available for public viewing upon request at the Council offices by any person. The need to make application to view the returns, although seemingly unnecessary, is nevertheless an important control in regulating the private information of Councillors and the General Manager. An unregulated access to these documents via the website can expose Councillors and the General Manager to unexpected consequences. For example, it would be significantly easier for rogue individuals or businesses to learn of a Councillor's private place of employment and attempt to gain access to them through this avenue.

As previously outlined, the question needs to be asked whether these higher reporting requirements will actually capture the small number of public officials who are wilfully engaging in misconduct? It is expected that such individuals will simply not disclose or otherwise disguise any information which would reveal their misconduct.

Clause 6.3 You must not:
(d) accept any gift or benefit of value

Comment: Although the spirit of this foreshadowed amendment to the Model Code is understood, there are practical implications in its implementation. In particular, the value of a gift or benefit may not be immediately evident when it is accepted or may even be gift-wrapped and not opened immediately. The situational context in which the gift or benefit was accepted (such as at cultural event) may also make it difficult to immediately refuse or return. Furthermore, upon becoming aware that the value of a gift or benefit is greater than the proposed limit of \$50 the council official may be reluctant to disclose the acceptance for fear of being in breach of clause 6.3 (d). This outcome would be counter-productive to the open and transparent culture the Model Code is seeking to establish.

To overcome this issue we recommended the removal of clause 6.3(d) and propose the following amendments (shown in bold text) to proposed clauses 6.5 and 6.7.

6.5 Where you receive **or accept** a gift or benefit of value that cannot reasonably be refused or returned, the gift or benefit must be surrendered to the council, unless the nature of the gift or benefit makes this impractical.

6.7 Gifts and benefits that exceed \$50 in value are to be treated as gifts or benefits of value and must not be **sought accepted**. **Any gift or benefit of value otherwise received or accepted must be dealt with in accordance with clause 6.5.**

Clause 6.4 Where you are offered or receive a gift or benefit, you must disclose this promptly to your supervisor or the general manager in writing. The recipient, supervisor, or general manager must ensure that, at a minimum, the following details are recorded in the council's gift register:

- a) whether the gift was accepted or refused**
- b) the nature of the gift**
- c) the estimated monetary value of the gift**
- d) the name of the person who offered the gift, and**
- e) the date on which the gift was offered or received.**

Comment: The requirement to disclose all gifts and benefits, even of token value, is considered to be onerous and unworkable. Council's are very diverse organisations and there are many situations where the acceptance of a token gift by a Councillor or employee is the courteous thing to do. Such circumstances may be the acceptance of tea and scones by a Councillor who has visited a resident at home to discuss a local issue, or the acceptance by an employee of a small item of craft from a young child who is attending learn-to-swim lessons. It is nonsensical to expect that each of these instances would necessitate the completion of a Gift and Benefits Declaration Form.

The proposed amendments to the Model Code foreshadow that any single gift or benefit, or series of gifts or benefits from the same individual with a cumulative value over \$50 in a 12 month period, will constitute a gift or benefit of value. This amendment is considered sufficient to address the risks related to inappropriate gift giving without imposing the unnecessary burden of disclosure for every token gift.

Once again, the question needs to be asked whether these higher reporting requirements will actually capture the small number of public officials who are wilfully engaging in misconduct? It is expected that such individuals will simply not disclose the gifts and benefits they have received or will otherwise make false and misleading disclosures.

Model Procedures

The following comments are made in respect of the draft Model Procedures only where Council is of the view that amendments are required. No commentary is provided on proposed wording changes which are supported. For ease of reference, the full wording of each section is replicated with comments set out beneath.

Clause 4.1 For the purpose of these procedures, a code of conduct complaint is a complaint that alleges conduct on the part of a council official in connection with their role as a council official or the exercise of their functions as a council

official that would constitute a breach of the standards of conduct prescribed under the council's code of conduct.

Comment: There are many clauses in the Model Code which are open to broad interpretation and for this reason can give rise to formal Code of Conduct complaints rather than being managed through the normal Complaints Handling Procedures of the organisation. For example, clause 3.3 states that "You must consider issues consistently, promptly and fairly". Taken literally, this is an extremely high standard of conduct to be achieved by Councillors and employees and makes them open to formal Code of Conduct complaints rather than normal complaints which can typically be handled more expeditiously.

Noting that clause 5.2 (c) allows the Mayor or General Manager to decline to deal with a complaint where it "is trivial, frivolous, vexatious or not made in good faith" it would be beneficial to also strengthen the definition of a Code of Conduct complaint to better align with clause 5.2 (c). We propose the following amendment (shown in bold text) to proposed clause 4.1:

- 4.1 For the purpose of these procedures, a code of conduct complaint is a complaint that alleges conduct on the part of a council official in connection with their role as a council official or the exercise of their functions as a council official that would constitute a breach of the standards of conduct prescribed under the council's code of conduct **and is of a severity, scale and importance that would likely give rise to disciplinary action or a sanction against the council official.**

BUDGET

There are no budgetary implications associated with this Report.

POLICY

The existing Hornsby Shire Council Code of Conduct and Procedures will remain in effect until such time as the OLG issues new Model documents, expected to be during 2018. At this time, a further report will be submitted to Council to formally adopt a new Code of Conduct and Procedures for Council.

CONCLUSION

Council's consideration of this Report will allow a formal submission from Hornsby Shire Council to be signed and sent to the OLG by the Acting General Manager.

RESPONSIBLE OFFICER

The officer responsible for the preparation of this Report is the Manager Risk & Audit – Scott Allen - who can be contacted on 9847-6609

STEPHEN FEDOROW
Acting General Manager

General Manager Division

Attachments:

There are no attachments for this report.

File Reference: F2005/00156

Document Number: D07336144

ITEM 2

3 PCYC INDOOR RECREATION CENTRE - WAITARA PARK - 30 YEAR LEASE

EXECUTIVE SUMMARY

- The Police Citizens Youth Clubs NSW Limited (PCYC) has constructed a multi-purpose indoor recreation centre in Waitara Park.
- PCYC relinquished appointment as Reserve Trust Manager of the Waitara Bowling Club site.
- After appointment as the Reserve Trust Manager, Council constructed new tennis courts.
- The Bowling Club building has been demolished and a new clubhouse is being constructed.
- Council supported the PCYC project through the provision of land and a capital contribution.
- To amortise the costs of construction, PCYC has requested a 30 year lease over the land.
- Council supported this request which requires public consultation and Minister's consent
- An application was lodged with the Minister for Environment, Local Government and Heritage.
- A decision by Council in respect to one submission received is required before assessment by the Minister.
- The Office of Local Government has also requested endorsement of the proposed 30 year lease term by the newly elected Council.

RECOMMENDATION

THAT Council:

1. Respond to the submission advising the author that the proposed lease is considered satisfactory because it requires Police Citizens Youth Clubs NSW Limited (PCYC) to maintain the leased premises with Council being responsible for maintaining sections of Waitara Park and surrounds outside the leased area.
2. Endorse a resolution of the previous Council to support and seek the Minister's consent to a 30 year lease term for the PCYC over 1 Park Lane, Waitara.

PURPOSE

The purpose of this Report is for Council to consider a submission received in response to advertising a proposed 30 year lease to PCYC over 1 Park Lane, Waitara and to also endorse a previous resolution of Council to seek the Minister's consent to this lease term.

BACKGROUND

Council has previously resolved to support a 30 year lease to the PCYC over Lot 301 DP 832745 being 1 Park Lane, Waitara which is "Community Land" within Waitara Park. Section 47 of the Local Government Act 1993 requires public consultation through advertising the proposal, notices on the land and letters to local residents before any lease over "Community Land" with a term exceeding five years is granted.

In respect to lease terms exceeding 21 years up to a maximum of 30 years, Ministerial Consent is also required and Section 47(6) of the Act stipulates documents that must be forwarded with the application. This includes details of all objections received and a statement setting out, for each objection, the Council's decision and the reasons for its decision. The Office of Local Government has advised that this requires a resolution of the elected Council.

DISCUSSION

Public Consultation:

Comment on the proposed lease to PCYC was invited from 3 May 2017 to 2 June 2017 through:

- Written notices to 42 residents as persons who own or occupy land adjoining, or in the vicinity of, the subject land.
- Public notice of the proposal through advertisements in the local newspaper, The Hornsby Advocate, on 4, 11 and 18 May 2017.
- Erecting three signs on the land to which the proposal relates.
- Including the proposal as "On Exhibition" on Council's website.

Submission Received:

One letter was received from a local resident which states:

"The lease regarding the PCYC-Building is practically already decided upon, because the building is being specially built for the use of PCYC.

But: Due to my experience during the past 5 years nobody took any action to keep the areas around the old bowling courts, the Oval and the old Warwick tennis courts clean without complaints from the neighbourhood: Grass had to be mowed, trees had to be pruned, weeds growing into the street had to be removed. The weeds alongside the Oval in Waitara Ave are still breaking the surface of the road.

In spite of the Management Plan Council should insist that a paragraph be added to the lease contracts, that Warwick with the new tennis courts, the Oval Management and the PCYC Management should be obliged to clean not only their own premises but also the pedestrian areas in Waitara Ave, Park Lane and Park Ave. Otherwise the whole new area would deteriorate into a rubbish dump. The word "slum" has already been mentioned twice in the local media.

This request should not be necessary – but the reality again shows a different picture!"

Response included in Application for Minister's Consent:

Council considered and determined that the lease satisfactorily addresses the objection because:

- Under clause 8.2 of the proposed 30 years lease, PCYC is obliged to keep the premises clean and tidy and free of all debris and rubbish.
- It is not commercial lease practice for a Lessee such as PCYC to enter into lease obligations to clean and to keep maintained in a clean condition, premises that are outside the leased areas.
- Council's Parks, Waste Management and Roads maintenance teams have the maintenance obligations to clean and keep clean Waitara Park and the adjoining roads and footpaths outside the proposed lease area.
- With respect to the other matters raised regarding the maintenance of roadside areas around Mark Taylor Oval and the proposed tennis courts at the northern end of Waitara Park, these concerns have been addressed. Council has recently changed maintenance practices with available Waitara Park resources directed towards the maintenance of roadside verges and other areas around the perimeter of the Waitara Park.

The Office of Local Government has requested that the elected Council consider the submission, above decision and reasons for the decision.

Endorsement of Lease 30 Year Term:

The Senior Assessment Officer from the Office of Local Government has also requested that the new Council endorse the previous resolution to support a 30 year lease term. In this respect, a copy of the letter forwarded to the Minister has been provided as an attachment to this report.

There are over 100 pages of enclosures included with the application which are available on request.

CONSULTATION

In the preparation of this Report, there was consultation with the Senior Assessment Officer, Investigations and Performance Group at the Office of Local Government, Nowra.

BUDGET

There are no budgetary implications associated with this Report.

POLICY

There are no policy implications associated with this Report.

CONCLUSION

The contents of the submission request inclusion of a specific condition requiring PCYC to maintain sections of Waitara Park and surrounding roads which are outside the leased area. These works are Council's responsibility. The submission does not specifically object to a 30 year lease and the issue raised can be satisfactorily resolved by Council's maintenance teams. However, as the letter was forwarded in response to public consultation, the Office of Local Government requires a decision by resolution of the Council. In addition, endorsement by the new Council of the 30 year lease term is also requested.

RESPONSIBLE OFFICER

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

GARY BENSLEY

Deputy General Manager - Corporate Support
Corporate Support Division

ROBERT STEPHENS

Deputy General Manager - Infrastructure and
Recreation
Infrastructure and Recreation Division

Attachments:

1. Application to the Minister for the Environment, Local Government and Heritage excluding
[V](#) enclosures.
[ie](#)
[w](#)

File Reference: F2015/00238

Document Number: D07335565

4 INVESTMENTS AND BORROWINGS FOR 2017/18 - STATUS FOR PERIOD ENDED 31 OCTOBER 2017

EXECUTIVE SUMMARY

- This Report provides details of Council's investment performance for the period ended 31 October 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 October 2017 was 2.63% compared to the benchmark of 1.50%.
- In respect of Council borrowings, the weighted average interest rate payable on outstanding loans taken out from June 2008 to date, based on the principal balances outstanding, is 7.10%.

RECOMMENDATION

THAT the contents of Deputy General Manager's Report No. C45/17 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 ended 31 October 2017 is detailed in the attached document. In summary, the At-Call and Term Deposits achieved an annualised return of 2.63% for October 2017, compared to the benchmark of 1.50%.

In respect of Council borrowings, the weighted average interest rate payable on outstanding loans taken out from June 2008 to date, based on the principal balances outstanding is 7.10%. The Borrowings Schedule as at 31 October 2017 is also attached for Council's information.

CONSULTATION

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

BUDGET

Budgeted investment income for 2017/18 is \$3,500,000 with an average budgeted monthly income of \$291,670. Total investment income for the period ended 31 October 2017 was \$1,587,000. Approximately 37% of the investment income received by Council relates to externally restricted funds (e.g. Section 94 monies) and is required to be allocated to those funds. All investments have been made in accordance with the Local Government Act, the Local Government (General) Regulation and Council's Investment of Surplus Funds Policy and Investment Strategy.

CONCLUSION

The investment of Council funds and the extent of its borrowings as at 31 October 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 Borrowings Schedule - October 2017
- 2.[View](#) HSC Investments Holdings Report - October 2017

File Reference: F2004/06987-02

Document Number: D07337002

5 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 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; and to table the Disclosure of Pecuniary Interests and Other Matters Returns of all Councillors and Designated Persons which were required to be lodged for the period ending June 2017.

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 12 April 2017 (see Deputy General Manager's Report No. CS9/17). Since that time, eight additional Returns has been lodged with the General Manager and are now tabled as required by the Act.

Date Lodged	Councillor/Designated Person (Position)	Reason for Lodgement
27/9/2017	Councillor	New Councillor

22/10/2017	Councillor	New Councillor
27/10/2017	Manager, Waste Management Services	Resignation
20/11/2017	Councillor	New Councillor
20/11/2017	Councillor	New Councillor
22/11/2017	Councillor	New Councillor
22/11/2017	Councillor	New Councillor
24/11/2017	Councillor	New Councillor

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: F2016/00234
Document Number: D07333077

6 OUTSTANDING COUNCIL RESOLUTIONS - PERIOD UNTIL 31 AUGUST 2017

EXECUTIVE SUMMARY

- Clause 32A of the Code of Meeting Practice deals with the implementation of Council resolutions.
- The Clause requires that a quarterly report be prepared for Council's consideration detailing resolutions which have not been substantially implemented within two months of being adopted as well as any impediments to their finalisation.
- In accordance with the Code, each Division has carried out a review of any resolutions adopted by Council up until the end of August 2017 which have not been substantially implemented.
- Council should consider the comments provided in the attachment to this Report in respect of each of the outstanding resolutions and determine if any further action is required.

RECOMMENDATION

THAT the contents of Deputy General Manager's Report No. CS42/17 be received and noted.

PURPOSE

The purpose of this Report is to comply with Council's Code of Meeting Practice and provide details in respect of resolutions adopted by Council up until the end of August 2017 which have not been substantially implemented.

BACKGROUND

Clause 32A of the Code of Meeting Practice deals with the implementation of Council resolutions and requires that a quarterly report be prepared detailing resolutions which have not been substantially implemented within two months of being adopted as well as any impediments to their finalisation. The reports are generally submitted for Council's consideration at the General Meetings in March, June, September and December each year.

DISCUSSION

In accordance with the Code of Meeting Practice, each Division has carried out a review of any resolutions adopted by Council up until the end of August 2017 which have not been substantially implemented. This has resulted in the attached table being prepared which shows a list of outstanding resolutions per Division. Details are provided about the:

- Report Number and Name
- Outstanding Resolution
- Latest Status
- Comment

In preparing Outstanding Council Resolutions reports, Divisional Managers give special consideration to any long outstanding resolutions and, where such resolutions exist, provide comments about whether further action may be unlikely or impractical. In these cases, Council may wish to determine whether or not the item should be removed from further reporting in the Outstanding Council Resolutions report.

BUDGET

Any budgetary implications are included in the relevant report or in the "Latest Status" column of the attached spreadsheet.

POLICY

The preparation of this Report meets the requirements of Clause 32A of the Code of Meeting Practice.

CONCLUSION

Council should consider the comments provided in the attachment in respect of each of the outstanding resolutions and, if necessary, determine if any further action is required.

RESPONSIBLE OFFICER

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

ROBYN ABICAIR

Manager - Governance and Customer Service
Corporate Support Division

GARY BENSLEY

Deputy General Manager - Corporate Support
Corporate Support Division

Attachments:

1. Outstanding Council Resolutions for Period Ending 31 August 2017

[V](#)

[ie](#)

[w](#)

File Reference: F2005/00112

Document Number: D07333075

7 CATCHMENTS REMEDIATION RATE (CRR) ANNUAL EXPENDITURE REPORT 2016/2017

EXECUTIVE SUMMARY

- Catchments Remediation Rate Program ('CRR') expenditure for the 12 months to 30 June 2017 has been reviewed by the independent CRR Expenditure Review Panel ('the Panel') and is considered to be reasonable and acceptable.
- Revenue received for the Catchments Remediation Rate (CRR) in 2016/17 was \$2,725,000 with the balance of funds at 30 June 2017 being \$44,000. This was as a result of income generated, \$2,725,000 plus \$366,000 brought forward from 2015/16, less expenditure of \$3,047,000.
- A cost summary of expenditure for 2016/17 and the CRR Expenditure Review Panel's report is provided in Attachments 1-3 of Group Manager's Report No. EH9/17.
- The income received from the CRR in 2016/17 was significantly less than previous years due to the loss of Epping and Carlingford as a result of LGA boundary adjustments.
- The Panel noted that the performance of the capital works program was good, with six projects being completed. It was considered that projects were managed efficiently as they were all completed within or very close to budget. Further discussion took place on the reduced revenue due to LGA boundary adjustments. The Panel agreed that operational functions, particularly asset maintenance, should be maintained at a high level of service by reducing the future capital program to compensate for the reduced CRR income.

RECOMMENDATION

THAT the contents of Group Manager's Report No. EH9/17 be received and noted.

PURPOSE

The purpose of this Report is to inform Council regarding the expenditure of CRR funds for the 2016/17 financial year and to table the comments of the external CRR Expenditure Review Panel.

DISCUSSION

Catchments Remediation Capital Works

Capital works projects undertaken across the Shire during 2016/17 included the construction of biofilters, a storm water harvesting system, gross pollutant traps and creek stabilisation projects.

As of 30 June 2017, \$939,000 was spent on capital works with six catchment remediation projects being completed:

- One combined biofilter/stormwater harvesting system, Asquith Park
- One large end-of-pipe biofilter, Berowra
- Two underground vault gross pollutant traps, Hornsby
- One graduated trash racks, Berowra
- One creek bank stabilisation project, Upper Berowra Creek, West Pennant Hills

Non-Capital Expenditure

Non-capital expenditure during 2016/2017 supported various Council operations that contributed to improving water quality Shire-wide including:

- Pro-active maintenance of all stormwater improvement assets, including the removal of 1,249 cubic metres of sediment, litter and organic matter
- Vegetation management and landscaping activities on over 12 hectares of land adjacent to the water quality control devices
- Water quality monitoring and research
- Street sweeping
- Community project support, e.g. Bushcare, and various committees
- Emergency response to spills
- Riparian restoration works
- Salaries, wages, overheads and associated administrative costs for project management

CRR Expenditure Review Panel

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

On 24 October 2017, the CRR Expenditure Review Panel met to discuss expenditure for the 2016/17 financial year. The Panel noted that it had sighted and discussed the financial details of the CRR expenditure and considered all reports presented by council officers as acceptable and accountable.

The Panel was presented with a summary for both capital and non-capital expenditure. It was noted that the performance of the capital program in 2016-17 was good, with six projects being completed and most within or very close to budget. There was a significant decrease in capital expenditure

compared to the previous year. The reason being, a significant comparative increase in capital projects the year before to reduce CRR balance, together with a reduction in revenue due to LGA boundary adjustments.

Discussion took place on the impact to revenue for the CRR due to LGA boundary adjustments with the City of Parramatta Council. While it was acknowledged that some assets and their future maintenance and renewal obligations had been transferred, it was confirmed that certain aspects of the CRR program would receive less funding. The Panel agreed that operational functions, particularly asset maintenance, should be maintained at a high level of service by reducing the future capital program to compensate for the reduced CRR income.

The Panel's report is included as Attachment 1.

BUDGET

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

POLICY

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

CONCLUSION

\$3,047,000 in CRR funds were spent throughout 2016/17 on a range of capital and non-capital projects designed to improve water quality across the Shire.

In line with its Charter, the CRR Expenditure Review Panel has sighted and discussed the financial details of CRR expenditure as of 30 June 2017, and considers all reports to be acceptable and reasonable.

RESPONSIBLE OFFICER

The officer responsible for the preparation of this Report is the Acting Natural Resources Manager, Julie Ryland, who can be contacted on 9847 6773.

JULIE RYLAND

Natural Resources Strategy Manager - Natural
Resources Strategy
Environment and Human Services Division

PETER COAD

Acting Group Manager Environment and Human
Services
Environment and Human Services Division

Attachments:

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

File Reference: F2005/00829-03

Document Number: D07337890

8 DEVELOPMENT APPLICATION - TORRENS TITLE SUBDIVISION OF ONE ALLOTMENT INTO TWO AND CONSTRUCTION OF A DWELLING HOUSE ON EACH LOT - 15 BROOKLYN ROAD, BROOKLYN

EXECUTIVE SUMMARY

DA No: DA/224/2017(Lodged 15 March 2017)

Description: Demolition of existing structures, Torrens Title subdivision of one allotment into two lots and construction of two dwelling houses as a staged development

Property: Lot 2 DP 570352, No.15 Brooklyn Road, Brooklyn

Applicant: Site Specific Designs

Owner: Ms Z Dong and Mr T Cui

Estimated Value: \$800,000

Ward: A

- The application involves the demolition of existing structures, Torrens Title subdivision of one allotment into two lots and construction of two dwelling houses as a staged development.
- The proposal generally complies with the provisions of the *Hornsby Local Environmental Plan 2013* and the Hornsby Development Control Plan 2013.
- Two submissions have been received 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/224/2017 for demolition of existing structures, Torrens Title subdivision of one allotment into two lots and construction of two dwelling houses as a staged development at Lot 2 DP 570352, No.15 Brooklyn Road, Brooklyn be approved subject to the conditions of consent detailed in Schedule 1 of Group Manager's Report No. PL61/17.

BACKGROUND

On 28 March 2017, Council requested the prescribed fee payable to the NSW Rural Fire Service as the application required integrated referral pursuant to Clause 66 of the *Environmental Planning and Assessment Regulations 2000*. Council also requested a valid BASIX certificate for both dwelling houses as they were not lodged within 3 months of the date of issue. On 3 April 2017, the requested information was submitted to Council.

On 19 April 2017, Council requested a sediment and erosion control plan detailing measures to protect adjoining lands and downstream water quality during any works. On 11 May 2017, the requested information was submitted to Council.

On 3 May 2017, Council requested driveway longitudinal sections, vehicle turning area calculations and sight distance calculations. On 22 May 2017, the applicant wrote to Council requesting an extension of time to submit the requested information. On 26 May 2017, the applicant wrote to Council requesting a further extension of time to submit the requested information. On 31 July 2017, the requested information was submitted to Council.

On 19 July 2017, Council requested amended architectural plans for both proposed dwelling houses with concerns raised over privacy and clarification regarding the maximum height of each building.

On 27 July 2017, Council received amended plans raising the finished floor level of both proposed dwelling houses to comply with driveway grades.

25 August 2017, Council received a Clause 4.6 statement requesting to vary the Maximum Height of Buildings control in the *Hornsby Local Environmental Plan 2013* for both proposed dwelling houses.

On 30 August 2017, Council requested further details regarding the calculation of driveway sight distances. On 7 September 2017, Council received updated driveway engineering drawings for both proposed lots.

On 12 October 2017, a meeting was held between Council offices and the applicant to discuss concerns regarding the height of the proposed dwellings, privacy impacts, sight distance calculations and the rear setback of proposed dwelling house 2.

On 23 October 2017, amended plans and additional information were submitted including changes to both dwelling houses to reduce their height, increased privacy measures, amended driveway plans and landscape plans. These plans are the subject of this report.

On 30 November 2017, Council requested an acid sulfate soils management plan. On 1 December 2017, the requested information was submitted to Council.

SITE

The 1143m² site is located on the northern side of Brooklyn Road, Brooklyn and contains a single storey dwelling house.

The site is irregular in shape with a 22.25 metre frontage to Brooklyn Road. The site also has frontage to the Hawkesbury River to the north.

The site experiences a fall of 10 metres towards the rear, northern boundary.

The site is mapped as being bushfire prone.

The site is mapped as containing acid sulfate soils.

The rear of the site is identified by the CSIRO as having the potential to be inundated by sea level rise.

The site is located in the vicinity of a heritage item of local significance namely, "*Seymour's Creek Mangrove Wetland, (waterway)*" located on Brooklyn Road, Brooklyn listed under Schedule 5 of the *Hornsby Local Environment Plan 2013*.

The surrounding developments include a vacant allotment to the west and a three storey dwelling house to the east. The locality is typified by one and two storey dwelling houses on relatively steep land.

PROPOSAL

The application involves the demolition of an existing dwelling house and associated structures, subdivision of one allotment into two and the erection of two dwelling houses.

It is proposed that the development be staged as follows:

- Stage 1 - Demolition of the existing dwelling and structures and Torrens Title subdivision of one allotment into two (Lot 2 and 2a);
- Stage 2 – Construction of a dwelling house on proposed Lots 2 and 2a.

The proposed subdivision and construction of the dwelling houses is outlined below:

- *Proposed Lot 2*

Proposed Lot 2 would occupy the northern portion of the site and would have an area of 539.5m². The lot would require the construction of an access handle parallel to the eastern boundary for vehicular access. The lot would have a 22.5 metre frontage to the Hawkesbury River at the rear and be burdened by an easement to drain water from Lot 2a.

The ground floor of the proposed dwelling (House 1) would comprise a double garage, front porch and entry room, water closet, kitchen with walk-in pantry, dining room, living room, sitting room, bathroom and outdoor terrace.

The first floor would comprise a master bedroom with a walk-in robe and ensuite, three additional bedrooms, two additional bathrooms and a rear facing balcony.

The roof would comprise an outdoor terrace and garden.

- *Proposed Lot 2a*

Proposed Lot 2a would occupy the southern portion of the site and would have an area of 512.8m². The lot would utilise an existing vehicular crossing and would have a 18.15 metre frontage to Brooklyn Road. The lot would benefit from an easement to drain water over Lot 2.

The ground floor of the proposed dwelling (House 2) would comprise a double garage with a water closet, front porch and entry room, bedroom, bathroom, living room, dining room, kitchen with walk-in pantry, laundry and a rear facing balcony.

The lower-ground floor would comprise a master bedroom with a walk-in robe and ensuite, two additional bedrooms, cellar, bathroom, family room and outdoor terrace.

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 92,000 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 the achievement of Councils dwelling targets.

2. STATUTORY CONTROLS

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

2.1 Hornsby Local Environmental Plan 2013

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

2.1.1 Zoning of Land and Permissibility

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

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

The proposed development is defined as "*subdivision*" and "*dwelling house*" and is permissible in the zone with Council's consent. The proposal is consistent with the objectives of the zone as it provides additional housing opportunities.

2.1.2 Minimum Lot Size

Clause 4.1 of the *HLEP* provides that the subdivision lot size should not be less than the minimum areas shown for the land on the Lot Size Map. The minimum lot size for the subject site is 500m², excluding the access handle. The proposed lots have areas of 512.8m² and 539.5m² complying with this provision.

2.1.3 Height of Buildings

Clause 4.3 of the *HLEP* provides that the height of a building on any land should not exceed the maximum height shown for the land on the Height of Buildings Map. The maximum permissible height for the subject site is 8.5m. The proposed dwellings have been amended to comply with this provision.

2.1.4 Heritage Conservation

Clause 5.10 of the *HLEP* sets out heritage conservation provisions for Hornsby Shire. The site is located in the vicinity of a heritage item of local significance namely, "*Seymour's Creek Mangrove Wetland, (waterway)*" located on Brooklyn Road, Brooklyn listed under Schedule 5 of the *HLEP*.

The subject site is a waterfront property, adjacent the Seymour's Creek waterway and mangroves immediately to the north of the site. The proposed subdivision and housing do not propose to remove any mangroves, adjacent the site. The landscape plan states that the garden area adjacent the waterway is to remain unaltered.

The landscape features of the heritage item would remain and views to the mangroves from the public domain would also be unaltered. The setting of the mangroves would not be adversely impacted, and similar housing is currently found near the subject site.

The proposed development of the site is not considered to have an adverse impact on the landscape items setting, views or overall significance. Notwithstanding, to ensure minimal impact on the mangroves conditions are recommended requiring sediment and erosion control measures during all works.

Accordingly, no objection is raised to the proposal on heritage grounds.

2.1.5 Acid Sulfate Soils

Clause 6.1 of the *HLEP* relates to Acid Sulfate Soils and states the following:

- (1) *The objective of this clause is to ensure that development does not disturb, expose or drain acid sulfate soils and cause environmental damage.*
- (2) *Development consent is required for the carrying out of works described in the Table to this subclause on land shown on the Acid Sulfate Soils Map as being of the class specified for those works.*

The Acid Sulfate Soils Map shows the subject parcel of land as being "Class 2" and requires development consent as the development would involve excavation.

Additionally, subclause (3) states that "*development consent must not be granted under this clause for the carrying out of works unless an acid sulfate soils management plan has been prepared for the proposed works in accordance with the Acid Sulfate Soils Manual and has been provided to the consent authority*".

On 1 December 2017, an acid sulfate soils management plan prepared by Site Specific Designs was submitted to Council. The report notes that soil samples that were taken during borehole testing for a

geotechnical assessment are not constant with those of potential acid sulfate soils. The report also details management strategies if any acid sulfate soils are encountered during any works.

Council's environmental assessment raises no objections to the proposal given the dwellings would require less than 1 metre of excavation. A condition is recommended requiring any encountered Acid Sulfate Soils to be reported to Council.

2.1.6 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*".

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

A geotechnical investigation was prepared White Geotechnical Group, dated 23 November 2016. The investigation makes a number of recommendations to be implemented during the construction phase of the development with respect to excavation (including excavation techniques and vibrations); excavation support; retaining wall design parameters (including drainage and maximum pressures); foundations (including slabs and pier design); site maintenance and inspections.

A condition is recommended for the development to be carried out in accordance with the comments and recommendations in Sections 11-18 of the geotechnical report. Further conditions are recommended for excavated material to be disposed of at a licenced facility and for any fill that is to be imported to the site to consist of Virgin Excavated Natural Material (VENM).

A further discussion on cut and fill is provided within Section 2.8.9 of this report.

The proposal is assessed as satisfactory with regards to Clause 6.2 of the *HLEP* subject to conditions.

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

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

A search of Council's records and aerial photos indicates the site has a history of residential use. Accordingly, it is not likely that the site has experienced any significant contamination and further assessment under *SEPP 55* is not required.

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

The application has been assessed against the requirements of *State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004*. The proposal includes a BASIX Certificate for the proposed dwellings and is considered to be satisfactory. A condition is recommended requiring the recommendations of the BASIX certificate be complied with.

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

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

On 19 April 2017, Council requested a sediment and erosion control plan detailing measures to protect the adjoining Hawkesbury River during works. On 11 May 2017, the applicant submitted an erosion and sediment control plan completed by AB Consulting Engineers. The plan recommends sediment traps and a sediment control fence be installed prior to any works commencing on site.

Subject to the implementation of sediment and erosion control measures and stormwater management to protect water quality, the proposal would comply with the requirements of the Policy and is considered acceptable.

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

The application has been considered 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.

The site is mapped as potentially containing Acid Sulfate Soils and therefore, the proposed development could not be approved as a Complying Development.

In addition to the above, both proposed dwelling houses cannot be approved as Complying Development as they include balconies in exceedance of 12m² within 6 metres of a side boundary and would not meet the development standards of “Privacy” under the SEPP. The development would also involve fill of more than 600mm to construct driveways and would not comply with the development standards for “Fill” under the SEPP.

Notwithstanding, the proposed dwellings would generally comply with numerical standards for Complying Development contained within the SEPP including floor area, height, site coverage, setbacks, landscaping, private open space, solar access and car parking.

2.6 Rural Fires Act 1997 – Integrated Development

Pursuant to Section 66 of the *Environmental Planning and Assessment Regulations 2000*, the proposal constitutes an integrated development and requires approval under the *Rural Fires Act 1997*.

The application was forwarded to the NSW Rural Fire Service who raises no objections to the proposal subject to conditions of consent.

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

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

The principal purpose of a development control plan is to provide guidance on the aims of any environmental planning instrument that applies to the development; facilitate development that is permissible under any such instrument; and achieve the objectives of land zones. The provisions contained in a DCP are not statutory requirements and are for guidance purposes only. Consent

authorities have flexibility to consider innovative solutions when assessing development proposals, to assist achieve good planning outcomes.

2.8 Hornsby Development Control Plan 2013

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

HDCP – Part 6.1 Subdivision and Part 3.1 Dwelling Houses			
Control	Proposal	Requirement	Complies
Part 6 - Subdivision			
Site Area	1143m ²	N/A	N/A
Lot Area			
- Lot 2	539.5m ²	500m ²	Yes
- Lot 2a (excluding accessway)	512.8m ²	500m ²	Yes
Lot Width			
- Lot 2	20.6m	12m	Yes
- Lot 2a	19m	12m	Yes
Part 3.1 Residential			
Building Height			
- Lot 2	8.5m	8.5m	Yes
- Lot 2a	8.5m	8.5m	Yes
No. of Storeys			
- Lot 2	3	max. 2 + attic	No
- Lot 2a	2	max. 2 + attic	Yes
Site Coverage			
- Lot 2	31%	max. 50%	Yes
- Lot 2a	33%	max. 50%	Yes
Floor Area			
- Lot 2	292m ²	max. 330m ²	Yes
- Lot 2a	256m ²	max. 330m ²	Yes

Setbacks - Lot 2			
- <i>Front</i>			
<i>Ground floor</i>	1.5m	0.9m	Yes
<i>First floor</i>	1.5m	1.5m	Yes
- <i>Side (eastern)</i>			
<i>Ground floor</i>	2m	0.9m	Yes
<i>First floor</i>	5m	1.5m	Yes
- <i>Side (western)</i>			
<i>Ground floor</i>	2m	0.9m	Yes
<i>First floor</i>	2m	1.5m	Yes
- <i>Rear</i>			
<i>Ground floor</i>	10m	10m	Yes
Setbacks - Lot 2a			
- <i>Front</i>	3m	3m	Yes
- <i>Side (eastern)</i>			
<i>Ground floor</i>	1.8-3.5m	0.9m	Yes
<i>First floor</i>	1.8-3.5m	1.5m	Yes
- <i>Side (western)</i>			
<i>Ground floor</i>	2.27m	0.9m	Yes
<i>First floor</i>	2.27m	1.5m	Yes
- <i>Rear</i>			
<i>Ground floor</i>	7m	3m	Yes
<i>First floor</i>	7m	8m	No
Landscape Area			
- <i>Lot 2</i>	43%	20%	Yes
- <i>Lot 2a</i>	45%	20%	Yes
Private Open Space			
- <i>Lot 2</i>	>24m ²	24m ²	Yes
- <i>Lot 2a</i>	>24m ²	24m ²	Yes
Car Parking			
- <i>Lot 2</i>	2 spaces	2 spaces	Yes

- Lot 2a	2 spaces	2 spaces	Yes
----------	----------	----------	-----

As detailed in the above table, the proposed development generally complies with the prescriptive requirements within the *HDCP* with the exception of the maximum number of storeys for Lot 2 and the first floor rear setback of Lot 2a. A brief discussion on compliance with relevant desired outcomes is outline below.

2.8.1 Residential Lands Subdivision

The desired outcomes of Part 6.2.1 Residential Land subdivision of the *HDCP* states that “*subdivision design should maintain appropriately shaped lots to accommodate a dwelling and associated development that is compatible with a low density residential environment*”.

Two submissions raise concerns regarding the “small” lot size of the proposed subdivision.

The proposed lots would generally be in keeping with the surrounding rectangular shaped lots in the immediate vicinity of the site and other subdivided lots along Brooklyn Road to the east. Each proposed lot meets the minimum width of 12 metres which complies with the *HDCP*. Furthermore, each allotment has an area in excess of the 500m² minimum allotment size requirement applicable to the low density residential zone under the *HLEP*.

The proposal is consistent with the desired outcomes of Part 6.2.1 Residential Land Subdivision and is considered acceptable.

2.8.2 Scale

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

An objection raises concerns regarding the height, scale and floor area of the proposed dwelling houses. A discussion on each dwelling house is provided below.

Lot 2 (House 1)

House 1 was originally proposed at 8.6m in height. Council officers raised concerns with the height non-compliance in a letter dated 19 July 2017 and in a subsequent meeting on 12 October 2017. In response to these concerns, revised plans (issue D) dated 20 October 2017 were submitted with a reduced terrace stairwell order to comply with the 8.5 metre control.

The dwelling would be three storeys, would have a floor area of 292m² and maximum site coverage of 31%. The dwelling would comply with all scale requirements of Part 3.1 of the *HDCP* except for the maximum number of storeys.

The proposal is for a two storey dwelling with a flat roof and rooftop terrace. By definition, the terrace area is defined as a storey given the stairwell to reach the rooftop is enclosed.

In support of this variation, the addition of a rooftop terrace would not significantly impact the bulk of the structure given the enclosed stairwell is limited to 9.10m². Further, the addition of a terrace would be consistent with the eastern adjacent dwelling at a similar RL. It is noted that while a rooftop terrace would not normally be acceptable within most low-density residential areas, the proposed dwelling directly faces the Hawkesbury River and not another residential lot. A condition is recommended that a balustrade be installed on the terrace in accordance with the requirements of the *Building Code of Australia*.

In addressing concerns with the scale of the structure, it would have a maximum RL of 14.55 which would be substantially lower than the eastern adjacent dwelling with a maximum RL of 16.51.

Lot 2a (House 2)

House 2 was originally proposed at 8.92 metres in height. Council officers raised concerns with the height non-compliance in a letter dated 19 July 2017 and in a subsequent meeting on 12 October 2017. In response to these concerns, revised plans (issue D) dated 20 October 2017 were submitted with a reduced roof pitch to comply with the 8.5 metre control.

The dwelling would be a maximum of two storeys, would have a floor area of 256m² and maximum site coverage of 33%. The dwelling would comply with all scale requirements of Part 3.1 of the HDCP.

Further, the dwelling would have a maximum RL of 16.69 and would be similar to the eastern adjacent dwelling with a maximum RL of 16.51.

In conclusion, the development would result in a scale outcome that is consistent with the current and desired future character of the area.

The proposal meets the desired outcomes of Part 3.1.1 in the HDCP and is considered acceptable.

2.8.3 Setbacks

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

The prescriptive measure Part 3.1.2(a) states that the minimum rear boundary setback should be 8 metres for a first floor element. Dwelling House 2 would have a rear first floor setback of 7 metres and would not comply with this measure.

No objection is raised to the 1 metre variation given there would be a building separation of 8 metres which allows for sufficient landscaped areas. Further, House 2 would have side setbacks of 1.8-3.5m and 2.27 meters which are in excess of the required 1.5 metres and which are considered in keeping with the surrounding locality.

A submission raises concerns about the rear setback of House 1, noting that it might be less than the required 10 metre foreshore building line.

The rear staircases of the dwelling would encroach up to 0.8 metres into the 10 metre rear setback. However, in accordance with Part 3.1.2(i) *possible encroachment into building setbacks* of the HDCP the stairs are excluded from this calculation.

In summary, the proposal meets the desired outcomes of Part 3.1.2 *Setbacks* in the HDCP and is considered acceptable.

2.8.4 Design Details and View Sharing

Two objections note that the dwelling houses would not fit the character of the surrounding area. In addition, an objection raises concerns that House 1 would result in view loss for the western adjacent premises, No. 11 Brooklyn Road.

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

In addressing the submission regarding the character of the dwelling houses, the prescriptive measures of Part 3.1.8 of the HDCP state the following:

- a) *Dwelling houses should be oriented primarily towards the street and the rear boundary.*
- b) *Extensive blank or unarticulated walls to street frontages are discouraged.*
- c) *Dwelling houses should provide a covered entry to the home at least 1.5 metres deep and clearly visible from the street.*
- d) *Dwelling houses on corner allotments should be designed to provide elevations that address both street frontages.*
- e) *Garages should not dominate the facade of the dwelling house or the streetscape. Garage doors should be as follows:*
 - setback 1 metre from the front facade of the home,
 - no wider than 6 metres, and
 - maximum 2.4 metres high.

In response to Part 3.1.8(a), House 1 would be oriented toward the battleaxe driveway and the rear boundary and House 2 would be oriented towards the street and rear boundary.

In response to Part 3.1.8(b), the front façade of House 1 would include face brick walls, a feature stone clad wall and various windows. The front façade of House 2 would include a single storey appearance with face brick walls, various windows and “colorbond” roofing. Both houses are considered consistent with Part 3.1.8(b) of the HDCP and the surrounding area.

In response to Part 3.1.8(c), visible covered entries would be provided for both dwelling houses.

In response to Part 3.1.8(d), the site is not on a corner allotment.

In response to Part 3.1.8(c), the garage would not dominate the front façade of either dwelling and would be set back appropriately.

In addressing concerns with view loss, the prescriptive measure 3.1.8(g) and (h) states the following:

“Development should allow for the reasonable sharing of significant views, including water views and iconic views, in particular:

- *views that have not already been obscured,*
- *views from front and rear boundaries whilst in a standing position, and*
- *views from living and entertainment areas (including kitchens).*

Development should allow for the reasonable sharing of significant views by:

- *appropriately siting the building,*
- *appropriately designing the bulk of the building,*
- *using open materials for balustrades on balconies and decks, and/or*
- *new landscaping comprising a light open foliage”.*

The application was accompanied by the following statement regarding view loss:

NSW Case law for view sharing is referenced in Tenacity Consulting v Warringah dealing with impacts on views. Tenacity lists four steps and suggests factors to be considered for each.

The first step is the assessment of views to be affected. Water views are valued more highly than land views. Being a waterfront property all direct neighbours have access to views or

partial views/glimpses of the River, or creek along the mangroves currently. The site has a substantial number of trees and an existing house which could block these views, however as most views are to the north, the proposal minimises any changes to this by keeping the view corridors down both side boundaries, and over the roof lines.

The second step is to consider from what part of the property the views are obtained. For example the protection of views across side boundaries is more difficult than the protection of views from front and rear boundaries. The expectation to retain side views and sitting views is often unrealistic. The neighbouring house to the East (No.17) has its views to the north and so the development will have no impact on current views. The neighbouring site to the west is currently vacant land, and so not impacted by the proposal with its current use.

The third step is to assess the extent of the impact. This should be done for the whole of the property, not just for the view that is affected. The impact from neighbouring properties to the South is minimal due to the highest point of the proposed new roof of House 2 being less than 200mm above the neighbouring House at number 17, which is directly in front of the neighbouring homes and in front of the view down to the river. The land across the road directly from the site is not built upon.

The fourth step is to assess the reasonableness of the proposal that is causing the impact. A development that complies with all planning controls would be considered more reasonable than one that breaches them. And further to this a complying development would probably be considered acceptable and the view sharing reasonable. As this proposed subdivision and two new homes is a compliant development, we consider this potential minimal impact on views a reasonable one.

The development generally meets the requirements of 3.1.8(g) and (h) of the HDCP as listed above. The dwellings would comply with all Scale requirements set out in the HDCP and the *HLEP* and would maintain appropriate setbacks. Accordingly, the applicants statement concerning impacts on views is generally supported.

In summary, the design of both dwellings comply with the prescriptive measures and the desired outcomes of Part 3.1.8 Design Details of the HDCP and are consistent with dwellings within an R2 Low-Density Residential zone.

2.8.5 Privacy

An objection raises concerns regarding the privacy impact of the proposed dwellings on the eastern adjacent property, No 17 Brooklyn Road.

The desired outcome of Part 3.1.6 Privacy of 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.*”

The application was accompanied by the following statement regarding privacy:

The proposed new house on the Riverfront (House 1) has a proposed roof garden and terrace with a Floor level of RL 11.80. This roof terrace is located 10.02m away from the neighbouring dwelling (no.17 East), which also has a top floor terrace approximately 400mm above this level. To maintain privacy between dwellings we are proposing to keep the existing established palms that vary in heights along this boundary from a top level of RL 13.30 to RL 17.78. This produces a natural screen along the boundary that is between 1.5m to 6m above this roof terrace. The roof terrace also has Gardens on the south, east and west sides to add an additional layer of landscape screening closer to the terrace. Finally a 1.5m high screen is also proposed as a third layer of privacy along the edge of the terrace on the east and west facades to prevent direct overlooking of neighbours. We believe this three layer system of privacy screening will not only prevent direct overlooking, but due to the 10m difference will also greatly reduce acoustic impacts from the roof terrace.

The proposed new roof terrace at House 1 sits 8.5m away from the western side boundary with screening and the stairwell located on this side, along with existing soft landscaping, which helps to minimise any overlooking to this neighbour.

Hornsby Council Development Code Plan refers to private open space on sloping blocks to be located on verandahs, balconies or elevated decks rather than on lawn. Both new homes incorporate this with the Private Open Space requirements being achieved using elevated terraces and covered verandahs. The new homes propose no loss to amenity for the neighbours to the East, West or South due to the compliance with side setbacks of 2m minimum, rear setback to the waterfront of 10m and street setback to Brooklyn Road of a minimum 3m.

In assessing the privacy impact of decks and the like on waterfront properties, it is noted that due to steep topography, some overlooking into adjacent properties is inevitable. Further, elevated private open spaces are common in Brooklyn to obtain water views.

A privacy assessment of the proposal is as follows.

Lot 2 (House 1)

The ground floor deck, first floor deck and rooftop terrace may have privacy impacts as they would be located more than 600mm above the existing ground level.

In response to this concern, Council officers requested amended plans in a letter dated 19 July 2017 and in a meeting on 12 October 2017. The applicant submitted revised plans (issue D) dated 20 October 2017 with privacy screening included on the rooftop terrace and a written statement.

The ground floor deck located at the rear of House 1, would have a floor area of 28.31m² and would be a maximum of 970mm above the existing ground level. No privacy impacts are anticipated for the western adjacent property, No. 11 Brooklyn Road given a large setback of 11 metres. No substantial privacy impacts are anticipated for the eastern adjacent property, No. 17 Brooklyn Road given the proposed finished floor level of RL 4.9 is similar to that of the adjacent rear yard.

The first floor deck located at the rear of House 1, would have a floor area of 20.28m² and would be approximately 4 metres above the existing ground level (RL 8.8). No privacy impacts are anticipated for the western adjacent property, No. 11 Brooklyn Road given a large setback of 10 metres. It is noted that although there is existing screen trees located on the eastern boundary, a condition is

recommended that privacy screening be installed along the eastern elevation to avoid any potential overlooking into No. 17 Brooklyn Road.

The rooftop terrace be located on the flat roof of the dwelling, would have a floor area of 38.3m² and would be 6.5-7.5 metres above the existing ground level (RL 11.8). No privacy impacts are anticipated for the western adjacent property, No. 11 Brooklyn Road given a large setback of 11 metres and the inclusion of a privacy screen. Privacy screening has also been included on the eastern side of the terrace to avoid overlooking into No. 17 Brooklyn Road. It is noted that a similar rooftop terrace exists at No. 17 Brooklyn Road located at a similar elevation without privacy screening.

Lot 2a (House 2)

The lower ground floor terrace and ground floor deck may have privacy impacts as they would be located more than 600mm above the existing ground level. Additionally, the active use living room and kitchen/dining may also have privacy impacts as they would be located on the first floor.

The lower ground floor terrace located at the rear of House 2, would have a floor area of 15.6m² and would be a maximum of 800mm above the existing ground level. No privacy impacts are anticipated for either adjacent property given the large setbacks of 7 metres to the east and 8 metres to the west.

The ground floor deck located at the rear of House 2, would have a floor area of 24.8m² and would be approximately 3.8 metres above the existing ground level (RL 11.95). No privacy impacts are anticipated for the western adjacent property, No. 11 Brooklyn Road given a large setback of 8 metres and screening trees. Notwithstanding the existing screening trees, a condition of consent is recommended that privacy screening be installed along the eastern boundary to avoid any potential overlooking into No. 17 Brooklyn Road.

The ground floor living room and kitchen located at the rear of House 2 would be located up to 3.8 metres above the existing ground level (RL 11.95). Window 11 serving the living room would face the western boundary however would have a sill height of 1.5 metres and therefore, no unacceptable privacy impacts are anticipated. No privacy impacts are anticipated from the kitchen/dining room as it would have no windows facing the side boundary.

In summary, whilst both dwelling houses include elevated private open space areas and active use living areas, they are primarily located towards the rear boundary to obtain a view of the Hawkesbury River. This is considered common along Brooklyn Road. Natural screening along both side boundaries of the site and privacy screening would limit overlooking into Nos. 11 and 17 Brooklyn Road.

The proposal meets the desired outcomes of Part 3.1.6 Privacy of the HDCP and is considered acceptable.

2.8.6 Sunlight Access

An objection raises concerns that the development would overshadow the western adjacent property located at No. 11 Brooklyn Road, Brooklyn.

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*".

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.

There is no dwelling house at No. 11 Brooklyn Road, notwithstanding shadow diagrams have been submitted demonstrating that the principal private open space of a future dwelling house could receive at least 3 hours of unobstructed sunlight access between 9am and 3pm on 22 June.

The submitted shadow diagrams demonstrate compliance with Part 3.1.5(b) of the HDCP for No. 17 Brooklyn Road.

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

2.8.7 Accessway Design

The desired outcome of Part 6.4.1(a) Accessway Design of the HDCP is *“to ensure access along private accessways to all new lots is simple, safe and direct.”*

A submission raises concerns about the safety of vehicles entering the proposed lots.

Part 6.4.1 Accessway Design of the HDCP lists design specifications for battleaxe driveways and states that the minimum width for accessways serving 1-3 lots should be 3.5 metres wide and should have a maximum grade of 25%.

On 3 May 2017, Council requested driveway longitudinal sections, vehicle turning area calculations and sight distance calculations. On 31 July 2017, driveway longitudinal sections, vehicle turning areas and sight distance calculations were submitted prepared by Loka Consulting Engineers. Two further revisions of the plans were submitted with the most recent submission on 23 October 2017.

The proposed accessway parallel to the eastern boundary of the site would serve one lot, would be more than 3.5 metres wide and have a maximum grade of 25%. Additionally, site distance calculations for pedestrians and vehicles demonstrate compliance with the relevant *Australian Standards*.

Additionally, calculations provided for the driveway for House 2 would be a maximum grade of 20.9% and would comply with sight distances.

Council's engineering assessment raises no objections to the proposed accessway and driveway subject to conditions requiring the driveway be constructed in accordance with *Australian Standard 2890.1 & 3727*, that a 0.5 metre landscaping verge be constructed as part of the access handle, that vehicles enter and exist in a forward direction only and that kerb and gutter be completed as part of the development.

The proposed accessway is considered satisfactory in regard to Part 6.4.1 of the HDCP and is considered acceptable.

2.8.8 Vehicle Access and Parking

A submission raises concerns about lack of off street car parking.

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

In support of these outcomes, the prescriptive measure 3.1.7(a) notes that *“car parking for dwelling houses should be provided behind the front building line”*.

In addition, the prescriptive measure 1C.2.1(o) notes that *“car parking should be provided on site in accordance with the minimum parking rates in Table 1C2.1(c)”* which advises that for buildings with 3 or more bedrooms, 2 spaces are required.

Both dwellings would have two car parking spaces located behind the front building line and would comply with all relevant prescriptive measures within the HDCP.

2.8.9 Earthworks and Slope

The desired outcomes of Part 1C.1.4 Earthworks and Slope of the HDCP encourages *“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”*.

In support of these desired outcomes, the prescriptive measures of 1C.1.4 state that:

- a) *“Development should be sited on the area of land presenting the least topographic constraints and away from ridge lines.*
- b) *Earthworks involving filling should not exceed 1 metre in height from the existing ground level.*

The submitted architectural plans and civil design plans prepared by Loka Consulting Engineers indicate that minor earthworks would be required to accommodate both driveways and dwelling houses. A geotechnical report prepared by White Geotechnical Group was also submitted with the application. The report notes that the proposed development is generally suitable for the site and no geotechnical hazards would be created subject to appropriate engineering practices.

Discussion on earthworks is provided below.

Lot 2 (House 1)

The accessway for Lot 2 would predominantly require fill less than 1 metre. However, two sections would require fill of up to 1.2 metres. While 1.2 metres of fill would exceed the Part 1C1.4(b) requirement of the HDCP, it is considered acceptable in this circumstance to create safe vehicle access in accordance with Australian Standards. It is noted that compliance with Part 1C1.4(b) could be achieved, however it may result in a less safe driveway.

House 1 would require minor cut and fill of less than 1 metre and would comply with the HDCP.

Lot 2a (House 2)

The driveway for Lot 2a would require a maximum fill of 1.67 metres which would not comply with the Part 1C1.4(b) requirement of the HDCP. In support of this variation, the fill required for the driveway would be less than 1 metre if measured against the natural ground level and not the existing ground level as previous cut has been completed on site. Further, the non-compliant area of the driveway would be limited to a length of only 2.6 metres and would be required for vehicle safety.

House 2 would require minor cut and fill of less than 1 metre and would comply with the HDCP.

In summary, the development would require earthworks appropriate to the site constraints and similar to surrounding development. As both driveways would be located within the vicinity of adjacent properties, a condition of consent is recommended that retaining walls be constructed as part of the development and be designed by a qualified engineer.

Conditions of consent are also recommend that all landfill be certified from a suitable qualified environmental consultant confirming the fill wholly consists of Virgin Excavated Natural Material (VENM) as defined in Schedule 1 of the *Protection of the Environment Operations Act, 1997*.

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

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

2.9 Heritage

The site is located in the vicinity of heritage item No. 205 known as “*Seymour’s Creek Mangrove Wetland, (waterway)*” and is a local item listed under Schedule 5 of the *HLEP*. The item is a large mangrove area prominently situated by the main road. An important waterway associated with conservation of marine life and of scenic significance. As a consequence, the application requires assessment under Part 9.4 of the HDCP.

The subject site is a waterfront property, adjacent the Seymour’s Creek waterway and mangroves immediately to the north of the site. The proposed subdivision and housing do not propose to remove any mangroves adjacent the site. The landscape plan states that the garden area adjacent the waterway is to remain unaltered. As a consequence, no objections are raised on heritage grounds.

2.10 Section 94 Contributions Plans

Hornsby Shire Council Section 94 Contributions Plan 2014-2024 applies to the development as it would result in an additional lot. Accordingly, the requirement for a monetary Section 94 contribution is recommended 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 Natural Environment

3.1.1 Tree and Vegetation Preservation

Part 1B.6.1 Tree Preservation of the HDCP lists protected tree species indigenous to Hornsby Shire.

An Arborist Impact Assessment (AIA), prepared by Graham Brooks Arboricultural Tree Services was submitted with the application. The AIA notes that of the 26 trees assessed on the subject and adjacent sites 3 were identified as protected under Part 1B.6.1 of the HDCP. The report recommends the removal of 20 trees to facilitate the development. All recommended trees for removal are not protected under the HDCP and do not require consent from Council for their removal.

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.

Further, a condition is recommended requiring the submitted landscaping plan to be complied with including 28 Lillypilly trees and a total of 473 plants.

3.1.2 Stormwater Management

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

Stormwater concept plans, prepared by AB Consulting Engineers were submitted with the application. The plans propose rainwater from both dwellings be captured within rainwater tanks. Overflow from the rainwater tanks and the driveways is proposed to be directed into an easement for stormwater parallel to the western boundary of Lot 2 before entering the Hawkesbury River.

Council engineering assessment raises no objections to the stormwater proposal subject to conditions of consent requiring on-site detention systems be provided for Lot 2a limiting the flow rate during heavy rainfall periods.

Subject to conditions, the proposal is consistent with the desired outcomes of Part 1C.1.2 Stormwater Management of the HDCP.

3.2 Built Environment

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

3.3 Social Impacts

The proposal would provide a positive social outcome by providing additional housing choice in the locality. The proposal is consistent with Council's Housing Strategy which identifies the need to provide a mix of housing options to meet future demographic needs in Hornsby Shire.

3.4 Economic Impacts

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

4. SITE SUITABILITY

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

4.1 Flooding

A submission raises concerns about flooding of Lot 2 (House 1).

The rear of the site is identified by the CSIRO as having the potential to be inundated by sea level rise and is subject to assessment under Part 1C.3.2 of the HDCP. The desired outcomes of Part 1C.3.2 of the HDCP are to encourage “*development that is located and designed to minimise the risk to life, property and the environment from flooding*”.

In response to flooding concerns, no structures would be constructed within the area identified as having the potential to be inundated by sea level rise given the proposed 10 metre setback to the Hawkesbury River.

Further, Council's engineering assessment identifies that the ground floor habitable rooms of House 1 would be at RL 5.35 and would minimise risks to property in the 1 in 100 year ARI flood event.

In summary, Council raises no objections to the location or minimum floor level of the proposed dwelling houses. The proposal is consistent with the desired outcomes and prescriptive measures of Part 1C.2.1 Flooding of the HDCP and is considered acceptable.

4.2 Bushfire

The desired outcome of Part 1C.3.1 *Bushfire* in the HDCP is for development to be *“located and designed to minimise the risk to life and property from bushfires”*.

A Bushfire Assessment prepared by Bushfire Planning & Design was included in the application. The application was also referred to the NSW Rural Fire Service (RFS) for comment pursuant to Section 66 of the *Environmental Planning and Assessment Regulations 2000*.

Both the Bushfire Planning & Design report and RFS advice note that the development would have a maximum bushfire attack level (BAL) of BAL-19 and would require the implementation of an asset protection zone. As a consequence, appropriate bushfire conditions are included as General Terms of Approval in Schedule 1 of this report.

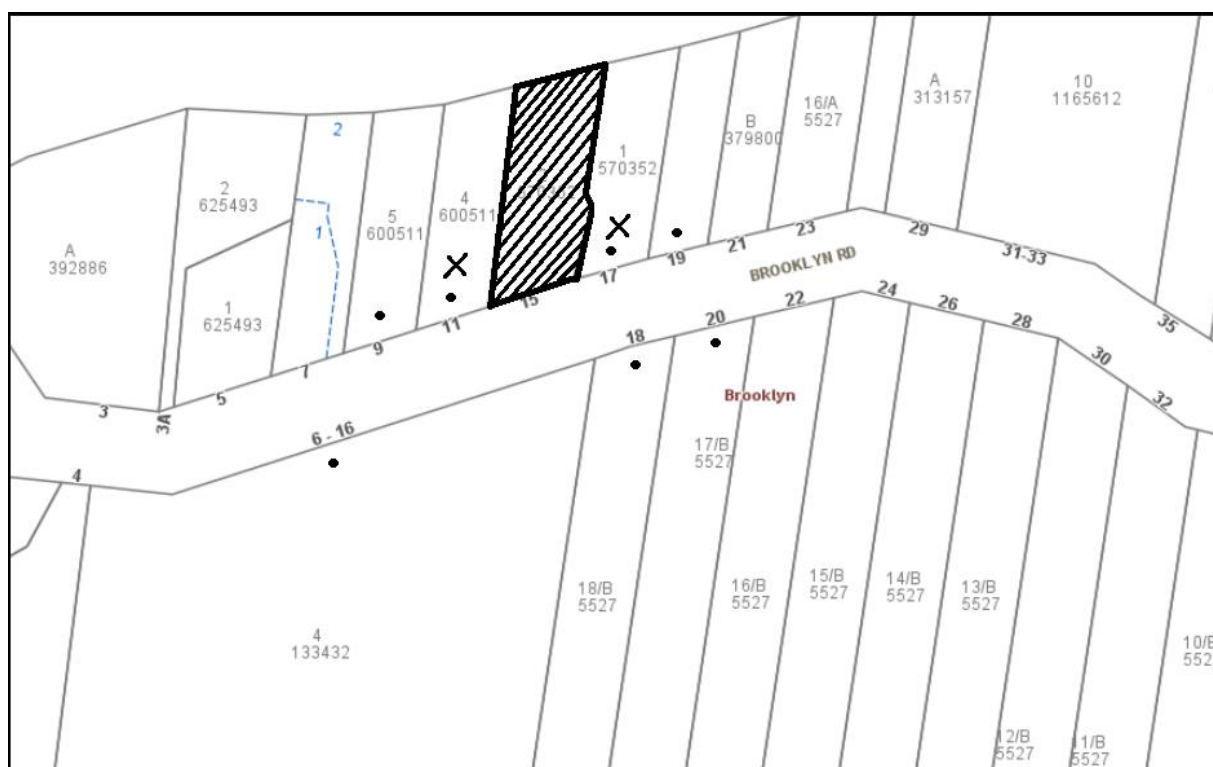
Subject to conditions, the proposal meets the desired outcomes of Part 1C.3.1 Bushfire of the HDCP and is considered acceptable.

5. PUBLIC PARTICIPATION

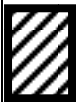

Section 79C(1)(d) of the Act requires Council to consider *“any submissions made in accordance with this Act”*.

5.1 Community Consultation

The proposed development was placed on public exhibition and was notified to adjoining and nearby landowners between 27 March 2017 and 29 April 2017 in accordance with the Notification and Exhibition requirements of the HDCP. During this period, Council received two submissions. The map below illustrates the location of those nearby landowners who made a submission.



NOTIFICATION PLAN

• PROPERTIES NOTIFIED	X SUBMISSIONS RECEIVED	 PROPERTY SUBJECT OF DEVELOPMENT	
-----------------------	------------------------	---	---

A total of 2 submissions objected to the development, generally on the grounds that the development would result in:

- Unacceptable overshadowing of adjoining properties;
- Narrow or “small” lots;
- Dwellings not in character with the surrounding area;
- Dwellings that are excessive in bulk and scale;
- Dwellings would result in non-compliant setbacks to the Hawkesbury River;
- Dwellings would result in unacceptable privacy impacts on adjoining properties to the east;
- Dwellings would result in view loss for the adjoining properties to the west;
- Dwellings would in overshadowing of the adjoining properties to the east;
- Flood risks;
- Unacceptable vehicle safety implications; and
- Increased on-street parking;

The merits of the matters raised in community submissions have been addressed in the body of the report.

5.2 Public Agencies

5.2.1 Rural Fire Service

Pursuant to Section 66 of the *Environmental Planning and Assessment Regulations 2000*, the proposal constitutes an integrated development and required approval under the *Rural Fires Act 1997*.

The application was forwarded to the NSW Rural Fire Service who raised no objections to the proposal subject to conditions of consent.

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 involves the demolition of an existing dwelling house and associated structures, subdivision of one allotment into two and the erection of two dwelling houses.

The development complies with the provisions of the *Hornsby Local Environmental Plan 2013* and generally achieves the desired outcomes within the Hornsby Development Control Plan 2013. The proposal is assessed as satisfactory having regard to the matters for consideration under Section 79C of the *Environmental Planning and Assessment Act 1979*.

Council received 2 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.

JAMES FARRINGTON
Group Manager
Planning Division

ROD PICKLES
Manager - Development Assessment
Planning Division

Attachments:

- 1.[View](#) Locality Plan
- 2.[View](#) Subdivision Plan
- 3.[View](#) Site Plan
- 4.[View](#) Floor Plans
- 5.[View](#) Elevations and sections
- 6.[View](#) Shadow Plans
- 7.[View](#) Driveway Plans
- 8.[View](#) Landscape Plan
- 9.[View](#) Tree Location Plan

File Reference: DA/224/2017

Document Number: D07332047

ITEM 8

SCHEDULE 1**CONDITIONS APPLICABLE TO STAGE 1 WORKS - DEMOLITION OF EXISTING STRUCTURES AND SUBDIVISION OF ONE LOT INTO TWO****GENERAL CONDITIONS**

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

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

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

1. Approved Plans and Supporting Documentation

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

Plan No.	Plan Title	Drawn by	Dated
2016 08 – DA00	Subdivision Plan	Sheralee Hogan	14/09/2016
17NL139 – C01-C05	Driveway Plans	Loka Consulting Engineers	04/2017
17NL139 – T01-T06	Swept Paths and Sight Distances	Loka Consulting Engineers	04/2017
161153 – D01-D03	Stormwater Concept Plans	Ab Consulting Engineers	06/12/2017

Document Title	Prepared by	Dated
Erosion & Sediment Control Plan – 161153 – D06-D07	AB Consulting Engineers	01/05/2017
Geotechnical Investigations J1066	White Geotechnical Group	23/11/2017
Bushfire Hazard Assessment	Bushfire Planning & Design	09/10/2016
Acid Sulfate Soils Management Strategy Plan	Site Specific Designs	19/10/2017

2. 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.

3. Removal of Trees

- a) This development consent permits the removal of trees numbered T1-3, T7-10, T13, T15 and T17-27 as identified in the Arboricultural Impact Assessment prepared by by Graham Brooks Arboricultural Services Pty Ltd dated 11 March 2017.
- b) The removal of any other trees from the site requires separate approval by Council in accordance with Part 1B.6 Tree and Vegetation Preservation of the Hornsby Development Control Plan 2013 (HDCP).

4. 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.

5. Section 94 Development Contributions

- a) In accordance with Section 80A(1) of the *Environmental Planning and Assessment Act, 1979* and the *Hornsby Shire Council Section 94 Development Contributions Plan 2014-2024*, the following monetary contributions must be paid to Council to cater for the increased demand for community infrastructure resulting from the development:

Description	Contribution (4)
Roads	\$1,902.45
Open Space and Recreation	\$13,041.80
Community Facilities	\$5,013.65
Plan Preparation and Administration	\$42.05
TOTAL	\$20,000

being for an additional allotment.

- b) The value of this contribution is current as at 13 November 2017. If the contribution is not paid within the financial quarter that this condition was generated, the contribution payable will be adjusted in accordance with the provisions of the Hornsby Shire Council Section 94 Development Contributions Plan and the amount payable will be calculated at the time of payment in the following manner:

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

Where:

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

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

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

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

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

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

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

REQUIREMENTS PRIOR TO THE ISSUE OF A CONSTRUCTION CERTIFICATE

6. Utility Services

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

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

7. Traffic Control Plan

A Traffic Control Plan (TCP) must be prepared by a qualified traffic controller in accordance with the Roads & Traffic Authority's Traffic Control at Worksites Manual 1998 and Australian Standard 1742.3 for all work on a public road. The Traffic Management Plan shall be submitted and approved by Council's Manager Traffic and Road Safety prior to the issue of a construction certificate. The TCP must detail the following:

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

- e) Traffic management plans; and
- f) Pedestrian and cyclist access/safety.

8. Stormwater Drainage – Dwellings

The stormwater drainage system for the development must be designed for an average recurrence interval (ARI) of 20 years and be gravity drained in accordance with the following requirements:

- a) The interallotment drainage system must be designed and constructed in accordance with Hornsby Council's Civil Works Specification.

9. Internal Driveway/Vehicular Areas

The driveway for lot 2 must be designed, constructed and a Construction Certificate issued in accordance with Australian Standards 2890.1, 3727 and the following requirements:

- a) Design levels at the front boundary be obtained from Council.
- b) The driveway be a rigid pavement.
- c) The driveway grade must not exceed 25 percent and changes in grade must not exceed 8 percent.
- d) The driveway pavement be a minimum 3 metres wide, 0.15 metres thick reinforced concrete with SL72 steel reinforcing fabric and a 0.15 metre sub-base.
- e) A 0.5 metre landscape verge must be provided on the eastern elevation.
- f) Retaining walls required to support the carriageway and the compaction of all fill batters to be in accordance with the requirements of a chartered structural engineer.
- g) The provision of safety rails where there is a level difference more than 0.3 metres and a 1:4 batter cannot be achieved.
- h) Conduit for utility services including electricity, water, gas and telephone be provided. All existing overhead assets including electricity and telecommunications cabling shall be relocated underground at no cost to Council. A certificate from an appropriately licensed contractor shall be submitted to the principal certifying authority certifying that the service conduits have been installed in accordance with the relevant utility provider and Australian Standards.
- i) A turning area to service the proposed subdivision in accordance with Australian Standards AS 2890.1 to ensure vehicles can enter and leave the site in a forward direction. A right of access shall be created over the turning area to ensure access is maintained at all times.
- j) Construction of pedestrian access designed to help prevent slip and fall shall be designed and constructed with the future access driveway. Pedestrian grades steeper than 12.5% shall be provided with surface texturing, brushing or cleats to satisfy Class V : R11 ramps in accordance with AS 4586-2004 Clause 5.2.
- k) 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. The longitudinal sections shall incorporate the design levels obtained by Council.

10. Kerb and Gutter

A new concrete kerb and gutter must be designed and constructed across the full frontage of the subject site in accordance Council's *Civil Works Design and Construction Specification 2005* and the following requirements:

- a) The existing road pavement to be sawcut a minimum of 500mm from the edge of the bitumen and reconstructed.
- b) Any public utility adjustments to be carried out at the cost of the applicant and to the requirements of the relevant public authority.

11. Vehicular Crossing

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

- a) Design levels at the front boundary must be obtained from Council for the design on the internal driveway;
- b) The footway area must be restored by turfing;
- c) Approval must be obtained from all relevant utility providers that all necessary conduits be provided and protected under the crossing.

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

12. Geotechnical Requirements

The development must be carried out in accordance with the recommendations listed in Section No. 11-18 of the geotechnical investigation prepared White Geotechnical Group, dated 23 November 2016. Details are to be provided to the Principal Certifying Authority with the application for a Construction Certificate.

REQUIREMENTS PRIOR TO THE COMMENCEMENT OF ANY WORKS INCLUDING DEMOLITION

13. Erection of Demolition/ 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. 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.

15. Toilet Facilities

- a) To provide a safe and hygienic workplace, toilet facilities must be available or be installed at the works site before works begin and must be maintained until the works are completed at a ratio of one toilet for every 20 persons employed at the site.
- b) Each toilet must:
 - i) be a standard flushing toilet connected to a public sewer; or
 - ii) be a temporary chemical closet approved under the *Local Government Act 1993*; or
 - iii) have an on-site effluent disposal system approved under the *Local Government Act 1993*.

16. 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.

17. Installation of Tree Protection

- a) All tree protection fencing for the trees to be retained must have the protection measures for the ground, trunk and canopy installed in accordance with the relevant requirements of Australian Standard AS 4970-2009 - *"Protection of Trees on Development Sites"*.
- b) All tree protection fencing for the trees to be retained must be erected around trees numbered 4, 5, 6, 11, 16 and 28 as specified in the submitted Arboricultural Impact Assessment provided by Graham Brooks Arboricultural Services Pty Ltd dated 11 March 2017.

18. Tree Protection Certification

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

REQUIREMENTS DURING DEMOLITION AND CONSTRUCTION**19. 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.

20. Demolition

To protect the surrounding environment, all demolition work must be carried out in accordance with “*Australian Standard 2601-2001 – The Demolition of Structures*” and the following requirements:

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

21. Environmental Management

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

22. 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.

23. 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.

24. Landfill

Landfill must be constructed in accordance with Council's '*Construction Specification 2005*' and all fill material imported to the site is to wholly consist of Virgin Excavated Natural Material (VENM) as defined in Schedule 1 of the *Protection of the Environment Operations Act, 1997* or a material approved under the *Department of Environment and Climate Change*'s general resource recovery exemption.

25. Excavated Material

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

26. Acid Sulfate Soils

Should acid sulfate soils be encountered during any works, the management strategies listed within the approved Acid Sulfate Soils Management Strategy Plan prepared by Site Specific Designs must be adhered to.

Note: Should acid sulfate soils be encountered during or before works, Council is to be notified immediately.

27. Works Near Trees

- a) To maintain tree health and condition, the appointed project arborist must monitor and record any and all necessary remedial actions required for trees numbered 4, 5, 6, 11, 16 and 28 on the approved plans.
- b) The maintenance and monitoring of all tree protection techniques must be recorded by the appointed project arborist during the period of construction for submission with the application for the occupation certificate.

28. Works within Tree Protection Zones

- a) All root pruning must be undertaken in accordance with the relevant requirements of *Australian Standard AS 4970-2009 "Protection of Trees on Development Sites"* - Sections 3.3.4, 4.5.4 and 4.5.5.
- b) Any and all necessary excavations within the Tree Protection Zone of trees to be retained numbered 4, 5, 6, 11, 16 and 28 on the approved plans, must be undertaken using construction techniques as prescribed in the Australian Standard AS 4970-2009 – "*Protection of Trees on Development Sites*" Section 4.5.5.
- c) The installation of any underground services which either enter or transect the designated TPZ of trees to be retained, numbered 4, 5, 6, 11, 16 and 28 must utilise sensitive methods such as directional drilling or manual excavation and the following requirements:
 - i) The installation of any underground services must be inspected by the project arborist to monitor the likely impacts of the development on retained trees.
 - ii) For manual excavation of trenches the project arborist must advise on roots to be retained and must monitor the works. Manual excavation may include the use of pneumatic and hydraulic tools.

29. Building materials and Site Waste

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

30. Works near trees certification

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

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

31. Retaining Walls

All required retaining walls must be constructed as part of the development as designed by a suitably qualified engineer.

REQUIREMENTS PRIOR TO THE ISSUE OF A SUBDIVISION CERTIFICATE**32. Sydney Water – s73 Certificate**

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

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

33. 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.

34. Creation of Easements

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

- a) An inter-allotment drainage easement(s) over each of the burdened lots;

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

35. Preservation of Survey Marks

A certificate by a Registered Surveyor must be submitted to the Principal Certifying Authority, certifying that there has been no removal, damage, destruction, displacement or defacing of

the existing survey marks in the vicinity of the proposed development or otherwise the re-establishment of damaged, removed or displaced survey marks has been undertaken in accordance with the Surveyor General's Direction No.11 – "Preservation of Survey Infrastructure".

36. 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.

37. Geotechnical Certification

A certificate from an appropriately qualified person must be submitted to the Principal Certifying Authority, certifying that the development was constructed in accordance with the recommendations listed in Section No. 11-18 of the geotechnical investigation prepared White Geotechnical Group, dated 23 November 2016. Details are to be provided to the Principal Certifying Authority with the application for a Subdivision Certificate.

GENERAL TERMS OF APPROVAL – NSW Rural Fire Service

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

38. Asset Protection Zones

At the commencement of building works, and in perpetuity, the entire property shall be managed as an Inner Protection Area (IPA) as outlined within section 4.1.3 and Appendix 5 of '*Planning for Bush Fire Protection 2006*' and the NSW Rural Fire Service's document '*Standards for asset protection zones*'.

39. Water and Utilities

Water, electricity and gas are to comply with the following requirements of section 4.1.3 of '*Planning for Bush Fire Protection 2006*'.

40. Design and Construction

- a) The Southern, Eastern and Western elevations and roof of the Southern dwelling shall comply with section 3 and section 6 (BAL 19) *Australian Standard AS3959-2009 'Construction of buildings in bush fire-prone area'* and section A3.7 Addendum Appendix 3 of '*Planning for Bush Fire Protection 2006*'.
- b) The Northern elevation of the Southern dwelling and the entirety of the Northern dwelling shall comply with Sections 3 and 5 (BAL 12.5) *Australian Standard AS3959-2009 'Construction of buildings in bush fire-prone areas'* and section A3.7 Addendum Appendix 3 of '*Planning for Bush Fire Protection 2006*'.

ADDITIONAL CONDITIONS APPLICABLE TO STAGE 2 WORKS – CONSTRUCTION OF DWELLINGS ON LOT 2 AND 2A

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.

41. Approved Plans and Supporting Documentation

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

Plan No.	Plan Title	Drawn by	Dated
2016 08 – DA01 Rev: D	Site and Roof Plan	Sheralee Hogan	20/10/2017
2016 08 – DA02-03 Rev: D	Floor Plans House 1	Sheralee Hogan	20/10/2017
2016 08 – DA04-05 Rev: D	Floor Plans House 2	Sheralee Hogan	20/10/2017
2016 08 – DA06 Rev: D	Sections	Sheralee Hogan	20/10/2017
2016 08 – DA07-08 Rev: D	Elevations House 1	Sheralee Hogan	20/10/2017
2016 08 – DA09-10 Rev: D	Elevations House 2	Sheralee Hogan	20/10/2017
2016 08 – DA12 Rev: D	Roof and Survey Plan	Sheralee Hogan	20/10/2017
L/01 & L/01'A'	Landscape Plans	Discount Landscape Plans	28/01/2017
17NL139 – C01-C05	Driveway Plans	Loka Consulting Engineers	04/2017
17NL139 – T01-T06	Swept Paths and Sight Distances	Loka Consulting Engineers	04/2017
161153 – D01-D03	Stormwater Concept Plans	Ab Consulting Engineers	06/12/2017

Document Title	Prepared by	Dated
Erosion & Sediment Control Plan – 161153 – D06-D07	AB Consulting Engineers	01/05/2017
Geotechnical Investigations	White Geotechnical Group	23/11/2017

J1066		
Exterior Colours and Finishes	Site Specific Designs	20/02/2017
Arboricultural Impact Assessment	Graham Brooks Arboricultural Tree Services	11/03/2017
BASIX Certificate No. 779968S_02	Chapman Environmental Services	03/04/2017
BASIX Certificate No. 780219S_02	Chapman Environmental Services	03/04/2017
Bushfire Hazard Assessment	Bushfire Planning & Design	09/10/2016

42. Amendment of Plans

- a) To comply with Councils requirement in terms of privacy, the approved plans numbered 2016 08 DA06 & D07, "*Sections & Elevations House 1*" are to be amended as follows:
 - i) A (1.7 to 2.2) metre high privacy screen must be erected along the eastern elevation of the first floor deck to minimise a direct line of sight to the adjacent property, known as No. 17 Brooklyn Road Brooklyn.
 - ii) The privacy screens must have no individual openings more than 30mm wide and have a total of all openings less than 30% of the surface area of the screen.
- b) To comply with Councils requirement in terms of privacy, the approved plans numbered 2016 08 DA06 & D08, "*Sections & Elevations House 2*" are to be amended as follows:
 - i) A (1.7 to 2.2) metre high privacy screen must be erected along the eastern elevation of the first floor deck to minimise a direct line of sight to the adjacent property, known as No. 17 Brooklyn Road Brooklyn.
 - ii) The privacy screens must have no individual openings more than 30mm wide and have a total of all openings less than 30% of the surface area of the screen.
- c) These amended plans must be submitted with the application for the Construction Certificate.

43. 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.

44. Construction Certificate

- e) 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.
- f) A separate Construction Certificate must be obtained from Council for all works within the public road reserve under S138 of the *Roads Act*.

- g) A separate Construction Certificate must be obtained from Council for all works within drainage easements vested in Council.
- h) The Construction Certificate plans must not be inconsistent with the Development Consent plans.

REQUIREMENTS PRIOR TO THE ISSUE OF A CONSTRUCTION CERTIFICATE
--

45. Subdivision

A Construction Certificate must not be issued until a registered plan of subdivision from the NSW Land and Property Information (LPI) creating the proposed lot has been submitted to the Principal Certifying Authority.

46. Building Code of Australia

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

47. 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.

48. 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.

49. Stormwater Drainage

The stormwater drainage system for the development must be designed for an average recurrence interval (ARI) of 20 years and be gravity drained in accordance with the following requirements:

- a) Rainwater from House 1 and two must be connected to the newly created inter-allotment drainage system.

50. On Site Stormwater Detention

An on-site stormwater detention system service proposed Lot 2a 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.

51. Internal Driveway/Vehicular Areas

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

- a) Design levels at the front boundary be obtained from Council.
- b) The driveway be a rigid pavement.
- c) The driveway grade must not exceed 25 percent and changes in grade must not exceed 8 percent per plan metre.
- d) 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. The longitudinal sections shall incorporate the design levels obtained by Council.

52. Geotechnical Requirements

The development must be carried out in accordance with the recommendations listed in Section No. 11-18 of the geotechnical investigation prepared White Geotechnical Group, dated 23 November 2016. Details are to be provided to the Principal Certifying Authority with the application for a Construction Certificate.

REQUIREMENTS PRIOR TO THE COMMENCEMENT OF ANY WORKS INCLUDING DEMOLITION

53. Erection of Demolition/ 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.

54. 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.

55. Toilet Facilities

- a) To provide a safe and hygienic workplace, toilet facilities must be available or be installed at the works site before works begin and must be maintained until the works are completed at a ratio of one toilet for every 20 persons employed at the site.
- b) Each toilet must:
 - i) be a standard flushing toilet connected to a public sewer; or
 - ii) be a temporary chemical closet approved under the *Local Government Act 1993*; or
 - iii) have an on-site effluent disposal system approved under the *Local Government Act 1993*.

56. 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.

57. Installation of Tree Protection

- a) All tree protection fencing for the trees to be retained must have the protection measures for the ground, trunk and canopy installed in accordance with the relevant requirements of Australian Standard AS 4970-2009 - "*Protection of Trees on Development Sites*".
- b) All tree protection fencing for the trees to be retained must be erected around trees numbered 4, 5, 6, 11, 16 and 28 as specified in the submitted Arboricultural Impact Assessment provided by Graham Brooks Arboricultural Services Pty Ltd dated 11 March 2017.

58. Tree Protection Certification

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

REQUIREMENTS DURING DEMOLITION AND CONSTRUCTION**59. 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.

60. Environmental Management

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

61. 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.

62. 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.

63. Landfill

Landfill must be constructed in accordance with Council's '*Construction Specification 2005*' and all fill material imported to the site is to wholly consist of Virgin Excavated Natural Material (VENM) as defined in Schedule 1 of the *Protection of the Environment Operations Act, 1997* or a material approved under the *Department of Environment and Climate Change's* general resource recovery exemption.

64. Excavated Material

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

65. Acid Sulfate Soils

Should acid sulfate soils be encountered during any works, the management strategies listed within the approved Acid Sulfate Soils Management Strategy Plan prepared by Site Specific Designs must be adhered to.

Note: Should acid sulfate soils be encountered during or before works, Council is to be notified immediately.

66. Works Near Trees

- a) To maintain tree health and condition, the appointed project arborist must monitor and record any and all necessary remedial actions required for trees numbered 4, 5, 6, 11, 16 and 28 on the approved plans.
- b) The maintenance and monitoring of all tree protection techniques must be recorded by the appointed project arborist during the period of construction for submission with the application for the occupation certificate.

67. Works within Tree Protection Zones

- a) All root pruning must be undertaken in accordance with the relevant requirements of *Australian Standard AS 4970-2009 "Protection of Trees on Development Sites"* - Sections 3.3.4, 4.5.4 and 4.5.5.
- b) Any and all necessary excavations within the Tree Protection Zone of trees to be retained numbered 4, 5, 6, 11, 16 and 28 on the approved plans, must be undertaken using construction techniques as prescribed in the Australian Standard AS 4970-2009 – "*Protection of Trees on Development Sites*" Section 4.5.5.
- c) The installation of any underground services which either enter or transect the designated TPZ of trees to be retained, numbered 4, 5, 6, 11, 16 and 28 must utilise sensitive methods such as directional drilling or manual excavation and the following requirements:
 - i) The installation of any underground services must be inspected by the project arborist to monitor the likely impacts of the development on retained trees.
 - ii) For manual excavation of trenches the project arborist must advise on roots to be retained and must monitor the works. Manual excavation may include the use of pneumatic and hydraulic tools.

68. Building materials and Site Waste

The filling or stockpiling of building materials, the parking of vehicles or plant, the disposal of cement slurry, waste water or other contaminants must be located outside the tree protection zones as prescribed in the conditions of this consent or the prescriptive measures of Part

1B.6.1 Tree Preservation of the Hornsby Development Control Plan, 2013, of any tree to be retained.

69. Works near trees certification

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

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

70. Retaining Walls

All required retaining walls must be constructed as part of the development as designed by a suitably qualified engineer.

71. 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.

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.

72. Fulfilment of BASIX Commitments

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

73. Damage to Council Assets

Any damage caused to Council's assets including the removal, damage, destruction, displacement or defacing of the existing survey marks as a result of the construction of the development must be rectified in accordance with Council's Civil Works Specifications. Council's Restorations Supervision must be notified for a formwork inspection prior to pouring concrete.

74. Balustrade

A balustrade must be installed on the rooftop terrace of House 1 in accordance with the relevant requirements of the *Building Code of Australia*. The balustrade must be installed surrounding the marked floor area on the approved floor plans "2016 08 DA04".

75. Wastewater Connection to Sydney Water

All wastewater generated by the dwelling must be connected to Sydney Water's sewerage system.

76. Completion of Landscaping

A certificate must be submitted to the PCA by a practicing landscape architect, horticulturalist or person with similar qualifications and experience certifying that all required landscaping works required by the Landscape Plan approved by Condition No. 1 have been satisfactorily completed.

77. 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.

78. Geotechnical Certification

A certificate from an appropriately qualified person must be submitted to the Principal Certifying Authority, certifying that the development was constructed in accordance with the recommendations listed in Section No. 11-18 of the geotechnical investigation prepared White Geotechnical Group, dated 23 November 2016. Details are to be provided to the Principal Certifying Authority with the application for an Occupation Certificate.

79. 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.

80. Works as Executed Plan

A works-as-executed plan(s) must be prepared by a registered surveyor and submitted to Council for 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.

GENERAL TERMS OF APPROVAL – NSW Rural Fire Service

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

81. Asset Protection Zones

At the commencement of building works, and in perpetuity, the entire property shall be managed as an Inner Protection Area (IPA) as outlined within section 4.1.3 and Appendix 5 of '*Planning for Bush Fire Protection 2006*' and the NSW Rural Fire Service's document '*Standards for asset protection zones*'.

82. Water and Utilities

Water, electricity and gas are to comply with the following requirements of section 4.1.3 of '*Planning for Bush Fire Protection 2006*'.

83. Design and Construction

- a) The Southern, Eastern and Western elevations and roof of the Southern dwelling shall comply with section 3 and section 6 (BAL 19) *Australian Standard AS3959-2009 'Construction of buildings in bush fire-prone area'* and section A3.7 Addendum Appendix 3 of '*Planning for Bush Fire Protection*' 2006'.
- b) The Northern elevation of the Southern dwelling and the entirety of the Northern dwelling shall comply with Sections 3 and 5 (BAL 12.5) *Australian Standard AS3959-2009 'Construction of buildings in bush fire-prone areas'* and section A3.7 Addendum Appendix 3 of '*Planning for Bush Fire Protection 2006*'.

- END OF CONDITIONS -

ADVISORY NOTES

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

Environmental Planning and Assessment Act 1979 Requirements

The Environmental Planning and Assessment Act 1979 requires:

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

Long Service Levy

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

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

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

Tree and Vegetation Preservation

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

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

www.nsw.gov.au/fibro

www.adfa.org.au

www.workcover.nsw.gov.au

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

Subdivision Certificate Requirements

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

- A surveyor's certificate certifying that all structures within the subject land comply with the development consent in regard to the setbacks from the new boundaries.

- A surveyor's certificate certifying that all services, drainage lines or access are located wholly within the property boundaries. Where services encroach over the new boundaries, easements are to be created.
- Certification that the requirements of relevant utility authorities have been met.
- A surveyor's certificate certifying finished ground levels are in accordance with the approved plans.

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

Fees and Charges – Subdivision

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

House Numbering

The house numbering for this subdivision shall be:

Lot	Street Number	Street Name	Street Type	Locality
2	15a	Brooklyn	Road	Brooklyn
2a	15	Brooklyn	Road	Brooklyn

9 DEVELOPMENT APPLICATION - RESIDENTIAL FLAT BUILDINGS CONTAINING 30 UNITS - 29 - 31A BALMORAL STREET AND 5 PARK LANE, WAITARA

EXECUTIVE SUMMARY

DA No:	DA/1549/2016 (Lodged on 21 December 2016)
Description:	Demolition of existing structures and erection of two x 4-5 storey residential flat buildings comprising 30 units with a basement car park
Property:	Lot 211 and Lot 212 DP 868605, Lot 202 DP 1097256, Nos. 29-31A Balmoral Street and No. 5 Park Lane, Waitara
Applicant:	Mackenzie Architects International
Owner:	Mr Yuchen Yang, Ms Mi Ran Park, Mr Farsad Safie-Zadeh, Mrs Noushin Kebriti
Estimated Value:	\$8,489,479
Ward:	B

- The proposal is unsatisfactory with respect to the *Hornsby Shire Local Environmental Plan 2013*, *State Environmental Planning Policy No. 65 – Design Quality of Residential Apartment Development*, *Apartment Design Guide* and *Hornsby Development Control Plan 2013*.
- Eight submissions have been received on behalf of three property owners 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 refused.

RECOMMENDATION

THAT Development Application No. DA/1549/2016 for demolition of existing structures and the erection of two x 4-5 storey residential flat buildings comprising 30 units at Lot 211 and Lot 212 DP 868605, Lot 202 DP 1097256, Nos. 29-31A Balmoral Street and No. 5 Park Lane, Waitara be refused for the reasons detailed in Schedule 1 of Group Manager's Report No. PL63/17.

BACKGROUND

The subject land was rezoned from Residential A (Low Density) to R4 (High Density Residential) on 2 September 2011, as part of Council's Housing Strategy.

On 21 December 2016, DA/1549/2016 for the erection of two x 4-5 storey residential flat buildings and a basement car park was lodged with Council. The original proposal was for 31 units with vehicular access to a basement car park from Park Lane.

On 11 April 2017, a meeting was held between the applicant and Council officers to discuss concerns regarding the development site and non-compliance with the minimum 30m site frontage requirement of the Hornsby DCP. Evidence of offers to purchase an adjoining site, No. 31 Balmoral Street was included in the application, however there was no formal evidence of offers to purchase No. 33 and No. 33A which also adjoin the subject site.

Council recommended a further offer be made to purchase No. 31, 33 and 33A Balmoral Street, with the intent of amalgamating all six lots to achieve a site of appropriate size and dimensions for redevelopment. Other matters raised at the meeting related to concerns regarding the built form of the proposed development, inadequate setbacks, landscaping, waste collection and issues regarding vehicular access to the basement from Park Lane.

Following the meeting, Council engaged an independent valuer to prepare a valuation of No. 31, 33 and 33A Balmoral Street, as well as to review the valuation report provided as part of the application. The independent valuation report, received by Council on 5 May 2017, indicated value ranges for each of the adjoining properties and confirmed that the offer made by the applicant to purchase No. 31 Balmoral Street was below market value.

On 23 June 2017, the applicant supplied evidence of further offers to purchase No. 31, 33, 33A Balmoral Street. The offers made were within the value ranges provided by Council's appointed valuer. The owners of No. 33 and 33A Balmoral accepted the offer of purchase, however the owner of No. 31 declined.

The owner of No. 31 subsequently provided a new valuation report to Council, indicating that the value of No. 31 was higher than the offer made to purchase the property. The valuation report was subsequently referred to the Council appointed valuer for review. The valuation advice to Council dated 8 August 2017, concluded that the valuations previously provided were based on a fair market value and therefore, the offers made by the applicant to purchase adjoining properties were appropriate.

In correspondence to the applicant dated 15 August 2017, Council advised that the offers made to purchase the adjoining lots were considered acceptable, however concerns were maintained regarding developing the site in isolation and non-compliance with development controls, relating to setbacks, landscaping, top floor setback, vehicular access and parking, waste, privacy, building separation and apartment layout. Council recommended withdrawing the application unless these issues could be resolved.

Subsequent discussions were held with the applicant regarding the possibility of including No. 33 and 33A in a development site given the owners had accepted the offer of purchase. The applicant raised concern that this arrangement would result in a 'U' shaped site which may not achieve a better development outcome.

On 14 September 2017, amended plans were submitted which included a reduction in the number of units from 31 to 30 units. The amended proposal involved the provision of vehicular access and waste collection from Balmoral Street.

Following Council's assessment of the amended plans, a meeting was held with the applicant on 31 October 2017 to discuss concerns, including the driveway dominating the Balmoral Street frontage, inadequate deep soil zones for landscaping, inadequate rear boundary setbacks, inadequate setbacks from Park Lane, non-compliance with building separation and internal design issues. Council advised that the proposal is an overdevelopment of the site and could not be supported.

On 9 November 2017, the applicant submitted amended plans including changes to setbacks from Park Lane, amendments to the location of balconies to improve privacy, increase in balcony depths, changes to apartment layouts and changes to the design to achieve greater separation from adjoining properties. A mezzanine floor proposed within Building B near the Balmoral Street frontage was also deleted. The amended application is the subject of this report.

THE SITE

The site is irregular in shape and is located on the western side of Balmoral Street at the corner of Park Lane. The site comprises three allotments known as Nos. 29, 31A Balmoral Street and No. 5 Park Lane Waitara. Each lot accommodates an existing detached dwelling house.

The site has a frontage of 18.29m to Balmoral Street (along the frontage of No. 29 Balmoral St), plus a 4m frontage where an existing access handle is located (serving No. 31A Balmoral St). The site has a secondary frontage of 37.13m to Park Lane and a total area of 1,897m².

The site has an average gradient of 2.7% from the rear, western property boundary to Balmoral Street. The site contains a mix of exotic and locally native species.

The site is located within the Balmoral Street Waitara Precinct zoned for 5 storey residential flat buildings. The site adjoins No. 31, 33 and 33A Balmoral Street which each contain a dwelling-house and forms part of the redevelopment precinct. To the north of these properties at No. 35-39 Balmoral Street, is a 5 storey residential flat development approved under DA1062/2013, containing 90 units. The western adjoining property, No. 16-20 Park Avenue, contains 4 x 5 storey residential flat buildings approved under DA/1001/2013, containing 91 units.

The southern side of Park Lane contains land that forms part of the redevelopment precinct. The property directly opposite the site on Park Lane has not been developed. Opposite the site, on the eastern side of Balmoral Street comprises, low density residential development comprising one and two storey dwellings.

The site is located approximately 350m from Waitara Railway Station. The site is not bushfire prone or flood prone land. The site is not located within a heritage conservation area and does not adjoin a heritage item.

PROPOSAL

The application proposes demolition of existing structures, lot consolidation and construction of 2 x 4-5 storey residential flat buildings with a basement car park.

The residential flat building would comprise 30 units with two levels of basement car parking. The development comprises two distinct buildings (A and B) with each building provided with a separate core consisting of a lift and stairwell. Building A is located to the rear of the site and comprises 22

units. Building B is a smaller and narrow building located near the Balmoral Street frontage and contains 8 units, with two units being provided on each level.

The unit mix comprises 8 x 1 bedroom units, 20 x 2 bedroom units and 2 x 3 bedroom units. A total of 35 car parking spaces are proposed in two basement levels. Vehicular access is proposed via a vehicular crossing and driveway from Balmoral Street, with a graded ramp providing access to the basement levels. Central lifts provide internal access from the basement car park to each building. A pedestrian entry path to each building is provided from Park lane.

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 92,000 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 27 additional dwellings and would contribute to housing choice in the locality.

2. STATUTORY CONTROLS

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

2.1 Hornsby Local Environmental Plan 2013

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

2.1.1 Zoning of Land and Permissibility

The subject land is zoned R4 (High Density Residential) under the *Hornsby Local Environmental Plan 2013 (HLEP)*. The objectives of the zone are:

- (a) *To provide for the housing needs of the community within a high density residential environment.*
- (b) *To promote a variety of housing types within a high density residential environment.*
- (c) *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 residential flat building and is permissible in the zone with Council's consent. The proposed development complies with the objective of the R4 zone.

2.1.2 Height of Buildings

Clause 4.3 of the *HLEP* provides that the height of a building on any land should not exceed the maximum height shown for the land on the Height of Buildings Map. The maximum permissible height for the subject site is 17.5 metres. The proposal complies with this provision.

2.1.3 Heritage Conservation

Clause 5.10 of the *HLEP* sets out heritage conservation provisions for Hornsby Shire. The site does not include a heritage item and is not located in a heritage conservation area. Accordingly, no further assessment regarding heritage is necessary.

2.1.4 Earthworks

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

Council's assessment of the proposed earthworks and excavation concludes that the proposal is satisfactory subject to conditions regarding submission of a dilapidation report assessing the impact of the excavation on the adjoining properties. Should the application be approved, a condition should require that excavated material removed from the site must be classified by a suitably qualified person in accordance with the Department of Environment, Climate Change and Water NSW *Waste Classification Guidelines* prior to disposal to an approved waste management facility. A further condition should require certification be obtained from a suitable qualified environmental consultant confirming all fill imported to the site consists of Virgin Excavated Natural Material (VENM).

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

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

A search of Council's records and aerial images reveals that the property has been used exclusively for residential purposes with no record of site contamination. Given this, the site would be suitable for the proposed use and no further assessment in relation to *SEPP 55* is required.

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

The application has been assessed against the requirements of *State Environmental Planning Policy (Building Sustainability Index – BASIX) 2004*. A BASIX Certificate was provided at the lodgement of the application for the original design. The amended plans involve the reconfiguration of units and an amended BASIX Certificate would be required to address the amended proposal.

2.4 State Environmental Planning Policy (Infrastructure) 2007

The application has been assessed against the requirements of *State Environmental Planning Policy (Infrastructure) 2007*. This Policy contains State-wide planning controls for developments adjoining busy roads.

The site does not have frontage to a classified road and is not located adjacent to a rail corridor. The proposal is not classified as a Traffic Generating Development in accordance with Clause 104 and Schedule 3 of the *SEPP*, as the proposal does not exceed 75 dwellings and the site is not within 90 metres of a classified road. As a result, the application is not required to be referred to the Roads and Maritime Services for consideration. The proposal is acceptable with respect to *SEPP Infrastructure*.

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

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

Subject to the implementation of sediment and erosion control measures and stormwater management to protect water quality, the proposal would comply with the requirements of the Policy.

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

The Policy provides for design principles to improve the design quality of residential flat development and for consistency in planning controls across the State.

A 'Design Verification Statement' prepared by a qualified Architect was not submitted in accordance with the requirements of *SEPP 65*. The design principles of *SEPP 65* are addressed in the following table.

Principle	Compliance
1. CONTEXT	No
<p>Comment: The site is located within the Balmoral Street Waitara precinct planned for five storey residential flat buildings in close proximity to Waitara Railway Station.</p> <p>The desired future character of the area, as outlined in the <i>Hornsby Development Control Plan 2013</i>, is that of a locality characterised by residential flat buildings of 5 storeys in height in landscape settings with basement car parking. The minimum frontage requirement for sites accommodating such developments should be 30 metres. The subject site does not comply with this requirement.</p> <p>Further, the proposal does not reflect the desired urban form outlined in the <i>HDGP</i>. The proposed driveway in the front setback would result in minimal landscaping opportunities and as a result, the development would not appropriately address the Balmoral Street frontage. The overall built form would not contribute positively to the identity and future character of the precinct.</p>	
2. SCALE	No
<p>Comment: The height of the development is in accordance with the required building height for the precinct. However, the architectural composition does not achieve the desired built form as a result of the irregular shape of the site and the narrow side width at the Balmoral Street frontage. The proposal does not comply with the minimum 30m site frontage requirements and does not satisfy minimum</p>	

setbacks, building separation and landscaping. The fifth floor of the building is not appropriately recessed in accordance with the setback requirements of the HDCP. This non-compliance would result in additional bulk and scale at the top floor which is not acceptable. The built form and scale of the development is considered inappropriate for the site and inconsistent with the desired future character of the precinct.

3. BUILT FORM

No

Comment: The proposed building does not achieve an appropriate built form for the site and its purpose. The fifth floor and mezzanine level of the Building A is not adequately recessed in accordance with the HDCP and would result in excessive bulk in the built form. The narrow frontage results in a narrow building presenting to Balmoral Street with a driveway dominating the street frontage and compromises landscaped areas. The built form would not appropriately contribute to the character of the desired future streetscape.

4. DENSITY

No

Comment: The *HLEP* does not incorporate any floor space ratio or site coverage development standards for the precinct. The bulk, scale and density of a five storey residential flat building are regularised by the 'Setbacks' and the 'building envelope' related planning controls in the HDCP. It is essential that the proposed development complies with the above development controls to achieve an appropriate development outcome on the site and avoid over development.

The proposal does not satisfy the requirements for setbacks from the rear boundary. Deep soil areas required under the *HDCP* are compromised by building encroachments. Given that the proposal does not comply with the setback requirements and includes insufficient landscaped areas, the proposed density would not be appropriate for the site or the precinct and is unacceptable with respect to the 'Density' Principal.

5. RESOURCE, ENERGY AND WATER EFFICIENCY

No

Comment: A BASIX Certificate was submitted at the lodgement of the original application. An amended BASIX Certificate was not provided which relates to the amended design in the most recently lodged plans. A BASIX Certificate would be required to demonstrate BASIX targets can be achieved for sustainable water use, thermal comfort and energy efficiency.

6. LANDSCAPE

No

Comment: The driveway within the Balmoral Street frontage would significantly compromise the areas available for landscaping in the front setback. The proposal does not provide for an adequate deep soil verge along the rear boundary as prescribed by the *HDCP*. Due to the compromised landscaped areas, the application does not demonstrate that the future residential flat building would be sited within an integrated landscaped setting.

7. AMENITY

No

Comment: The majority of units are designed with appropriate room dimensions and layout to maximise amenity for future residents. However, some of the units exceed the maximum depth of

habitable rooms prescribed by the Apartment Design Guide, which impacts on the amenity of living areas by compromising cross ventilation and daylight access. This non-compliance together with compromised building setbacks, building separation and insufficient landscaping would not achieve a development outcome with reasonable amenity for future occupants.

8. SAFETY AND SECURITY

Yes

Comment: The proposal includes a report assessing the development against the *Crime Prevention Through Environmental Design Principles (CPTED)* principles. The report concludes that the development would provide a safe environment for the future occupants.

The design orientates the balconies and windows of individual apartments towards the street, rear and side boundaries, providing passive surveillance of the public domain and communal open space areas. Both the pedestrian and vehicular entry points are secured and visibly prominent from Park Lane and Balmoral Street.

9. SOCIAL DIMENSIONS AND HOUSING AFFORDABILITY

No

Comment: A residential flat building on the site would be suitable in that it would have good access to services and facilities. However, the proposal does not provide for principle communal open space area to provide opportunities for social interaction amongst residents. Further, the proposal does not satisfy housing mix requirements under the *HDCP* for 1, 2 and 3 bedroom units, adaptable housing or universal design.

10. AESTHETICS

No

Comment: The most recent submitted plans appear to include a green wall on the southern elevation, however a detailed schedule of finishes is required to clearly demonstrate the materials and finishes proposed for the development. The narrow frontage results in a narrow building presenting to Balmoral Street with a driveway dominating the street frontage and compromises landscaped areas. For this reason, the proposal does not provide for a built form that has good proportions or responds to the desired future context of the precinct.

2.7 State Environmental Planning Policy No. 65 – Apartment Design Guide

SEPP 65 also requires consideration of the *Apartment Design Guide (ADG)*. The *ADG* includes development controls and best practice benchmarks for achieving the design principles of *SEPP 65*. The following table sets out the proposal's compliance with the *ADG*:

Apartment Design Guide			
Control	Proposal	Requirement	Compliance
Building Separation Up to 4 storeys 5 th storey and above	6m	6m habitable rooms	Yes
	4m	3m non-habitable	Yes
	6.8m	9m habitable rooms	No

	9m	4.5m non habitable	Yes
Deep Soil Zone	22% Min Dimension 4-6m	7% Min Dimension 6m	Yes No
Communal Open Space	25% No principal area indicated	25% 50% min. direct sunlight to principal part for 2hrs	Yes No
Minimum Dwelling Size	1 br – 50m ² -53m ² 2 br – 70m ² -75m ² 3 br – 95m ² -101m ² + 5m ² for additional bathrooms	1 br – 50m ² 2 br – 70m ² 3 br – 90m ² + 5m ² for additional bathrooms	Yes Yes Yes Yes
Maximum Habitable Room Depth	8.5-9m (units 6,11,13,18, 20, 25 >8m)	8m	No
Living Room Width	3.6m 4m	3.6m for 1 br 4m for 2/3 br	Yes Yes
Bedroom Size Master bedroom Bedroom Minimum depth	9-10m ² 9m ² 3m	10m ² 9m ² 3m	No Yes Yes
Minimum Ceiling Height	2.7m 3m	2.7m – ceiling height 3.1m – floor to floor	Yes No
Solar Access	2 hours for 70% of units	2 hours for 70% of units	Yes
Total Storage Area	1 bed - 6m ³ (Min) 2 bed - 8m ³ (Min) 3 bed - 10m ³ (Min) 50% accessible from the apartments	1 bed - 6m ³ (Min) 2 bed - 8m ³ (Min) 3 bed - 10m ³ (Min) 50% accessible from the apartments	Yes Yes Yes Yes
Dual Aspect and Cross Ventilation	86%(26/30)	60%	Yes

As detailed in the above table, the proposed development does not satisfy some of the prescriptive measures within the ADG. Below is a brief discussion regarding the relevant development controls and best practice guidelines.

2.7.1 Building Separation and Visual Privacy

The minimum building separation required under the ADG for up to four levels is:

- 12m between habitable rooms and balconies
- 9m between habitable and non-habitable rooms
- 6m between non-habitable rooms.

The building separation is required to be shared equitably between sites. The habitable rooms and balconies of the proposal are setback 6m from boundaries and would satisfy 50% of the building separation as required under the ADG. The balcony of unit Nos. 10, 17 and 24 would be setback 4m from the northern boundary adjoining No. 31, however diagrams supplied by the applicant show that a 12m building separation would be achieved due to the required setbacks.

On the fifth floor and above, the minimum building separation required under the ADG is:

- 18m between habitable rooms and balconies
- 12m between habitable and non-habitable rooms
- 9m between non-habitable rooms.

The proposal does not achieve the minimum required building separation distance on the fifth floor where balconies on the western elevation are setback 6.8m from the western boundary, instead of the 9m required by the ADG. This does not achieve the required separation between the building and the adjoining residential flat development to achieve reasonable privacy between buildings. In this respect, the proposal does not satisfy objective 3F-1 of the ADG.

2.7.2 Deep Soil Zones

The ADG Prescribes that deep soil planting represents a minimum of 7% of the site area and has a minimum dimension of 6m to facilitate tree growth.

The proposal provides for a 4m wide deep soil verge along the southern boundary adjoining Park Lane, a 4m deep soil verge along the rear boundary and a 2m- 4m deep soil verge along the northern boundary. A 6m wide deep soil zone is available in the front setback from Balmoral Street adjacent to the driveway, however this portion does not represent 7% of the site area.

The proposal does not achieve adequate deep soil areas to support tree growth and enhance residential amenity. In this respect, the proposal does not satisfy objective 3A-1 of the ADG.

2.7.3 Communal and Public Open Space

The ADG prescribes that 25% of the site is available for communal open space. The proposal complies with this provision as communal open space around the buildings represents 25% of the total site area.

The ADG further prescribes that developments are to achieve a minimum of 50% of direct sunlight to the principal useable part of the communal open space for a minimum of two hours between 9am and 3pm on June 22nd. The plans do not indicate a principal useable part of the communal open space available for use by residents. In this regard, the communal open space would not enhance residential amenity for future occupants and does not satisfy the objectives of 3D-1 of the ADG.

2.7.4 Apartment Size and Layout

The following design concerns are raised with respect to apartment size and layout.

Apartment Size

All units comply with the minimum floor area required for 1, 2 and 3 bedroom units. However, concern is raised with respect to the entry hallway areas for units 6, 13 and 20, which reduce the usable area of the apartments by 3m². If this area was deducted from the unit floor area, these units would be below permitted unit areas prescribed by the ADG.

Habitable Room Depth

Units with open plan layouts (where the living, dining and kitchen are combined) are required to have a maximum habitable room depth of 8m under the ADG. The purpose of this measure is to enhance the amenity of units by influencing the quality of natural ventilation and daylight access.

All of the proposed units include open plan layouts and are required to comply with this requirement. The proposal includes 6 units (unit No. 6, 11, 13, 18, 20 and 25) which do not comply as the habitable room depth exceeds 8m.

Bedroom Dimensions

Master bedrooms are required to have a minimum area of 10m² and other bedrooms 9m² (excluding wardrobe space), with a minimum dimension of 3m. The master bedroom for unit No. 3 has an area of 9m² and does not meet this requirement.

The non-compliances with the ADG are not supported. The above mentioned matters could be resolved through a reduction in the number of apartments and design changes.

2.7.5 Ceiling Heights

In accordance with the ADG, ceilings heights are required at a minimum 2.7m height to achieve good daylight access and natural ventilation to residential apartments. In accordance with figure 4C.5 of the ADG, the floor to floor height should be 3.1m, to facilitate the required 2.7m ceiling height.

Although the plans indicate a 2.7m ceiling height, the plans show the floor to floor height of 3m is proposed instead of the required 3.1m. The proposal however satisfies the HDCP which requires a 3m floor to floor ceiling height.

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

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

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

2.9 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:

Hornsby Development Control Plan 2013			
Control	Proposal	Requirement	Compliance
Site Width	18.29m	30m	No
Height	5 storeys– 17.4m	5 storeys – 17.5m	Yes
Lowest Residential Floor Above Ground	1m	1m	Yes
Maximum Dimension Floorplate Building A Building B	26m (N/S) 22m (E/W) 10m (N/S) 20m (E/W)	35m	Yes
Building Indentation	None	4m x 4m	No
Height of Basement Above Ground	1m	1m (max)	Yes
Front Setback	10m 8m (for 3.3m) < 1/3 frontage 7m (balconies)	10m 8m (for 3.3m) < 1/3 frontage 7m (balconies)	Yes Yes Yes
Secondary Frontage – Park Lane	6m 4m for 1/3 of building width	6m for entire building width. 6m (balconies)	No
Side Setback – North & East	6m 4m for 14m length	6m 4m for 1/3 frontage	Yes Yes
5th Storey Setback from Ground Floor where mezzanine proposed	0-3m	6m	No

Underground Parking Setback	7m-front 4m-rear 4m-side (south) 4m-side (north and east)	7m-front 7m-rear 4m-side 4m-side	Yes No Yes Yes
Basement Ramp Setback	2m	2m	Yes
Deep Soil Landscaped Areas	7m-front 4m-rear 4m-side (south) 4m-side (north and east)	7m-front 7m – rear 4m –side 4m-side	Yes No Yes Yes
Private Open Space	1 br – 8m ² 2 br – 10m ² 3 br – 12m ²	1 br – 8m ² 2 br – 10m ² 3 br – 12m ²	Yes Yes Yes
Minimum Balcony Depth	2m 2.4m	2m – 1/2 bedroom 2.4m – 3 bedroom	Yes Yes
Ground Level Private Open Space	15m ² Min Dimension 3m	15m ² Min Dimension 3m	Yes Yes
Communal Open Space with Minimum Dimensions 4m	Not provided	50m ² 25%	No
Parking	30 resident spaces 5 visitor spaces 6 bicycle racks 3 visitor bicycle racks 1 motorbike space	30 resident 4 visitor 6 bicycle racks 3 visitor bicycle Motorbike space	Yes Yes Yes Yes Yes
Solar Access	70% of units achieve 2hrs	70% of units achieve 2hrs	Yes
Housing Choice	1 bed –26.7%(8/30) 2 bed – 66.6%(20/30) 3 bed –6.7% (2/30)	Minimum 10% Minimum 10% Minimum 10%	Yes Yes No
Adaptable Housing Universal Housing	6% (2/30) Not indicated	10% 20%	No No

As detailed in the above table, the proposed development does not comply with a number of prescriptive requirements within the *HDCP*. The matters of non-compliance are detailed below, as well as a brief discussion on compliance with relevant desired outcomes.

2.9.1 Desired Future Character

The site is included in the Balmoral Street, Waitara redevelopment precinct. The *HDCP* states that a development should demonstrate compatibility with the 'Desired Future Character Statement' which includes the following:

'The locality is characterised by 5 storey residential flat buildings in landscaped settings with underground car parking. Development footprints maintain landscape corridors around and through the development sites.'

The front setback would be dominated by the driveway when viewed from Balmoral Street. Due to lack of frontage and non-compliance with site width requirements, deep soil areas would be limited and a landscaped setting would not be achievable.

The deep soil zone areas along the rear boundary are compromised due to the building encroachment. A landscape corridor would not be achieved along the rear boundary. This would be inconsistent with the landscaped corridors established along the other rear boundaries of other 5 storey developments near the site.

The 'Desired Future Character Statement' also includes the following:

'Roofs are flat pitched without parapets to minimise the height of the exterior walls, incorporating eaves which cast shadows across the top storey walls.'

The plans do not indicate eaves on the top floor in accordance with the character statement. The inclusion of eaves and greater articulation in the built form would alleviate the box like appearance of the development.

As an appropriate landscape setting and built form would not be achieved by the development, the proposal does not satisfy the desired future character statement of Part 3.4.1 of the *HDCP*.

2.9.2 Site Requirements

The site does not comply with the 30m frontage requirement of the *HDCP*. The site frontage to Balmoral Street is 18.29m.

Clause 1C.2.12 of *HDCP* contains the following definition of 'isolated site':

'an isolated site means a site whose size and location could potentially significantly limit development as a result of not being included in an adjoining development proposal. Sites may not be defined as isolated if they have the future potential to amalgamate with an alternate adjoining property.'

The subject site is not an isolated site as the site has future potential to amalgamate with adjoining properties. The proposal seeks consent to develop in isolation.

In considering the non-compliance with the minimum site requirement, consideration is made to relevant planning principles established in NSW Land and Environment Court decisions. The planning principles established in *CSA Architects v Randwick City Council [2004] NSWLEC 179* are relevant and applicable to the current application. In this case, the Court considered a development application for a residential flat building on a narrow parcel of land with setback non-compliances from side

boundaries. The planning principle for “*development on small or narrow sites*” as set out in the *CSA Architects* case is addressed in the following table.

<i>CSA Architects v Randwick City Council</i>		
	Planning Principle	Comment
15.	<p><i>Where the council has a policy for small or narrow sites, the Court should, where reasonable, apply that policy. (This is a valid principle for all matters before the Court.) In the absence of a council policy, the assessment of a proposal on a site that is below the preferred area or width should be considered both as a development on its own site as well as in the context of possible developments on neighbouring sites. The following questions should be asked:</i></p> <ul style="list-style-type: none"> <i>Would approval of the application result in the isolation of neighbouring sites?</i> <i>Would it render the reasonable development of neighbouring sites difficult?</i> 	<p>There is no Council policy for small or narrow sites in the <i>HDCP</i>. Part 3.4.3 of the <i>HDCP</i> prescribes the minimum site frontage to be 30m. In accordance with this above principal, the site should be considered as both a development on its own site as well as in the context of possible developments on neighbouring sites.</p> <p>Yes. The approval of the application would result in the isolation of No. 33A Balmoral Street, as the site width would be less than 30 metres and would not satisfy the site requirements of the <i>HDCP</i>. No. 31 and 33 and the access handle of No. 31A combined would satisfy the site width requirement and as a result, these properties are not considered isolated.</p> <p>Yes. Approval of this application would limit the development potential of No. 31, 33 and 33A Balmoral Street. An access handle which forms part of the site, No. 31A, is located between No. 31 and 33 Balmoral Street and would need to be dedicated to this site to facilitate a development. Should this consolidation occur, the adjoining site would be an ‘L’ shaped allotment with a narrow rear portion.</p> <p>It is considered that due to the irregular shape of the allotment and the narrow width at the rear, it would be difficult to achieve a development outcome which provides sufficient setbacks and landscaping in accordance with the <i>HDCP</i> and building separation under the <i>ADG</i>. The owners of these properties have expressed concern in submissions over the built form and relatively low yield that would be forced to adopt should the current application be supported.</p>

	<ul style="list-style-type: none"> <i>Can orderly, economic and appropriate development of the subject site as well as neighbouring sites be achieved?</i> 	<p>The allotment size and layout does not facilitate orderly, economic and appropriate development of the site as well as the neighbouring sites based on the proposed dwelling yields. If the development was substantially amended to reduce the scale of the development and achieve compliance with the setback, landscaping and building separation controls, the dwelling yields would be substantially lower than currently proposed. Further, the built outcome of the development is not considered orderly and appropriate development due to the number of non-compliances with the HDGP and ADG.</p>
16.	<p><i>The main criterion for assessing the proposal on its own site is whether it meets other planning controls, eg:</i></p> <ul style="list-style-type: none"> <i>Does the proposal meet density, setback and landscaping controls? The most critical control for small and narrow sites is that for setbacks.</i> <i>Is its impact on adjoining properties and the streetscape worse because the development is on a small or narrow site?</i> 	<p>There is no density control that applies to development standards for the precinct. The bulk and scale of a building is regularised by the planning controls for setbacks and landscaping.</p> <p>The proposal does not meet setback requirements and landscaping controls of the HDGP. These non-compliances result in over development of the site.</p> <p>Yes, the narrow site frontage limits area for landscaping. A double width vehicular crossing and driveway ramp to the basement from Balmoral Street would dominate the frontage and limit opportunities for landscaping. The compromised setback from the rear boundary limits opportunities for landscaping and building separation from adjoining properties. In this regard, its impact on adjoining properties and the streetscape is compromised because the development is on a narrow site.</p>
17.	<p><i>Where an application meets other planning controls and the area and width of the site does not exacerbate its impacts, the failure of the site to meet the preferred area or width would usually not be a reason for refusal.</i></p>	<p>The application does not meet controls for setbacks and landscaping under the HDGP. As a result, the scale of the development proposed on the narrow site is not considered appropriate.</p>

The proposal does not demonstrate that a reasonable development would be achieved on the narrow site and is unacceptable with respect to the principles established by *CSA Architects v Randwick City Council*.

The Statement of Environmental Effects addresses the planning principal established in *Cornerstone Property Group Pty Ltd v Warringah Council (2004) NSW LEC 189* and *Melissa Grech v Auburn Council [2004] NSWLEC 40*. The judgement outlines principles to be considered when a development will result in the isolation of an adjoining lot. These principles are relevant considerations for the proposal given that the proposed development would result in the isolation of No. 33A Balmoral Street, as the minimum site width requirement of 30m would not be achieved.

In the *Cornerstone* decision the key questions or tests were established that built upon the previous judgement in *Grech*. The relevant extracts of the judgement are addressed in the following table.

<i>Cornerstone Property Group Pty Ltd v Warringah Council (2004) NSW LEC 189</i>		
	Principle	Comment
31	<i>Firstly, where a property will be isolated by a proposed development and that property cannot satisfy the minimum lot requirements then negotiations between the owners of the properties should commence at an early stage and prior to the lodgement of the development application.</i>	Negotiations commenced prior to lodgement of the development application to purchase No. 31 Balmoral Street. Following lodgement of the application and discussions with Council, offers were also made to purchase No. 33 and 33A Balmoral Street and further offers to purchase No. 31 Balmoral Street.
	<i>Secondly, and where no satisfactory result is achieved from the negotiations, the development application should include details of the negotiations between the owners of the properties. These details should include offers to the owner of the isolated property. A reasonable offer, for the purposes of determining the development application and addressing the planning implications of an isolated lot, is to be based on at least one recent independent valuation and may include other reasonable expenses likely to be incurred by the owner of the isolated property in the sale of the property.</i>	Details of the negotiations between the owners of the properties were provided at lodgement. A valuation was provided by the applicant at lodgement.
	<i>Thirdly, the level of negotiation and any offers made for the isolated site are matters that can be given weight in the consideration of the development application. The amount of weight will depend on the level of negotiation, whether any offers are deemed reasonable or unreasonable, any relevant planning requirements and the provisions of s 79C of the Environmental Planning and Assessment Act 1979.</i>	The level of negotiation and offers made for the purchase of No. 31, 33 and No. 33A since lodgement of the application has been considered reasonable. Council's appointed valuer has confirmed that the offers made by the applicant were of fair market value.

32.	<p><i>While amalgamation of the sites is likely to achieve a better planning outcome, I accept that this may not be feasible. However, I do not accept that because the sites are in different ownerships and have separate applications that the likely impacts of each of the developments upon the other should not be assessed and consider that a co-ordinated approach to development on both of the sites should be undertaken.</i></p>	<p>Amalgamation of six lots would achieve a development site compatible with developments on surrounding sites and a better planning outcome than would result from the current proposal.</p> <p>No. 33A and 33 accepted an offer of purchase, however No. 31 declined. Five out of the six allotments have, in principal, reached an agreement for amalgamation. The remaining property, No. 31, is located centrally within the six lots and the failure of this site to amalgamate significantly limits the development potential of the remaining 5 lots.</p> <p>Consideration was made to a 'U' shaped development comprising 5 lots and excluding No. 31 Balmoral Street. No. 31 Balmoral Street has advised of the intention to lodge a development application in isolation for 15 units. No. 33 and 33A Balmoral Street have advised of the intention to lodge an application for the redevelopment of the two lots.</p> <p>If No. 33, 33A and 31 Balmoral Street amalgamate for redevelopment, the proposal would result in a similar development outcome and yield to that proposed under the current application.</p> <p>Consideration has been made of the likely impacts of each of possible developments upon each other, with respect to building separation, setbacks, landscaping, privacy and vehicular access. Concerns are raised regarding the number of non-compliances with the current application, which would be repeated in an adjoining development on No. 31, 33 and 33A Balmoral Street should the current application be supported.</p>
	<p><i>I do not accept the approach taken in the council planning report or by the experts for both council and the applicant that the Cornerstone application should be considered in the context of what currently exists on the Koumana site. Essentially on a first come first served basis.</i></p>	<p>The site is located within a redevelopment precinct. None of the owners of the site and adjacent properties object to the redevelopment of their properties for five storey residential flat buildings. Consideration is made of likely impacts of each future residential flat building upon each other.</p>
34.	<p><i>Two questions need to be answered:</i></p>	

<p><i>Firstly, is amalgamation of the sites feasible? In determining the answer to this question the principles set out by Brown C are relevant.</i></p> <p><i>Secondly, can orderly and economic use and development of the separate sites be achieved if amalgamation is not feasible?</i></p> <ul style="list-style-type: none"> <i>In answering this question the key principle is whether both sites can achieve a development that is consistent with the planning controls. If variations to the planning controls would be required, such as non compliance with a minimum allotment size, will both sites be able to achieve a development of appropriate urban form and with acceptable level of amenity.</i> <i>To assist in this assessment, an envelope for the isolated site may be prepared which indicates height, setbacks, resultant site coverage (both building and basement). This should be schematic but of sufficient detail to understand the relationship between the subject application and the isolated site and the likely impacts the developments will have on each other, particularly solar access and privacy impacts for residential development and the traffic impacts of separate driveways if the development is on a main road.</i> <i>The subject application may need to be amended, such as by a further setback than the minimum in the planning controls, or the development potential of both sites reduced to enable reasonable</i> 	<p>In considering the principles set out by Brown C (See point 31 in this table), a reasonable attempt was made to amalgamate all six lots during the assessment of the application and this has been unsuccessful as No. 31 has declined the offer of purchase. Although amalgamation of the 6 lots has not been achieved, there are no site constraints (such as heritage items, easements, flooding issues or the like) that would preclude an amalgamation of the six lots from occurring in the future should all parties come to an agreement.</p> <p>It is not considered that both sites would achieve a development of appropriate urban form and with an acceptable level of amenity. This is due to the extent of non-compliance with the HDGP, the ADG.</p> <p>The SEE included a schematic envelope for the isolated site which indicated setbacks. The adjoining sites (No. 31, 33 and 33A) would adopt a similar built form to that proposed under the current application.</p> <p>Amended plans were provided to increase the setbacks from the northern adjoining site, No. 33A and eastern boundary adjoining No. 31 to 6m. Although these amendments would be an improvement, concern is maintained over the</p>
--	---

	<i>development of the isolated site to occur while maintaining the amenity of both developments.</i>	non-compliant setbacks from the rear boundary and the inadequate top floor setbacks. Development on No. 33A would need to be a narrow building to satisfy the required setbacks.
--	--	---

Based on the above discussion, it can be seen that both of the relevant tests or questions within *Cornerstone* have not been satisfied. The proposal would isolate No. 33A and it has not been demonstrated that No. 33A can be developed in an orderly and economic manner in the future. No. 33A would be forced to adopt a similar built form to Building B as a result of becoming isolated.

No. 31 and 33A would not be isolated, as once combined (including the access handle of No. 31A), the site area would achieve the 30m site frontage requirement and would provide opportunity for an appropriate redevelopment.

The owner of No. 33 and 33A (which are in the same ownership) objected to the development based on concerns about becoming an isolated site. The applicant's offer to purchase this property in June 2017 was accepted by this owner. However, the purchase and amalgamation of this property was not pursued by the applicant, on the basis that No. 31 did not accept an offer.

Various scenarios have been discussed with the applicant, including:

- The possibility of combining 5 lots (the subject site plus 33 and 33A) and proposing a 'U' shape development; leaving No. 31 as an isolated site.
- The possibility of combining 4 lots (the subject site plus 33A). This would leave No. 31 to development with No. 33 Balmoral Street, which combined, would satisfy the 30m site frontage requirement.
- The possibility of leaving No. 29 Balmoral Street out of the development site, and pursuing an application for a development over No. 5 Park Lane, No. 31A, No. 33 and 33A Balmoral St. This would enable No. 29 to develop with No. 31 Balmoral Street, which combined would satisfy the 30m site frontage requirement.

Should all six lots amalgamate, an appropriate development site would be achieved which would be of similar size to the western adjoining property. If this cannot be achieved, development in accordance with the third point above would not result in site isolation and would likely result in a better development outcome than the current proposal. This would also involve development of the site in isolation, as the frontage to Balmoral Street, would be less than 30m. The frontage would measure 22 metres, which combines No. 33 with the access handle serving No. 31A. Although the 30m site width would not be satisfied, this would be considered an improvement to the site frontage of the current proposal which is 18.29m. This option was not pursued by the applicant.

The applicant has resolved to continue with the current proposal over the existing three lots. Regardless of amendments made to the design and layout of the development, significant non-compliances with the *HDCP* remain. It is considered that that the site's narrow width and regular shape, does not facilitate a development consistent with the intent for development in the precinct, being a five storey residential flat building in a landscape setting.

The proposal in its current form does not encourage orderly development of the precinct as development is proposed on a site with a narrow frontage. Accordingly, it is not accepted that the

'Site requirement' clause of the *HDCP* has been satisfactorily addressed and therefore, the application is not supported.

2.9.3 Height

The proposal includes a 5 storey development with mezzanines. The plans demonstrate compliance with the 17.5m height requirement which applies to five storey developments. However, the plans do not indicate any required service plants which are typically located at roof level. Further details would be required to demonstrate that the 17.5m height requirement would not be exceeded.

2.9.4 Setbacks

The main objective of the "Setbacks" clause is to achieve:

'Well articulated building forms that are setback to incorporate landscaping, open space and separation between buildings.'

The setbacks are assessed under the relevant headings:

Front Setback (Balmoral Street)

The proposal has a primary frontage to Balmoral Street where a setback control of 10m applies, which can be reduced to 8m for 1/3 of the building width. Balconies are permitted to encroach to 7m. The building line and balconies of the proposal comply with this requirement.

Secondary Frontage (Park Lane)

The *HDCP* prescribes that where a secondary frontage adjoins an existing laneway with no verge, all structures should be setback 6m from the boundary. The proposal has treated Park Lane as a side boundary for the purpose of applying the setback controls. The building is proposed at a 6m setback, however, there are encroachments to 4m for 1/3 of the building width which is permitted for side setbacks.

Although the proposal does not adhere to the prescriptive requirement for laneway setbacks, the proposal would be consistent with the setbacks approved for other nearby developments on Park Lane located to the west of the site. These developments comprise a 6m setback reduced to 4m for 1/3 of the building width in accordance with the side setback requirements. In considering the established built form of developments in Park Lane, the proposed setbacks would not adversely impact on the Park Lane streetscape and is acceptable.

Notwithstanding the above, there are encroachments within the setback area, including an awning over the entry path and letter box enclosures and fire stairs from the basement. The awnings indicated on the plans measure 3.5m by 6m (Building B) and 4m x 4m (Building A). These awnings are excessive in size and would appear dominant in the Park Lane frontage. Awnings are not permissible encroachments in the *HDCP* and should be deleted.

The emergency fire stairs from the basement encroach to within 0.5m from the Park Lane boundary (at the top of the stairs). This should be amended to be reasonably setback from the Park Lane frontage and screened with landscaping.

Side Boundary (North and East)

The side boundary setback controls apply to northern boundary adjoining No. 33A Balmoral Street, as well as the eastern and northern boundary adjoining No. 31 Balmoral Street.

The building is setback 6m from the northern and eastern boundaries, with encroachments to 4m for less than 1/3 of the building width. The proposal satisfies the setback requirements from the north and eastern boundary.

Rear Boundary (West)

The proposal does not satisfy the rear boundary setback requirement of the HDCP which requires a 10m setback with the building encroaching to 8m for 1/3 of the building width. Balconies are permitted to encroach to 7m from the rear boundary.

The proposal is setback 6m from the rear boundary for the entire width of the building, which is a significant departure from Council's rear setback control. This is unacceptable as the setback requirement and does not achieve adequate landscape verges along the rear boundary and/or reasonable separation from the adjoining development.

This non-compliance results in additional floor area on each level, totalling 235m² in area, equivalent to three x 2 bedroom units. The non-compliance with the rear setback results in an over development of the site.

Fifth Storey Setback

The *HDCP* prescribes a 3m additional setback from the exterior walls of the fifth storey, measured from the exterior walls of the lowest storey. The purpose of this control is ensure the top most floors are visually recessive with a setback from the storeys below.

In November 2016, the *HDCP* was amended to include an additional control applicable to units which contain mezzanine levels on the fifth storey. The new provisions require a 6m additional setback for exterior walls of the fifth storey, measured from the walls of the lowest storey. The purpose of this control was to discourage mezzanine floors at the top level, and/or where they are proposed, ensure that the mezzanine are appropriately recessed to minimise bulk in the built form.

The front building (Building B) is four storey in height and therefore, no consideration of fifth floor setbacks are required.

The rear building (Building A) contains fifth floor units with mezzanine levels. The top floor is not recessed in accordance with the 6m setback requirements of the *HDCP* as detailed below:

- Western Elevation (Rear)– setback of the the 5th floor and the mezzanine is 0m-3m.
- Northern elevation – setback of the 5th floor and the mezzanine is 0.5m-3m.
- Eastern elevation – setback of the 5th floor is 0m – 6m. The mezzanine floor is setback between 4-10m.
- Southern elevation (Park Lane) - the 5th floor is recessed between 1 – 5m. The mezzanine floor is setback 3-4m.

Having regard to the above, the deletion of the mezzanine floor would be required to address the non-compliances. Further amendments to the fifth floor layout would be required to satisfy the 3m setback.

The *HLEP* does not incorporate any floor space ratio or site coverage development standards for the precinct. The bulk and scale of a building on any site in these precincts are regularised by the planning controls for setbacks and landscaping. It is essential that the proposed development complies with the above development controls to achieve a development outcome on the site which has been intended in Section 3.5 of the *HDCP* to avoid over development for the site. The non-compliance of the rear setback results in over development of the site and is not supported.

2.9.5 Landscaping

In accordance with the *HDCP*, a 7m wide deep soil verge is required along the front and rear boundaries and a 4m wide deep soil verge along the side boundaries.

A revised landscape plan was not provided with the amended proposal. A 7m wide deep soil zone is provided along the 18m Balmoral Street frontage only, which is compromised by the driveway. The rear boundary does not satisfy the required 7m deep soil verge, with only a 4m wide verge proposed. The basement would need to be reduced to achieve the required deep soil areas.

The non-compliance with the deep soil areas along the rear boundary and the compromised deep soil areas on the Balmoral Street frontage are unacceptable. The proposal would not achieve a landscape setting and is inconsistent with the desired future character of the precinct. The proposal is not supported in this regard.

2.9.6 Sunlight and Ventilation

The applicant submits that 72% of the units would receive a minimum 2 hours of unobstructed sunlight access between 9am and 3pm on June 22. Shadow analysis diagrams would be required to demonstrate the overshadowing impacts of a development on No. 33A, 33 and No. 31 Balmoral Street to demonstrate compliance with the sunlight access requirements.

2.9.7 Vehicular Access and Parking

The proposal provides for a sufficient number of resident, visitor and accessible car parking spaces along with adequate bicycle racks and motorcycle parking in accordance with the *HDCP*.

Council's engineering assessment concludes that the proposal as submitted is not acceptable as swept turning paths have not been provided to demonstrate compliance with AS2890.1. In particular, concern is raised that the passing of vehicles next to parking space number 3 at the base of the access ramp may not be possible. Further, parking and reversing of vehicles, to and from, the parking space number 9 (accessible parking) is considered impractical.

Swept turning paths were requested from the applicant however, they have not been provided for Council's assessment. It is likely that design changes would be required to demonstrate safe and efficient vehicular access and parking.

2.9.8 Housing Choice

The proposal does not achieve adequate three bedroom units, adaptable units or universally designed units and therefore, does not achieve appropriate housing choice in the locality for future residents.

2.9.9 Waste Collection

The original proposal involved waste collection on Park Lane. This option was not supported in Council's Traffic and Waste assessment.

The amended proposal provides a bin storage room within the basement. These bins would be transported to the bin standing area on the northern side of the driveway adjacent to Balmoral Street for collection. Council's waste assessment concludes that the proposed waste management arrangements are acceptable subject to minor amendments to increase the size of the garbage chutes.

2.9.10 Key Principles Diagram

The *HDCP* include strategies and a Key Principles Diagram for the *Balmoral Street, Waitara precinct*.

The strategy for redevelopment of this precinct is to incorporate residential flat buildings with varying heights in garden settings. The proposed development does not comply with the landscape strategy as it would not provide a landscape buffer around the building, given the encroachments within the setbacks.

2.10 Section 94 Contributions Plans

Hornsby Shire Council Section 94 Contributions Plan 2012-2021 applies to the development as it would result in an additional 30 residential dwellings in lieu of 3 existing dwellings. Accordingly, the requirement for a monetary Section 94 contribution would be recommended as a condition of consent, should the application be approved.

3. ENVIRONMENTAL IMPACTS

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

3.1 Natural Environment

3.1.1 Tree and Vegetation Preservation

An Arboricultural Impact Assessment (AIA) has been provided with the proposal addressing the development's impact on trees. The site contains six trees, all of which would be removed to accommodate the development. The six trees to be removed are exotic species and are exempt under the Tree and Vegetation provisions of the *HDCP*.

There is a large *Angophora Costata* (Sydney Red Gum) within the Council reserve at the corner of Park Lane and Balmoral Street which is to be retained. The excavation for the development would result in a minor incursion to the tree protection of this tree. Council's tree assessment raises no objections to this incursion subject to conditions for an arborist to monitor the works. However, concerns are raised with respect to the impact the development would have on the canopy of this tree. The building and the associated erection of scaffolding during construction may necessitate significant canopy pruning which could result in on going management issues for Council. Due to this issue, Council's tree assessment concludes that consideration be made to increasing the setback from the tree to reduce the extent of canopy pruning that may be required. This matter would need to be addressed through amended plans and/or further arboricultural details addressing the canopy impact.

3.1.2 Stormwater Management

Insufficient information has been provided for Council to assess the disposal of stormwater from the site. During Council's assessment, additional information was requested to detail the method of stormwater drainage, including details of easements over downstream properties. This matter has not been addressed by the applicant. As a result, the proposal is not satisfactory with respect to stormwater management as sufficient detail has not been provided to demonstrate appropriate stormwater disposal from the site.

3.2 Built Environment

3.2.1 Built Form

The built form and scale of the development is considered inappropriate for the site and inconsistent with the desired future character of the precinct.

3.2.2 Traffic and Parking

The site has frontage to local roads, Balmoral Street and Park Lane. A Traffic and Parking Impact Assessment submitted with the proposal has estimated the traffic generation of the existing site and proposed development using RMS traffic generation rates. The net traffic generation is estimated to be 2-3 vehicle trips per hour in the AM and PM peak hours, which is negligible when compared with the traffic volumes on the adjacent road network.

The proposal provides for sufficient resident, visitor and accessible car parking spaces along with adequate bicycle racks and motorcycle parking in accordance with the HDCP.

Council's engineering assessment of the traffic impacts concludes that the proposal as submitted is not acceptable as swept turning paths have not been provided to demonstrate compliance with AS2890.1. In particular, concern is raised that the smooth passing of vehicles next to parking space number 3 at the base of the access ramp may not be possible. Further, parking and reversing of vehicles to and from the parking space number 9 (accessible parking) is considered impractical.

3.3 Social Impacts

The location of the development is in close proximity to Waitara Railway Station and the Hornsby Town Centre allowing direct access to retail, business, recreational, health and educational facilities for future residents. Whilst the proposal would provide additional housing supply, the proposal does not achieve adequate three bedroom units, adaptable units or universally designed units and therefore does not achieve appropriate housing choice in the locality for future residents. Further, approval of an application with reduced setbacks, insufficient landscaping, would not achieve a positive development outcome for future occupants and in this respect, the proposal would not have a positive social impact.

3.4 Economic Impacts

The proposal will not give rise to any adverse economic impacts.

4. SITE SUITABILITY

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

The site comprises a narrow street frontage and an irregular shape. The scale of the development would result in compromised setbacks and deep soil areas and would not achieve a landscape setting consistent with the desired future character of the Balmoral Street, Waitara precinct.

The scale of the proposal is not compatible with site attributes and therefore, the site cannot be considered suitable for the proposed development.

5. PUBLIC PARTICIPATION



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

5.1 Community Consultation

The proposed development was placed on public exhibition and was notified to adjoining and nearby landowners between 22/02/2017 and 16/03/2017 in accordance with the Notification and Exhibition requirements of the *HDCP*. During this period, Council received eight submissions. The map below illustrates the location of those nearby landowners who made a submission.



NOTIFICATION PLAN

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

Seven submissions objected to the development. One submission received from an owner of the subject site raised no objections to the development, however raised concern regarding the impact construction works on adjoining properties have on the amenity of the residents.

The seven submissions received objected to the development generally on the grounds:

- The proposal would be an overdevelopment of the site.
- The proposal would isolate of No. 31 Balmoral Street.
- The proposal would isolate of No. 33 and 33A Balmoral Street.
- The site is narrow in width as 30m frontage requirement to Balmoral Street is not achieved.
- The housing mix does not comply with the HDCP.
- Ceiling Heights do not comply with the ADG.
- Inadequate setbacks and deep soil verges and non-compliance with the HDCP

- Inadequate building separation from northern adjoining properties and non-compliance with the ADG.
- Inadequate setback of the top floor and non-compliance with the HDCP.
- The shadow analysis has not factored in the future showing impacts of a development on 33, 33A and 31 Balmoral Street.
- Building B is four storeys in height and does not achieve the 5 storey development permitted in the zone. This indicates the site width does not achieve a satisfactory development outcome consistent with the objectives of the HDCP and the zoning of the site.
- Most of the unit sizes are very close to the minimum size permitted.
- The basement design is highly inefficient and an unrealistic outcome.
- The viability of a 2 unit per floor development is questionable and is not orderly and economic development.
- Approval of the application would result in a challenging task of consolidating the remaining lots, being No. 33, 33A & 31 Balmoral St and obtaining the access handle separating No. 31 and 33.
- Approval of the application on an awkward L shape site would have ramifications for the remaining sites (No. 33, 33A and 31) which would be forced to develop on a similarly awkward L shape lot, which is not considered to deliver an orderly development.
- Approval of the application with a number of non-compliance would force No. 33, 33A and 31 Balmoral Street to adopt a similar design.
- The proposed development would result in significantly less density than the recently approved developments on adjoining lots. As the proposal is for 30 units, this would result in the remaining lots achieving up to 30 units. This is a lower yield than adjoining developments on amalgamated sites which have achieved a yield of 90-91 units.

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

5.1.1 Amenity impacts during construction

A submission was received from an owner of the subject site, raising concern with respect the detrimental amenity impacts construction work for new five storey developments in the precinct has on current residents. The submitter wished to highlight the issues associated with large scale development being approved while residential properties remain in close proximity.

The submitters concerns are noted and it is recognised that properties adjoining redevelopment sites can be subjected to noise and amenity impacts during construction.

Council's standard noise condition restricts all work on site (including demolition and earth works) to occur between 7am and 5pm Monday to Saturday (unless otherwise approved by Council due to extenuating circumstances) with no work to be undertaken on Sundays or public holidays.

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

Although conditions cannot protect adjoining properties from *any* disruption, these conditions are applied with the intent of minimising the *extent* disruption to nearby residents.

5.1.2 Building separation

Concerns were raised in community submissions regarding inadequate building separation from the boundaries adjoining No. 31, 33 and 33A Balmoral Street. The original plans included habitable rooms and balconies located up to 4 metres from the common boundary with these properties. The most recent set of amended plans have increased the setback of habitable rooms and balconies to 6m from the northern and eastern boundaries. Non habitable rooms are setback four metres from the northern boundary adjoining No. 31 Balmoral Street which is acceptable under the *ADG*. The amended proposal is considered to achieve adequate building separation from the northern adjoining properties.

Notwithstanding, as discussed in Section 2.7.1 of this report, concern is maintained that the fifth floor balconies setback 6.8 metres from the western boundary, does not satisfy the 9m building separation requirement and is unacceptable.

5.1.3 Overdevelopment

Concerns were raised in community submissions that the proposal would result in an overdevelopment of the site, as a result of inadequate setbacks, landscaping and deep soil areas. The submissions note that the unit mix does not comply and unit sizes are either equal or marginally above the unit sizes prescribed by the *ADG*. The setback of the top floor is not achieved which results in excessive bulk in the built form.

That the proposal is an overdevelopment of the site due to the non-compliance with the rear setback, top floor setback, deep soil areas and landscaping requirements. If the number of dwellings were reduced, there would be opportunity to address the number of non-compliances with the *HDGP* and the *ADG* and may achieve a development within the site's capacity. Notwithstanding, the remaining issue of the driveway dominating the Balmoral Street frontage and the associated streetscape impacts, cannot be resolved unless an amalgamation of site's is achieved to meet the minimum site width requirement.

5.1.4 Site Isolation

Concerns were raised in community submissions that development would isolate No. 31, 33 and 33A Balmoral Street. This matter is addressed in 2.9.2 of this report.

5.2 Public Agencies

The development application was not required to be referred to any Public Agencies for comment.

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 does not satisfactorily address Council's criteria and would not provide a development outcome that, on balance, would result in a positive impact for the community. The proposal would

result in compromised setbacks and insufficient landscaping and a built form that is inconsistent with the desired future character of the precinct. Accordingly, it is considered that the approval of the proposed development would not be in the public interest.

CONCLUSION

The application seeks approval for the demolition of the existing structures and the construction of a four-five storey residential flat building comprising 30 units with a basement car park.

The proposed development is unsatisfactory with respect to the *Hornsby Local Environmental Plan 2013*, design principles under *SEPP 65* and the objectives of the *Apartment Design Guide*. The proposed development does not comply with the prescriptive measures and desired outcomes of *HDCP* with respect to desired future character, site frontage, setbacks, landscaping, built form and separation, open space, housing choice and vehicular access and parking.

The scale of the development is not suitable for the site attributes, including limited site frontage and irregular shape. The proposal would not result in a built form which contributes positively to the built environment and the desired future character of the *Balmoral Street, Waitara Precinct*.

Council received seven submissions during the public notification period. The matters raised have been addressed in the body of the report.

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

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 Plan
- 2.[View](#) Floor Plans
- 3.[View](#) Elevations

File Reference: DA/1549/2016
Document Number: D07339047

SCHEDULE 1

1. The proposal does not comply with the object of the *Environmental Planning and Assessment Act, 1979* in Section 5(a)(ii), as it does not promote and co-ordinate orderly development of land within the *Balmoral Street, Waitara Precinct*.
2. The proposed development is unsatisfactory in respect to Section 79C(a)(i) of the *Environmental Planning and Assessment Act, 1979* as the proposal is not consistent with the design quality principles contained within Schedule 1 of *State Environmental Planning Policy No. 65 – Design Quality of Residential Apartment Development*.
3. The proposed development is unsatisfactory in respect to Section 79C(a)(i) of the *Environmental Planning and Assessment Act, 1979* as the proposal does not satisfy the requirements of the *Apartment Design Guide* as follows:
 - a) The communal open space area does not enhance residential amenity and provide adequate opportunities for landscaping per Objective 3D-1.
 - b) The deep soil zones do not satisfy the minimum dimension requirement and is inadequate per Objective 3E-1.
 - c) Separation between the top floor balconies and the western adjoining property is inadequate and does not provide for adequate building separation to achieve visual privacy as per Objective 3F-1.
 - d) The proposal exceeds the maximum habitable room depths and does not enhance environmental performance as per Objective 4D-2.
 - e) Minimum bedroom sizes and widths are not achieved per Objective 4D-3.
4. The proposed development is unsatisfactory in respect to Section 79C(a)(iii) of the *Environmental Planning and Assessment Act, 1979* as the proposal does not meet the requirements of the *Hornsby Development Control Plan 2013* as follows:
 - a) The proposal is contrary to Section 3.4.1 *Desired Future Character* as the proposal would result in a residential flat building with inadequate setbacks from adjoining properties, a compromised landscape setting and an inappropriate built form.
 - b) The proposal is contrary to Section 3.4.2 *Design Quality – SEPP 65* as the proposal as the proposal does not achieve a built form appropriate for the site, would not achieve the design quality principals of *SEPP 65* and would is not consistent with the objectives of the *Apartment Design Guide*.
 - c) The proposal is contrary to Section 3.4.3 *Site Requirements* as the site does not comply with the minimum site frontage requirement and does satisfy the desired outcome of a consolidated development site with soft landscaping surrounding the building and limited driveway crossings.
 - d) The proposal is contrary to Section 3.4.5 *Setbacks* as the building does not satisfy the requirements for rear boundary setbacks, basement setbacks, fifths storey setback from the ground floor and setbacks from the secondary frontage.
 - e) The proposal is contrary to Section 3.4.6 *Building Form and Separation* as the building at the rear of the site does not include a 4m x 4m recession to achieve the

- appearance of two separate building pavilions and the top floor does not achieve adequate building separation.
- f) The proposal is contrary to Section 3.4.7 *Landscaping* as the deep soil areas are inadequate as follows:
- i) The landscaping along the narrow frontage to Balmoral Street is compromised by the driveway.
 - ii) The rear boundary does not achieve the required 7m wide deep soil verge to achieve a landscape setting.
 - iii) The proposal does not satisfy the required 6m deep soil verge from Park Lane to provide a landscape setting and to maintain the integrity of the laneway.
 - iv) The proposal does not achieve the required 8m landscape area between the two proposed buildings which achieves a component of deep soil area.
- g) The proposal is contrary to Section 3.4.8 *Open Spaces* as the proposal does not indicate a principal communal open space area.
- h) The proposal is contrary to Section 3.4.11 *Housing Choice* as the development does not achieve a development with 10% of all units being three bedroom, 10% of units being adaptable or 20% of units satisfying Universal Housing Design Requirements.
- i) The proposal is contrary to Section 3.4.12 *Vehicular Access and Parking* as the basement car park layout does not demonstrate compliance with *AS2890.1* and does not achieve safe and efficient parking for residents.
- j) The proposal is contrary to Section 3.4.14 *Key Development Principles* as the proposal does not achieve orderly development with an appropriate landscape setting in accordance with the *Key Development Principles Diagram* for the *Balmoral Street, Waitara precinct*.
- k) The proposal does not satisfy Section 1C.1.2 *Stormwater Management* as sufficient detail has not been provided to demonstrate appropriate stormwater disposal from the site.
5. Pursuant to the to the provisions of Section 79C(1)(b) of the Act, the likely impacts of the development would be unsuitable with respect to the built environment as the proposal would not achieve a built form consistent with the desired future character of the *Balmoral Street, Waitara Precinct*.
6. Pursuant to the to the provisions of Section 79C(1)(b) of the Act, the proposal would not have a positive social impact due to the extent of non-compliances with the *HDGP*, including housing choice, landscaping and setbacks.
7. Pursuant to the provisions of Section 79C(1)(c) of the Act, the site attributes, including the size and dimensions, are not suitable for the scale of the development proposed.
8. Pursuant to the provisions of Section 79C(1)(e) of the Environmental Planning and Assessment Act, 1979, approval of an application with insufficient setbacks, insufficient landscaping and inappropriate built form would not be in the public interest.

- END OF REASONS FOR REFUSAL -

ITEM 9

10 REVISED HORNSBY TOWN CENTRE EAST SIDE PLANNING PROPOSAL**EXECUTIVE SUMMARY**

- At its meeting on 10 May 2017, Council considered a report concerning a review of the East Side of the Hornsby Town Centre and resolved to forward a Planning Proposal to the Department of Environment and Planning (DP&E) seeking a Gateway Determination.
- The Planning Proposal aims to stimulate economic activity, facilitate additional housing and provide for the upgrading of the public domain and community and cultural facilities within the Hornsby East Precinct.
- A Gateway Determination has been issued by the DP&E which requires a change to the zoning strategy and requests that Council liaise with Transport for NSW (TfNSW) concerning the inclusion of additional railway land in the study area.
- In accordance with the Gateway Determination, the Planning Proposal has been amended so that land within the study area currently zoned B3 Commercial Core is rezoned B4 Mixed Use. The study area for the Planning Proposal has also been expanded to include railway and town centre land up to Bridge Road, in acknowledgement that the future development of the railway corridor which bisects Hornsby Town Centre provides a unique opportunity to reconsider the structure of the Centre in collaboration with TfNSW.
- A draft Memorandum of Understanding (MoU) has been prepared outlining how Council and TfNSW can work together to determine the role of railway land in contributing to the realisation of Council's vision for the East Side.

RECOMMENDATION**THAT**

1. Council adopt the revised Hornsby East Side Town Centre Planning Proposal attached to Group Manager's Report No. PL58/17 that rezones B3 Commercial Core land to B4 Mixed Use and expands the study area to include railway and town centre land up to Bridge Road.
2. Tender documents be finalised for consultant engagement to undertake the necessary technical studies outlined in the Gateway Determination issued by the Department of Planning and Environment.
3. Council agree to enter into the Memorandum of Understanding with Transport for NSW attached to Group Manager's Report No. PL58/17 and delegate authority to the General Manager to sign the agreement subject to any minor amendments required by the parties.

PURPOSE

The purpose of this Report is to provide a background to the preparation of the Hornsby Town Centre East Side Planning Proposal and present an amended Planning Proposal in accordance with the conditions of the Gateway Determination issued by the DP&E.

BACKGROUND

In 2015, Council commissioned a feasibility investigation of its existing controls for the east side of the Hornsby Town Centre which confirmed that the current limit on residential development is impacting on the economic viability of any redevelopment. Therefore, is it unlikely any meaningful redevelopment will occur unless Council's controls are reviewed.

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.

On 12 April 2017, Council considered and adopted the recommendations of Group Manager's Report PL11/17 in relation to the Strategic Planning Program and Deputy General Manager's Report CS8/17 in relation to the Operational Plan for 2017/18 which includes provision for a planning study for the East Side of the Hornsby Town Centre.

At its meeting on 10 May 2017, Council considered Group Manager's Report PL21/17 which outlined a strategy for the review of the planning controls for the Hornsby East Side. Council resolved to:

1. *Forward a Planning Proposal to the Department of Planning and Environment for Gateway Determination that proposes to permit residential uses within the existing B3 Commercial Core zone, extension of the B4 Mixed Use zone over railway land to support airspace development above the George Street commuter car park and to review the floor space and building height controls for all land within the East Side Precinct.*
2. *Upon the issuing of a Gateway Determination, consultants be engaged to undertake a comprehensive review of the planning strategy for the Hornsby East Side.*

In accordance with Council's resolution, the Hornsby East Side Planning Proposal was submitted to the DP&E seeking a conditional Gateway Determination.

DISCUSSION

This report discusses the Hornsby Town Centre East Side Planning Proposal and Gateway Determination (copy attached), which was issued on 10 October 2017.

Planning Proposal

The objectives of the Hornsby Town Centre East Side Planning Proposal are to stimulate economic activity and innovation, provide jobs closer to home, provide additional housing, promote healthier lifestyles and community cohesion, and provide for the upgrading of both the public domain and community and cultural facilities.

The adopted study area generally aligns with the boundaries of the Hornsby Town Centre East Precinct, as identified in Part 4.5 of the *Hornsby Development Control Plan 2013*. The study area includes land currently zoned B3 Commercial Core, B4 Mixed Use and SP2 Infrastructure, including Westfield Hornsby, Florence Street Mall, Hornsby Station and railway land from the Peats Ferry Road bridge in the south to Linda Street in the north.

The Planning Proposal, as adopted by Council in May 2017, aims to amend the *Hornsby Local Environmental Plan 2013* to:

- Permit residential development in the B3 Commercial Core;
- Add an objective to the B3 Commercial Core zone relating to residential development;
- Increase building height and floor space ratio controls within the study area;
- Reduce the minimum non-residential floorspace control to 2:1 for the B3 and B4 zoned land in the study area; and
- Rezone railway land from SP2 Railway to B4 Mixed Use to support airspace development above the George Street commuter car park.

The Planning Proposal acknowledges the need to work closely with TfNSW to explore the role of Hornsby Station, bus interchange and the commuter car park in planning for the future of the Hornsby Town Centre.

Gateway Determination

A Gateway Determination was issued by the DP&E on 10 October 2017, authorising that the Hornsby Town Centre East Side Planning Proposal can proceed, subject to conditions.

The conditions include the preparation of a revised Planning Proposal after undertaking strategic planning studies to address heritage, economic, social, traffic, public domain and urban design issues and inform proposed heights, floor space ratios, number of additional dwellings and jobs likely to be facilitated. This will also involve the preparation of maps, shadow diagrams and compliance with Ministerial Directions. Tender documents are currently being prepared for consultant engagement to undertake and assist with the above.

However, the Gateway Determination also includes a condition which affects the zoning strategy for the Planning Proposal and needs to be addressed prior to finalising the tender documents for consultant engagement. The condition requires that the Planning Proposal be amended so that land within the study area currently zoned B3 Commercial Core is rezoned B4 Mixed Use, rather than introducing residential development and a new objective into the B3 Commercial Core zone.

The strategy behind retaining the B3 Commercial Core zone and introducing residential uses (shop top housing) within the Hornsby East Precinct was to maintain a policy distinction to emphasise employment and commercial activity in our major centre, as opposed to the other parts of Hornsby Town Centre and other centres in the Shire. Further, the use of the B4 Mixed Use zone would introduce a number of permissible land uses which may be incompatible with a Town Centre Core such as industrial retail outlets, light industries, vehicle repair stations and industrial training facilities.

Council advised the DP&E of its concern about introducing potentially inappropriate land uses into the Centre. However, the DP&E has advised that the market is unlikely to promote such uses in a centre and that if shop top housing is to be permitted, the B4 Mixed Use zone should be applied to ensure there is a continued separation between the core objectives of the B4 Mixed Use and B3 Commercial Core zones, as well as ensuring consistency with the application of the *Standard Instrument* zones throughout NSW. The Hornsby Town Centre has been classified as a “strategic” centre within the recently released draft Greater Sydney Region Plan and revised draft North District Plan. Application of a B4 zoning would be consistent with the existing zoning strategy for “strategic” centres located throughout the Greater Sydney Metropolitan Area and would still permit the same core business,

office and retail uses to ensure promotion of a balanced daytime and night time economy and vitality of the Centre.

An amended Planning Proposal which proposes to rezone the B3 Commercial Core zoned land to B4 Mixed Use is attached.

Liaison with Transport for NSW

The cover letter of the Gateway Determination requests that Council continue to liaise with TfNSW over the possible inclusion of additional land within the Planning Proposal. Whilst not a condition of the Gateway Determination, any possible changes to the study area needs to be addressed prior to finalising the tender documents for consultant engagement.

In 2016, the NSW Government announced its plans for construction of a multi-level commuter car park adjacent to Hornsby Station, within the East Side of the Town Centre, as part of its Hornsby Junction Remodelling project. Council provided feedback to the Government concerning the strategic importance and development potential of the car park site within the context of revitalisation of both the East and West sides of Hornsby Town Centre and the Planning Proposal that Council is progressing.

Council was successful in convincing the State Government to look more strategically at its land holdings. In response, TfNSW has indicated its willingness to work with Council to explore its vision for the Town Centre and the role of the Government's land in contributing to the realisation of that vision. The potential relocation of the bus interchange from the west to the east side of the station was also acknowledged, as was its possible funding by airspace development above the George Street commuter car park. Construction of the commuter car park was put on hold by TfNSW to work with Council to investigate how it could be incorporated into the broader planning for the precinct.

TfNSW has now identified potential transit oriented development opportunities within all of its land holdings within the rail corridor in Hornsby which extends past Linda Street and up to Bridge Road. The Planning Proposal, as adopted by Council on 10 May 2017, includes railway land only to Linda Street and therefore, does not align with the development corridor proposed by TfNSW. Subsequent to the Gateway Determination being issued, TfNSW made a submission to Council providing justification that all land within the railway corridor should be considered together as a renewal opportunity as it will:

- Assist with funding planned infrastructure and transport upgrades;
- Facilitate more housing close to jobs, services and existing infrastructure;
- Take advantage of the single ownership of the land and capacity for it to be a catalyst for renewal;
- Take advantage of a location that provides excellent access to surrounding retail, commercial and civic activities; and
- Accord with the (previous) *draft North District Plan* 'Action L3' for Council to investigate local opportunities to address demand and diversity in the short to medium term with a particular focus on rail corridors.

The submission then requested that the railway land be deleted from Council's Planning Proposal to enable TfNSW to lodge a separate Planning Proposal. However, the vision for the Hornsby Town Centre East Side Planning Proposal is a holistic revitalisation initiative, not a series of separate projects competing for commercial return which could have the cumulative impact of exceeding

infrastructure and environmental thresholds. The vision should be integrated and shared by the community, landholders and local and state authorities. Accordingly, rather than delete TfNSW's land, it is recommended that, based on the justification above, the study area be amended to align with the rail corridor up to Bridge Road.

Representatives of TfNSW subsequently met with the Mayor and Council officers and concluded that the development of an integrated vision for the entirety of the east side of the Hornsby Town Centre was important to deliver good development outcomes for both Council and TfNSW. TfNSW also noted that the inclusion of the land in Council's study area does not prohibit TfNSW from lodging a separate Planning Proposal which could be progressed concurrent to Council's Planning Proposal.

Given the negotiated agreement for the inclusion of railway land up to Bridge Road, the extent of the Town Centre included in the study area has also been revised up to Bridge Road to include the B5 zoned land opposite the rail corridor bounded by Bridge Road, Hunter Street and George Street. The inclusion of this land will:

- Form a logical boundary in line with the extent of railway land included in the study area;
- Accord with the Revised Draft North District Plan 'Action 44' to review and manage industrial and urban services land to confirm their protection or transition to higher commercial order uses; and
- Take advantage of the opportunity to reconsider the structure of the Town Centre, its relationship to the transport interchange and railway corridor and provide better integration on both sides of George Street.

An amended Planning Proposal attached to this report includes a revised study area which comprises railway and town centre land up to Bridge Road.

Memorandum of Understanding

A draft Memorandum of Understanding (MoU) has been prepared outlining how Council and TfNSW can work together to determine the role of railway land in contributing to the realisation of Council's vision for the east side. Both Council and TfNSW recognise that the 'Hornsby Junction Re-modelling and Commuter Car Park' project (which is now on hold) provides a unique opportunity to explore the creation of a new covered bus interchange on George Street, facilitated by potential transit oriented development opportunities within the rail corridor.

The draft MoU (copy attached) outlines the steps required to be followed in the Planning Proposal process, defines the partnership between Council and TfNSW including management roles and responsibilities, outlines the scope of works and sets out cost sharing principles for the necessary consultant studies. It is recommended that the General Manager be delegated authority to sign the agreement subject to any further minor amendments required by the parties.

Next Steps

Tender documents are currently being prepared for consultant engagement in the project. The successful consultant would undertake the relevant studies as outlined in the Gateway Determination and assist in determining the proposed building height and floor space ratio controls for the study area. Once completed, the outcomes of the studies and a revised Planning Proposal would be presented to Council for endorsement for exhibition. The revised Planning Proposal would then be submitted to the DP&E for endorsement and to determine if an updated Gateway Determination is required prior to public exhibition.

BUDGET

Financial provision of \$300,000 for the Hornsby Town Centre East Side Review is included within the Operational Plan and Budget for 2017/18. Tender documents are currently being prepared for consultant input into the project. The draft MoU attached to this report includes provision for additional funding from TfNSW to cover the full cost of the consultant studies.

POLICY

There are no policy implications associated with this Report.

CONCLUSION

In accordance with the Gateway Determination issued on 10 October 2017, the Hornsby Town Centre East Side Planning Proposal has been amended so that land within the study area currently zoned B3 Commercial Core is rezoned B4 Mixed Use, rather than introducing residential development and a new objective into the B3 Commercial Core zone. The study area for the Planning Proposal has been expanded to include railway and town centre land up to Bridge Road, in accordance with a submission from TfNSW.

Hornsby Town Centre is the major commercial centre within the Shire and the future development of the railway corridor which bisects it provides a unique opportunity to reconsider the structure of the Town Centre in collaboration with TfNSW. Any revision of planning controls should have regard to existing and proposed infrastructure and provide opportunity for their integrated delivery, including consideration of relocation of the bus interchange to promote greater utilisation, activation and connectivity. It is recommended that Council adopt the amended Planning Proposal attached to this report and delegate authority to the General Manager to sign the MoU between Council and TfNSW, subject to any further minor amendments required by the parties.

RESPONSIBLE OFFICER

The officer responsible for the preparation of this Report is the Acting Manager, Strategic Planning – Jason Rawlin - who can be contacted on 9847 6744.

JASON RAWLIN

Principal Strategic Planner - Strategic Planning
Planning Division

JAMES FARRINGTON

Group Manager
Planning Division

Attachments:

- 1.[View](#) Revised Planning Proposal - Hornsby East Side - December 2017
- 2.[View](#) Draft Memorandum of Understanding

File Reference: F2015/00190
Document Number: D07317353

11 REVIEW OF ENVIRONMENTAL PLANNING AND ASSESSMENT REGULATION 2000

EXECUTIVE SUMMARY

- In September, the NSW Government released the *Review of the Environmental Planning and Assessment (EP&A) Regulation 2000 Issues Paper* (Issues Paper) for comment.
- The review of the *EP&A Regulation* is part of the Government's broader review of the *EP&A Act 1979*. This review follows the release for comment of the draft *EP&A Act* amendments earlier this year to which Council made a submission. The draft Bill was passed in NSW Parliament on 15 November 2017.
- The review of the *EP&A Regulation* is the first comprehensive review since 2000 and the outcomes of this review will inform the preparation of a new *EP&A Regulation* which will be released (in draft form) for consultation in 2018.
- It is recommended that Council forward a submission to the Department of Planning and Environment (DP&E) indicating its general support for the review of the *EP&A Regulation* and requesting the DP&E address 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 review of the *Environmental Planning and Assessment Regulation 2000* and requesting the Department address the major issues for Hornsby Shire identified in Group Manager's Report No. PL62/17, including:

1. The Regulation should clarify what constitutes a submission;
2. Councils should maintain responsibility for controls within Development Control Plans;
3. Prescribed timeframes for Development Assessment should be increased;
4. Reviews of Environmental Factors by public authorities should be made publicly available;
5. Councils should be responsible for determining fees for evaluation of planning proposals;
6. Section 94 Contribution caps should be indexed in accordance with Consumer Price Index;
7. Section 149 Certificates should be retained to identify the planning affectations for land; and
8. Information to be publicly available through the DA process should be clarified.

PURPOSE

The purpose of this report is to outline the key issues for Hornsby Shire in response to a review of the *EP&A Regulation* being undertaken by the DP&E and to seek endorsement of a submission.

BACKGROUND

In May 2016, the NSW Government 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 establishment of the 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 placed on public exhibition documents for the *Planning Legislation Updates*, including a draft *EP&A Act* amendment. The underlying objectives of the updates are to enhance community participation, promote strategic planning, increase probity and accountability in decision making, and promote simpler and faster processes for all participants.

At its meeting on 12 April, 2017, Council considered Group Manager's Report No. PL17/17 outlining the proposed planning legislation updates and identifying implications for Hornsby Shire. Council resolved to forward a submission to the DP&E indicating general support for the *Planning Legislation Updates* subject to the Department addressing issues relating to Community Participation Plans, Local Strategic Planning Statements, Complying Development Codes and Local Planning Panels.

In October 2017, amendments to the planning legislation were introduced into the NSW Parliament. The *Environmental Planning and Assessment Amendment Bill 2017* introduced for debate was largely consistent with that exhibited for comment. On 15 November 2017, the NSW Parliament passed the *EP&A Amendment Bill 2017*.

The *EP&A Regulation* complements the *EP&A Act* and provides the key operational provisions for the NSW planning system, many of which relate to the day to day operational activities of Council's planning functions. In September 2017, the DP&E released the *Review of the Environmental Planning and Assessment Regulation 2000 Issues Paper* for comment. The DP&E advised the objective of the paper is to initiate a review of the *EP&A Regulation* to:

- Reduce administrative burden and increase procedural efficiency;
- Reduce complexity; and
- Establish a simpler, more modern and transparent planning system.

The DP&E is seeking comments on issues highlighted in the Issues Paper and to assist identify other issues with the *EP&A Regulation*. This is the first comprehensive review since 2000 and will inform the preparation of a new *EP&A Regulation* which will be released in draft for consultation in 2018.

DISCUSSION

This report outlines the key issues for Hornsby Shire in relation to the Issues Paper and planning functions under the *EP&A Regulation* with the intent of making a submission to the DP&E. The review is generally supported as it provides an opportunity for the Regulation to be updated to:

- Be consistent with *Standard Instrument* LEP format and language;
- Reflect changes in technology;
- Ensure consistency throughout planning legislation in relation to transparency and accountability, public exhibition requirements and availability of information to the public; and

- Clarify matters identified in the recent *EP&A Act* amendments that warrant further consideration.

Discussion in the balance of this report is arranged under headings which relate to the Issues Paper and key operational areas of the *EP&A Regulation*. Submissions on the review of the *EP&A Regulation* closed on 24 November 2017. Accordingly, a copy of this report has been forwarded to the DP&E as Council's unendorsed draft submission which will be updated pending Council's resolution.

A. MODERN AND ACCESSIBLE REGULATION

The DP&E has identified the review of the *EP&A Regulation* is an opportunity to promote modern and accessible legislation. The Issues Paper outlines a number of issues that should be considered to do same, including evaluating the process and methods for the making a formal submission to a planning authority. Reasons for evaluating the identified issues include the opportunity to simplify provisions to reduce administrative burden, and to respond to advancements in technology and communication methods.

Key Issues for Council

- a) Providing clarity in the *EP&A Regulation* on what constitutes a submission is supported. At a minimum, contact details should be provided in a submission.

Council receives submissions on planning matters through a variety of channels including e-mail, fax, post, survey response and online feedback. Submissions include individual letters, form letters, written comments provided at information sessions and petitions. Council responds to submissions based on the contact details provided in the submission. Communications include acknowledgment of submissions, advice concerning Council meetings at which a matter will be considered, Council's resolution, and future consultation on related matters.

To assist administration, a preferred e-mail or postal address should be provided. Administration of submissions includes their electronic storage. In this regard, the subject of the submission should be identified clearly.

Petitions are received in a variety of forms and information can often be difficult to interpret. Council is also aware of cases where people signing petitions have felt compelled to do so without any opinion on the matter or desire to be further contacted. Where petitions are submitted, there should be minimum requirements met for the acceptance of petitions as submissions. Minimum requirements could be applied to petitions to ensure the head petitioner provides appropriate contact details and an undertaking to advise fellow petitioners of the outcome of the petition.

To assist Council's communication in response to comments on specific planning matters and reduce administrative burden, the lines of communication should be specific, the preferred means of contact would be e-mail or postal address. Phone numbers are useful to assist planning officers to make direct contact with submitters to further discuss concerns. However, phone numbers and social media accounts should not be relied on as a sole contact for submissions.

Recommend: At a minimum, submissions on planning matters should be made in writing, clearly marked with the subject of the submission, and include the submitter's first name and surname, a preferred contact address (e-mail or postal address) and their place of residence/business address.

Where the submission is a petition, the head petitioner should be required to provide the same minimum contact details and they should carry the onus of providing updates on outcomes of the matter for which the petition was provided.

B. EXAMINING EXISTING PROVISIONS AND IDENTIFYING KNOWN ISSUES

The Issues Paper outlines the key operational provisions of the current *EP&A Regulation* and known issues. The Issues Paper requests feedback on the known issues and other suggestions for change to improve the key operational provisions.

1. Planning Instruments

The key land use planning instruments in NSW are Local Environmental Plans (LEPs) and State Environmental Planning Policies (SEPPs). The *EP&A Act* also provides for supplementary planning documents such as Development Control Plans (DCPs).

Key issues for Council

- a) The new *EP&A Act* will enable the Regulation to standardise DCPs. Council has indicated support of the standardisation of the form of DCPs but not of the content. The opportunity for councils to provide detailed guidance to address local character and their communities' preferences should not be diminished. Preparation of Model Provisions for content for DCPs has also been suggested. Model mandated provisions under the *Standard Instrument* LEP were problematic for a number of councils seeking to manage local conditions and character. Should model DCP provisions be prepared, these provisions should not be mandated.

Recommend: A reference group of council planners should be set up to advise the DP&E on how to standardise the structure of DCPs, without limiting the content of the plans and to consider model provisions for application in DCPs.

- b) After considering any submissions about a draft DCP, the *EP&A Regulation* currently allows a plan to be approved with any 'such alterations as the council thinks fit'. To improve transparency, the Issues Paper suggests a requirement for the re-exhibition of an amended plan in certain circumstances. For example, re-exhibition could be required where amendments substantially alter the form or objectives of the draft DCP.

There is no objection to improving transparency. However, the proposal to require re-exhibition of an amended plan in specified circumstances is not supported as it could cause unnecessary delays to planning process. Council reports provide sufficient transparency in providing explanation of any DCP amendments following public exhibition.

Recommend: Councils should retain discretion on how and when to re-exhibit a DCP.

2. Development Assessment and Consent

Various parts of the *EP&A Regulation* are relevant to the development assessment and consent process. Of note, Part 6 of the Regulation includes requirements for Development Applications (DAs), including public participation, determination, requests for additional information, concurrence and assessment timeframes.

Key issues for Council

- a) The *EP&A Regulation* currently prescribes timeframes for DA procedures as 40 days for local, 60 days for integrated and designated, and 90 days for State Significant Infrastructure development. The timeframes should be reviewed. Council is aware of some applicants lodging appeals to the Land and Environment Court for DAs on the deemed refusal day to

force the matter to a Section 34 conciliation meeting. This activity increases costs and administration for councils as it requires councils to brief lawyers and prepare legal statements to meet court deadlines. Additional information is often presented at the conciliation meeting and a decision negotiated with the applicant and council staff which could have been managed at less cost within a more realistic timeframe.

Recommend: The prescribed timeframes for DAs should be increased to a minimum of 50 for local, 70 days for integrated and designated and 100 days for State Significant Infrastructure development.

- b) Deemed refusal timeframes should also be increased where DAs are required to be referred to an Independent Hearing and Assessment Panel (IHAP) for determination. This has implications for costs (time, administration and resourcing) incurred by councils, as well as timeframes for completion of assessment. The Development Assessment Best Practice Guide, March 2017 allows 5 days for DAs to be determined by a Local Planning Panel to meet the deemed approval time of 40 days. DAs referred to an IHAP require a more realistic deemed refusal period of at least an additional 10 days.

Recommend: Deemed refusal timeframes should add an additional 10 days where DAs are referred to an IHAP for determination.

- c) The exhibition of the draft EP&A Act amendments earlier this year identified a proposal to introduce incentives for early consultation into the *EP&A Regulation*. Council flagged in its submission that 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.

- d) The *EP&A Regulation* does not currently specify the sensitive categories of complying development for which only a council certifier is authorised to approve. Council previously made comment on this issue as part of its submission on the draft *EP&A Act* amendments. Notwithstanding, it is understood that the draft *EP&A Act Bill* specifies that the Regulation can identify types of complying development that should only be issued by council.

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 *EP&A Regulation* should not be amended to introduce sensitive categories of complying development and the associated requirement that only councils be able to determine same.

- e) Councils are currently required to publish a notice of determination, including the decision and date of decision, in the local newspaper. The draft *EP&A Act* amendments exhibited earlier this year do 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. This matter is proposed to be addressed in the *EP&A Regulation*. Publication of such detail in local newspapers is not practical or cost effective.

Recommend: The DP&E should provide 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. Environmental Assessment

Various Parts and Schedules of the *EP&A Regulation* include requirements that are relevant to environmental assessment of “activities” (i.e. not requiring development consent) under Part 5 of the *EP&A Act* referred to as a Review of Environmental Factors (REFs).

- a) There is currently no requirement for public agencies to make their environmental assessments publicly available. The Issues Paper suggests that the *EP&A Regulation* could include a requirement for public agencies to make their environmental assessments on activities publicly available.

The NSW Government intends to expand the use of environmental assessments under Part 5 of the *EP&A Act*. For example, *State Environmental Planning Policy (Educational Establishments and Childcare Facilities) 2017* amended the approval process for a number of school developments by removing the need for a DA and replacing it with a REF by the relevant public agency. Similarly, the NSW Government recently placed on public exhibition proposed amendments to *State Environmental Planning Policy (Infrastructure) 2007* proposing new or expanded provisions for health services facilities and various other public authority works. These proposed amendments would also remove the need for a DA, replacing it with a REF.

Recommend: All REFs should be made publicly available and the authority responsible for the environmental assessment should provide a contact for any questions.

4. Fees and Charges

Part 15 of the *EP&A Regulation* sets fees for the services associated with the development application process as well as other planning services which have costs and resourcing issues. Some fees are based on the intention of meeting the costs of providing various planning services to applicants. The DP&E is seeking feedback on all fees and charges set by the current *EP&A Regulation*.

Key issues for Council

- a) The current fee schedule does not cover the real cost of assessing the application. Although fees are based on ‘cost of work’, these costs can be substantially under-estimated. Fees need to be significantly increased to acknowledge the level of work involved and the expertise required to assess a DA in an increasingly complex and litigious planning process.

Councils are increasingly required to negotiate outcomes with applicants and communities on highly controversial and technical issues. Councils also often seek peer review on various matters such as the urban design merit of proposals. Accordingly, the real cost of assessment needs to be determined by undertaking an audit of the average staff and consultant costs associated with assessing a wide range of DAs throughout both Metropolitan and non-Metropolitan areas.

Recommend: The DP&E should undertake an audit of the average staff and consultant costs associated with assessing a wide range of DAs throughout both Metropolitan and non-Metropolitan areas to determine development assessment fees.

- b) In response to the recent mandating of IHAPs and to ensure the costs of administering same are not borne by ratepayers, it is understood that the NSW Government has made a commitment to monitor the costs to councils and, if necessary, allow for cost recovery through development application fee adjustments.

Recommend: The *EP&A Regulation* should be amended to include an appropriate fee to achieve cost recovery for applications referred to planning panels.

- c) Fees for planning proposals submitted for consideration by councils are not currently prescribed under the *EP&A Regulation*. A basic principle for determining fees for planning proposals should be cost recovery. Costs can vary significantly depending on the studies required to be reviewed. Assessment requirements can vary widely depending on the type and scale of development and age of Council's planning strategies. Councils also often need to engage specialist consultants to peer review planning proposals. Accordingly, councils are best placed to determine the average costs of assessing planning proposals.

Council has a standard fee for evaluation of minor planning proposals (i.e. \$30,000) and major planning proposals (i.e. \$55,000) based on whether it would facilitate development with a construction value greater than \$20 million. However, the size and complexity of some proposals may require special agreements to be reached between proponents of planning proposals and councils so that the evaluation of planning proposals results in "no cost to Council". The evaluation of the South Dural Planning Proposal and supporting technical studies was one such project and had an evaluation cost of approximately \$1 million.

Recommend: The responsibility for determining fees and charges for evaluation of planning proposals and supporting technical studies should be left to the discretion of councils.

- d) Following the introduction of private certification into the market place, there is a community expectation and legal responsibility under the *EP&A Act* that councils will continue to investigate and, where appropriate, take enforcement action for a wide range of land use planning compliance matters, including:

- non-compliance with conditions of development consent;
- variations from the approved plans;
- pollution incidents;
- poorly-maintained structures to prevent soil erosion;
- roads and paths blocked by trucks or skip bins;
- hoardings and cranes;

- development that does not comply with a consent; and
- building disputes.

The cost of councils providing officers to investigate and resolve these types of issues is significant and cannot be recovered by issuing cost compliance notices, fines or court action. To ensure that the regulatory regime that follows the approval process is properly monitored, it is appropriate that a compliance levy of 0.0025% of the Capital Investment Value (CIV) of a proposed development be charged on each development application with a minimum levy of \$75 on all applications. This fee would generally cover full cost recovery for council compliance work.

The charging of a levy is the most cost effective way of ensuring strong regulation is achieved. Issuing cost compliance notices, fines and initiating court action to recover costs involves additional administration resources, which cannot be recovered.

Recommend: A compliance levy of 0.0025% of the CIV of a proposed development should be charged on each development application with a minimum levy of \$75 on all applications.

- e) The regulated fees for councils lodging, registering and assessing Section 149 Building Certificates do not provide a full cost recovery for councils undertaking this assessment. The fees should be established on a full cost recovery basis and allow for lodging the application, reviewing past consents and undertaking a site inspection of the subject building. Section 149 Building Certificates are binding legal documents and therefore, require a high level of scrutiny before they are issued.

Recommend: Any fees prescribed in the *EP&A Regulation* for councils, lodging, registering and assessing Section 149 Building Certificates should be based on full cost recovery.

- f) The *EP&A Regulation* prescribes fees for the issue of Section 149 Planning Certificates. The form and content of Section 149(2) Certificates is set by the *EP&A Regulation*. Council determines the form and content of Section 149(5) Certificates based on what it considers a prospective purchaser of land would benefit from knowing. The fee for Section 149(2) Certificates is \$53 and the fee for Section 149(5) Certificates is \$80. These fees have been in place for some time without increase.

Given the level of information now required to be provided on both types of certificates, their legal status and the cost liability ramifications of issuing incorrect certificates, it does not properly reflect the time invested by Council staff to setup and maintain its various information and on-line systems to be able to produce Section 149 Planning Certificates accurately and efficiently.

Council's systems require regular maintenance to ensure land and property descriptions are updated upon notification of subdivision registrations as well as updating of planning affectations associated with the release of new planning legislation.

Recommend: Fees for 149(2) and 149(5) Certificates should be increased under the *EP&A Regulation* to better reflect the complexity of information now required to be provided on certificates and the responsibility of managing information and on-line systems.

5. Development Contributions

The *EP&A Act* establishes the framework for development contributions being Section 94 Contributions, Section 94A levies, voluntary planning agreements, affordable housing contributions and special infrastructure contributions (SICs). The *EP&A Regulation* includes a range of additional

requirements that relate to development contributions such as their form, structure, content, public notice and exhibition, and keeping of registers.

Key issues for Council

- a) Council has made a number of submissions to the DP&E requesting that the artificial \$20,000 Section 94 Cap (which has remained unchanged since 2008) be removed to enable councils to collect the real cost of providing infrastructure and services to new population without having to go through the arduous task of demonstrating to the Independent Pricing and Regulatory Tribunal (IPART) that the costs being charged are for specified basic infrastructure and services. Notwithstanding, should the cap remain, Council has requested at a minimum that the cap be indexed in accordance with Consumer Price Index (CPI) to ensure the value of contributions plans is maintained over time. This is consistent with the principles in Clause 25I of the *EP&A Regulation*.

Recommend: The *EP&A Regulation* should be clarified to specify that where a Section 94 contribution cap is set, the cap should be indexed in accordance with CPI.

- b) The *EP&A Regulation* provides for the issue of practice notes to assist parties in the preparation of VPAs. However, there is currently no requirement to take practice notes into account. The Issues Paper identifies the review could consider amending the Regulation to ensure planning authorities and developers consider practice notes when parties enter into a VPA. No in principle objection is provided to such an amendment. However, the DP&E previously exhibited a draft policy framework for VPAs to which Council made a submission. Council's submission stated (in part) that the revised policy framework for VPAs should be refined to address the following issues:

- 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; and
- 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.

Accordingly, should the NSW Government wish to make it a requirement to take the VPA practice notes into account, it must first address Council's outstanding issues.

Recommend: Should a requirement be included in the *EP&A Regulation* that practice notes on VPAs are to be taken into account, the NSW Government should first develop best practice value capture principles and tools within the revised policy framework for VPAs.

6. Planning Certificates

Clause 279 of the *EP&A Regulation* requires information prescribed in Schedule 4 to be included on a Section 149 Planning Certificates. The Issues Paper identified a number of issues relating to planning

certificates, including the type of information provided, how information is expressed and planning certificate consistency and complexity.

Key issues for Council

- a) The Issues Paper is seeking feedback on the role of Section 149 Planning Certificates. Section 149 Planning Certificates are required to be included with contracts for the sale of land so that prospective purchasers of land are aware of the relevant planning controls that apply to the land. They are also relied upon by proponents of development in preparing development applications and independent certifiers in determining complying development applications. Section 149 Planning Certificates should remain as they are the principal textual means for advising all the key relevant planning affectations applicable to any one parcel of land as at a certain date.

Recommend: The *EP&A Regulation* retains Section 149 Planning Certificates as the principal textual means of advising all the key relevant planning affectations applicable to a parcel of land.

- b) The Issues Paper is seeking feedback on what information should be included on planning certificates and the language and format in which information should appear. The *EP&A Regulation* should continue to prescribe the information, language and format that appear in Planning Certificates.

A reference group of council planners should be established to advise on the form, structure and subject matter of Section 149(2) Planning Certificates. However, any required information should be designed to recognise the limitations of the binary nature of Property Information Systems (PIS) which can only provide information for the entire parcel of land in a “yes” or “no” format. Council often supplements this limitation by providing reference to Council’s web-based Geographic Information Systems (GIS) to provide spatial information.

Council should also retain the opportunity to provide more detailed information on a Section 149(5) Planning Certificate based on any other planning matters that it may consider relevant and of benefit for the consumer. Council is able to respond more quickly to salient planning issues than making a change to Schedule 4 of the *EP&A Regulation*. Council’s Section 149(5) Planning Certificates includes information relevant to the land such as:

- Resolutions to prepare a planning proposal;
- Draft amendments to the Hornsby Development Control Plan;
- Tree and Vegetation Management provisions;
- Biodiversity Management provisions;
- Foreshore Area controls;
- Whether located in or adjacent to an existing or proposed rail corridor;
- Whether located in or adjacent to a rural area and associated agricultural undertakings;
- Subject to risk of “future” exposure to tidal inundation; and
- Potential for loose-fill asbestos.

Recommend: A reference group of council planners should be established to advise on the form, structure and subject matter of Section 149(2) Planning Certificates.

Councils should retain the opportunity to provide more detailed information on a Section 149(5) Planning Certificate based on any other planning matters that it may consider relevant and of benefit for the consumer.

- c) Councils rely on a number of other public authorities to advise when planning legislation is made or to supply geographic and property data to assist councils populate their GIS and PIS. Advice regarding making and coming into effect of legislation along with the appropriate format datasets to populate Council's information systems should be provided a minimum 7 days in advance to:
- enable interpretation of the legislation to determine where it applies;
 - upload GIS data and identify individually affected properties;
 - create condition codes and notations and update the PIS; and
 - update checking templates and advise relevant council staff.

Recommend: The *EP&A Regulation* should be updated to require public authorities to provide information to councils in an appropriate time period prior to legislation coming into effect and that the information is in a format that is designed for the purposes of populating councils GIS and PIS.

- d) The Issues Paper is seeking feedback on whether hard copy planning certificates could be replaced with an online system through the NSW Planning Portal. Council currently issues Section 149 Certificates in either hard or electronic copy according to the customer's request. It is estimated that approximately 90% of certificates are issued through the on-line system. However, all certificates are checked manually by Council officers to ensure the certificates are correct before they are issued by email in a pdf copy or hard copy for mailing or collection at Council offices.

There are no in principle concerns with the provision of a central portal where S149 Planning Certificates can be applied for. However, given the complexity of the planning controls that relate to any one local government area, it is difficult to see how the administrators of the NSW Planning Portal can ensure the issuing of accurate Section 149 Planning Certificates. Accordingly, councils should retain control of the production and issue of the certificates once verified as being correct.

Recommend: The DP&E should set up a working group to undertake further consultation with councils on any proposal to apply for S149 Planning Certificates via the NSW Planning Portal.

7. Miscellaneous Operational and Administrative Positions

In recent times, Council has responded to a number of privacy complaints regarding the inadvertent release to its website of personal information contained in DA related information. Two of these matters progressed to the NSW Civil and Administrative Tribunal with both matters being confidentially settled at mediation. As a result of the findings and outcomes of these privacy complaints, it has been necessary for Council to change its practices in respect to the availability of DA and related information on its website.

The EP&A Act and *EP&A Regulation* contain requirements to make certain information concerning DAs publicly available. Much of the information contains personal information of various individuals such as names, addresses, contact details. However, the Privacy and Personal Information

Protection Act (PPIPA) has specific requirements which must be met to protect such personal information. Hornsby Council, like most other local councils, has found it difficult to set in place practical operational steps which effectively balance the conflicting requirements of the GIPA Act, the EP&A Act and the PPIPA, particularly in respect of DAs. Council's approach has always tended towards the concepts of openness and accountability by providing easy access by the public to as much information as possible whilst maintaining optimal adherence to the privacy protection principles of the PPIPA.

The ready accessibility of information is particularly important for DAs, which are a major source of enquiry by our residents and ratepayers. As a result, a system titled DA Tracking was put in place in 2007 allowing easy accessibility on Council's website of information relating to DAs. Specific internal controls, record keeping procedures, document handling guidelines and training for staff were established to ensure maximum benefit was obtained from this service, whilst still maintaining a respect for the privacy of individuals. In response to recent concerns, Council officers undertook a complete review of its internal processes in respect of the management of information relating to DAs.

In summary, Council's approach reflects that the period of time between when a DA is lodged until it is determined (i.e. the assessment period) is part of Council's deliberative process in respect of that DA. Information received subsequent to the lodgement of the DA such as that dealing with procedural matters (e.g. notification of the erection of the DA sign, submissions, general communications/questions from the public, notification letters, and internal memos requesting comments from other areas of Council), is not made available during the period in which the DA is under assessment (i.e. during the deliberative process). However, once a determination of the DA has been made by Council, additional information may be made available, having regard to public interest considerations, by making a GIPA application. This approach reflects the intent of the EP&A Act and its reference to the availability of documents accompanying a DA (i.e. those that are submitted when the application is lodged). It should also be noted that this approach mirrors that which Council officers understand is intended to be taken by the DP&E.

Recommend: The *EP&A Regulation* should be reviewed to clarify that the information to be made publicly available through the DA process should be limited to the DA and its accompanying documents following their receipt by Council.

BUDGET

There are no budgetary implications associated with this Report.

POLICY

There is no policy implications associated with this report. Discussion is based on the issues associated with the current *EP&A Regulation*. Any policy implications associated with revised *EP&A Regulation* will be addressed in a future report to Council.

CONCLUSION

In September 2017, the DP&E announced a comprehensive review of the *EP&A Regulation* in association with the review and amendments to the *EP&A Act*. The DP&E is seeking comments on any issues with the current *EP&A Regulation* and on matters highlighted in the Issues Paper.

The *EP&A Regulation* provides much of the detail to the planning framework set out in the *EP&A Act*, informing the day to day requirements of Council's key planning functions. Council has a number of issues with the current *EP&A Regulation* and proposals to amend the Regulation based on those mooted by the draft *EP&A Act* amendments.

It is recommended that Council forward a submission to the DP&E identifying its general support for a comprehensive review of the *EP&A Regulation* subject to addressing the issues identified in this report.

RESPONSIBLE OFFICER

The officer responsible for the preparation of this Report is the Acting Manager, Strategic Planning – Jason Rawlin - who can be contacted on 9847 6744.

JASON RAWLIN
Principal Strategic Planner - 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: D07337729

12 DRAFT GREATER SYDNEY REGION PLAN - 2056**EXECUTIVE SUMMARY**

- In late October, the Greater Sydney Commission (GSC) placed the *draft Greater Sydney Region Plan – Our Greater Sydney 2056 – A Metropolis of Three Cities* on public exhibition. Submissions are invited to be received until 15 December 2017.
- The *draft Plan* sets the framework to manage growth and change and guide infrastructure delivery within Greater Sydney over the next 40 years (up to 2056).
- The *draft Plan* has a 40 year vision but sets a 20 year plan from 2016 to 2036 to cater for the increase in population. The 20 year plan proposes to facilitate a minimum of 725,000 additional dwellings and generate 817,000 additional jobs by 2036.
- The *draft Plan* creates a number of issues for Hornsby Shire associated with the strategies for infrastructure and collaboration, liveability, productivity, sustainability and implementation.
- It is recommended that Council forward a submission to the GSC indicating its general support for the *draft Plan* subject to addressing the major issues for Hornsby Shire.

RECOMMENDATION

THAT a submission be forwarded to the Greater Sydney Commission indicating its general support for the *draft Greater Sydney Region Plan 2056* subject to the Commission addressing the major issues for Hornsby Shire identified in Group Manager's Report No. PL65/17, including:

1. Government commit to up-front investment for critical infrastructure and then recoup monies;
2. Planning proposals for housing demonstrate they are required to meet dwelling targets;
3. Councils only need to address affordable housing targets to meet overall dwelling targets;
4. Nominate Hornsby Town Centre as a "Health and Education Precinct";
5. Include a category of "agricultural precincts" to manage important agricultural use clusters;
6. Government funding be available for provision of open space near new residential areas; and
7. Councils be consulted as part of the annual reporting on performance against the metrics.

PURPOSE

The purpose of this Report is to outline the Greater Sydney Commission's (GSC) *draft Greater Sydney Region Plan 2056*, identify implications for Hornsby Shire and provide recommendations for a submission to the Commission.

BACKGROUND

Metropolitan strategy planning in Greater Sydney to inform the preparation of State and Local Government planning policy has occurred since 1909, with the release of the *Royal Commission for the Improvement of the City of Sydney and its Suburbs*. There have been a number of notable Metropolitan strategies since then, including the *1948 County of Cumberland Plan*, *1968 Sydney Region Outline Plan*, *1988 Sydney into its Third Century* and *2005 City of Cities*, which first introduced a subregional framework for greater Sydney to better inform local environmental plans, providing targets for dwellings and employment growth.

More recently, in March 2013, the Department of Planning and Environment (DP&E) placed the draft Metropolitan Strategy for Sydney to 2031 on public exhibition. The draft Metropolitan Strategy set a 20 year planning framework for Sydney's growth between 2011 and 2031. In December 2014, the DP&E released a revised draft Metropolitan Plan – *A Plan for Growing Sydney* which provided a 20 year vision to 2031 for the future growth and development of the Greater Sydney Region. The Plan included a subregional framework with six revised Sydney subregions referred to as districts to assist implement the Plan. Hornsby Shire is located in the North District, along with Hunters Hill, Ku-ring-gai, Lane Cove, Northern Beaches, Mosman, North Sydney, Ryde and Willoughby LGAs.

In November 2016, the GSC released the *draft North District Plan* and draft amendments to the *Metropolitan Plan – A Plan for Growing Sydney* for public exhibition. At its meeting on 8 March 2017, Council considered Group Manager's Report No. PLN9/17 concerning the *draft North District Plan*. Council resolved to forward a submission on the *draft North District Plan* to the GSC indicating Council's general support for the draft North District Plan subject to the Commission addressing Council's issues.

After considering feedback received through exhibitions on the draft amendments to the *Metropolitan Plan* and *draft North District Plan*, in late October 2017, the GSC released for public exhibition the *draft Greater Sydney Region Plan, Our Greater Sydney 2056 – A Metropolis of Three Cities* and *revised draft North District Plan 2036*. The draft Plans are on exhibition until 15 December 2017. As part of this exhibition, the GSC held a number of briefings and community feedback workshops and also invited written submissions. The content of this report will form the basis of Hornsby Council's submission on the *Greater Sydney Region Plan*.

DISCUSSION

This section provides an overview of the *draft Greater Sydney Region Plan 2056* and identifies the key implications for Hornsby Shire.

1. CONTEXT

The *draft Greater Sydney Region Plan 2056* sets the framework to manage growth and change and guide infrastructure delivery within Greater Sydney over the next 40 years. It sets the vision and strategy for Greater Sydney, which will be implemented at the regional level through District Plans and at the local level through local plans and the assessment of planning proposals. The draft Greater Sydney Region Plan has been prepared in conjunction with the NSW Government's *Future Transport*

2056 Strategy and informs Infrastructure NSW's *State Infrastructure Strategy* providing full integration of land use, transport and infrastructure planning.

The GSC is an independent organisation. Accordingly, the *draft Plan* is not Government policy but includes a vision and includes recommendations for a number of new policy initiatives for consultation and ultimately the NSW Government's consideration. The *draft Plan* is built on a vision where the people of Greater Sydney live within 30 minutes of their jobs, education, health facilities, services and great places. The vision seeks to meet the needs of a growing and changing population by transforming Greater Sydney into a metropolis of three cities, the Western Parkland City, the Central River City and the Eastern Harbour City.

The *draft Plan* has been prepared having regard to population projections developed by the DP&E based on the 2011 Estimated Resident Populations (ERPs) supplied by the Australian Bureau of Statistics (ABS). The GSC has advised that finalised ERPs incorporating the 2016 Census data were not available from the ABS when the document was drafted. From these projections, it has been identified that Greater Sydney's population will grow by 3.3 million, taking Sydney's population from 4.7 million in 2016 to 8 million people by 2056. By 2056, it is anticipated that almost half of Sydney's population will reside west of Parramatta.

The *draft Plan* has a 40 year vision but sets a 20 year plan from 2016 to 2036 to cater for the increase in population. The 20 year plan proposes to facilitate a minimum of 725,000 additional dwellings and generate 817,000 additional jobs by 2036.

2. STRUCTURE OF THE PLAN

The *draft Plan* has 4 key layers that work together to turn the three cities vision into the reality of a metropolis of three 30 minute cities, namely: "landscape", "housing and great places", "jobs" and "connectivity". The *draft Plan* is based around the 4 key themes of "infrastructure and collaboration", "liveability", "productivity" and "sustainability" which include 12 actions. There are 10 directions, which are linked to 14 metrics and 38 objectives, to guide the delivery of themes, namely:

- A city supported by infrastructure;
- A collaborative city;
- A city for people;
- Housing in the city;
- A city of great places;
- A well connected city;
- Jobs and skills for the city;
- A city in its landscape;
- An efficient city; and
- A resilient city.

The vision, actions, directions and objectives all culminate into a Structure Plan which highlights the principal spatial elements for managing growth and change across Greater Sydney based on a metropolis of three cities. The Structure Plan links houses, jobs, education, health and other services with transport connections.

The *draft Plan* also contains an Implementation Plan with 2 actions and 2 objectives. The Implementation Plan identifies that there are multiple aspects to the delivery of the *draft Plan*. The Implementation Plan will inform State Environmental Planning Policies, District Plans, major State Government land use, transport and infrastructure planning, Council Community Strategic Plans,

Local Environmental Plans and assessment of Planning Proposals, private sector investment, and engagement with the wider community.

3. KEY OBJECTIVES OF THE PLAN

The key objectives of the draft Plan and the issues for Hornsby Shire are addressed below under the four theme and associated objective headings.

3.1 Infrastructure and Collaboration

Greater Sydney has seen unprecedented levels of housing development in recent years leading to increased demand on infrastructure and services across the Metropolitan Area. In tandem, community standards for the quality and timely provision of infrastructure, amenity and place have also increased. Accordingly, the draft Plan notes that as Greater Sydney grows and becomes more complex, there is a need to design better ways of supporting growth and delivering appropriate infrastructure in the right places.

The draft Plan identifies when and where growth is anticipated across the Metropolitan Area by promoting the vision of a metropolis of three cities and sequencing growth to promote north-south and east-west connections. The GSC is promoting a new approach to aligning growth with infrastructure delivery called the “growth infrastructure compact” (i.e. a place based approach) which includes developing a vision for 10, 20 and 40 year development scenarios, identifying baseline infrastructure required at the identified time periods, identifying the associated funding required and getting Government to endorse the development scenario so that Government Agencies align their budget priorities. The draft Plan also seeks to optimise the use of existing infrastructure assets and reduce the demand for new infrastructure by modifying behaviour.

The GSC has initiated the concept of “collaboration areas” that focus on creating great places, generally aligned with employment centres. The concept involves collaboration between Government and other key stakeholders to develop a Place Strategy and Infrastructure Plan that provide certainty to the community and the private sector, and align the Government’s investment and policies to achieve the great places. One of the collaboration area models is that of Priority Precincts. The NSW Government has advised that it is going to expand the consideration of Special Infrastructure Contributions to Priority Precincts to fund critical infrastructure.

Key issues for Council

- a) One of Council’s issues associated with previous Metropolitan Strategies was that housing and employment targets were not matched by commitments by State Government agencies to deliver associated infrastructure and services. Also, the associated philosophy of releasing of untested urban renewal precinct structure plans into the community which specify dwelling and employment targets along with preferred building forms has promoted speculative property purchases and the lodgement of proponent initiated planning proposals proposing overdevelopment to recoup the highly inflated land values paid. The various models for matching growth with infrastructure investment, including the “growth infrastructure compact” and “collaboration areas” should provide an improvement on previous Metropolitan Strategies.

One of the key issues that the “growth infrastructure compact” model does not appear to address is the delivery of infrastructure could still lag up to ten years behind detailed planning for development. This is because the complete list of infrastructure and associated funding required is not known and programmed into relevant State Government Agency short and medium term budgets until detailed planning is finalised. This could delay the delivery of

development on land marked for redevelopment still creating significant uncertainty for residents of such places.

Recommend: Objective 2 of the draft Plan should:

- be updated to commit the NSW State Government to up-front investment on critical “baseline” infrastructure required to support urban renewal precincts from day one; and
- clarify that the State Government can recoup its significant upfront investment through the receipt of development contributions and/or satisfactory arrangements provisions.

3.2 Liveability

The quality of life that residents enjoy in neighbourhoods, work places and cities is central to liveability. Improving liveability leads to better mental and physical health outcomes, and community cohesion, and provides productivity and sustainability benefits. The draft Plan notes that it is anticipated that the metropolis of three cities will enable great places to meet people’s essential housing, transport, employment and social needs.

The population of Greater Sydney, which is 4.7 million, is projected by the DP&E to grow by 1.7 million to 2036. Planning for the next 20 years involves providing services and infrastructure locally to meet the needs of the growing population and changes to demographics. The draft Plan notes that planning for the housing needs of the Greater Sydney population also brings the challenge of addressing housing affordability. Housing affordability can affect job and lifestyle choices and for some will determine whether they can live in Greater Sydney.

The NSW Government has identified demand for 725,000 homes to meet the projected growth over the next 20 years. The draft Plan sets out a process to deliver a steady pipeline of supply to meet forecast housing demand and to improve Greater Sydney’s housing affordability. The draft Plan establishes housing targets to support the creation of supply for delivery over the next ten years and to create capacity for the longer term. A suite of measures that address housing affordability, such as implementation of Affordable Rental Housing Targets of between 5-10%, are included in the draft Plan.

Key issues for Council

- a) The strategies to deliver social infrastructure to reflect the needs of the community now and into the future and optimising the use of available public land for social infrastructure under Objective 6 are both supported. However, to date, it has been difficult to secure agreements between Council and schools to share open space and other community facilities. The draft Plan should reference best practice case examples of such agreements to provide a template for striking agreements.

Recommend: Objective 6 of the draft Plan should be updated to reference best practice case examples agreements between Council and schools to share open space and other community facilities.

- b) Objective 10 of the draft Plan contains locational criteria for urban renewal and local infill development opportunities that form criteria against which planning proposals for additional housing must be evaluated. These are sound. However, a significant component of lands within Hornsby Shire meets the criteria and could be subject to the lodgement of proponent initiated planning proposals. It is noted that Council Housing strategies will be required to identify areas that are unsuitable for significant change in the short to medium term. The draft

Plan should be clarified so that proponents demonstrate any additional dwellings proposed are required to meet any shortfall between Council's Housing Strategy and dwelling targets.

Recommend: Objective 10 of the draft Plan should be clarified so that planning proposals lodged need to demonstrate they comply with all the criteria under the objective, including any additional dwellings proposed are required to meet any shortfall between Council's Housing Strategy and dwelling targets.

- c) Based on the extrapolation of Council's 0-5 year dwelling target, Hornsby Shire has adequate remaining capacity under its existing Housing Strategy to meet both the 0-5 and 6-10 year dwelling targets. Objective 11 requires a Housing Strategy to be provided by councils in the next three years that promotes more diverse and affordable housing. This can be interpreted as requiring Council to provide more than the overall housing target to achieve the "Affordable Rental Housing Targets", as affordable housing targets can only be applied in defined future precincts that are yet to be rezoned and before land values are set by new development potential.

Council should therefore be provided an exemption from the need to provide additional housing over and above its 0-5 and 6-10 year targets just to meet the "Affordable Rental Housing Targets". Councils existing Housing Strategy also provides a range of housing types and sizes to provide more affordable housing. It should therefore be at Council's discretion to determine whether to provide additional housing mix and dedicate affordable housing until it is required to do so by the overall housing targets.

Recommend: Objective 11 of the draft Plan should be amended to clarify that councils only need to comply with the "Affordable Rental Housing Targets" where it is required to provide housing strategies to meet the overall 0-5 and 6-10 year housing targets.

3.3 Productivity

Greater Sydney is Australia's global economic gateway and regional hub for global financial markets. The draft Plan states that Greater Sydney is one of the top 20 global economic cities, with the potential to become one of the top 10.

The draft Plan states that Greater Sydney is at a stage where changing its structure from one city on the eastern edge to a metropolis of three cities is needed to maximise economic growth and manage population growth. The draft Plan notes that polycentric development will deliver a range of benefits, including: improved choice of spaces, costs and locations for businesses; opportunities for economic specialisation; diversification of commuting patterns to reduce infrastructure stress; and new locations for housing closer to jobs at more affordable prices.

The draft Plan suggests that rebalancing Greater Sydney as three cities will broaden its global economic footprint to support net jobs growth of 817,000 to 2036. A metropolis of three cities requires a well-connected Greater Sydney where employment centres are connected by efficient public transport connections. The draft Plan is striving to create a "30 minute city", where most people can travel to their nearest metropolitan city centre by public transport within 30 minutes; and where everyone can travel to their nearest strategic centre by public transport seven days a week to access jobs, shops and services.

The draft Plan seeks to transform Greater Sydney into a metropolis of three cities by: using the Western Sydney Airport as a catalyst to develop the Western Parkland City; creating an innovation health and education cluster around Westmead Hospital and creating greater connections with surrounding employment centres to strengthen the Central River City; and continuing to promote

investment in the Eastern Global Economic Corridor and protecting the international gateways of Sydney Airport and Port Botany to bolster the Eastern Harbour City. The draft Plan seeks to review industrial and urban services land in all three cities based on the different principles of “protect and manage”, “review and manage” and “plan and manage”.

The draft Plan also seeks to improve the north-south regional connections with Newcastle, Central Coast and Wollongong to obtain benefit from an increase in scale associated with a region that will have a population approaching 10 million by 2056.

Key issues for Council

- a) Objective 21 of the draft Plan seeks to promote internationally competitive health, education, research and innovation precincts. The draft Plan identifies a number of health and education precincts across the Greater Sydney Region, including Frenchs Forest, Macquarie Park and Westmead. The draft Plan notes that there are three stakeholders required in the development of health and education precinct – government academia and industry. Hornsby Town Centre and environs along with the Hornsby Ku-Ring-Gai Hospital to the east possess all the required three stakeholders, with recent Government investment (i.e. \$200 million) in the redevelopment of the hospital, the TAFE and location of industrial and service land on the outskirts of the Centre.

Recommend: Figure 36 of the draft Plan should be updated to nominate Hornsby as a “Health and Education Precinct”.

- b) Objective 23 of the draft Plan includes requirements to manage industrial and urban services land in all LGAs based on the three different principles, including “review and manage” for Hornsby Shire. There is no rationale included in the draft Plan regarding where the line is drawn for the purposes of applying the different management principles other than aligning them to the boundary of the three cities.

It is understood that Hornsby Shire forms part of the “Eastern Harbour City” and yet the “review and manage” principle matches that referenced as the management principle for the “Central River City” which states that “the Commission will undertake a review of all industrial land to confirm its protection or transition to higher order uses”.

Figure 41, which identifies what management principle applies to each LGA, should be updated to ensure the correct principle is applied to each LGA and corresponds with the principles promoted for each of the three cities.

Recommend: Figure 41 of the draft Plan should be updated to ensure the correct principle is applied to each LGA and corresponds with the principles promoted for each of the three cities.

3.4 Sustainability

The draft Plan identifies that planning for sustainability in Greater Sydney involves taking a long term approach to managing its waterways, biodiversity and bushland, rural lands, and connected green spaces and corridors. It also involves greening streets and neighbourhoods with increased tree canopy cover.

The draft Plan identifies that Greater Sydney's four major landscape types are “Protected Natural Area”, “Metropolitan Rural Area”, “Urban Area”; and “Coasts and Harbours” and develops management strategies around each landscape type. One management strategy is through planning for and delivering green infrastructure (i.e. Greater Sydney's Green Grid). Green infrastructure is the

network of green spaces, natural systems and semi-natural systems that support sustainable communities. It has four connected elements: waterways; urban bushland; urban tree canopy and green ground cover; parks and open spaces.

Key issues for Council

- a) The draft Plan recognises that the Metropolitan Rural Area plays an important role in the sustainability of the entire Greater Sydney Region. The draft Plan also recognises the importance of conserving rural industries, agriculture and associated resources in the Greater Sydney Region. The recognitions could be strengthened by inclusion of the recognition of specified “agricultural precincts”. Agricultural precincts should be applied where there are important clusters of agricultural uses that produce primary products of value to the Region. The draft Plan is silent on the NSW Government support of, and the need to, maintain such precincts.

Recommend: Objective 29 of the draft Plan should be updated to include the category of “agricultural precincts”, apply the category to clusters of agricultural use of identified importance to the Region and apply principles to conserve such precincts.

- b) The draft Plan notes that careful planning of additional rural residential development in the Metropolitan Rural Area can help maximise the productive use of the land, create buffers around farms and rural industries, and generate opportunities for greater investment in the protection of waterways and bushland. Objective 29 of the draft Plan includes a strategy to maintain or enhance the values of the Metropolitan Rural Areas using “place-based planning” to deliver targeted environmental, social and economic outcomes, including rural residential development.

The inclusion of reference to rural residential development in the strategy without a definition of “place-based planning” does not provide certainty about the vision for the rural lands and may result in further development speculation, proponent initiated planning proposals and ad-hoc planning outcomes. Therefore, “place-based planning” should be properly defined to provide greater certainty of the State Government’s vision for the rural lands.

Recommend: Objective 29 of the draft Plan should be updated to include a definition of “place-based planning” to provide greater certainty of the State Government’s vision for the rural lands.

- c) Objective 31 of the draft Plan identifies that urban renewal needs to begin with a plan to new, improved and accessible open spaces that will meet the needs of the growing community, particularly where density increases. The strategy requires the investigation of opportunities to provide new open space so that all residential areas are within 400 metres of open space and all high density residential areas are within 200 metres of open space. The purchase of pocket parks is increasingly difficult due to increasing property values, limited by geography and is inconsistent with Council’s open space strategy. Council’s strategy establishes a sub-regional approach to open space provision, with a shift in focus toward the development to major destination parks that can contribute to providing a greater variety of recreation opportunities.

Recommend: Objective 31 of the draft Plan should be updated to include State Government funding where actions relate to the provision of open space within 400 metres of all residential areas and 200 metres of high density areas.

4. IMPLEMENTATION

The draft Plan identifies that achieving the vision of a metropolis of three cities requires involvement of a wide range of stakeholders with a diversity of responsibilities. The draft Plan also identifies the delivery of the vision requires regular monitoring and reporting on Greater Sydney's growth and change and on the progress of the delivery of the final Plan. Accordingly, the GSC will peer review key land use and infrastructure plans prepared by the DP&E to ensure that they are consistent with the draft Plan. The GSC will also monitor the metrics and report annually on the performance of the actions in the final Plan.

Key issues for Council

- a) Consultation with councils should be a requirement of the GSC's annual reporting process. This will provide councils the opportunity to provide feedback in relation to their performance against the KPIs and recommendations for policy refinement.

Recommend: Objective 40 of the draft Plan should be updated to require the GSC to consult councils as part of its annual reporting process in relation to their performance against the KPIs.

BUDGET

There are no budgetary implications associated with this report.

POLICY

The *draft Greater Sydney Region Plan 2056* and *revised draft North District Plan 2036* will inform the preparation of Council's Community Strategic Plan, planning strategies, assessment of planning proposals and ultimately revision to the *Hornsby Local Environmental Plan 2013 (HLEP)* and *Hornsby Development Control Plan 2013 (HDCP)*.

CONCLUSION

In late October, the GSC placed the *draft Greater Sydney Region Plan 2056* on public exhibition until 15 December 2017.

The draft Plan includes a vision, actions, directions, metrics, objectives, structure plan and implementation plan. Many of these are aligned under 4 key themes of "infrastructure and collaboration", "liveability", "productivity" and "sustainability". The draft Plan creates a number of issues for Hornsby Shire associated with the strategies for infrastructure and collaboration, liveability, productivity, sustainability and implementation.

It is recommended that Council forward a submission to the GSC indicating its general support for the draft Plan subject to addressing the major issues for Hornsby Shire identified in this report.

RESPONSIBLE OFFICER

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

JAMES FARRINGTON

Group Manager

Planning Division

Attachments:

There are no attachments for this report.

File Reference: F2010/00554

Document Number: D07344338

13 REVISED DRAFT NORTH DISTRICT PLAN - 2036**EXECUTIVE SUMMARY**

- In late October 2017, the Greater Sydney Commission (GSC) commenced exhibition of the revised *draft North District Plan 2036*. Submissions are invited to be received until 15 December 2017.
- The draft Plan supports the vision for Greater Sydney identified in the *draft Greater Sydney Region Plan 2056* by providing a strategic plan to manage growth and change and guide infrastructure delivery within the North District over the next 20 years (up to 2036).
- The draft Plan sets a 20 year housing target of 92,000 additional dwellings and a 5 year housing target of 25,950 additional dwellings for the North District. The draft Plan identifies that Hornsby Shire is responsible for providing 4,350 of the 25,950 additional dwellings. The draft Plan also sets a job target range for the strategic centre of Hornsby of 18,000 to 22,000 jobs in 2036, it being noted that 14,300 jobs were estimated as being provided in 2016.
- The draft Plan will inform Council Community Strategic Plans, Local Environmental Plans, Policies and assessment of Planning Proposals.
- The draft Plan creates a number of issues for Hornsby Shire associated with the strategies for infrastructure and collaboration, liveability, productivity, sustainability and implementation.
- It is recommended that Council forward a submission to the GSC indicating its general support for the draft Plan subject to addressing the major issues for Hornsby Shire.

RECOMMENDATION

THAT a submission be forwarded to the Greater Sydney Commission indicating Council's general support for the revised draft North District Plan subject to the Commission addressing the major issues for Hornsby Shire identified in Group Manager's Report No. PL66/17, including:

1. Changes to planning controls for Priority Precincts be conditional upon road improvements;
2. Identify incentives other than planning mechanisms to facilitate affordable housing;
3. Council only need to address affordable housing targets to meet overall dwelling targets;
4. Dwelling targets be reduced in recognition of limitations to increased density in north of Shire;
5. Whole of precinct planning and critical infrastructure for Cherrybrook be delivered up front;
6. Council be protected from planning proposals until the industrial lands review is completed;
7. Seniors housing not be approved until a clear vision for the South Dural region is developed.

PURPOSE

The purpose of this Report is to outline the contents of the revised *draft North District Plan*, identify implications for Hornsby Shire and provide recommendations for a submission to the Greater Sydney Commission.

BACKGROUND

Metropolitan strategy planning in Greater Sydney has occurred since 1909, with the release of the *Royal Commission for the Improvement of the City of Sydney and its Suburbs*. Subregional planning was introduced much later, with the release of the *2005 City of Cities Metropolitan Strategy* and *2007 draft North Subregional Strategy*. The *2007 draft North Subregional Strategy* provided dwelling and employment targets for the North Subregion, comprised of the Hornsby and Ku-Ring-Gai local government areas (LGAs).

More recently, in March 2013, the Department of Planning and Environment (DP&E) placed the *draft Metropolitan Strategy for Sydney to 2031* on public exhibition. The draft Metropolitan Strategy set a 20 year planning framework for Sydney's growth between 2011 and 2031. In December 2014, the DP&E released a *revised draft Metropolitan Plan – A Plan for Growing Sydney* which provided a 20 year vision to 2031 for the future growth and development of the Greater Sydney Region. The Plan included a subregional framework with six revised Sydney subregions referred to as districts to assist implement the Plan. Hornsby Shire is located in the North District, along with Hunters Hill, Ku-ring-gai, Lane Cove, Northern Beaches, Mosman, North Sydney, Ryde and Willoughby LGAs.

In November 2016, the GSC released the *draft North District Plan* and draft amendments to the *Metropolitan Plan – A Plan for Growing Sydney* for public exhibition. At its meeting on 8 March 2017, Council resolved to forward a submission on the *draft North District Plan* to the GSC indicating Council's general support for the draft North District Plan subject to the Commission addressing Council's issues.

After considering feedback received through exhibitions on the draft amendments to the *Metropolitan Plan* and *draft North District Plan*, in late October 2017 the GSC released for public exhibition the *draft Greater Sydney Region Plan, Our Greater Sydney 2056 – A Metropolis of Three Cities* and *revised draft North District Plan 2036*. The draft Plans are on exhibition until 15 December 2017. As part of this exhibition, the GSC held a number of briefings and community feedback workshops and also invited written submissions. The content of this report will form the basis of Council's submission on the *revised draft North District Plan*.

DISCUSSION

This section provides an overview of the *revised draft North District Plan 2036* and identifies the key implications for Hornsby Shire.

1. CONTEXT

The *revised draft North District Plan 2036* supports the vision for Greater Sydney identified in the *draft Greater Sydney Region Plan 2056*. The draft Plan sets the framework to manage growth and change and guide the infrastructure delivery within the North District over the next 20 years. It sets the priorities for the North District and the actions to deliver the priorities. The draft Plan will inform the preparation of Council's Community Strategic Plan, planning strategies, assessment of planning proposals and ultimately revision to the *Hornsby Local Environmental Plan 2013 (HLEP)* and *Hornsby Development Control Plan 2013 (HDCP)*.

Part 3B of the *Environmental Planning and Assessment (EP&A) Act, 1979* requires councils to ensure planning proposals and LEPs give effect to the District Plans when they are made. Part 3B of the *EP&A Act* requires councils to report to the GSC on the review of LEPs and the preparation of planning proposals to give effect to the District Plans. Consultation with the GSC will identify the priority strategic and land use issues that will be fundamental in Council demonstrating its LEP controls give effect to the District Plan.

Part 3B of the *EP&A Act* also requires council to review its LEP as soon as practicable after a District Plan is made. As it relates to *Objectives 10 and 11 of the draft Greater Sydney Region Plan 2056 and Planning Priority N5 of the revised draft North District Plan* (provision of additional housing, including more diverse and affordable housing), the *NSW Government Housing Affordability Strategy* requires councils to update their LEPs within three years, or within two years if they are an identified priority council.

2. STRUCTURE OF THE PLAN

The *revised draft North District Plan 2036* is based around the 4 key themes of “infrastructure and collaboration”, “liveability”, “productivity” and “sustainability” which include 78 actions. There are 10 directions, which are linked to 14 metrics and 22 planning priorities, to guide the delivery of themes, namely:

- A city supported by infrastructure;
- A collaborative city;
- A city for people;
- Housing in the city;
- A city of great places;
- A well connected city;
- Jobs and skills for the city;
- A city in its landscape;
- An efficient city; and
- A resilient city.

The actions, directions and planning priorities of the *draft Plan* support the vision and Structure Plan for Greater Sydney identified in the *draft Greater Sydney Region Plan 2056*. The Structure Plan links houses, jobs, education, health and other services with transport connections.

The *draft Plan* also contains an Implementation Plan. The Implementation Plan identifies that there are multiple aspects to the delivery of the *draft Plan*. The Implementation Plan will inform the preparation of Council's Community Strategic Plan, Local Environmental Plan, regional infrastructure delivery, private sector investment, community engagement and annual monitoring of the performance of the *draft Plan* and status of delivering the actions.

3. KEY PLANNING PRIORITIES OF THE PLAN

The key planning priorities of the *draft Plan* and the issues for Hornsby Shire are addressed below under the four key themes.

3.1 Infrastructure and Collaboration

Planning for infrastructure includes consideration of how such investments contribute to the shape and connectivity of Greater Sydney as a metropolis of three cities. The draft Plan outlines the major transport, health and education investments underway across the North District such as the Northern Beaches Hospital, Sydney Metro Northwest and NorthConnex.

The draft Plan notes that collaboration in the planning and delivery of infrastructure, housing, jobs and great places is essential to realise the full benefits of growth. The GSC identifies a number of approaches supporting land use and infrastructure planning and delivery, including collaboration areas, priority growth areas and priority precincts.

Relevant to Hornsby Shire, the GSC identifies that planning for the Cherrybrook Station Priority Precinct will be led by the DP&E in collaboration with Hornsby Shire and The Hills Shire Councils as part of the Sydney Metro North West Priority Urban Renewal Corridor Strategy. The draft Plan notes that the project will be well planned and designed and delivered in collaboration with councils and informed by key government agencies and their asset plans. This planning will be supported by a Special Infrastructure Contribution or similar satisfactory arrangement to assist fund the delivery of essential community infrastructure such as health, schools, open space and roads.

Key issues for Council

- a) The draft Plan notes that the Priority Precincts will be supported by various funding programs and planning mechanisms to assist fund the delivery of essential community infrastructure. Presumably, this means that State Government funds will be available to address both local and regional impacts associated with Priority Precincts.

Concerns are expressed regarding the ability of existing local roads in the Cherrybrook Station Precinct to cater for bus services associated with the new station as well as increased traffic associated with redevelopment in the balance of the precinct. The draft Plan is absent of any specific reference to the need for State Government to fund local road upgrades. The responsibility for the upgrading of Robert, Franklin and John Roads which provide the main bus route associated with the new Station will likely exceed tens of millions of dollars and should be met by NSW Government.

Concerns are also expressed regarding the absence of specific reference to regional road corridor improvements required such as that for Castle Hill Road, County Drive, Old Northern Road, New Line Road and Boundary Road, despite significant future housing growth in the Sydney Metro Northwest Urban Transformation Corridor Priority Precincts located in Hornsby, The Hills and Blacktown LGAs. The draft Plan's objective of accessing Metropolitan City Centres and strategic centres within 30 minutes would not be realised in locations such as Cherrybrook, Dural and the rural area as traffic modelling identifies these roads are at, or very near, capacity.

Recommend: Planning Priority N2 of the draft Plan should be updated to include the principle that any change to planning controls associated with Priority Precincts should be conditional upon preparation of an agreed plan for the delivery of the local and regional road improvements required to support future development.

3.2 Liveability

The draft Plan identifies that as the population of the North District grows, it is ageing, there will be an increase in single person households and the number of working age people residing in the District will be fewer. Together with a 20 year population growth of around 196,000, these demographic changes mean that an additional 92,000 homes will be required in the District by 2036.

The draft Plan states that maintaining and improving liveability means housing, infrastructure and services that meet people's needs, and the provision of a range of housing types in the right locations with measures to improve affordability. This enables people to stay in their neighbourhoods and communities as they transition through life and provides for diversity in housing to meet the needs of a diverse community.

The draft Plan notes that Hornsby, Ryde, Ku-Ring-Gai and Northern Beaches LGAs have the largest projected growth in the 65 to 84 age groups. The draft Plan identifies that more compact housing types and medium density housing will create opportunities for older people to continue living in their community. The draft Plan identifies that creating and renewing great places, neighbourhoods and centres requires place based planning and design excellence that builds on local strengths and focuses on public places and open spaces.

The draft Plan identifies that the *Hornsby Shire Housing Strategy 2011* and the Cherrybrook Station Precinct provides the opportunity for additional capacity for housing. The draft Plan identifies further potential for urban renewal opportunities align with infrastructure investment and include leveraging the investment in NorthConnex such as Pennant Hills Road.

The draft Plan identifies a 5 year housing target for the North District of 25,950 additional dwellings with Hornsby Shire contributing 4,350 dwellings to this target. The draft Plan does not set 6-10 year housing targets for LGAs but notes that these will be set after further consultation between councils and the GSC.

The draft Plan recommends that the NSW Government adopt Affordable Rental Housing Targets of 5-10% of new residential floor space to be set aside for very low to low income households in Greater Sydney as a mechanism to deliver supply of affordable housing. The GSC advises that it will work with the DP&E to develop the mechanisms required for the delivery of the proposed affordable housing targets.

The draft Plan identifies that land within 400m of local centres or 800m of local centres with supermarkets greater than 1,000sqm in area and strategic centres may provide an opportunity for activation and revitalisation through the introduction of additional housing. The draft Plan identifies a range of matters for consideration in place based planning for centres.

Council issues raised in previous submission which have been addressed

- a) The potential urban renewal opportunity to align growth and improvements along Pennant Hills Road with infrastructure investment in NorthConnex has been identified in the draft Plan.

Key issues for Council

- a) The provision of affordable housing requires further detail before implementation. A whole of government approach is required to address affordability through a number of mechanisms rather than only relying on planning concessions. Inclusionary zoning has previously been suggested as the cure to the problem whereby increases in floor space and height, and reductions in car parking standards are offered to offset the dedication of floor space for affordable housing.

Recommend: Planning Priority N5 of the draft Plan should be updated to identify financial and other incentives to facilitate affordable housing and diversity to complement any planning mechanisms. The Planning Priority should also be updated to clarify whether the action to prepare Affordable Rental Housing Target schemes would be required only in conjunction with new housing strategies or on a stand-alone basis.

- b) Council's housing targets do not acknowledge the constraint to future housing associated with bush fire prone land in the northern urban area of the Shire. Council has been working with the NSW Rural Fire Service concerning increased densities and high rise buildings on bushfire prone land. Limitations currently apply north of Yirra Road, Mount Colah which should be considered in the finalisation of future dwelling targets. The NSW Rural Fire Service has confirmed that any rezoning of land north of Yirra Road is subject to satisfactory Evacuation Risk Modelling/Management Planning, a tool for which has not yet been funded.

Recommend: Planning Priority N5 of the draft Plan should be amended to reduce Hornsby Council's dwelling target in recognition of the NSW Rural Fire Service position on Evacuation Risk Modelling and the limitations to increased housing densities in the north of the Shire.

- c) In June 2017, Cherrybrook Station was announced as a Priority Precinct to progress planning for the urban renewal work previously undertaken by Urban Growth NSW in collaboration with Hornsby and The Hills Councils as part of the Sydney Metro North West Urban Renewal Program for the whole of the Cherrybrook Station Precinct. The Precinct was originally identified in the 2013 North West Rail Link Corridor Strategy (which in Hornsby Shire includes lands between County Drive, John Road and Edward Bennet Drive). The DP&E has now assumed responsibility for preparing planning controls for the Precinct which would be implemented via a SEPP amendment which relates to the surplus Government lands around the Station and revision to the 2013 Corridor Strategy to provide direction regarding future development opportunities.

This places the responsibility on Council to either rezone the lands throughout the balance of the Precinct or be subject to the lodgement of ad-hoc proponent initiated planning proposals for assessment against the principles in the revised Corridor Strategy. There is a need for significant upfront investment to fund critical baseline infrastructure (i.e. the widening of Franklin, Robert and John Roads to service the chosen bus route) rather than leaving it to the piecemeal approach of evaluating planning proposals and then delivering parts of the critical baseline infrastructure.

Recommend: Planning Priority N5 of the draft Plan should be updated to reference the need to ensure the planning for the Cherrybrook Station Precinct adopts a whole of precinct approach where all land owners are provided clear direction regarding the future redevelopment prospects of their land (not just the surplus Government lands around the Station) and the delivery of critical baseline infrastructure is not linked to a planning proposal process.

3.3 Productivity

The North District forms part of a large part of the Eastern Harbour City and its economy is focused on the Harbour CBD as well as the strategic centres within the Eastern Economic Corridor.

The North District has a high proportion of knowledge and professional services jobs, as well as health and education jobs. The North District has the least amount of industrial and urban services land in Greater Sydney. The draft Plan includes a number of planning priorities that relates to lands across the District, including promoting the Eastern Economic Corridor and declaring health and education precincts for the purpose of directing Government investment.

The draft Plan identifies a centre hierarchy comprising Metropolitan city centres, strategic centres and local centres. Hornsby is identified as a strategic centre. The draft Plan identifies a job target range of 18,000 to 22,000 jobs in 2036, it being noted that 14,300 jobs were estimated as being provided in

2016. The draft Plan recognises that the planned reconfiguration of the bus terminal and centre renewal will better connect Hornsby Town Centre and provide an opportunity for revitalisation. The draft Plan also identifies a number of actions to strengthen the centre.

The draft Plan identifies that the North District has a limited supply, and inability to increase the supply, of industrial and urban services land. The draft Plan identifies that such land needs to be protected and efficiently managed. As it relates to Hornsby Shire, the principle of “review and manage” has been applied so that a review of all industrial land is undertaken to confirm the protection or transition of these lands to higher order uses (such as business parks) and prepare appropriate controls to maximise business employment outcomes, considering the changing nature of industries in the area.

The draft Plan identifies that the North District includes part of the Metropolitan Rural Area which contains important horticultural clusters such as Middle Dural, Galston and Arcadia which produce vegetables and fruit trees. The draft Plan identifies it is a planning priority to protect and support rural industries.

Council issues raised in previous submission which have been addressed

- a) Hornsby Town Centre has been classified as a strategic centre to reflect the aspirational target of 22,000 jobs.
- b) The draft Plan recognises that the planned reconfiguration of the bus terminal and centre renewal will better connect Hornsby Town Centre and provide an opportunity for revitalisation.

Key issues for Council

- a) The draft Plan should identify the potential to support Hornsby as a Health and Education Precinct in recognition of Hornsby Hospital, TAFE and schools. This would be consistent with the reference in the *draft Greater Sydney Region Plan 2056* to major hospital expenditure as part of Hornsby Ku-ring-gai Hospital Redevelopment Stage 2.

Recommend: Planning Priority N9 of the draft Plan should be updated to identify Hornsby as a Health and Education Precinct in recognition of Hornsby Hospital, TAFE and schools.

- b) Realisation of the job target of between 18,000 and 22,000 jobs for Hornsby Town Centre would be market driven and would mainly provide for the day to day needs of households. However, to promote higher order office style employment, government intervention to locate new public sector headquarters in Hornsby is required.

Recommend: Planning Priority N10 of the draft Plan should be updated to include actions that require governments to consider employment targets when making decisions on locations for government offices.

- c) The draft Plan's priority of delivering integrated land use and transport planning and a 30 minute city would not be realised in locations such as Cherrybrook and Dural due to the impacts of future housing growth in the Northwest Metro Rail Corridor Priority Precincts located in the Hornsby and the Hills Shire and Blacktown Local Government areas.

Recommend: Planning Priority N12 of the draft Plan should be updated to include **investigations** and priority funding of upgrades to New Line Road, Old Northern Road and Boundary Road.

- d) The draft Plan notes that the GSC will prioritise a strategic review of the industrial land in Hornsby Shire to determine its future role and function. However, the draft Plan does not

specify the timeframe and who exactly will be responsible for undertaking the strategic review. The need for Hornsby Council to immediately undertake such a review will potentially have resourcing implications and/or implications for the priority of other planning in the Shire. Inclusion of reference for the need to undertake such a review may promote the submission of ad-hoc planning proposals seeking to turnover industrial land to higher order use.

Recommend: Planning Priority N11 of the draft Plan should be updated to confirm whether Council *is* responsible for undertaking the strategic review of industrial land and ensure protection from planning proposals being lodged for evaluation until such time as a review is completed.

3.4 Sustainability

The draft Plan identifies that sustainability can be improved in the North District by establishing a number of planning priorities, including protecting the health of the District's waterways, protecting and enhancing bushland and biodiversity, protecting and enhancing scenic and cultural landscapes, better managing rural areas, delivering Green Grid connections and delivering high quality open space.

The draft Plan identifies that the District's rural areas provides the opportunities for people to live in a rural or bushland setting. The draft Plan identifies that urban development in the Metropolitan Rural Area will only be considered in investigation areas (there are none in the North District). The draft Plan includes an action to maintain or enhance the values of the Metropolitan Rural Area using place based planning to deliver targeted environmental, social, and economic outcomes, including rural residential development.

The draft Plan includes an action to maximise the use of existing open space and protect, enhance and expand public open space by investigating opportunities to provide new open space where all residential areas are within 400m and all high density residential areas are within 200 metres of open space.

The draft Plan identifies that the District's climate and landscape can create natural hazards such as heatwaves, bushfires, flooding, storms and coastal inundation and erosion. The draft Plan identifies that planning on bushfire prone land should consider risks and include hazard protection measures within the developable area and should comply with the provisions of *Planning for Bushfire Protection 2006*.

Council issues raised in previous submission which have been addressed

- a) Planning Priority N18 of the draft Plan establishes a vision and some protection for the rural areas by identifying that urban development in the Metropolitan Rural Area will only be considered in investigation areas (there are none in the North District).

Key issues for Council

- a) The action to provide new open space so that all residential areas are within 400m of open space and all high density residential areas are within 200m of open space needs to be supported by a funding plan. The purchase of pocket parks is increasingly difficult due to increasing property values, is limited by geography and is inconsistent with Council's open space strategy. Council's strategy is to establish a sub-regional approach to open space provision, with a shift in focus towards the development of major destination parks that can contribute to providing a greater variety of recreation opportunities.

Recommend: Planning Priority N20 of the draft Plan should be updated to include State Government funding where actions relate to the provision of open space within 400m of residential areas and 200m of high density areas.

- b) The draft Plan does not go far enough to address bushfire risk and bushfire evacuation modelling. The draft Plan should include actions that address the funding and progression of evacuation and risk modelling. The draft Plan should also consider the use of exclusion mapping where the NSW Rural Fire Service identifies insurmountable issues associated with bushfire risk.

Recommend: Planning Priority N22 of the draft Plan should be updated to include an action to fund and progress the development of an Evacuation Risk Modelling Tool and the use of exclusion mapping based on the strategic issues raised by NSW Rural Fire Service around the location of high rise buildings in bushfire prone areas.

- c) The draft Plan states that urban development is not consistent with the values of the Metropolitan Rural Area and includes an action to contain development to within existing urban areas. This position appears to be in conflict with the *Seniors SEPP* which promotes seniors housing development on the urban boundary.

Land on the urban fringe is under development pressure to transform from rural to urban use. A significant portion of land within the rural area (including South Dural) adjoins urban zoned land and therefore, has the potential to be considered for seniors housing. The proliferation of seniors housing in our rural area is not good strategic planning. Accordingly, a coordinated and holistic planning strategy is required for the area to avoid ad-hoc planning outcomes resulting from site specific planning proposals and proliferation of senior housing developments.

Recommend: Planning Priority N18 of the draft Plan should be updated to include the need to develop a clear vision for the region, including an infrastructure and funding plan to cater for existing and future development and that no further SCCs should be issued by the State Government for seniors housing developments in the rural areas of Hornsby Shire.

4. IMPLEMENTATION

The draft Plan identifies that delivering the actions in the North District Plan requires involvement of a wide range of stakeholders with a diversity of responsibilities. The draft Plan also identifies the delivery of the actions require regular monitoring and reporting. Accordingly, the GSC will monitor the metrics (i.e. KPIs) and report annually on the status of the actions in the final Plan.

On the making of the District Plan, each council will be required to report to the GSC on the review of the LEPs for their area and preparation of planning proposals to give effect to the District Plan.

Key issues for Council

- a) Consultation with councils should be a requirement of the GSC's annual reporting process. This will provide councils the opportunity to provide feedback in relation to their performance against the KPIs and recommendations for policy refinement.

Recommend: The Implementation section of the draft Plan should be updated to require the GSC to consult councils as part of its annual reporting process in relation to their performance against the KPIs.

BUDGET

There are no budgetary implications associated with this Report.

POLICY

The *draft Greater Sydney Region Plan 2056* and *revised draft North District Plan 2036* will inform the preparation of Council's Community Strategic Plan, planning strategies, assessment of planning proposals and ultimately revision to the *Hornsby Local Environmental Plan 2013 (HLEP)* and *Hornsby Development Control Plan 2013 (HDCP)*.

CONCLUSION

The *draft Plan* includes actions, directions, metrics, planning priorities and an implementation plan which support the vision and structure plan within the *draft Greater Sydney Region Plan 2056*. Many of these are aligned under 4 key themes of "infrastructure and collaboration", "liveability", "productivity" and "sustainability". The draft Plan creates a number of issues for Hornsby Shire associated with the strategies for infrastructure and collaboration, liveability, productivity, sustainability and implementation.

It is recommended that Council forward a submission to the GSC indicating its general support for the draft Plan subject to addressing the major issues for Hornsby Shire identified in this report.

RESPONSIBLE OFFICER

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

JAMES FARRINGTON

Group Manager

Planning Division

Attachments:

There are no attachments for this report.

File Reference: F2010/00554

Document Number: D07344355

14 BEECROFT VILLAGE GARDENS AND COMMUNITY CENTRE ACCESS IMPROVEMENTS

EXECUTIVE SUMMARY

- Council went to Public Tender for landscape and civil construction works to restore the parkland next to the railway station at Beecroft, referred to hereafter as the Beecroft Station Gardens - and to deliver a safe and practical vehicle access to service the Beecroft Community Centre in the adjacent Beecroft Village Green.
- Prices received through the Public Tender process exceed the Pre-Tender Estimate.
- Council performed a Tender Evaluation, which assessed all Tenders for conformance with Tender requirements and against Price and Non-Price criteria. Two (2) Tenders were highly rated through this process, namely *Regal Innovations* (Regal) and *Glascott Landscape and Civil* (Glascott).
- Council has reviewed the proposed scheme and identified a range of potential savings across the project that could see the works delivered without significantly compromising the integrity of the overall design.
- In order to appoint a tenderer for the works that can be achieved within identified budget, it will be necessary to negotiate with a contractor(s) to achieve an acceptable price for a reduced scope of work.

RECOMMENDATION

THAT:

1. Council not accept any Tender and negotiate with *Regal Innovations Pty Ltd* to arrive at an acceptable lump sum tender price.
2. Council *decline* to invite fresh tenders or seek fresh applications from tenderers or persons expressing interest in the contract for the following reasons:
 - a) Council has tested the market for the project and further tendering or fresh applications are not likely to produce a better result.
 - b) Timing constraints will unduly delay this project.
3. Subject to the conclusion of successful negotiations with *Regal Innovations Pty Ltd*, the Acting General Manager be delegated authority to enter into a Contract for the construction of Beecroft Village Gardens and adjoining Beecroft Community Centre surrounds.
4. If negotiations with *Regal Innovations Pty Ltd* are unsuccessful then Council enter into negotiations with *Glascott Landscape and Civil Pty Ltd* and the outcomes of these negotiations be reported back to Council.

PURPOSE

The purpose of this Report is to provide a recommendation in respect of Request for Tender RFT25/2017 for the construction of the Beecroft Village Gardens and the Community Centre Carpark. The report also seeks direction from Council on a preferred option for progressing the construction works in light of tenders received being well above the pre-tender estimate, leading to a significant budget shortfall.

BACKGROUND

The refurbishment of the Beecroft Station Gardens and Community Centre surrounds has been of interest to Councillors and the broad community for some time.

Beecroft Community Centre users have for many years sought a safe and practical vehicle access that would enable easy loading and unloading of goods, provide an accessible car parking area and remove vehicles driving through the open space parklands within Beecroft Village Green.

Under current conditions it is necessary for trucks and cars servicing the community centre to drive past a playground and over a distance of 300 metres through parkland to access the community centre. This causes unnecessary risk to park users, damage to pedestrian paths, damage around trees and tracking and erosion problems within the park.

In 2014, the Beecroft Community Centre Volunteer Management Committee handed management of the facility to Council and provided funds that they had accumulated over many years to Council for the construction of improved access for Community Centre hirers.

In 2014-15, Transport for NSW delivered the Epping to Thornleigh Third Track Project (ETTT), which had direct impacts on the Beecroft Village Gardens site, requiring the removal and replacement of the playground and the loss of a portion of the parkland to accommodate the third rail line. The ETTT only committed to replace the playground and provide a hedge row planting along the boundary of the railway corridor.

Apart from direct impacts in the Beecroft Station Gardens, the ETTT works also required the removal of a large number of significant trees in the Beecroft and Cheltenham area. Due to this, Council lobbied for a more substantial commitment from the State Government, involving the upgrade of the Beecroft Station Gardens parklands, as these are primarily Rail Corp owned land.

Council saw an opportunity for a capital funding commitment from the NSW State Government that could supplement Section 94 funds that had been set aside by Council for park improvements in the Station Gardens area and developed a sketch Masterplan in early 2015 to demonstrate how the parkland could be improved. Ultimately, the ETTT project completed only the refurbishment of the playground area and a boundary screen planting, without providing any funding to cover other park restorations, leaving the balance of the Station Gardens in poor condition, with many elements including paving, retaining walls and planting in urgent need of renewal.

Initial Community Engagement

In July-August 2016, Council consulted with the stakeholders and the community, presenting plans for the Beecroft Station Gardens and Community Centre access improvements. These plans included the creation of a Memorial precinct within the Station Gardens in the form of a paved plaza, with informal park facilities and a contemporary parkland character throughout.

The consultation included engagement with key stakeholder groups and local shopkeepers and information days that were held on site, where community views were sought. In total 53 submissions were received.

One outcome of this engagement was that the contemporary style of the draft landscape design was opposed by some and that heritage-style outcomes would be considered to be more appropriate.

It was also made apparent that the vehicle access improvements were a controversial item for some. It is important to note that the Beecroft Cheltenham Civic Trust was divided with some members supporting and other members objecting to the Community Centre vehicle access proposal.

Attachment 1 includes a copy of the exhibition plans from this engagement.

REF Exhibition and Features of the Current Masterplan

In July 2017, a Review of Environmental Factors (REF) was exhibited, with revised plans for the Station Gardens and Community Centre works, responding to community representations and submissions made in the earlier consultation.

Attachment 2 includes a copy of the masterplan exhibited with the REF.

Key features of the revisions, which were developed in close consultation with the Beecroft Cheltenham Civic Trust executive, included:

- Simplifying the design and reducing the extent of hardscape and creating larger open grass areas that could be used for hosting events;
- Utilising stone and brick materials for walls and pavements, selecting furniture and planting that will provide a more traditional character (non-contemporary design);
- Extensive planting works involving the removal of over-mature trees and renewal of garden areas; and
- Incorporating universal access to the main entry of the Community Centre from the proposed vehicle area.

The REF has been approved under delegation.

Response to REF exhibition

Council received eighteen (18) written responses to these proposals with the carpark component of the works the dominant issue. Fourteen (14) submissions were opposed to or uncertain about the carpark proposals. Five (5) submissions were in support of the access improvements. Those in support included the submissions of the Community Centre user groups and a small number of residents. Three (3) submissions objected to the inclusion of a ping pong table in the Station Gardens and three (3) objected to use of non-traditional colours and furnishings.

Opposition to the access improvements were driven by a general dislike of the proposal to allow cars into the park, along with concerns about safety and traffic implications.

All submissions except one (1) either supported or passed no comment on the Beecroft Station Gardens upgrade proposals.

Council has received In-Principle Approval from agents acting on behalf of Rail Corp.

Attachments 3 and 4 include a Summary of Submissions, including responses to points raised during exhibition of the REF.

Tender Evaluation

RFT25/2017 was called to select a contractor for the Construction of Beecroft Village Gardens and Community Centre Carpark. A summary of all submissions together with full evaluation details have

been placed on file (Folder F2017/00174). Excepting this report, the summary and details of the Tenders received are to be treated as confidential in accordance with the Local Government Act.

Eight (8) RFT submissions were received from the following tenderers:

- All Civil Solutions Group Pty Ltd
- Regal Innovations Pty Ltd
- Precision Landscapes Pty Ltd
- A J Bristow and Sons Pty Ltd
- Glascott Landscape and Civil Pty Ltd
- Civil Constructions Pty Ltd
- Sydney Contracting Engineers
- Quality Management and Construction Pty Ltd

Evaluation Criteria

The tenders were assessed on Price and Non-Price Evaluation Criteria as well as conformance criteria identified in an approved Tender Evaluation Plan. The tenders were assessed on information provided with each submission or additional information provided by the tenderers.

All tender prices received exceeded the pre-tender estimate and a significant budget issue has emerged as a consequence.

The panel identified a preferred tender (see Attachment 6) in the event that adequate funding is able to be identified.

Alternatively if Council choose to proceed with a revised scope of works, the Panel have recommended that negotiations should be entered into with the two shortlisted tenders identified in Attachment 6.

The options for addressing these budget issues are further discussed below.

It should be noted however that NSW Local Government Act Tendering Regulations restrict Council's capacity to make significant changes to the scope of works, unless a decision is made to retender the project.

Full details of the Tender Evaluation are included in Attachments 5 and 6.

DISCUSSION

As noted in the tender discussion above, tenders received for this project were well above the pre-tender estimate. The full scope of proposed parkland upgrade and carpark works cannot therefore be achieved with the current budget allocation. It is considered that there are three (3) options for achieving acceptable outcomes:

- Option 1: Reject all tenders and defer the implementation of the scheme.
- Option 2: Allocate additional funding of \$550,000 to enable the acceptance of the tender and proceed to construct all of the tendered park and carpark works.
- Option 3: Enter into negotiations with preferred contractors to reduce the scope of works that can be achieved within the allocated budget.

The discussion below provides further detail on what these options are expected to deliver.

Option 1: Defer all works

While possible, this option would mean that residents will again forego desirable improvements to what is a tired and run-down parkland. Additionally, users of the Community Centre would continue to require access to the Centre from the Village Green to make deliveries. Access to meet standards for wheelchairs will not be available to the Community Centre. Relying on existing access arrangements through the Village Green is considered unacceptable.

If pursued this option would necessitate the rejection of all tenders.

Option 2: Proceed with all works

Option 2 would deliver all of the elements of the proposed design, albeit at a high cost. It is considered difficult to justify the magnitude of the cost increase. Other options such as reducing the scope or deferring and delivering the full range of facilities when the market is more competitive may be considered more appropriate.

The preferred tender under this option is the recommended tender identified in Attachment 5

Option 3: Reduce the scope to meet available budget

Council has explored options for reducing the scope of works, looking for solutions that will not overly compromise the integrity of the park design as proposed. Items that have been isolated for possible deletion represent components of works that can be flexibly implemented in the future, many being dependent upon additional funds being able to be identified at another time. These items are listed in the Table 1 below with an accompanying justification. If all of the identified items in Table 1 were deleted, a saving of up to \$550,000 may be achieved.

Table 1: Items recommended for deletion from the current park design

Items for possible deletion (Option 3)	Justification and associated issues
Village Gardens (saving of \$250,000)	
Ping pong table and associated paving; A bubbler and new water service	The ping pong table was not popular with some stakeholders. The table may be implemented in the future. An existing drinking fountain exists within the playground at the northern end of the Village Gardens site.
A graded ramp and deck within the War Memorial Garden	The ramp and deck works can be implemented in the future if further funding was made available.
Wall paving and landscape changes	Changing paving in seating areas from sandstone to concrete will retain the integrity of the park design. Planting and soil profile changes to the rail boundary may be implemented in future. Acoustic fencing will not significantly reduce noise from the railway as noted by the acoustic report.
Community Centre (savings of \$300,000)	
Reduce works behind the centre	Reduce the scope of works on the rail corridor (eastern) side of the centre to include less new landscaping and paving replacement.
Modifications to the vehicle area lighting, walls, pedestrian paving and drainage	Lighting is required to meet current design standards. Alternative less capital intensive solutions for lighting the vehicle area are proposed. Other changes include retaining existing footpaths along the edge of the building and reducing retaining walls and associated drainage.
A wheelchair accessible	Achieving accessible access to the Community Centre from the new

(WCA) path from the new accessible car space to the main entry of the Community Centre hall	vehicle area is an important element of the upgrade works, to meet current access standards. Deleting the development of this pathway to the front door of the building will not prevent access to the Community Centre hall but will limit the benefits of the upgrade.
---	--

Of the above-listed elements, it is considered that the WCA pathway to the building entry would be the most important and increasing the funding by \$150,000 to cover these works is considered reasonable.

If this option was adopted then Council would be asked to authorise entering into negotiations with the preferred tenderers, as recommended in Attachment 6 and reflected in the recommendations of this report.

BUDGET

Council currently has a range of funding sources to cover the construction costs for these works including:

- Section 94 funds of \$265,000 for improvements to the Beecroft Station Gardens to meet the needs of the new population
- Restricted funds for improvements to the Beecroft Community Centre
- A Grant of \$14,000 towards restoration and relocation of the Boer War Memorial.

In December 2016 (NoM3/16), after trying for some time to gain a State Government commitment to fund the Beecroft Station Gardens upgrade, Council resolved in part to:

“a. Allocate up to \$600,000 of the funds arising from the sale of 179 Beecroft Road, Cheltenham to complete the works for Beecroft Station Gardens.”

Details of the specific available funding are included in Attachment 5.

The additional funding approved by NOM3/16 was considered adequate to cover costs of the entire works, following cost estimates prepared by the design consultants for the Station Gardens and Community Centre Carpark.

A cost estimate prepared by the design consultants at the time of calling tenders indicated that adequate funds were available for the works, after allowing for project and construction management and contingencies.

If it is determined that Council want to remove the \$600,000 from this project, it is recommended that Option 1 above should be pursued.

If a decision is made to negotiate with the preferred landscape contractors and a favourable pricing is achieved, the project may be able to be delivered within budget. If negotiations do not successfully derive the potential savings, additional budget may be required to achieve the minimum desired outcomes.

POLICY

A Council Resolution is required to enable Council to enter into negotiations with a contractor(s). There are no other policy implications associated with this Report.

CONCLUSION

It is anticipated that a revised pricing to meet budget requirements can be achieved, accounting for a reduced scope of works that does not compromise intended design outcomes.

The process will require negotiation and it is recommended that Council enter negotiation with the two (2) shortlisted contractors, *Regal Innovations* and *Glascott Landscape and Civil*, requesting a re-pricing that responds to a reduced scope of works.

This approach will assist the delivery of much-needed park upgrades and servicing at the Beecroft Community Centre.

RESPONSIBLE OFFICER

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

ROBERT STEPHENS

Deputy General Manager - Infrastructure and Recreation

Infrastructure and Recreation Division

PETER COAD

Acting Group Manager Environment and Human Services

Environment and Human Services Division

Attachments:

1. [View](#) Attachment 1 to IR15_17 - Have Your Say 2016 - Beecroft Village Gardens and Carpark Flyer
2. [View](#) Attachment 2 to IR15_17 - Beecroft REF Exhibition Plan
3. [View](#) Attachment 3 to IR15_17 - Summary of Submissions to REF
4. [View](#) Attachment 4 to IR15_17- CONFIDENTIAL Summary of Submissions to REF - *This attachment should be dealt with in confidential session, under Section 10A (2) (d) of the Local Government Act, 1993. This report contains commercial information of a confidential nature that would, if disclosed (i) prejudice the commercial position of the person who supplied it; or (ii) confer a commercial advantage on a competitor of the council; or (iii) reveal a trade secret.*
5. [View](#) Attachment 5 to IR15_17 - CONFIDENTIAL - Budget Summary & Tender Evaluation - *This attachment should be dealt with in confidential session, under Section 10A (2) (d) of the Local Government Act, 1993. This report contains commercial information of a confidential nature that would, if disclosed (i) prejudice the commercial position of the person who supplied it; or (ii) confer a commercial advantage on a competitor of the council; or (iii) reveal a trade secret.*
6. [View](#) Attachment 6 to IR15_17 - CONFIDENTIAL Tender Evaluation Report RFT25_2017 - Beecroft Village Gardens & Community Centre Carpark - *This attachment should be dealt with in confidential session, under Section 10A (2) (d) of the Local Government*

Act, 1993. This report contains commercial information of a confidential nature that would, if disclosed (i) prejudice the commercial position of the person who supplied it; or (ii) confer a commercial advantage on a competitor of the council; or (iii) reveal a trade secret.

File Reference: F2017/00174

Document Number: D07313703

ITEM 14

15 PCYC INDOOR RECREATION CENTRE - WAITARA PARK - DRAINAGE EASEMENT

EXECUTIVE SUMMARY

- Council received a proposal from Police Citizens Youth Clubs NSW Limited (PCYC) to construct a multi-purpose indoor recreation within Waitara Park.
- At the 8 July 2015 General Meeting, Council delegated authority to the General Manager to negotiate lease terms and conditions and also Council's financial contribution to the project.
- An Agreement to Lease was exchanged with the PCYC on 7 April 2016.
- At the 8 March 2017 General Meeting, easements for electricity supply required by Ausgrid were approved.
- Construction of the centre by PCYC's contractors has been completed.
- An easement is also required over Waitara Park for the stormwater drainage system.
- Approval to creation of the required easement is recommended, subject to PCYC being responsible for maintenance and repair of the drainage infrastructure.

RECOMMENDATION

THAT:

1. Council agree to the creation of a drainage easement including a positive covenant and restriction on use over Lots 300 and 301 DP 832745 being land within Waitara Park.
2. The Acting General Manager be authorised to negotiate detailed terms and conditions of the agreement generally as outlined in Deputy General Manager's Report No. IR18/17 and to execute documents in relation to creation of the easement as deemed appropriate by Council's legal advisors.
3. Council authorise the use of Council's seal on any legal, survey or other documents directly related to creation of the easement as deemed appropriate by Council's legal advisors.

PURPOSE

The purpose of this Report is to obtain Council's approval to the creation of a drainage easement over Lots 300 and 301 DP 832745 within Waitara Park as required by the Development Consent for an indoor recreation centre constructed by the PCYC.

BACKGROUND

At the 8 March 2017 General Meeting, Council considered Deputy General Manager's Report No. IR1/17 and resolved that:

- 1 *Council agree to the creation of easements for electricity and access over Lots 300 and 301 DP 832745 being land within Waitara Park.*
- 2 *The Acting General Manager be authorised to negotiate detailed terms and conditions of the agreement generally as outlined in Deputy General Manager's Report No. IR1/17 and to execute documents in relation to creation of the easements as deemed appropriate by Council's legal advisors.*
- 3 *Council authorise the use of Council's seal on any legal, survey or other documents directly related to creation of the easements as deemed appropriate by Council's legal advisors.*

These easements were required for a new Ausgrid electricity substation and for cabling to connect electricity supply from that substation to the recreation centre.

DISCUSSION

Condition 59 in the Development Consent dated 4 November 2015 for construction of PCYC's indoor recreation centre requires the following to protect the on-site drainage detention system:

59. **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 and water quality treatment 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 and water quality treatment system is to be clearly indicated on the title.*
- b. *To register the positive covenant and the restriction on the use of land, "works-as-executed" details of the on-site-detention system and water quality system must be submitted verifying that the required storage and discharge rates and water quality treatment measures have been constructed in accordance with the design requirements. The details must show the invert levels of the onsite system together with pipe sizes and grades and details of water quality treatment measures. Any variations to the approved plans must be shown in red on the "works-as-executed" plan and supported by calculations*
- c. *The creation of a drainage easement in accordance with Council's Civil works Specifications over any stormwater pipe that is to become a part of Council pipe network with a minimum width of 3m.*

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

The easement is required for the indoor recreation centre's stormwater drainage system and the Section 88B Instrument registered with the Plan of Easement will include a positive covenant and restriction on use of land for the subterranean on-site detention tank installed beside the building. While these will create maintenance, repair and replacement obligations for Council as the registered proprietor of the land, a clause in the lease ensures that PCYC is responsible for this infrastructure.

The draft plan of easement attached to this report highlights the location of the on-site detention tank (shaded yellow) and the drainage easement for the pipeline (shaded green).

Easements were a component of negotiations for construction of the recreation centre within the Park, the granting of a long-term lease and Council's appointment as Trust Manager of the Crown Reserve containing the former Waitara Bowling Club. On that basis, no compensation or reimbursement of legal costs from PCYC is proposed. The new "Waitara Park Plan of Management" adopted by Council on 9 September 2016 permits creation of easements over this "Community Land".

CONSULTATION

In the preparation of this Report there was consultation with Council's Solicitor and contractors acting on behalf of PCYC for the building works.

BUDGET

There are no budgetary implications associated with this Report as professional costs to create the easements will be available from existing budget allocations.

POLICY

While there is no specific Policy for requests of this nature, the Plan of Management adopted for Waitara Park permits both the PCYC Indoor Recreation Centre and the creation of easements over this "Community Land".

CONCLUSION

The proposed easement for the recreation centre's stormwater drainage system will have minimal impact on Waitara Park. Council has previously recognised the community benefits which will result from this development by approving a lease over the land and agreeing to make a financial contribution to the project. It is, therefore, reasonable for Council to waive the usual requirements for the payment of compensation and reimbursement of professional costs.

RESPONSIBLE OFFICER

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

GARY BENSLEY
Deputy General Manager - Corporate Support
Corporate Support Division

ROBERT STEPHENS
Deputy General Manager - Infrastructure and
Recreation
Infrastructure and Recreation Division

Attachments:

1. [View](#) Draft Plan of Easement.

File Reference: F2015/00238

Document Number: D07335848

16 HORNSBY DEVELOPMENT CONTROL PLAN TREE AND VEGETATION PRESERVATION AMENDMENT

EXECUTIVE SUMMARY

- In response to Council's recent resolution seeking to strengthen tree protection measures and re-establish tree canopy across the Shire, it is proposed to amend the Hornsby Development Control Plan (HDCP) to protect all tree species except those that are considered weeds, or hazardous to people or property.
- This change will protect all exotic and Australian native species present in Hornsby Shire. At the moment only trees indigenous to Hornsby Shire are protected.
- A number of housekeeping amendments are also required to be made to sections of the HDCP as a result of the introduction of the *Biodiversity Conservation Act 2016* and the *Local Land Services Act 2013* on 25 August 2017, to clarify interpretation and correct references.
- This report recommends that Council publicly exhibit the amended HDCP and that submissions be reported to Council at the earliest opportunity in the New Year.

RECOMMENDATION

THAT:

1. The proposed amendments to the Section 1B.6 and 1B.6.2 of the *Hornsby Development Control Plan 2013* (Attachment 1) be publicly exhibited in accordance with the requirements of the *Environmental Planning and Assessment Regulation 2000*.
2. Following the exhibition, a report on submissions be presented to Council at the earliest opportunity.

PURPOSE

The purpose of this Report is to seek Council's endorsement to exhibit an amendment to Section 1.B.6 Tree and Vegetation Preservation and 1.B.6.2 Vegetation Preservation of the Hornsby Development Control Plan 2013 (HDCP). These amendments are aimed at strengthening Hornsby Shire's tree protection measures and allow for housekeeping amendments to be provided as a result of the introduction of the *Biodiversity Conservation Act 2016* and the *Local Land Services Act 2013*.

BACKGROUND

Since 2011, the approach of HDCP has been to protect tree species native to Hornsby Shire; all trees located on land within a heritage conservation area, or on land containing a heritage item. This approach has meant exotic trees, and Australian native trees not naturally occurring in the Shire can be removed without the need for Council consent.

At the General Council meeting of 8 November 2017, Council considered Mayoral Minute 15/17: Urban Canopy and Tree Preservation in Hornsby Shire and resolved unanimously that:

"... a report outlining options to strengthen tree protection measures and re-establish tree canopy across the Shire be prepared for Council's consideration at the earliest opportunity."

An immediate response available to Council is to amend the HDCP to protect all tree species except those that are considered weeds, or hazardous to people or property.

DISCUSSION

Prior to 2011 Council's tree protection measures applied to a greater number of tree species than currently exists. At that time Council received approximately 1,400 applications each year from residents seeking a permit to prune or remove a tree. In the immediate years following the change to the HDCP and the introduction of the 10/50 vegetation clearing legislation the number of applications has dropped by over 50%.

In light of the annual decline in Hornsby's urban canopy coverage, there is merit for Council to reinstate the former 2011 tree protection measures. This approach would protect more species.

It is also apparent that with increased housing density and smaller yards, the opportunity to accommodate large indigenous replacement tree species is reduced. Consequently the use of a non-indigenous tree species with smaller growth potential or deciduous characteristics is warranted. It is appropriate to include these species within Council's tree protection controls.

With this in mind Council officers have reviewed the existing HDCP and prepared draft amendments to Sections 1.B.6 Tree and Vegetation Preservation and 1.B.6.2 Vegetation Preservation that is contained in Attachment 1 – Draft DCP Amendment.

All tree species are proposed to be protected except those specifically listed as exempt from the provisions. The draft 'exempt' tree species for Hornsby Shire includes:

- species listed 'exempt' in Hornsby prior to the 2011 changes have been reinstated; and
- other species most commonly listed as 'exempt' for the neighbouring Councils of the City of Parramatta, Kur-ring-gai Council, The Hills and Ryde City Council.

Typically species exempt from protection (See Table 1 below and Attachment 1 - Table 1B.6(b) – Exempt Tree Species) are normally permitted to be removed due to undesirable characteristics such as being invasive weeds, or hazardous to health.

Table 1: Draft HDCP tree species exemptions

Botanic Name	A	Reason
<i>Acacia baileyana</i>	Cootamundra Wattle	Not indigenous to Hornsby, invasive, hybridises with <i>Acacia pubescens</i> threatened species
<i>Acacia saligna</i>	Queensland Silver Wattle	Not indigenous to Hornsby, invasive
<i>Acer negundo</i> *	Box Elder	Not indigenous to Hornsby, invasive
<i>Ailanthus altissima</i>	Tree of Heaven	Not indigenous to Hornsby, invasive
<i>Alnus jorullensis</i>	Evergreen Alder	Not indigenous to Hornsby, destructive root system
<i>Arecastrum romanzoffianum</i>	Cocos Palm	Not indigenous to Hornsby, invasive
<i>Celtis sinensis</i>	Hackberry	Not indigenous to Hornsby, invasive
<i>Cinnamomum camphora</i> *	Camphor Laurel	Not indigenous to Hornsby, invasive
<i>Citrus spp, Olea spp, Prunus spp, Malus spp</i> *	Fruit trees	Requires pruning and removal as part of horticultural practice
<i>Cotoneaster spp.</i> *	Cotoneaster	Not indigenous to Hornsby, invasive
<i>Eriobotrya japonica</i> *	Loquat	Not indigenous to Hornsby, host to fruit fly
<i>Erythrina spp</i> *	Coral tree	Not indigenous to Hornsby, invasive
<i>Ficus elastic</i> *	Rubber tree	Not indigenous to Hornsby, invasive, destructive root system
<i>Gleditsia triacanthos</i>	Honey Locust	Not indigenous to Hornsby, invasive
<i>Lagunaria patersonii</i>	Norfolk Island Hibiscus	Not indigenous to Hornsby, causes skin irritation
<i>Ligustrum spp</i> *	Privet	Not indigenous to Hornsby, invasive
<i>Populus spp</i> *	Poplar	Not indigenous to Hornsby, prone to fungal rot and collapse
<i>Pyracantha augustifolia</i>	Firethorn	Not indigenous to Hornsby, invasive
<i>Robinia pseudoscacia</i>	Golden Robinia	Not indigenous to Hornsby, destructive root system
<i>Salix spp</i> *	Willow	Not indigenous to Hornsby, invasive, destructive root system
<i>Schefflera actinophylla</i> *	Umbrella Tree	Not indigenous to Hornsby, invasive, destructive root system
<i>Schinus spp</i>	Peppercorn Tree	Not indigenous to Hornsby, prone to fungal rot and collapse
<i>Toxicodendron spp</i>	Rhus	Poisonous properties

Note: * Exempt species in Hornsby's 2011 Tree Preservation Order.

Other aspects of the DCP have been reviewed and considered not to warrant change at the moment. For example Clause (d), second dot point, permits the pruning of trees by less than 10% of the foliage area in accordance with Australian Standard AS 4373 *Pruning of Amenity Trees*, not more than once annually without the need for Council approval. This exemption clause is commonly applied throughout Sydney as it allows tree owners to undertake relatively minor tree maintenance activity without the need for Council approval.

As a result of the introduction of the *Biodiversity Conservation Act 2016* and the *Local Land Services Act 2013* on 25 August 2017, a number of housekeeping amendments are also required to be made to clarify interpretation and correct references. For example references to Council's Local Environmental Plan are removed and replaced with *State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017*.

Opportunities to re-establish tree canopy will be reported to Council early in 2018.

CONSULTATION

If supported, draft amendments to the HDCP would be exhibited in accordance with Clause 18 of the *Environmental Planning and Assessment Regulation (2000)* for 28 days. Exhibition would involve a newspaper advertisement, notification on Council's website, displays at Council's administration Building and all Libraries.

Consistent with Council's Community Consultation Policy the exhibition period will commence at the end of January to avoid the end of year holiday period. A report will be presented to Council's for its consideration as soon as practical after the close of the exhibition period.

POLICY

Council's Community Consultation Policy prescribes that where there is significant community interest, the greatest opportunity should be available for all interested parties to make a submission. Accordingly, the period between 20 December and 20 January is not included as part of the advertising or exhibition period.

CONCLUSION

The amendments to the HDCP attached to this report have been prepared taking into account:

- Council's desire to strengthen the existing tree protection measures; and
- Implement a number of housekeeping amendments in response to recent legislative changes.

In effect the draft HDCP proposes to protect all tree species other those listed as exempt.

It is recommended that Council endorse the proposed amendments to the HDCP for exhibition.

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.

ROBERT STEPHENS
Deputy General Manager - Infrastructure and
Recreation
Infrastructure and Recreation Division

DAVID SHEILS
Manager - Parks and Recreation
Infrastructure and Recreation Division

Attachments:

1. Attachment to Report IR19_17 - Draft - DCP Amendments

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

File Reference: F2007/00707

Document Number: D07342830

17 REQUEST FOR TREE REMOVAL - 12A VICTORY STREET, ASQUITH

EXECUTIVE SUMMARY

- The owners of 12A Victory Street and a neighbour at 17 Baldwin Avenue, Asquith have sought Council approval to remove one *Eucalyptus botryoides* (Bangalay) located at the rear of 12A Victory Street.
- An initial application in 2016 (TA/408/2016) requested the removal of a Bangalay on the basis of tree roots being present inside their backyard, unbalanced trunk that leans towards the neighbour's property (17 Baldwin Avenue); lifting of the ground around the roots; the dropping branches which is a risk to property and a high risk for children and people using the yard.
- This application was inspected and refused on the basis the tree was observed to be in good condition and there was insufficient evidence to support its removal based on the grounds put forward by the applicant.
- In March 2017 an appeal was lodged (TA/820/2014/A) seeking review of Council's decision to allow for the tree's removal.
- The appeal was refused on the basis the reviewing Council arborist observed the tree to be in good condition and there was insufficient evidence to support the removal of the tree based on the grounds proposed by the applicant.
- A report was prepared for Council's consideration at its meeting of 9 August 2017. Council subsequently resolved that the matter be deferred to a meeting of the new Council to allow an onsite meeting between the Applicants and relevant staff.
- A site meeting occurred 17 October 2017 with the applicants, Councillors and staff. At this meeting it was agreed that the owner's arborist and Council's senior arborist would meet onsite to undertake testing of the ground.
- This Report concludes that following the onsite meeting with Councillors and agreed testing with arborists, the *Eucalyptus botryoides* (Bangalay) is structurally sound, healthy and worthy of retention.

RECOMMENDATION

THAT:

1. Council refuse consent to remove one *Eucalyptus botryoides* (Bangalay) located at the rear of the property at 12A Victory Street, Asquith.
2. Up to a 15% crown reduction be permitted for the canopy overhanging 17 Baldwin Avenue.

PURPOSE

The purpose of this Report is to provide Council with the information required to consider an application by the owner of 12A Victory Street and the owner of 17 Baldwin Avenue, Asquith to remove one *Eucalyptus botryoides* (Bangalay) located at the rear of the property at 12A Victory Street, Asquith.

BACKGROUND

At the Council meeting of 9 August 2017 (Attachment 1), resolved:

“THAT consideration of Deputy General Manager’s Report No. IR14/17 be deferred to a meeting of the new Council to allow an onsite meeting between the Applicants, relevant Council Staff and Councillors elected at the 9 September 2017 Council election.”

A site meeting occurred 17 October 2017 with staff, six Councillors, the owner of the tree at 12A Victory Street, the owner of an adjoining property at 17 Baldwin Avenue and an arborist engaged on behalf of the applicant.

As an outcome of the meeting it was agreed that the arborist on behalf of the applicant together with Council’s senior arborist meet on site to undertake test holes to assist to verify concerns regarding the stability of the tree.

The tree owner and neighbour were also advised by Councillors that for any request for tree removal the applicant should clearly demonstrate how the tree canopy would be replaced. It was noted at the onsite meeting that the adjoining property 17 Baldwin Avenue has a newly approved development (DA/1147/2016/A) which, as part of the works, was in the process of removing approximately twelve non indigenous trees with no large tree replacements.

The owner of 17 Baldwin Avenue has subsequently submitted further correspondence which is provided in Attachment 2. This provides a statement from the owner, notes from his arborist regarding the onsite meeting and a statement from a landscape architect outlining how several trees can be incorporated into the landscape plans for 17 Baldwin Avenue and a replacement tree can be planted at 12A Victory Street.

Meeting with arborists

A meeting was held 26 October 2017. The basis for this meeting was to further explore the proposition by the applicant that the tree’s root plate had started to lift and separate from the soil profile. Both arborists dug a number of holes using two types of digging tools. The owner’s arborist believes one hole he dug demonstrated a gap in the soil profile. Council’s arborist disagreed with this proposition. Council’s arborist also dug holes at four locations and could not conclude there was any root plate separation (site notes – Attachment 3).

DISCUSSION

At the onsite meeting with Councillors the owner of 17 Baldwin Avenue specifically raised concern regarding the pine tree and Council arborists not appropriately considering whether this tree is physically supporting the Bangalay. It is view of Council officers that the pine is younger than the Bangalay and that it has grown into one of its scaffolds. Pine species such as this specimen have relatively low weight bearing capacity and are simply not able to physically support the Bangalay.

The Bangalay has been inspected by two different arborists from Council who concluded it does not pose a risk to human life or is causing or likely to be causing substantial damage.

Whilst officers do not believe pruning the Bangalay is warranted, considering the resident concerns, they would support some minor crown reduction where it overhangs the property at 17 Baldwin Avenue.

POLICY

The recommendation contained within this report is consistent with Council's Tree Preservation Measures (HDCP) that provides protection to trees that are indigenous to Hornsby Shire such as the *Eucalyptus botryoides* (Bangalay) and only permits removal of a tree in the case of safety concerns if there are signs that the tree is diseased, dying or dangerous.

CONCLUSION

For trees in the urban environment arborists are able to undertake risk assessments by following industry accepted risk assessment criteria. Council's tree officers have applied these criteria (Quantified Tree Risk Assessment) and determined the risk rating to be 'low' and 'acceptable'. They have also undertaken test holes on site which do not support the proposition put forward by the applicant's arborist that the tree is rotating and lifting in the ground.

The tree was determined to be in good condition and there is no evidence supporting the proposition that the tree is at imminent risk of failure or decline and therefore can be retained.

Council officers have concluded that the tree is worthy of retention and therefore it is recommended that Council refuse the application for consent to the *Eucalyptus botryoides* (Bangalay) located in the rear yard of 12A Victory Street, Asquith.

RESPONSIBLE OFFICER

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

DAVID SHEILS
Manager - Parks and Recreation
Infrastructure and Recreation Division

ROBERT STEPHENS
Deputy General Manager - Infrastructure and
Recreation
Infrastructure and Recreation Division

Attachments:

- 1.[View](#) Attachment 1 - DGM Report No. 14/2017 - Request for tree removal - 12A Victory Street, Asquith
- 2.[View](#) Attachment 2 - Submission from Ian Corney - DANGEROUS TREE - Nov 2017 - Victory St - Baldwin Ave - 171115
- 3.[View](#) Attachment 3 - Arborists Site Notes - 26 Oct 2017

File Reference: TA/408/2016/A
Document Number: D07347187

20 MAYOR'S NOTES FROM 1 TO 30 NOVEMBER 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 November 2017 – On behalf of the Mayor, Councillor Vince del Gallego attended Oakhill College's Presentation Day at Castle Hill.

Saturday 4 November 2017 – The Mayor attended the 14th Annual Hornsby Relay for Life at Rofe Park, Hornsby Heights.

Saturday 4 November 2017 – The Mayor attended the AASHA 2017 Annual Forum at Pennant Hills Community Centre.

Saturday 4 November 2017 – On behalf of the Mayor, Councillor Vince del Gallego attended the NSFA 2017 President's Dinner at the Kirribilli Club, Lavender Bay.

Wednesday 8 November 2017 – The Mayor hosted two Citizenship Ceremonies in the Council Chambers.

Wednesday 8 November 2017 – The Mayor attended the visit by The Hon Troy Grant MP, Minister for Emergency Services, at the Hornsby/Ku-ring-gai Fire Control Centre at Cowan.

Wednesday 8 November 2017 – The Mayor attended the Official Opening of the new PCYC Hornsby/Ku-ring-gai Centre by the Governor of NSW and Patron of PCYC NSW at Waitara.

Friday 10 November 2017 – The Mayor attended the Grand Opening of the Studio Artes Transurban Mural at Studio Artes in Hornsby.

Saturday 11 November 2017 – On behalf of the Mayor, Councillor Vince del Gallego attended the Hornsby RSL Sub-Branch Remembrance Day Ceremony at Hornsby Cenotaph.

Saturday 11 November 2017 – On behalf of the Mayor, Councillor Nathan Tilbury attended the Berowra RSL Sub-Branch Remembrance Day Service at Berowra.

Friday 17 November 2017 – On behalf of the Mayor, Councillor Vince del Gallego attended the 'Think Tank' on Education at Oakhill College, Castle Hill.

Friday 17 November 2017 – The Mayor attended the Rotary Friendship Dinner at Pennant Hills Golf Club.

Friday 17 November 2017 – On behalf of the Mayor, Councillor Robert Browne attended Hornsby Woodworking Men's Shed Christmas Get Together at Thornleigh.

Saturday 18 November 2017 – The Mayor attended the Official Opening of Wisemans Ferry Community Men's Shed at Wisemans Ferry.

Saturday 18 November 2017 – The Mayor officiated at the Hornsby Art Prize Award Night at Wallarobba Arts and Cultural Centre, Hornsby.

Sunday 19 November 2017 – The Mayor attended a Choral Recital at Mount St Benedict Convent in Pennant Hills.

Monday 20 November 2017 – The Mayor launched Hornsby Shire Recollects at Hornsby Library.

Friday 24 November 2017 – The Mayor attended the San Foundation Annual General Luncheon at Miramare Gardens, Terrey Hills.

Friday 24 November 2017 – The Mayor opened the Art of Loftus Exhibition hosted by C3 Church Carlingford at Pennant Hills.

Saturday 25 November 2017 – The Mayor attended the Lions Club of Ku-ring-gai White Ribbon Day in conjunction with Hornsby Ku-ring-gai Women's Shelter at Hornsby Mall.

Saturday 25 November 2017 – The Mayor attended the Scouts Australia NSW End of Year Celebration Dinner at Pennant Hills.

Sunday 26 November 2017 – The Mayor attended the Sydney Beijing Association First Arts Festival at Hornsby War Memorial Hall.

Thursday 30 November 2017 - On behalf of the Mayor, Councillor Vince del Gallego attended Mount St Benedict College Presentation Day at Hornsby RSL Club.

Thursday 30 November 2017 – The Mayor attended a Public Forum at North Epping Bowling and Community Club.

File Reference: F2004/07053

Document Number: D07344654

21 CITIES POWER PARTNERSHIP

COUNCILLOR NICITA TO MOVE

THAT:

1. Council join the Cities Power Partnership (CPP) and advise the CPP of its pledge within six months.
2. A report be presented to Council within six months, noting five actions undertaken as part of the program in areas such as energy efficiency, transport, renewable energy and advocacy to maintain participation in the partnership program.

Note from Councillor:

The Cities Power Partnership (CCP) is a program designed to support and promote energy saving and climate mitigation initiatives. The CCP is coordinated by the Climate Council, an independent body, which is funded by donations to provide climate information to the Australian public based on the best science available.

The CPP was launched in July 2017 with 35 councils joining the program, including Ku-ring-gai, Northern Beaches, Parramatta, Lane Cove, Hawkesbury, North Sydney and Willoughby.

The CCP program is milestone-based and provides a coordination, support and recognition function to participating Councils. There is no cost for Council to join the program.

As a partner council receives:

- Access to the CCP knowledge hub, webinars and visits from climate council experts.
- Local government partners with whom to collaborate and share knowledge.
- Promotion on the CPP website and social media, local and state media.
- Access to grants and incentives to support renewable energy, energy efficiency, and sustainable transport goals as they become available.

To participate in the program, and to maintain membership, councils identify five actions that they pledge to start implementing within six months of joining the program.

Participation in the program would complement and support the work Council is already undertaking to meet corporate carbon reduction and energy saving targets. These identified works are noted within Councils delivery and operational plans.

The CCP partnership provides a platform for Hornsby Council's work in sustainability to be recognised and shared with the community.

Attachments:

There are no attachments for this report.

File Reference: F2010/00341

Document Number: D07340362

22 PUBLIC DOMAIN STRATEGIES**COUNCILLOR MCINTOSH TO MOVE****THAT:**

1. As an addition to the report due back to Council in early 2018 regarding tree planting in public places, Council seek further information on two key focus areas:
 - a) Public Domain Improvements surrounding identified Housing Precincts, and
 - b) Public Domain Plans for town centres and road corridors
2. Public domain strategies should specifically address tree planting in the identified precincts, but would also include footway treatments, street bins, bike racks, seating and opportunities for public art. Within the housing precincts, strategies should address connections between the new developments and existing infrastructure such as parks and playgrounds.
3. Within town centres and where possible, opportunities to include outdoor dining that would enhance the commercial viability and vitality of the town centre should also be encouraged. Further investigation should outline Council's possible participation in the NSW Small Business Commissioner's "Outdoor Dining Trial" which aims to encourage business participation through the streamlining of approval processes.
4. All of these public domain plans whether they be for housing precincts or town centres should look for opportunities to expand and enhance the bicycle network, with connected bike paths and explore options for underground power lines, providing further opportunities to enhance the tree canopy.

Note from Councillor:

Following the unanimous support for reinstatement of the tree canopy within our Shire, all Councillors have been involved in briefings regarding the cost and options for tree planting in public places such as local roads and town centres. While the reports and presentations provided by staff have indicated that our parks, reserves and sportsgrounds are essentially well addressed, with minimal options for renewal unless major upgrades are proposed, our local roads and town centres do provide us with opportunities to address improvements to the tree canopy in our public places.

This notice of motion seeks further information on the opportunity to develop public domain plans or design guidelines for key identified areas such as the housing development precincts, our town centres and road corridors. This would directly address the strongly expressed desire of our community to protect the tree canopy we have left and to do more to replace what has been lost.

A public domain strategy can outline proposals for tree planting, footway improvements, street furniture and bins, connected bike paths, underground power and opportunities for public art and

outdoor dining.

The practicalities of public domain works require a plan to be prepared and allocation of a budget. Having plans in place gives Council the opportunity for some of these works to be developer-funded and to be completed alongside or during the landscaping phase of any private development works. They can be conditioned as part of the development consent or can form part of the developer's contribution, either through s94 or a voluntary planning agreement (VPA).

Within our town centres, having a public domain strategy has given us an opportunity to seek grant funding for these works, when available, as they are then deemed to be 'shovel ready' or they are able to be developer-funded in the case of new construction sites.

In both cases, it has been proven by excellent examples from within our own council area or within an adjacent council area that having a plan in place is a smart way forward. Works proposed in Epping Town Centre, as an example, were based upon a public domain strategy. It gives the community confidence that their voice has been heard both within the planning stage and in regards to the final outcome.

Housing Strategy Sites - The 2011 Housing Strategy identified a number of precincts, with the following areas ultimately gazetted by the Minister: Asquith, Beecroft, Carlingford*, Hornsby, Mt Colah, Normanhurst, Pennant Hills, Thornleigh, Waitara, West Pennant Hills. (*this precinct currently part of Parramatta City Council).

These areas all contain five storey multi-unit housing, requiring consolidation of lots prior to construction and significant loss of tree canopy on the development sites.

Town Centres - Within our Shire we have a number of town centres that provide opportunities for improvements to the public domain. While some are solely private developments, such as Cherrybrook Shopping Centre, there may be opportunities for public domain improvements at the gateways. Where the town centres comprise multiple owners and a significant public domain, such as Pennant Hills town centre, we should look to opportunities to improve the tree canopy and provide better connectedness between key public and community facilities through our plan.

Road Corridors - Across the Shire there are number of potential sites where significant tree planting could be encouraged on the road verges controlled by Council. While there will be limitations in some areas with regard to overhead power lines and the requirements of the Road and Maritime Services (RMS), where we can enhance current plantings, we should take all of the opportunities presented to us to enhance our local tree canopy.

Coordination with NSW State Government Policy - This proposed process fits in with the State Government's plans for the funding of infrastructure and the encouragement of business participation. According to the NSW Department of Planning website – the Department proposes to implement Special Infrastructure Contributions (SICs) across the planned precinct program in Sydney and for high growth regional areas. The Government's information indicates they will act "as a framework for developers to contribute to state and regional infrastructure upgrades" and will "fund State and regional roads, transport facilities such as bus shelters and interchanges, regional open space, pedestrian links and cycleways, and social infrastructure such as schools, healthcare and emergency services."

With regards to business participation, the NSW Small Business Commissioner is currently running a trial across a number of NSW Councils to encourage outdoor dining. Staff from the Small Business

Commissioner have recently visited Council to encourage our participation which would “provide a fast, streamlined self-assessment application process to enable restaurants, cafés and other food-based businesses to expand operations.” Outdoor dining is an excellent public domain mechanism to support our local businesses and to bring vitality to our local town centres. This motion seeks further investigation of our possible participation in this free trial.

Attachments:

There are no attachments for this report.

File Reference: F2012/00292

Document Number: D07348101

23 PUBLIC TRANSPORT IMPROVEMENTS

COUNCILLOR MARR TO MOVE

THAT Council write to the NSW Minister for Transport and the State Member for Hornsby acknowledging the recent improvements to train frequencies north of Hornsby, and requesting that Transport for NSW consider further improvements to train and interconnecting bus service frequencies for areas between Hornsby and Hawkesbury River Stations.

Note from Councillor:

Transport for NSW have recently made welcome changes to their rail timetables to improve train services between Berowra and Hornsby such that they now operate on a 30 minute frequency on weekends and other non-peak times.

Nevertheless, there is still significant demand arising from residents living to the north of Hornsby for a further increase to the frequency of bus and train services. This area includes key day tourism destinations such as Brooklyn, the National Parks and the Great North Walk and visitors wanting to access these areas would also benefit from an increased service frequency.

It is suggested that the service frequency of trains and interconnecting buses between Hornsby and the Hawkesbury River Station be increased such that they operate on a 15 minute interval during normal business hours times and every 30 minutes outside of business hours and weekends.

Attachments:

There are no attachments for this report.

File Reference: F2004/08724-02

Document Number: D07348245