



BUSINESS PAPER

GENERAL MEETING

**Wednesday 3 September 2014
at 6:30 PM**



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PUBLIC FORUM – NON AGENDA ITEMS**QUESTIONS OF WHICH NOTICE HAS BEEN GIVEN****MAYOR'S NOTES****MAYORAL MINUTES****NOTICES OF MOTION****SUPPLEMENTARY AGENDA****MATTERS OF URGENCY****QUESTIONS WITHOUT NOTICE**

AGENDA AND SUMMARY OF RECOMMENDATIONS

PRESENT

NATIONAL ANTHEM

OPENING PRAYER/S

Reverend Rob Denham, from St Peter's Anglican Church, will open the meeting in prayer.

ACKNOWLEDGEMENT OF RELIGIOUS DIVERSITY

Statement by the Chairperson:

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

ABORIGINAL RECOGNITION

Statement by the Chairperson:

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

AUDIO RECORDING OF COUNCIL MEETING

Statement by the Chairperson:

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

APOLOGIES / LEAVE OF ABSENCE

POLITICAL DONATIONS DISCLOSURE

Statement by the Chairperson:

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

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

DECLARATIONS OF INTEREST

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

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

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

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

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

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

OR

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

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

CONFIRMATION OF MINUTES

THAT the Minutes of the General Meeting held on 13 August, 2014 be confirmed; a copy having been distributed to all Councillors.

PETITIONS

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

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

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

GENERAL BUSINESS

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

GENERAL MANAGER'S DIVISION

Nil

CORPORATE SUPPORT DIVISION**Page Number 1****Item 1 CS25/14 ELECTION OF DEPUTY MAYOR****RECOMMENDATION**

THAT:

1. Council determine if it wishes to elect a Deputy Mayor.
2. If a Deputy Mayor is to be elected, Council:
 - a) Determine the period for which the Deputy Mayor is to be elected;
 - b) Determine if the election of the Deputy Mayor is to be by preferential ballot, ordinary ballot or open voting; and
 - c) Request the Returning Officer to conduct the election, using the election method determined in b) above.
3. If a Deputy Mayoral election is held, the ballot papers (if any) be destroyed following the declaration of the election.

Page Number 5**Item 2 CS30/14 COUNCILLOR REPRESENTATION ON COMMITTEES, WORKING PARTIES AND OTHER RELEVANT GROUPS - OCTOBER 2014 TO SEPTEMBER 2015****RECOMMENDATION**

THAT Council review the list of Committees, Working Parties and other relevant groups included in the attachment to Deputy General Manager's Report No. CS30/14 and determine Councillor representation as appropriate for the period October 2014 to September 2015.

Page Number 8**Item 3 CS32/14 SCHEDULE OF COUNCIL MEETINGS AND ORDER OF BUSINESS TO APPLY AT THOSE MEETINGS - OCTOBER 2014 TO SEPTEMBER 2015****RECOMMENDATION**

THAT Council:

1. Adopt the schedule of ordinary Council meetings for the period October 2014 to September 2015 as set out in Attachment 1 of Deputy General Manager's Report No. CS32/14.
2. Adopt the order of business for the ordinary Council meetings to be held in the period October 2014 to September 2015 as set out in Attachment 2 of Deputy General Manager's Report No. CS32/14.

Page Number 11**Item 4 CS34/14 DELIVERY PROGRAM 2013-17 INCLUDING OPERATIONAL PLAN (BUDGET) FOR 2013/14 - JUNE 2014 QUARTER REVIEW****RECOMMENDATION**

THAT the June 2014 Quarter Review of the Delivery Program, including the 2013/14 Operational Plan and Budget, be received and noted.

Page Number 14**Item 5 CS35/14 INVESTMENTS AND BORROWINGS FOR 2014/15 - STATUS FOR PERIOD ENDING 31 JULY 2014****RECOMMENDATION**

THAT the contents of Deputy General Manager's Report No. CS35/14 be received and noted.

ENVIRONMENT AND HUMAN SERVICES DIVISION

Page Number 17

- Item 6 EH18/14 DEFERRED REPORT - FUTURE USE OF COUNCIL BUILDING - 3 BADEN POWELL AVENUE, BROOKLYN**

RECOMMENDATION

THAT Council defer consideration regarding the long term future of 3 Baden Powell Avenue, Brooklyn until after the Community Facilities Strategic Plan has been completed.

Page Number 23

- Item 7 EH19/14 PROPOSAL FOR A BIOBANKING AGREEMENT AT WAITARA CREEK UPPER CATCHMENT**

RECOMMENDATION

THAT:

1. Council proceed with investigations of a proposed Biobanking agreement for Waitara Creek Upper Catchment with the Office of Environment and Heritage.
2. A further report be submitted for Council's consideration once the results of the investigations are known.

PLANNING DIVISION**Page Number 27**

- Item 8 PL37/14 DEVELOPMENT APPLICATION - SENIORS LIVING DEVELOPMENT COMPRISING 10 UNITS - 186 BEECROFT ROAD, CHELTENHAM**

RECOMMENDATION

THAT Council assume the concurrence of the Secretary of the Department of Planning and Environment pursuant to *State Environmental Planning Policy No. 1* and approve Development Application No. DA/1394/2013 for the demolition of existing structures and construction of a seniors living development comprising 10 self-contained dwellings with car parking and strata subdivision at Lot 18 DP 1067166, No. 186 Beecroft Road, Cheltenham subject to the conditions of consent detailed in Schedule 1 of Group Manager's Report No. PL37/14.

Page Number 77

- Item 9 PL63/14 DEVELOPMENT APPLICATION - DWELLING-HOUSE - PROPOSED LOT 2, 39 HANNAH STREET, BEECROFT**

RECOMMENDATION

THAT Development Application No. DA/199/2014 for erection of a dwelling-house at proposed Lot 2, No.39 Hannah Street, Beecroft be refused for the reasons detailed in Schedule 1 of Group Manager's Report No. PL63/14.

Page Number 92

**Item 10 PL56/14 DEVELOPMENT APPLICATION - RESIDENTIAL FLAT BUILDINGS
COMPRISING 64 UNITS - 309, 311 AND 311A PACIFIC HIGHWAY, ASQUITH AND
7 BELL STREET, HORNSBY**

RECOMMENDATION

THAT Development Application No. DA/370/2014 for demolition of existing structures and construction of two, five storey residential flat buildings comprising 64 units with basement car parking at Lot 9 DP 650307, Lot 1 DP844075, Lot 2 844075, Lot C DP 369970, Lot 3 DP385418, Lot B DP369970, Nos. 309, 311 and 311A Pacific Highway, Asquith and No. 7 Bell Street, Hornsby be approved subject to the conditions of consent detailed in Schedule 1 of Group Manager's Report No. PL56/14.

Page Number 133

**Item 11 PL50/14 DEVELOPMENT APPLICATION - DWELLING-HOUSE - 51 GLENVIEW
ROAD, MOUNT KURING-GAI**

RECOMMENDATION

THAT Council assume the concurrence of the Secretary of the Department of Planning and Environment pursuant to Clause 4.6 of the *Hornsby Local Environmental Plan 2013* and approve Development Application No. DA/413/2014 for a two storey dwelling house and workshop outbuilding at Lot 11, DP 246969, No. 51 Glenview Road, Mount Kuring-gai subject to the conditions of consent detailed in Schedule 1 of Group Manager's Report No. PL50/14.

Page Number 162

**Item 12 PL58/14 DEVELOPMENT APPLICATION - CHANGE OF USE TO A SELF STORAGE
FACILITY INCLUDING ALTERATIONS AND ADDITIONS - 25 SEFTON ROAD,
THORNLEIGH**

RECOMMENDATION

THAT Council assume the concurrence of the Secretary of Planning and Environment pursuant to Clause 4.6 of the *Hornsby Local Environmental Plan 2013* and vary the floor space ratio development standard and approve Development Application No. DA/424/2014 for the change of use of an industrial building to a self storage facility including alterations and additions and the erection of signage at Lot 2 DP 590251 (No.25) Sefton Road, Thornleigh subject to the conditions of consent detailed in Schedule 1 of Group Manager's Report No. PL58/14.

Page Number 186**Item 13 PL47/14 BROOKLYN MASTERPLAN - COMMUNITY SURVEY****RECOMMENDATION**

THAT:

1. Consultation be undertaken with the community in accordance with the consultation strategy outlined in Group Manager's Report No. PL47/14.
2. The General Manager be authorised to approve any consultation material and/or additional consultation techniques recommended by Council's community consultation specialist to engage with the community.
3. Council accept receipt of written submissions in addition to feedback provided in the survey.
4. Any responses to the survey and the written submissions received be evaluated and a report prepared for Council's consideration.

Page Number 192**Item 14 PL55/14 TENDER FOR LEGAL SERVICES****RECOMMENDATION**

THAT Council:

1. Dissolve its existing legal services panel, adopted on 19 May 2010.
2. Invite the following firms to be members of its new legal services panel in accordance with the terms and conditions of Tender RFT8/2014:
 - a) Bartier Perry
 - b) Crawford & Duncan
 - c) Local Government Legal
 - d) Marsdens Law Group
 - e) Matthews Folbigg
 - f) Mills Oakley Lawyers
 - g) Pike & Verekers Lawyers
 - h) Storey & Gough Solicitors
 - i) Woodward Legal
 - j) Workplace Law
3. Note that from time to time, it may be necessary for the General Manager to engage the services of a legal firm, who is not on the legal services panel, to provide specialist legal advice to Council.
4. Write to all unsuccessful Tenderers advising of Council's decision.

INFRASTRUCTURE AND RECREATION DIVISION**Page Number 196****Item 15 IR14/14 WEST EPPING PARK DRAFT PLAN OF MANAGEMENT****RECOMMENDATION**

THAT:

1. Council endorse the exhibition of the West Epping Park draft Plan of Management as set out in Deputy General Manager's Report No. IR14/14.
2. A further report be submitted to Council following receipt of submissions with a view to seeking adoption of the plan.

Page Number 200**Item 16 IR16/14 TENDER T26/2014: GRINDING OF CONCRETE FOOTPATHS****RECOMMENDATION**

THAT Council accept the tender of The Australian Grinding Company Pty Ltd. for all work under Tender No. T26/2014: Grinding of Concrete Footpaths.

Page Number 203**Item 17 IR17/14 TENDER T27/2014: PATCHING OF ROAD PAVEMENTS IN FULL DEPTH ASPHALT****RECOMMENDATION**

THAT Council accept the tender of Roadworx Surfacing Pty Ltd. for all work under Tender No. T27/2014: Patching of Road Pavements in Full Depth Asphalt.

CONFIDENTIAL ITEMS**Item 18 CS37/14 PROPOSED SALE OF FORMER PRETORIA LANE, HORNSBY**

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

MAYORAL MINUTES

NOTICES OF MOTION

SUPPLEMENTARY AGENDA

MATTERS OF URGENCY

QUESTIONS WITHOUT NOTICE

1 ELECTION OF DEPUTY MAYOR

EXECUTIVE SUMMARY

- In accordance with Section 231 of the Local Government Act, Councillors may elect a person from among their number to be the Deputy Mayor, with the term of such office being either equal to that of the Mayoral term or for a shorter period.
- This Report provides details about the role of a Deputy Mayor and the choices that Council has about the period and method of election to such office.
- If Council decides to elect a Deputy Mayor, it will need to determine the term for which the Deputy Mayor will serve and the method of voting to be used for electing the Deputy Mayor. It will also need to appoint the General Manager (or his delegate) to conduct the election.

RECOMMENDATION

THAT:

1. Council determine if it wishes to elect a Deputy Mayor.
2. If a Deputy Mayor is to be elected, Council:
 - a) Determine the period for which the Deputy Mayor is to be elected;
 - b) Determine if the election of the Deputy Mayor is to be by preferential ballot, ordinary ballot or open voting; and
 - c) Request the Returning Officer to conduct the election, using the election method determined in b) above.
3. If a Deputy Mayoral election is held, the ballot papers (if any) be destroyed following the declaration of the election.

PURPOSE

The purpose of this Report is to provide Council with the opportunity to consider whether or not it wishes to elect a Deputy Mayor. The Report includes information about the role of the Deputy Mayor and the different methods of voting which can be used to elect a Deputy Mayor.

BACKGROUND

In accordance with Section 231 of the Local Government Act, Councillors may elect a person from among their number to be the Deputy Mayor, with such term of office being either equal to that of the Mayoral term or for a shorter period.

Prior to the March 2004 local government elections, Hornsby Council's Mayor was elected annually by the Councillors. It was also Council's practice to annually elect a Deputy Mayor. At the 2004 election, the method of electing Hornsby's Mayor was changed to be by the residents/ratepayers across the Shire for the term of the elected Council, rather than by the elected Councillors on an annual basis.

Although Councillors no longer have the responsibility of electing the Mayor, it is still necessary for Council to decide whether or not to elect a Deputy Mayor and, if so, to determine the period of the term to be served by the Deputy Mayor. Council's latest decision in this regard was the General Meeting held on 18 September 2013, when it considered Deputy General Manager's Report No. CS39/13 and elected Councillor Tilbury as Deputy Mayor for the period to September 2014.

DISCUSSION

The Role of Deputy Mayor

The Deputy Mayor may exercise any function of the Mayor, at the request of the Mayor, if the Mayor is prevented by illness, absence or otherwise from exercising the function, or if there is a casual vacancy in the office of Mayor. If there was to be a casual vacancy in the office of Mayor, a by-election for the position of Mayor would need to be conducted by the appointed Returning Officer in accordance with a timetable set by Section 292 of the Local Government Act i.e. on a Saturday that fell no later than three months after the vacancy occurred.

Period of Election of the Deputy Mayor

Under Section 231 of the Local Government Act, Councillors may elect a Deputy Mayor for the same period as the Mayoral term or for a shorter period. As Council's Mayor is popularly elected, the current Mayoral term is until the next local government elections are held in September 2016. Council may, therefore, determine that a Deputy Mayor be elected for the period until September 2016 or for some shorter period e.g. six months, 12 months, etc. The practice at Council has been to elect a Deputy Mayor for a 12 month period.

Method of Election

If a Deputy Mayor is to be elected, the method of election is in accordance with Schedule 7 of the Local Government (General) Regulation 2005. A Councillor may be nominated without notice for election as Deputy Mayor provided the nomination is made in writing by two or more Councillors (one of whom may be the nominee) and the nominee consents to the nomination in writing. The nomination is to be delivered or sent to the Returning Officer. A nomination form in respect of a Deputy Mayoral Election is included as an attachment to this Report.

If only one Councillor is nominated for election as Deputy Mayor, that Councillor is elected. If more than one Councillor is nominated, an election shall be held at which the General Manager (or his nominee) is the Returning Officer. The Council must resolve whether the election is to proceed by

preferential ballot, by ordinary ballot or by open voting. To ensure probity of the election process, the counting of votes where necessary is undertaken in the presence of the Returning Officer and at least one other staff member.

It should be noted that any recommendation on the method of election (if any) is dependant to some extent on the number of candidates – see below.

Preferential Ballot

Preferential ballot would only normally be used if there are three or more candidates. Under this system, Councillors indicate their order of preference for all candidates. If a candidate receives more than half the first preference votes (i.e. an absolute majority), he or she is declared elected. If no candidate has an absolute majority, the candidate with the lowest number of votes is excluded and his or her preferences are allocated to the other candidates and so on, until one candidate has more than half the votes. A preference for each candidate standing for election must be indicated on a ballot paper, or the ballot paper will be declared invalid.

Ordinary Ballot

Ordinary ballot would normally apply where there are two or more candidates and Council decides to proceed by secret ballot. If there are only two candidates, the candidate with the higher number of votes is elected. If the two candidates are tied, the one elected is chosen by lot. If there are three or more candidates, the candidate with the lowest number of votes is excluded and a fresh vote is taken and so on, until there are only two candidates. A final vote between the two candidates is then taken and the candidate with the higher number of votes is declared elected. If at any stage during a count up until two candidates are remaining, there is a tie on the lowest number of votes, the one excluded is chosen by lot.

Open Voting

Open voting uses the same system as ordinary ballot, except that voting is by a show of hands or similar means and not by secret ballot.

Choosing by Lot

To choose a candidate by lot, the names of the candidates who have equal numbers of votes are written on similar slips of paper by the Returning Officer, folded, so as to prevent the names being seen, mixed and then drawn at random by the Returning Officer. The candidate whose name is on the drawn slip is chosen.

Appointment of Scrutineers and Inspection of Ballot Papers and Progress of Count

Following the Mayoral election held on 14 September 2000 (which was conducted by preferential ballot) a number of Councillors sought permission to inspect the ballot papers and the progress of the count in respect of that election. Advice was sought from Abbott Tout Solicitors about the Councillors' requests and also about the ability of the candidates for election to appoint scrutineers. In summary, that advice was that the candidates were not entitled to appoint scrutineers; an inspection of the ballot papers should not be permitted; the progress of the count should not be revealed; and the ballot papers for the Mayoral and Deputy Mayoral election should be destroyed after the election has been declared.

BUDGET

There are no budgetary implications associated with this Report.

POLICY

There are no policy implications associated with this Report.

CONCLUSION

Council needs to consider the contents of this Report and determine whether or not it wishes to elect a Deputy Mayor. If it does decide to elect a Deputy Mayor, Council will also need to determine the term of office and method of voting to be used to elect the Deputy Mayor. It will also need to request the General Manager, or his nominee, to conduct the election.

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 Division

Attachments:

1. Nomination Form - Deputy Mayoral Election - September 2014

File Reference: F2004/07075

Document Number: D03149100

2 COUNCILLOR REPRESENTATION ON COMMITTEES, WORKING PARTIES AND OTHER RELEVANT GROUPS - OCTOBER 2014 TO SEPTEMBER 2015

EXECUTIVE SUMMARY

- Each year, Council reviews the need for Councillor representation on Committees, Working Parties and other relevant groups and makes a determination about the appointment of Councillors for the ensuing 12 months.
- This Report provides up to date information about each of the 2014/15 Committees, Working Parties and other groups and seeks a Council determination in respect of the appointment of Councillors for the period October 2014 to September 2015.

RECOMMENDATION

THAT Council review the list of Committees, Working Parties and other relevant groups included in the attachment to Deputy General Manager's Report No. CS30/14 and determine Councillor representation as appropriate for the period October 2014 to September 2015.

PURPOSE

The purpose of this Report is to enable Council to review Councillor representation on Committees, Working Parties and other relevant groups and appoint Councillor representatives, as considered appropriate, for the period October 2014 to September 2015.

BACKGROUND

At the 18 September 2013 General Meeting, Council considered Deputy General Manager's Report No. CS46/13 and appointed Councillor representatives to Committees, Working Parties and other relevant groups for the period October 2013 to September 2014. As that period of appointment will shortly expire, Council needs to determine relevant Councillor representation for the 2014/15 period.

DISCUSSION

The 2013/14 list of Committees, Working Parties and other groups has been reviewed by the relevant Divisions and is included as an attachment to this Report. Where appropriate, a comment about the operation of the Committee, Working Party or group and/or whether Councillor representation is still required has been provided by the Divisional Manager. In this regard, it is noted that the Epping Town Centre Steering Committee has been recommended for deletion because the project for which it was created has now been completed.

To assist Council in determining Councillor representation for the 2014/15 period, the 2013/14 Councillor representatives on each Committee, Working Party and group are included in the column titled "Councillor Representation 2013/14" and a blank column has been left in respect of "Councillor Representation 2014/15".

BUDGET

If there are any budgetary implications, they are detailed in the comment column of the attachment to this Report.

POLICY

There are no policy implications associated with this Report.

CONCLUSION

Council's consideration of this Report will allow it to determine Councillor representation on relevant Committees, Working Parties and other groups for the period October 2014 to September 2015.

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 Division

Attachments:

1. Councillor Representation on Committees - October 2014 - September 2015

File Reference: F2004/07056

Document Number: D03295614

3 SCHEDULE OF COUNCIL MEETINGS AND ORDER OF BUSINESS TO APPLY AT THOSE MEETINGS - OCTOBER 2014 TO SEPTEMBER 2015

EXECUTIVE SUMMARY

- In accordance with Clauses 5 and 15 of its Code of Meeting Practice, Council annually determines a schedule of meeting dates for the following year and the order of business to apply at those meetings.
- It is proposed that the practice of holding one General Meeting per month be maintained for 2014/15, with that Meeting to be held on the second Wednesday of each month (excluding January). It is also proposed that Workshop Meetings and Councillor briefing sessions continue to be held on other Wednesdays of the month, with appropriate notice being provided as required.
- Apart from the inclusion of one minor amendment to the order of business at Council Meetings, it is proposed that the existing order be maintained.

RECOMMENDATION

THAT Council:

1. Adopt the schedule of ordinary Council meetings for the period October 2014 to September 2015 as set out in Attachment 1 of Deputy General Manager's Report No. CS32/14.
2. Adopt the order of business for the ordinary Council meetings to be held in the period October 2014 to September 2015 as set out in Attachment 2 of Deputy General Manager's Report No. CS32/14.

PURPOSE

The purpose of this Report is to recommend a proposed schedule of ordinary meeting dates for the period October 2014 to September 2015, and the order of business to apply at those meetings.

BACKGROUND

Council last considered its schedule of meetings and order of business at those meetings at the 18 September 2013 General Meeting – refer Deputy General Manager's Report No. CS40/13. At the Meeting, Council decided to move the General Meeting from the third week to the second week of the month – i.e. a General Meeting being held on the second Wednesday of each month (except January) and Workshop Meetings being held (as required) on the first, third, fourth and/or fifth Wednesdays of each month (except January).

DISCUSSION

Schedule of Meetings

In accordance with Clauses 5 and 15 of the Code of Meeting Practice, Council annually determines a schedule of ordinary meeting dates for the following year and the order of business to apply at those meetings. Such determinations generally occur in September of each year, at the same meeting at which the Deputy Mayor is elected.

Section 2(1) of Council's current Code of Meeting Practice states the following in respect of ordinary meetings:

***Ordinary Meetings** are meetings of Council, other than extraordinary meetings, held during each year on such regular days and at such regular times as Council may appoint. They include:*

***General Meetings** which are held at 6.30pm on the second Wednesday of each month (excluding January) to consider all relevant matters.*

***Workshop Meetings** which are held at 6.30pm on the first, third, fourth and/or fifth Wednesdays of each month as required (excluding January) to consider all relevant matters, especially those where a presentation by Council staff or an external person or organisation is required.*

It is noted that Informal Briefings of Councillors are also held as required, generally on Wednesdays where a General or Workshop Meeting has not been scheduled.

A proposed schedule of General Meeting and Workshop Meeting dates for the period from October 2014 to September 2015 has now been drafted and is attached to this Report. The draft schedule of Meetings maintains the existing structure of one General Meeting per month which considers both planning and other matters, as well as providing for Workshop meetings and informal Councillor briefings as required.

Order of Business

In respect of the order of business to apply at General and Workshop Meetings, a minor alteration is proposed. This is to move "Mayoral Minutes" from where it currently sits between "Mayor's Notes" and "Notices of Motion" such that it is dealt with immediately following "Rescission Motions" and prior to "Items Passed by Exception/Call for Speakers on Agenda Items". The move simply aligns Council's adopted order of business with current meeting practice and business paper format. The amended order of business to apply at General and Workshop Meetings is attached.

BUDGET

There are no budgetary implications associated with this Report.

POLICY

This Report has been prepared in accordance with the requirements of Council's Code of Meeting Practice and the Local Government Act and Regulations.

CONCLUSION

The movement of the monthly General Meeting from the third Wednesday to the second Wednesday of the month last year has proven to be beneficial to the handling of Council business, particularly in February and December, and the Council Meetings process appears to be running smoothly. As such, no changes are proposed to the meeting schedule and only a minor change is proposed to the order of business for the next 12 months.

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 Division

Attachments:

1. Schedule of Council Meetings October 2014 - September 2015
2. Council Meetings Order of Business - October 2014 - September 2015

File Reference: F2004/07032

Document Number: D03295828

**4 DELIVERY PROGRAM 2013-17 INCLUDING OPERATIONAL PLAN (BUDGET) FOR 2013/14
- JUNE 2014 QUARTER REVIEW**

EXECUTIVE SUMMARY

- Accountable organisations like Council review their budget and operational performance at least each quarter. In this regard, the June 2014 Quarter Review of the Delivery Program including the 2013/14 Operational Plan and Budget is attached for Council's consideration.
- Based on an inflow and outflow of funds as at 30 June 2014, the actual result for 2013/14 is a surplus of \$18K. The surplus realised is marginally lower than was forecast at the March 2014 Quarter Review which is mainly due to timing issues associated with asset sales. The result is, however, satisfactory in maintaining the level of Council's working funds.
- Budgeted external loan borrowing of \$3 million was not required to be drawn down in 2013/14. This was because targeted savings achieved in 2012/13 financial year, and set aside in a restricted asset account at the end of that year, were able to be applied to the 2013/14 budget.
- Progress against the adopted Delivery Program, including the 2013/14 Operational Plan and Budget, and the operational performance of the organisation has been in line with the service delivery standards adopted by Council.

RECOMMENDATION

THAT the June 2014 Quarter Review of the Delivery Program, including the 2013/14 Operational Plan and Budget, be received and noted.

PURPOSE

The purpose of this Report is to present for Council's consideration the June 2014 Quarter Review of the 2013-17 Delivery Program, including the 2013/14 Operational Plan.

BACKGROUND

On 19 June 2013, Council adopted a new four year Delivery Program which included the 2013/14 Operational Plan and the 2013/14 Fees and Charges. The Delivery Program and Operational Plan set out the manner in which Council intends to deliver services and measure performance.

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

DISCUSSION

During 2013/14, service delivery standards have been maintained and 83% of actions have been delivered on time and within budget. The highlights for 2013/14 include:

- Over \$33 million being spent on infrastructure - including playground improvements at Tahlee Park in Castle Hill and Larool and Headen Parks in Thornleigh; and the completion of the new Hornsby Aquatic and Leisure Centre
- The approval of development applications with a construction value of \$610 million, which is an increase of 94% over 2012/13. Compared to 2012/13, this increase in economic activity has realised an 80% increase in income from development applications and a 280% increase in income from section 94 contributions.
- The increasing use of social media which has proved to be an excellent communication tool - Council's Facebook page has reached more than 7,000 'likes' and Council's eNewsletter is being delivered monthly to more than 6,000 subscribers.

Other highlights are contained in Attachment 1 to this Report.

Budget Comment

The 2013/14 Original Budget forecast a surplus at 30 June 2014 of \$355K, and this position was not varied at the September and December 2013 Quarter Reviews. At the March 2014 Quarter Review, Council adopted budget changes of \$228K which reduced the predicted budget surplus for 2013/14 to \$127K.

Based on an inflow and outflow of funds as at 30 June 2014, the actual result for 2013/14 is a surplus of \$18K. The surplus realised is marginally lower than was forecast at the March 2014 Quarter Review which is mainly due to timing issues associated with asset sales. The result is, however, satisfactory in maintaining the level of Council's working funds.

Budgeted external loan borrowing of \$3 million was not required to be drawn down in 2013/14. This was because targeted savings achieved in 2012/13 financial year, and set aside in a restricted asset account at the end of that year, were able to be applied to the 2013/14 budget.

It is noted that Council reached a settlement this financial year concerning its challenge over the valuation of the Hornsby Quarry and has received an amount of \$6 million. The net settlement monies received are now held in a restricted asset account for the future rehabilitation of the Quarry site and/or adjoining lands in Old Mans Valley. This is in accordance with Council's resolution

emanating from consideration of Group Manager's Report No. PL95/13 at the 18 September 2013 General Meeting.

As noted in previous reports, the Domestic Waste Service operated by Council incurred considerable rises in waste disposal and contractor costs during the 2011/12 financial year which required a shortfall to be funded from Council's general funds. Following consideration of Deputy General Manager's Report No. CS38/13, Council noted that the shortfall would be repaid to general funds over two financial years. The first repayment was made in 2012/13 and the second and final repayment was completed in 2013/14.

BUDGET

This Report provides the June 2014 Quarter Review of the Delivery Program 2013-17 including the Operational Plan 2013/14. The Review results in a budget surplus at 30 June 2014 of \$18K.

POLICY

There are no specific policy implications associated with this Report.

CONCLUSION

Council's consideration of this Report ensures that relevant statutory requirements have been met. The 2013/14 Budget result demonstrates that Council has continued to maintain its financial position whilst delivering local services and facilities in a financially responsible and sustainable manner.

RESPONSIBLE OFFICER

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

GARY BENSLEY
Deputy General Manager
Corporate Support Division

SCOTT PHILLIPS
General Manager
General Manager's Division

Attachments:

1. 4th Quarter Review - June 2014
2. Quarterly Review Budget Statement - June 2014

File Reference: F2012/00885
Document Number: D03441255

5 INVESTMENTS AND BORROWINGS FOR 2014/15 - STATUS FOR PERIOD ENDING 31 JULY 2014

EXECUTIVE SUMMARY

- Council may invest funds that are not, for the time being, required for any other purpose. The investments must be in accordance with relevant legislative requirements and Council's policies. The Chief Financial Officer must report monthly to Council on the details of funds invested.
- This Report provides details of Council's investment performance for the period ending 31 July 2014. It indicates that for the total cash and term deposit investments, the annualised return for the month of July was 3.74% compared to the benchmark of 2.50%. The annualised return for the total investments for month ending 31 July 2014 was 3.66% compared to the benchmark of 2.51%.
- 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.
- In respect of Council borrowings, the weighted average interest rate payable on loans taken out from June 2004 to July 2014, based on the principal balances outstanding, is 6.10%.

RECOMMENDATION

THAT the contents of Deputy General Manager's Report No. CS35/14 be received and noted.

PURPOSE

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

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 may invest funds which are not, for the time being, required for any other purpose. Such investment must be in accordance with relevant legislative requirements and Council Policies, and the Chief Financial Officer must report monthly to Council on the details of the funds invested.

Council's investment performance for the month ending 31 July 2014 is detailed in the attached document and summarised below:

- The At-Call and Term Deposits achieved an annualised return of 3.74% for July compared to the benchmark of 2.50%.
- The Capital Guaranteed Note achieved an annualised return of 0% for this period. The Note will be fully redeemed at maturity in September 2014.
- For total investments, the annualised return for July 2014 was 3.66% compared to the benchmark of 2.51%.
- In respect of Council borrowings, the weighted average interest rate payable on outstanding loans taken out from June 2005 to July 2014, based on the principal balances outstanding, is 6.10%. The Borrowings Schedule as at 31 July 2014 is attached for Council's information.

CONSULTATION

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

BUDGET

Budgeted investment income for 2014/15 is \$1,764,000, with an average budgeted monthly income of \$147,000. Investment income for the month ending 31 July 2014 was \$134,000. Approximately 34% of the total 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 for the period ending 31 July 2014 is 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.

RESPONSIBLE OFFICER

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

GLEN MAGUS
Chief Financial Officer - Financial Services
Corporate Support Division

GARY BENSLEY
Deputy General Manager
Corporate Support Division

Attachments:

1. HSC Investment Portfolio as at 31 July 2014
2. HSC Borrowings Schedule as at 31 July 2014

File Reference: F2004/06987
Document Number: D03441582

6 DEFERRED REPORT - FUTURE USE OF COUNCIL BUILDING - 3 BADEN POWELL AVENUE, BROOKLYN

EXECUTIVE SUMMARY

- At its June General Meeting, Council considered the future use of the Hall at 3 Baden Powell Avenue, Brooklyn ('the Hall') in light of asbestos concerns and long term asset management costs and deferred the matter pending further information and investigation.
- Further testing has confirmed that the damaged panels posing the immediate safety concern were part of a more recent addition to the Hall and do not in fact contain asbestos. Original parts of the Hall contain bonded asbestos and require an ongoing management approach; however there are presently no major areas of damage and this has removed the urgency for Council to make an immediate decision regarding the Hall's future.
- The Hall currently brings in \$4,500 p.a. in income. It is estimated that this amount will increase to approximately \$8,000 p.a. by moving KU Children's Services to a market rent and through increased use by other casual hirers.
- Long term asset management costs associated with the Hall have been refined and are projected to cost Council \$164,593 over the next 10 years leaving a substantial shortfall between asset management costs and projected income.
- Council is presently developing a Community Facilities Strategic Plan that will provide a strategic framework for decision making relating to community facilities provision. Given the immediate safety concerns associated with the Hall have been clarified, it is appropriate that the long term future of the Hall be considered in light of the forthcoming Community Facilities Strategic Plan.

RECOMMENDATION

THAT Council defer consideration regarding the long term future of 3 Baden Powell Avenue, Brooklyn until after the Community Facilities Strategic Plan has been completed.

PURPOSE

The purpose of this Report is to allow Council to reconsider the future use of the Hall at 3 Baden Powell Avenue, Brooklyn after the previous consideration of the matter was deferred pending the provision of further information and action.

BACKGROUND

At its June General Meeting, Council considered Group Manager's Report No. EH9/14 and resolved as follows:

1. *Consideration of Group Manager's Report No. EH9/14 be deferred for a period of two months to allow for a site inspection to be undertaken by available Councillors and broader community consultation.*
2. *Council review the current rental amount paid by KU Children's Services for use of the premises with the intention of moving to a market based rent for commercial and like users.*
3. *Council seek expressions of interest from other users who may wish to rent the facility on a shared use basis.*
4. *If the forthcoming Community Facilities Strategic Plan or Brooklyn Masterplan review identifies the need for a new multi-purpose facility in Brooklyn, Council authorise the allocation of funds from future budgets that would otherwise have been spent maintaining 3 Baden Powell Avenue, Brooklyn towards construction of such a facility.*
5. *Council investigate other potential funding sources for such a facility e.g. grants, fundraising and the like.*

A copy of the June Report is provided in Attachment 1 to this Report.

DISCUSSION

In respect of the items arising out of the deferred Report, the following update is provided.

Site Inspection

On 12 July 2014, the newly formed Baden Powell Working Group (understood to be made up of four individuals) arranged an open day for the Hall that was attended by community members and a number of Councillors. The open day provided an opportunity to promote the Hall's availability and to raise money to contribute to its re-cladding. It is understood that the Working Group intend to raise \$5,000 by October to put towards asbestos removal at the Hall.

Rental Negotiations

KU Children's Services currently pay \$4,032 p.a. ex GST in rental which is based on Council's Policy – Council Buildings – Use by Kindergartens. This Policy establishes a rate per child per operational day and is currently set at \$2.52 plus GST.

In light of Council's resolution to review KU Children's Services rent, staff have assessed Council's kindergarten portfolio and derived a market rental for each property. In the case of Baden Powell Hall this equates to \$4.50 plus GST, per child per operational day or \$7,200 p.a. ex GST

Council officers have discussed this figure with KU Children's Services who appreciate Council's need to move to a more commercial arrangement, however have indicated that:

- A longer lease term (e.g. 5 years plus a 5 year option) would be required in the event of increased lease costs;

- Increased lease costs would require a reassessment of the maintenance responsibilities associated with the centre;
- Increased lease costs would be passed onto families, and to reduce the impact that this occur over a period of two years.

Whilst Council has indicated its intention to move KU Children's Services (and by extension its broader kindergarten portfolio) onto a commercial footing, it is recommended that Council does not enter into a long term lease with KU Children's Services for the Hall until such time as the Community Facilities Strategic Plan has been completed and can inform decisions about the Hall's long term future.

This would mean that the holding over provisions of the expired licence would continue to apply.

Expressions of Interest

In response to Council's resolution, expressions of interest for use of the Hall have been called and a number of enquiries for casual hire of the Hall have been received. No commercial hirers of the Hall have emerged.

Casual hirers include a play group that has booked the Hall for use once a fortnight between July and September 2014, and four other casual hires of the centre for one off events have occurred.

Despite the Brooklyn Sub-Branch of the RSL informally indicating that it may wish to use the Hall, no formal application has been received.

Should current usage patterns continue, it is estimated that Council would receive \$800 p.a. in income for the Hall in addition to the \$7,200 p.a. that KU would be required to pay if charged a market rate.

Community Facilities Strategic Plan

The Community Facilities Strategic Plan ('the Plan') is nearing completion and should be available for consideration by Council by the end of the year.

The completed Plan will provide recommendations in respect of community facility provision across the Shire, and will inform Council decision making at a local level such as for Brooklyn.

Grant Funding Opportunities

Council officers have discussed and provided a letter of support for a grant that KU Children's Services have submitted to the Community Building Partnership Program for funding to replace the cladding at the Hall. It is understood that successful projects will be announced in December 2014.

Asbestos Management

Following the June meeting of Council, laboratory testing was conducted on segments of cladding from the Hall to ascertain the presence of asbestos. The testing confirmed that the northern toilet extension to the building, that was damaged and the subject of immediate concern, does not contain asbestos. However, the northern, southern and eastern walls of the Hall proper do contain asbestos. The western wall, which faces the oval, was found not to contain asbestos.

The southern wall of the Hall also has minor damage that has been temporarily repaired and covered with tape. This section of the property is fenced off from access by the users of the building however is accessible to the public from Brooklyn Oval. The presence of asbestos in this and other parts of the building will need to be managed over the longer term and full removal is the only way to eliminate the risk of exposure to current and future damaged asbestos on the site.

Whilst it has been confirmed that the newer toilet extension does not contain asbestos, it is important to note that the long term asset management costs associated with the Hall remain.

Asset Management

Council was informed in Group Managers Report No. EH9/14 that exclusive of the cost to remove the asbestos, it would cost \$174,360 over the next 10 years to adequately maintain the facility. These costs were derived in accordance with industry standards of assessment and modelling of the facility over a 20 year period and then presenting the forthcoming 10 year asset management costs.

Further analysis has revealed that the \$174,360 figure was incorrectly based on an 11 year timeframe rather than 10 years and should be \$164,593. Over the longer 20 year period, asset management costs associated with the facility did not change and remain at \$228,006.96.

Opening the Hall to other community use would also serve to limit the capacity of Council to structure a lease that places increased responsibility on commercial users to maintain non-structural elements of the building.

Community Submission

A submission has been received from the Baden Powell Working Group in respect of the use of the facility and the repairs that are required. The submission is provided in Attachment 2 to this Report.

Key recommendations from the community submission are listed below.

1. *Council support KU in their application for Community Partnerships Funding to remove the asbestos from the building. Work with KU to schedule this work during the summer recess so as not to impact the children currently attending Preschool and about to move into the important transition period to Kindergarten.*
2. *Once the outcome of the grant application is known, Council consider allocating KU rental income towards any shortfall of funds for asbestos removal works, or for other required hall maintenance.*
3. *Establish a hall committee with representatives from KU, and the local community to continue to fund raise for works required at the hall and to raise awareness of the hall as a venue for hire.*
4. *Continue to manage and maintain the building as Trustee for the life span of the building. To continue to manage the building as a community centre therefore allowing all community members to be potential users of the building.*
5. *Acknowledges the community pledge of \$5000 by October 2014 towards the capital works to remove any asbestos and reclad the building.*

As indicated earlier in this Report, the forthcoming Community Facilities Strategic Plan will provide a strategic framework for Council decision making relating to community facilities provision across the Shire. Accordingly, it is recommended that Council note the contents of the submission however wait until the Community Facilities Strategic Plan is completed before making any long term decisions regarding the Hall.

Options for Moving Forward

A summary of the key factors associated with this matter is as follows:

- The longer term asset management costs for the Council property at the Hall have not substantially changed.

- There is no longer the urgency to terminate the tenancy of KU Children's Services given the results of the asbestos testing on the damaged areas.
- The cost to Council to reclad the Hall remains the same given the Work Cover Guidelines associated with the treatment of asbestos.
- A market rental amount for use of the facility by KU Children's Services has been modelled and is in the process of being negotiated, but would still fall short of the forecast asset management costs of the Hall.
- Some casual use of the Hall has occurred – namely a fortnightly playgroup and occasional one off uses, however overall utilisation of the Hall remains relatively low.
- Utilisation of other community centres in Brooklyn continues to be relatively low.

Preliminary findings from the Community Facilities Strategic Plan suggest that the community floor space provision per capita for Brooklyn and its surrounds is excessive by industry standards and carries with it substantial asset management costs.

Given the laboratory testing has confirmed that damaged panels on the toilet extension do not contain asbestos, Council has the opportunity to address the issue of community floor space provision in Brooklyn within a more considered context afforded by the Community Facilities Strategic Plan.

CONSULTATION

KU Children's Services and the Baden Powell working group have been consulted in the preparation of this Report.

BUDGET

The long term asset management costs associated with the Hall are forecast to cost \$164,593 over the next 10 years.

Moving KU Children's Services to a market rent in the longer term and opening the Hall to other community use would increase projected income from the current \$4,500 p.a. to approximately \$8,000 p.a. This would still leave a significant shortfall to the asset management costs associated with the facility.

POLICY

Council has previously indicated its intention to move KU Children's Services to a market rental rate for use of the Hall. Applying a market rental rate would serve to establish a new policy position regarding the use of Council buildings by Kindergartens that in the interests of equity should also be applied to other kindergarten tenants in Council buildings.

It is noted that the forthcoming Community Facilities Strategic Plan is likely to recommend a new policy framework be adopted in this area which reflects the need for market rental rates to be applied in adherence with the National Competition Policy.

CONCLUSION

Laboratory testing for asbestos on the damaged cladding at the Hall has confirmed that the panels adjoining the children's playground do not contain asbestos. As such, it is considered that there is not the previous urgency to terminate the licensed use of the property by the tenant.

In line with Council's resolution, Council officers have commenced negotiations with KU Children's Services in respect of paying a market based rent. Modelling indicates that this would move the

current rent paid by KU Children's Services from approximately \$4,500 p.a. to \$7,200 p.a. KU Children's Services have indicated that to move to a market rent, a long term lease would be required along with the ability to introduce the increase over a period of two years.

Casual use of the Hall is anticipated to bring in an additional \$800 p.a.

Separately, KU Children's Services have lodged a grant application to the Community Building Partnership Program that, if successful, would cover the cost associated with removing and replacing the asbestos cladding on the Hall. The Baden Powell working party has also indicated its intention to raise \$5,000 towards the cost of replacing the cladding.

Notwithstanding the above, there remains a substantial shortfall between projected income for the Hall and the long term asset management costs. Whilst the results of the laboratory testing have removed the immediate safety concerns associated with the Hall, Council will need to consider the long term costs associated with maintaining the Hall.

Noting that the forthcoming Community Facilities Strategic Plan will provide Council with a strategic framework for decision making relating to community facilities provision, it is recommended that the long term future of the Hall be considered once the Community Facilities Strategic Plan has been completed.

RESPONSIBLE OFFICER

The officer responsible for the preparation of this Report is the Manager Community Services Branch – David Johnston, who can be contacted on 9847 6800.

DAVID JOHNSTON
MANAGER - COMMUNITY SERVICES
ENVIRONMENT AND HUMAN SERVICES
DIVISION

STEPHEN FEDOROW
GROUP MANAGER
ENVIRONMENT AND HUMAN SERVICES
DIVISION

ATTACHMENTS:

1. Deferred Group Manager's Report No. EH9/14
2. Baden Powell Working Party Submission

File Reference: F2004/06469
Document Number: D03234602

7 PROPOSAL FOR A BIOBANKING AGREEMENT AT WAITARA CREEK UPPER CATCHMENT

EXECUTIVE SUMMARY

- Biobanking is a NSW Government initiative that seeks to address the decline of biodiversity by giving it an economic value through the creation of biodiversity credits. Creation of a Biobanking agreement for land registered as a Biobank site would provide on-going funds to help Council manage its bushland and threatened species.
- Council previously resolved to investigate and consult with the community regarding the Waitara Creek Upper Catchment Biobank proposal that was associated with the 'Linking Landscapes' grant. No submissions to the proposal have been received through the community consultation.
- Under the Waitara Creek Upper Catchment Biobank proposal, \$800,000 would be provided by the Office of Environment and Heritage through its Linking Landscapes Grant program. Should a Biobanking site be created, a budgetary contribution of \$35,000 would also be required from Council. The combined amount would then be established as a Trust Fund that would provide Council annual funding in perpetuity to allow for ongoing management of the site.
- Council has also been asked to contribute 50% of the costs of the flora and fauna investigations (up to \$25,000) associated with the proposed Biobanking agreement, an amount that would be reimbursed to Council after execution of a Biobanking Agreement.
- Both amounts can be accommodated in existing budgets and are considered to be reasonable.

RECOMMENDATION

THAT:

1. Council proceed with investigations of a proposed Biobanking agreement for Waitara Creek Upper Catchment with the Office of Environment and Heritage.
2. A further report be submitted for Council's consideration once the results of the investigations are known.

PURPOSE

The purpose of this Report is to give Council feedback on the progress with investigation and advertising of several bushland reserves as being suitable as a potential Biobank site with a view to entering into Biobanking agreement. In particular Council has advertised the potential Biobank site known as Waitara Creek Upper Catchment, as shown in Attachment 1, associated with the 'Linking Landscapes' grant.

BACKGROUND

Since October 2013 Council has considered a number of reports relating to Biobanking and has recently considered a proposal relating to a grant opportunity under the Linking Landscapes program.

At the 11 June 2014 General Meeting, Council considered Group Manager's Report No. EH10/14 and resolved that:

1. *Council investigate and advertise the potential Biobank sites, as shown in Attachments 1-3 of Group Manager's Report No. EH10/14, associated with the 'Linking Landscapes' grant, the North West Rail Link and Epping to Thornleigh Third Track project.*
2. *A further Report be prepared for Council's consideration once detailed investigations into the Biobank sites have been undertaken.*

DISCUSSION

Potential Biobank Sites - Linking Landscapes

Council has received a grant under the NSW Office of Environment and Heritage's 'Linking Landscapes' program to enable the investigation of Biobank sites across a network of Council bushland reserves in creek lines between Westleigh and Hornsby.

The reserves include Florence Cotton Reserve, Waitara Creek Bushland, Larool Creek Bushland and Dog Pound Creek.

Initial investigations have led to consulting with the community about the proposal.

Investigations

The next phase of the project is to undertake an assessment of the flora and fauna, and the preparation of a management action plan where the costs of management of the land in perpetuity would be calculated. These costs would inform the price of any credits generated should any of the reserves become a registered Biobanking site.

The available funds under the grant will limit the area of the proposed Biobank site, so that it is likely that the final area of the Biobank site will be smaller than the total area investigated. This means that the only the land that can be managed under the grant amount would form part of the final proposed site.

CONSULTATION

In the preparation of this Report there was consultation with the community, Sydney Water, Transgrid, Telstra and Ausgrid.

Community consultation regarding the proposals occurred for a period of 28 days in accordance with Section 47 of the Local Government Act, as creating a Biobank site is considered to be granting an estate under that Act.

No submissions were received to the proposal, however Council is negotiating with Ausgrid and Telstra to ensure the proposed Biobanking Agreement does not affect access to or maintenance of their infrastructure. This is likely to result in small areas being excluded from the proposed Biobank site.

BUDGET

Under the proposal at least \$800,000 would be provided towards a Biobank Total Fund Deposit by the Office of Environment and Heritage through its Linking Landscapes Grant program. The Total Fund Deposit is established as a Trust Fund that would provide Council annual funding in perpetuity to allow for ongoing management of the Biobank site.

Council has been asked to contribute 50% of the costs of the flora and fauna investigations up to \$25,000 which would be reimbursed after execution of a Biobanking Agreement. In addition, should a Biobank Site be created, a budgetary contribution of \$35,000 towards the Total Fund Deposit of \$835,000 would be required. Both amounts can be accommodated within existing budgets and are considered reasonable.

POLICY

The proposal is consistent with Council's plans and policies including its Plans of Management for Community Land and Crown Reserves, Hornsby Local Environmental Plan 2013, Biodiversity Conservation Strategy and complements its Green Offsets Policy.

CONCLUSION

Council has consulted with the community regarding a Biobanking proposal for Waitara Creek Upper Catchment and no submissions were received.

The next phase of the project will involve an assessment of the flora and fauna, and the preparation of a management action plan where the costs of management of the land in perpetuity would be calculated. Council has been asked to contribute 50% of the costs of the investigations up to \$25,000 which would be reimbursed after execution of a Biobanking Agreement.

Should a Biobank site be created Council has also been requested to contribute \$35,000 towards the Total Fund Deposit of \$835,000. Both amounts can be accommodated within existing budgets and are considered reasonable.

Should the Biobanking proposal for Waitara Creek Upper Catchment proceed, it would result in a long-term benefit to Council and the community by enabling Council to more effectively manage bushland, endangered ecological communities and threatened species on its land.

RESPONSIBLE OFFICER

The officer responsible for the preparation of this Report is the Manager Natural Resources – Diane Campbell, who can be contacted on 9847 6903.

DIANE CAMPBELL
Manager - Natural Resources
Environment and Human Services Division

STEPHEN FEDOROW
Group Manager
Environment and Human Services Division

Attachments:

1. Waitara Creek Upper Catchment Biobank Proposal

File Reference: F2004/09595

Document Number: D03413806

8 DEVELOPMENT APPLICATION - SENIORS LIVING DEVELOPMENT COMPRISING 10 UNITS - 186 BEECROFT ROAD, CHELTENHAM

EXECUTIVE SUMMARY

DA No:	DA/1394/2013 (Lodged 16 December 2013)
Description:	Demolition of existing structure and construction of a Seniors Living Development comprising 10 self-contained dwellings and strata subdivision
Property:	Lot 18 DP 1067166, No. 186 Beecroft Road, Cheltenham
Applicant:	Byric Pty Ltd
Owner:	Byric Pty Ltd; Mr Rui Yang
Estimated Value:	\$3.65 million
Ward:	C

- The application involves demolition of existing structures and construction of a seniors living development comprising 10 self-contained dwellings with ground floor and basement parking and strata subdivision.
- The proposal does not comply with *State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004* with regard to Clause 40 - Development Standards (Height). A submission to vary the development standard has been made in accordance with *State Environmental Planning Policy No. 1* and is considered well-founded.
- The application proposes the removal of Sydney Turpentine Ironbark Forest and is the subject of an offer to enter into a Planning Agreement to offset the loss of canopy area in accordance with Council's Green Offset Code.
- Thirteen submissions have been received in respect of the application.
- A Red Sticker has been placed on the application requiring that it be considered at a Council Meeting.
- It is recommended that the application be approved.

RECOMMENDATION

THAT Council assume the concurrence of the Secretary of the Department of Planning and Environment pursuant to *State Environmental Planning Policy No. 1* and approve Development Application No. DA/1394/2013 for the demolition of existing structures and construction of a seniors living development comprising 10 self-contained dwellings with car parking and strata subdivision at Lot 18 DP 1067166, No. 186 Beecroft Road, Cheltenham subject to the conditions of consent detailed in Schedule 1 of Group Manager's Report No. PL37/14.

BACKGROUND

The site has a history of residential landuse.

In August 2013, the applicant held a pre-lodgement meeting with Council officers regarding the subject proposal.

The application was lodged on 16 December 2013. Multiple sets of amended plans have been submitted to address concerns raised by Council officers and objectors during the assessment of the proposal.

Council held an on-site meeting with the owners of the adjoining property at No. 184 Beecroft Road to discuss the impacts of the proposal on the privacy of the neighbours. The following concerns were raised by the adjoining owner at the meeting:

- Location of the sit out areas facing north-west and the associated impacts on the privacy of the adjoining property;
- Visual impact of the structure; and
- Detrimental impacts due to absence of a fence at the boundary separating the two blocks.

Subsequently, a meeting was held between the applicant and Council officers regarding the planning concerns and the overall impact of the proposal on adjoining properties.

The proposal was amended on 14 August 2014 to address planning concerns raised by Council officers and the adjoining owner at No. 184 Beecroft Road.

SITE

The site comprises one allotment, No. 186 Beecroft Road. The site has an area of 2992 m², is located on the southern side of Beecroft Road, opposite the intersection with The Boulevard. The site has 10% average downward slope from west to east (sideways) and a gentle (2%) fall towards the rear from Beecroft Road.

The current improvements on the site include a large single storey brick dwelling house, swimming pool, an elevated tennis court, associated outbuildings, driveways and a metal palisade front fence. The dwelling sits at a lower level than the street (about 1.4m) in a garden setting with numerous mature trees and ornamental shrubs along the front boundary and within the front setback.

Access to the site is provided via a driveway off Beecroft Road, with a turning area located within the front setback area.

The site comprises a large number of native turpentine trees, being remnant to the Sydney Turpentine Ironbark Forest at the north-western corner (front), along the eastern boundary and the south-eastern corner (rear). A tall fence and camellia hedge (3m high) exists around the tennis court at the north-western corner of the site and acts as a screen.

The adjoining properties comprise single and two storey dwelling houses including a number of battleaxe lots on the eastern side. A shared bitumen driveway providing access to the eastern allotments runs along the boundary of the site. The dwelling houses adjoining the rear of the site have frontage to Redmill Close. Development in the locality is characteristic of Federation era dwellings. However the subject site and the immediate surroundings comprise predominantly post-war dwellings on large allotments containing remnant trees.

The site is located 370m south of Cheltenham Railway Station and approximately 1.6km to Beecroft Railway Station and shops. Bus stops are located within 240m of the site on Beecroft Road and

provide connection between Beecroft, Castle Hill and Macquarie Shopping Centre (Route 651). The signalised intersection at the crossing of Cheltenham Road and Beecroft Road provides safety for users of the bus service in crossing Beecroft Road.

PROPOSAL

The proposal involves the demolition of the existing dwelling house and associated structures, and construction of a seniors living housing development comprising 10 self-care dwellings. The development would be accessed via a common driveway off Beecroft Road, located on the eastern side of the site. The driveway would provide access to three detached single-two storey buildings located along the north-south axis of the site. The units are accommodated in the following way:

Dwellings 1 to 6: 6 units (3 x 2 br + studio, 2 x 3 br and 1 x 2 br) within a two storey residential flat building with basement car park containing 8 car parking spaces (lockable garages);

Dwellings 7 and 8: 1 single storey building with attic comprising two attached dwellings (1 x 3 br + studio and 1 x 3 br) with attached double garages. The second storey would be accommodated within the roof space.

Dwellings 9 and 10: 1 single storey building with attic comprising two attached dwellings (1x 3 br and 1 x 2 br). Dwelling 9 includes the second level within the roof space whereas dwelling 10 (rearmost unit) comprises a single level dwelling.

The proposed dwellings range in size from 115m² to 184m². The gross floor area of the development would be 1477m². Each dwelling includes the primary living area being directly connected to a balcony or terrace. The proposed detached dwellings and residential flat building would be face brick with tiled hip roofs.

The application also includes associated landscape works within the site. An enclosed garbage bin room is proposed at the entrance to the site with an adjoining visitors' parking space.

ASSESSMENT

The development application has been assessed having regard to the '*Metropolitan Plan for Sydney 2031*', the '*North Subregion (Draft) Subregional Strategy*' and the matters for consideration prescribed under Section 79C of the *Environmental Planning and Assessment Act 1979* (the Act). The following issues have been identified for further consideration.

1. STRATEGIC CONTEXT

1.1 Metropolitan Plan for Sydney and (Draft) North Subregional Strategy

The *(Draft) Metropolitan Strategy for Sydney 2031* is a broad framework to provide for Sydney's growth to help plan for housing, employment, transport, infrastructure, the environment and open space. It outlines a vision for Sydney to 2031; the challenges faced, and the directions to follow to address these challenges and achieve the vision.

The North Subregion comprises Hornsby, Kuring-gai, Manly, Warringah and Pittwater Local Government Areas. The *Draft North Subregional Strategy* acted as a framework for Council in its preparation of the *Hornsby Local Environmental Plan 2013*.

Within the North Subregion, the *Draft Metropolitan Strategy* proposes:

- Population growth of 81,000 from the current 2011 baseline of 529,000
- Housing growth of 37,000 from the current 2011 baseline of 204,000

- Employment growth of 39,000 from the current 2011 baseline of 186,000

The proposed development would be consistent with the *Metropolitan Plan for Sydney 2031* by providing an additional 9 dwellings 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

2.1.1 Permissibility

The subject land is zoned R2 - Low 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 low density residential environment.*
- (b) *To enable other land uses that provides facilities or services to meet the day to day needs of residents.*

The proposed development is defined as ‘Seniors Housing.’ Seniors Housing is prohibited under the *HLEP* in the R2 zone. Notwithstanding, the proposal is permitted pursuant to Clause 4 of *State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004* where land is zoned for urban purposes and where residential development is permitted. The provisions of *State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004* prevail to the extent of any inconsistency with the *HLEP*.

2.1.2 Height

Clause 4.3 of the *HLEP* provides that the height of a building on any land is not to exceed the maximum height shown for the land on the Height of Buildings Map. The maximum permissible height for the site is 8.5m. 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 subject site is located within the Beecroft/Cheltenham Heritage Conservation Area under the provisions of Schedule 5 (Environmental Heritage) of the *HLEP*.

The applicant held discussions with Council prior to the lodgement of the application (PL/72/2013). The application was referred to the Heritage Advisory Committee at that time and the following comments were provided.

“The current dwelling-house is not considered to be a contributory item in relation to the surrounding Beecroft/Cheltenham Heritage Conservation Area, and as such no objections are raised on heritage grounds to the demolition of the existing structures on the site.

The Committee considered the proposed Senior Living Residences and raised no objections to the proposed development.”

The development application is generally in accordance with the proposal which was considered by the Heritage Advisory Committee under the pre-lodgement application PL/72/2013. Minor

modifications have been made to the exterior form and internal layout, and two additional trees are proposed to be removed. However, Council's heritage assessment of the application raised no concerns as the original design concept has been maintained. The site contains a large number of mature trees and the loss of the selected specimens would have a minimal impact on the overall contribution of the site to the tree and vegetation qualities of the Beecroft/Cheltenham Heritage Conservation Area.

Council's heritage assessment concludes that the impact of the proposal on the heritage conservation area has been suitably addressed in the *Statement of Heritage Impact* prepared by *NBRS+Partners Architects*. Accordingly, the proposal is assessed as satisfactory with regard to Clause 5.10 of the *HLEP*.

2.1.4 Earthworks

Clause 6.2 of the *HLEP* states that consent is required for earthworks on the 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.

2.2 State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004

The aim of the Policy is to encourage sustainable residential development. The submitted BASIX Certificate for the proposed development satisfies this requirement.

2.3 State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004

The *State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004 (SEPP HSPD)* is the overriding planning instrument for the development of housing for aged and disabled people in NSW and provides for hostels, residential care facilities (nursing homes) self-contained dwellings and multi-storey buildings. *SEPP HSPD* is comprehensive in scope including land use planning provisions, design principles, development standards and standards specifically to meet the housing needs of aged and disabled people. *SEPP HSPD* also includes design guidelines for infill development. The assessment of the proposal in accordance with the relevant requirements of *SEPP HSPD* is provided as follows:

2.3.1 Clause 13 – Self Contained Dwellings

The *SEPP HSPD* includes the following definitions for “*Self-contained dwellings*”:

“General term: “self-contained dwelling

In this Policy, a self-contained dwelling is a dwelling or part of a building (other than a hostel), whether attached to another dwelling or not, housing seniors or people with a disability, where private facilities for significant cooking, sleeping and washing are included in the dwelling or part of the building, but where clothes washing facilities or other facilities for use in connection with the dwelling or part of the building may be provided on a shared basis.

Example: “in-fill self-care housing”

In this Policy, in-fill self-care housing is seniors housing on land zoned primarily for urban purposes that consists of 2 or more self-contained dwellings where none of the following services are provided on site as part of the development: meals, cleaning services, personal care, nursing care.”

For the purposes of assessment against *SEPP HSPD*, the proposed development is defined as '*in-fill self-care housing*' comprising 10 '*self-contained dwellings*'.

2.3.2 Clause 26 - Location and Access to Facilities

The *SEPP HSPD* includes mandatory standards for accessibility and useability of self-contained dwellings to ensure wheelchair accessibility throughout the development and to a public road. Mandatory standards also apply for access to public transport, medical services and shops. The applicant submitted a report prepared by *Accessibility Solutions*, which includes a detailed assessment of the subject site and the proposed development, concerning compliance with the mandatory standards.

Cheltenham Railway Station is located at a distance of approximately 400m from the site.

The site is serviced by a regular and frequent bus services (bus route 651); the bus stops being located approximately 220m and 240m from the subject site on Beecroft Road (adjacent to 170 and 183 Beecroft Road). A signalised intersection at the crossing with Cheltenham Road includes kerb ramps and provides wheelchair access to the bus stops on the opposite side of the road. The buses and trains provide access to Beecroft village, Castle Hill and Macquarie shopping centres with all the required amenities and facilities.

Given the above, the proposal complies with the provisions of Clause 26.

2.3.3 Clause 30 – Site Analysis

The application includes a Site Analysis plan in accordance with the requirements of the *SEPP HS& PD*. The proposal is assessed as satisfactory in this regard.

2.3.4 Clause 31 – Design of In-Fill Self-Care Housing

In determining a development application for *in-fill self-care housing*, a consent authority must take into consideration (in addition to any other matters that are required to be, or may be, taken into consideration) the provisions of *Seniors Living Policy: Urban Design Guideline for Infill Development* published by the Department of Planning and Environment.

The merits of the proposal in meeting the *SEPP HSPD* design principles and the *Seniors Living Policy Urban Design Guidelines for Infill Development* are discussed in the following sections of this report.

2.3.5 Clause 33 – Neighbourhood Amenity and Streetscape

The site generally slopes towards the south-east and rear. Given this, the proposed development would result in a two storey built-form as viewed from the street. The proposed detached and semi-detached dwellings maintain the predominant built form and contribute to the residential character of the area. The setback between the site and Beecroft Road allows for landscaping and planting that complement the streetscape. A 1.5m high wall intercepted by landscape elements would form the front fence of the development and would not be inconsistent with the character of the area.

The proposed density is generally consistent with Council's planning controls for maintaining a low density residential area. The impact of the proposed buildings on neighbourhood amenity is discussed below:

South-Eastern Side

The dwellings would mostly be orientated to front the proposed driveway. A large side setback has been maintained to the south-eastern boundary due to the presence of significant trees which would

also act as a natural screen maintaining the amenity of the neighbouring properties to the east. The distance between the proposed dwellings and the neighbouring dwellings on the eastern side would vary between 20 - 25m.

North-Western Side

The proposed buildings have been designed to retain the significant trees along the eastern boundary, being remnant of the Sydney Turpentine Ironbark Forest (STIF), an Ecologically Endangered Community. The setbacks on the northern-western side have been reduced to some extent due to this site constraint.

Further, the proposed living areas of the ground floor dwellings 3, 7, 9 and 10 are also orientated to the north-west to gain solar access for the future occupants. Land fill ranging between 300mm – 850mm is proposed at the rear section of the site along this boundary extending up to dwelling 8 (300mm). The property to the west (184 Beecroft Road) accommodates a dwelling house with a large front setback, private open space/pool/deck at the rear and two bedroom windows located in close proximity to the detached building accommodating Units 7 – 8. The neighbouring dwelling house is located 1 metre higher (window head height RL 117.27) compared to units 7 - 8 (window head height RL 116.25).

The applicant submitted amended plans to address concerns regarding impacts of the proposed development on the dwelling house at No. 184 Beecroft Road. The amendments include:

- Relocation of the private open space area for dwelling 7 to face the front yard of the adjoining property;
- Relocation of the private open space area for dwelling 8 to the south-eastern side of the dwelling;
- A 1.8m high fence (from the natural ground level) is proposed along the entire boundary with a 300mm high lattice screen on top of the fence. The fence would comprise a 200mm thick concrete block acoustic wall at its interface with dwellings 7 and 8. A timber lapped and capped fence is proposed for the remaining length of the boundary;
- 3m high screen planting is proposed on the western boundary fronting dwelling 7, 8 and 9; and
- The balcony for dwelling 5, on the upper level has been amended to face Beecroft Road;

The living and private open space areas for dwellings 3 and 7 would however face the front yard of the adjoining dwelling. Subject to erection of a boundary fence, no concerns are raised regarding the location of these sit-out areas.

Notwithstanding the above, the sliding doors to the living area for dwelling 8 would be located at a distance of 2.6m from the western boundary and in close proximity to the bedroom window of the adjoining dwelling house (4m separation). It is considered that this would result in the future occupants using the rear yard as an extension to the living space and is not supported. Thus, a condition of consent is recommended requiring the doors to be replaced by windows, being similar in height to the bedroom windows, to alleviate any negative visual or acoustic impact on the neighbouring dwelling.

Further, it is also noted that 3 windows for dwelling 5, with low sill height at the upper level, would face the front yard of the adjoining dwelling and would impact on the neighbour's privacy. A condition of consent is therefore recommended requiring these windows be replaced by highlight windows.

The distance between the principal private open space area of No. 184 Beecroft Road and that for dwellings 9 – 10 would be 9m to 10m. This distance is sufficient to maintain reasonable privacy for both dwellings. However, it is noted that the sit out areas and rear lawn areas for dwellings 9 and 10 would be located at RL 113.85 above the natural ground level due to the proposed fill. The survey plan indicates that lawn areas for No. 184 Beecroft Road, at this boundary, would vary between RL 113.5 to RL 113. Given the proposed fill and the level differences, it is recommended that the fence be constructed over the finished levels/retaining walls of the proposed lawn areas for Units 7, 8, 9 and 10 rather than the natural ground level as indicated on the plans. The existing 3m high hedge would be retained along the north-western boundary providing a dense natural screen for the two properties. This coupled with the proposed fencing would alleviate privacy impacts on the neighbouring property to the north-west.

Rear (South-east)

The lawn area for dwelling 10 would be partially located along the southern boundary. The existing pool and garden area associated with the dwelling house at No. 5 Redmill Close are located in close proximity to this boundary at a lower level than the site. A 3m high Camellia hedge provides screening for both properties. The applicant has submitted a section to demonstrate that, given the setbacks, the level difference and the screen planting, amenity of this neighbouring property would be maintained. Additionally a condition of consent requires a solid fence is to be constructed along the rear boundary to retain privacy of the neighbours.

It is considered that the proposed amendments and additional privacy measures along the western boundary would minimise overlooking opportunities and provide acoustic privacy to the adjoining property. The proposed buildings are satisfactorily integrated in design to provide for internal amenity, minimise impacts on neighbours and reduce impacts on the streetscape of the heritage conservation area. The application is assessed as satisfactory in this regard.

2.3.6 Clause 34 – Visual and Acoustic Privacy

As discussed earlier, the proposed dwellings are designed with regard to visual privacy to avoid overlooking on to neighbouring residents. This coupled with the landscape details and setbacks results in adequate space for the effective landscape settings along the boundaries of the development and separation between neighbouring buildings.

The proposed private open space areas are integrated with the living areas of the dwellings and have regard to acoustic privacy. A condition regarding fencing along the western boundary would ensure further noise mitigation from Beecroft Road. The development is to be used as a seniors living and therefore, would be a low noise generating development. The proposal would not have any unreasonable acoustic impact on the surroundings.

2.3.7 Clause 35 – Solar Access and Design for Climate

The living areas of the proposed dwellings are orientated towards the north-west, wherever possible, for appropriate solar access. The submitted shadow diagrams demonstrate that the buildings would not overshadow any of the neighbouring properties. The existing shadow cast by the neighbouring dwelling at No. 184 Beecroft Road would not restrict solar access to the private open space areas for dwellings 7 and 8.

The matter regarding solar access is discussed later in this report.

2.3.8 Clause 36 – Stormwater

The proposed stormwater drainage system is designed to minimise impacts on downstream waterways and would be connected to the Council controlled drainage system within Beecroft Road via an on-site detention system. Conditions are recommended for the system to be designed and constructed in accordance with Council's *Civil Works – Design and Construction Specification 2005*.

2.3.9 Clause 37 – Crime Prevention

The access way design, pedestrian linkages and orientation of dwellings ensures casual surveillance of the development and separation of public and private areas. Conditions are recommended for the basement car park to be made secure.

Subject to recommended conditions the proposal is satisfactory in respect to crime prevention.

2.3.10 Clause 38 – Accessibility

The development remains fully accessible with the internal and outdoor layouts satisfying the applicable standards of the *Building Code of Australia* and the *Disability Discrimination Act*. The matter is assessed in detail later in this report.

2.3.11 Clause 39 – Waste Management

Adequate waste storage and collection facilities are available on the site. The 10 self-contained dwellings would require 5 x 240 litre garbage bins plus 3 x 240 litre recycling bins serviced weekly.

A covered bin storage room is proposed to be located adjacent to the driveway within 6 metres of the front boundary. An additional bin area is located between dwellings 8 and 9. The bins are within accessible distances of the dwellings. It is proposed that a site caretaker would take the bins from the bin area to the bin collection point for servicing. The applicant proposes that bins be serviced from the bin collection area via a rear-loader garbage truck. Council's assessment in this regard concludes that kerbside collection via a side-loader garbage truck would be a safer option for Beecroft Road. This is recommended as a condition of development consent.

The proposal is assessed as satisfactory with regard to Clause 39.

2.3.12 Clause 40 – Development Standards

The site has an area of 2992m² and complies with the standard in respect to the site area being greater than the minimum 1,000m². The site frontage is approximately 39.4m to Beecroft Road and complies with the minimum frontage of 20m at the building line.

Clause 40 (4) specifies height requirements in zones where residential flat buildings are not permitted as follows:

- “(4) *Height in zones where residential flat buildings are not permitted:*
- a) *the height of all buildings in the proposed development must be 8 metres or less, and*
 - b) *a building that is adjacent to a boundary of the site (being the site, not only of that particular development, but also of any other associated development to which this Policy applies) must be not more than 2 storeys in height, and*
 - c) *a building located in the rear 25% area of the site must not exceed 1 storey in height.”*

“Residential flat buildings” are not permissible in the R2 Low Density Residential zone and Clause 40 (4) is therefore applicable. Height is defined in the *SEPP HSPD* as follows:

“height in relation to a building, means the distance measured vertically from any point on the ceiling of the topmost floor of the building to the ground level immediately below that point.

ground level means the level of the site before development is carried out pursuant to this Policy.”

The proposed development would result in a height of 8m which complies with *Clause 40(4)(a)*.

The building in front generally presents a two storey frontage to Beecroft Road and the side boundaries. However, a portion of the basement car park extends more than 1 metre above the existing ground level on the eastern side. This is counted as an additional storey pursuant to Clause 3(2) of *SEPP HSPD* and therefore, the proposal would not comply with *Clause 40(4)(b)*.

The applicant has submitted an objection pursuant to *State Environmental Planning Policy No. 1 – Development Standards* supporting the variation in height limits. The matter is discussed in Section 2.4 of this report.

The building located within the rear 25% of the site would be single storey and complies with *Clause 40(4)(c)*.

2.3.13 Clause 41 – Standards Regarding Accessibility and Useability

This clause requires developments to comply with development standards contained within Schedule 3 of *SEPP HSPD* to ensure an adequate level of access for people with disabilities. The application includes a Disability Access Assessment report that addresses the controls. Compliance with the controls is discussed below and reinforced by conditions of consent.

Clause	Provision	Compliance	Comments
2(1)&(3)	Wheelchair access: 100% of the units must have wheelchair access by a continuous path of travel to an adjoining public road and to common areas.	Yes	The levels are designed to provide a continuous accessible path from the units to the internal driveway and public road. Lifts/ramps are provided in the two storey block. The access report certifies that all gradients are suitable for wheelchair access. Slope – 1:30
	Site gradient should be less than 1:10	Yes	
2(3)	Security: Pathway lighting.	Yes	Low Level lighting adjacent to all pathways, courtyards and dwelling entrances.
2(4)	Letterboxes:	Yes	To be provided at the entry point
2(5)	Private car accommodation If car parking (not being car parking for employees) is		

	provided: • car spaces must comply with AS2890, and • 5% of total number must be designed to enable width to be increased to 3.8 metres. • Garage with power operated doors	Yes Yes Yes	Parking spaces comply with AS2890.6
2(6)	Accessible entry Every entry must comply with AS4299.	Yes	The Access Report advises that the units comply. Compliance can be enforced via condition of consent.
2(7)	Interior: general Widths of internal corridors and circulation at internal doorways must comply with AS1428.1.	Yes	The Access Report advises that the units comply with AS1428.1. Compliance can be enforced via conditions of consent.
2(8)	Bedroom One bedroom to accommodate a wardrobe and queen-size bed and a clear area of at least 1200mm at the foot of the bed and 1000mm wide beside the bed and the wall.	Yes	The Access Report advises that the units comply with AS1428.1. Compliance can be enforced via a condition of consent.
2(9)	Bathroom At least 1 bathroom to comply with AS1428.1	Yes	The Access Report advises that the units comply with AS1428.1. Compliance can be enforced via a condition of consent.
2(10)	Toilet Provide a visitable toilet per AS4299.	Yes	The Access Report advises that the units comply with this provision. Compliance can be enforced via a condition of consent.
2(11, 12 and 13)	Surface finishes, Door hardware, Ancillary items Slip resistance surfaces.	Yes	Compliance via condition of consent recommended and as per

			Access Report advice.
2(15)	Living room and dining room Circulation space per AS4299.	Yes	The Access Report advises that the units comply with this provision. Compliance can be enforced via a condition of consent.
2(16 and 17)	Kitchen and Access Circulation space per Cl.4.5.2 of AS4299. Width of door approaches of 1200mm.	Yes	The Access Report advises that the units comply with this provision. Compliance can be enforced via a condition of consent.
2(18)	Lifts Lifts in multi-storey buildings	Yes	Compliance via condition of consent recommended and as per Access Report advice.
2(19)	Laundry Width of door approach to be 1200mm Clear space in front of appliances of 1300mm.	Yes	The Access Report advises that the units comply with this provision. Compliance can be enforced via a condition of consent.
2(20)	Storage for Linen Linen cupboard per AS4299.	Yes	Linen cupboards provided.
2(21)	Garbage A garbage storage area must be provided in an accessible location.	Yes	An accessible path of travel is provided to the garbage storage rooms.

2.3.14 Clause 50 - Standards That Cannot be Used to Refuse Development Consent for Self-Contained Dwellings

The *SEPP HSPD* includes non-discretionary development standards whereby compliance cannot be used to refuse development consent. The following table sets out the proposal's compliance with these standards.

Clause	Control	Proposal	Requirement	Compliance
50(a)	Building Height	8m	8m	Yes

		>2 storey	2 storeys	No
50(b)	Density and Scale	0.49:1	0.5:1	Yes
50(c)	Landscaped Area	37%	30%	Yes
50(d)	Deep Soil			
	Percentage	23%	15%	Yes
	Deep soil at the rear	2/3	<2/3	No
	Minimum dimension	3.6m	3m	Yes
50(e)	Solar Access	80%	70%	Yes
50(f)	Private open Space			
	Ground level units	15m ²	15m ² (min)	Yes
	Minimum dimension	3m	3m	Yes
	Upper level units	>10 m ²	10 m ² (min)	Yes
	Minimum dimension upper level	2m	2m	Yes
50(h)	No. of car spaces	16	10 (20 bedrooms @ minimum of 0.5 car spaces per bedroom)	Yes

The relevant matters and compliance of the proposal with Clause 50 of the *SEPP HS&PD* are discussed below.

Building Height

The proposed building accommodating dwellings 1 – 6, would exceed the 2 storey height limit. The matter is discussed in Section 2.4 of this report.

Solar Access

The dwellings have been designed to maximum solar access to the living areas, north-facing windows and private open space areas, wherever possible. The applicant states that all dwellings would receive 3 hours of solar access between 9am and 3pm on 22 June. It is assessed that dwelling 1, 3-6, 7, 9 and 10 would comply with the solar access provisions. The sit-out area for Unit 8 may be affected by the shadow cast by dwellings 9 and the sit-out area for dwelling 2 would be overshadowed during Winter Solstice, given its location.

Notwithstanding the above, 8 out of 10 dwellings (80%) would receive adequate sunlight between 9am and 3pm during Winter Solstice which satisfies Clause 50(e) of the *SEPP HSPD*.

Landscaping and Deep Soil Zones

The proposed landscaping is satisfactory in providing for streetscape amenity and pockets of communal open space areas. The areas of deep soil planting, in particular along the eastern boundary, enable retention of the existing STIF canopy and allow for appropriate areas of replacement planting.

The proposed elevated pedestrian walkway along the east, the community garden at the front and the scattered resting areas promote interaction in providing useable meeting and resting places.

It is noted that 2/3 of the deep-soil zone cannot be provided at the rear. The development has been orientated to face the eastern side rather than providing a large rear setback along the entire length. The orientation is guided by the need to retain the significant STIF community on the site. Accordingly, the majority of the deep soil area is located along the eastern side stretching to the rear. Given the site planning, strict compliance with this numerical requirement cannot be achieved. The application is considered acceptable in this regard.

A condition of consent is recommended to ensure completion of all landscape works in accordance with the plan, prior to the issue of an Occupation Certificate.

2.4 State Environmental Planning Policy No. 1 – Development Standards

The application has been assessed against the requirements of *State Environmental Planning Policy No.1 (SEPP 1)*. This Policy provides flexibility in the application of development standards in circumstances where strict compliance with those standards would, in any particular case, be unreasonable or unnecessary or tend to hinder the attainment of the objectives of Act. The relevant objectives of Section 5(a) of the Act are to encourage:

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

The aims of *SEPP HSPD* encourage the provision of housing (including infill self-care housing) that will:

- *increase the supply and diversity of residences that meet the needs of seniors or people with a disability, and*
- *make efficient use of existing infrastructure and services, and*
- *be of good design.*

The proposed development would exceed the 2-storey height limit as stipulated by Clause 40(4)(b) of the *SEPP* as the basement car park protrudes more than 1m above the natural ground level in a minor section of the building.

Clause 3(2) – Interpretation of the SEPP HSPD, states the following:

“(2) In calculating the number of storeys in a development for the purposes of this Policy, a car park that does not extend above ground level by more than 1 metre is not to be counted as a storey.”

At its lowest point, the existing ground level directly below the car park for Building A (in front) is RL 112.5. The car park ceiling is at RL 114.3, resulting in a maximum protrusion of 1.8 metres. The applicant has submitted a *SEPP 1* objection against the adherence to the “Height” development standard. The applicant submits that strict compliance with the “Height” requirement is unreasonable and unnecessary for the following reasons:

- *“The proposal provides for a development outcome that is consistent with the bulk and scale of the surrounding residential development.*
- *The proposal meets the design control and setback controls of the SEPP(HS) except for the minor departure of the storey control in Building A as detailed in the attached plan.*
- *The proposal is well articulated with generous setbacks and a landscape design that provides good landscape screening between the proposed building and adjoining site boundary.”*

The applicant also mentions the following:

“There is no stated objective of Clause 40. However, the intent of the Clause is guided by the Seniors Living Policy Urban Design Guidelines for Infill Development which includes the following guidelines:

- *Protect Neighbour amenity by carefully designing the bulk and scale of the new development;*
- *Designing second storeys to reduce overshadowing and overlooking of neighbouring properties;*
- *To avoid abrupt changes in the scale of the development when viewed from the street; and*
- *Setting upper storeys back behind the side or rear building line.*

The objectives of this provision are satisfied by the design of the building.”

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

1. *The objectives of the standard are achieved notwithstanding non-compliance with the standard;*
2. *The underlying objective or the purpose of the standard is not relevant to the development and therefore compliance is unnecessary;*
3. *The underlying object of purpose would be defeated or thwarted if compliance was required and therefore compliance is unreasonable;*
4. *The development standard has been virtually abandoned or destroyed by the Council’s own actions in granting consents departing from the standard and hence compliance with the standard would be unnecessary and unreasonable.*
5. *The zoning of the particular land is unreasonable or inappropriate so that a development standard appropriate for that zoning is also unreasonable and unnecessary as it applies to the land and compliance with the standard would be unreasonable or unnecessary. That is, a particular parcel of land should not have been included in the particular zone.*

Having regard to the above points the following matters are considered relevant:

- The development is consistent with the objectives of Section 5 of *the Act* in that it encourages the improved management of urban land and promotes the orderly use of the otherwise underutilised land.

- The 3 storey element is well setback from the neighbouring property to the east.
- The non-compliance with the height limit does not result in an additional level or floor space and the proposal complies with the required floor space ratio. The additional height is contained within the basement car park and the breach is minor, being 800mm.
- The 3 storey element occurs due to the building design following the natural slope of the site and the entry to the basement car park being located at the lowest point of the site. The third level would be appropriately setback from the street and is not visually intrusive to the streetscape or the neighbouring properties.
- The building would not result in unreasonable overshadowing of the neighbouring properties, as discussed in Section 2.3 of this report. Privacy impacts are alleviated via site planning, careful location of windows and appropriate landscaping.
- Notwithstanding the non-compliance, the application is a reasonable outcome for the site and achieves the aims of *SEPP HSPD*. As such, the proposed development would provide housing choice in the locality.

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

2.5 State Environmental Planning Policy No. 55 – Remediation of Land (SEPP 55)

The Policy provides guidelines for the remediation of contaminated land for the purpose of reducing the risk of harm to human health or any other aspect of the environment. Clause 7 requires Council to consider whether land is contaminated prior to granting consent to the carrying out of any development on that land. Should the land be contaminated Council must be satisfied that the land is suitable in a contaminated state for the proposed use.

The applicant states that the land has a history of residential use and therefore, contamination of soil is unlikely to occur. The applicant's statement is supported and it is agreed that the site has not likely experienced any significant contamination, and further assessment under *SEPP 55* is not required.

2.6 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 development is located immediately adjoining a classified road corridor (Beecroft Road). The following matters are required to be considered pursuant to the *SEPP*.

2.6.1 Development with Frontage to a Classified Road

The proposal has been assessed against the requirements of Clause 101 of *SEPP (Infrastructure)* as it proposes new vehicular access from Beecroft Road.

The proposed development was referred to the NSW Roads and Maritime Services (RMS) for concurrence under Section 138 of the *Roads Act 1993*. No objections have been raised regarding the driveway location subject to conditions of consent. Council's engineering assessment concludes that the width of the driveway is satisfactory to enable vehicles to pass and enter and leave the site in a forward direction.

The proposal includes a swept path analysis for a small rigid vehicle (SRV) and proposes a turning area adjoining the bin storage room in accordance with RMS requirements. The turning area has been assessed as satisfactory.

2.6.2 Impact of Road Noise

Assessment of the impact of road noise on a residential use is required pursuant to Clause 102 of *SEPP (Infrastructure)*, where a development fronts a road with an annual average daily traffic volume of more than 40,000 vehicles. "Average Daily Traffic Volume data" published by RMS in 2012 reveals that the average daily traffic volume on Beecroft Road is less than 40,000 vehicles. Accordingly, based on traffic generation, the *SEPP* does not apply.

Notwithstanding, the applicant has submitted a Traffic Noise Assessment report. The report provides details of construction techniques and measures to attenuate road noise and vibration. The report concludes that the development would not exceed the specified noise criteria and L_{Aeq} levels within Clause 102 of the *SEPP (Infrastructure)* subject to adherence to the recommendations. Council's assessment in this regard concludes that the proposed noise mitigation measures are satisfactory.

The Construction Certificate Plans would be required to demonstrate compliance with the recommendations of the acoustic report through the use of appropriate materials for glazing and construction.

2.6.3 Traffic Generating Development

The development is not classified as a Traffic Generating Development in accordance with Clause 104 and Schedule 3 of *SEPP (Infrastructure)* as it would not result in more than 75 dwellings fronting a classified road. No objections have been raised by RMS with regard to traffic generation.

2.7 State Environmental Planning Policy No. 32 – Urban Consolidation (Redevelopment of Urban land) (SEPP 32)

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

2.8 Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005

The application has been assessed against the requirements of *Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005*. This Plan ensures that the catchment, foreshores, waterways and islands of Sydney Harbour are recognised, protected and maintained.

The proposal is consistent with the aims and objectives of the Plan as the proposal would not have a detrimental impact upon the catchment, foreshores waterways or islands of Sydney Harbour.

2.9 Threatened Species Conservation Act 1995

The site contains significant vegetation identified as STIF which is listed as an Endangered Ecological Community listed under the *Threatened Species Conservation Act 1995*.

An assessment of the impact of the development on the STIF is discussed in Section 3.1 of this report.

2.10 Green Offset Code (2012)

Council's *Green Offset Code (2012)* was adopted on 20 June 2012. The purpose of the Code is to provide guidance on the approach to conducting offsets for the loss of healthy native trees and vegetation in Hornsby Shire, integrating the regulatory requirements of the environmental legislation and policies.

The Code applies to development that would impact on native vegetation and requires consideration of the following Principles:

- The Principle of Avoid, Minimise and Mitigate.
- The Precautionary Principle.
- The Principle of Net Gain.
- The Principle of Avoiding the Effects of Cumulative Impacts.

The Code provides for offset actions to protect, enhance, manage and create habitat on receiving land that is ecologically suitable and appropriate. Contributions made into this program will go towards restoration and revegetation works on Council managed land.

The application includes a Voluntary Planning Agreement to offset the loss of STIF on the site. The VPA includes a monetary contribution of \$19,505.97 to offset the loss of STIF and enable Council, through its Bushcare Program, to rehabilitate and regenerate bushland on an area of Council land. The monetary contribution offered to Council is in accordance with the formulas and rates outlined in the Code for the removal of 183 square metres of STIF canopy.

2.11 Section 93F Environmental Planning and Assessment Act, 1979

The proposed VPA has been submitted pursuant to Section 93F of the *Environmental Planning and Assessment Act, 1979*. Council has a *Policy on Planning Agreements* which embodies the legislative criteria and sets the framework governing the use of Planning Agreements within Hornsby Shire. The Policy includes the following 'acceptability test' of a proper planning purpose to ensure that Planning Agreements:

- Are directed towards proper or legitimate planning purposes, ordinarily ascertainable from the statutory planning controls and other adopted planning policies applying to development.
- Provide for public benefits that bear a relationship to development that are not wholly unrelated to the development.
- Produce outcomes that meet the general values and expectations of the public and protect the overall public interest.
- Provide for a reasonable means of achieving the relevant purposes and outcomes and securing the benefits.
- Protect the community against harm.

The VPA would offset the loss of STIF from the site and facilitate bushland regeneration works on Council land. Under Council's Policy on Planning Agreements, bushland regeneration works are listed as an appropriate planning benefit for a planning agreement. The VPA has been reviewed by Council's Solicitor and is considered to be directed to a legitimate planning purpose and would facilitate an appropriate outcome through bushland regeneration.

It is an appropriate environmental outcome for Council to enter into a VPA in this instance to balance the opportunity for sustainable development against the environmental attributes of the locality. The VPA is considered to satisfy the above acceptability test and is consistent with Council's *Policy on Planning Agreements*.

A condition is recommended requiring the applicant to enter into a VPA with Council to offset the loss of STIF on the site. In accordance with Section 93G of the *Environmental Planning and Assessment Act, 1979* the VPA was required to be publically notified and available for public inspection for a period of 28 days before being entered into. In this regard, the VPA was exhibited from 16 July 2014 to 13 August 2014 and one submission was received.

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

On 1 March 2013, the *Environmental Planning and Assessment Act, 1979* was amended so that a DCP provision will have no effect if it has the practical effect of “*preventing or unreasonably restricting development*” that is otherwise permitted and complies with the development standards set out in relevant Local Environmental Plans and State Environmental Planning Policies. The principal purpose of a development control plan is to provide guidance on the aims of any environmental planning instrument that applies to the development; facilitating development that is permissible under any such instrument; and achieving the objectives of land zones under any such instrument.

2.13 Hornsby Development Control Plan 2013

The *Hornsby Development Control Plan 2013(HDCP)* applies to all land within Hornsby Shire and came into effect on 11 October 2013. As discussed in Section 2.1 of this report, the development is prohibited within the R2 zone pursuant to *HLEP*. Accordingly, the *HDCP* provisions would not apply to this development.

Section 9.3 of the *HDCP* sets out development controls for heritage conservation areas within the Hornsby Shire. The matter has been assessed in detail under Section 2.1 of this report. No further assessment is required in this regard.

2.14 Section 94 Contributions Plan 2012 – 2021

The Hornsby Shire Council Section 94A Development Contributions Plan 2012 - 2021 came into force on 5 September 2013. The S94 Plan applies to this development as it is for a “seniors living development. The relevant contributions are recommended to be levied 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 Trees and Ecological Impact

The site and neighbouring properties contain a mix of locally indigenous, native and exotic tree species. The property is located in the Beecroft Cheltenham Conservation Area all tree species are therefore, protected.

The site contains numerous trees that are remnant to the Sydney Turpentine Ironbark Forest (STIF), Critically Endangered Ecological Community (CEEC) listed under the *Threatened Species Conservation Act 1995*. The vegetation primarily occurs along the eastern part of the site with other significant trees sporadically located at the front and rear including a large multi-trunked tree within the front yard of the existing dwelling house. The proposal would require the removal of 18 trees from the site.

The applicant has submitted a Flora and Fauna Report including an assessment of the site pursuant to Clause 5A of the *Environmental Planning and Assessment Act, 1979*. The report acknowledges that the site comprises the Sydney Turpentine Ironbark Forest (STIF) ecological community and also specimens of threatened fauna. The report recommends retention of the forest along the eastern boundary, compensation of loss of seven significant remnant trees via replacement planting and provision of external lighting with very low luminosity.

The application also includes a Tree Impact Assessment report which includes tree protection measures to be implemented on site during construction to retain significant trees along the eastern boundary. The driveway is proposed to be cantilevered in various sections to restore the structural root zones of the trees. Council's assessment with regard to tree protection concurs that the recommended measures are appropriate.

In addition, replacement planting is proposed to offset the loss in accordance with Council's Green Offsets Code, where the negative impacts of tree removal may be offset through other positive actions. The Code provides for an appropriate offset ratio for the replacement of Remnant Endangered Ecological Community trees as 5:1 which are to be planted within the subject site. The landscape plan includes details of compensatory planting along the eastern side to retain the canopy wherever possible. Having regard to this and the Voluntary Planning Agreement to offset the loss of STIF from the site, as discussed in Section 2.10, the proposal's impact on significant vegetation does not warrant refusal of the application. It is considered to be an appropriate environmental outcome for Council to enter into a Green Offset agreement in this instance to balance the opportunity for sustainable development against the environmental attributes of the locality.

3.1.2 Stormwater Management

The development is proposed to be connected to Council's piped drainage system on Beecroft Road via an underground on-site detention (OSD) tank located in front to control the discharge of water from the site. Council's engineering assessment concludes that the proposed method of stormwater treatment is appropriate

3.2 Built Environment

3.2.1 Building Design

The building presents a two storey elevation to Beecroft Road. The impact of the proposed design and site planning on the built environment of the locality has been discussed in Section 2.3 of this report.

It is noted that the bulk and scale of the development is similar to the intensity of development that would otherwise be permitted on the property with subdivision and construction of a dwelling house on each allotment created.

3.2.2 Traffic

A Traffic Impact Assessment Report prepared by *Varga Traffic Planning* was submitted with the application. The Report estimates that the proposed development would generate some 2 vehicle trips per hour (vtph) during peak periods. Discounting this generation for the existing site use (0.85vtph during peaks) gives a net traffic generation of 1.1 vtph which would have negligible impact on the capacity of the surrounding road network.

Conditions of consent would ensure that the driveway include vehicular crossings as per Council's standards and sight lines for pedestrians in accordance with AS2890.1.

The development proposes 16 car parking spaces and complies with SEPP HSPD. Additionally, 2 visitor's parking spaces and a turning area within the site for SRV access is provided. Council's traffic assessment concludes that subject to recommended conditions, the proposal would have minimal impacts on the existing local road network and is considered to be acceptable in this regard.

3.3 Social Impacts

The development would make a positive social contribution to the local community by providing housing for older persons and persons with disabilities.

3.4 Economic Impacts

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

4. SITE SUITABILITY

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

The subject site has not been identified as bushfire prone or flood prone land. The site has an area of 2992 m² and can potentially be subdivided into a minimum of 4 allotments (each with a lot size of at least 600 m²) which would result in 4 detached dwelling houses, each with 380m² floor area and 8.5m building height. Due to the location of the STIF community, potential dwelling house footprints would also have been restricted to the western portion of the site as being currently proposed.

It is considered that the scale of the proposed development is consistent with the desired future outcome for the site as outlined in *HLEP* and *HDCP*. The development is suitable considering the capability of the site and the compliance with development standards within the SEPP HSPD. The location of the building footprint would not have major impacts on the amenity of the surrounding properties and would retain the STIF within the site. The anticipated negative impacts have been mitigated via additional measures/privacy screens/offsets pursuant to the Green Offsets Code and conditions of consent. The proposal would also adversely impact on the heritage conservation principles of the Beecroft-Cheltenham Heritage Conservation Area.

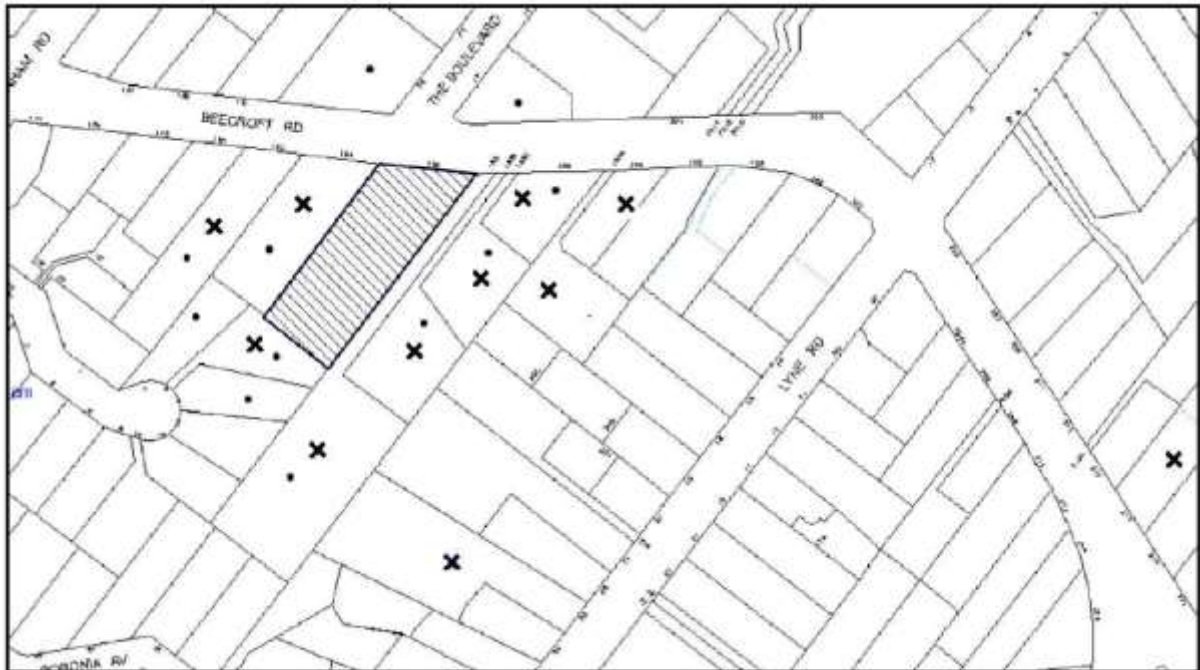
Given the above, it is concluded that the site is suitable for the development.

5. PUBLIC PARTICIPATION

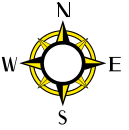
Section 79C(1)(d) of the Act requires Council to consider "*any submissions made in accordance with this Act*".

5.1 Community Consultation

The proposed development was placed on public exhibition and was notified to adjoining and nearby landowners between 8 January 2014 and 22 January 2014 in accordance with the *HDGP*. During this period, Council received twelve submissions including one from the Beecroft Cheltenham Civic Trust. A draft voluntary planning agreement was also notified between 16 July 2014 to 13 August 2014 in accordance with Section 93G of the *Environmental Planning and Assessment Act, 1979*. During this period, Council received one submission. The amended plans lodged on 14 August 2014 were forwarded to the owner of No. 184 Beecroft Road for comments. The map below illustrates the location of those nearby landowners who made a submission that are in close proximity to the development site.



NOTIFICATION PLAN

• PROPERTIES NOTIFIED	X SUBMISSIONS RECEIVED	 PROPERTY SUBJECT OF DEVELOPMENT	
One SUBMISSION RECEIVED OUT OF MAP RANGE (Beecroft-Cheltenham Civic Trust)			

Twelve submissions including one from the Beecroft Cheltenham Civic Trust object to the development, generally on the grounds that the development would result in:

- A three storey building which is not in keeping with the area;
- Height of the building exceeds 8m and basement protrudes over 1m above ground;
- Overdevelopment for the site as floor space ratio exceeds 0.5:1;

- Loss of significant trees and unacceptable impact on STIF;
- Loss of a contributory building within the heritage conservation area;
- Negative impacts on the privacy of the adjoining properties specially No. 184 Beecroft Road due to the location the private open spaces of dwellings 7 and 8 being close to the bedrooms;
- Insufficient open space;
- The generation of 20 – 30 additional garbage bins along the Beecroft Road frontage;
- Illegal parking along the Beecroft Road frontage due to insufficient parking being available on site;
- A noise generating development;
- Increase in air pollution;
- Adverse impact on stormwater in the area as the site does not include satisfactory stormwater disposal methods and on-site detention system; and
- Increase in accidents in the area as right turn on Beecroft Road by vehicles is dangerous.

Additionally, the objectors made the following observations:

- The site is unsafe and not suitable for a seniors living development as there are no facilities such as shops or hospitals nearby;
- The development appears to be commercial rather than a seniors living development;
- The bin carting distance would exceed 100m and is not acceptable;
- Subdivision of land and construction of dwelling houses would be a preferred option for the neighbourhood;
- No ambulance parking space has been provided;
- No facilities for home care or nursing have been provided on site;
- A minimum 5m setback should be provided from No. 184 Beecroft Road and the balconies fronting the property should include moveable privacy screens or be redesigned;
- A 2.2m high fence is requested to be erected along the western boundary to retain the privacy of the property at No. 184 Beecroft Road;
- The existing 4m high tennis court chain wire fence along the southern side should be replaced by a 1.8m high chain wire mesh fence which is compliant with the Swimming Pool Fencing legislation;
- It is unclear whether the existing natural ground levels adjoining the property at No. 5 Redmill Close have been maintained;
- The retaining wall in close proximity to the southern boundary would impact on the existing camellia hedge;
- There is insufficient space along the southern boundary (2.5m) for the proposed plants to grow;
- Large trees proposed along the southern boundary of the site are inappropriate as they would overshadow the solar panels of the property at No. 5 Redmill Close;

- The stormwater pipe from the development would run uphill to be connected to Council's drainage system on Beecroft Road which is not possible;
- Objectors request clarification to the piping size, location and on-site detention system capacity;
- The proposal does not comply with the document *Urban Design Guidelines For Infill Development*;
- The air-conditioning units would cause adverse impact on neighbouring properties due to proximity to the boundaries;
- Excessive noise would be generated during construction works;
- External lights would cause unacceptable spill;
- The roof form for dwelling 10 would be visually intrusive to No. 5 Redmill Close;
- The proposed trees would impact on the sewer line;
- The design of the garbage enclosure is unsympathetic to the character of the area;
- The Arborist Report is erroneous;
- The contour levels are incorrect;
- A Restricted Development Area should be established to retain the existing STIF.

The objection against the draft Voluntary Planning Agreement raised the following concerns:

- The definition of "Development" is incorrect;
- The proposed agreement is not acceptable as monetary contribution cannot compensate the loss of significant and heritage listed trees on the site;
- The trees are remnant to the forest which extends from Devlin Creek; and
- The Draft agreement is not in the public interest.

The amended plans submitted on 14 August 2014 were viewed by the adjoining owner at No. 184 Beecroft Road and the following concerns raised:

- The north-facing attic level bedroom window for dwelling 7 would result in overlooking on to the neighbour's bedrooms;
- The fence height should be 2m for the entire length of the property rather than 1.8m with a 300mm lattice on top;
- The current tennis court fence is also the swimming pool fence and therefore, any new fence should be compliant with the relevant Swimming Pool Fencing regulations; and
- The camellia hedges on the north-western boundary should not be impacted upon due to the proposal.

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 Retention of Camellia Hedge/Natural Ground Level and Planting Along the Southern Boundary

The existing natural ground level at the south-western corner (tennis court) is RL 113.00. The proposed finished floor level for dwellings 9 and 10 is RL 114.00. It is noted that a retaining wall is proposed along the south-western elevation of the building at the rear. The landfill associated with this retaining wall would be up to 1.5m due to the natural slope of the land. The natural ground level (RL 113.00) between this retaining wall and the property at No. 5 Redmill Close is however maintained. Retaining wall with a fill of around 850 mm is also proposed at the north-western corner of the site.

Council has conducted a detailed assessment of the impact of the proposed retaining walls and the associated landscaping works on the existing Camellia hedge along the north-western and rear boundaries. It is considered that a solid fence would be required along the southern boundary to retain the privacy of the neighbouring property. Conditions of consent are recommended requiring sensitive construction techniques to retain the Camellia hedges on the north-western and south-eastern boundaries as requested by the adjoining property owners.

One objector raises concerns that there is insufficient space between the retaining wall and the southern boundary for planting opportunities. A 2.6m - 3.2m wide deep soil zone is provided at the rear of Unit 10, which would enable satisfactory planting. No objections are raised regarding the planting plan at the rear. The sewer line is located on the rear boundary. This would not be impacted upon by the proposed planting.

5.1.2 Overlooking Due to Attic Level Window

The attic level window would be located at a distance of 3.5m from the side boundary which is in excess of the setback required for a dwelling house from the side boundary. The upper level window services a secondary living area. The window would have a sill height of 1.2m above the finished floor level and would not directly face any window of the adjoining dwelling.

Accordingly, it is not considered that this window would have an adverse impact on the privacy of the neighbours.

5.1.3 Height of Fence

As discussed in Section 2.3 of this report, the height of the fence and the proposed materials are assessed as satisfactory. A condition of consent is recommended requiring the rear section of fence (up to dwelling 9) to comply with the provisions of the Swimming Pool Act 1992 and the Swimming Pool Regulation 1998 Australian Standards 1926.1-3 – Swimming Pool Safety.

5.1.4 Impact of Planting on Solar Panel

The resident of No. 5 Redmill Close raises concerns that the proposed large shady trees along the southern boundary would impact on the solar panels. A condition of consent is recommended requiring the relocation of the turpentine tree proposed at the north-western corner, along the eastern boundary of the site.

5.1.5 Stormwater Drainage

Stormwater Connection

Stormwater from the development would be drained via gravity to the piped drainage system in Beecroft Road. This would require an extension of the existing public drainage system up to the property frontage in Beecroft Road. The invert level of the outlet pipe from the detention tank is RL113.00. This would drain to a junction pit at the boundary with a pipe invert RL112.25, followed by

a new grated gully pit in Beecroft Road invert RL 112.20 and then to the existing pit on the northern side of Beecroft Road.

Pipe Diameter

The higher section of driveway beyond dwelling 7 would drain by gravity to Beecroft Road by gravity via a 150 mm diameter pipe suspended under the elevated walkway. The stormwater pipe is required to be designed to cater for all storms up to the 20 year ARI storm event. The stormwater runoff from the lower driveway is directed to a pump out pit / tank that pumps the stormwater to the on-site detention tank.

Sizes of Pits

Two 1,200mm square access grates and a grated trench drain are proposed to collect stormwater runoff from the lower driveway area at the entrance to the basement car park. The stormwater runoff would be directed to a tank and collected water pumped to the on-site detention tank. A series of 450 mm square surface inlet pits and 200 mm wide grated trench drains are designed to collect surface water from the driveway.

On-site Detention System

The on-site detention system has been designed with an internal overflow chamber that would be discharged directly to the public piped drainage system in Beecroft Road via a 300 mm diameter outlet pipe to cater for all storm events up to the 100 year ARI. A secondary high level emergency overflow facility is provided, should the outlet pipe become blocked.

Council's engineering assessment concludes that the stormwater discharge from the site is satisfactory subject to recommended conditions of consent.

5.1.6 Ambulance Parking and Care Within the Site

The proposal is infill self-care housing and therefore, such facilities would not be required on site.

5.1.7 Noise During Construction/Air-Conditioning Units and Impact of Light Spill

Conditions are recommended under Schedule 1 to ensure that minimal noise impacts result from construction works including requirements restricting construction hours and a Traffic Control Plan detailing vehicle movements.

A condition of consent is recommended to reduce adverse amenity impact due to location of air-conditioning units close to the boundary. Conditions of consent are also recommended to alleviate light spill by reducing the luminosity of external lighting.

5.1.8 Unsafe Vehicular Sightlines

Council's engineering assessment concludes that the driveway gradient and sightlines for drivers is satisfactory. The application has been assessed by the Roads and Maritime Services and no objections are raised in this regard.

5.1.9 Draft Voluntary Planning Agreement

The above matters raised in the submission have been discussed earlier in this report. Council has received Legal Advice regarding the accuracy of the agreement and no objections have been raised.

The draft agreement has been assessed as satisfactory and would be in the public interest.

5.2 Public Agencies

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

5.2.1 Roads and Maritime Services

The application was referred to the Roads and Maritime Services (RMS) for concurrence. No objections have been raised subject to recommended conditions. The RMS requests that the applicant submit the swept path analysis for the longest vehicle accessing the site to Council for approval. The application includes details of SRV access to the site and compliant swept path analysis which demonstrates that vehicles can enter and exit the site in a forward direction.

6. THE PUBLIC INTEREST

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

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

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

CONCLUSION

The application proposes the demolition of existing buildings and construction of an infill self-care seniors living development including 10 self-contained dwellings.

The use is prohibited in the R2 zone pursuant to the *Hornsby Local Environmental Plan 2013*. The proposed development is permissible under *State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004* and generally complies with the objectives and controls contained in the Policy.

The proposal does not comply with the of *State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004* with regard to Clause 40 (Height). An objection pursuant to *State Environmental Planning Policy No. 1* has been submitted to support the development and is considered well-founded.

The application proposes the removal of Sydney Turpentine Ironbark Forest and is the subject of an offer to enter into a Planning Agreement to offset the loss of canopy area in accordance with Council's Green Offset Code.

The proposal is assessed as satisfactory with regard to the matters for consideration pursuant to Section 79C of the *Environmental Planning and Assessment Act 1979*. Council received thirteen submissions during notification period and the proposal has been amended to address the concerns of the surrounding neighbours. Conditions of consent would ensure that proposal does not adversely impact on the natural and built environment of the locality.

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.

ROD PICKLES

MANAGER - DEVELOPMENT ASSESSMENT

PLANNING DIVISION

JAMES FARRINGTON

GROUP MANAGER

PLANNING DIVISION

ATTACHMENTS:

1. Locality Map
2. Site Plan
3. Floor Plan
4. Elevations and Sections
5. Landscape Plan
6. SEPP 1 Objection
7. Draft Planning Agreement

File Reference: DA/1394/2013

Document Number: D02983614

SCHEDULE 1

GENERAL CONDITIONS

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

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

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

1. Approved Plans and Supporting Documentation

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

Plan Title	Rev	Drawn by	Dated
Site Plan – 01	C	Paul Myer Design Pty Ltd	12/08/2014
Demolition Plan-03	-	Paul Myer Design Pty Ltd	19/11/2013
Excavation Plan-04	-	Paul Myer Design Pty Ltd	19/11/2013
Basement Parking Level Plan – 05	A	Paul Myer Design Pty Ltd	9/05/2014
Floor Plan Units 1 – 4 – 06-WD	A	Paul Myer Design Pty Ltd	14/08/2014
Floor Plan Unit 5-6 -07-WD	A	Paul Myer Design Pty Ltd	14/08/2014
Floor plans Units 7 – 8 -03 WD	-	Paul Myer Design Pty Ltd	14/08/2014
Units 9 and 10 floor plan-10	-	Paul Myer Design Pty Ltd	19/11/2013
Units 9 and 10 loft plan-11	-	Paul Myer Design Pty Ltd	19/11/2013
Elevation 1- 08-WD	A	Paul Myer Design Pty Ltd	14/08/2014
Elevation 2- 09-WD	A	Paul Myer Design Pty Ltd	14/08/2014
Sections Units 1 – 6 –13A	A	Paul Myer Design Pty Ltd	14/04/2014
Elevations/Sections 7 -8 – 04WD	-	Paul Myer Design Pty Ltd	14/08/2014
Unit 7 and 8 Sections – 15	-	Paul Myer Design Pty Ltd	19/11/2013
Unit 9 and 10 elevation – 16	-	Paul Myer Design Pty Ltd	19/11/2013
Unit 9 and 10 sections – 17	-	Paul Myer Design Pty Ltd	19/11/2013

Cross site sections – 18	-	Paul Myer Design Pty Ltd	19/11/2013
Roof plan – 19	-	Paul Myer Design Pty Ltd	21/03/2014
Landscape Plan -20	B	Paul Myer Design Pty Ltd	29/07/2014
Landscape Details – 21	A	Paul Myer Design Pty Ltd	10/03/2014
Site Sections – 22	-	Paul Myer Design Pty Ltd	19/11/2013
Site plan showing driveway work details – 01	-	Paul Myer Design Pty Ltd	14/05/2014
General Notes C00.01	C	Engineering Studio Civil and Structural	11/03/2014
Sediment and Erosion Control Plan C01.01	C	Engineering Studio Civil and Structural	11/03/2014
Roof Stormwater Drainage Plan C02.01	D	Engineering Studio Civil and Structural	11/03/2014
Lower Ground Stormwater drainage Plan C02.02	C	Engineering Studio Civil and Structural	11/03/2014
Driveway Longitudinal Sections C03.01	C	Engineering Studio Civil and Structural	11/03/2014
Stormwater Details C03.02	C	Engineering Studio Civil and Structural	11/03/2014
Strata Plans – Sheets 1 – 4	-	Stella Walter	Received on 16/12/2013
Swept path diagram – ADD 06	C	Paul Myer Design Pty Ltd	4/06/2014
Boundary Fence Elevations – 01	-	Paul Myer Design Pty Ltd	15/08/2014

Supporting Documents

Document Title	Prepared by	Dated
Detailed Survey 073-13	Craig and Rhodes	14/05/2013
Draft Planning Agreement, attachments and Survey Plan	Byric Pty Ltd	Received by Council on 30/06/2014
Site Analysis plan – 02 -A	Paul Myer Design Pty Ltd	12/05/2014
Deep Soil Zone Calculation Diagram - 27	Paul Myer Design Pty Ltd	19/11/2013
Shadow Diagrams– 23, 24 and 25	Paul Myer Design Pty Ltd	19/11/2013
Building Code of Australia Report	McKenzie Group	12/12/2013

Materials Board	-	Received on 16/12/2013
Design Statement	Paul Myer Design Pty Ltd	12/12/2013
Statement of Environmental Effects	Glendinning Minto and Associates	December 2013
SEPP 1 Objection	Ian Glendinning	March 2014
Arboricultural Impact Assessment Report	Jackson Nature Works	18/13/2014, 22/05/2014,
Traffic and Parking Assessment Report	Varga Traffic Planning	3/12/2013
Traffic Noise Assessment	PKA Acoustic Consultants	November 2013
Access Report and Addendum	Mark Relf	12/12/2013 and 21/05/2014
Waste Management Plan	Byric Pty Ltd	16/12/2013
Statement of Heritage Impact	NBRS + Partners	October 2013
Geotechnical Investigation Report	Douglas and Partners	October 2013
Flora and Fauna Assessment Report	Keystone Ecological Pty Ltd	28/11/2013
ABSA Energy Certificate no. 1005825391	Jeremy Moy	24/10/2013
BASIX Certificate No. 511438M	Greenfield DA Services	31/10/2013

2. Removal of Existing Trees

This development consent only permits the removal of tree(s) numbered 6, 7, 8, 24, 26/27/28, 30, 34, 41, 43, 44/45, 46, 47, 49, 50, 51 and 54 as identified on *“Landscape Plan – 20B”*, prepared by *“Paul Meyer Design”* dated 29/07/2014 (as amended by Condition 4). The removal of any other trees requires separate approval in accordance with the Tree and Vegetation Chapter 1B.6 Hornsby Development Control Plan (HDCP).

3. Project Arborist

A Project Arborist is to be appointed in accordance with AS 4970-2009 (1.4.4) to provide monitoring and certification throughout the development process.

4. Amendment of Plans

The approved plans *“Floor Plan Unit 5-6 -07-WD, Elevation 2- 09-WD, Elevation 1- 08-WD, Floor plans Units 7 – 8 -03 WD and Elevations/Sections 7 -8 – 04WD”* prepared by *Paul Myer Design Pty Ltd* dated 14/08/2014 must be amended as follows:

- a) Replace the two living room windows and the kitchen window for dwelling 5, as marked in red on the approve plan, with one highlight window with a minimum sill height of 1.5m above the finished floor level.
- b) Replace the living room window for dwelling 8 (as marked in red) by a window with no access to the adjoining yard area.

The approved plans “*Boundary Fence Elevations – 01* prepared by *Paul Myer Design Pty Ltd* dated 15/08/2014 *must be amended* as follows:

- a) The height of the fence on the north-western boundary shall be 1.8m above the finished lawn area and retaining walls rather than the natural ground level as marked on the approved plan.
- b) The boundary fencing up to the alignment of the northern elevation of dwelling 9 must comply with the provisions of the *Swimming Pool Act 1992* and the *Swimming Pool Regulation 1998 Australian Standards 1926.1-3 – Swimming Pool Safety*.

The following plans must be amended in accordance with approved “*Site Plan – 01 Issue C, Floor Plan Unit 5-6 -07-WD, Elevation 2- 09-WD, Elevation 1- 08-WD, Floor plans Units 7 – 8 - 03 WD and Elevations/Sections 7 -8 – 04WD* prepared by *Paul Myer Design Pty Ltd* dated 14/08/2014:

Plan Title	Rev	Drawn by	Dated
Roof plan – 19	-	Paul Myer Design Pty Ltd	21/03/2014
Landscape Plan -20	B	Paul Myer Design Pty Ltd	29/07/2014
Landscape Details – 21	A	Paul Myer Design Pty Ltd	10/03/2014
Site Sections – 22	-	Paul Myer Design Pty Ltd	19/11/2013
Sediment and Erosion Control Plan C01.01	C	Engineering Studio Civil and Structural	11/03/2014
Roof Stormwater Drainage Plan C02.01	D	Engineering Studio Civil and Structural	11/03/2014
Lower Ground Stormwater drainage Plan C02.02	C	Engineering Studio Civil and Structural	11/03/2014
Stormwater Details C03.02	C	Engineering Studio Civil and Structural	11/03/2014
Strata Plans – Sheets 1 – 4	-	Stella Walter	Received on 16/12/2013
Swept path diagram – ADD 06	C	Paul Myer Design Pty Ltd	4/06/2014

The approved “*Landscape Plan – 20B*”, prepared by “*Paul Meyer Design*” dated 29/07/2014 must be amended by relocating the proposed Turpentine tree at the north-western corner to the south-eastern boundary of the site.

5. Construction Certificate

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.

6. Section 94 Development Contributions

In accordance with Section 80A(1) of the *Environmental Planning and Assessment Act 1979* and the *Hornsby Shire Council Section 94 Development Contributions Plan 2012-2021*, the following monetary contributions shall be paid to Council to cater for the increased demand for community infrastructure resulting from the development:

Description	Contribution (4)
Roads	\$1,301.40
Open Space and Recreation	\$88,962.90
Community Facilities	\$12,404.20
Plan Preparation and Administration	\$361.90
TOTAL	\$103,030.40

being for nine additional self-contained dwellings comprising seniors living development.

- a) The value of this contribution is current as at 5 August 2014. If the contributions are not paid within the financial quarter that this condition was generated, the contributions payable will be adjusted in accordance with the provisions of the Hornsby Shire Council Section 94 Development Contributions Plan and the amount payable will be calculated at the time of payment in the following manner:

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

Where:

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

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

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

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

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

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

7. Building Code of Australia

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

8. Contract of Insurance (Residential Building Work)

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

9. 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.

10. Water/Electricity 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) *Sydney Water* – the submission of a 'Notice of Requirements' under s73 of the *Sydney Water Act 1994*.

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

11. Dilapidation Report

A 'Dilapidation Report' is to be prepared by a 'chartered structural engineer' detailing the structural condition of the dwelling houses at Nos. 184 Beecroft Road and No. 5 Redmill Close.

12. Internal Driveway/Vehicular Areas

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

- a) Design levels at the front boundary must be obtained from Council;
- b) The driveway must be a rigid pavement;
- c) The driveway shall be a minimum 5.5 metres wide for at least the first 6 metres from the property boundary.
- d) The driveway grade must not exceed 25% and changes in grade must not exceed 8% per plan metre;

13. Noise – Road Corridor

The development must be carried out in accordance with the recommendations contained within the "Traffic Noise Assessment Report" submitted with the development application, prepared by PKA *Acoustic Consulting* and dated *November 2013* and the requirements of the Department of Planning's *Development Near Rail Corridors and Busy Roads – Interim Guideline*, EPA criteria for new land use developments (*The Environmental Criteria for Road Traffic Noise, May 1999*) and the RMS's *Environmental Noise Management Manual*.

Note: The Department of Planning's document is available at www.planning.nsw.gov.au (development assessments).

14. Waste Management

The following waste management requirements must be complied with:

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

- b) There must be an area of at least 8 m² allocated for residents to place unwanted bulky items awaiting removal.

15. Construction Traffic Management Plan

A Construction Traffic Management Plan detailing construction vehicle routes, number of trucks, hours of operation, access arrangements and traffic control must be submitted to Council for approval.

16. Voluntary Planning Agreement

Pursuant to section 93F of the Environmental Planning and Assessment Act 1979, the applicant must prepare and enter into a Voluntary Planning Agreement (VPA) with Hornsby Shire Council to offset the loss of Sydney Turpentine Ironbark Forest (STIF) under Council's Green Offset Code (2012). The terms of the VPA must include but not be limited to the following:

- a) The Applicant must pay Council a monetary contribution of \$19,505.97 towards the replacement of 183m² of STIF lost from the site as result of the development
- b) The Applicant agrees to pay all costs (including Council's costs) associated with the preparation, public notification, legal costs and administration costs of the VPA.

REQUIREMENTS PRIOR TO THE COMMENCEMENT OF ANY WORKS

17. Erection of Construction Sign

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

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

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

18. Protection of Adjoining Areas

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

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

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

19. Toilet Facilities

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

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

20. Erosion and Sediment Control

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

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

21. Tree Protection Barriers

Tree protection measures must be undertaken in accordance with the following requirements around the trees identified in "*Landscape Plan – 20B*", prepared by "*Paul Meyer Design*" dated 29/07/2014 (as amended by Condition 4):

- a) Tree protection fencing must be erected around trees numbered 1, 2, 3, 4, 5 to be retained at four metres (4m) from edge of trunk. The tree fencing must be constructed of 1.8 metre 'cyclone chainmesh fence.
- b) To avoid injury or damage, trees numbered 4, 9, 10, 11, 12, 17, 19, 20, 21, 23, 31, 32, 33, 35, 36, 37, 39, 41, 42, 53, 54, 57, 58 must have trunks protected by 2 metre lengths of 75mm x 25mm hardwood timbers spaced at 80mm secured with galvanised wire (not fixed or nailed to the tree in any way.
- c) Prior to works commencing and throughout construction, the area of the Tree Root Zone of tree 1 is to be protected by the use of temporary wood-chip mulch, gravel mulch or bridges to prevent soil compaction around tree roots. Wood-chip or gravel mulch is to be installed at 150mm – 300mm depth on top of a geotextile landscape fabric and will be placed over the root zone of the trees to be protected.

Note: A certificate from the Project Arborist (AQF 5) is to be submitted to the Principal Certifying Authority stating that all tree protection measures are in accordance with the above and consistent with the intentions of the Australian Standard 'Protection of Trees on Development Sites (AS 4970-2009) prior to commencement of works.

22. Traffic Control Plan

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

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

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

REQUIREMENTS DURING CONSTRUCTION

23. Construction Work Hours

All work on site (including demolition and earth works) must only occur between 7am and 5pm Monday to Saturday. No work is to be undertaken on Sundays or public holidays.

24. Demolition

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

- a) Demolition material 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 buildings contain asbestos material, a standard commercially manufactured sign containing the words ‘DANGER ASBESTOS REMOVAL IN PROGRESS’ measuring not less than 400mm x 300mm must be erected in a prominent position visible from the street.

25. 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.

26. Street Sweeping

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

27. Works Near Trees

- a) Existing soil grades within the Tree Root Zone of trees to be retained must be maintained. The tree root zones are provided below:

Tree Root Zones (TRZ)

HDGP Section 1B.6.1 (i).	TRZ
Trees with a diameter at breast height greater than 800mm	9m
Trees with a diameter at breast height greater between 400mm & 800mm	7m
Trees with a diameter at breast height greater less than 400mm	4m

Note: Diameter at breast height (Dbh) for trees is in accordance with the Tree Schedule provided by Jackson Nature Works.

- b) Any vehicle or machinery (other than hand held) is to remain outside the Tree Root Zone of any tree to be retained, unless Tree Ground protection in accordance with Condition No. 21 is provided.
- c) Consent is granted to undertake works within the Tree Root Zone of trees 9, 10, 11, 12, 17, 19, 20, 21, 23, 31, 32, 33, 35, 36, 37, 39, 41, 42, 53, 54, 57, 58, 60, 61 as identified on *"Landscape Plan – 20B"*, prepared by *"Paul Meyer Design"* dated 29/07/2014 (as amended by Condition 4), in accordance with the following requirements:
- d) Works must not reduce the useful life expectancy of the tree and be carried out under the supervision of the Project Arborist. The Project Arborist must assess the condition of tree/s and the growing environment and make recommendations for and carry out remedial action (if required) to ensure the health and vigour of the trees. A certificate submitted by the Arborist to the principal certifying authority detailing the method(s) used to preserve the trees during the construction phase of this consent.
- e) The installation of any services within the nominated Tree Root Zone of any tree to be retained must utilise the thrust boring method. Thrust boring shall be carried out so that 'top of pipe' is a minimum 700mm depth beneath existing ground level.
- f) Excavation for the installation of piers within the nominated Tree Root Zone of trees 9, 10, 11, 12, 17, 19, 20, 21, 23, 31, 32, 33, 35, 36, 37, 39, 41, 42, 53, 54, 57, 58 identified on the *"Landscape Plan – 20B"*, prepared by *"Paul Meyer Design"* dated 29/07/2014 (as amended by Condition 4) must be carried out by hand excavation ONLY.
- g) Piers are to be located at a distance greater than 100mm from any retained tree root regardless of diameter.
- h) Piers required for the driveway must be located and constructed in accordance with the specifications provided in the approved plan no. *Site Plan 01 (Driveway works)* provided by *Paul Meyer Design* dated 14/05/2014.
- i) No tree root greater than 30mm diameter located within the nominated TRZ of any tree to be retained on or off-site shall be severed or injured in the process of any works during the entirety of the consent.
- j) Tree roots less than 30mm diameter required to be severed for the purposes of this consent shall be cut cleanly by hand, by a qualified and experienced Arborist or Horticulturalist with minimum qualifications of Horticultural Certificate or Tree Surgery

Certificate (AQF 3). All pruning shall be undertaken as specified in the Australian Standard 'Pruning of Amenity Trees' (AS 4373-2007).

- k) A certificate must be submitted by the Arborist to the principal certifying authority detailing the method(s) used to preserve the tree(s).

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

28. Council Property

During construction works, no building materials, waste, machinery or related matter is to be stored on the road or footpath. The public reserve must be kept in a clean, tidy and safe condition at all times.

29. 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.

30. Landfill

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

- a) All fill material imported to the site is to wholly consist of Virgin Excavated Natural Material (VENM) as defined in Schedule 1 of the *Protection of the Environment Operations Act 1997* or a material approved under the *Department of Environment and Climate Change's* general resource recovery exemption.

31. Excavated Material

All excavated material removed from the site must be classified 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 reported to the principal certifying authority.

32. Survey Report – Finished Floor Level

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

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

33. Waste Management

Waste management during the demolition and construction phase of the development must be undertaken in accordance with the approved Waste Management Plan. Additionally written records of the following items must be maintained during the removal of any waste from the

site and such information submitted to the Principal Certifying Authority within fourteen days of the date of completion of the works:

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

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

34. Construction Vehicles

All construction vehicles associated with the proposed development are to be contained on site as no construction zones are permitted on Beecroft Road in the vicinity of the site.

35. Bushland Protection

To prevent the spread of weeds and fungal pathogens such as Cinnamon Fungus (*Phytophthora cinnamomi*) and Chytrid Fungus (*Batrachochytrium dendrobatidis*), all machinery shall be cleaned of soil and debris before entering the subject site for the installation of services.

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.

36. Fulfilment of BASIX Commitments

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

37. Sydney Water – s73 Certificate

An s73 Certificate must be obtained from Sydney Water.

38. Stormwater Drainage

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

- a) Details of the design are to be provided with the construction certificate plans.
- b) Connected directly to the public piped drainage system in Beecroft Road. The public drainage stormwater pipe is required to be extended up to the property frontage.

39. On Site Stormwater Detention

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

- a) Have a capacity of not less than 21.5 cubic metres, and a maximum discharge (when full) of 98 litres per second.
- b) Have a surcharge/inspection grate located directly above the outlet.
- c) Discharge from the detention system to be controlled via 1 metre length of pipe, not less than 50 millimetres diameter or via a stainless plate with sharply drilled orifice bolted over the face of the outlet discharging into a larger diameter pipe capable of carrying the design flow to an approved Council system.
- d) Where above ground and the average depth is greater than 0.3 metres, a 'pool type' safety fence and warning signs to be installed.
- e) Not be constructed in a location that would impact upon the visual or recreational amenity of residents.
- f) Details of the design be provided with the Construction Certificate plans.

40. Public Road and Drainage Works

A separate application under the Local Government Act, 1993 and the Roads Act, 1993 must be submitted to Council for all public road and drainage works. *The works approved under this consent must be constructed in accordance with Council's Civil Works Design and Construction Specification, 2005 and the following requirements:*

- a) The design details must be submitted with the construction certificate plans.
- b) The existing concrete footpath shall be removed and reconstructed along the full frontage of the development site within the road verge with the remaining area turfed.
- c) A minimum 375 diameter reinforced concrete pipe shall be constructed under the kerb and gutter at a minimum 1% grade and the kerb and gutter reconstructed as required for the installation of the pipe.
- d) A grated gully pit with a minimum 1.8 metre wide lintel shall be constructed at the discharge point from the development site.

41. Vehicular Crossing

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

- a) Any redundant crossings must be replaced with integral kerb and gutter;
- 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; and
- d) All details must be provided on the construction certificate plans.

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.

42. Car Parking and Deliveries

All car parking and driveway areas including turning paths, aisle widths, parking bay dimensions, sight lines and grades must be constructed in accordance with *Australian Standard AS 2890.1 – 2004 – Off Street Car Parking*, *Australian Standard 2890.2 - 2002 – Off Street Commercial* and the following requirements;

- a) The driveway works are to be completed in accordance with Condition No.12;
- b) All parking areas and driveways are to be sealed to an all weather standard, line marked and signposted.
- c) No landscaping or fencing within the front setback should restrict sight distance to pedestrians and cyclists travelling along the footpath.
- d) All parking spaces for people with disabilities must be constructed in accordance with *Australian Standard AS/NZS 2890.6:2009 – Off-street parking for people with disabilities*.

43. 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.

44. 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.

45. Works as Executed Plan

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

on-site detention system. The plan(s) must be accompanied by a certificate from a registered surveyor certifying that all pipelines and associated structures lie wholly within any relevant easements.

46. Preservation of Survey Infrastructure

A certificate by a Registered Surveyor shall be submitted to the Principal Certifying Authority, certifying that there has been no removal, damage, destruction, displacement or defacing of the existing survey marks in the vicinity of the proposed development or otherwise 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".

47. Waste Management

The following waste management requirements must be complied with:

- a) The garbage/recycling bin storage room must include a robust door, sealed and impervious surface, adequate lighting and ventilation, water or a hose for cleaning, graded floors with drainage to sewer.
- b) A report must be prepared by an appropriately qualified person, certifying the following:
 - i) A comparison of the estimated quantities of each waste type against the actual quantities of each waste type.
Note: Explanations of any deviations to the approved Waste Management Plan is required to be included in this report
 - ii) That at least 60% of the waste generated during the demolition and construction phase of the development was reused or recycled.
Note: If the 60% diversion from landfill cannot be achieved in the Construction Stage, the Report is to include the reasons why this occurred and certify that appropriate work practices were employed to implement the approved Waste Management Plan. The Report must be based on documentary evidence such as tipping dockets/receipts from recycling depots, transfer stations and landfills, audits of procedures etc. which are to be attached to the report.
 - iii) All waste was taken to site(s) that were lawfully permitted to accept that waste.
- c) The bin carting routes must be devoid of any steps.
Note: Ramps between different levels are acceptable
- d) Each dwelling must be provided with an indoor waste/recycling cupboard for the interim storage of a minimum one day's waste generation with separate containers for general waste and recyclable materials.
- e) Space must be provided for either individual compost containers for each unit or a communal compost container;

Note: The location of the compost container must have regard to the potential amenity impact.

48. Landscape Specification

To ensure that sustainable landscape is achieved, the on slab planter boxes must include the following:

- a) Waterproofing;
- b) Subsoil drainage (proprietary drainage cell, 50mm sand and filter fabric);
- c) Automatic irrigation;
- d) Minimum 500mm planting soil for shrubs;
- e) Minimum 1000mm planting soil for trees and palms; and
- f) 75mm mulch.

Note: Applicants are advised to pre-order plant material required in pot sizes 45 litre or larger to ensure Nurseries have stock available at the time of install.

49. Completion of Landscaping

The Project Arborist must assess the condition of trees and their growing environment and make recommendations for, and if necessary carry out remedial actions.

Following the final inspection and the completion of any remedial works, the Project Arborist must submit to the Principal Certifying Authority documentation stating that the completed works have been carried out in compliance with the approved plans and specifications for tree protection as above, the conditions of development consent and AS 4970-2009.

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

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

50. Retaining Walls

All required retaining walls must be constructed as part of the development and must not impact upon the health and vigour of any trees/plants shrubs located at the boundary or within the neighbouring properties including the existing camellia hedges.

51. Installation of Air Conditioner

To protect the amenity of adjacent properties, the condenser unit for the air conditioner must be sited a minimum of 3 metres from the property boundary of any adjoining residential premises unless a certificate has been prepared by a suitably qualified person confirming that the unit has been tested for heating and cooling on the highest settings and that the noise levels generated do not exceed 5 dB(A) above background noise levels when tested at the property boundary between 8 pm and 10 pm.

52. Installation of Privacy Devices

All privacy devices and fencing must be constructed with established landscaping.

53. External Lighting

All external lighting must be designed and installed in accordance with *Australian Standard AS 4282 – Control of the Obtrusive Effects of Outdoor Lighting and the recommendations within the Flora and Fauna Assessment Report* prepared by *Keystone Ecological Pty Ltd* dated 28/11/2013. Certification of compliance with the Standard must be obtained from a suitably qualified person.

54. Restriction on Occupation – Housing for Seniors or People with a Disability

A restriction as to user must be created under s88B of the *Conveyancing Act 1919* and registered, requiring the dwellings approved under this consent to be solely used for the accommodation of:

- a) Seniors (55+ age) or people with a disability.
- b) People who live within the same household as seniors or people with a disability.
- c) Staff employed to assist the administration and provision of services to housing provided under *SEPP (Housing for Seniors or People with a Disability) 2004*.

Note: The restriction must nominate Council as the authority to release, vary or modify the restriction.

55. Unit Numbering

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

OPERATIONAL CONDITIONS

56. On-going Waste Management

A site caretaker must be employed and be responsible for moving bins where and when necessary, washing bins and maintaining waste storage areas, managing the communal composting area, managing the bulky waste items storage area, arranging the prompt removal of dumped rubbish, and ensuring all residents are informed of the use of the waste management system.

57. Car Parking and Deliveries

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

- a) Car parking, loading and manoeuvring areas to be used solely for nominated purposes.
- b) Vehicles awaiting loading, unloading or servicing shall be parked on site and not on adjacent or nearby public roads.
- c) All vehicular entry on to the site and egress from the site shall be made in a forward direction.

58. Landscape Establishment

- a) The trees must be maintained until they reach a height of 3m.
- b) Plantings that fail to survive or do not exhibit normal health and vigour growth characteristics for their species prior to reaching mature height for that species must be replaced.
- c) The landscape works must be maintained into the future to ensure the establishment and successful growth of plant material to meet the intent of the landscape design. This must include but not be limited to watering, weeding, replacement of failed plant material and promoting the growth of plants through standard industry practices.

59. Noise – Plant and Machinery

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

60. Fire Safety Statement - Annual

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

CONDITIONS OF CONCURRENCE – ROADS AND MARITIME SERVICES

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

61. Road Works

A road occupancy licence must be obtained from TMC for any works which may impact upon the traffic flows on Beecroft Road during the construction activities.

All works/ regulatory signposting are to be installed at no cost to the RMS.

62. Driveway Crossing

The redundant driveways must be removed and replaced with kerb and gutter to match existing along the entire frontage of the site, prior to the issue of the Occupation Certificate.

Detailed design plans for the proposed driveway crossing on Beecroft Road in accordance with RMS requirements must be submitted to RMS prior to the issue of the Construction Certificate.

Note: The details of RMS requirements must be obtained from RMS's Project Services Manager, Traffic Projects Section, Parramatta (telephone 8849 2496).

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

63. Stormwater Discharge

Should the post development stormwater discharge from the site onto the RMS drainage system exceed the pre-development discharge, detailed design plans and hydraulic calculations of any discharges are to be submitted to RMS for approval, prior to the commencement of works.

Note: The details must be submitted to

*Sydney Asset Management
Roads and Maritime Services
PO BOX 973
Parramatta CBD 2124*

- 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 require:

- 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.

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

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

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

Disability Discrimination Act

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

Covenants

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

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.

Dial Before You Dig

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

Telecommunications Act 1997 (Commonwealth)

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

Asbestos Warning

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

www.environment.nsw.gov.au

www.nsw.gov.au/fibro

www.adfa.org.au

www.workcover.nsw.gov.au

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

House Numbering

House numbering can only be authorised by Council. Before proceeding to number each premise in the development, the allocation of numbers is required to be obtained from Council's Planning Division prior to the issue of a Subdivision Certificate. The authorised numbers are required to comply with Council's Property Numbering Policy and be displayed in a clear manner at or near the main entrance to each premise.

9 DEVELOPMENT APPLICATION - DWELLING-HOUSE - PROPOSED LOT 2, 39 HANNAH STREET, BEECROFT

EXECUTIVE SUMMARY

DA No: DA/199/2014 (Lodged 6 March 2014)

Description: Erection of a dwelling house on a vacant allotment

Property: Proposed Lot 2, No. 39 Hannah Street, Beecroft

Applicant: Mr Raymond Johnson

Owner: Mr Cecil Gilbert Cheng

Estimated Value: \$300,000

Ward: C

- The application is for the erection of a two storey dwelling-house on a vacant allotment.
- The proposed development would necessitate the removal of significant trees located on the subject site and is not considered acceptable having regards to the matters for consideration pursuant to Section 79C of the *Environmental Planning and Assessment Act 1979*.
- The proposal does not comply with *Hornsby Local Environmental Plan 2013* in respect to the building height development standard. The proposal does not comply with Hornsby Development Control Plan 2013 in respect to scale, privacy, landscaping, heritage and tree and vegetation preservation.
- One submission has 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 refused.

RECOMMENDATION

THAT Development Application No. DA/199/2014 for erection of a dwelling-house at proposed Lot 2, No.39 Hannah Street, Beecroft be refused for the reasons detailed in Schedule 1 of Group Manager's Report No. PL63/14.

BACKGROUND

On 6 October 2010, Council approved Development Application No.1470/2009 for subdivision of one allotment into two lots at the subject property. The application involved removal of a significant group of trees identified as Blue Gum High Forest. The development consent included a condition for the applicant to enter into a Voluntary Planning Agreement to offset the loss of Blue Gum High Forest on site in accordance with Council's Green Offset Code.

On 14 March 2011, a Section 96(2) application was lodged to modify the consent to allow the removal of Tree No. 18 and to revise the Voluntary Planning Agreement to increase the monetary contribution to \$25,000. The application was subsequently withdrawn.

On 4 July 2013, Council refused a Section 96(2) application to remove Tree No. 18 and amend the Voluntary Planning Agreement.

On 9 January 2014, Council approved a Section 96(AB) Review to allow removal of Tree No. 18 and revise the Voluntary Planning Agreement.

On 20 June 2014, Council released Subdivision Certificate No. 76/2013 for subdivision of one lot into two in accordance with Development Consent No. 1470/2009.

This application is for the erection of a dwelling-house on the subdivided lot at the rear of the site (proposed Lot 2).

On 30 July, the applicant filed a Class 1 Appeal in the NSW Land and Environment Court against the deemed refusal of the application. The proceedings are listed for a conciliation conference and hearing on 14 and 15 October 2014.

SITE

The 758m² (excluding right of access) battle-axe shaped lot (proposed Lot 2) is located on the southern side of Hannah Street, Beecroft.

The subject site experiences an 8 metre fall towards the rear, northern boundary.

The site is located within the Beecroft/Cheltenham Heritage Conservation Area identified on the Heritage Map and described in Schedule 5 of the *Hornsby Local Environmental Plan 2013 (HLEP)*. The site is also located in the vicinity of eight heritage items of local significance listed under the provisions of Schedule 5 (Heritage Items) of the *HLEP*, namely the 'house' and 'Twilight House/Sheen' at Nos. 29, 30, 38, 40, 42, 44, 46, and 51 Hannah Street.

The surrounding area is characterised by an eclectic blend of older style, one and two storey dwelling-houses surrounded by well established landscaped areas and gardens.

The majority of the site is mapped with Endangered Ecological Communities (EEC).

The site is burdened by a right of access and a vehicular turning area, to benefit proposed Lot 1.

The site is subject to restrictions to protect the Blue Gum High Forest in accordance with condition 26 of DA/1470/2009. These restrictions are on the final linen plan which has been created under Section 88B of *The Conveyancing Act 1919*.

One of the restrictions on the site is a Restricted Development Area (approximately 13m x 19.81m) at the rear of the site to preserve the remnant Blue Gum High Forest. The restriction on the 88B states "*In order to permit protection of significant trees, the restriction prohibits building work including paving, excavation or construction, removal of native vegetation (trees, shrubs and groundcovers),*

stock piles, changes to soil aeration or hydrological capacity, open cut trenching, movement or machinery, spillage/disposal of building waste occurring within the Restricted Development Area”.

The other restriction on the site is the retention of significant Blue Gum High Forest trees identified as Tree 34 and 35 (Tree 2 and 1 respectively on the final linen plan). The restriction on the 88B states: *“In order to permit protection of significant trees, the registered proprietor and persons authorized by the registered proprietor shall ensure any proposal, application, construction or other action undertaken within the tree protection zones of the significant trees denoted ‘TPZ’ in the plan, shall include the following design attributes:-*

- i) Dwellings and other buildings to be designed and constructed with piers and suspended slabs, or;
- ii) Bearers and joists construction system, and;
- iii) Include split level forms, and;
- iv) Minimise earth batters”

The Tree Protection Zone (TPZ) of Tree 1 is 15m and TPZ of Tree 2 is 10.8m in accordance with the final linen plan.

PROPOSAL

The application proposes the erection of a two-storey dwelling-house. The ground floor would comprise a living room, three bedrooms, kitchen, bathroom, toilet, laundry, ensuite, side deck and a front deck.

The first floor would comprise two bedrooms, bathroom and a landing area.

The basement would comprise a double garage and basement area.

The proposed development would result in the removal of 7 trees from the site, of which two are subject to the restriction on the 88B Instrument.

ASSESSMENT

The development application has been assessed having regard to the ‘*Metropolitan Plan for Sydney 2031*’, the ‘*North Subregion (Draft) Subregional Strategy*’ and the matters for consideration prescribed under Section 79C of the *Environmental Planning and Assessment Act 1979* (the Act). The following issues have been identified for further consideration.

1. STRATEGIC CONTEXT

1.1 Metropolitan Plan for Sydney and (Draft) North Subregional Strategy

The *(Draft) Metropolitan Strategy for Sydney 2031* is a broad framework to provide for Sydney’s growth to help plan for housing, employment, transport, infrastructure, the environment and open space. It outlines a vision for Sydney to 2031; the challenges faced, and the directions to follow to address these challenges and achieve the vision.

The North Subregion comprises Hornsby, Kuring-gai, Manly, Warringah and Pittwater Local Government Areas. The *Draft North Subregional Strategy* acts as a framework for Council in its preparation of the *Comprehensive LEP* by the end of 2013.

Within the North Subregion, the *Draft Metropolitan Strategy* proposes:

- Population growth of 81,000 from the current 2011 baseline of 529,000

- Housing growth of 37,000 from the current 2011 baseline of 204,000
- Employment growth of 39,000 from the current 2011 baseline of 186,000

The proposed development would be consistent with the *Metropolitan Plan for Sydney 2031* by providing an additional dwelling contributing to the achievement of Council's dwelling target.

2. STATUTORY CONTROLS

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

2.1 Hornsby Local Environmental Plan 2013

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

- to provide for the housing needs of the community within a low density residential environmental.*
- 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 'dwelling house' under the *HLEP* and is permissible in the zone with Council's consent.

2.2 Clause 4.3 – Height of building

Clause 4.3 of *HLEP* prescribes that the maximum building height is not to exceed the maximum height shown for the land on the Height of Building Map, which is of 8.5 metres. The proposed dwelling-house would have a building height of 9.2 metres and would not comply with this standard. This matter is addressed under Clause 4.6 below.

2.3 Clause 4.6 – Exceptions to development standards

Clause 4.6 of the *HLEP* provides flexibility in applying development standards and enables a consent authority to vary a standard where strict compliance would be unnecessary, unreasonable, or tend to hinder the objectives of the Act.

(1) The objectives of this clause are as follows:

- to provide an appropriate degree of flexibility in applying certain development standards to particular development,*
- to achieve better outcomes for and from development by allowing flexibility in particular circumstances.*

Development consent may, subject to this clause, be granted for development even though the development would contravene a development standard. However, development consent must not be granted for development that contravenes a development standard unless Council has considered a written request from the applicant that seeks to justify the contravention of the development standard.

Clause 4.6 applies to this development as 'Height of Building' is a development standard.

The purpose and objective of Clause 4.6 is similar to *State Environmental Planning Policy No. 1 – Development Standards (SEPP 1)* which previously provided flexibility in applying development standards. The Land and Environment Court has expressed the view that there are five different ways in which an objection may be well founded and that approval of the objection may be consistent with the principles of Clause 4.6 and also with the five part test:

1. *The objectives of the standard are achieved notwithstanding non-compliance with the standards;*
2. *The underlying objective or purpose of the standard is not relevant to the development and therefore compliance is unnecessary;*
3. *The underlying object or purpose would be defeated or thwarted if compliance was required and therefore compliance is unreasonable;*
4. *The development standard has been virtually abandoned or destroyed by the Council's own actions in granting consents departing from the standard and hence compliance with the standard is unnecessary and unreasonable;*
5. *The zoning of the particular land is unreasonable or inappropriate so that a development standard appropriate for that zoning is also unreasonable and unnecessary as it applies to the land and compliance with the standard would be unreasonable or unnecessary. That is, the particular parcel of land should not have been included in the particular zone.*

The above points of the Land and Environment Court are considered as a guide in assessing the application against Clause 4.6.

The applicant has submitted an objection against Council's adherence to the maximum 8.5 metre height of building development for the proposed dwelling-house. The applicant states that strict compliance with the maximum height of building requirement for the dwelling-house within the R2 zone is considered both unreasonable and unnecessary in this circumstance and that there are sufficient environmental planning grounds to justify contravening the development standard as follows:

- *At the time of preparation of the application, the Hornsby Local Environmental Plan 1994 was in force (which has been superseded since 11 October 2013). Therefore the plans were prepared under the old controls, which allowed a maximum building height of 9m.*
- *The extent of non-compliance is located in the centre of the block and is 40m² with the highest point of the building being 9.2m.*
- *There is no impact to streetscape as this is a battle-axe block.*
- *The fall from the street level to the top of the handle on the site is 6m and from the top of the handle to the rear of the site is a further 8m fall. As such, the building has been designed to the topography of the land.*
- *Considerations were made in design with regards to the sewer location. With the main being located at the front of the site, it is imperative that the living area is elevated to conform to plumbing standards regarding minimum falls.*
- *The dwelling house height does not compromise the adjacent or rear properties.*

The applicant's objection to the 8.5 maximum height of building development standard is not well founded and cannot be supported for the following reasons:

- a) The property is an environmentally constrained site with a steep topography and two significant trees that should be retained, which requires suitable design and layout of the dwelling-house in conjunction with appropriate setbacks from the two trees and with tree sensitive construction techniques. However, the proposed development is not designed sympathetically with the environmental constraints of the site and as a result the proposal does not complying with the building height development standard. If an alternative building design and layout was considered, appropriate setbacks from the trees and sensitive construction techniques utilised; a dwelling-house with a complying building height could be achievable.
- b) The objection to the development standard does not provide sufficient environmental planning grounds to justify contravening the development standard and therefore, the proposal is considered inconsistent with the provisions of the exceptions to development standard.
- c) The proposed building height would have a negative cumulative impact on the bulk and scale of the dwelling-house resulting in adverse privacy amenity impact on the adjoining property.
- d) Council's building height development standard is consistent with the NSW Housing Code which also permits a maximum building height of 8.5 metres for a dwelling-house. The proposal is inconsistent with the State Government policy and is not compatible with the low density residential environment and an approval would set an undesirable precedent in the locality.

Accordingly, the applicant's submission is considered unacceptable and the variation to the development standard cannot be supported pursuant to Clause 4.6 of the *HLEP*.

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

The application has been assessed against the requirements of *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008 – NSW Housing Code*. The Policy provides exempt and complying development codes that have State-wide application. The Policy 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 proposed dwelling house cannot be approved as Complying Development, as the subject site is mapped within an area listed under the *Threatened Species Conservation Act, 1995* and necessitates the removal of 7 trees. The site is also within Beecroft/Cheltenham Heritage Conservation Area. For these reasons, the proposal is precluded from being assessed as complying development.

The proposal would otherwise comply with the requirements of the NSW Housing Code except for the building height and the maximum floor area.

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

The application has been assessed against the requirements of *State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004*. The proposal includes BASIX Certificate No. 529929S for the proposed dwelling-house and is considered to be satisfactory with respect to *SEPP BASIX*.

2.6 Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005

The site is located within the catchment of Sydney Harbour. *Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005* aims to protect the environment of the Sydney Harbour Catchment by ensuring that the impacts of future land uses are considered in a regional context.

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.

2.7 Threatened Species Conservation Act 1995

The lower half of the site includes Blue Gum High Forest identified as a critically endangered ecological community under Schedule 1A of the *Threatened Species Conservation Act 1995*.

The Beecroft area also provides habitat for Gang Gang Cockatoos listed as an endangered population under Schedule 1 of the *Threatened Species Conservation Act 1995*. The impact of the proposal on Blue Gum High Forest trees is addresses in Section 3.1 of this report.

2.8 Section 94A Contribution

A Section 94 contribution was levied when the subject lot was subdivided under DA/1470/2009. Accordingly, a Section 94A contribution is not applicable with respect to the subject application.

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

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

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

2.10 Hornsby Development Control Plan 2013

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

HDCP – Part 3.1 Dwelling Houses			
Control	Proposal	Requirement	Complies
Site Area	758m ²	N/A	N/A
Building Height	9.2m	8.5m	No
Site Coverage	32%	max 50%	Yes

Floor Area	387m ²	380m ²	No
Setbacks			
- Side (front)	1.2m	900m	Yes
- Side (east)			
• Ground floor	3.6m	900mm	Yes
• First floor	8m	1.5m	Yes
- Side (west)			
• Ground floor	1.2m	900mm	Yes
• First floor	3.7m	1.5m	Yes
- Rear			
• Ground floor	15m	3m	Yes
First floor	22.7m	8m	Yes
Landscaped Area	>30%	30%	Yes
Private Open Space			
- minimum area	24m ²	16 or 24m ²	Yes
- minimum dimension	3m	3m	Yes
Car Parking	2 spaces	2 spaces	Yes

As detailed in the above table, the proposed development does not comply with prescriptive requirements within Council's *Housing DCP* in respect to scale, landscaping, heritage, privacy and easement and restrictions. The matters of non-compliance are detailed below, as well as a brief discussion on compliance with relevant performance requirements.

2.10.1 Scale

The proposed development does not comply with the prescriptive measures of the scale element. The proposed building height of 9.2 metres does not comply with the maximum building height requirement of 8.5 metres and the proposed 387m² dwelling-house does not comply with the maximum floor area of 380m² for a dwelling-house on a lot size between 600m² to 899m².

It is noted that the non-compliance with the building height and floor area in isolation would not result in significant impact on the streetscape and sunlight access. However, the combined non-compliances would have an adverse privacy amenity impact on the adjoining property and would necessitate the removal of trees as the dwelling design is not sympathetically with the environmental constraints of the site.

The proposal does not satisfy the desired outcomes of the scale element. It is considered that the proposal would not be compatible with the low density residential environment and would set an undesirable precedent in the locality. The proposal cannot be supported in its current form.

2.10.2 Sunlight Access

The shadow diagrams submitted indicate that shadows cast by the proposed development would comply with the prescriptive measures of the Sunlight Access element which requires that dwellings allow at least 3 hours of sunshine to 50% of the required principal private open space (24m²) of adjoining properties between 9am and 3pm on 22 June (Winter Solstice).

The proposal meets the desired outcomes of the Sunlight Access element and is considered acceptable.

2.10.3 Landscaping

The proposed development would result in the removal of 7 trees on site to facilitate the dwelling-house and associated works. Two of these trees (34 and 35 as per the site plan) are identified as significant Blue Gum High Forest trees and are subject to a restriction on the 88B which requires the trees to be retained and protected.

The application does not adequately demonstrate that the removal of these trees is appropriate based on an assessment of the significance, health and longevity of the trees. Furthermore, the proposal does not satisfy the restriction on the site in respect to the retention and protection of Trees 34 and 35.

The proposal is inconsistent with the provisions of the HDCP.

2.10.4 Heritage

The site is located within the Beecroft/Cheltenham Heritage Conservation Area identified on the Heritage Map and described in Schedule 5 of the *Hornsby Local Environmental Plan 2013 (HLEP)*. The site is also located in the vicinity of eight heritage items of local significance listed under the provisions of Schedule 5 (Heritage Items) of the *HLEP*, namely the 'house' and 'Twilight House/Sheen' at Nos. 29, 30, 38, 40, 42, 44, 46, and 51 Hannah Street.

As the proposed dwelling house is located on a battle-axe site which falls towards the rear, it would not be visible from the streetscape. Notwithstanding this, the property is located within the Beecroft/Cheltenham Plateau Precinct of the Heritage Conservation Area which is significant for its mature trees, including remnant forest trees, which combine to create a landscaped character. The proposed development would require removal of significant trees. By virtue, the removal of these trees would detract from the landscape quality of the Heritage Conservation Area.

It is considered that a dwelling-house can be accommodated on the site without requiring the removal of these significant trees and, as a result, the proposal is considered to have an unacceptable heritage impact and is not supported.

2.10.5 Privacy

The proposed decks on the ground floor level would be located between 2 metres and 4.5 metres above the existing ground level, which does not comply with the prescriptive measures of the privacy element, which states 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"*.

The proposed living room and decks of the dwelling-house are predominantly oriented towards the eastern side boundary. The proposal does not meet the desired outcomes of the privacy element, which states that a development should be designed to provide reasonable privacy to adjacent properties. It is considered that the proposed development would have a detrimental impact on the privacy amenity of the adjoining property and cannot be supported in its current form.

3. ENVIRONMENTAL IMPACTS

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

3.1 Natural Environment

The site comprises a number of exotic and locally indigenous specimens. The site contains trees which satisfy Council’s criteria of significance which form part of an Endangered Ecological Community. The proposed development would necessitate the removal of seven trees from the site, of which two of these are identified as significant Blue Gum High Forest trees (Tree 34 and 35) and are required to be retained and protected in accordance with the conditions of consent for the subdivision and the restriction on the 88B instrument.

The TPZ of Tree 35 is 15m and TPZ of Tree 34 is 10.8m. The location of the dwelling-house would be within four metres of Tree 34 and 35 and the proposal involves strip footing construction which requires excavation within the TPZ and is likely to cause a detrimental impact on the health and longevity of the trees.

Council’s tree assessment concludes that the removal of these trees is unacceptable as the applicant has not demonstrated that the fragmentation and reduction of the trees useful life expectancy is appropriate based on an assessment of the significance, health and longevity of the trees. Furthermore, to retain the trees in their current health and condition, tree sensitive construction techniques should be utilised as per the restriction on 88B instrument and the building envelope reduced.

The proposal would also have an impact on a significant tree (Sydney Blue Gum) on the neighbouring property at No. 37A Hannah Street (Lot 2, DP 857985), resulting in detrimental impact on the health and longevity of that tree.

Given the constrained and sensitive nature of the site, the proposed development is not suitable in its current form. The proposal would significantly reduce the useful life expectancy of trees onsite and on the adjoining property. The impact on the trees could be avoided by utilising tree sensitive construction techniques and reduced building envelope. Therefore the proposal, in its current form, is not supported.

3.2 Built Environment

The design of the dwelling-house would create adverse impact on the built and natural environment. The proposal would result in unacceptable built form that would be excessive in bulk and scale and therefore, would be inconsistent with the low density residential character of development in the locality with consequent impacts on the privacy of adjacent development.

It is noted that the subdivision was approved with a building envelope that retained significant trees subject to future development utilising tree sensitive construction techniques to retain the trees on site. The proposal does not satisfy this requirement and therefore, is not supported in its current form.

The site is subject to an easement for a right of access with a car turning area, benefiting proposed Lot 1. The proposed development would encroach in this easement, primarily in the vehicle turning head area. Given that this easement is benefited by both lots, any development in this area would ultimately reduce the amenity and enjoyment of the proposed Lot 1. In this regards, Council cannot support the proposed development in its current form.

3.3 Social Impacts

The proposed development would not have a detrimental social impact on the locality.

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

The site is not located on flood prone land.

4.2 Bushfire Risk

The site is not identified as being located on bushfire prone land.

5. PUBLIC PARTICIPATION

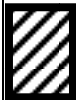
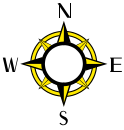
Section 79C(1)(d) of the Act requires Council to consider *“any submissions made in accordance with this Act”*.

5.1 Community Consultation

The proposed development was placed on public exhibition and was notified to adjoining and nearby landowners between 13 March 2014 and 27 March 2014 in accordance with Council's Development Control Plan. During this period, Council received one submission from the Beecroft Cheltenham Civic Trust.



NOTIFICATION PLAN

• PROPERTIES NOTIFIED	X SUBMISSIONS RECEIVED	 PROPERTY SUBJECT OF DEVELOPMENT	
ONE SUBMISSION RECEIVED OUT OF MAP RANGE			

One submission objected to the development, generally on the grounds that the development would result in:

- Unacceptable overshadowing of adjoining properties;
- Unacceptable privacy impact on the adjoining properties;
- The removal of significant trees; and
- Unacceptable disturbance of the protection area at the rear.

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 Unacceptable disturbance of the protection area at the rear

The submission raises concern regarding unacceptable disturbance of the protection area at the rear (the Restricted Development Area as per the 88B) as a result of the alteration of the water table and overland flow path.

The proposed development would be connected to an existing inter-allotment drainage system approved under the subdivision application. All collected stormwater from the dwelling-house and hard paved areas would drain to this system.

5.2 Public Agencies

The development application was not 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 has not addressed Council's criteria and would provide a development outcome that would result in an adverse impact for the community. Accordingly, it is considered that the refusal of the proposed development would be in the public interest.

CONCLUSION

The application proposes erection of a dwelling-house on a proposed lot.

The proposed dwelling would necessitate the removal of two significant trees from the site and is not considered acceptable having regards to the matters for consideration pursuant to Section 79C of the *Environmental Planning and Assessment Act 1979*.

Council received one submission during the public notification period. The issues have been addressed in the body of this 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.

JAMES FARRINGTON
Group Manager
Planning Division

ROD PICKLES
Manager - Development Assessment
Planning Division

Attachments:

1. Locality Map
2. Tree Location Plan
3. Elevations
4. Shadow Diagram
5. Floor Plans

-
6. Site Plan
 7. Stormwater Concept Plan

File Reference: DA/199/2014

Document Number: D03445800

SCHEDULE 1

1. The proposal is unsatisfactory in respect to Section 79C(1)(a)(i) of the *Environmental Planning and Assessment Act 1979* as the development does not comply with the Clause 5.9 of the *Hornsby Local Environmental Plan 2013* which aims to preserve the amenity of the area, including biodiversity values, through the preservation of trees and other vegetation.
2. Pursuant to Section 79C(1)(a)(i) of the *Environmental Planning and Assessment Act 1979* as the development does not satisfy the Clause 4.3 Height of building and Clause 4.6 Exceptions to development standard of the *Hornsby Local Environmental Plan 2013* in respect to building height development standard.
3. In accordance with Section 79C(1)(a)(iii) of the *Environmental Planning and Assessment Act, 1979*, the proposal does not comply with the desired outcomes or the prescriptive measures of the *Hornsby Development Control Plan 2013* in respect to Section 1B.6 Tree and Vegetation Preservation, Section 3.1.1 Scale, Section 3.1.3 Landscaping, Section 3.1.6 Privacy and Section 9.3.6 Beecroft-Cheltenham Heritage Conservation Area.
4. Pursuant to Section 79(1)(b) and (c) of the *Environmental Planning and Assessment Act 1979*, given the environmental constraint of the site, the proposed development is not suitable and an approval of the development would set an undesirable precedent for further inappropriate development.
5. Pursuant to Section 79C(1)(b) and (e) of the *Environmental Planning and Assessment Act 1979*, the development would have a detrimental impact on the natural and built environment and would not be in the public interest.

- END OF REASONS FOR REFUSAL -

**10 DEVELOPMENT APPLICATION - RESIDENTIAL FLAT BUILDINGS COMPRISING 64 UNITS
- 309, 311 AND 311A PACIFIC HIGHWAY, ASQUITH AND 7 BELL STREET, HORNSBY**

EXECUTIVE SUMMARY

DA No:	DA/370/2014 (Lodged 14 April 2014)
Description:	Construction of two, five storey residential flat buildings comprising 64 units with basement car parking
Property:	Lot 9 DP 650307, Lot 1 DP844075, Lot 2 844075, Lot C DP 369970, Lot 3 DP385418, Lot B DP369970, Nos. 309, 311 and 311A Pacific Highway, Asquith and No. 7 Bell Street, Hornsby
Applicant:	JH Architects
Owner:	Mr and Mrs Beocanin, Ms Lisa Fripp, Mr Graham Fripp, Mrs Kathryn Fripp, Mr Mathai Mathai, Ms Anu John, and Ms Diane Julien
Estimated Value:	\$12,338,930
Ward:	A

- The application proposes demolition of existing structures and construction of two five storey residential flat buildings comprising 64 units with basement car park.
- The proposal generally complies with the *Hornsby Local Environmental Plan 2013*, *State Environmental Planning Policy No. 65 – Design Quality Residential Flat Building* and the *Hornsby Development Control Plan 2013*.
- Four submissions have been received in respect of the application.
- It is recommended that the application be approved.

RECOMMENDATION

THAT Development Application No. DA/370/2014 for demolition of existing structures and construction of two, five storey residential flat buildings comprising 64 units with basement car parking at Lot 9 DP 650307, Lot 1 DP844075, Lot 2 844075, Lot C DP 369970, Lot 3 DP385418, Lot B DP369970, Nos. 309, 311 and 311A Pacific Highway, Asquith and No. 7 Bell Street, Hornsby be approved subject to the conditions of consent detailed in Schedule 1 of Group Manager's Report No. PL56/14.

BACKGROUND

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

The subject application for demolition of existing structures and construction of a five storey residential flat building comprising 64 units with basement car parking was lodged on 14 April 2014.

On 30 May 2014, Council sent a letter to the applicant raising concerns regarding the design of the building, solar access and other planning issues. Subsequently, meetings were held between Council officers and the applicant to discuss the concerns.

On 5 August 2014, the applicant submitted amended plans. The amended design is the subject of this report.

SITE

The site comprises four allotments, Nos. 309, 311 and 311a Pacific Highway Asquith and No. 7 Bell Street Hornsby and is located on the western side of Pacific Highway and the southern side of Bell Street. The site is irregular in shape and has an area of 2,963.80m². The site has a dual frontage of 36m to the Pacific Highway and a frontage of 12.23m to Bell Street. The site has a gentle slope of 1.19m over 86m from the north-eastern corner (rear) south-western (front) corner.

Existing improvements on the allotments include four dwelling-houses with associated swimming pool, garages and carports. Vehicular access to the allotments is via three existing driveways from the Pacific Highway and one driveway from Bell Street.

The site is mostly cleared of trees and vegetation.

The site forms part of the 'Hyacinth Street, Asquith' precinct rezoned for medium-high density housing in accordance with the Hornsby Shire Housing Strategy in September 2011. The precinct is bounded by Lodge Street, Pacific Highway, Hyacinth Street and Bouvardia Street.

The surrounding developments include single and two storey residential dwellings. The site adjoins the R2 – Low Density zone at the Bell Street frontage. The site is diagonally opposite Asquith Boys High School to the south east and within walking distance of Storey Park, to the east.

The site is located in close proximity to Asquith Railway Station and the Asquith Commercial Centre.

PROPOSAL

The proposal involves the demolition of existing structures on the site and construction of two, five storey residential flat buildings comprising 64 units with two levels of basement car parking and associated landscaping works.

The unit mix would comprise of 18 x studio, 40 x 2 bedroom and 6 x 3 bedroom units. Each building would accommodate 32 units which would be accessed via a lift in each building. The buildings would include balconies fronting the street, rear and side setbacks.

Vehicular access to the development would be from the Pacific Highway via a driveway located close to the western boundary of the site. Pedestrian access would be provided from both Bell Street and Pacific Highway. A pedestrian path would provide linkages and access through the site to all levels connecting the foyers of both buildings.

A total of 72 car parking spaces, including 9 visitors' parking spaces are proposed in two basement levels.

The site would drain to the Pacific Highway with a below ground detention tank proposed adjoining the driveway within the front setback.

ASSESSMENT

The development application has been assessed having regard to the '*Metropolitan Plan for Sydney 2031*', the '*North Subregion (Draft) Subregional Strategy*' and the matters for consideration prescribed under Section 79C of the *Environmental Planning and Assessment Act 1979* (the Act). The following issues have been identified for further consideration.

1. STRATEGIC CONTEXT

1.1 Metropolitan Plan for Sydney and (Draft) North Subregional Strategy

The *(Draft) Metropolitan Strategy for Sydney 2031* is a broad framework to provide for Sydney's growth to help plan for housing, employment, transport, infrastructure, the environment and open space. It outlines a vision for Sydney to 2031; the challenges faced, and the directions to follow to address these challenges and achieve the vision.

The North Subregion comprises Hornsby, Kuring-gai, Manly, Warringah and Pittwater Local Government Areas. The *Draft North Subregional Strategy* provided a framework for Council in its preparation of the *Hornsby Local Environmental Plan 2013*.

Within the North Subregion, the *Draft Metropolitan Strategy* proposes:

- Population growth of 81,000 from the current 2011 baseline of 529,000
- Housing growth of 37,000 from the current 2011 baseline of 204,000
- Employment growth of 39,000 from the current 2011 baseline of 186,000

The proposed development would be consistent with the *Metropolitan Plan for Sydney 2031* by providing 60 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 relevant provisions of the Plan are discussed below:

2.1.1 Land Use Zones 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:

- To provide for the housing needs of the community within a high density residential environment.*
- To promote a variety of housing types within a high 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 'residential flat building' under the *HLEP* and is permissible in the zone with Council's consent.

2.1.2 Height of Buildings

Clause 4.3 of the *HLEP* provides that the height of a building on any land is not to exceed the maximum height shown for the land on the Height of Buildings Map. The maximum permissible height for the subject site is 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 any heritage item and is not in the vicinity of a heritage item. The site is not located within a heritage conservation area identified in the *HLEP* and is not subject to consideration for heritage conservation. Therefore, no further assessment in this regard is necessary.

2.1.4 Earthworks

Clause 6.2 of the *HLEP* states that consent is required for 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 to identify any impact of excavation on adjoining properties.

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.

The site has been used for residential purposes and is unlikely to be contaminated. No further assessment is considered necessary in this regard. A condition is recommended should any contamination be found during construction requiring that Council or the Private Certifying Authority be notified.

2.3 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.

The applicant has submitted a "Design Verification Statement" prepared by a qualified designer stating that the proposed development achieves the design principles of *SEPP 65*. An assessment against the design principles prepared by a registered architect accompanies the application. The design principles of *SEPP 65* are addressed below.

2.3.1 Principle 1 - Context

Design Principle 1 is as follows:

Good design responds and contributes to its context. Context can be defined as the key natural and built features of an area.

Responding to context involves identifying the desirable elements of a location's current character or, in the case of precincts undergoing a transition, the desired future character as stated in planning and design policies. New buildings will thereby contribute to the quality and identity of the area.

The subject site is located within the Hyacinth Asquith precinct zoned for five storey residential flat buildings in close proximity to the Asquith shopping centre, Hornsby Town Centre and Asquith Railway Station. The desired future character of the area, as outlined in the *Hornsby Development Control Plan 2013*, is that of a high density residential precinct incorporating five storey developments in garden settings with parking in basements.

The *SEPP 65* assessment indicates that the proposal responds to the desired future character of the precinct as envisaged by Council. Two well articulated buildings are proposed with canopy trees to maintain the landscaped setting. Once the development of the precinct is completed, the proposal would integrate with the surrounding sites and would be in keeping with the desired urban form. It is considered that the proposed buildings would contribute to the identity and future character of the precinct.

The development responds suitably to the 'context' principle of *SEPP 65*, considering the desired future character of the area.

2.3.2 Principle 2 – Scale

Design Principle 2 is as follows:

Good design provides an appropriate scale in terms of the bulk and height that suits the scale of the street and the surrounding buildings.

Establishing an appropriate scale requires a considered response to the scale of existing development. In precincts undergoing a transition, proposed bulk and height needs to achieve the scale identified for the desired future character of the area.

The scale of the development is in accordance with the required building height and setbacks for the precinct and provides an architectural composition that achieves the required pavilion built form to minimize bulk and scale. The scale of the development is considered appropriate for the site and consistent with the desired future character of the precinct.

2.3.3 Principle 3 – Built Form

Design Principle 3 is as follows:

Good design achieves an appropriate built form for a site and the building's purpose, in terms of building alignments, proportions, building type and the manipulation of building elements.

Appropriate built form defines the public domain, contributes to the character of streetscape and parks, including their views and vistas, and provides internal amenity and outlook.

The proposed buildings are well articulated on each elevation with recessed walls, balcony projections and the appropriate use of materials and finishes. A flat roof form has been adopted for the buildings with an increased top storey setback to minimise bulk and height of the building and to mitigate amenity impacts to adjoining properties. The proposal complies with the built form principle of *SEPP 65*.

2.3.4 Principle 4 – Density

Design Principle 4 is as follows:

Good design has a density appropriate for a site and its context, in terms of floor space yields (or number of units or residents).

Appropriate densities are sustainable and consistent with the existing density in an area or in precincts undergoing a transition, are consistent with the stated desired future density. Sustainable densities respond to the regional context, availability of infrastructure, public transport, community facilities and environmental quality.

The HLEP does not incorporate floor space ratio requirements for the site. The density of the development is governed by the height of the building and the required setbacks. The proposed density is considered to be sustainable as it responds to the regional context, availability of infrastructure, public transport, community facilities and environmental quality and is considered acceptable in terms of density.

2.3.5 Principle 5 – Resource, Energy and Water Efficiency

Design Principle 5 is as follows:

Good design makes efficient use of natural resources, energy and water throughout its full life cycle, including construction.

Sustainability is integral to the design process. Aspects include demolition of existing structures, recycling of materials, selection of appropriate and sustainable materials, adaptability and reuse of buildings, layouts and built form, passive solar design principles, efficient appliances and mechanical services, soil zones for vegetation and reuse of water.

The applicant has submitted BASIX Certificate No. 535112M for the proposed development. In achieving the required BASIX targets for sustainable water use, thermal comfort and energy efficiency, the proposed development achieves the design criteria and is considered acceptable in this regard.

2.3.6 Principle 6 – Landscape

Design Principle 6 is as follows:

Good design recognises that together landscape and buildings operate as an integral and sustainable system, resulting in greater aesthetic quality and amenity for both occupants and the adjoining public domain.

Landscape design builds on the existing site's natural and cultural features in responsible and creative ways. It enhances the development's natural environmental performance by co-ordinating water and soil management, solar access, micro-climate, tree canopy and habitat values. It contributes to the positive image and contextual fit of development through respect for streetscape and neighbourhood character, or desired future character.

Landscape design should optimise useability, privacy and social opportunity, equitable access and respect for neighbour's amenity, and provide for practical establishment and long term management.

The application includes a landscape concept plan providing landscaping along the street frontage, side and rear boundaries. Additionally, large trees intercepted by shrubs and hedges are proposed to be planted along the periphery in addition to retention of trees within the site and the road reserve. This would soften the appearance of the development when viewed from the street. Deep soil zones

are provided around the building envelope and also between the buildings to the east of the site which would enhance the natural environmental performance of the development and provide an appropriate landscaped setting.

Given the above, the proposal satisfies the intent of the 'Landscaping' principle of SEPP 65.

2.3.7 Principle 7 – Amenity

Design Principle 7 is as follows:

Good design provides amenity through the physical, spatial and environmental quality of a development.

Optimising amenity requires appropriate room dimensions and shapes, access to sunlight, natural ventilation, visual and acoustic privacy, storage, indoor and outdoor space, efficient layouts and service areas, outlook and ease of access for all age groups and degrees of mobility.

The proposed units are designed to achieve natural ventilation, solar access and acoustic privacy. All units incorporate balconies accessible from living areas and privacy has been achieved through appropriate design. Storage areas have been provided within each unit and within the basement levels. The proposal would provide convenient and safe access via a central lift connecting the basement and all other levels. The proposal satisfies the 'Amenity' principle of SEPP 65.

2.3.8 Principle 8 – Safety and Security

Design Principle 8 is as follows:

Good design optimises safety and security, both internal to the development and for the public domain.

This is achieved by maximising overlooking of public and communal spaces while maintaining internal privacy, avoiding dark and non-visible areas, maximising activity on streets, providing clear, safe access points, providing quality public spaces that cater for desired recreational uses, providing lighting appropriate to the location and desired activities, and clear definition between public and private spaces.

The design orientates the balconies and windows of individual apartments towards the street, between buildings, 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 visible from the Pacific Highway. The Bell Street entry is pedestrian only and also visible from the street and units. The pedestrian accessway would provide linkages between the site, adjoining streets and recreation and infrastructure facilities.

The communal open space is proposed to be located between the two buildings and accessible from the lobbies of each building via connecting pathway. Communal facilities such as seating and BBQ areas are proposed to activate this space and increase surveillance opportunities. The area would also be overlooked by balconies with terraces also proposed on the ground level. This would add increased surveillance opportunity to the area.

The proposal includes an assessment of the development against crime prevention controls in the Statement of Environmental Effects. The report has regard to *Crime Prevention Through Environmental Design Principles (CPTED)* and includes details of surveillance, access/egress control,

territorial reinforcement and space management. Subject to the imposition of conditions of consent addressing the above matters, the proposal is supported in respect of safety and security.

2.3.9 Principle 9 – Social Dimensions and Housing Affordability

Design Principle 9 is as follows:

Good design responds to the social context and needs of the local community in terms of lifestyles, affordability, and access to social facilities.

New development should optimise the provision of housing to suit the social mix and needs in the neighbourhood or, in the case of precincts undergoing transition, provide for the desired future community.

New development should address housing affordability by optimising the provision of economic housing choices and providing a mix of housing types to cater for different budgets and housing needs.

The *Hornsby Development Control Plan 2013* includes prescriptive measures for housing choice and for adaptable housing provisions. The proposal provides a varied housing mix and adaptable housing and is supported in respect to this Principle.

2.3.10 Principle 10 – Aesthetics

Design Principle 10 is as follows:

Quality aesthetics require the appropriate composition of building elements, textures, materials and colours and reflect the use, internal design and structure of the development. Aesthetics should respond to the environment and context, particularly to desirable elements of the existing streetscape or, in precincts undergoing transition, contribute to the desired future character of the area.

The architectural treatment of the buildings is generally consistent with the design principles contained within the *Residential Flat Design Code* and *Hornsby Development Control Plan 2013*. It is considered that the aesthetic quality of the buildings would contribute to the desired future character of the precinct. A detailed assessment of the built form and the aesthetics of the development are contained in Section 2.10 of this report.

2.4 SEPP 65 – Residential Flat Design Code

SEPP 65 also requires consideration of the *Residential Flat Design Code*, NSW Planning Department 2002. The *Code* 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 *Code*:

Residential Flat Design Code			
Control	Proposal	Requirement	Compliance
Deep Soil Zone	36%	Min 25%	Yes
Communal Open Space	32%	25-30%	Yes
Ground Level Private	Balconies range	25m ²	No

Open Space	from 10m ² to 29m ² 2.5m – 3.7m	Min Dimension 4m	No
Dwelling Size	1 br – 51m ² – 72m ² 2 br – 75m ² – 86m ² 3 br – 95m ² -105m ²	1 br – 50m ² min. 2 br – 70m ² min. 3 br – 95 m ² min.	Yes Yes Yes
Unit Depth and Maximum Kitchen Distance	8.4m – U6, 9, 106, 109, 206, 209, 306, 309	8m	No
Minimum Balcony Depth	2m	2m	Yes
Ceiling Heights - Residential Floors	2.7m	2.7m (Min)	Yes
Total Storage Area	6m ³ 8m ³ 10m ³ 50% accessible from units	6m ³ (Min) 8m ³ (Min) 10 m ³ (Min) 50% accessible from the apartments	Yes Yes Yes Yes
Dual Aspect & Cross Ventilation	62.5% - 40 units	60%	Yes
Adaptable Housing	19 units - 30%	10%	Yes

As detailed in the above table, the proposed development complies with the prescriptive measures within the *Residential Flat Design Code (RFDC)* other than the minimum dimensions of the ground floor open space and maximum kitchen distance from a window. Below is a brief discussion regarding the relevant development controls and best practice guidelines.

2.4.1 Building Depth and Separation

The proposed building depth and the design of the building facades are in accordance with the requirements of Council's *Hornsby Development Control Plan 2013* as discussed in Section 2.10.

The *RFDC* requires a building separation of 12m between unscreened habitable areas or balconies increasing to 18m from the fifth level, for two adjoining residential flat buildings. The eastern and western facades from levels 1 to 4 do not comply with this requirement. The facades include balconies which protrude to 5m from the boundary. To alleviate any privacy concerns which may arise, each balcony has been provided with louvered privacy screens which would also allow for sunlight access. The matter has been further discussed in Section 2.10 of this report.

2.4.2 Ground Floor Apartments and Private Open Space

The private open space areas for units 2, 4, 5, 6, 7, 8, 9, 10, 12 and 13 do not comply with the *Code's* best practice for the 25m² minimum open space areas and 4 metre minimum width dimension for ground floor open spaces. However, the proposed ground floor open space areas are considered

appropriate for the respective ground floor units in respect to dwelling size, aspect, unit configuration and amenity.

The private open space areas have been designed in accordance with the requirements of Council's *Hornsby Development Control Plan 2013* which states that the deep soil area within the setbacks of the development should be retained as communal open space. The objective of this control is to provide a landscaped setting to the development. As such, a minimum depth of 2.5m has been provided and the numerical non-compliance is considered to be minor and thus acceptable. Furthermore, the site is within walking distance of Storey Park and Asquith Community Centre which would provide added open space and amenity for residents.

2.4.3 Apartment Layout

The proposed development includes a mix of single aspect and corner units including one, two and three bedroom apartments. The habitable areas of all units would be well ventilated and the balconies are orientated to maximise solar access. The development includes an appropriate mix of units which address the RFDC requirements for well organised and functional units whilst also including units which can contribute to housing affordability. In this regard, a range of unit sizes are proposed.

The RFDC requires that the back of a kitchen should be no greater than 8m from a window. Of the 64 units proposed, 8 units contain kitchens where the back wall is up to 8.4m from a window. These units offer an open layout with natural ventilation. In addition to this, the submitted BASIX certificate indicates that a ducted ventilation system is required in each kitchen to ensure appropriate ventilation. Accordingly, the minor non-compliance is acceptable with respect to residential amenity.

Given the irregular shape of the site, the typical floor layouts indicate that the apartments would include regular shaped rooms and apartment layouts which are functional and satisfy the RFDC requirements for internal privacy, access to sunlight, natural ventilation and acoustic privacy.

It is considered that the apartment layout and mix achieves the intent of the best practice requirements of the RFDC and is acceptable in this regard.

2.4.4 Internal Circulation

The proposed development includes access to all floors via a lift. The internal corridors meet the Code's requirements for the number of units accessed (less than 8) and design for amenity. The ground floor corridor also provides level access to the communal open space.

The proposal is acceptable with respect to the requirements of the RFDC for internal circulation.

2.4.5 Acoustic Privacy

The internal layout of the residential units is designed so that noise generating areas would adjoin each other wherever possible. Storage or circulation zones would act as a buffer between units. Bedrooms and service areas such as kitchens, bathrooms and laundries would be grouped together wherever possible. The proposal is consistent with the RFDC for acoustic privacy.

2.4.6 Storage

The storage areas are provided at the basement levels and additional storage areas are also provided within the apartments. The spaces provided in the basement exceed that required by the RFDC and are assessed as satisfactory.

2.5 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 development is located immediately adjoining a classified road corridor (Pacific Highway) and rail corridor. The following matters are required to be considered pursuant to the *SEPP*.

2.5.1 Development with Frontage to a Classified Road

The proposal has been assessed against the requirements of Clause 101 of *SEPP (Infrastructure)* as the site has frontage to the Pacific Highway and proposes new vehicular access from the road. The development is not classified as a Traffic Generating Development in accordance with Clause 104 and Schedule 3 of *SEPP (Infrastructure)* as it would not result in more than 75 dwellings fronting a classified road.

The proposed development was referred to the NSW Roads and Maritime Services (RMS) for comment and it was advised that:

- The RMS current practice is to limit the number of vehicular conflict points along the arterial road network to maintain efficiency and road safety.
- The current practice is reflected in Section 6.2.1 of Road and Maritime's current publication of the Guide to Traffic Generating Developments which states 'access across the boundary with a major road is to be avoided wherever possible'.

Council's traffic assessment notes that the Pacific Highway between Galston Road and Jersey Street North is a regional road under Council control with the RMS contributing 50% to the cost of its maintenance to reflect the status. Access driveways are a common feature of the road network and in general terms the rezoning of the properties will result in individual sites combined into larger blocks of land with single access points. This will reduce the number of conflict points along the Pacific Highway. Providing all vehicular access to this development via Bell Street is not supported due to the significant increase in traffic in this low density residential cul-de-sac. The traffic impact on the Pacific Highway would be insignificant when compared with existing background traffic volumes.

The proposed driveway lies near a horizontal curve. To improve the safety for traffic exiting the site it is recommended that all exiting traffic be limited to left out. This should be achieved by providing a triangular island within the property to separate the entry and exit movements.

Council's traffic assessment also notes the presence of speed bumps along the Highway adjoining the site. A pedestrian island is located adjacent to the site which further aids in reducing the speed of traffic passing the site. Furthermore, the site is adjacent to Asquith Boys and Asquith Girls Schools and school zones are enforced in the area. Accordingly, Council's traffic assessment raises no objections to the proposed vehicular access arrangements for the proposal.

Clause 101 of *SEPP Infrastructure* states that:

The consent authority must not grant consent to development on land that has a frontage to a classified road unless it is satisfied that:

- a) *where practicable, vehicular access to the land is provided by a road other than the classified road,*

In this instance, Bell Street is within the Low Density zone and contains single dwellings fronting the cul de sac. It would not be practical for this road to accommodate the increased traffic generated by the proposed development. This would have a negative impact on the amenity of the current residents.

In conclusion, the proposal is not considered integrated development and the concurrence of the RMS is not required. The comments received are advisory in nature. Accordingly, no objections are raised to the proposed accessway from Pacific Highway as there is sufficient capacity within the road network to accommodate the anticipated traffic movements.

2.5.2 Impact of Road Noise

Assessment of the impact of road noise on a residential use is required pursuant to Clause 102 of *SEPP (Infrastructure)*, where a development fronts a road with an annual average daily traffic volume of more than 40,000 vehicles. The Traffic and Parking Report submitted by the applicant states that the section of the Pacific Highway fronting the site had an annual average daily traffic volume of less than approximately 19,000 vehicles in 2005 and that the traffic volume has not changed significantly since then. Accordingly, based on traffic generation along this section of the Pacific Highway, the SEPP does not apply.

A condition of consent included in Schedule 1 requires the submission of a detailed Acoustic Assessment report to ensure minimal impact on the dwellings fronting the Pacific Highway. Noise within the development is not to exceed the specified noise criteria and L_{Aeq} levels within Clause 102 of the *SEPP (Infrastructure)*. Council's assessment in this regard concludes that suitable noise mitigation measures can be recommended and implemented to ensure compliance with the Policy.

The Construction Certificate Plans would be required to demonstrate compliance with the recommendations of the acoustic report through the use of appropriate materials for glazing and construction.

2.6 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 BASIX Certificate No. 535112M for the proposed units and is considered to be satisfactory.

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

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

2.8 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.

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

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

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

2.10 Hornsby Development Control Plan 2013

The proposed development has been assessed having regard to the relevant performance and prescriptive requirements within *Hornsby Development Control Plan 2013 (HDCP)*. The development controls within “*Section 3.4-Residential Flat Building (5 storeys)*” of the *HDCP* applies to the site in addition to the general controls within Part 1 of the document. The following table sets out the proposal’s compliance with the relevant provisions of the Plan:

Hornsby Development Control Plan			
Control	Proposal	Requirement	Compliance
Site Width	36m (Pacific Highway)	30m	Yes
Height	5 storeys – 17.5m	5 storeys – 17.5m	Yes
Lowest Residential Floor Above Ground	<1.5m	Max - 1.5m	Yes
Maximum Floorplate Dimension	32.10m (N-S) 25.4m (E-W)	35m 35m	Yes Yes
Building Indentation	Building A – East – 4m x 4m Building A – West – No indent Building B – East – No indent Building B – West – 4m x 4m	4m x 4m	Yes No Yes No
Height of basement above ground	0.3m – between buildings	1m (max)	Yes

Front Setback (Pacific Highway)	10m 8m < 1/3 of frontage 7m balconies	10m 8m < 1/3 of frontage 7m (balconies)	Yes Yes Yes
Rear Setback	10m 8m < 1/3 of frontage 7m balconies	10m 8m < 1/3 of frontage 7m (balconies)	Yes Yes Yes
East Side Setback	6m Building A – 16.8m Building B – 11.25m (including balconies)	6m Building A - 4m < 1/3 building width (8.3m) Building B - 4m < 1/3 building width (10.7m)	Yes No No
West Side Setback	6m Building A – 11.25m Building B – 16.8m (including balconies)	6m Building A - 4m < 1/3 building width (8.3m) Building B - 4m < 1/3 building width (10.7m)	Yes No No
Top Storey Setback From Ground Floor	3m additional	3m additional	Yes
Underground Parking Setback	7m front and rear 4m sides	7m front and rear 4m sides	Yes Yes
Basement Ramp Setback	2m (western side)	2m	Yes
Deep soil Landscaped areas	7m front and rear 4m sides	7m front and rear 4m sides	Yes Yes
Private Open Space with Min Width 2.5m	1 br units > 10m ² 2 br units > 11m ² 3 br units > 42m ²	1 br units 10m ² (min) 2 br units 12m ² (min) 3 br units 16m ² (min)	Yes No Yes
Communal Open Space with minimum dimension 4m	32% 298m ² in between buildings	25% 50m ² (min) for each building	Yes Yes
Parking (site within 800m of railway station)	63 resident spaces 9 visitor spaces 13 bicycle racks	63 resident spaces 9 visitor spaces 13 bicycle racks	Yes Yes Yes

	7 visitor bicycle racks 0 motorbike space	7 visitor bicycle racks 2 motorbike spaces	Yes No
Solar Access	70% units receive 2 hours 2 hours to Communal Open Space	70% units receive 2 hours 2 hours to Communal Open Space	Yes No
Housing Choice	1 br unit – 28% (18 units) 2 br unit – 62.5% (40 units) 3 br unit - 9.4% (6 units)	10% of each type (min) 10% of each type (min) 10% of each type (min)	Yes Yes No – minor noncompliance
Adaptable Units	30% - 19 units	30%	Yes

As detailed in the above table, the proposed development does not comply with the prescriptive measures within *HDCP* regarding setbacks, floor plate indents and minimum private open space. The matters of non-compliance are detailed below, as well as a brief discussion regarding the desired outcomes and the prescriptive measures.

2.10.1 Desired Future Character

The site is included in the Hyacinth Street, Asquith Precinct which was rezoned from Residential A (Low Density) to R4 (High Density Residential) Zone as part of Council's *Housing Strategy*.

The proposed building is in accordance with required key principles for the future character of the precinct for well articulated five storey residential flat buildings in garden settings with basement car parking. The proposal complies with the desired outcome for the precinct.

2.10.2 Design Quality – SEPP 65

The proposed development is designed in accordance with the design principles of *SEPP 65* except the building separation on the southern side. Refer to discussion in Sections 2.3 and 2.4.

2.10.3 Site Requirements

The *HDCP* requires sites to have a minimum frontage of 30 metres. The subject site has a frontage of 36m to the Pacific Highway and complies with this requirement. The proposal would not result in the isolation of any site for future development.

2.10.4 Height Requirements

The proposed building complies with the 17.5 metre maximum height limit. The proposed basement car park would not project more than 1m above finished ground level. Accordingly, the proposed development is satisfactory in respect to the five storey built form. Three submissions raise concerns relating to the height of the building exceeding 5 storeys. The public responses are concerned that a non-compliance would set a precedent for future developments to exceed the five storey control.

The proposal includes a mezzanine level which is considered to be a floor within a room. The proposed mezzanines are no more than 1/3 of the floor area of the room that they are situated and accordingly, not considered to be an additional storey to the development. The proposal is within the 5 storey height limit and does not exceed 17.5m in height. Accordingly, no further concerns are raised in this respect.

2.10.5 Setbacks

The proposal presents a minor non-compliance in relation to the required setbacks on the eastern and western facades. The non-compliance relates to the balconies which protrude to 5m from the side boundary. Notwithstanding, the proposed design results in a well-articulated built form with the provision of deep soil planting and landscaping at the side boundaries. The balconies have been provided with louvered screens to mitigate any privacy impacts.

Two submissions raise concerns in relation to privacy impacts on adjoining properties to the rear. The proposal complies with the setback requirement from the rear boundary. Furthermore, fixed privacy screens have been provided on the balconies of the units adjoining the rear boundary. These screens have been placed to minimise overlooking from the living spaces of the units. It is also noted that canopy trees are proposed within the rear setback area including *Corymbia maculata* which would grow to a height of 8m. A condition of consent also recommends the planting of native indigenous trees with a mature height of 10 metres. The landscape plan also includes the construction of a new 1.8m high fence along the boundary. It is considered that the measures proposed would mitigate privacy impacts and result in a development in keeping with that envisaged by the controls. The proposal is acceptable with respect to setback and privacy controls.

2.10.6 Building Articulation

Indentation

The proposed development provides a mid-elevation, minimum 4m by 4m vertical indentation on the eastern façade of Building A and a 4m by 4m indent on the western façade of Building B which complies with the DCP requirement. The indentation creates the appearance of separate building pavilions, which is further accentuated by corresponding roofs above each pavilion element. The applicant notes that the opposing elevations would not require an indent as the building length is reduced to 25m on the opposite side. The building length would appear shorter than the opposing elevation and therefore an indent is not required.

The design of the proposed development is considered suitable given that the overall building bulk and massing has been successfully tempered through the use of recessed bays, appropriate roof design, fenestration, textures and materials.

Articulation

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

- The buildings have been vertically stepped, two steps being provided on the ground and the fifth storey across 50% of the width of each façade along with four storey high vertical solid panels.
- The facades have been divided into vertical 'panels', no wider than 8 metres, except one panel on the western elevation of Building A and the eastern elevation of Building B elevation (9m length). All such, panels have been visually separated by indentations and projections across the alignment of the exterior walls, balconies and terraces to achieve the desired articulation.
- The 9m long panel on the side elevations would not have a negative visual impact on the streetscape. The panel has been visually divided by windows and the non-compliance in length is acceptable.

- The façade treatment, size and placement of windows, protruding balconies, vertical and horizontal blade walls and panels and stepped levels of the building, flat roof and large proportion of openings at the topmost storey minimises the bulk and scale and would contribute to the streetscape.
- The buildings would incorporate contemporary colours with a varied range of materials and finishes.

The design of the floor plates, the proposed indentations and materials and finishes would result in appropriate articulation of the facades.

2.10.7 Landscaping

The proposal complies with the landscape and deep soil provisions within the *HDCP*. The extent of hard stand areas proposed is considered to be minimal, as provision has been made for deep soil areas to accommodate mature canopy trees, provide street trees and achieve a soft landscape setting around the built form. The landscape design incorporates screen planting around all ground floor units.

Courtyards fronting the Pacific Highway include *Syzygium luehmanni* planting which has dense foliage and acts as hedging providing screening for the units. A masonry wall and front fence with a height of 1.2m is proposed along the entire frontage of the site which complies with the requirements of the *HDCP*.

The Bell Street entry includes similar treatment with a 1.2m masonry wall and fence. A condition of consent is included in Schedule 1 requiring the letter boxes to be relocated two metres from the boundary on both frontages. This would address the concerns raised in the four submissions relating to rubbish which would be generated from junk mail due to the location of the letter boxes on Bell Street.

2.10.8 Open Space

The majority of the proposed private open space areas comply with the prescriptive area requirements of the *HDCP* and are designed for active living and to maximise useable space. Units 105, 107, 108, 110, 205, 207, 208, 210, 305, 307, 308, 310 are two bedroom units and do not comply with the *HDCP* minimum requirement of 11m². However, the balconies comply with the recommended area for a corner unit within the *RFDC*. All of the units are corner units and dual aspect and therefore address *the Code*. The proposal is considered acceptable in this regard.

The proposal includes communal open space at the rear and sides with landscaped areas. The site also includes a landscaped area through the centre of the site between the two buildings. This area includes covered decking and BBQ facilities which would activate the area.

This primary communal open space area would not receive the required minimum sunlight access between 9 am and 3 pm during Winter Solstice. However, given the location of the site adjoining the low density zone to the rear, the location of the open space to the centre of the site to preserve the amenity of the adjoining residences is considered acceptable. It is also noted that one submission was received seeking clarification as to the location of the communal open space. The proposed location would address the concerns raised with respect to noise from this area.

Furthermore, the site is within walking distance (70 metres) of Storey Park and Asquith Community Centre. This would provide additional open space to cater for the recreational needs of future occupants.

It is noted that direct access to the communal open space has not been provided through the lobby. However, a continuous path of travel is provided around the building to access the facilities at the rear. The design of the communal open is assessed as satisfactory.

2.10.9 Solar Access

The applicant has submitted solar access diagrams demonstrating compliance of individual units with solar access requirements. As the site is located within a redevelopment precinct, the solar access analysis has taken into account the overshadowing impacts from future five storey developments on adjoining sites. The application as submitted did not comply with the minimum requirement. In response to Council's request, the applicant reviewed the overshadowing from an indicative compliant development on the adjoining site. This resulted in the redesign of a number of units within the buildings, including the orientation of the living spaces and bedrooms and the addition of windows to ensure sunlight access is achieved.

As a result, the applicant now submits that 70% (45/64) of the units would receive a minimum 2 hours of unobstructed sunlight access between 9am and 3pm on June 22. Council's assessment in this regard concludes that the proposal is satisfactory in providing solar access for future occupants of the units.

One submission raises concerns in relation to the overshadowing of No. 5 Bell Street due to the proposal. No. 5 Bell Street is located to the north of the site and would not be affected by overshadowing from the proposed residential flat building.

2.10.10 Housing Choice

The proposed development includes a range of housing types and provision for people with disabilities and for aging in place in accordance *HDCP* prescriptive measures. Nineteen of 64 units are proposed as adaptable units which complies with the 30% requirement of the *HDCP*. The proposal complies with the prescriptive measures of the *HDCP* and the *RFDC*.

2.10.11 Vehicle Access and Parking

The proposed basement car park is over two levels and is accessed via a 5.5m wide driveway from the Pacific Highway. The parking provision is in accordance with the minimum number of car spaces prescribed by the *HDCP*. The proposal does not include motor bike parking and a condition of consent is recommended to address this deficiency. The driveway width, ramp gradients and aisle widths are assessed as satisfactory. The basement level includes storage areas for residents and a bicycle parking area.

To improve the safety for traffic exiting the site, it is recommended that all exiting traffic be limited to left in, left out movements only. This should be achieved by providing a triangular island within the property to separate the entry and exit movements. A sign stating "All traffic left ONLY" is to be installed within the property along with appropriate pavement arrows to indicate the desired departure movement.

The submissions received raise concerns in relation to additional traffic and parking on Bell Street due to the proposed development. Concerns were also raised in relation to pedestrian safety on the street and future visitors and residents parking on Bell Street.

It is noted that the proposal provides vehicle and bicycle parking within the basement levels in compliance with the DCP for residents and visitors. Notwithstanding, it is recommended that "No

Parking” restrictions be posted in the cul-de-sac bulb of the street subject to approval by the Hornsby Local Traffic Committee. A condition of consent has been included in Schedule 1 of this report.

The submissions also question the use of Bell Street by trades and construction vehicles during the demolition of construction phase. In this regard, all construction vehicles are to access the site via Pacific Highway only. This is to be included in the traffic management plan and adhered to during the works phase.

Subject to compliance with the recommended conditions of consent, no further assessment is required with respect to vehicle access.

2.10.12 Hyacinth Street, Asquith Precinct

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

The development would provide for a landscaped setting and a built-form that is consistent with the desired future outcome for the *Hyacinth Street, Asquith Precinct*.

2.10.13 Waste Management

The proposal includes a waste management plan with details of waste management during the demolition phase and the construction phase of building works. A garbage room would be provided at the basement level 1 capable of accommodating 8 x 240L recycling bins and 3 x 660L waste bins.

Each residential level would include a garbage chute and recycling room. The chute would empty into the garbage room. No carousel/volume handling equipment is required for this development. The basement also includes a room for placement of unwanted bulky items awaiting collection.

All submissions received raise concerns in relation to rubbish collection from the units. The upper basement level would allow the manoeuvring of a SRV for garbage collection twice weekly. All rubbish would be removed from the basement by a waste collection vehicle which would enter the site via the Pacific Highway. The development would not require waste collection from the kerb. Turning circles have demonstrated accessibility to the basement in this regard. No further concerns are raised in this respect.

The proposal is assessed as satisfactory against the provisions of the *HDCP* in this regard.

2.10.14 Accessible Design

The applicant has submitted an Access Report which demonstrates that the units are capable of being adapted for people with a disability in accordance with *AS4299-1995 Adaptable housing*. A condition is recommended for four of the units to be wheelchair accessible units in accordance with *AS1428.1 – Design for Access and Mobility*.

A further condition recommends replacement of the step pavers with solid pavements to enable wheelchair accessibility to the central open space from both site pedestrian entries and from both internal lobbies. Subject to this change, the development would provide continuous barrier free access to all floors via a lift and complies with the requirements of the *HDCP*. The width of the corridors and the lift would be suitable for wheelchair access.

2.10.15 Stormwater Management

The development proposes to connect to Council's drainage system located in Pacific Highway via below ground on-site detention (OSD) system to control the discharge of water from the site. Council's

engineering assessment concludes that the OSD system is satisfactory, subject to conditions recommended in Schedule 1.

3. ENVIRONMENTAL IMPACTS

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

3.1 Natural Environment

The proposed development would necessitate the removal of four trees from the site. The application has been supported by an arborist report that assesses existing trees on site. The trees to be removed are melaleuca species and located to the east of the site. The trees form a hedge and have a height of 8m. The trees would be adversely affected by the demolition and excavation works. The trees are not indigenous species listed under *Table 1B.6(b) – Tree Species Indigenous to Hornsby Shire of HDCP 2013*. Accordingly, no objections are raised to their removal.

Subject to conditions and on-going maintenance of the landscaped areas, the development would achieve a landscape setting and would be acceptable with respect to the natural environment.

3.2 Built Environment

The buildings would be located within a precinct identified with a future character of five storey residential flat buildings in a landscaped setting with underground car parking. The built form of the proposal would be consistent with the desired future character of the precinct.

3.3 Social Impacts

The residential development would improve housing choice in the locality by providing a range of household types. The location of the development is in close proximity to Asquith Railway Station, Asquith Commercial Centre and Hornsby Town Centre, allowing direct access to retail, business, recreational, health and educational facilities for future residents.

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*”.

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

5. PUBLIC PARTICIPATION

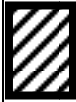
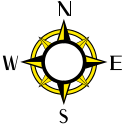
Section 79C(1)(d) of the Act requires Council to consider “*any submissions made in accordance with this Act*”.

5.1 Community Consultation

The proposed development was placed on public exhibition and was notified to adjoining and nearby landowners between 1 May and 15 May 2014 in accordance with *HDCP*. During this period, Council received four submissions. The map below illustrates the location of those nearby landowners who made a submission that are in close proximity to the development site.



NOTIFICATION PLAN

• PROPERTIES NOTIFIED	X SUBMISSIONS RECEIVED	 PROPERTY SUBJECT OF DEVELOPMENT	
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Four submissions object to the development, generally on the grounds that the development would result in:

- Building height of 6 storeys;
- Pedestrian safety impacts;
- Amenity impacts due to entranceway through Bell Street;

- Privacy impacts;
- Overshadowing of No. 5 Bell Street;
- Communal area will add to noise and pollution of Bell Street;
- Noise and disruption during the demolition and construction phase;
- Disposal of asbestos encountered during demolition;
- Parking on Bell Street by visitors to the units;
- Parking on Bell Street by tradies during construction phase;
- Crime - the entranceway would promote loitering at the letter boxes;
- Graffiti;
- Rubbish gathering from junk mail;
- Rubbish bins being collected from Bell Street causing pollution and interference on the street;
- Privacy issues caused by increasing numbers of passers by being able to look into the windows of houses on Bell Street; and
- This development will set the mark for higher buildings in the area.

Additional requests included:

- Request relocation during the construction phase; and
- Restriction to work hours 7am – 5pm and 8 – 1 pm.

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

5.2 Relocation During Construction and Construction Work Hours

Two submission request relocation during the construction phase. This is not a condition that can be imposed under the *Environmental Planning and Assessment Act, 1979*. All work on site (including demolition and earth works) will be restricted to between 7am and 5pm Monday to Saturday. No work would be undertaken on Sundays or public holidays.

5.3 Noise and Disruption During Construction

Three submissions raise concerns relating to the demolition and construction stage of the development. The submissions relate to construction noise and disruption and asbestos removal from the site.

A condition of consent is recommended to ensure that construction works are undertaken in accordance with the *“Interim Construction Noise Guidelines – 2009”* published by Department of Environment and Climate Change NSW.

5.4 Public Agencies

The application was referred to the Roads and Maritime Services (RMS) for comments under the provisions of Section 138 of the *Roads Act 1993* and this has been discussed in detail under Section 2.5.

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 seeks approval for the demolition of the existing structures and the construction of two, five storey residential flat buildings comprising sixty four units with two levels of basement car parking. The proposed development would be located on a site within a locality zoned as a high density residential precinct.

The proposed development is satisfactory in respect to the *Hornsby Local Environmental Plan 2013*, design principles under *SEPP 65* and the best practice guidelines of the *Residential Flat Design Code*, subject to recommended conditions. The proposed development has regard to the requirements of the *Hornsby DCP* and is considered acceptable in respect to the desired future character of the Hyacinth Street, Asquith precinct.

The application is recommended for approval.

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

ROD PICKLES
Manager - Development Assessment
Planning Division

JAMES FARRINGTON
Group Manager
Planning Division

Attachments:

1. Locality Plan
2. Site Plan
3. Landscape
4. Floor Plans
5. Elevations
6. Shadow Diagram

File Reference: DA/370/2014
Document Number: D03276527

SCHEDULE 1**GENERAL CONDITIONS**

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

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

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

1. Approved Plans and Supporting Documentation

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

Approved Plans

Plan No.	Plan Name	Drawn by	Dated
DA100 – Rev. D	Site Plan/Roof Plan	JH Architects	Feb 2014
DA101 – Rev. D	Lower Basement	JH Architects	Feb 2014
DA102 – Rev. D	Upper Basement	JH Architects	Feb 2014
DA103 – Rev. D	Ground Level	JH Architects	Feb 2014
DA104 – Rev. D	Level 1	JH Architects	Feb 2014
DA105 – Rev. D	Level 2	JH Architects	Feb 2014
DA106 – Rev. D	Level 3	JH Architects	Feb 2014
DA107 – Rev. D	Level 4	JH Architects	Feb 2014
DA108 – Rev. D	Mezzanine Level	JH Architects	Feb 2014
DA200 – Rev. D	Elevations	JH Architects	Feb 2014
DA201 – Rev. A	Front Entry to Pacific Highway/Bell St	JH Architects	Feb 2014
DA300 – Rev. D	Elevation, Section AA/BB/CC	JH Architects	Feb 2014
DA500 – Rev. C	Colour Schedule	JH Architects	Feb. 2014
LPDA 14 – 261 / 1	Landscape Plan	Conzept Landscape Architects	February 2014
LPDA 14 – 261 / 2	Detail Plan	Conzept Landscape Architects	March 2014

Supporting Documentation

Plan Title	Drawn by	Dated
BASIX Certificate No. 535112M	Damian O Toole Planning P/L	25 March 2014

Assessors Certificate		
Access and Adaptability Assessment Report	PSE Access Consulting	16 March 2014
Design Verification Statement	JH Architects	-
DA001 – Rev. B – Demolition Plan/Survey Plan	JH Architects	Feb 2014
Waste Management Plan	-	Received 14/4/2014
Arboricultural Impact Report	Tree Talk Arboricultural Consulting	March 2014
Assessment of Traffic and Parking Implications	Transport and Traffic Planning Associates	April 2014

2. Amendment of Plans

The approved plans are to be amended as follows:

- a) All vehicles entering and leaving the development must be limited to left in left out movements only. This is to be achieved by providing a triangular island within the property to separate the entry and exit movements as marked in red on the approved plans – Upper Basement Plan - DA102 – Revision D – prepared by JH Architects, dated February 2014 . The amended plans should be provided to Council traffic Branch for approval prior to the issue of a construction certificate.
- b) The bin room on the Upper Basement Plan is to be amended as marked in red on the approved plan DA102 – Revision D – prepared by JH Architects, dated February 2014 and as follows;
 - i) The bulky waste area is to be 8m³ with a length of 2.5m x 3.2m. The roller door opening is to be 2m.
 - ii) The resident door entrance is to be 850mm.
 - iii) The roller door for access to the Linear and Garbage is to be 5m in length.
 - iv) The Linear is to be caged for resident security.
 - v) 8 x 240L recycling bins are to be provided.
 - vi) 3 x 660L waste bins are to be provided.

3. Removal of Existing Trees

This development consent only permits the removal of tree(s) numbered 1, 2, 3 and 4 as identified in the supplied Landscape Plans prepared by JH Architects and Conzept Landscape Architect dated 19 March 2014. The removal of any other trees requires separate approval in accordance with the Tree and Vegetation Chapter 1B.6 Hornsby Development Control Plan (HDCP).

4. Acoustic Report

An acoustic report is to be provided prior to the issue of a construction certificate demonstrating that appropriate measures will be taken to ensure that the following LAeq levels are not exceeded:

- a) in any bedroom in the building—35 dB(A) at any time between 10 pm and 7 am,

- b) anywhere else in the building (other than a garage, kitchen, bathroom or hallway) 40 dB(A) at any time.

The report is to provide details of construction techniques and measures to attenuate road noise and vibration. The development must not exceed the specified noise criteria and L_{Aeq} levels within Clause 102 of the *SEPP (Infrastructure)*.

5. Construction Certificate

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.

6. Section 94 Development Contributions

In accordance with Section 80A(1) of the *Environmental Planning and Assessment Act 1979* and the *Hornsby Shire Council Section 94 Development Contributions Plan 2012-2021*, the following monetary contributions shall be paid to Council to cater for the increased demand for community infrastructure resulting from the development:

Description	Contribution (4)
Roads	\$72,512.20
Open Space and Recreation	\$723,260.05
Community Facilities	\$100,818.90
Plan Preparation and Administration	\$3,017.65
TOTAL	\$899,608.80

being for 60 additional dwellings.

- a) If the contributions are not paid within the financial quarter that this consent is granted, the contributions payable will be adjusted in accordance with the provisions of the Hornsby Shire Council Section 94 Development Contributions Plan and the amount payable will be calculated at the time of payment in the following manner:

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

Where:

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

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

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

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

- b) The monetary contributions shall 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.

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

7. Building Code of Australia

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

8. Contract of Insurance (Residential Building Work)

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

9. 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.

10. Water/Electricity 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) *Sydney Water* – the submission of a ‘Notice of Requirements’ under s73 of the *Sydney Water Act 1994*.

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

11. Dilapidation Report

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

12. Adaptable Units and Letter Boxes

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

The details of letter boxes must be provided with the Construction Certificate Plans. The letter boxes must be relocated to two metres from the boundary on both Pacific Highway and Bell Street.

13. Internal Driveway/Vehicular Areas

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

- a) Design levels at the front boundary must be obtained from Council;
- b) The driveway must be a rigid pavement;
- c) Bicycle parking spaces are to be designed in accordance with AS 2890.3-1993;
- d) Two motorcycle parking space are to be provided in the basement and to be designed in accordance with AS 2890.5-1993;
- e) All parking for people with disabilities is to comply with AS/NZS 2890.6:2009 Off-street parking for people with disabilities.

Note: All works relating to driveways and parking areas must be completed prior to the issue of the Occupation Certificate.

14. Acoustic Report

The Construction certificate plans must demonstrate compliance with the recommendations in the submitted *Acoustic Report* (required as per condition No.4) including materials of construction and glazing details.

15. Construction Traffic Management Plan

A Construction Traffic Management Plan detailing construction vehicle routes, number of trucks, hours of operation, access arrangements and traffic control must be submitted to Council for approval prior to the issue of a construction certificate.

16. Preservation of Survey Infrastructure

Prior to the issue of a construction certificate, a registered surveyor shall identify all survey marks in the vicinity of the proposed development. Any survey marks required to be removed or displaced as a result of the proposed development shall be undertaken by a registered surveyor in accordance with Section 24 (1) of the Surveying and Spatial

Information Act 2002 and following the Surveyor General's Directions No.11 – "Preservation of Survey Infrastructure".

REQUIREMENTS PRIOR TO THE COMMENCEMENT OF ANY WORKS

17. Erection of Construction Sign

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

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

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

18. Protection of Adjoining Areas

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

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

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

19. Toilet Facilities

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

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

20. Erosion and Sediment Control

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

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

21. Traffic Control Plan

A Traffic Control Plan (TCP) must be prepared by a qualified traffic controller in accordance with the *Roads & Traffic Authority's Traffic Control at Worksites Manual 1998* and *Australian Standard 1742.3* for all work on a public road and be submitted to the PCA. 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 (no construction vehicle access is permitted from Bell Street).
- e) Traffic management plans.
- f) Pedestrian and cyclist access/safety.
- g) Road occupancy permit obtained if the Road Authority is RMS prior to carrying out works.

REQUIREMENTS DURING CONSTRUCTION

22. Construction Work Hours

All work on site (including demolition and earth works) must only occur between 7am and 5pm Monday to Saturday. No work is to be undertaken on Sundays or public holidays.

23. Demolition

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

- a) Demolition material 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 buildings contain asbestos material, a standard commercially manufactured sign containing the words 'DANGER ASBESTOS REMOVAL IN PROGRESS' measuring not less than 400mm x 300mm must be erected in a prominent position visible from the street.

24. 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.

25. Street Sweeping

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

26. Works Near Trees

All works (including driveways and retaining walls) within 4 metres of any trees required to be retained (whether or not on the subject property, and pursuant to this consent or the *Tree Preservation Order*), must be carried out under the supervision of an 'AQF Level 5 Arborist' and a certificate submitted to the principal certifying authority detailing the method(s) used to preserve the tree(s).

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

27. Council Property

During construction works, no building materials, waste, machinery or related matter is to be stored on the road or footpath. The public reserve must be kept in a clean, tidy and safe condition at all times.

28. 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.

29. Landfill

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

- a) All fill material imported to the site is to wholly consist of Virgin Excavated Natural Material (VENM) as defined in Schedule 1 of the *Protection of the Environment Operations Act 1997* or a material approved under the *Department of Environment and Climate Change's* general resource recovery exemption.

30. Excavated Material

All excavated material removed from the site must be classified 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 reported to the principal certifying authority.

31. Survey Report – Finished Floor Level

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

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

32. Waste Management Details

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

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

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

33. Construction Noise Management

The construction works must be undertaken in accordance with the “*Interim Construction Noise Guidelines – 2009*” published by Department of Environment and Climate Change NSW.

34. Contamination During Construction Works

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

35. Construction Vehicles

All construction vehicles associated with the proposed development are to be contained on site as no construction zones will be permitted on Pacific Highway in the vicinity of the site.

36. Construction Vehicle Access

All construction vehicles associated with the proposed development are to access the site from Pacific Highway only. No construction vehicle access is permitted from Bell Street.

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.

37. Fulfilment of BASIX Commitments

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

38. Sydney Water – s73 Certificate

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

39. Stormwater Drainage

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

- a) Connected to an existing Council drainage system via an on site detention system.
- b) For connection to Council pit, a construction certificate application is to be submitted to Council (as council is the authority to approve a plan for connection to Council system).
- c) Be designed by a qualified Hydraulic Engineer.

40. On Site Stormwater Detention

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

- a) Storage capacity to accommodate volume from up to 20 years ARI (average recurrence interval) and a maximum discharge (when full) limited to 5 years pre development rate.
- b) Have a surcharge/inspection grate located directly above the outlet.
- c) Discharge from the detention system to be controlled via 1 metre length of pipe, not less than 50 millimetres diameter or via a stainless plate with sharply drilled orifice bolted over the face of the outlet discharging into a larger diameter pipe capable of carrying the design flow to an approved Council system.
- d) Where above ground and the average depth is greater than 0.3 metres, a 'pool type' safety fence and warning signs to be installed.
- e) Not be constructed in a location that would impact upon the visual or recreational amenity of residents.
- f) Discharge to Council street gutter is to be gravity drained and restricted to 30 litres per second at a point (more than one discharge point may be necessary if the discharge rate exceeds 30 litres per second).
- g) Detail calculations are to be shown in construction certificate plan.

41. Vehicular Crossing

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

- a) Any redundant crossings to be replaced with integral kerb and gutter.
- b) The footway area to be restored by turfing.
- c) Approval 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.

42. Road Works

All road works approved under this consent must be constructed in accordance with Council's Civil Works Design and Construction Specification, 2005 and the following requirements:

- a) Concrete footpath along Pacific Highway frontage of the development is to be replaced and all weeds from the nature strip removed and returfed.
- b) A construction certificate is to be submitted to Council for approval.

Note: Council is the only authority to approve works within Council roads.

43. Signage

An "All traffic left ONLY" (R2-14L) sign is to be installed within the property along with appropriate pavement arrows to indicate the desired departure movement.

44. Parking on Bell Street

"No Parking" restrictions are to be posted in the Cul-de-sac part of Bell Street. This is subject to approval by the Hornsby Local Traffic Committee.

45. Works as Executed Plan

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

46. Creation of Easements

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

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

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

47. Certificate of Preservation of Survey Marks

A certificate by a Registered Surveyor shall be submitted to the Principal Certifying Authority, certifying that there has been no removal, damage, destruction, displacement or defacing of the existing survey marks in the vicinity of the proposed development or otherwise 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**".

48. Garbage Collection Easement

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

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

49. Waste Management Details

The following waste management requirements must be complied with:

- a) The garbage bin storage rooms at the basement level must include water or a hose for cleaning, graded floors with drainage to sewer, a robust door, sealed and impervious surface, adequate lighting and ventilation, and must be lockable. The waste facility at each residential level must include sealed and impervious surface, adequate lighting and ventilation.
- b) A report must be prepared by an appropriately qualified person, certifying the following:
 - i) A comparison of the estimated quantities of each waste type against the actual quantities of each waste type.
 - ii) Note: Explanations of any deviations to the approved Waste Management Plan is required to be included in this report
 - iii) That at least 60% of the waste generated during the demolition and construction phase of the development was reused or recycled.
 - iv) Note: If the 60% diversion from landfill cannot be achieved in the Construction Stage, the Report is to include the reasons why this occurred and certify that appropriate work practices were employed to implement the approved Waste Management Plan. The Report must be based on documentary evidence such as tipping dockets/receipts from recycling depots, transfer stations and landfills, audits of procedures etc. which are to be attached to the report.
 - v) All waste was taken to site(s) that were lawfully permitted to accept that waste.
- c) A report must be prepared by a registered surveyor and submitted to the principal certifying authority prior to the issue of the Occupation Certificate, certifying that the finished access way (including ramp, turning area, loading bay and site entry/exit) to be used by waste collection vehicles, complies with Australian Standard AS2890.2-2002 Parking Facilities Part 2: Off-street Commercial Vehicle Facilities for small rigid vehicles.

- d) Each unit must be provided with an indoor waste/recycling cupboard for the interim storage of a minimum one day's waste generation with separate containers for general waste and recyclable materials.
- e) Space must be provided for either individual compost containers for each unit or a communal compost container;
- f) *Note: The location of the compost containers should have regard for potential amenity impacts.*
- g) The bin carting routes must be devoid of any steps.
- h) *Note: Ramps between different levels are acceptable.*
- i) Access to the waste volume handling equipment by unauthorised persons (including residents and waste collectors) must be prevented.
- j) *Note: Locking the chute service room or Caging of the volume handling equipment is acceptable.*
- k) Each truck turning zone/loading bay is to be clearly marked and "No Parking" signs installed.
- l) The 3.5 metre vertical clearance height within the truck travel path must not be reduced by ducting, pipes or anything else.

50. Damage to Council Assets

Any damage caused to Council's assets as a result of the construction of the development must be rectified in accordance with Council's Civil Works Specifications. Council's Restorations Supervision must be notified for a formwork inspection prior to pouring concrete.

51. Access to Communal Open Space

Replace the step pavers (sections only) with solid pavements to enable wheelchair accessibility to the central open space from both site pedestrian entries and from both internal lobbies.

52. Planter Boxes / On Slab Planting

On slab planter boxes must include waterproofing, subsoil drainage (proprietary drainage cell, 50mm sand and filter fabric) automatic irrigation, minimum 500mm planting soil for shrubs and minimum 1000mm planting soil for trees and palms and 75mm mulch to ensure sustainable landscape is achieved.

53. Tree Planting

Tree planting to the front (Pacific Highway) landscape setback area is to:

- a) Reduce the number of *Corymbia maculata* from 7 to 3 and / or
- b) Substitute 75 Litre *Corymbia maculata* with 3 x 75 Litre trees capable of achieving more than 10 metres height at maturity. These trees should be selected from *Hornsby Development Control Plan 2013 - Table 1B.6(b) – Tree Species Indigenous to Hornsby Shire*.

Tree planting to the rear (Bell Street) landscape setback area to:

- c) Reduce the number of *Corymbia maculata* from 8 to 4 and / or

- d) Substitute 75 Litre *Corymbia maculata* with 4 x 75 Litre trees capable of achieving more than 10 metres height at maturity. These trees should be selected from *Hornsby Development Control Plan 2013 - Table 1B.6(b) – Tree Species Indigenous to Hornsby Shire*.
- e) All other trees unless otherwise specified are to be installed at *minimum* 25 litre pot size.

54. Street Tree Plantings

Planting to the front verge (lawn area between path and road kerb) to include two (2) *Tristaniopsis laurina* (Water Gum), to be installed at *minimum* 45 litre pot size.

55. Maintain Canopy Cover

To maintain canopy cover, 3 medium to large trees selected from Council's booklet '*Indigenous Plants for the Bushland Shire*' such as *Angophora costata*, *Eucalyptus gummifera* are to be planted on the subject site. The planting location shall not be within 4 metres of the foundation walls of a dwelling or in-ground pool. The pot size is to be a minimum 25 litres and the tree(s) must be maintained until they reach the height of 3 metres. Trees must be native to Hornsby Shire and reach a mature height greater than 10 metres.

56. Completion of Landscaping

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

Note: Applicants are advised to pre-order plant material required in pot sizes 45 litre or larger to ensure Nurseries have stock available at the time of install.

57. Retaining Walls

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

58. Boundary Fencing

Fencing must be erected along all property boundaries behind the front building alignment to a height of 1.8 metres.

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

59. External Lighting

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

60. Unit Numbering

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

61. Construction of a Safe Environment

Prior to the issue of the Occupation Certificate, the site must include the following elements:

- a) An intercom system be installed at gate locations to ensure screening of persons entering the units;
- b) The entryway to the site be illuminated in high luminance at all times;
- c) The communal open space areas are to be illuminated with high luminance by motion sensor lighting;
- d) The service areas of the ground floor and the garbage room at the basement be illuminated with high luminance by motion sensor lighting;
- e) The driveway and the basement car park is to be illuminated with low luminance at all times;
- f) Robust materials which cannot be forced or breached with minimised maintenance requirements are to be used for construction work in the common areas;
- g) Effective signage be provided to guide visitors to the main areas and parking areas;
- h) A street sign be prominently displayed in front of the site in accordance with Order No. 8, Section 124 *Local Government Act 1993*;
- i) The communal area must include a clear sign to restrict access for non-residents;
- j) Units' numbers, entry and exit signs must be legible and clear;
- k) Fire exit doors to be fitted with single cylinder locksets (Australia New Zealand Standard-Locksets);
- l) The entry doors to the pedestrian foyer is to be constructed of safety rated glass to enable residents a clear line of site before entering or exiting the residential apartments;
- m) Security deadlocks are to be provided to each apartment door; and
- n) Peep holes are to be provided to individual apartment doors to promote resident safety.
- o) Residential parking spaces are to be secure spaces with access controlled by card or numeric pad.

OPERATIONAL CONDITIONS

62. Car Parking and Deliveries

All car parking areas must be operated in accordance with the following requirements:

- a) Car Parking areas should be sealed to all weather standards at all times.
- b) Car parking, loading and manoeuvring areas to be used solely for nominated purposes.
- c) Vehicles awaiting loading, unloading or servicing shall be parked on site and not on adjacent or nearby public roads.
- d) All vehicular entry on to the site and egress from the site shall be made in a forward direction.

- e) Residential parking areas in the basement are to be secured, the access controlled by card or numeric pad. Visitors must be able to access the visitors parking spaces in the basement car park at all times.
- f) Visitors must be able to access the basement car park by an audio/visual intercom system located at the top of the ramped driveway.
- g) Access be restricted to the garbage room and waste collection areas.

63. Landscaping on Pacific Highway

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

64. Waste Management

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

- a) A site caretaker must be employed and be responsible for moving bins where and when necessary, washing bins and maintaining waste storage areas, ensuring the chute system and related devices are maintained in effective and efficient working order, managing the communal composting area, managing the bulky item storage area, arranging the prompt removal of dumped rubbish, and ensuring all residents are informed of the use of the waste management system.
- b) Site security measures implemented on the property, including electronic gates, must not prevent access to the bin room/collection point by waste removal services.

65. Landscape Establishment

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

66. Noise

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

67. Fire Safety Statement - Annual

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

- 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.

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

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

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

Disability Discrimination Act

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

Dial Before You Dig

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

Telecommunications Act 1997 (Commonwealth)

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

Asbestos Warning

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

www.environment.nsw.gov.au

www.nsw.gov.au/fibro

www.adfa.org.au

www.workcover.nsw.gov.au

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

House Numbering

House numbering can only be authorised by Council. Before proceeding to number each premise in the development, the allocation of numbers is required to be obtained from Council's Planning Division prior to the issue of a Subdivision Certificate. The authorised numbers are required to comply with Council's Property Numbering Policy and be displayed in a clear manner at or near the main entrance to each premise.

11 DEVELOPMENT APPLICATION - DWELLING-HOUSE - 51 GLENVIEW ROAD, MOUNT KURING-GAI

EXECUTIVE SUMMARY

DA No: DA/413/2014 (Lodged 24 April 2014)

Description: Erection of a dwelling house on a vacant allotment

Property: Lot 11, DP 246969, No. 51 Glenview Road, Mount Kuring-gai

Applicant: Mr Patrick Joseph Waite

Owners: Mr Patrick Joseph Waite and Mrs Bertie Waite

Estimated Value: \$425,000

Ward: A

- The application is for the erection of a two storey dwelling house and workshop outbuilding on a vacant allotment.
- The proposal generally complies with the *Hornsby Local Environment Plan 2013* and the *Hornsby Development Control Plan 2013*.
- Nine submissions have been received from five objectors in respect of the application.
- A Red Sticker has been placed on the application requiring that it be determined at a Council meeting.
- It is recommended that the application be approved.

RECOMMENDATION

THAT Council assume the concurrence of the Secretary of the Department of Planning and Environment pursuant to Clause 4.6 of the *Hornsby Local Environmental Plan 2013* and approve Development Application No. DA/413/2014 for a two storey dwelling house and workshop outbuilding at Lot 11, DP 246969, No. 51 Glenview Road, Mount Kuring-gai subject to the conditions of consent detailed in Schedule 1 of Group Manager's Report No. PL50/14.

BACKGROUND

On 13 March 2013, DA/866/2012 for the erection of a two storey dwelling house on the subject site was refused on the following grounds:

- Cut and fill unsympathetic to the topography of the allotment;
- Impact on significant trees and landscape features on the site;
- A portion of one of the proposed car spaces would encroach over a right-of-carriageway on the site; and
- It was not demonstrated how vehicles could enter and leave the site in a forward direction.

A Section 82A application for review of the determination was lodged on 24 August 2013. The Section 82A application was subsequently withdrawn, as it could not have been determined within the statutory 6 month time limit from the date of refusal as prescribed under the Act.

The subject application was lodged on 24 April 2014.

Following objections to the proposal, amended plans and supporting documentation were submitted between 11 and 29 July 2014 to address concerns about amenity and environmental impacts. These amended plans and documents are the subject of this report.

SITE

The vacant, 1,388m² wedge-shaped allotment is accessed via a sealed driveway located off a cul-de-sac on the southern side of Glenview Road, Mount Kuring-gai.

The site is heavily vegetated with remnant bushland (Peppermint Angophora Forest), experiences a fall of 38.5% towards the rear, western boundary which adjoins Berowra Valley National Park and contains numerous sandstone rock outcrops.

The site is bush fire prone but is not flood prone.

The site is burdened by a 3.66 metre wide right-of-carriageway which intersects the front, south-eastern portion. The right-of-carriageway provides access to the subject site and the adjacent property, No. 53 Glenview Road.

The site is also subject to an easement for support immediately adjacent to the boundary with the cul-de-sac at the end of Glenview Road.

The site is not a heritage listed item, is not located within a heritage conservation area nor is it in the vicinity of a heritage item.

PROPOSAL

The application proposes a two storey dwelling house and a free-standing workshop outbuilding. The lower floor would comprise a main bedroom with walk in robes and en-suite, a lounge room, an open plan dining and kitchen and a laundry.

The upper floor would comprise 3 bedrooms, study, main bathroom, sunroom and a double garage.

A 27.2m² workshop/store is proposed at the rear of the dwelling house, with a rooftop deck above accessed from the ground floor living room.

Twenty two trees would be removed to accommodate the development.

ASSESSMENT

The development application has been assessed having regard to the '*Metropolitan Plan for Sydney 2031*', the '*North Subregion (Draft) Subregional Strategy*' and the matters for consideration prescribed under Section 79C of the *Environmental Planning and Assessment Act 1979* (the Act). The following issues have been identified for further consideration.

1. STRATEGIC CONTEXT

1.1 Metropolitan Plan for Sydney and (Draft) North Subregional Strategy

The *(Draft) Metropolitan Strategy for Sydney 2031* is a broad framework to provide for Sydney's growth to help plan for housing, employment, transport, infrastructure, the environment and open space. It outlines a vision for Sydney to 2031, the challenges faced and the directions to follow to address these challenges and achieve the vision.

The North Subregion comprises Hornsby, Kuring-gai, Manly, Warringah and Pittwater Local Government Areas. The *Draft North Subregional Strategy* acts as a framework for Council in its preparation of the *Hornsby Local Environment Plan 2013 (HLEP)*.

Within the North Subregion, the *Draft Metropolitan Strategy* proposes:

- Population growth of 81,000 from the current 2011 baseline of 529,000;
- Housing growth of 37,000 from the current 2011 baseline of 204,000; and
- Employment growth of 39,000 from the current 2011 baseline of 186,000.

The proposed development would be consistent with the *Metropolitan Plan for Sydney 2031* by providing an additional dwelling contributing to the achievement of Council's dwelling target.

2. STATUTORY CONTROLS

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

2.1 Hornsby Local Environmental Plan 2013

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

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

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

Clause 4.3, Height of Buildings of the *HLEP* prescribes that the maximum building height of development within the R2 (Low Density-Residential) zone should be 8.5 metres. The application proposes a dwelling house that is 8.89 metres in height which does not comply with this control. To address this non compliance, the applicant has submitted a request to vary this standard under Clause 4.6 of the *HLEP*, which is discussed below.

Clause 4.6, Exceptions to development standards of the *HLEP*, provides flexibility in the application of development standards in circumstances where strict compliance with those standards would, in any particular case, be unreasonable or unnecessary, or tend to hinder the attainment of the objectives of the Act.

The applicant has supported the proposal by noting that:

- *“The breach of the height limit is generated by the steep and inconsistent nature of the slope of the site. This is evident as the height limit is breached along the façade at the lowest point of natural ground level in the most southern corner of the dwelling;*
- *The design of the dwelling seeks to impose minimal impact on the existing driveway, while also using as little earthworks as possible. This has determined the location of the dwelling, with the garage close to the existing shared driveway and locating the dwelling in a location which can accommodate a similar amount of cut and fill;*
- *The breach is very small as the area which is affected by the variance is approximately 0.45m². The 300 millimetre variance in height represents only 3.5% increase of the height limit. At no point does the proposed dwelling have a ground floor level more than 1 metre above the level of the access driveway. Generally neighbouring dwellings to the east are 9 metres higher than the upper level, meaning they would significantly overlook the dwelling despite the small breach in height; and*
- *The amenity impacts to the surrounding properties would be minimal to non-existent due to the very small extent of the dwelling that the variance affects. The area impact is 6.2 metres from the sites boundary and is over 25 metres from the nearest dwelling. The variation would have no overshadowing impacts, would not cause any visual bulk and would not result in loss of views, as the area of non-compliance is 1.53 metres below the highest point of the roof. The non-compliance is due to sloping site as opposed to the height of building and indeed is not located at the highest part of the roof”.*

Planning and Infrastructure NSW Guidelines on varying development standards recommend considering the provisions of Clause 4.6 of the LEP and the ‘five part test’ established by the Land and Environment Court relating to the variation, as reproduced in the following:

The ‘five part test’

- a) the objectives of the standard are achieved notwithstanding noncompliance with the standard;
- b) the underlying objective or purpose of the standard is not relevant to the development and therefore compliance is unnecessary;
- c) the underlying object of purpose would be defeated or thwarted if compliance was required and therefore compliance is unreasonable;
- d) the development standard has been virtually abandoned or destroyed by the council's own actions in granting consents departing from the standard and hence compliance with the standard is unnecessary and unreasonable;
- e) the compliance with development standard is unreasonable or inappropriate due to existing use of land and current environmental character of the particular parcel of land. That is, the particular parcel of land should not have been included in the zone.

The matters listed above have been taken into consideration in assessing the merits of the written request under Clause 4.6.

The submission in support of the proposal addresses the objective of the building heights provision in the *HLEP*. The proposed dwelling house would be significantly lower in height than the adjoining properties. The proposed dwelling house would have a maximum ridge height of RL 176.030. The adjoining dwelling house at No. 53 Glenview Road has a maximum ridge height of RL 180.33 which is approximately 4 metres higher than the proposed dwelling house.

Based on a RL of 185.46 for the eaves and gutters, the upper finished floor level of the neighbouring property at No. 49 Glenview Road would be approximately RL182.2 which is 6.17 metres higher than the proposed maximum ridge line of the dwelling house.

Due to the level of the building platform in relation to the cul-de-sac at the end of Glenview Road, the proposal would have a minimal visual impact on the streetscape and would be consistent in terms bulk, scale and height with the adjacent dwelling houses at No's 49 and 53 Glenview Road. As a consequence, the proposal satisfies the objectives of Clause 4.3 of the *HLEP*, 2013 and is considered acceptable.

Clause 5.10, of the *HLEP* sets out heritage conservation provisions for Hornsby Shire. As the subject site is not a heritage listed item, in the vicinity of any heritage listed items or in a heritage conservation area, the proposal raises no concerns with respect to this clause.

Although the development does not meet the height requirements of the *HLEP*, the extent of the non-compliance does not hinder the proposal in achieving the relevant objectives. It is therefore recommended that the proposal be supported in its current form.

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

The application has been assessed against the requirements of *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008 – NSW Housing Code*. The Policy provides exempt and complying development codes that have State-wide application. The Policy 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 proposed dwelling house may not be approved as complying development, as the subject site is mapped within an area listed under the *Threatened Species Conservation Act, 1995* and proposes the removal of 22 trees. The site is also bush fire prone with a Bushfire Attack Level (BAL) of Flame Zone (FZ). This rating precludes the application from being assessed as complying development.

The proposal complies with the requirements of the NSW Housing Code except for the building height and the north-western side boundary setback. The proposed setbacks of the dwelling-house are addressed in Section 2.7 of this report.

2.3 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.

2.4 Threatened Species Conservation Act 1995

The proposed development requires the removal of 22 remnant native trees and other forms of bushland consistent with *Community A – Peppermint Angophora Forest* to accommodate the dwelling footprint and to establish the bushfire Asset Protection Zone (APZ).

Council's assessment of the Flora and Fauna Report prepared by Coacher Environmental Group, dated September 2013 has raised no objections to the recommendations made therein, noting that it is unlikely that the proposal would have a significant impact upon threatened species, populations and endangered ecological communities listed under the *Threatened Species Conservation Act, 1995* if the recommended conditions of consent are complied with. The conditions restrict the location of building materials during construction, sediment control and cleaning of machinery prior to use on the site to avoid impacts on the protected vegetation and also require the appointment of a project ecologist to provide certification of the completion of bushland protection and regeneration works including weed removal and revegetation of the site.

Objections were raised in two of the submissions that the proposed removal of trees would significantly impact the flora and fauna within the site and adjoining properties.

To address these concerns, an integrated fire, vegetation management and landscape plan has been submitted listing the trees to be retained, the provision of plantings and outlining the measures for protection of the undeveloped areas of the site in relation to flora and fauna and bushfire. Additional conditions are recommended to ensure the protection of fauna on the site if any are encountered prior to, or during, construction.

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

The application has been assessed against the requirements of *State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004*.

BASIX Certificate No. 486244S_02 has been submitted for the dwelling house in compliance with the requirements of the *SEPP*.

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

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

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

2.7 Hornsby Development Control Plan

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

Hornsby Development Control Plan			
Control	Proposal	Requirement	Complies
Scale			
Site Area	1,388m ²	N/A	N/A
Height	8.89m	8.5m	No
Site coverage	10%	40%	Yes
Floor Area	249m ²	430m ²	Yes
Floor Area of Outbuilding	27.9m ²	100m ²	Yes
Setbacks Ground Floor			
Front	25m	6m	Yes
Side (northern)	1.99m	0.9m	Yes
Side (southern)	4.984m	0.9m	Yes
Rear	15.4m	3m	Yes
Setbacks First Floor			
Side	1.99m	1.5m	Yes
Side	4.984m	1.5m	Yes
Rear	15.4m	8m	Yes
Landscaping	62.5%	40%	Yes
Open Space			
Minimum principal private Open space Area	38m ²	24m ²	Yes
Minimum width of principal	4.88m	3m	Yes

private open space			
Sunlight Access			
On 22 June, 50% of required principal private open space area should receive 3 hours of unobstructed sunlight access between 9am and 3pm			Yes
On 22 June, 50% of required principal private open space on any adjoining property should receive 3 hours of unobstructed sunlight access between 9am and 3pm			Yes
Vehicle Access and Parking	2 spaces	2 spaces	Yes

As detailed in the above table, the proposed development generally complies with the prescriptive requirements of the HDCP 2013 other than for building height. A brief discussion on compliance with relevant performance requirements is addressed below.

2.7.1 Earthworks and Slope

The desired outcome of Section 1C.1.4 of the HDCP is to encourage *“development that is designed to respect the natural landform characteristics and protects the stability of land”* and *“development that limits landform modification to maintain the amenity of adjoining properties and streetscape character”*.

To establish a useable building platform and adjacent recreational and car spaces, the application proposes a maximum cut of 3.2 metres and a fill of 2.5 metres which does not comply with the 1 metre prescriptive measure.

In support of this variation, it is noted that the site experiences an average slope of 38.5% from the front (eastern) to the rear (western) boundary and that the proposal has been positioned to minimise the extent of this cut and fill, mindful of the physical constraints posed by the right-of-carriageway and the need to provide vehicle access from this restricted area to the proposed double garage.

To address concerns raised regarding an updated geotechnical report and to comply with the prescriptive measures of Part 1C.1.4.e of the HDCP, the applicant has submitted an amended geotechnical report dated 15 July 2014. Council's assessment has raised no objections to the recommendations of this report, subject to conditions.

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

2.7.2 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.”*

The application proposes a maximum height of 8.89 metres which does not comply with the 8.5 metre prescriptive measure. This issue of non-compliance has been addressed in Section 2.1 of this report following a submission from the applicant under Part 4.6 of the *HLEP*.

Objections have been received that the height of the proposal would have unacceptable privacy impacts. These issues are addressed below in Section 2.7.6 Privacy.

A submission raises concerns that the proposed retaining walls and workshop/store would be out of character with the bulk and scale of the surrounding area.

In assessing these concerns, it is noted that the retaining walls would allow for a level, useable building platform and areas of open space for entertainment and landscaping.

The proposed 27.9m² workshop/store is a permissible ancillary structure that complies with the HDCP, which allows a 100m² outbuilding on allotments 900m² or larger in area. The structure would be located below the level of the dwelling house and would not be visible from the front of the dwelling house or the adjoining property No.49 Glenview Road.

The proposed dwelling house and workshop/store comply with the prescriptive measures of the HDCP in terms of site cover, landscaping, setbacks and design details. The built form and architectural style would not be inconsistent with residential development in the surrounding area.

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

2.7.3 Setbacks

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

An objection raises concerns about the close proximity of the proposed dwelling house to the common boundary line of the neighbouring property, No. 53 Glenview Road.

The proposed 1.99 metre northern side boundary setback complies with the 1.5 metre prescriptive measure and the desired outcomes of Part 3.1.2 Setbacks of the HDCP and is considered acceptable.

2.7.4 Landscaping

The desired outcomes of Part 3.1.1 Landscaping are to encourage *“landscaping that integrates the built form with soft landscaping and retains and enhances tree canopy”* and *“development that retains existing landscape features.”*

The prescriptive measures of the Landscaping element state that *“The proposed building, ancillary structures, driveways, drainage and service trenches should be set back in accordance with AS 4970 for significant trees to be retained.”*

Council's assessment of the Arboricultural Impact Assessment report submitted with the application has determined that the removal of 22 trees as part of the development can be supported, subject to the remaining trees on the site being protected during the construction phase, in accordance with the recommendations within the report.

Objections raise concerns about the removal of trees to accommodate the dwelling house and vehicle turning area, particularly in relation to the separation that these trees provide in relation to adjacent properties No. 49 and No. 53 Glenview Road.

In assessing the impacts of the development on trees, it is noted that the site is heavily vegetated and that the removal of 22 trees is an unavoidable consequence of the permitted development of what is currently a vacant, residential allotment.

The proposal has been designed and positioned to enable 31 trees on the site to be retained. The retention of these trees, the majority of which are growing at the rear of the site, is preferred, as they have a higher environmental value and significance in terms of their transition to the trees growing on the adjoining Berowra Valley National Park.

The proposed design would integrate with the existing vegetation on site and would allow for the retention of the natural landscape features, noting that 62% of the site area would be available for landscaping in compliance with the 40% prescriptive measure of Section 3.1.3 Landscaping of the HDCP.

Although the proposal does not comply with Section 3.1.3.c. of the HDCP in terms of the requirement that 50% of the front yard to be landscaped, the lack of available space within this area and the constraints posed by the shape of the allotment, the location and area of the right-of-carriageway and the slope of the site are such that landscaping within the front yard could not be effectively established.

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

2.7.5 Sunlight Access

The desired outcomes of the Sunlight Access element are to encourage *“dwelling houses designed to provide solar access to open space areas”* and *“development designed to provide reasonable sunlight to adjacent properties.”*

The prescriptive measures of Part 3.1.5 Sunlight Access of the HDCP states that on *“22 June, 50% of the required principal private open space should receive 3 hours of unobstructed sunlight between 9am and 3pm.”* The prescriptive measures also state that on *“22 June, 50% of the required principal open space of an adjoining property should receive 3 hours of unobstructed sunlight between 9am and 3pm.”*

An objection raises concerns that the design and orientation of the dwelling house does not maximise sunlight access.

The dwelling house has been designed to comply with the requirements of the HDCP. The proposal would provide more than 50% sunlight access to the principal private open space on the site and on the neighbouring principal private open space for more than 3 hours on the 22 June.

The applicant has also provided a BASIX certificate which verifies that the proposed dwelling house would maximise energy efficiency.

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

2.7.6 Privacy

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

A submission raises concerns that the location of the dwelling house, the adjacent, triangular shaped “open space” and the placement of windows within the north-west elevation would have detrimental impacts on the amenity of the principal private open space and swimming pool at the rear of the adjacent property, No. 53 Glenview Road.

The application proposes that the lower ground floor level living areas and this “open space” off the living room and dining room within the north-western elevation would have a finished floor level of RL168.700.

The levels of the deck and the swimming pool on the adjacent property No. 53 Glenview Road are at RLs of 171 and 169 respectively.

To ensure that an acceptable level of privacy is established and maintained in relation to the open space of the subject development and the adjacent premises No.53 Glenview Road, a 1.8 metres high metal screen, two planter boxes and vegetation screening are proposed along the boundary line.

To minimise any privacy impacts from the dwelling house structure, the upper floor level windows serving the sunroom and garage have been amended to be highlight windows.

The prescriptive measures of the Privacy element states that a *“deck, balcony, terrace or the like should be located within 600 mm of existing ground level where possible to minimise potential visual and acoustic privacy conflicts.”*

The application proposes a rooftop deck above the workshop/store, which would be 3.9 metres above ground level. The finished floor level of this deck would be RL168.7 and would be accessed by two sets of sliding doors off the lower ground floor level living room.

This rooftop deck would be orientated towards the views of the Berowra Valley National Park, would be set back 5.5 metres from the boundary with No.53 Glenview Road and would not have a direct line of sight towards the adjoining private open space areas.

The evaluation of privacy impacts is generally merit-based and that any assessment of a proposal seeks to ensure that all residents can enjoy a reasonable level of privacy in their own home and immediate surroundings. In this instance, the topography of the properties in the area at the end of Glenview Road is such that a certain level of overlooking from adjacent dwelling houses is both inevitable and unavoidable.

In situations where the extent of overlooking may be considered as unacceptable, it would be incumbent upon the owners of adjoining properties to provide additional privacy measures such as screen plantings or screening to establish a level of privacy that suit their own individual needs.

In conclusion, the design and orientation of the active use rooms and adjacent areas of private open space for recreational purposes are both accessible and useable features of the proposal, notwithstanding the slope of the site and the significant topographical and legal constraints on the site.

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

2.7.7 Vehicle Access and Parking

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

An objection raises concerns that the design and location of the vehicle turning area would require the removal of 8 trees.

The removal of trees from the site has been discussed in Parts 2.3 and 2.6.4 of this report.

An assessment of the proposed turning area to allow for the safe exit of a motor vehicle from the property in a forward direction has determined that subject to its design in accordance with the relevant Australian Standard, the proposal is appropriate.

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

2.7.8 Design Details

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

Section 3.1.8.c of the HDCP requires a covered entry to the dwelling house to be provided that is at least 1.5 metres deep. The application proposes a covered entry which is 1.33 metres deep.

This minor variation to the prescriptive measure is considered acceptable, as the site is not visible from Glenview Road and there would not be detrimental visual impacts on the character of the surrounding residential zone.

Objections raise concerns that the development would result in a loss of views.

Sections 3.1.8.g and h of the HDCP outline the prescriptive measures for view sharing. In assessing this objection, it is noted that there is no significant or iconic view from the adjacent property No. 53 Glenview Road that would be interfered by the development.

Views of the surrounding area from adjacent properties are characterised by glimpses of dwelling houses of varying designs and heights, interspersed with well established trees and landscaping and outlooks towards the Berowra Valley National Park.

Concerns regarding the loss of views from the adjoining property to the east at No.49 Glenview Road are not sustained. The roof ridge line of the proposed dwelling house at No. 51 Glenview Road would be RL176.03 and the lower ground floor level of the dwelling house at No.49 Glenview Road is at RL178. As a consequence of this difference in height of 1.97 metres, views over the proposed dwelling house to the bushland from No. 149 Glenview Road would not be obstructed.

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

2.7.9 Easements and Restrictions

The site is burdened by a 3.66 metre wide right-of-carriageway which traverses the front, north-eastern corner to provide access to the subject site and the adjoining property No. 53 Glenview Road.

Council's assessment of the proposal notes that this right-of-carriageway as depicted on DP 246969 does not reflect where the driveway has been constructed. To address this anomaly, a condition is recommended, requiring the location of the right-of-carriageway to be amended on the deposited plan to accurately reflect the position of the driveway prior to issue of an occupation certificate.

2.8 Hornsby Shire Council Section 94A Development Contributions Plan 2012 – 2021

As the proposed cost of works is calculated to be over \$100,000, Section 94A Contributions are to be levied and included in the conditions 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

The proposed development would necessitate the removal of twenty-two trees from the site. The assessment of the proposal in relation to the natural environment has been discussed in Sections 2.3 and 2.6.4 of this report.

3.2 Built Environment

The development would have minimal and acceptable impacts on the adjacent built environment. The proposal is consistent with the character of the area which is characterised by detached dwelling-houses in a bushland setting.

3.3 Social Impacts

The proposed development would not have any social impacts.

3.4 Economic Impacts

The proposal would not have any 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 scale of the proposed development is consistent with the capability of the site and is considered acceptable.

4.1 Flooding

The subject site is not located on flood prone land.

4.2 Bushfire Risk

Concerns were raised in submissions relating to bush fire risk and safety for the proposed dwelling house and surrounding residential properties and the suggestion of a pole home being a more suitable design.

The site is located on bush fire prone land, with a calculated Bush Fire Attack Level (BAL) of Flame Zone (FZ). As a consequence, the application was referred to the Rural Fire Service (RFS) for comment.

The classification of the proposed development as BAL FZ restricts the available design and construction methods for the site. Discussions with the RFS indicated that a pole design could not be supported due to the increased bushfire risk associated with the design and that a dwelling on conventional footings was the most appropriate in relation to fire risk. It should also be noted that a BAL FZ classification restricts the building materials and construction techniques available, limiting the architectural design input for the proposed dwelling house.

The RFS has raised no objections to the proposal, subject to conditions.

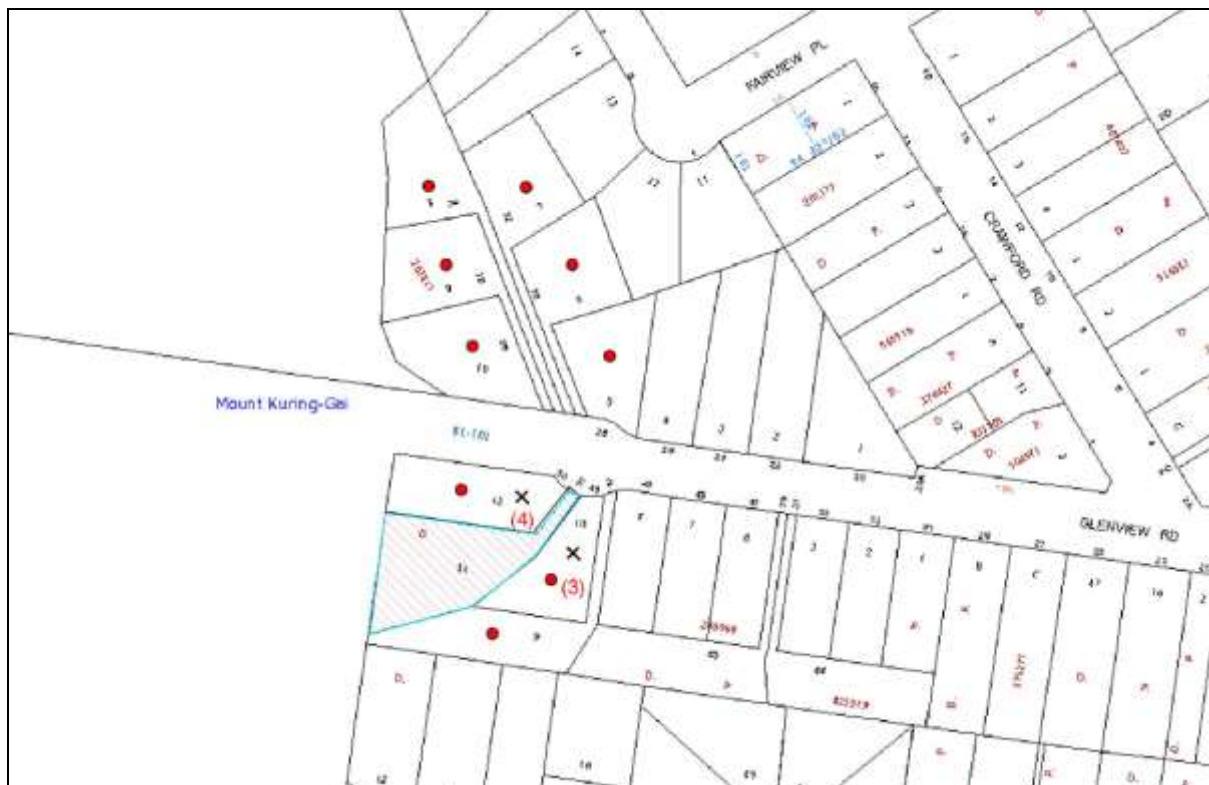
5. PUBLIC PARTICIPATION

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

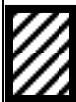
5.1 Community Consultation

The proposed development was placed on public exhibition and was notified to adjoining and nearby landowners between 6 and 20 May 2014 in accordance with the HDCP. During this period, Council received five submissions, two from the adjoining property owners, one from an adjoining tenant and two from objectors who were not notified.

After the expiration of this period, Council received an additional four submissions from the two adjoining property owners. The map below illustrates the location of those nearby landowners who made a submission that are in close proximity to the development site.



NOTIFICATION PLAN

• PROPERTIES NOTIFIED	X SUBMISSIONS RECEIVED	 PROPERTY SUBJECT OF DEVELOPMENT	
2 SUBMISSIONS RECEIVED OUT OF MAP RANGE			

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

- Fire risk and safety;

- Significant cut and fill with risk to the soil and integrity of building structures;
- Environmental impact to trees, rocky outcrops, flora and fauna;
- Erosion and sediment control;
- Vehicle access;
- Damage to adjoining properties during construction;
- Property values;
- Loss of views;
- Undesirable precedent;
- Privacy; and
- Public interest.

The merits of the matters raised in submissions have been addressed in the body of the report with the exception of property values, damage during construction, erosion and sediment control, undesirable precedent and public interest which are discussed below.

5.2 Property Values

A submission has raised concerns that the development would affect property values in the area. This is not a matter for assessment under the heads of consideration listed in Section 79C of the *Environmental Planning and Assessment Act, 1979*.

5.2.1 Damage During Construction

A submission raises concerns about potential damage to the right-of-carriageway and sewage pipes on the adjoining property as a result of the proposal.

A condition is recommended, requiring a dilapidation report be prepared by a chartered structural engineer detailing the structural condition of the adjoining properties which would include the right of carriageway and other infrastructure prior to the issue of a construction certificate.

5.2.2 Traffic Management

Concerns were raised in relation to the availability of access to, and along, the right-of-carriageway during construction. To address these concerns, the applicant has submitted a Building Management Plan detailing the proposed strategies to maintain access to the right of carriageway for those affected parties.

It is noted that pedestrian access to No. 53 Glenview Road would be available during the construction phase and that any planned obstruction to vehicular access for properties Nos. 49 and 53 Glenview Road would be communicated to those parties through the construction manager.

5.2.3 Public Interest and Undesirable Precedent

Submissions raise concerns that the proposed development would set an undesirable precedent for the local area and would not be in the public interest.

Due to the topographical and environmental constraints on the site, the design has considered the objectives and desired outcomes of the *HLEP* and the *HDGP* by proposing a dwelling house that meets the expectations of Council for a site in the R2 (Low Density-Residential) zone.

The location of the dwelling house would have acceptable environmental and amenity impacts and would not detract from the character of the area.

5.2.4 Erosion and Sediment Control

Submissions raise concerns in relation to erosion and sediment control. To address these concerns, a condition is recommended requiring the establishment and maintenance of erosion and sediment control measures in accordance with '*Soils and Construction 2004 (Bluebook)*' throughout the construction and until the site has been stabilised and revegetated.

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 dwelling house would be in the public interest.

CONCLUSION

The application proposes a two storey dwelling house and workshop/store.

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

Council received five submissions during the public notification period and four submissions outside of this 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, Council assume the concurrence of the Secretary of the Department of Planning and Environment pursuant to Clause 4.6 of the *Hornsby Local Environmental Plan 2013* and recommend approval of the application.

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

ROD PICKLES
Manager - Development Assessment
Planning Division

JAMES FARRINGTON
Group Manager
Planning Division

Attachments:

1. Locality Plan
2. Site Plan
3. Elevations
4. Floor Plans
5. Workshop Plan
6. Sections
7. Living and Courtyard Views

File Reference: DA/413/2014

Document Number: D03190134

SCHEDULE 1
CONDITIONS OF APPROVAL

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:

<i>Plan No.</i>	<i>Drawn by</i>	<i>Dated</i>
Dwg No. 1-6/6 Job No. 1324 Issue C	MLB - Blackdraft Architectural Drafting Services	08/07/2014

<i>Document No.</i>	<i>Prepared by</i>	<i>Dated</i>
Flora and Fauna Assessment Report	Conacher Environmental Group	September 2013
Arboricultural Impact Assessment	Bluegum Tree Care and Consultancy	March 2014
BASIX Certificate No. 486244S_02	Building Sustainability Assessments	15 April 2014
Building Management Plan	N/A	23 July 2014
Integrated Environmental Site Management Plan Ref.4115	Conacher Consulting	July 2014

2. Removal of Existing Trees

This development consent only permits the removal of twenty two trees numbered 7, 8, 9, 10, 11, 12, 13, 14, 17, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 33, 34 and 35 as identified on Site Tree Protection Plan in the Arboricultural impact Assessment prepared by Bluegum Tree Care and Consultancy dated March 2014. The removal of any other trees requires separate approval under Council's Tree Preservation Order.

3. Construction Certificate

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.

4. Section 94A Development Contributions

- a) In accordance with Section 80A(1) of the *Environmental Planning and Assessment Act 1979* and the *Hornsby Shire Council Section 94A Development Contributions Plan 2012-2021*, \$4250.00 shall be paid to Council to cater for the increased demand for community infrastructure resulting from the development, based on development costs of \$425 000.
- b) If the contributions are not paid within the financial quarter that this consent is granted, the contributions payable will be adjusted in accordance with the provisions of the Hornsby Shire Council Section 94 Development Contributions Plan and the amount payable will be calculated at the time of payment in the following manner:

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

Where:

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

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

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

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

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

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

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

REQUIREMENTS PRIOR TO THE ISSUE OF A CONSTRUCTION CERTIFICATE

5. Building Code of Australia

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

6. Contract of Insurance (Residential Building Work)

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

7. 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.

8. Sydney Water – Quick Check

This application must be submitted to a Sydney Water 'Quick Check Agent' or 'Customer Centre' for approval to determine whether the development would affect any Sydney Water infrastructure, and whether further requirements are to be met.

Note: Refer to www.sydneywater.com.au or telephone 13 20 92 for assistance.

9. Stormwater Drainage

- a) The stormwater drainage system for the development must be designed and constructed for an average recurrence interval of 20 years and be gravity drained and connected to a rainwater tank having a minimum capacity in accordance with the requirements of the BASIX certificate and Rural Fire Services.
- b) The overflow from the rainwater tank and collected surface water must be disposed of to a dispersion system and level spreader.
- c) Overland flow from the trench must be spread evenly over the site so as not to discharge water in a concentrated manner onto adjoining lands.

10. Dilapidation Report

To ensure that the development does not have a detrimental impact on the adjacent premises, a dilapidation report is to be prepared by a chartered structural engineer detailing the structural condition of the adjoining properties as recommended in the geotechnical report prepared by CKGeotech dated 4 July 2014.

11. Internal Driveway/Vehicular Areas

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

The driveway must be a rigid pavement; and

The driveway grade must not exceed 25 percent and changes in grade must not exceed 8 percent per plan metre.

12. Design and Construction - Bushfire Attack Category

- a) New construction must comply with Sections 3 and 9 (BAL FZ) Australian Standard AS3959-2009 'Construction of buildings in bush fire-prone areas'. However, any material, element of construction or system when tested to the method described in Australian Standard AS1530.8.2 Methods for fire tests on building materials, components and structures Part 8.2: Tests on elements of construction for buildings exposed to simulated bushfire attack—Large flaming sources must comply with Clause 13.8 of that Standard except that flaming of the specimen is not permitted and there shall be no exposed timber.
- b) Windows assemblies must comply with modified Sections 3 and 9 of AS3959 (as above) or the following:
 - i) They must be completely protected by a non-combustible and non-perforated bushfire shutter that complies with Section 3.7 of AS3959 excluding parts (e) & (f); and
 - ii) They must comply with the following:
 - a. Window frames and hardware must be metal;
 - b. Glazing must be toughened glass, minimum 6mm;
 - c. Seals to stiles, head and sills or thresholds must be manufactured from materials having a flammability index no greater than 5;
 - d. The openable portion of the window must be screened internally or externally with a mesh with a maximum aperture of 2mm, made from corrosion resistant steel or bronze and the frame supporting the mesh must be metal.
- c) External Doors (not including garage doors) must comply with modified Sections 3 and 9 of AS3959 (as above) or the following:
 - i) They must be completely protected by a non-combustible and non-perforated bushfire shutter that complies with Section 3.7 of AS3959 excluding parts (e) & (f); and

- ii) They must comply with the following:
 - a. Doors must be non-combustible;
 - b. Externally fitted hardware that supports the panel in its function of opening and closing must be metal;
 - c. Where doors incorporate glazing, the glazing must be toughened glass minimum 6mm;
 - d. Seals to stiles, head and sills or thresholds must be manufactured from silicone;
 - e. Doorframes must be metal;
 - f. Doors must be tight fitting to the doorframe or an abutting door; and
 - g. Weather strips, draught excluders or draught seals must be installed if applicable.

13. 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':

- a) Above ground tanks are to be manufactured of concrete or metal and raised tanks are to have their stands protected: plastic tanks must not be used;
- b) Underground tanks if installed, must have an access hole of 200mm to allow tankers to refill direct from the tank ;
- c) A hardened ground surface for truck access is to be supplied within 4 metres of the access hole ;
- d) Tanks on the hazard side of a building must be provided with radiant heat shielding to protect the tank from bush fire impacts and maintain safe access to the water supply for fire fighters ;
- e) Tanks and associated fittings on the hazard side of the building must be provided with adequate shielding to mitigate the impact of flame contact and radiant heat and provide safe access for fire fighters ;
- f) The gate or ball valve, pipes and tank penetration are adequate for full 50mm inner diameter water flow through the Storz fitting and are metal ;
- g) All associated fittings to the tank must be non-combustible ;
- h) Pumps are to be shielded from the direct impacts of bush fire ;
- i) An 'SWS' marker must be obtained from the local NSW Rural Fire Service and positioned for ease of identification by brigade personnel and other users of the SWS. In this regard:
 - i) Markers must be fixed in a suitable location so as to be highly visible; and
 - ii) Markers should be positioned adjacent to the most appropriate access for the static water supply.
- j) In recognition that even though a reticulated water supply exists, and considering the sites topography and lot configuration, an additional water supply source should be

made available as a dedicated static water supply consisting of a 10,000 litre water tank provided for fire fighting purposes.

REQUIREMENTS PRIOR TO THE COMMENCEMENT OF ANY WORKS

14. Erection of Construction Sign

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

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

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

15. Native Fauna Protection

- a) All trees identified within Figure 3.1 of the approved *Integrated Environmental Site Management Plan prepared by Conacher Consulting Pty Ltd (dated July 2014)* are to be retained and protected during the construction period. All other trees approved for removal shall be subject to pre-clearing protocols to minimise harm to resident fauna.
- b) Prior to vegetation clearance, a suitably qualified ecologist must inspect the site thoroughly to locate any resident native fauna that may occur within tree bearing hollows or fissures. If found, native animals shall be removed and relocated to the retained portion of the subject land.
- c) Prior to the approved removal of hollow bearing trees the applicant is to carry out the following actions to prevent harm to native wildlife:
 - i) Capture wildlife from the hollows with traps set at a minimum one or two nights prior to tree removal. Any wildlife captured shall be relocated locally into a nesting box;
 - ii) Arrange for a Wildlife Carers Organisation to be present on site during tree felling to assist in the event of fauna injury due to the presence of tree hollows that provide habitat for native fauna;
 - iii) Ensure the trees are removed in sections by a qualified Tree Surgeon just prior to dusk when roosting animals would be alert and likely to disperse 'naturally' from the site;
 - iv) Ensure that trees are knocked several times (with a hammer etc.) to alert any roosting animals of the possibility of danger; and
 - v) Ensure that all tree hollows are be examined prior to and immediately after their removal to ensure roosting animals are free from danger.

- d) Certification from the project ecologist that compliance with this condition has been undertaken must be provided to Council's Natural Resources Unit prior to release of the Occupation Certificate.

Information Note: WIRES (Wildlife Rescue) volunteers can be contacted on (02) 8977 3333 or Wildlife Services Sydney Metropolitan volunteers can be contacted on (02) 9413 4300. Information on animal nesting boxes can be gained from WIRES, Kalkari Information Centre in Ku-Ring-Gai Chase National Park, or Birds Australia web site – www.birdsaustralia.com.au

16. Tree Protection Barriers

Tree protection fencing must be in accordance with Section 6 Recommendations and Attachment C – Tree Protection Plan contained in the Arboricultural Impact Assessment, prepared by Bluegum Tree Care and Consultancy dated March 2014.

Note: A certificate from a qualified Arborist (AQF 5) is to be submitted to the Principal Certifying Authority stating that all tree protection measures are in accordance with the above and consistent with the intentions of the Australian Standard 'Protection of Trees on Development Sites (AS 4970-2009) prior to commencement of works.

17. Toilet Facilities

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

18. Erosion and Sediment Control

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

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

19. Bushfire Management – Protection Zones

- a) 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' ;and
- b) At the top entrance to the sites driveway, a sign should be placed warning of the limited access for large vehicles.

Note: Further information concerning planning for bush fire protection can be found at: www.rfs.nsw.gov.au.

20. Landscaping

Landscaping of the site must comply with the principles of Appendix 5 of 'Planning for Bush Fire Protection 2006'.

REQUIREMENTS DURING CONSTRUCTION**21. Construction Work Hours**

All work on site including earth works, must only occur between 7am and 5pm Monday to Saturday. No work is to be undertaken on Sundays or public holidays.

22. 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.

23. Works Near Trees

- a) All required tree protection measures are to be maintained in good condition for the duration of the construction period.
- b) All works must be undertaken in accordance with Section 6 Recommendations contained in the Arboricultural impact Assessment prepared by Bluegum Tree Care and Consultancy dated March 2014.
- c) All works (including driveways and retaining walls) within the nominated Tree Protection Zone of any tree/s required to be retained (whether or not on the subject property, and pursuant to this consent or the *Tree Preservation Order*), must be carried out under the supervision of the Project Arborist / an '*AQF Level 5 Arborist*' and a certificate submitted to the principal certifying authority detailing the method(s) used to preserve the tree(s).

Note: Except as provided above, the applicant is to ensure that no excavation, including sub-surface trenching for stormwater or other services, the filling or stockpiling of building materials, parking of vehicles or plant, the use of machinery other than hand held, disposal of cement slurry, waste water or other contaminants is to occur within the nominated Tree Protection Zone of any tree to be retained.

24. Bushland Protection

- a) To protect native flora and fauna from infection and infestation of pathogens and weeds, all machinery must be cleaned of soil and debris before entering the subject site to prevent the spread of weeds and fungal pathogens such as Cinnamon Fungus (*Phytophthora cinnamomi*) and Chytrid Fungus (*Batrachochytrium dendrobatidis*); and
- b) To protect the bushland and retained trees from the effects of building materials, sedimentation and erosion from development sites the applicant must ensure that no filling of soil and no stockpiling of building materials is to occur within 4 metres of the adjacent bushland or retained indigenous trees for the duration of the on-site works.

25. Council Property

During construction works, no building materials, waste, machinery or related matter is to be stored on the road or footpath. The public reserve must be kept in a clean, tidy and safe condition at all times.

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

26. 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.

27. Survey Report – Finished Floor Level

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

- a) The building, retaining walls and the like have been correctly positioned on the site; and
- b) 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:

28. Right of Carriageway

The Deposited Plan shall be amended with respect to the 3.66 metre wide right-of-carriageway which shall reflect the existing constructed access driveway to Lot 12 DP 246969 No. 53 Glenview Road.

29. Fulfilment of BASIX Commitments

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

30. Completion of Bushland Protection and Regeneration

A certificate prepared by an ecologist or similarly qualified and experienced person must be submitted confirming that the bushland has been adequately protected and regenerated in accordance with the requirements of this development consent.

31. Asset Protection Zone (APZ)

- a) All APZ establishment works must be undertaken in accordance with the approved *Integrated Environmental Site Management Plan prepared by Conacher Consulting Pty Ltd (dated July 2014)*. The works are to be implemented by a qualified and experienced bush regeneration company.
- b) No clearing of native vegetation including trees, shrubs and groundcovers for bushfire protection is to occur, except where approved by Council and the NSW Rural Fires Service. Where clearing is permitted this must be carried out by manual fuel removal

methods only, such as a hand held brushcutter, and other methods such as raking and removal of ground litter.

- c) No mulch or garden waste is to be deposited in bushland.
- d) The completion of these works is to be certified by Council's Natural Resources Unit.

32. Asset Protection Zone Boundary

To ensure that the Asset Protection Zone requiring treatment is clearly defined as an area separate to retained native vegetation, the boundary of the Asset Protection Zone for bushfire protection must be marked with permanent metal stakes to prevent fuel reduction activities and vegetation clearing from encroaching into native bushland.

33. Weed control works

- a) To ensure the regeneration of bushland, the applicant must ensure that all introduced environmental and noxious weeds are removed in accordance with the approved *Integrated Environmental Site Management Plan prepared by Conacher Consulting Pty Ltd (dated July 2014)*. The works are to be implemented by a qualified and experienced bush regeneration company.
- b) The completion of these works is to be certified by Council's Natural Resources Unit.

34. Completion of Landscaping

- a) All landscaping shall comply with Figure 4.1 of the approved *Integrated Environmental Site Management Plan prepared by Conacher Consulting Pty Ltd (dated July 2014)*.
- b) The satisfactory completion of these works is to be certified by Council's Natural Resources Unit.

35. Geotechnical Recommendations

- a) All construction works shall be carried out in accordance with the recommendations of a qualified geotechnical engineer.
- b) Prior to the issue of an occupation certificate, a certificate by a qualified geotechnical engineer must be submitted to the principal certifying authority, certifying that all works have been carried out in accordance with the recommendations of a qualified geotechnical engineer.

36. 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.

37. Stormwater Drainage – Land Adjoining Public Reserve

In addition to other stormwater drainage requirements under this consent, the dispersion system must be designed and constructed in accordance with Council's *Sustainable Water Development* and be configured in accordance with the following requirements:

- a) Shallow excavated trenches are to be filled with rock that receive surface runoff infiltrating into the underlying soil; or
- b) A perforated pipe system must be installed that distributes runoff onto the subsoil through a gravel trench; or
- c) The system must direct inflows into a filtration gravel/stone chamber and then into a drainage cell wrapped in geotextile fabric allowing infiltration;
- d) The facility is not to be constructed on fill materials or on a slope exceeding 15 percent; and
- e) overland flow from the dispersal trench must be spread evenly over the site so as not discharge water in a concentrated manner onto adjoining lands.

38. Retaining Walls

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

OPERATIONAL CONDITIONS

39. Asset Protection Zone (APZ) works

- a) All APZ maintenance works shall be done in accordance with the e approved Integrated Environmental Site Management Plan prepared by Conacher Consulting Pty Ltd (dated July 2014).
- b) No clearing of native vegetation including trees, shrubs and groundcovers for bushfire protection is to occur, except where approved by Council and the NSW Rural Fires Service. Where clearing is permitted this shall be carried out by manual fuel removal methods only, such as a hand held brushcutter, and other methods such as raking and removal of ground litter.
- c) No mulch or garden waste is to be deposited in bushland.

- END OF CONDITIONS -

ADVISORY NOTES

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

Environmental Planning and Assessment Act 1979 Requirements

The *Environmental Planning and Assessment Act 1979* requires:

- The issue of a construction certificate prior to the commencement of any works. Enquiries can be made to Council's Customer Services Branch on 9847 6760;
- a principal certifying authority to be nominated and Council notified of that appointment prior to the commencement of any works;
- Council to be given at least two days written notice prior to the commencement of any works;
- mandatory inspections of nominated stages of the construction inspected; and

- an occupation certificate to be issued before occupying any building or commencing the use of the land.

Long Service Levy

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

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

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

Tree and Vegetation Preservation

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

Notes: A tree is defined as a long lived, woody perennial plant with one or relatively few main stems with the potential to grow to a height greater than three metres (3M) (HDCP 1B.6.1.c). Tree protection measures and distances are determined using the Australian Standard AS 4970:2009, "Protection of Trees on Development Sites".

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

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.

12 DEVELOPMENT APPLICATION - CHANGE OF USE TO A SELF STORAGE FACILITY INCLUDING ALTERATIONS AND ADDITIONS - 25 SEFTON ROAD, THORNLEIGH

EXECUTIVE SUMMARY

DA No:	DA/424/2014 (lodged 29 April 2014)
Description:	Change of use of an industrial building to a self storage facility including alterations and additions and the erection of signage
Property:	Lot 2 DP 590251 (No.25) Sefton Road, Thornleigh
Applicant:	Abacus Storage Operations Ltd
Owner:	Perpetual Trustee Company Limited
Estimated Value:	\$2.135 million
Ward:	B

- The application proposes change of use of an industrial building to a self storage facility for 'Storage King', including alterations and additions to an existing premises and the erection of signage.
- The application proposes to add 1,554m² of floor space to the existing premises resulting in a total floor space ratio (FSR) of 1.165:1. As a result, the proposal includes a submission seeking to vary the maximum FSR for the site of 1:1 pursuant to Clause 4.6 of the Hornsby Local Environmental Plan 2013.
- The extent of the variation to the development standard being sought is outside the delegation of Council officers to determine.
- No submissions have been received in respect of the application.
- It is recommended that the application be approved.

RECOMMENDATION

THAT Council assume the concurrence of the Secretary of Planning and Environment pursuant to Clause 4.6 of the *Hornsby Local Environmental Plan 2013* and vary the floor space ratio development standard and approve Development Application No. DA/424/2014 for the change of use of an industrial building to a self storage facility including alterations and additions and the erection of signage at Lot 2 DP 590251 (No.25) Sefton Road, Thornleigh subject to the conditions of consent detailed in Schedule 1 of Group Manager's Report No. PL58/14.

BACKGROUND

Council approved the use of the site for two factory units, known as Unit A and Unit B. The most recent consent of 20 June 1985 approved Development Application No.130/85 for the use of Unit A for the manufacture of bulk pharmaceuticals.

SITE

The site is a battleaxe shape with an area of 4,198m² and a frontage of 15.4m to Sefton Road. The 15.4m wide access handle has a length of 63m and incorporates a 6m wide and variable right-of-way and easement for electricity purposes to provide access to an electricity substation located on the site.

The site slopes down from the south towards the northern frontage of the site by 2.95m over a distance of 92m, representing a slope of 3%.

A total of 46 carparking spaces are approved on the site, 24 of which are located within the access handle. The site includes eighteen trees dispersed throughout the carpark, including a number of indigenous species.

The site is currently occupied by a part one and part 2 storey industrial building with a total floor area of 3,338m². Adjoining developments include Boral concrete, an indoor recreation facility, a vehicle repair station, and strata industrial units. The site is opposite Larool Shopping centre and the Thornleigh residential area to the north of Sefton Road.

PROPOSAL

The application seeks approval for the change of use of the industrial premises to a self storage facility to be occupied by *Storage King*. The proposed works would result in a total gross floor area of 4,892m² equating to approximately 360 individual storage spaces ranging in size from approximately 2m² to 30m². As part of the change of use, it is proposed to undertake the following works:

- Alterations and additions to the existing industrial building including the construction of 1,065m² of mezzanine floor space and a 80m² ground floor office adjacent to the northern façade;
- Add 402m² of external storage within 28 units, located over existing car parking spaces;
- Provide 12 car parking spaces, including 1 disabled parking space;
- A new 35m² painted fascia sign (1.2mx29.5m) on the northern façade of the building; and
- A new 9m² illuminated pylon sign (1.8mx6m) adjacent to the driveway entry.
- The building is proposed to be staffed from 8am to 6pm, and is to be accessible to customers 24 hours per day. After hours access is to be available via a PIN number and/or key system for access through the front security gate and to individual units.

ASSESSMENT

The development application has been assessed having regard to the '*Metropolitan Plan for Sydney 2031*', the '*North Subregion (Draft) Subregional Strategy*' and the matters for consideration prescribed under Section 79C of the *Environmental Planning and Assessment Act 1979* (the Act). The following issues have been identified for further consideration.

1. STRATEGIC CONTEXT

1.1 Metropolitan Plan for Sydney and (Draft) North Subregional Strategy

The *(Draft) Metropolitan Strategy for Sydney 2031* is a broad framework to provide for Sydney's growth to help plan for housing, employment, transport, infrastructure, the environment and open space. It outlines a vision for Sydney to 2031; the challenges faced, and the directions to follow to address these challenges and achieve the vision.

The North Subregion comprises Hornsby, Kuring-gai, Manly, Warringah and Pittwater Local Government Areas. The *Draft North Subregional Strategy* acts as a framework for Council in its preparation of the *Comprehensive LEP* by the end of 2013.

Within the North Subregion, the *Draft Metropolitan Strategy* proposes:

- Population growth of 81,000 from the current 2011 baseline of 529,000
- Housing growth of 37,000 from the current 2011 baseline of 204,000
- Employment growth of 39,000 from the current 2011 baseline of 186,000

The proposed development would be consistent with the *Metropolitan Plan for Sydney 2031* by providing additional employment opportunities.

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

2.1.1 Zoning

Under the *HLEP*, the subject land is zoned *IN1 (General Industrial)*. The proposed development is defined as ‘*self storage units*’ and is permissible within the zone with Council's consent. The development satisfies the zone objectives.

2.1.2 Height of Building

Clause 4.3 of the *HLEP* provides that the height of a building on any land is not to exceed the maximum height shown for the land on the Height of Buildings Map. The maximum permissible height for the subject site is 10.5m. The existing building has a height ranging from 6m to 12m. The application involves internal works to the existing building, a new ground floor office showroom and awning and the erection of signs 6m to 6.5m above ground. The application also proposes to erect external storage units with a maximum height of 3.1m.

The plans do not indicate any building works above the maximum *HLEP* height of 10.5m. The tallest new structure is an internal fire wall with a maximum height of 8m. The proposal complies with the height of building control.

2.1.3 Floor Space Ratio

Clause 4.4 of the *HLEP* provides that the maximum floor space ratio (FSR) of development on the site is not to exceed 1:1. The proposal will result in an overall FSR for the site of 1.165:1 which exceeds this requirement. To address this issue, the application is supported by a submission pursuant to

Section 4.6 of the *HLEP* to vary the maximum FSR development standard. This matter is addressed below.

2.1.4 Exceptions to Development Standards

The application has been assessed against the requirements within Clause 4.6 of the *HLEP*. This clause provides flexibility in the application of development standards in circumstances where strict compliance with those standards would, in any particular case, be unreasonable or unnecessary or tend to hinder the attainment of the objectives of the zone.

On the Floor Space Ratio (FSR) Map, the maximum FSR is 1:1. The proposed building exceeds the maximum control, having an FSR of 1.165:1.

Floor Space Ratio is defined by the *HLEP* as follows:

“floor space ratio of buildings on a site is the ratio of the gross floor area of all buildings within the site to the site area.”

Clause 4.4 of the *HLEP* states that the objective of the FSR control is to permit development of a bulk and scale that is appropriate for the site constraints, development potential and infrastructure capacity of the locality.

The applicant has made a submission in support of a variation to the maximum FSR of 1:1 under Clause 4.6 of the *HLEP*. The development application seeks to vary the maximum FSR by 16.5% or 693m². The applicant states the proposed FSR variation is considered to be consistent with the objectives of the control and is justified as follows:

- The majority of the additional FSR (1,554m²) is proposed to be located within the existing building envelope and as such, will not result in any discernible increase to the height, bulk and scale of the existing built form;
- The remaining additional FSR (402m²) is to comprise of external storage units which will have a maximum height of 3.1m and which is significantly less than the height of the adjoining structures within the locality;
- The proposal would not result in any external impacts as a result of the proposed increased FSR and would result in development which is in keeping with the character of the surrounding locality;
- The proposal would be provided with car parking which is commensurate with the proposed use;
- The proposal is considered to be within the existing infrastructure capacity of the site and locality particularly in relation to vehicle movements and car parking as detailed within the accompanying Traffic and Parking Study;
- There is no public benefit in maintaining the development standard in this instance given the absence of any unreasonable detrimental impacts and the public benefit that arises from the provision of the proposed use upon the site; and
- Compliance is unreasonable and unnecessary in the circumstances of this case.

Having regard to the above points, the following matters are assessed as relevant:

- Planning and Infrastructure NSW Guidelines on varying development standards recommend considering the provisions of Clause 4.6 of the LEP and the 'five part test' established by the Land and Environment Court relating to the variation, as reproduced in the following:

The 'five part test'

- a) the objectives of the standard are achieved notwithstanding noncompliance with the standard;
 - b) the underlying objective or purpose of the standard is not relevant to the development and therefore compliance is unnecessary;
 - c) the underlying object of purpose would be defeated or thwarted if compliance was required and therefore compliance is unreasonable;
 - d) the development standard has been virtually abandoned or destroyed by the council's own actions in granting consents departing from the standard and hence compliance with the standard is unnecessary and unreasonable;
 - e) the compliance with development standard is unreasonable or inappropriate due to existing use of land and current environmental character of the particular parcel of land. That is, the particular parcel of land should not have been included in the zone.
- The development satisfies Part 1 of the test as the objective of the FSR standard to limit the intensity and bulk and scale of development is achieved notwithstanding non compliance with the FSR control.
 - The use of the property as a self storage facility is a less intensive land use than a factory. A self storage facility has a low staffing level compared to a factory. Self storage facilities typically have 2 people working on a shift whereas an average 3,338m² factory could employ 66 people, utilising an average employee density of 1person/50m². Furthermore, the table below demonstrates that the proposed self storage facility results in fewer daily vehicle trips than a factory premises with a compliant FSR and less peak hour trips than the existing factory.

	GFA	Daily Vehicle Trips		Peak Hour Trips	
		rate	No.	rate	No.
Existing Factory	3,338m ²	1/20m ² GFA	167	1/100m ² GFA	33
Proposed Self Storage Facility	4,892m ²	1/27m ² GFA	181	1/300m ² GFA	16
Factory with maximum FSR	4,198m ²	1/20m ² GFA	210	1/100m ² GFA	42
Warehouse with maximum FSR	4,198m ²	1/25m ² GFA	168	1/200m ² GFA	21

- The additional floor space is predominately contained within the existing building and the bulk of the new work is compatible with the locality.
- The proposal would not set an unacceptable precedent for the precinct, taking into account the low level of activity generated by self storage facilities.
- Notwithstanding the FSR non-compliance, the application is a reasonable outcome for the site and achieves the aims of the *HLEP and Hornsby DCP*.

Based on this assessment, it is considered that compliance with the development standard would be unreasonable and unnecessary in the circumstances of the case. Accordingly, the Clause 4.6 submission is supported.

2.2 State Environmental Planning Policy No. 64 – Advertising and Signage

The application has been assessed against the requirements of *State Environmental Planning Policy No. 64 – Advertising and Signage*. This SEPP aims to improve the amenity of urban and natural settings by managing the impact of outdoor advertising. In accordance with Part 3, Clause 9, the proposed signage is predominately a '*business identification sign*'. The SEPP requires consideration of the following design considerations:-

State Environmental Planning Policy No.64		
Schedule 1 – Assessment Criteria (to be considered for all advertising structures including “business identification signs”)		
Control	Requirement	Compliance
Character of the area	Is the proposal compatible with the existing or desired future character of the area or locality in which it is proposed to be located?	Yes
	Is the proposal consistent with a particular theme for outdoor advertising in the area or locality?	Yes
Special areas	Does the proposal detract from the amenity or visual quality of any environmentally sensitive areas, heritage areas, natural or other conservation areas, open space areas, waterways, rural landscapes or residential areas?	No
Views and vistas	Does the proposal obscure or compromise important views?	No
	Does the proposal dominate the skyline and reduce the quality of vistas?	No
	Does the proposal respect the viewing rights of other advertisers?	Yes
Streetscape, setting or landscape	Is the scale, proportion and form of the proposal appropriate for the streetscape, setting or landscape?	Yes
	Does the proposal contribute to the visual interest of the streetscape, setting or landscape?	No
	Does the proposal reduce clutter by rationalising and simplifying existing advertising?	No

	Does the proposal screen unsightliness?	No
	Does the proposal protrude above buildings, structures or tree canopies in the area or locality?	Yes
	Does the proposal require ongoing vegetation management?	No
Site and building	Is the proposal compatible with the scale, proportion and other characteristics of the site or building, or both, on which the proposed signage is to be located?	Yes
	Does the proposal respect important features of the site or building, or both?	Yes
	Does the proposal show innovation and imagination in its relationship to the site or building, or both?	No
Associated devices and logos	Have any safety devices, platforms, lighting devices or logos been designed as an integral part of the signage or structure on which it is to be displayed?	Yes
Illumination	Would illumination result in unacceptable glare?	No, condition
	Would illumination affect safety for pedestrians, vehicles or aircraft?	No, condition
	Would illumination detract from the amenity of any residence or other form of accommodation?	No, condition
	Can the intensity of the illumination be adjusted, if necessary?	No
	Is the illumination subject to a curfew?	Yes, condition
Safety	Would the proposal reduce the safety for any public road?	No
	Would the proposal reduce the safety for pedestrians or bicyclists?	No, condition
	Would the proposal reduce the safety for pedestrians, particularly children, by obscuring sightlines from public areas?	No

As detailed in the above table, the development is able to comply with the provisions of SEPP No.64 subject to appropriate consent conditions. Signage is discussed further at Section 2.5.6 of the report.

2.3 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, the proposal would comply with the requirements of the Policy.

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

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

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

2.5 Hornsby Development Control Plan 2013

The *Hornsby Development Control Plan 2013 (HDCP)* applies to all land within Hornsby Shire. An assessment of the development against the relevant sections of the HDCP is provided below.

HDCP – Part 5 Industrial and Part 1C.2.11 Signage			
Control	Proposal	Requirement	Complies
Floor Space Ratio	1.165:1	1:1	No
Building Height	12m (existing) 8m (proposed)	10.5m	Yes
No. storeys	2 storeys	2 storeys	Yes
Ancillary Office Space	1.6%	30% (max)	Yes
Front Setback (Sefton Road)	17m	5m	Yes
Side Setback (east)	0m	0m	Yes
Side Setback (west)	0m	0m	Yes
Rear Setback (south)	0m (existing)	0m	N/A

Landscaping	40% (existing)	50% of required front setback	N/A (existing)
Open Space (eating/ sitting area)	nil	1m ² / employee	No
Pole Sign	6m high	8m high	Yes
	1.8m wide	2m wide	Yes
Fascia Sign	35m ²	5m ²	No

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

2.5.1 Floor Space Ratio

See previous discussion at 2.1.3 and 2.1.4 of this report.

2.5.2 Open Space

The HDCP Section 5.1.4 requires that an outdoor eating area of at least 10m² be provided for employees. Where this is unable to be accommodated, an internal eating/sitting area is to be provided. The application proposes a small tearoom. This is acceptable taking into account the size of the office area and the low staffing levels proposed.

2.5.3 Stormwater Management

The proposal involves building over existing impervious car parking areas and therefore, would not have a significant impact on stormwater. Stormwater disposal is to be via the existing stormwater management system that drains to Sefton Road.

2.5.4 Transport and Parking

The HDCP does not provide any specific parking rates for self storage facilities. The application proposes a total floor area of 4,892m². Based on parking surveys of similar facilities available to Council, a parking rate of 0.23 parking spaces per 100m² of floor area applies to self storage facilities. Based on this parking rate, the proposal requires 11.2 (rounded up to 12) parking spaces. The application initially proposed 11 parking spaces, which was subsequently increased to 12 spaces.

The development is designed to accommodate a turning area adjacent to the building for a medium rigid vehicle (MRV) 8.8m long. Initially Council requested that the development be designed to accommodate a Heavy Rigid Vehicle (HRV) 12.5m long. In response the applicant advised that:

- The proposed occupant of the premises (Storage King) has advised that it would be highly unusual for a LRV to require access to any of their existing facilities. They advise that the largest vehicles which access their sites would be a MRV.
- It is advised that the largest storage unit proposed upon the site is 18m² and as such, all units would be serviced by a MRV or smaller.

- In this regard, a typical shipping container (often used to transport household furniture and the like) has a length of approx. 6m and would be accommodated upon a MRV.
- On this basis, it would be both unreasonable and unnecessary in the circumstances of this case to require the development to be able to accommodate a LRV.

The justification provided by the applicant is reasonable in the circumstances of the proposed use. Accordingly, the recommended consent conditions limit the size of trucks servicing the site to a MRV.

2.5.5 Accessible Design

The development includes one parking space designed for people with a disability and an accessible toilet. Consent conditions require compliance with the Building Code of Australia.

2.5.6 Signage

The application has been assessed against the requirements of *State Environmental Planning Policy No. 64 – Advertising and Signage* and the HDCP at 2.2 of this report.

The proposed pole sign adjacent to the street frontage has a maximum height of 6m which complies with the maximum height of 8m above ground prescribed within the *HDCP*. The sign is proposed to be internally illuminated. However, details of the illumination were not prescribed within the application. Consent conditions are recommended to ensure that the level of illumination is consistent with Best Practice Guidelines for road safety referenced within the *HDCP (Transport Corridor Outdoor Advertising and Signage Guidelines (2007) by the Department of Planning)*. Hours of illumination are also limited to ensure compatibility with the residential zone on the northern side of Sefton Road. The sign is sited immediately adjacent to the street frontage in a location that does not provide for sight distances to ensure adequate visibility for pedestrians in accordance with AS2890.1. The plans are required to be amended to comply.

The proposed fascia sign on the existing building has an area of 35m² (1.2mx29.5m) which exceeds the total area of 5m² prescribed within the HDCP. The total area of the sign represents 17% of the northern façade of the building, is well setback from the public domain, is integrated with the architecture of the supporting structure and maintains the dominance of the architecture of the building. The part of the roof sign comprising the logo 'Storage King' projects above the parapet of the building and is not supported. The recommended consent conditions require that the sign be amended so that it does not protrude above the parapet or eaves of the building to which it is attached.

The proposal satisfies the objectives of the SEPP and the HDCP, with consent conditions.

2.5.7 Noise

The self storage facility is proposed to be operated with 24 hour access to customers. Therefore, late at night when background noise levels are low, there could be intermittent noise emissions from the site from the security gate, trucks reversing, loading and unloading outside of the building, roller doors to the units opening and the like.

Part 1C.2.5 of the HDCP requires that noise impact management measures be used to limit potential noise impacts on sensitive land uses. The site is located in close proximity to residential dwellings on the northern side of Sefton Road. An acoustic impact report was not submitted with the application. Consent conditions are recommended to prohibit access to the site between 10pm and 7am to eliminate intermittent noise during the night time.

2.6 Section 94 Development Contributions Plan 2012-2021

The *Hornsby Shire Council Development Contributions Plan 2012-2021* applies to development within the Hornsby Shire that involves an increase in floor space. The application proposes to change the use of the industrial premises to a self storage facility and add 1,554m² of floor space. The proposed land use of 'self storage' is not specifically addressed in the Section 94 plan. The Plan advises that in this circumstance, the requirement for Section 94 will be calculated by assessing the increase in workers and increase in peak vehicle trips (PVT). As previously addressed at 2.1.4 of this report, the proposed development will result in a decrease in workers and a decrease in peak vehicle trips compared to the approved use of the property as a factory. Therefore, in accordance with the methodology in the Section 94 Plan, a S94 contribution is not required. However, the provisions of Council's Section94A Contributions Plan applies and a consent condition is recommended.

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

Blue Gum Shale Forest (BGSF) community is located along Sefton Road, Thornleigh. Blue Gum Shale Forest is listed as a Critically Endangered Ecological Community (CEEC) under the NSW *Threatened Species Conservation Act 1995*.

The site contains a group of significant trees, being Trees No.1-8 and 22 located adjacent to Sefton Road. The application proposes the removal of twelve trees from the site, four of which are included in the group of significant trees. The trees to be removed from the significant group comprise noxious weeds, a white gum and grevilleas that are not individually significant. There is no objection to the removal of trees from the site, subject to consent conditions requiring appropriate replacement planting.

Tree Nos 20 and 21 located on the neighbouring property (Lot 1 DP 507924) are located in close proximity to the proposed new storage structures. These trees are not locally indigenous species however, neighbours consent is required to remove the trees or undertake significant works within the Structural Root Zone (SRZ) and Tree Root Zone (TRZ). The recommended consent conditions require the deletion of one 3mx3m storage unit to the north of Tree No.21, where the tree trunk immediately adjoins the walls of the new storage unit and the canopy extends into the building envelope.

3.2 Built Environment

The bulk and scale of the development is consistent with the built form in the locality and is a less intensive land use than the approved factory building. While the development exceeds the maximum floor space ratio for the site, the development is consistent with the objective of the FSR standard to limit the intensity and bulk and scale of development.

3.3 Social Impacts

It is noted that, as the building is currently unoccupied, the land is not presently yielding any employment which would be improved by the proposed development.

3.4 Economic Impacts

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

4. SITE SUITABILITY

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

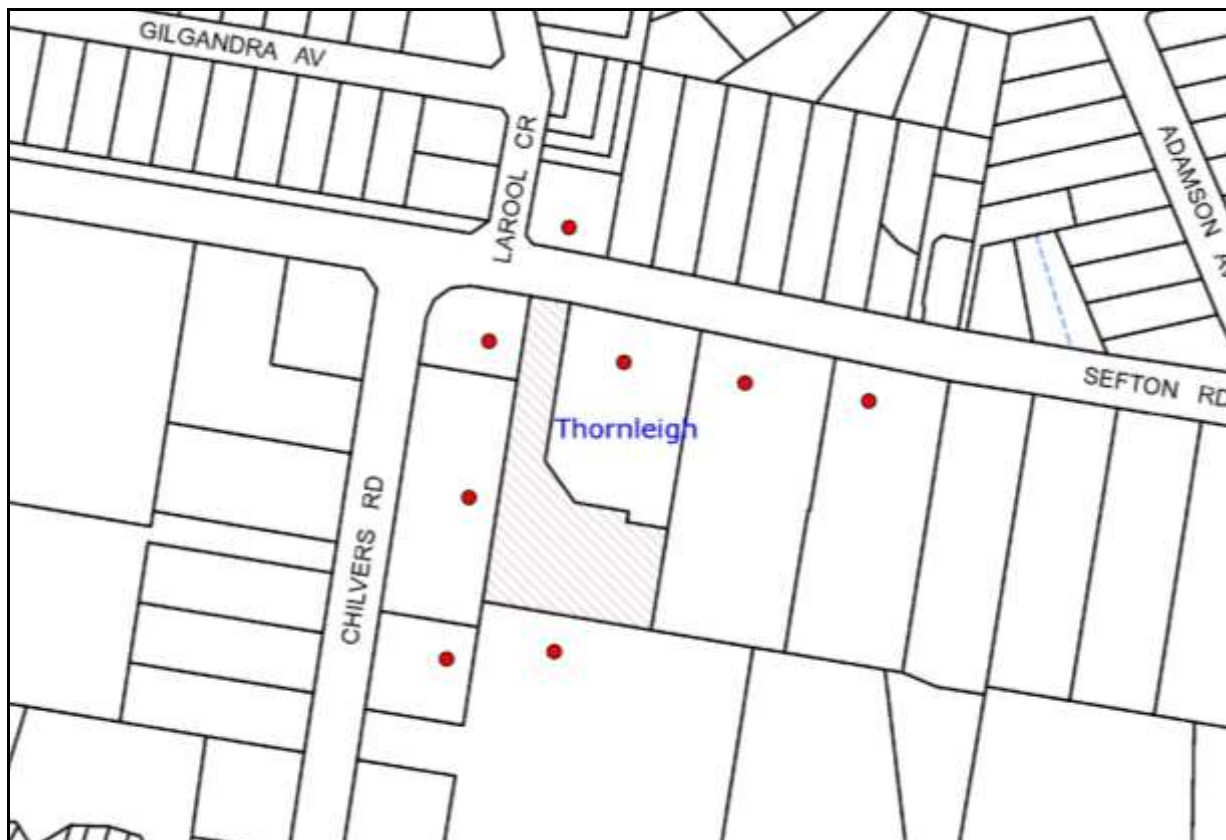
The subject site has not been identified as bushfire prone or flood prone land. The site is considered to be capable of accommodating the proposed development. The scale of the proposed development is consistent with the capability of the site and is considered acceptable.

5. PUBLIC PARTICIPATION

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

5.1 Community Consultation

The proposed development was placed on public exhibition and was notified to adjoining and nearby landowners between 12 May 2014 and 29 May 2014 in accordance with the *Hornsby Development Control Plan 2013*. During this period, Council received no submissions. The map below illustrates the location of those nearby landowners notified of the application.



NOTIFICATION PLAN

• PROPERTIES NOTIFIED	X SUBMISSIONS RECEIVED	 PROPERTY SUBJECT OF DEVELOPMENT	
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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 seeks approval for the change of use of an industrial building to a self storage facility involving alterations and additions and the erection of signage.

The proposal does not comply with the Clause 4.4 (Floor Space Ratio) of the *Hornsby Local Environmental Plan 2013*. A submission pursuant to Clause 4.6 of the *Hornsby Local Environmental Plan 2013* has been submitted to support the development, which is considered well-founded.

The proposed development has regard to the requirements of the *Hornsby DCP* and is considered acceptable subject to consent conditions to mitigate the potential impacts of the development on the amenity of the residential properties to the north of Sefton Road.

The application is recommended for approval.

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

ROD PICKLES
Manager - Development Assessment
Planning Division

JAMES FARRINGTON
Group Manager
Planning Division

Attachments:

1. Locality Map
2. Site Plan
3. Landscape Plan
4. Floor Plans
5. Elevations and Sections

File Reference: DA/424/2014

Document Number: D03310432

SCHEDULE 1**GENERAL CONDITIONS**

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

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

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

1. Approved Plans and Supporting Documentation

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

Plan No.	Plan Title	Drawn by	Dated
1115 DA1 Rev 5	Site & Location Plan	Michael Standley & Associates	18 Jun 2014
1115 DA 2 Rev 5	Ground Floor Plan	Michael Standley & Associates	18 Jun 2014
1115 DA 3 Rev 5	First Floor Plan	Michael Standley & Associates	18 Jun 2014
1115 DA4 Rev 4	Section	Michael Standley & Associates	4 April 2014
1115 DA5 Rev 5	Elevations & Signage	Michael Standley & Associates	18 Jun 2014
1115 DA6 Rev 5	External Storage Units	Michael Standley & Associates	18 Jun 2014
1115 DA7 Rev 4	Pylon Sign at Entry	Michael Standley & Associates	4 April 2014
1115 DA8	Truck Movement diagram medium rigid vehicle	Michael Standley & Associates	18 Jun 2014
LPDA14-299/1 - C	Landscape Plan	Conzept Landscape Architects	17 April 2014

2. Amendment of Plans

The approved plans are to be amended as follows:

- a) The storage unit immediately to the north of Tree No.21 is not approved as indicated in red on the Landscape Plan LPDA 14-299/1.
- b) The Site Plan AA5 DA1 is amended by relocating the pylon sign to the south to comply with Figure 3.3 (Minimum sight lines for pedestrian safety) in AS2890.1:2004.
- c) The Landscape Plan LPDA 14-299/1 is amended by substituting the replacement plantings of *Cupaniopsis anacardioides* (Tuckeroo) with five (5) *Tristaniopsis laurina* (Water Gum).
- d) The Elevations and Signage Plan 1115 DA5 is amended by reducing the height of the fascia sign so that the storage king logo does not extend above the parapet or eaves of the building to which it is attached.

3. Removal of Existing Trees

This development consent permits the removal of trees numbered 2, 3, 7, 9, 10, 11, 12, 13, 14, 18, 19 and 22 on the site as outlined on the tree schedule on the Landscape Plan LPDA 14-299/1. The removal of any trees requires separate approval in accordance with the Tree and Vegetation Chapter 1B.6 Hornsby Development Control Plan (HDCP).

4. Construction Certificate

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.

5. Section 94A Development Contributions

- a) In accordance with Section 80A(1) of the *Environmental Planning and Assessment Act 1979* and the *Hornsby Shire Council Section 94A Development Contributions Plan 2012-2021*, \$21,353.75 shall be paid to Council to cater for the increased demand for community infrastructure resulting from the development, based on development costs of \$2,135,378.
- b) The value of this contribution is current as at 7 August 2014. If the contributions are not paid within the financial quarter that this condition was generated, the contributions payable will be adjusted in accordance with the provisions of the Hornsby Shire Council Section 94 Development Contributions Plan and the amount payable will be calculated at the time of payment in the following manner:

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

Where:

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

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

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

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

- c) The monetary contributions shall 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.

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

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

REQUIREMENTS PRIOR TO THE ISSUE OF A CONSTRUCTION CERTIFICATE

6. Building Code of Australia

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

7. Fire Safety Upgrade

To ensure the protection of persons using the building and to facilitate egress from the building in the event of a fire, the application for a construction certificate must demonstrate that it will comply with the following Category 1 fire safety provisions:

- a) The building is to comply with Parts C2.2, and C2.7 of the BCA, including the alternate solution;
- b) The building is to comply with the Environmental Planning and Assessment Regulation 2000 clause 144 and 144A; and
- c) A list of existing and proposed fire safety measures is to be submitted to the PCA with any Construction certificate in accordance with the EP&A Regulation 2000 – Schedule 1.

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

8. Traffic Management Plan

A Construction Traffic Management Plan detailing construction vehicle routes, number of trucks, hours of operation, access arrangements, manoeuvring on-site and traffic control must be submitted to Council's Manager Assessments for determination prior to the issue of a Construction Certificate.

REQUIREMENTS PRIOR TO THE COMMENCEMENT OF ANY WORKS

9. Erection of Construction Sign

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

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

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

10. Toilet Facilities

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

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

11. Tree Protection Barriers

Tree protection fencing must be erected around trees to be retained outside the Tree Root Zone (TRZ) HDCP Section 1B.6.1 (i). Tree fencing must be constructed of 1.8 metre 'cyclone chainmesh fence'. Measurement for fencing is taken from the edge of the trunk of the tree at breast height.

Tree Root Zones (TRZ)

HDCP Section 1B.6.1 (i).	TRZ
Trees with a diameter at breast height greater than 800mm	9m
Trees with a diameter at breast height greater between 400mm & 800mm	7m
Trees with a diameter at breast height greater less than 400mm	4m

Fencing is to be erected before any machinery or materials are brought onto the site and before the commencement of works. Once erected, protective fencing must not be removed or altered without approval by an 'AQF Level 5 Arborist' or consent authority.

Note: The Principal Certifying Authority is to ensure that all tree protection measures are in accordance with the above and consistent with the intentions of the Australian Standard 'Protection of Trees on Development Sites (AS 4970-2009) prior to commencement and for the duration of works.

REQUIREMENTS DURING CONSTRUCTION**12. Construction Work Hours**

All work on site (including demolition and earth works) must only occur between 7am and 5pm Monday to Saturday. No work is to be undertaken on Sundays or public holidays.

13. 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.

14. Demolition

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

- a) Demolition material 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 buildings contain asbestos material, a standard commercially manufactured sign containing the words ‘DANGER ASBESTOS REMOVAL IN PROGRESS’ measuring not less than 400mm x 300mm must be erected in a prominent position visible from the street.

15. Works Near Trees

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

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

Should the excavation of any underground services (i.e. drainage/sewer/stormwater) be approved within the TRZ of any tree to be retained, excavation by hand ONLY shall be undertaken.

No tree root greater than 30mm diameter located within the nominated Tree Root Zone HDCP Section 1B.6.1 (i) of any tree to be retained on or off-site shall be severed or injured in the process of any works during the entirety of the consent.

Tree roots less than 30mm diameter required to be severed for the purposes of this consent shall be cut cleanly by hand, by a qualified and experienced Arborist or Horticulturalist with minimum qualifications of Horticultural Certificate or Tree Surgery Certificate (AQF 3).

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

16. Council Property

During construction works, no building materials, waste, machinery or related matter is to be stored on the road or footpath. The public reserve must be kept in a clean, tidy and safe condition at all times.

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.

17. Stormwater Drainage

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

- a) Connected directly to the existing internal drainage system.

18. Internal Driveway/Vehicular Areas

All car parking must be constructed and operated in accordance with Australian Standard AS/NZS 2890.1:2004 – Off-street car parking and Australian Standard AS 2890.2:2002 – Off-street commercial vehicle facilities.

All parking for people with disabilities is to comply with AS/NZS 2890.6:2009 Off-street parking for people with disabilities.

All parking areas and driveways are to be sealed to an all weather standard, line marked and signposted.

The approved pylon sign, landscaping and/or fencing must not restrict sight distance to pedestrians and cyclists travelling along the footpath.

19. Maintain Canopy Cover and Completion of Landscaping

Substitute the proposed replacement plantings of *Cupaniopsis anarcardioides* (Tuckeroo) as outlined in the submitted Landscape Plan (DWG No: LPDA 14 – 299/1) prepared by Conzept Landscape Architects dated April 2014 with five (5) *Tristaniopsis laurina* (Water Gum).

All remaining aspects of the submitted Landscape Plan as outlined above shall be adhered to.

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

Note: Applicants are advised to pre-order plant material required in pot sizes 45 litre or larger to ensure Nurseries have stock available at the time of install.

20. External Lighting

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

21. Illumination of Pylon Sign

The illumination of the pylon sign must be designed and installed so that the luminance does not exceed that prescribed in Part 3.2.5 (for Zone 3) of the *Transport Corridor Outdoor Advertising and Signage Guidelines (2007)* by The Department of Planning. Certification of compliance with the Standard must be obtained from a suitably qualified person.

OPERATIONAL CONDITIONS**22. Hours of Operation**

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

8am to 6pm (7 days, Sunday to Saturday)

with the exception of access for clients to their storage units, which is limited to:

7am to 10pm (7 days, Sunday to Saturday)

23. Internal Driveway/ Vehicular Areas

- a) 12 carparking spaces are to be provided for the self storage facility.
- b) Car parking, loading and manoeuvring areas to be used solely for nominated purposes.
- c) All loading and unloading of vehicles associated with the storage facility must take place within the site.
- d) Parking spaces shall not be used as work bays, display of cars for sale, or storage of materials.
- e) The largest vehicle to service the site shall be a Medium Rigid Vehicle 8.8m long.

24. Illumination of Pylon Sign

The illumination of the pylon sign is subject to the following:

- a) The level of illumination is not to cause light spillage to nearby properties, and
- b) It is to be internally illuminated. It is not to be floodlit, and
- c) It is not to have/use large areas of illuminated display in the colour red, and
- d) It is not to have/use animated display, moving parts or simulated movement, and
- e) It is not to have/use complex displays that hold driver's attention beyond 'glance appreciation', and
- f) It is not to have/use a display resembling traffic signs or signals, and
- g) It is not to have/use a method and level of illumination that distracts or dazzles, and
- h) The signage is not to be illuminated between 10pm and 7am, and

- i) The lighting is to be fitted with an automatic timing device, controlling the illumination hours.
- j) In addition to the above, the variable electronic message display is to comply with the following:
 - i) The time to change the display must not be greater than 1 second,
 - ii) The display must be completely static from its first appearance to the commencement of a change to another display,
 - iii) The sign must not contain any scrolling messages (i.e. displayed text or graphics which moves up, down or across the screen so that a line of text or graphics appears at one edge of the screen for each line that moves off the opposite edge), and
 - iv) The changeable message on the advertising structure is not to include any advertising that relates to a business or activity that is not undertaken at the subject premises.

25. Fire Safety Statement - Annual

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

26. Noise

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

- END OF CONDITIONS -

ADVISORY NOTES

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

Environmental Planning and Assessment Act 1979 Requirements

The Environmental Planning and Assessment Act 1979 requires:

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

Long Service Levy

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

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

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

Tree and Vegetation Preservation

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

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

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

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

Disability Discrimination Act

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

Covenants

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

Dial Before You Dig

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

Telecommunications Act 1997 (Commonwealth)

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

Asbestos Warning

Should asbestos or asbestos products be encountered during demolition or construction works, you are advised to seek advice and information prior to disturbing this material. It is recommended that a

contractor holding an asbestos-handling permit (issued by *WorkCover NSW*) be engaged to manage the proper handling of this material. Further information regarding the safe handling and removal of asbestos can be found at:

www.environment.nsw.gov.au

www.nsw.gov.au/fibro

www.adfa.org.au

www.workcover.nsw.gov.au

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

13 BROOKLYN MASTERPLAN - COMMUNITY SURVEY

EXECUTIVE SUMMARY

- In 2012, Council resolved to progress investigations regarding the preparation of a new Masterplan for Brooklyn. As a first step in the process, it is proposed to undertake community consultation to gauge community attitudes to planning in Brooklyn.
- The 2014 – 2016 Strategic Planning Program includes a project to undertake community consultation to inform the scope, issues and terms of reference for a planning response for Brooklyn.
- It is recommended that an on-line and limited street-intercept survey be undertaken to identify community and visitor attitudes to Brooklyn's constraints and opportunities and planning and other place management options.
- It is recommended that ratepayers and business owners in Brooklyn and the Lower Hawkesbury River Settlements and randomly selected other Hornsby ratepayers and peak-time visitors be invited to participate in the survey.

RECOMMENDATION**THAT:**

1. Consultation be undertaken with the community in accordance with the consultation strategy outlined in Group Manager's Report No. PL47/14.
2. The General Manager be authorised to approve any consultation material and/or additional consultation techniques recommended by Council's community consultation specialist to engage with the community.
3. Council accept receipt of written submissions in addition to feedback provided in the survey.
4. Any responses to the survey and the written submissions received be evaluated and a report prepared for Council's consideration.

PURPOSE

On 20 August 2014, Councillors were briefed on the progress, consultation method and draft content of a survey to gauge community attitudes to planning in Brooklyn. At the meeting, it was agreed that a report would be progressed to the next Council meeting seeking a resolution to proceed with the consultation.

Accordingly, the purpose of this Report is to seek endorsement of a methodology to undertake community consultation to inform the scope and terms of reference for a planning response for Brooklyn.

BACKGROUND

The township of Brooklyn is the northern gateway to Hornsby Shire. It forms a narrow strip of land aligned east-west from the Pacific Highway to the west to the McKell Park foreshore to the east. The urban area is bounded to the north by the foreshores of Sandbrook Inlet of the Lower Hawkesbury River and to the south by the steep Cowan Bank escarpment to the Ku-ring-gai Chase National Park and the Main Northern Railway. Long Island runs parallel with the Brooklyn foreshore and forms the northern boundary of Sandbrook Inlet.

Brooklyn has a picturesque and historical village core and extensive areas of protected wetland and native vegetation. It also has important residential, transport, tourism, river commerce, recreational and aquaculture land uses and functions. Recent census data shows that there are 744 residents in Brooklyn, a slight decline from the 2006 census. Households are mostly couples with children, the predominant age group is children 0-14 years and 68.6% of homes are owner occupied.

Sydney Rock Oyster farming once defined Brooklyn, however, in 2004 QX oyster disease and more recently, the POMs oyster virus have resulted in the reduction of the once extensive areas available for oyster farming lease. Boating and maritime services, and associated tourism, are of increasing economic importance. The *Hawkesbury River Estuary Economic Benefit Study Identification Study* by Roylat Services Pty Ltd 2013, identified that the nine marina facilities in the Brooklyn area between Kangaroo Point and Flat Rock had approximately 460 moored and berthed vessels and that they have an estimated maintenance and servicing value to industry of \$9 million.

Council services and maintains many parks and areas of open space throughout Brooklyn and its waterways, including a public jetty, wharf and boat ramp in the village to serve both immediate and other River Settlement residents as well as tourists. Most tourists are day visitors to the river and river settlements, marinas, village and parks and the *Hawkesbury River Estuary Economic Benefit Study Identification Study* indicates a rise in the value of tourism in the Lower Hawkesbury (including Brooklyn) of 46% since 2006.

State and Regional Context

The *Draft North Subregional Strategy 2007* of the *Sydney Metropolitan Strategy 2006* identifies Brooklyn as a Metropolitan Attractor – a tourism locality that draws Sydney, regional and international tourists. The Strategy notes that Brooklyn is a key attractor for day and overnight visitors accessing the surrounding National Parks, recreational fishing, boating and other waterway activities and that conserving its heritage and environmental values should be part of planning for its future. The Strategy identifies the (now complete) Brooklyn/Dangar island Sewerage Scheme as a key State infrastructure upgrade.

The draft *Metropolitan Strategy for Sydney to 2031* identifies that managing the health of the environment of the Hawkesbury River (including Brooklyn) and protecting its role as a recreational

and commercial fishery resource is a priority. It also notes that villages such as Brooklyn and important catchments and waterways such as the Hawkesbury-Nepean, remain important as a reliable and local source of fresh food and produce and for tourism growth.

Local Planning Context

Brooklyn has been the subject of several previous Council studies, strategies and plans including the *Brooklyn and Environs Management Plan* in 1991, the *Waterways Review* 2006, the *Business Lands Masterplan* (which focussed on the village centre) also finalised in 2006 and the *River Settlements and Foreshore Review* in 2007. Most of the studies were undertaken to address specific issues or proposals on certain land or waterways and are now out of date or have been superseded. Many of the recommendations of the various previous studies have been incorporated into the *Hornsby Local Environmental Plan 2013* (HLEP 2013), the *Hornsby Development Control Plan 2013* (HDCP 2013) and various Council asset management strategies and plans.

Most of the urban area of Brooklyn is zoned R2 – Low Density Residential. There are substantial areas of RE1 – Public Recreation and E3 – Environmental Management land as well as extensive SP2 – Railway land. Nearly all of Brooklyn above the mean high water mark is a Bushfire Prone Area and much of the intertidal zone is zoned E2 – Environmental Conservation. Many Brooklyn buildings, gardens, public buildings, parks and open spaces are included in Heritage Schedule 5 of the HLEP 2013 and Schedule 1 of HLEP which includes provisions for additional land uses in certain areas.

Part 8 – *River Settlements* - of the *Hornsby Development Control Plan 2013* identifies Brooklyn as a place that ‘.....continues to play a vital role in the maritime operations of the river, providing a transport interchange, maritime services facilities and a gateway for tourists, visitors and residents of the Hawkesbury River.’ Part 8 of the HDCP 2013 also includes specific controls and prescriptive measures to ensure development respects and complements the existing and desired future character of the River Settlements (including Brooklyn).

Current Status

Brooklyn residents and business interests have suggested there is a need to improve public facilities and amenities at Brooklyn and enhance residential, tourism and commercial opportunities. Concerns have also been raised about growth and development impacts on environmental values and existing heritage character, increased traffic and parking demand and waterfront and river access.

In response to these concerns, at its meeting of 19 December 2012, Council considered a Mayoral Minute about investigating the preparation of a new Masterplan for Brooklyn. Council resolved to write to the local State Member for Hornsby requesting financial support and the involvement of government agencies in establishing a Project Control Group to engage the local community and to investigate and prepare a Masterplan for Brooklyn. In accordance with Council's resolution, a letter from the Mayor to the State Member seeking such support was forwarded in January 2013. However, to-date, financial assistance has not been provided.

In April 2014, the Brooklyn Masterplan project was included in Council's Strategic Planning Program and on 8 May 2014 Councillors were briefed about the project and options for community consultation.

DISCUSSION

A large number of individuals and interest groups rely upon Brooklyn including local residents, shop keepers, river settlement communities, aqua farmers, commercial marinas and tourism operators. In addition, several government agencies have a presence in Brooklyn including the Office of

Communities, Sport and Recreation (which uses Brooklyn Harbour to ferry thousands of children to, and from, Broken Bay Sport and recreation Centre), the NSW Police Force Maritime Area command and Transport for NSW's Maritime Services and Rail Corporation.

In recognition of the strategic importance of Brooklyn, at the local and State level, it is appropriate that Council commences the process of planning for the future of Brooklyn in consultation with the community. It is envisaged that the outcomes of the consultation would inform the scope, terms of reference and priorities for a planning response in Brooklyn.

Opportunities and Constraints

Relevant to planning for Brooklyn is its existing opportunities and constraints and their relationship with the future vision and aspirations for the area. A preliminary review of the opportunities and constraints relevant to Brooklyn is summarised below. Some matters, such as heritage character and listings and high conservation value natural environment, are identified as both opportunities and constraints;

Opportunities

- an attractive and high conservation value natural environment which includes bushland, wetlands, open waterways, a scenic riverfront and a dramatic sandstone escarpment backdrop;
- the Brooklyn village core which provides a commercial and community focus as well as local and tourist facilities;
- an identifiable heritage character and amenity and many heritage listed buildings and sites;
- substantial areas of parkland and foreshore available to the public and nearby National Parks and waterways that provide active and passive recreational opportunities;
- local businesses that specialise in tourism, service provision, boating and aquaculture are now ready to grow and expand;
- a recently completed sewerage system;
- established train and ferry transport connections and facilities; and
- a stable residential community that has a high regard for Brooklyn's natural and built environment and who wish to be engaged in planning for its future.

Constraints

- public domain and communication infrastructure run-down and/or inadequate;
- a high conservation value natural environment, an identifiable heritage character and many heritage listed buildings and sites;
- eclectic growth and change over time that has resulted in a mixed urban form of varying quality;
- the narrowness of the urban area between the foreshore, the escarpment and railway land which limits land available for development, traffic management or community facilities;
- traffic volume, management and parking especially on week-ends and public holidays;
- waterfront access, commuter and long-stay berthing does not meet demand especially at peak times and/or does not adequately provide for residents/ratepayers;

- the increase in mooring fees and extension to minimum vessel lengths for mooring proposed in the Transport for NSW Moorings Review Issues Paper 2014 may affect local marina businesses and increase boat trailer parking demand; and
- the need for long-term solution to address siltation within Sandbrook Inlet.

The above matters provide for a wide range of issues. Initial consultation would confirm their relevance and whether additional issues warrant consideration.

CONSULTATION STRATEGY

Specialist consultants have been engaged to develop and design an on-line and street intercept survey to identify community and visitor attitudes and priorities for future planning for Brooklyn. The consultants will also assist with the preparation of communication material and evaluation of the survey responses.

All ratepayers and business owners in Brooklyn, ratepayers of the Lower Hawkesbury River Settlements and a number of randomly selected residential ratepayers in other areas of Hornsby Shire will be invited by letter to respond to the survey. A number of randomly selected peak-time visitors to Brooklyn will also be surveyed.

It is proposed that the survey be run using an on-line platform (Survey Monkey) that can be accessed from home, mobile devices or from Council libraries. Visitors would be surveyed through face-to-face street intercepts and a limited number of hard copy surveys will be made available for invited respondents who may not have computer access or skills. Appropriate measures and controls will be applied to preserve the integrity of the process.

To progress the project, a consultation strategy has been prepared as detailed in Attachment 1 to identify the consultation objectives, who will be consulted, what information will be collected, how the survey will be undertaken and when key tasks will be finalised.

BUDGET

The engagement of a community consultation specialist will cost approximately \$10,000. The consultant cost and the other administrative costs of undertaking the survey can be accommodated within the Strategic Planning Branch budget for the 2014/15 financial year.

POLICY

There are no policy implications associated with this Report. It is anticipated that the results of the survey will assist Council in defining the scope and terms of reference for a planning response to address the issues arising from the survey.

CONCLUSION

The Strategic Planning Program includes a project for a community survey to inform a planning response in Brooklyn. As the first step in the process, it is recommended that Council undertake an internet based survey of all ratepayers and business owners in Brooklyn, Lower Hawkesbury River Settlements, a number of randomly selected residential areas of Hornsby Shire and a peak-time visitors in Brooklyn to identify community and visitor attitudes and priorities with regards to the constraints and opportunities for Brooklyn and a range of planning and other place management options.

RESPONSIBLE OFFICER

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

FLETCHER RAYNER
MANAGER - STRATEGIC PLANNING
PLANNING DIVISION

JAMES FARRINGTON
GROUP MANAGER
PLANNING DIVISION

ATTACHMENTS:

There are no attachments for this report.

File Reference: F2014/00264
Document Number: D03093940

14 TENDER FOR LEGAL SERVICES

EXECUTIVE SUMMARY

- Council recently invited tenders for Council's new legal services panel.
- A review panel was established to evaluate the eighteen conforming tenders. Tenders were evaluated against weighted criteria including: value for money, experience, communication, response time and quality of service.
- The review panel has recommended the appointment of nine legal firms to provide legal services across Council's business areas. The firms have best demonstrate their ability to provide services in accordance with *Tender RFT8/2014 – Provision for Legal Services*.

RECOMMENDATION

THAT Council:

1. Dissolve its existing legal services panel, adopted on 19 May 2010.
2. Invite the following firms to be members of its new legal services panel in accordance with the terms and conditions of Tender RFT8/2014:
 - a) Bartier Perry
 - b) Crawford & Duncan
 - c) Local Government Legal
 - d) Marsdens Law Group
 - e) Matthews Folbigg
 - f) Mills Oakley Lawyers
 - g) Pike & Verekers Lawyers
 - h) Storey & Gough Solicitors
 - i) Woodward Legal
 - j) Workplace Law
3. Note that from time to time, it may be necessary for the General Manager to engage the services of a legal firm, who is not on the legal services panel, to provide specialist legal advice to Council.
4. Write to all unsuccessful Tenderers advising of Council's decision.

PURPOSE

The purpose of this Report is to seek Council's endorsement for the establishment of a new legal services panel.

BACKGROUND

On 19 May 2010, Council resolved to appoint the following legal firms to Council's legal services panel (hereafter, the Panel):

- Crawford & Duncan Lawyers;
- Marsdens Law Group;
- Matthews Folbigg Lawyers;
- Pikes Lawyers; and
- Storey & Gough Lawyers.

These firms have most commonly provided legal services for Council in respect of appeals against development applications and orders, property and engineering services. However, Council has also engaged other firms to provide services for insurance, information technology, traffic, industrial relations and work health and safety matters. These additional firms have included Workplace Law, Bartier Perry, Mills Oakley Lawyers and Woodward Legal.

As the terms of engagement for Council's legal panel span for a period of 2 years, plus a one year option to extend based on satisfactory performance, it has become necessary to review the panel in accordance with Council's procurement guidelines.

DISCUSSION

A public tender notice (RFT8/2014) was advertised in relevant local newspapers together with Tenderlink. The tender was issued in April 2014 with a closing date of 21 May 2014. A copy of the Tender document is held at Attachment 1 of this report. In response to Council's invitation, eighteen firms lodged conforming tenders.

The scope of works required under this tender include the provision of legal services to deal with a wide range of legal matters which are administrated under various statutes and legislation relation to the functions of Council. Council does not guarantee a level of business to any or all of the successful contractors. Council may include a number of contractors on a panel for specific legal matters or for all matters.

Request for Tender No. RFT8/2014 is a schedule of rates tender. A summary of tender submissions, along with full evaluation details are in TRIM F2014/00035. Excepting this report, the summary and details of the tenders received are to be treated as commercial in confidence in accordance with the *Local Government Act 1993*.

Tender Evaluation

The tender evaluation panel has completed its review and recommends the appointment of a new legal services panel.

The evaluation panel is comprised of the Group Manager – Planning, Group Manager – Environment and Human Services, Deputy General Manager – Corporate Support, Deputy General Manager – Infrastructure and Recreation, Risk and Audit Manager and the Tenders and Contracts Officer.

The evaluation panel undertook an evaluation of each tender and applied weighted criterion against the requirements of the tender. Value for money, experience, communication and response time and quality of service were given greater weighting as part of the evaluation. Other criteria were resources and contingencies, business structure and understanding of local government, availability and access to legal advice, settlement discounts and compliance and understanding of the tender.

A complete copy of the 'tender supplier evaluation and selection weighted criteria' spreadsheet is held at Confidential Attachment No. 2. (This attachment should be dealt with in confidential session, under s10A(2)(d) of the Local Government Act, 1993 as it 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.

The tenderers recommended by the evaluation panel to be members of the legal services panel best demonstrated their ability to provide legal services to Council against the weighted criteria. It was noted that a number of tenderers not selected would also be suitable, however, were more expensive, and / or did not best demonstrate their ability to provide services to Council.

The evaluation panel noted that some tenders were best placed to provide legal services across each of Council's business areas, whereas other tenderers were best suited to providing specialist advice for specific matters. This has been reflected in the panel's recommendations. The evaluation panel also noted whilst the firms recommended to be members of Council's new legal services panel would generally provide advice across each of Council's business areas, it may be necessary for the General Manager to engage the services of a legal firm, who is not on the legal services panel, to provide specialist legal advice to Council, on a case-by-case basis.

Pursuant to s3.16 of the *Tendering Guidelines for NSW Local Government* and C178 of the *Local Government Regulation 2005*, following the review of tenders by the evaluation panel, Council must either:

- a) *Accept the tender that, having regard to all the circumstances, appears to be in the most advantageous; or*
- b) *Decline to accept any of the tenders.*

The evaluation panel recommends that Council accepts nine tenders as detailed in the recommendations of this report.

CONSULTATION

This report is the outcome of the deliberations of the legal services tender review panel.

BUDGET

There are no budgetary implications associated with this Report.

POLICY

There are no policy implications associated with this Report.

CONCLUSION

Since the appointment of the current panel in 2006, the number of firms engaged has gradually expanded to cover the range of legal services required by all areas of Council. Renewal of the panel will provide Council with a resource that is readily accessible and provides value for money.

Tenders for the legal panel were called in April 2014 and following evaluation, the evaluation panel recommends that Council accepts nine tenders as detailed in the recommendations of this report.

RESPONSIBLE OFFICER

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

FLETCHER RAYNER
Manager - Strategic Planning
Planning Division

JAMES FARRINGTON
Group Manager
Planning Division

Attachments:

1. Tender Supplier Evaluation and Selection Weighted Criteria - *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: F2014/00035
Document Number: D03276106

15 WEST EPPING PARK DRAFT PLAN OF MANAGEMENT

EXECUTIVE SUMMARY

- A Plan of Management has been prepared for West Epping Park as a first step towards the redevelopment of the site which incorporates the recently acquired former West Epping Bowling Club land.
- The Plan of Management includes an indicative masterplan that identifies a range of park improvements to be constructed in the short and long term.
- Funding of \$2.3 million has been received from the NSW State Government's Urban Activation Precinct (UAP) funding program towards park improvement works. These funds will be supplemented by s94 contributions to deliver a Stage 1 Park Improvement Program focused on outdoor park improvements.
- Following Council's endorsement for public exhibition the Plan of Management will be exhibited in accordance with the requirements of the Local Government Act 1993 and public submissions will be considered prior to submitting a further report to Council seeking adoption of the plan.

RECOMMENDATION

THAT:

1. Council endorse the exhibition of the West Epping Park draft Plan of Management as set out in Deputy General Manager's Report No. IR14/14.
2. A further report be submitted to Council following receipt of submissions with a view to seeking adoption of the plan.

PURPOSE

The purpose of this Report is to seek endorsement of the draft Plan of Management for West Epping Park for exhibition in accordance with the requirements of the Local Government Act 1993.

BACKGROUND

Council acquired the former West Epping Bowling Club land in 2012 after identifying its purchase as a valuable opportunity to expand this large sportsground site in a key growth area of the Shire.

There is significant population growth expected to occur in the area as a consequence of rezonings associated with Council's Housing Strategy and the State Government identification of Epping as an Urban Activation Precinct. These rezonings are expected to produce significant additional dwellings in the Hornsby Council area. Development approvals have progressed rapidly in Carlingford and it is expected that this will also occur in Epping due to its location as a key rail interchange.

Earlier this year Council gained funding support of \$2.3 million from the State Government to prepare a Plan of Management (PoM) for West Epping Park and to undertake development of a first stage of park construction.

Currently West Epping Park is included in the generic PoM for Community Land and Crown reserves Planning District 1 adopted 10 November 2004. A new PoM is needed to enable the park masterplan to be implemented and to identify categorisations for the recently acquired former bowling club land.

DISCUSSION

The attached draft PoM has been prepared in accordance with the requirements of the Local Government Act 1993.

The draft PoM is concerned with the open space and community facilities in the area known as West Epping Park which is located in the suburb of Epping, north of Carlingford Road and approximately 1.4 kilometres west of the Epping town centre.

West Epping Park occupies Lot 100 DP 834523, Lot 1 DP 230415 and Lot 101 DP 834523, which is community land owned by Hornsby Shire Council.

The West Epping Park site currently has the following uses:

- Sportsground for soccer and cricket use
- Indoor Recreation Centre
- Pre-School
- Tennis and netball Courts
- Car parking facilities
- Playground.

The Draft PoM proposes these uses continue and sets out in an indicative masterplan a range of improvements that will be undertaken to increase the popularity of the park and create an attractive focal point in the local community.

When adopted the Draft PoM for West Epping Park will supersede the existing generic PoM for District 1 to the extent of any reference to West Epping Park.

The proposed classification of the West Epping Park site is community land for the entire site. The community land categorisations for West Epping Park include 'general community use' and 'sportsground'.

The indicative masterplan was developed in response to consultations with key stakeholders and aims to make a new focal point for the community at West Epping Park. The plan proposes:

- A new plaza gathering space and informal play area adjacent to the YMCA Indoor Centre and Pre-School as the key destination in the park.
- To move the oval north to include the former bowling club site and to upgrade it to a synthetic surface. The sports ground will be a similar size to the existing oval area but will be able to be used more intensively. The oval will accommodate existing winter soccer and summer cricket use with the opportunity to open it up to additional sporting use. The oval facilities shall include cricket nets, lighting, fencing and a new amenities building.
- A graded circuit walking path that links all of the park facilities with exercise facilities along the path. The path will provide improved connections between park facilities and local streets.

The plan also rationalises car parking and park access following preparation of a detailed traffic and parking study that is aimed at addressing current congestion and orientation issues in the park.

Currently there are 187 off-street parking spaces within the park that do not comply with current parking design standards. The masterplan proposes new parking arrangements that will provide a slightly higher off-street parking capacity to accommodate projected growth in use of the park. Key elements include:

- A new vehicle link along the western edge of the park between Mountain Street and Downing Street to improve connectivity within the park.
- A larger car park on the eastern side of the park off Grant Close.
- Removal of existing off-street parking immediately in front of the pre-school and community hall to address safety issues that have been raised by both the school P&C and the Pre-school and to provide an attractive parkland.

The plan allows for the retention of the existing pre-school, community hall and indoor recreation centre while allowing for the future expansion of indoor centre programs through a possible extension to the YMCA Indoor Recreation Centre.

It is envisaged that a first stage of park development will commence in 2015. The scope of these works shall include the park works identified above, but will exclude extension to the YMCA Indoor Centre. It is envisaged that a second or later stage of park development will include the development of an expanded Indoor Recreation Centre incorporating the existing YMCA centre.

CONSULTATION

Council has undertaken some consultation with stakeholders during development and preparation of the masterplan and draft PoM. This has included meetings with:

- YMCA
- West Epping Pre-School Association
- Epping West Public School
- Northern District Cricket Association

- YMCA Soccer Club

It is intended that during exhibition of the draft PoM there will be opportunity provided for stakeholders and the community to review the masterplan and draft PoM by informal information sessions held at local facilities at convenient times to enable community input. Advertisements will also be placed in local newspapers and information will be available for viewing on Council's website.

BUDGET

The first stage of development of West Epping Park will be partly funded from \$2.3 million from the State Government's UAP funding scheme to be spent on preparation of a Plan of Management and design and construction of Stage 1 of the park that includes major earthworks, a synthetic sports field, car park works and if funds permit a small amenities building. The UAP funding is required to be spent by January 2016. It is anticipated that additional funding of up to \$2.0 million is required from Council for the Stage 1 park improvements. It is proposed the Council funding will be sourced from proposed amendments to the current s94 Contributions Plan.

POLICY

The Local Government Act 1993 requires that all Plans of Management covering community land are placed on public display for a minimum period of 28 days. A minimum period of 42 days after the draft is placed on exhibition is allowed for written submissions to be made to Council (s.38).

CONCLUSION

The draft PoM for West Epping Park is required to be exhibited for public comment under the Local Government Act 1993, prior to its adoption by Council. The PoM includes an indicative masterplan that identifies improvements to the park that are expected to lead to the park becoming an attractive focal point in the local area. These improvements aim to provide a good return on Council's recent investment in purchasing the former West Epping Bowling Club. Adoption of the PoM is a key step in in construction of the improvements identified in the indicative masterplan.

RESPONSIBLE OFFICER

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

ROBERT STEPHENS

Deputy General Manager

Infrastructure and Recreation Division

Attachments:

1. HSC West Epping Park - Draft Plan of Management

File Reference: F2014/00342

Document Number: D03453576

16 TENDER T26/2014: GRINDING OF CONCRETE FOOTPATHS

EXECUTIVE SUMMARY

- The proposed contract for "Grinding of Concrete Footpaths" is required to service Council's needs in removing trip hazards from footpaths.
- Council does not have the specialist personnel and equipment required to carry out these grinding works and therefore open tenders have recently been called in accordance with the Local Government Act.
- The proposed contract will be for 24 months duration with an option to extend the contract for a further 12 month period. The Australian Grinding Company Pty Ltd. has been recommended for acceptance for this tender.

RECOMMENDATION

THAT Council accept the tender of The Australian Grinding Company Pty Ltd. for all work under Tender No. T26/2014: Grinding of Concrete Footpaths.

PURPOSE

The purpose of this Report is to provide a recommendation for the acceptance of Tender No. T26/2014: Grinding of Concrete Footpaths.

BACKGROUND

Concrete grinding is a specialised service and currently the works are being carried out by the Australian Grinding Company Pty. Ltd. The term of current contract expires soon and the purpose of this tender is to renew the contract through a public tender process.

DISCUSSION

The Tender No. T26/2014 is a Schedule of Rates tender. A summary, together with full evaluation details are in Folder F2014/00262. Excepting this report, the summary and details of the tenders received are to be treated as confidential in accordance with the Local Government Act.

The objective of the tender is to determine a suitable contractor that will provide Council value for money for concrete grinding works.

A public tender notice was advertised in the Sydney Morning Herald, relevant local newspapers together with Tenderlink. The tender was issued in June 2014 with a closing date of 09 July 2014.

Four (4) tenders were received for Tender No. T26/2014 from the following companies:

- Asphalt Laying Services Pty Ltd.
- The Australian Grinding Company Pty Ltd.
- Mastercut Concrete Aust. Pty Ltd.
- TGB and Sons Pty Ltd.

TENDER EVALUATION

As part of the evaluation process weighted and non-weighted evaluation criteria were developed and scored by the evaluation panel.

The criteria included:

- Cost of the Works
- Past performance and experience in similar types of works
- Plant and equipment resources
- Labour and subcontractor resources
- Work Health and Safety Systems
- Sustainability

The tendered Schedule of Rates were evaluated by applying them to estimated annual quantities for the main items of work that would normally be expected for the proposed contract. The other criteria were assessed based on information submitted with the tender, information gained from the tenderer's nominated referees and past performance with Hornsby Shire Council where applicable.

The results of the evaluation indicate that the tender from The Australian Grinding Company Pty Ltd. is the most advantageous tender.

The total estimated work under this contract is in the order of \$140,000 per annum. The attached Confidential Memorandum provides the evaluated value for a period of 12 months and a summary of the evaluation. Full details of the tender evaluation are on folder F2014/00262.

BUDGET

There are no budgetary implications associated with this Report.

POLICY

There are no policy implications associated with this Report.

CONCLUSION

The evaluation of submissions for Tender No. T26/2014: Grinding of Concrete Footpaths has concluded that The Australian Grinding Company Pty Ltd. tender is the most advantageous to Council and is recommended for acceptance.

RESPONSIBLE OFFICER

The officer responsible for the preparation of this Report is the Manager Design and Construction – Robert Rajca, who can be contacted on 9847 6675.

ROBERT STEPHENS

Deputy General Manager

Infrastructure and Recreation Division

Attachments:

1. Confidential Memo dated 13 August 2014 - Tender T26_14 - Grinding of concrete footpaths - *This attachment should be dealt with in confidential session, under Section 10A (2) (d) of the Local Government Act, 1993. This report contains commercial information of a confidential nature that would, if disclosed (i) prejudice the commercial position of the person who supplied it; or (ii) confer a commercial advantage on a competitor of the council; or (iii) reveal a trade secret.*
2. Tender Evaluation Report - *This attachment should be dealt with in confidential session, under Section 10A (2) (d) of the Local Government Act, 1993. This report contains commercial information of a confidential nature that would, if disclosed (i) prejudice the commercial position of the person who supplied it; or (ii) confer a commercial advantage on a competitor of the council; or (iii) reveal a trade secret.*

File Reference: F2014/00262

Document Number: D03489531

17 TENDER T27/2014: PATCHING OF ROAD PAVEMENTS IN FULL DEPTH ASPHALT

EXECUTIVE SUMMARY

- The proposed contract for "Patching of Road Pavements in Full Depth Asphalt" is required to service Council's needs for maintenance of road pavements and carparks.
- Council does not have the specialist personnel and equipment required to carry out these works and therefore open tenders have recently been called in accordance with the Local Government Act.
- The proposed contract will be for 12 months duration with an option to extend the contract for a further 12 month period. Roadworx Surfacing Pty Ltd. has been recommended for acceptance for this tender.

RECOMMENDATION

THAT Council accept the tender of Roadworx Surfacing Pty Ltd. for all work under Tender No. T27/2014: Patching of Road Pavements in Full Depth Asphalt.

PURPOSE

The purpose of this Report is to provide a recommendation for the acceptance of Tender No.T27/2014: Patching of Road Pavements in full Depth Asphalt.

BACKGROUND

Patching of road pavements with asphalt is a specialised service and currently the works are being carried out by Ozpave (Aust) Pty Ltd. The term of the current contract expires soon and the purpose of this tender is to renew the contract through a public tender process.

DISCUSSION

Tender No. T27/2014 is a Schedule of Rates tender. A summary, together with full evaluation details are in Folder F2014/00263. Excepting this report, the summary and details of the tenders received are to be treated as confidential in accordance with the Local Government Act.

The objective of the tender is to determine a suitable contractor that will provide Council value for money for asphalt patching works.

A public tender notice was advertised in the Sydney Morning Herald, relevant local newspapers together with Tenderlink. The tender was issued in June 2014 with a closing date of 09 July 2014.

Six (6) tenders were received for Tender No. T27/2014 from the following companies:

- Accurate Asphalt and Road Repairs Pty Ltd.
- J&E Excavations and Plant Hire Pty Ltd.
- North Shore Paving Co Pty Ltd.
- Ozpave (Aust) Pty Ltd.
- Roadlink Asphalt Pty Ltd.
- Roadworx Surfacing Pty Ltd.

TENDER EVALUATION

As part of the evaluation process weighted and non-weighted evaluation criteria were developed and scored by the evaluation panel.

The criteria included:

- Cost of the Works
- Past performance and experience in similar types of works
- Plant and equipment resources
- Labour and subcontractor resources
- Material supply sources
- Traffic Control Systems
- Quality assurance Systems
- Work Health and Safety Systems
- Sustainability

The tendered Schedule of Rates were evaluated by applying them to estimated annual quantities for the main items of work that would normally be expected for the proposed contract. The other criteria were assessed based on information submitted with the tender, information gained from the tenderer's nominated referees and past performance with Hornsby Shire Council where applicable.

The results of the evaluation indicate that the tender from Roadworx Surfacing Pty Ltd. is the most advantageous tender.

The total estimated work under this contract is in the order of \$250,000 per annum. The attached Confidential Memo provides the evaluated value for a period of 12 months and a summary of the evaluation. Full details of the tender evaluation are on folder F2014/00263.

BUDGET

There are no budgetary implications associated with this Report.

POLICY

There are no policy implications associated with this Report.

CONCLUSION

The evaluation of submissions for Tender No. T27/2014: Patching of Road Pavements in Full Depth Asphalt has concluded that the Roadworx Surfacing Pty Ltd. tender is the most advantageous to Council and is recommended for acceptance.

RESPONSIBLE OFFICER

The officer responsible for the preparation of this Report is the Manager Design and Construction – Robert Rajca, who can be contacted on 9847 6675.

ROBERT STEPHENS

Deputy General Manager

Infrastructure and Recreation Division

Attachments:

1. Tender Evaluation Report - *This attachment should be dealt with in confidential session, under Section 10A (2) (d) of the Local Government Act, 1993. This report contains commercial information of a confidential nature that would, if disclosed (i) prejudice the commercial position of the person who supplied it; or (ii) confer a commercial advantage on a competitor of the council; or (iii) reveal a trade secret.*
2. Confidential Memo dated 13 August 2014 - *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: F2014/00263

Document Number: D03489695