



BUSINESS PAPER

GENERAL MEETING

**Wednesday 11 February 2015
at 6:30PM**



TABLE OF CONTENTS

AGENDA AND SUMMARY OF RECOMMENDATIONS

RESCISSION MOTIONS

Item 1	RM1/15 Rescission Motion - Group Manager's Report No. EH25/14 - Expressions of Interest No. EOI33/2014 - Childcare Services - 10 December 2014 General Meeting	1
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MAYORAL MINUTES

ITEMS PASSED BY EXCEPTION / CALL FOR SPEAKERS ON AGENDA ITEMS

GENERAL BUSINESS

Office of the General Manager

Nil

Corporate Support Division

Item 2	CS3/15 Delivery Program for 2013-17 Including Operational Plan (Budget) for 2014/15 - December 2014 Quarter Review	3
Item 3	CS1/15 Investments and Borrowings for 2014/15 - Status for Periods Ending 30 November 2014 and 31 December 2014	7
Item 4	CS2/15 Pecuniary Interest and Other Matters Returns - Disclosures by Councillors and Designated Persons	10

Environment and Human Services Division

Item 5	EH1/15 Proposal to Enter into a Biobanking Agreement at Dog Pound Creek Bushland, Florence Cotton, Part of Ginger Meggs Parks and Part of Waitara Creek Bushland.....	13
Item 6	EH3/15 Socio-Cultural Community Consultation Report.....	17
Item 7	EH4/15 Community Donations Program - Second Funding Round 2014/15.....	21

Planning Division

Item 8	PL1/15 Development Application - Five Storey Residential Flat Building Comprising 30 Units - 32-34 Essex Street, Epping	24
Item 9	PL2/15 Development Application - Dwelling-House - 41 Ashley Street, Hornsby	65
Item 10	PL9/15 Development Application - Dwelling-House - 7A Mary Street, Beecroft	87
Item 11	PL11/15 Development Application - Alterations and Additions to a Dwelling-House and Erection of a Secondary Dwelling - 7 Lyne Road, Cheltenham.....	107

Item 12	PL8/15 Development Application - Alterations and Additions to a Dwelling-House - 3 Tallowood Avenue, Cherrybrook	130
Item 13	PL7/15 Markets, Festivals and Special Events - Hornsby Mall, Florence Street, Hornsby	150
Item 14	PL5/15 Reporting Variations to Development Standards	156
Item 15	PL6/15 Planning Proposal for Property Nos. 2-4 Epping Road, Epping	159

Infrastructure and Recreation Division

Item 16	IR1/15 Tender T40/2014: Supply and Delivery of Concrete	165
Item 17	IR2/15 Tender T41/2014: Supply and Delivery of Road Materials	168
Item 18	IR3/15 Request for Tender RFT38/2014: Construction of Hornsby Station Footbridge	171
Item 19	IR4/15 Request to Remove Tree - 6 Tooradin Place, West Pennant Hills	175

CONFIDENTIAL ITEMS

Item 20	CS5/15 Proposed Lease Renewal - Part of Kangaroo Point Reserve, Brooklyn - Telstra Corporation Limited	
---------	--	--

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

Item 21	MN1/15 Mayor's Notes from 1 to 31 December 2014	179
Item 22	MN2/15 Mayor's Notes from 1 to 31 January 2015	181

NOTICES OF MOTION

Item 23	NOM1/15 Future Use of 179 Beecroft Road, Cheltenham	182
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SUPPLEMENTARY AGENDA**MATTERS OF URGENCY****QUESTIONS WITHOUT NOTICE**

AGENDA AND SUMMARY OF RECOMMENDATIONS

PRESENT

NATIONAL ANTHEM

OPENING PRAYER/S

Pastor David Nathan, from The Hive Church, Hornsby, 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 10 December 2014 be confirmed; a copy having been distributed to all Councillors.

PETITIONS

PRESENTATIONS**RESCISSION MOTIONS****Page Number 1****Item 1 RM1/15 RESCISSION MOTION - GROUP MANAGER'S REPORT NO. EH25/14 -
EXPRESSIONS OF INTEREST NO. EOI33/2014 - CHILDCARE SERVICES - 10
DECEMBER 2014 GENERAL MEETING****COUNCILLOR BERMAN TO MOVE**

THAT the resolution adopted at the General Meeting held on 10 December 2014 in respect of Item 7 – Group Manager's Report No. EH25/14 – Expressions of Interest No. EOI33/2014 – Childcare Services, namely:

"THAT:

1. Council continue to strategically de-escalate its commitment to the direct provision of child care, to the point that it no longer directly provides child care services.
2. Council close the Asquith Nursery and Preschool and Asquith Leisure and Learning Centre.
3. Council agree to the sale of Lots 27-29 DP 12901 known as 18-22 Lords Avenue, Asquith; and Lots 2-3 DP 136220, known as 421 and 425 Pacific Highway, Asquith; and Lot 13 DP 653870 known as 423 Pacific Highway, Asquith in accordance with the property strategy outlined in Group Manager's Report No. EH25/14.
4. The General Manager be authorised to determine the most appropriate method of sale of 18-22 Lords Avenue, Asquith and 421-425 Pacific Highway Asquith; to negotiate the detailed terms and conditions of the sale agreement, subject to the limitations outlined in Group Manager's Report No. EH25/14; and to execute documents in relation to the sale, as deemed appropriate by Council's legal advisors.
5. Council authorise the use of its Seal on the Contract for the Sale of Land or on any legal, or other documents directly related to the sale of 18-22 Lords Avenue, Asquith and 421-425 Pacific Highway, Asquith, as deemed appropriate by Council's legal advisors.
6. A portion of the proceeds from the sale of 18-22 Lords Avenue, Asquith and 421-425 Pacific Highway, Asquith be allocated to fund the development of community infrastructure, including a new multi-purpose community facility at Storey Park.
7. An informal briefing for Councillors be held in the first quarter of 2015 to discuss the proposed Storey Park multi-purpose community facility.
8. Council work with existing community user groups of the Asquith Leisure and Learning Centre to identify alternative accommodation options.
9. Council invite Caring 4 Kids Pty Ltd, Little Learning School Pty Ltd and Platinum One Childcare Pty Ltd to tender for the operation of Greenway Park Early Childhood Education Centre.

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10. Council invite Alphabet Academy Pty Ltd, Caring 4 Kids Pty Ltd and Little Learning School Pty Ltd to tender for the operation of Somerville Park Early Childhood Education Centre.
 11. Council invite Caring 4 Kids Pty Ltd, Heritage House Childcare & Early Learning Centres, and Little Learning School Pty Ltd to tender for the operation of the Hornsby Nursery and Preschool.
 12. The tender documentation for the operation of childcare centres require respondents to interview and give consideration to engaging the services of all of Council's existing children's services staff, having regard to the appropriateness of the applicant's skills, qualifications and experience.
 13. The tender documentation for the operation of childcare centres require respondents to demonstrate their prior experience in providing for special needs children and how they would continue to provide for special needs children in Council's centres.
 14. Council inform respondents to Expression of Interest No. EOI33/2014 of Council's decision."

be, and is hereby rescinded.

NOTE: THE ABOVE RESCISSION MOTION IS SUPPORTED BY COUNCILLORS
GALLAGHER AND AZIZI

NOTE: In the event of the proposed Rescission Motion being adopted, the following motion is proposed.

"THAT the matter be deferred to allow community consultation."

MAYORAL MINUTES

ITEMS PASSED BY EXCEPTION / CALL FOR SPEAKERS ON AGENDA ITEMS

Note:

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

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

GENERAL BUSINESS

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

OFFICE OF THE GENERAL MANAGER

Nil

CORPORATE SUPPORT DIVISION

Page Number 3

Item 2 CS3/15 DELIVERY PROGRAM FOR 2013-17 INCLUDING OPERATIONAL PLAN (BUDGET) FOR 2014/15 - DECEMBER 2014 QUARTER REVIEW

RECOMMENDATION

THAT the December 2014 Quarter Review of the 2013-17 Delivery Program, including the Operational Plan (Budget) for 2014/15, be received and noted.

Page Number 7

Item 3 CS1/15 INVESTMENTS AND BORROWINGS FOR 2014/15 - STATUS FOR PERIODS ENDING 30 NOVEMBER 2014 AND 31 DECEMBER 2014

RECOMMENDATION

THAT the contents of Deputy General Manager's Report No. CS1/15 be received and noted.

Page Number 10

Item 4 CS2/15 PECUNIARY INTEREST AND OTHER MATTERS RETURNS - DISCLOSURES BY COUNCILLORS AND DESIGNATED PERSONS

RECOMMENDATION

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

ENVIRONMENT AND HUMAN SERVICES DIVISION

Page Number 13

Item 5 EH1/15 PROPOSAL TO ENTER INTO A BIOBANKING AGREEMENT AT DOG POUND CREEK BUSHLAND, FLORENCE COTTON, PART OF GINGER MEGGS PARKS AND PART OF WAITARA CREEK BUSHLAND

RECOMMENDATION

THAT:

1. Council submit a proposed Biobanking agreement to the Office of Environment and Heritage for land known as Dog Pound Creek Bushland, Florence Cotton, part of Ginger Meggs Parks and part of Waitara Creek Bushland as outlined in Attachment 1 to Group Manager's Report No. EH1/15.
2. The General Manager be authorised to enter into negotiations with Office of Environment and Heritage to finalise transfer and retirements of Biobanking credits generated for Dog Pound Creek Bushland, Florence Cotton, part of Ginger Meggs Parks and part of Waitara Creek Bushland, for the grant amount of approximately \$1.1 million.
3. The General Manager be authorised to execute any documents in relation to Biobanking agreements for Dog Pound Creek Bushland, Florence Cotton, part of Ginger Meggs Parks and part of Waitara Creek Bushland as deemed appropriate by Council's legal advisors.

Page Number 17

Item 6 EH3/15 SOCIO-CULTURAL COMMUNITY CONSULTATION REPORT

RECOMMENDATION

THAT Council adopt the Socio-Cultural Community Consultation Report and use it as a reference document to guide future service delivery in these areas.

Page Number 21

Item 7 EH4/15 COMMUNITY DONATIONS PROGRAM - SECOND FUNDING ROUND 2014/15

RECOMMENDATION

THAT Council allocate \$3,000 from its Community Donations Program to the Hornsby Trail Runners Association Inc.

PLANNING DIVISION

Page Number 24

Item 8 PL1/15 DEVELOPMENT APPLICATION - FIVE STOREY RESIDENTIAL FLAT BUILDING COMPRISING 30 UNITS - 32-34 ESSEX STREET, EPPING

RECOMMENDATION

THAT Development Application No. DA/1002/2014 for demolition of existing structures and the erection of a five storey residential flat building comprising 30 units with basement car parking at Lot 22 DP 10385 and 23 DP 10385, Nos. 32-34 Essex Street, Epping be approved subject to the conditions of consent detailed in Schedule 1 of Group Manager's Report No. PL1/15.

Page Number 65

- Item 9 PL2/15 DEVELOPMENT APPLICATION - DWELLING-HOUSE - 41 ASHLEY STREET, HORNSBY**

RECOMMENDATION

THAT Council assume the concurrence of the Secretary of the Department of Planning and Environment pursuant to Clause 4.6 of the *Hornsby Shire Local Environmental Plan 2013* and approve Development Application No. DA/1247/2014 for the demolition of a dwelling-house and the construction of a two storey dwelling-house at Lot B, DP 385307, No. 41 Ashley Street, Hornsby subject to the conditions of consent detailed in Schedule 1 of Group Manager's Report No. PL2/15.

Page Number 87

- Item 10 PL9/15 DEVELOPMENT APPLICATION - DWELLING-HOUSE - 7A MARY STREET, BEECROFT**

RECOMMENDATION

THAT Development Application No. DA/1335/2014 for a two storey dwelling house at Lot 2, DP 1167742, No.7A Mary Street Beecroft be approved, subject to the conditions of consent detailed in Schedule 1 of Group Manager's Report No. PL9/15.

Page Number 107

- Item 11 PL11/15 DEVELOPMENT APPLICATION - ALTERATIONS AND ADDITIONS TO A DWELLING-HOUSE AND ERECTION OF A SECONDARY DWELLING - 7 LYNE ROAD, CHELTENHAM**

RECOMMENDATION

THAT Development Application No. DA/996/2014 for alterations and additions to a dwelling-house and a secondary dwelling at Lot A, DP 323398, No. 7 Lyne Road, Cheltenham be approved, subject to the conditions of consent detailed in Schedule 1 of Group Manager's Report No. PL11/15.

Page Number 130

- Item 12 PL8/15 DEVELOPMENT APPLICATION - ALTERATIONS AND ADDITIONS TO A DWELLING-HOUSE - 3 TALLOWOOD AVENUE, CHERRYBROOK**

RECOMMENDATION

THAT Development Application No. DA/1166/2014 for alterations and additions to a dwelling house, a swimming pool and two detached garages at Lot 2009, DP 260332, No. 3 Tallowood Avenue, Cherrybrook be approved, subject to the conditions of consent detailed in Schedule 1 of Group Manager's Report No. PL8/15.

Page Number 150**Item 13 PL7/15 MARKETS, FESTIVALS AND SPECIAL EVENTS - HORNSBY MALL, FLORENCE STREET, HORNSBY****RECOMMENDATION**

THAT Development Application No. DA/1206/2014 for markets at Hornsby Mall, Florence Street, Hornsby be approved subject to the conditions of consent detailed in Schedule 1 of Group Manager's Report No. PL7/15.

Page Number 156**Item 14 PL5/15 REPORTING VARIATIONS TO DEVELOPMENT STANDARDS****RECOMMENDATION**

THAT the contents of Group Manager's Report No. PL5/15 be received and noted.

Page Number 159**Item 15 PL6/15 PLANNING PROPOSAL FOR PROPERTY NOS. 2-4 EPPING ROAD, EPPING****RECOMMENDATION**

THAT:

1. Council forward the Planning Proposal for property Nos. 2-4 Epping Road, Epping attached to Group Manager's Report No. PL6/15 to the Department of Planning and Environment seeking endorsement for exhibition.
2. In accordance with the plan making powers delegated to Council, Council exercise Authorisation to prepare and make the Planning Proposal following the receipt of Gateway Authorisation.
3. The General Manager be given delegated authority to endorse the exhibition material.
4. Following the exhibition, a report on submissions be presented to Council.

INFRASTRUCTURE AND RECREATION DIVISION**Page Number 165****Item 16 IR1/15 TENDER T40/2014: SUPPLY AND DELIVERY OF CONCRETE****RECOMMENDATION**

THAT Council accept tenders from Hanson Construction Materials Pty Ltd and Able Metromix Concrete for all work under Tender No. T40/2014: Supply and Delivery of Concrete.

Page Number 168**Item 17 IR2/15 TENDER T41/2014: SUPPLY AND DELIVERY OF ROAD MATERIALS****RECOMMENDATION**

THAT Council accept tenders of Hanson Construction Materials Pty Ltd for the supply and delivery of normal DGB, modified DGB and aggregates, and Concrete Recyclers Group Pty Ltd for the supply and delivery of recycled DGB for work under Tender No. T41/2014: Supply and Delivery of Road Materials.

Page Number 171**Item 18 IR3/15 REQUEST FOR TENDER RFT38/2014: CONSTRUCTION OF HORNSBY STATION FOOTBRIDGE****RECOMMENDATION**

THAT:

1. Council not accept any tender and negotiate with Fernandes Constructions Pty Ltd to arrive at a lump sum tender price.
2. Council decline to invite fresh tenders or seek fresh applications from tenderers or persons expressing interest in the contract for the following reasons:
 - a) Council has tested the market for the project and further tendering or fresh applications are not likely to produce a better result.
 - b) Timing constraints to not unduly delay this project.
3. Subject to the conclusion of successful negotiations with Fernandes Constructions Pty Ltd, the General Manager be delegated authority to enter into a Contract for the construction of Hornsby Station Footbridge.
4. If negotiations with Fernandes Constructions Pty Ltd are unsuccessful then Council enter into negotiations with Abergeldie Contractors Pty Ltd and the outcome of these negotiations be reported back to Council.

Page Number 175

Item 19 IR4/15 REQUEST TO REMOVE TREE - 6 TOORADIN PLACE, WEST PENNANT HILLS**RECOMMENDATION**

THAT Council refuse consent to remove one *Eucalyptus saligna* (Sydney Blue Gum) tree located at the front of the property at 6 Tooradin Place, West Pennant Hills.

CONFIDENTIAL ITEMS**Item 20 CS5/15 PROPOSED LEASE RENEWAL - PART OF KANGAROO POINT RESERVE, BROOKLYN - TELSTRA CORPORATION LIMITED**

This report 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.

PUBLIC FORUM – NON AGENDA ITEMS**QUESTIONS OF WHICH NOTICE HAS BEEN GIVEN****MAYOR'S NOTES****Page Number 179****Item 21 MN1/15 MAYOR'S NOTES FROM 1 TO 31 DECEMBER 2014****Page Number 181****Item 22 MN2/15 MAYOR'S NOTES FROM 1 TO 31 JANUARY 2015****NOTICES OF MOTION****Page Number 182****Item 23 NOM1/15 FUTURE USE OF 179 BEECROFT ROAD, CHELTENHAM****COUNCILLOR AZIZI TO MOVE****THAT:**

1. Council note that the church building at 179 Beecroft Road, Cheltenham is heritage listed and a prominent feature of the local area.

2. Council defer the sale of 179 Beecroft Road, Cheltenham to consider other options, including a lease, that would enable Council to retain ownership of and sustainably maintain the property.
3. Council seek expressions of interest for the lease of the property.
4. The General Manager be required to bring a further report back to Council outlining the results of the expression of interest process.
5. Council continue to consult with the community regarding its strategic direction in the provision of community and cultural facilities.

SUPPLEMENTARY AGENDA

MATTERS OF URGENCY

QUESTIONS WITHOUT NOTICE

1 RESCISSION MOTION - GROUP MANAGER'S REPORT NO. EH25/14 - EXPRESSIONS OF INTEREST NO. EOI33/2014 - CHILDCARE SERVICES - 10 DECEMBER 2014 GENERAL MEETING

COUNCILLOR BERMAN TO MOVE

THAT the resolution adopted at the General Meeting held on 10 December 2014 in respect of Item 7 – Group Manager's Report No. EH25/14 – Expressions of Interest No. EOI33/2014 – Childcare Services, namely:

"THAT:

1. Council continue to strategically de-escalate its commitment to the direct provision of child care, to the point that it no longer directly provides child care services.
2. Council close the Asquith Nursery and Preschool and Asquith Leisure and Learning Centre.
3. Council agree to the sale of Lots 27-29 DP 12901 known as 18-22 Lords Avenue, Asquith; and Lots 2-3 DP 136220, known as 421 and 425 Pacific Highway, Asquith; and Lot 13 DP 653870 known as 423 Pacific Highway, Asquith in accordance with the property strategy outlined in Group Manager's Report No. EH25/14.
4. The General Manager be authorised to determine the most appropriate method of sale of 18-22 Lords Avenue, Asquith and 421-425 Pacific Highway Asquith; to negotiate the detailed terms and conditions of the sale agreement, subject to the limitations outlined in Group Manager's Report No. EH25/14; and to execute documents in relation to the sale, as deemed appropriate by Council's legal advisors.
5. Council authorise the use of its Seal on the Contract for the Sale of Land or on any legal, or other documents directly related to the sale of 18-22 Lords Avenue, Asquith and 421-425 Pacific Highway, Asquith, as deemed appropriate by Council's legal advisors.
6. A portion of the proceeds from the sale of 18-22 Lords Avenue, Asquith and 421-425 Pacific Highway, Asquith be allocated to fund the development of community infrastructure, including a new multi-purpose community facility at Storey Park.
7. An informal briefing for Councillors be held in the first quarter of 2015 to discuss the proposed Storey Park multi-purpose community facility.
8. Council work with existing community user groups of the Asquith Leisure and Learning Centre to identify alternative accommodation options.
9. Council invite Caring 4 Kids Pty Ltd, Little Learning School Pty Ltd and Platinum One Childcare Pty Ltd to tender for the operation of Greenway Park Early Childhood Education Centre.
10. Council invite Alphabet Academy Pty Ltd, Caring 4 Kids Pty Ltd and Little Learning School Pty

Ltd to tender for the operation of Somerville Park Early Childhood Education Centre.

11. Council invite Caring 4 Kids Pty Ltd, Heritage House Childcare & Early Learning Centres, and Little Learning School Pty Ltd to tender for the operation of the Hornsby Nursery and Preschool.
12. The tender documentation for the operation of childcare centres require respondents to interview and give consideration to engaging the services of all of Council's existing children's services staff, having regard to the appropriateness of the applicant's skills, qualifications and experience.
13. The tender documentation for the operation of childcare centres require respondents to demonstrate their prior experience in providing for special needs children and how they would continue to provide for special needs children in Council's centres.
14. Council inform respondents to Expression of Interest No. EOI33/2014 of Council's decision."

be, and is hereby rescinded.

NOTE: THE ABOVE RESCISSION MOTION IS SUPPORTED BY COUNCILLORS GALLAGHER AND AZIZI

NOTE: In the event of the proposed Rescission Motion being adopted, the following motion is proposed.

"THAT the matter be deferred to allow community consultation."

Attachments:

1. Copy of Group Manager's Report No. EH25/14 - Expressions of Interest No. EOI33/2014 - Childcare Services - General Meeting 10 December 2014
2. Copy of Confidential Attachment to Group Manager's Report EH25/14 - Expressions of Interest No. EOI33/2014 - Childcare Services - General Meeting 10 December 2014 - Property Strategy Asquith Nursery and Preschool - *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: F2014/00337

Document Number: D04578738

2 DELIVERY PROGRAM FOR 2013-17 INCLUDING OPERATIONAL PLAN (BUDGET) FOR 2014/15 - DECEMBER 2014 QUARTER REVIEW

EXECUTIVE SUMMARY

- Accountable organisations like Council review their budget and operational performance at least each quarter. In this regard, the December 2014 Quarter Review of the 2013-17 Delivery Program including the 2014/15 Operational Plan and Budget is attached.
- The 2014/15 Original Budget forecast a surplus at 30 June 2015 of \$143K. The September 2014 Review reduced the surplus by \$65K whilst this December 2014 Review has no net budget changes. As a result, the budget forecast at 30 June 2015 is a surplus of \$78K.
- As part of the December 2014 Quarter Review, the Hornsby Aquatic Centre capital budget has been increased by \$1.2 million and this has been offset from various funding sources. The increase to the budget is due to a range of anticipated contract variations that have now been finalised.
- Progress against the adopted 2013-17 Delivery Program and the operational performance of the organisation has been in line with the service delivery standards adopted by Council.

RECOMMENDATION

THAT the December 2014 Quarter Review of the 2013-17 Delivery Program, including the Operational Plan (Budget) for 2014/15, be received and noted.

PURPOSE

The purpose of this Report is to present for Council's consideration the December 2014 Quarter Review of the 2013-17 Delivery Program and the 2014/15 Operational Plan.

BACKGROUND

On 19 June 2013, Council adopted its four year Delivery Program 2013-17. The annual Operational Plan and Fees and Charges for 2014/15 were adopted by Council on 11 June 2014. The Delivery Program and Operational Plan set out the manner in which Council intends to deliver services and measure performance.

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

DISCUSSION

Operational Comment

Operational performance for the second quarter of 2014/15 has been satisfactory. The highlights achieved during the quarter include:

- The Festival of the Arts, featuring a wide range of the arts including drama, music, visual arts, literature and architecture and comprising over 190 events was held in the period 17 October to 30 November with over 3,200 people participating
- Community consultations were held about park and playground upgrades at Ray Park in Carlingford, Lyne Road Reserve in Cheltenham, Hornsby Park in Hornsby as well as development of a new Masterplan for Brooklyn. An additional 10 electronic surveys were conducted by internal Council teams to gauge the success of various projects
- Facebook became one of our most effective communication tools. Council is the tenth most popular council in Australia on Facebook with more than 10,000 followers – having increased from 4,500 at the end of 2013 and just 60 in 2012.

Other highlights for the period are contained in Attachment 1.

Budget Comment

This Review includes the year to date second quarter results for 2014/15, comparing actual expenditure and income against the Budget. The Net Operating and Capital result after internal funding movements showed a positive variance of \$4.666 million as compared to the December 2014 year to date Budget. This positive variance is largely the result of timing differences associated with project related works and phasing of the 2014/15 Budget.

The 2014/15 Original Budget forecast a surplus at 30 June 2015 of \$143K. The September 2014 Review resulted in negative changes of \$65K whilst this Review proposes no net budget changes. The budget forecast at 30 June 2015 is, therefore, a surplus of \$78K.

While the 2014/15 December Budget Review recommends no net budget changes, there are a number of material budget changes and offsets that are listed below:

- (\$400,000) – Increase in Development Application income
- \$100,000 – Increase in advertising expenses for Development Applications

- \$1,200,000 – Increase in capital expenditure for Hornsby Aquatic Centre
- (\$900,000) – Reduction in capital expenditure for drainage works
- \$2,700,000 – Increase in depreciation expense due to building revaluations
- (\$2,700,000) – Increase in depreciation contra due to non-cash offset
- (\$360,000) – Increase in investment income due to higher than anticipated Section 94 Development Contributions
- \$360,000 – Increase in the transfer of Section 94 Development Contributions to restricted asset funds
- (\$16,000,000) – Increase in budgeted income for Section 94 Development Contributions
- \$16,000,000 – Increase in the transfer of Section 94 Development Contributions to restricted asset funds
- \$200,000 – Increase in allocation to Peats Ferry Road improvements
- (\$200,000) – Increase in transfer from Section 94 Development Contribution restricted asset funds for Peats Ferry Road improvements
- \$203,000 – Allocation of funds to Hornsby Administration Centre courtyard project
- (\$203,000) – Transfer from Section 94 Development Contribution restricted asset funds for Administration Centre courtyard project.

The Hornsby Aquatic Centre (HAC) capital budget has been increased by \$1.2 million and this has been offset from various funding sources. The increase to the budget is due to a range of anticipated contract variations that have now been finalised and require funding. To fund this increase in capital costs, the drainage program has been reduced by \$900K with the balance being funded from increased development assessment fees. The reduced drainage program includes the reallocation from drainage to the HAC of \$500K in Council's Infrastructure Special Rate Variation funds.

As reported in the September 2014 Quarter Budget Review, an assessment is underway regarding the construction of a program pool at Galston Aquatic Centre which formed part of the successful tender bid for the operation of this Centre. This assessment is being progressed and will be reported to Council when more detailed information is available.

In 2012, the NSW Treasury Corporation reviewed the financial sustainability of all 152 NSW councils and provided a rating for each council based on the outcomes of their assessment. At that time the outcome for Hornsby Shire Council was a short term rating of financially moderate with a neutral outlook meaning that the short term rating is likely to remain unchanged. Due to a revised Long Term Financial Plan and improved Income Statement results over several years, Council requested that TCorp's assessment be undertaken again. The outcome from this second assessment is an improvement in Council's financial sustainability rating to financially sound with a neutral outlook. In 2012, when this assessment was undertaken across all 152 councils in NSW, only 21.1% or 32 in number received a sound financial sustainability rating.

BUDGET

This Report provides the December 2014 Quarter Review of the 2014/15 Operational Plan (Budget), which, if adopted will maintain a forecast surplus at 30 June 2015 of \$78K.

POLICY

There are no policy implications associated with this Report.

CONCLUSION

Council's consideration of this Report ensures that relevant statutory requirements have been met. The December 2014 Quarter Review demonstrates that Council remains in a strong position to deliver local services and facilities in a financially responsible manner.

RESPONSIBLE OFFICER

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

GARY BENSLEY
Deputy General Manager
Corporate Support Division

SCOTT PHILLIPS
General Manager
Office of the General Manager

Attachments:

1. December 2014 Quarter Review
2. December 2014 Quarterly Budget Review Statement

File Reference: F2013/00651
Document Number: D04453127

3 INVESTMENTS AND BORROWINGS FOR 2014/15 - STATUS FOR PERIODS ENDING 30 NOVEMBER 2014 AND 31 DECEMBER 2014

EXECUTIVE SUMMARY

- This report provides details of Council's investment performance for the periods ending 30 November 2014 and 31 December 2014 and the extent of its borrowings at the end of the same periods.
- 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 and the Chief Financial Officer must report monthly to Council on the details of funds invested.
- All of Council's investments have been made in accordance with the Local Government Act, the Local Government (General) Regulation and Council's Investment of Surplus Funds Policy and Investment Strategy.
- In respect of Council's cash and term deposit investments, the annualised return for the months of November and December was 3.59% and 3.57% respectively compared to the benchmark of 2.50%. The 2014/15 year to date annualised return for total investments for the period (including expired investments during the year) ending 30 November 2014 was 3.62% and 31 December 2014 was 3.61%, compared to the benchmark of 2.50%.
- In respect of Council borrowings, the weighted average interest rate payable on loans taken out from June 2005 to December 2014, based on the principal balances outstanding, is 6.03%.

RECOMMENDATION

THAT the contents of Deputy General Manager's Report No. CS1/15 be received and noted.

PURPOSE

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

BACKGROUND

A report is required to be submitted for Council's consideration each month detailing Council's investments and borrowings and highlighting the monthly and year to date performance of the investments. Initial investments and reallocation of funds are made, where appropriate, after consultation with Council's financial investment adviser and fund managers.

DISCUSSION

Council 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 months ending 30 November 2014 and 31 December 2014 is detailed in the attached document and summarised below:

- The At-Call and Term Deposits achieved an annualised return of 3.59% for November 2014 and 3.57% for December 2014 compared to the benchmark of 2.50%.
- The 2014/15 year to date annualised return for total investments (including expired investments) for the period ending 30 November 2014 was 3.62% and 31 December 2014 was 3.61% compared to the benchmark of 2.50%.

In respect of Council borrowings, the weighted average interest rate payable on outstanding loans taken out from June 2005 to December 2014, based on the principal balances outstanding, was 6.03%. The Borrowings Schedules as at 30 November 2014 and 31 December 2014 are also 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. Actual 2014/15 year to date investment income for the period ended December 2014 was \$1,072,000 compared to the budget for the same period of \$882,000. Approximately 37% of the investment income received by Council relates to externally restricted funds (e.g. Section 94 monies) and is required to be allocated to those funds. All investments have been made in accordance with the Local Government Act, the Local Government (General) Regulation and Council's Investment of Surplus Funds Policy and Investment Strategy.

CONCLUSION

The investment of Council funds and the extent of its borrowings as at 30 November 2014 and 31 December 2014 are detailed in the documents attached to this Report. Council's consideration of the Report and its attachments ensures that the relevant legislative requirements and Council protocols have been met in respect of those investments.

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 30 November 2014
2. HSC Investment Portfolio as at 31 December 2014
3. HSC Borrowings Schedule as at 30 November 2014
4. HSC Borrowings Schedule as at 31 December 2014

File Reference: F2004/06987

Document Number: D04414210

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

EXECUTIVE SUMMARY

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

RECOMMENDATION

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

PURPOSE

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

BACKGROUND

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

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

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

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

DISCUSSION

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

Council last considered the tabling of Disclosure of Pecuniary Interests and Other Matters Returns under Sections 449(1) and (5) of the Act at the General Meeting held on 12 November 2014 (see Deputy General Manager's Report No. CS43/14). Since that time, three additional Returns have been lodged with the General Manager and are now tabled as required by the Act.

Date Lodged	Councillor/Designated Person (Position)	Reason for Lodgement
19 December 2014	Traffic Ranger	New Appointment
15 December 2014	Traffic Ranger	New Appointment
13 January 2015	Strategic Planner	New Appointment

BUDGET

There are no budgetary implications associated with this Report.

POLICY

There are no policy implications associated with this Report.

CONCLUSION

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

RESPONSIBLE OFFICER

The officer responsible for the preparation of this Report is the Manager, Governance and Customer Service – Ms 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:

There are no attachments for this report.

File Reference: F2013/00386
Document Number: D04451044

5 PROPOSAL TO ENTER INTO A BIOBANKING AGREEMENT AT DOG POUND CREEK BUSHLAND, FLORENCE COTTON, PART OF GINGER MEGGS PARKS AND PART OF WAITARA CREEK BUSHLAND

EXECUTIVE SUMMARY

- Council has investigated a Biobanking proposal for land known as Dog Pound Creek Bushland, Florence Cotton Reserve, and parts of Ginger Meggs Park and Waitara Creek Bushland ('the subject sites').
- The subject sites have been investigated with respect to the number of biodiversity credits generated on the land, the management actions required to restore the bushland and the in-perpetuity cost of management. This led to estimates of the total fund deposit that would be provided to Council under a Linking Landscapes Grant to ensure its conservation in-perpetuity.
- As a result of the site investigations, the area of land proposed for Biobanking has been reduced in size and the grant amount has increased from \$800,000 to \$1.1 million.
- Subject to final negotiations to transfer and retire Biobanking credits generated, it is recommended that a Biobanking agreement application be lodged with the Office of Environment and Heritage.

RECOMMENDATION

THAT:

1. Council submit a proposed Biobanking agreement to the Office of Environment and Heritage for land known as Dog Pound Creek Bushland, Florence Cotton, part of Ginger Meggs Parks and part of Waitara Creek Bushland as outlined in Attachment 1 to Group Manager's Report No. EH1/15.
2. The General Manager be authorised to enter into negotiations with Office of Environment and Heritage to finalise transfer and retirements of Biobanking credits generated for Dog Pound Creek Bushland, Florence Cotton, part of Ginger Meggs Parks and part of Waitara Creek Bushland, for the grant amount of approximately \$1.1 million.
3. The General Manager be authorised to execute any documents in relation to Biobanking agreements for Dog Pound Creek Bushland, Florence Cotton, part of Ginger Meggs Parks and part of Waitara Creek Bushland as deemed appropriate by Council's legal advisors.

PURPOSE

The purpose of this Report is to seek Council's consideration and approval to proceed with lodging a Biobanking application with the NSW Office of Environment and Heritage (OEH) for Dog Pound Creek Bushland, Florence Cotton, part of Ginger Meggs Parks and part of Waitara Creek Bushland.

BACKGROUND

At the 11 June 2014 Meeting Council was advised that it was successful in receiving a grant under the OEH'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 included Florence Cotton Park, Waitara Creek Bushland, Larool Creek Bushland, Ginger Meggs Park and Dog Pound Creek Bushland.

Following initial investigations and community consultation, a further report was considered at the 3 September 2014 Meeting, Council considered Group Manager's Report No. EH19/14 and resolved 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.*

DISCUSSION

Potential Biobank Site – Linking Landscapes Grant

Council received a grant under the 'Linking Landscapes' program enabling investigation of Biobank sites at Florence Cotton Park, Waitara Creek Bushland, Larool Creek Bushland, Ginger Meggs Park and Dog Pound Creek Bushland. The proposals were previously advertised to the community 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, and no objections were received.

Flora and Fauna Investigations

A detailed assessment of the flora and fauna has subsequently been undertaken and a management action plan for the area has been prepared. Due to the increased costs in maintaining the land to an appropriate standard, this has led to the area of land proposed for Biobanking being reduced in size from the original 91 ha to the current 45 ha. It now includes Dog Pound Creek Bushland, Florence Cotton, part of Ginger Meggs Parks and part of Waitara Creek Bushland, and the grant amount has been increased from the initial \$800,000 to funding in the order of \$1,100,000.

Should the Biobanking proposal 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.

Land Classification

All of the land parcels are classified as community land under the Local Government Act, except for Lot 2 DP 803400 in Dog Pound Creek which is classified as operational land. Although the lot is classified as operational it has significant constraints being zoned RE1 Public Recreation, containing vegetation listed as a Critically Endangered Ecological Community, unstable and steep land and a riparian corridor. The land has also been identified for open space purposes in the Westleigh Local Environmental Study. The proposal to include this lot within the Biobank proposal is compatible with the findings of the current investigation and the land use study.

CONSULTATION

The OEH was consulted in the preparation of this report.

Previous 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 undertook negotiations with Ausgrid and Telstra to ensure the proposed Biobanking Agreement does not affect access to or maintenance of their infrastructure. This resulted in small areas being excluded from the proposed Biobank site.

BUDGET

Progression of the Biobank proposal for Dog Pound Creek Bushland, Florence Cotton, part of Ginger Meggs Parks and part of Waitara Creek Bushland would result in a Trust fund being established with the investment proceeds providing ongoing funding to manage these two Bushland reserves in perpetuity, with Council receiving an annual payment to undertake a set of agreed management actions to improve the conservation value of the sites.

The Total Fund Deposit would be in the order of \$1,135,000 made up of \$1,100,000 from the OEH through its Linking Landscapes Grant program and \$35,000 from Council. This amount can be accommodated within existing budgets and is considered reasonable.

POLICY

The proposal is consistent with Council's Biodiversity Conservation Strategy and complements its Green Offsets Policy. The specific areas of land were advertised 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.

CONCLUSION

Biobanking proposals result in 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.

The current Linking Landscapes Grant of \$1,100,000 to commit to Biobanking of the subject sites is an excellent opportunity for Council to secure a Biobanking Agreement and in-perpetuity funding to manage the land.

Accordingly, it is recommended that Council submit an application for the potential Biobank sites.

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. Biobank Proposal - Dog Pound Creek and Other Reserves

File Reference: F2004/09595

Document Number: D04393755

6 SOCIO-CULTURAL COMMUNITY CONSULTATION REPORT

EXECUTIVE SUMMARY

- Council's most recent Cultural and Social Plans were adopted in 2008 and 2009 respectively. Since their adoption, Council has transitioned to an Integrated Planning and Reporting Framework and now produce an overarching Community Strategic Plan that is supported by a Delivery Program and Operational Plan.
- To ensure that Council remained abreast of the socio-cultural needs of the community, Council conducted detailed community consultation during 2014.
- Key issues identified from the consultation include a community desire for better communication with Council; more networking opportunities with each other; more local level consultation; more collaboration and partnership opportunities to work with Council; better promotion of volunteering opportunities and better support for volunteers; better support to organise events and activities themselves; Council to partner more with local businesses to promote economic development; and better local places and a concerted approach to place making.
- The results of this consultation will feed into Council's Community Strategic Plan, Delivery Program and Operational Plans and be used to guide future socio-cultural service delivery. It is recommended that Council adopt the attached consultation report as a reference document for this purpose.

RECOMMENDATION

THAT Council adopt the Socio-Cultural Community Consultation Report and use it as a reference document to guide future service delivery in these areas.

PURPOSE

The purpose of this Report is to present to Council the results of recent community consultation undertaken to identify socio-cultural needs across the Shire.

BACKGROUND

The Integrated Planning and Reporting Framework for Local Government in New South Wales practically came into effect in July 2012. All local government bodies were required to have an adopted Integrated Community Strategic Plan by this date.

Historically, documents such as Social Plans and Cultural Plans would have input into Management Plans and would set the strategic direction for the Council's human service delivery.

Hornsby Council's most recent Social Plan was adopted in 2009 and its most recent Cultural Plan was adopted in 2008. Council also adopted its first Integrated Community Strategic Plan in 2010. Whilst the community consultation used to develop the first Community Strategic Plan was substantial, the consultation focused on broad Council wide issues and the detailed focus needed to direct service provision at a socio-cultural level was arguably lost.

This issue was overcome by informally consulting with the community during occasions of service delivery so as to ensure that they were across local community issues at the detail required to inform both local service delivery as well as regional and state based planning initiatives.

As a best practice initiative, detailed research was commissioned in 2014 in order to confirm that Council was planning and delivering socio-cultural services in a manner which was consistent with community requirements.

DISCUSSION

During April and May 2014, local community consultation was undertaken to review the social and cultural services currently provided by Council to ensure that they meet the changing needs of the community.

The consultation process attracted a high level of community engagement and included a stakeholder workshop, a community workshop, a telephone survey and an online survey. The key issues identified were that the community wants:

- Better communication with Council
- More networking opportunities with each other
- More local level consultation
- The community wanted more collaboration and partnership opportunities to work with Council
- The community wanted better promotion of volunteering opportunities and better support for volunteers
- Better support to organise events and activities themselves
- Council to partner more with local businesses to promote economic development
- Better local places and a concerted approach to place making.

Councillors were briefed on the outcomes of the comprehensive community consultation in November 2014. Broadly, agreement was reached that the following six key themes would underpin future service planning for socio-cultural service provision:

- Accessibility and transport
- Healthy active communities
- Accessing information and communication
- Isolation and community connectedness
- Arts and cultural expression
- Vibrant and distinctive places and spaces.

It is noted that no service action plans have been developed to respond to the needs identified in the consultation process. Actions based on the above themes will be included in the annual Operational Plans for the relevant teams. Council's service response will change over time but will be delivered within the context of the existing resource allocation. It is also noted that the feedback provided by the community should also result in the development of a number of socio-cultural policy positions for the organisation. These will be developed following the adoption of the Socio-cultural Community Consultation Report.

CONSULTATION

This report presents the results of detailed community consultation regarding social and cultural needs of the community.

BUDGET

Services that reflect the socio-cultural needs of the community will be developed in accordance with Council's approval within current budgets.

POLICY

Whilst there are no direct policy implications in Council adopting the Socio-Cultural Consultation Report, community feedback encompassed in the attached Consultation Report will be used to drive future policy development.

CONCLUSION

The attached Socio-Cultural Community Consultation Report provides Council with a comprehensive framework for the future delivery of social and cultural services. The work took into account other consultative processes being undertaken concurrently within the organisation, specifically the Active Living Hornsby Strategy and the Community and Cultural Facilities Strategic Plan.

It is recommended that Council adopt the Socio-Cultural Community Consultation Report for the purpose that the consultative outcomes inform future service delivery and strategy development.

RESPONSIBLE OFFICER

The officer responsible for the preparation of this Report is the Manager Community Services – 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. Socio-Cultural Planning Consultation Report

File Reference: F2013/00458

Document Number: D04416287

7 COMMUNITY DONATIONS PROGRAM - SECOND FUNDING ROUND 2014/15

EXECUTIVE SUMMARY

- Council's Community Donations Program provides financial assistance to local community groups or organisations to deliver projects that address identified needs and provide support to Hornsby Shire residents.
- A budget of \$60,000 is allocated for the Community Donations Program for the 2014/2015 financial year. \$41,000 remains available for distribution following the first funding round.
- One application totalling \$3,000 from the Hornsby Trail Runners Association Inc. has been received to deliver the Galston Gut Buster trail race event. Following assessment this application is recommended for funding.
- In addition to the Community Donations Program, Council provides significant annual support to community and sporting groups in areas such as foregone rental on the use of Council buildings and subsidies to sporting groups in respect of their use of sports grounds. During the 2013/14 financial year Council subsidies were estimated at approximately \$2,900,000, three quarters of which are made up of sporting ground subsidies.

RECOMMENDATION

THAT Council allocate \$3,000 from its Community Donations Program to the Hornsby Trail Runners Association Inc.

PURPOSE

The purpose of this Report is to provide Council with the information required to allocate funds from the Community Donations Program.

BACKGROUND

Council's Community Donations Program (the Donations Program) is designed to reflect Council's commitment to its community and cultural development role and to encourage participation in creative and relevant community driven events and activities within the Shire that address the diverse needs identified in Council's Community Plan.

It does this by providing financial assistance to local community groups or organisations in accordance with Council's Donations and Grants – Council Cash and Non-Cash Policy (<http://hsconline.hornsby.nsw.gov.au/appenquiry/user/policy>).

The Donations Program policy objectives are:

- To create a vibrant culture within the Shire by supporting cultural and community based projects, events and activities occurring throughout the year. Priority will be given to groups that deliver an event within Council's Healthy Living Festival and/or Festival of the Arts.
- To improve awareness and use of cultural and community services and resources within the Shire.
- To increase participation at local events and community and cultural development activities within the local community, building a sense of community and promoting social inclusion.

Following the first funding round a total of \$41,000 remains available for distribution across the remainder of the 2014/15 financial year.

DISCUSSION

One application for \$3,000 has been received from the Hornsby Trail Runners Association Inc. to deliver the Galston Gut Buster trail race event. This event will be delivered during Council's Health Living Festival and includes a half marathon and 8km run starting and finishing at the Hornsby Aquatic Centre. Funds raised by the event will be used to support the Hornsby/Ku-ring-gai Women's Shelter and to promote the fitness and health benefits of running.

Council officers with expertise in the relevant policy areas have assessed the application for financial assistance in accordance with Council's Donations and Grants – Council Cash and Non Cash Policy and recommend that the application be funded.

Attachment 1 provides an overview of the application and officer assessment.

Other Council Donations to the Community

In 2006, Council resolved in respect of Report No. CC24/06, that:

"As part of its consideration of the annual donations program, Council be provided with relevant information regarding:

- a) Foregone rental for community groups' use of Council buildings.*
- b) Subsidies to sporting groups in respect of their use of sports grounds.*
- c) Any other financial assistance provided by Council to community groups."*

During the 2013/2014 financial year, Council subsidies estimated at approximately \$2,900,000, three quarters of which are made up of sporting ground subsidies.

Other Council initiatives to assist community groups include a Community Fundraising BBQ Trailer that is available for use by community groups as part of their fundraising activities. This trailer has proved to be very successful and further details regarding the trailer including bookings can be found at <http://www.hornsby.nsw.gov.au/my-lifestyle/events/community-barbeque-trailer>.

BUDGET

A budget allocation of \$41,000 is available for application via the Community Donations Program.

POLICY

Council's 2014/15 Donations Program is conducted in accordance with Council's Donations and Grants – Council Cash and Non-Cash Policy.

CONCLUSION

Hornsby Trail Runners Association Inc. has sought \$3,000 to deliver the Galston Gut Buster trail race event. The application satisfies the criteria outlined in Council's Donations and Grants – Council Cash and Non-Cash Policy and is recommended for funding.

RESPONSIBLE OFFICER

The officer responsible for the preparation of this Report is the Manager, Community Services – 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. Second Round Funding Recommendations 2014/15

File Reference: F2013/00283

Document Number: D04532875

**8 DEVELOPMENT APPLICATION - FIVE STOREY RESIDENTIAL FLAT BUILDING
 COMPRISING 30 UNITS - 32-34 ESSEX STREET, EPPING**

EXECUTIVE SUMMARY

DA No:	DA/1002/2014 (Lodged 2 September 2014)
Description:	Demolition of existing structures and the erection of a five storey residential flat building comprising 30 units with basement car parking
Property:	Lot 22 DP 10385 and 23 DP 10385, Nos. 32 - 34 Essex Street, Epping
Applicant:	Brooks Projects Architects
Owner:	Mrs S Thuong, Mr V Nguyen
Estimated Value:	\$6,337,943
Ward:	C

- The application proposes demolition of existing structures and the erection of a five storey residential flat building comprising 30 units with basement parking.
- 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*.
- Three submissions have been received in respect of the application.
- It is recommended that the application be approved.

RECOMMENDATION

THAT Development Application No. DA/1002/2014 for demolition of existing structures and the erection of a five storey residential flat building comprising 30 units with basement car parking at Lot 22 DP 10385 and 23 DP 10385, Nos. 32-34 Essex Street, Epping be approved subject to the conditions of consent detailed in Schedule 1 of Group Manager's Report No. PL1/15.

BACKGROUND

On 14 March 2014, the subject land was re-zoned from Residential A (Low Density) to R4 (High Density Residential) as part of the *Epping Activation Precinct*.

The subject application for the construction of a five storey residential flat development comprising 30 units was lodged on 2 September 2014.

On 21 October 2014, Council raised concerns with the proposal including the potential isolation of adjoining land at No.36 Essex Street, owned by the NSW Roads and Maritime Service (RMS), part of which is required for road widening.

On 12 November 2014, the RMS provided written confirmation that the RMS' plans for its land at the corner of Essex Street and Epping Road are not far enough advanced to be able to sell any residue land at this point in time. Consequently, RMS has no objection to the DA over 32-34 Essex Street Epping being determined without the inclusion of No. 36 Essex Street.

On 18 November 2014, the applicant forwarded amended plans that made minor changes to address matters raised in the letter of 21 October 2014.

SITE

The site is located on the western side of Essex Street, Epping. The site is irregular in shape and has an area of 1573m² with a 35.1m frontage to Essex Street. The site comprises two allotments, Nos. 32-34 Essex Street. The site has a gentle slope of 10% downwards towards the north-eastern corner Essex Street frontage.

Existing improvements on the allotments include two dwelling-houses with associated garages. Vehicular access to the site is via two existing driveways from Essex Street. The site contains a number of exotic and native planted trees.

The site forms part of a precinct which is undergoing redevelopment. Surrounding development currently includes predominately single storey residential dwellings. The adjacent property to the south at No.36 Essex Street is to incorporate future road widening at the intersection of Essex Street and Epping Road. The adjacent property to the western rear boundary is subject to an undetermined application DA/1059/2014 for two five storey residential flat buildings comprising 91 units. The adjacent development is to be determined by the Joint Regional Planning Panel.

The site is located approximately 500m from Epping Railway Station. The land is not bushfire prone, flood prone or heritage listed. The land to the south on the opposite side of Epping Road includes the Essex Street Heritage Conservation Area.

PROPOSAL

The proposal involves demolition of existing structures and construction of a five storey residential flat building comprising 30 units with two levels of basement car parking and associated landscaping works.

The unit mix would comprise 10 x 1 bedrooms, 16 x 2 bedroom, and 4 x 3 bedroom units. The units would be accessed via a lift centrally located in the building and would include balconies fronting the street, rear and side property boundaries.

The development would be accessed from Essex Street via a driveway located close to the northern boundary. Pedestrian access to the development is provided towards the centre of the building via Essex Street. A total of 36 car parking spaces, including 5 visitors' parking spaces are proposed in

two basement levels. The development would be serviced by garbage trucks entering the upper level basement.

The site would drain to a detention tank located close to existing ground level in the north-eastern corner front setback area, that would thereafter drain to Essex Street.

ASSESSMENT

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

1. STRATEGIC CONTEXT

1.1 A Plan for Growing Sydney and (Draft) North Subregional Strategy

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

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

The proposed development would be consistent with '*A Plan for Growing Sydney*', by providing 28 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 Shire Local Environmental Plan 2013

The *Hornsby Local Environmental Plan 2013 (HLEP)* was gazetted by the Minister for Planning on 11 October 2013. On 14 March 2014, the subject land was rezoned R4 (High Density Residential) as part of the *Epping Activation Precinct*.

2.1.1 Land Use Zones and Permissibility

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

- (a) *To provide for the housing needs of the community within a high density residential environment.*
- (b) *To provide a variety of housing types within a high density residential environment.*

- (c) *To enable other land uses that provide facilities or services to meet the day to day needs of residents.*

The proposed development is defined as '*residential flat building*' under the *HLEP* and is permissible in the zone with Council's consent.

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 17.5 metres. The proposal complies with this standard.

2.1.3 Heritage

The subject site is located to the north of the Essex Street Heritage Conservation Area and heritage item at property No. 47 Essex St, Epping (Item No. 378) identified as having local significance under the provisions of Schedule 5 (Environmental Heritage) of the *HLEP*. The proposed development would not affect the heritage significance of the heritage item or heritage conservation area as the development is sufficiently separated from these items that are located to the south of Epping Road.

2.1.4 Earthworks

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

Council's assessment of the proposed earthworks and excavation concludes that the proposal is satisfactory subject to conditions regarding submission of a dilapidation report assessing the impact of the excavation on the adjoining properties.

2.2 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 Architect stating that the proposed development achieves the design principles of *SEPP* 65. The design principles of *SEPP* 65 and the applicant's submission are addressed below.

2.2.1 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 site is located within a planned five storey residential flat building precinct in close proximity to Epping Railway Station.

The proposal responds to the desired future character of the precinct as envisaged by Council. Once the development of the precinct is completed, the proposal would integrate with surrounding sites and would be in keeping with the future urban form. It is considered that the proposed building 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.

2.2.2 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 generally in accordance with the height control and setbacks for the precinct prescribed within the *Hornsby DCP*. The development achieves a scale consistent with the desired future character of the precinct of residential flat buildings in landscape settings with underground car parking.

2.2.3 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 appropriately articulated to minimise the perceived scale and the chosen materials add to the visual interest of the development. Flat roof forms have been adopted for the building with an increased top storey setback on the external facades to minimise bulk and height of the building as required by the *Hornsby DCP*. The proposal complies with the built form principle of *SEPP 65*.

2.2.4 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, the floor plate control 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.

2.2.5 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 a BASIX Certificate 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.

2.2.6 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 which provides landscaping along the street frontage, side and rear boundaries. The on-site detention tank encroaches into the required deep soil setback along the front boundary however, this encroaching structure will maintain a finished level close to the existing ground level and can be planted over to achieve the desired future character of a landscaped setback. The front setback provides potential for the planting of canopy trees consistent with the desired future character of the locality. Given the above, the proposal satisfies the intent of the 'Landscaping' principle of SEPP 65.

2.2.7 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.

A total of 70% of units would achieve sunlight access for 2 hours in mid-winter. Privacy has been achieved through appropriate design and orientation of balconies and living areas and the inclusion of high sills and window/ balcony screens where necessary.

All units incorporate balconies accessible from living areas and communal open space is provided around the perimeter of the building. The size and design of the balconies complies with the Hornsby DCP. The principle communal open space area is provided at the ground level to the rear of the building, accessed via the central foyer of the building and will achieve 2 hours of sunlight in mid-winter. The proposal would provide convenient and safe access to the units from the common foyer. The proposal satisfies the 'Amenity' principle of SEPP 65.

2.2.8 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, rear and side boundaries, providing passive surveillance of the public domain and communal open space areas. The pedestrian and vehicular entry points are secured and visibly prominent from Essex Street.

The proposal includes an assessment of the development against crime prevention controls in the Statement of Environmental Effects. The Statement of Environmental Effects has regard to *Crime Prevention Through Environmental Design Principles (CPTED)* and includes details of surveillance, access control, territorial reinforcement and space management such as artificial lighting in public places, attractive landscaping whilst maintaining clear sight lines, security coded door lock or swipe card entry, physical or symbolic barriers to attract, channel or restrict the movement of people, security controlled access to basement car park; intercom access for pedestrians; design with clear transitions and boundaries between public and private space; clear design cues on who is to use space and what it is to be used for; its use and condition; and security cameras located at the entrance of each building. Subject to the imposition of conditions of consent addressing the above matters the proposal is supported in respect of safety and security.

2.2.9 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 site is located in close proximity to Epping Railway Station and shops. The location of the site allows direct access to services and facilities.

The proposed development includes a mix of dwelling types and sizes which complies with the requirement within the *RFDC* to improve housing choice in the locality. Consent conditions require compliance with Council's adaptable housing controls. In this regard, the development is considered acceptable in terms of social dimensions.

2.2.10 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 building is generally consistent with the design principles contained within the *Residential Flat Design Code* and the *Hornsby DCP*. It is considered that the aesthetic quality of the building would contribute to the desired future character of the precinct. The details of the assessment of the built form and the aesthetics of the development are contained in Section 2.10 of this report.

2.3 State Environmental Planning Policy No. 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	37%	25%	Yes
Communal Open Space	28% >50m ²	25-30% 50m ²	Yes Yes
Ground Level Private Open Space	<25m ² (3/6 units) Min Dimension <4m	25m ² Min Dimension 4m	No No
Minimum	1 br – 53m ² -60m ²	1 br – 50m ²	Yes

Dwelling Size	2 br – 73m ² -83m ² 3 br – 90m ² -102m ²	2 br – 70m ² 3 br – 95m ²	Yes No
Maximum Kitchen Distance	8-10m (2 units) (Units 1 and 3)	8m	No
Minimum Balcony Depth	2m	2m	Yes
Ceiling Heights - Residential Floors	2.7m	2.7m (Min)	Yes
Total Storage Area	1 bed - <6m ³ 2 bed - <8m ³ 3 bed - <10m ³	1 bed - 6m ³ (Min) 2 bed - 8m ³ (Min) 3 bed - 10m ³ (Min) 50% accessible from the apartments	Yes No
Dual Aspect and Cross Ventilation	63%	60%	Yes
Adaptable Housing	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 ground level open space, minimum dwelling size, maximum kitchen distance and storage areas. Below is a brief discussion regarding the relevant development controls and best practice guidelines.

2.3.1 Ground Floor Apartments and Private Open Space

The proposal does not comply with the *Code's* best practice of 25m² ground level private open space requirement for the ground floor units and all ground floor courtyards do not have a 4 metre minimum width dimension.

Notwithstanding, the proposed ground floor terraces and balconies are considered appropriate for the respective ground floor units in respect to dwelling size, aspect, unit configuration and amenity. Furthermore, the non-compliance is in response to the requirement of the *HDGP* for communal open space to provide a landscape setting for the development. The numerical non-compliance is considered minor and is acceptable.

2.3.2 Apartment Layout

The layout of the proposed apartments includes a combination of single aspect units and dual aspect corner units. The unit layouts would provide for housing choice and a range of household types.

The *RFDC* requires that not more than 10% of apartments (3 units) be south facing. The application provides 4 units (13%) with a south facing aspect. The proposal addresses this non-compliance by including a projecting balcony with a westerly aspect to improve access to sunlight.

The *RFDC* prescribes minimum dwelling sizes to promote affordable housing. One of the 3 bedroom units has an area of 90m² which is less than the minimum of 95m² prescribed in the *RFDC*. The minor variation to the size of Unit No.29 would not compromise the amenity of the apartment. The unit is provided with a reasonable sized living area, internal circulation space and balcony in accordance with the HDCC requirements.

The *RFDC* requires that the back of a kitchen should be no greater than 8m from a window. Of the 30 units proposed, 2 units contain kitchens where the back wall is greater than 8m from a window. These units offer an open layout with natural ventilation and accordingly, the minor non-compliance is acceptable with respect to residential amenity.

With consent conditions, the proposed apartment layouts are functional and satisfy the *RFDC* objectives for internal privacy, access to sunlight, natural ventilation and acoustic privacy. It is considered that the apartment layout and mix achieve the intent of the best practice requirements of the *RFDC* and are acceptable in this regard.

2.3.3 Internal Circulation

The *RFDC* prescribes that units accessible from a single core/corridor should be limited to eight. The number of units per floor ranges from 3 to 7 apartments. The proposal is acceptable with respect to the requirements of the *RFDC* for internal circulation.

2.3.4 Acoustic Privacy

The internal layout of the residential units is designed such that noise generating areas would adjoin each other wherever possible. Circulation zones, communal areas or fire stairs would act as a buffer between units. Bedrooms and service areas such as kitchens, bathrooms and laundries would be grouped together wherever possible.

The application includes an acoustic report as the site is located in close proximity to Epping Road. The noise impact assessment report makes recommendations for the treatment of windows and doors in affected facades to ameliorate the effects of traffic noise and to achieve recommended internal noise levels. Compliance with the recommendations of the report is addressed as a condition of consent.

2.3.5 Storage

The proposed building includes resident storage areas for the apartments mostly in the order of 2.5m³, accessed from a hall or living room. In addition, storage cages are provided in the basement for each unit ranging in size from 3m³ to 5m³. A condition is recommended that each dwelling within the development must have a minimum area for storage of 6m³ for one bedroom units, 8m³ for two bedroom units and 10m³ for three bedroom units, where at least 50% is required to be located within the apartment and provided in addition to bedroom and kitchen cupboards.

In summary, the proposed residential flat buildings have been designed in accordance with the design principles of *SEPP 65* and generally comply in respect to the *Residential Flat Design Code* subject to

the imposition of appropriate conditions of consent. It is considered the proposal would achieve good residential amenity and contribute to the desired future character of the precinct.

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

The application has been assessed against the requirements of *State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004*. The proposal includes a BASIX Certificate for the proposed units and is considered to be satisfactory.

2.5 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 the social and economic welfare of the locality and would result in the orderly and economic use of under-utilised land within the Shire.

2.6 State Environmental Planning Policy – Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005

The site is located within the catchment of the Sydney Harbour. The Plan includes planning principles applicable to the site within the upper part of the catchment. The principles incorporate measures to protect water quality, minimise urban runoff, conserve water and to ensure the catchment watercourse, wetlands, riparian lands and remnant vegetation are protected. 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 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.

2.8 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 rail corridors and busy roads. The development is located 17 metres from a classified road corridor (Epping Road). The following matters are required to be considered pursuant to the *SEPP*.

2.8.1 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 (AADT) volume of more than 40,000 vehicles. The subject site is located 17m to the north of Epping Road that has an AADT in the vicinity of 40,000 vehicles per day. Accordingly, a noise and vibration assessment report was submitted with the application. The Noise report demonstrates that the development is capable of achieving reasonable amenity and acoustic privacy. A consent condition is

recommended to incorporate measures to mitigate against noise to habitable rooms in accordance with the criteria set out within clause 102(3) of the *SEPP*.

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

The proposed development has been assessed having regard to the relevant performance and prescriptive requirements within Council's *Hornsby Development Control Plan 2013 (HDCP)*. The development controls within “*Section 3.4-Residential Flat Building (5 storeys)*” of the HDCP apply 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 prescriptive requirements of the Plan:

Hornsby Development Control Plan			
Control	Proposal	Requirement	Compliance
Site Width	35.1m	Min – 30m	Yes
Height	5 storey – 15.5m to 17.5m	5 storey – 17.5m	Yes
Lowest Residential Floor Above Ground	1.2m	Max 1.5m	Yes
Maximum Floorplate Dimension	N-S – 24m E-W – 29m	35m	Yes Yes
Building Indentations	N (side) 4m x 4m S (side) 4m x 4m	4m x 4m	Yes Yes
Height of Basement Above Ground	1.6m	1m (max)	No

Front Setback Essex St (E)	8-10m 8m < 1/3 frontage 7m balconies	10m 8m < 1/3 frontage 7m balconies	Yes Yes Yes
Side (North)	6m 4m < 1/3 rd building (10.8m)	6m 4m < 1/3 rd building (9.6m)	Yes No
Rear (West)	8-10m 8m < 1/3 rd building (16m ²) 7m balconies	10m 8m < 1/3 rd building (16m ²) 7m balconies	Yes Yes Yes
Side (South)	6m 4m < 1/3 rd building (9m)	6m 4m < 1/3 rd building (9m)	Yes Yes
Top Storey Setback From Ground Floor	3m setback, except parts of the elevations where the setback is reduced to 1-2m.	3m	No
Underground Parking Setback	Front – 2.8m to 10.5m N Side – 4m Rear – 7m S Side – 4m	7m 4m 7m 4m	No Yes Yes Yes
Basement Ramp Setback	6m	2m	Yes
Deep Soil Landscaped Areas	Front – 0-6m N Side – 4m Rear – 5-7m S Side – 4m	7m 4m 7m 4m	No Yes No Yes
Private Open Space Min Width 2.5m	1 br units – 10-15m ² 2 br units – 12-58m ² 3 br units – 16-75m ²	10m ² 12m ² 16m ² Min 2.5m wide	Yes Yes Yes Yes
Communal Open Space with minimum dimension 2.5m	28%	25%	Yes
Parking in basement (site within 800m of Railway Station)	31 resident spaces 5 visitor spaces 9 bicycle racks 1 motorcycle space	30 resident spaces 4 visitor spaces 9 bicycle racks 1 motorcycle space	Yes Yes Yes Yes
Sunlight Access	70%	70%	Yes

Housing Choice	10 x 1 br units – 33%	10%	Yes
	16 x 2 br units – 53%	10%	Yes
	4 x 3 br units – 13%	10%	Yes
Adaptable Units	30%	30%	Yes

As detailed in the above table, the proposed development does not comply with the prescriptive measures within the Council's *Hornsby DCP* regarding setbacks, height of basement and deep soil landscaping. The matters of non-compliance are addressed below, as well as a brief discussion on compliance with relevant performance requirements.

2.10.1 Desired Future Character

The proposed 5 storey residential flat building would be sited within the *Essex/Pembroke Street Epping* housing precinct in accordance with required key principles for the precinct, namely for well-articulated five storey residential flat buildings in garden settings with basement car parking.

The elevations indicate face brickwork in dark brown tones and rendered brickwork in predominately white tones. The building is articulated into 2 pavilions along the east-west axis and incorporates a butterfly effect to the flat roof. The modern design of the building is in keeping with the desired future character of the area.

2.10.2 Design Quality – SEPP 65

The proposed development is designed in accordance with the design principles of SEPP 65 except for building separation where the building has been designed to comply with the *Hornsby DCP*.

2.10.3 Site Requirements

The *Housing Strategy DCP* requires sites to have a minimum frontage of 30 metres. The subject site has a frontage of 35m to Essex Street and complies with this requirement.

The proposed development would result in the isolation of No.36 Essex Street located to the south of the property. This land is owned by the NSW Roads and Maritime Service (RMS) and is required for road widening. On 12 November 2014, the RMS provided written confirmation that the RMS' plans for its land on the corner of Essex Street and Epping Road are not far enough advanced to be able to sell any residue land at this point in time. Consequently, RMS has no objection to the DA over Nos. 32 - 34 Essex Street, Epping being determined without the inclusion of No. 36 Essex Street. Subject to future road widening, No. 36 Essex Street would not be suitable for future residential development and the residue land could be maintained as a landscaped area. Accordingly, the isolation of No. 36 does not warrant refusal of the application.

2.10.4 Height Requirements

The proposed five storey building ranges in height from 15.5m to 17.5m above ground, complying with the maximum building height control. The roof design incorporates a flat pitched roof without parapets and wide eaves as required by the *HDCP*.

The height of the basement is up to 1.6m above ground in the north-eastern corner of the development as a result of the topography of the site. The extent of the basement exceedance is limited, and is setback from the property boundary behind future landscaping. The development aims

to incorporate a balance of cut and fill across the site, with the ground floor in the south-western corner being 1.3m below existing ground.

Accordingly, the proposed development is considered satisfactory in respect to five storey built form.

2.10.5 Floorplates

The subject site complies with the maximum floorplate of 35m prescribed within the Hornsby DCP. The proposal also incorporates the use of wrap-around balconies which has the effect of reducing the bulk and scale of the building by breaking up the built form.

2.10.6 Setbacks

As noted in the table above, the proposal generally complies with the building setback controls. There are some encroachments into the setbacks which are addressed as follows:

Front Setback

The Hornsby DCP permits the external walls of the building to be setback 8m for a maximum of 1/3 of the building width and balconies and basements to be setback 7m. The external enclosing walls and balconies of the building comply with this control, however there are encroachments in the front setback from the basement, ground floor courtyard and on-site stormwater detention system. A portion of the upper level basement (Basement 1) and the ground floor paved courtyard at Unit No.1 are setback 6m from Essex Street. The extent of the non-compliance is a result of the trapezoidal shape of the site, is minor and will not have a significant impact on the setting of the development.

Secondly, the lower level basement (Basement 2) has a minimum setback of 2.8m to Essex Street. The encroaching portion of this basement level is predominately below the proposed driveway and pedestrian ramp to Essex Street and therefore, would not be visible from the public domain and would not impact on the landscape setting of the development. Lastly, the on-site detention tank encroaches into the front setback, however this structure would maintain a finished level close to the existing ground level and can be planted over to achieve the desired future character of a landscaped setback.

Northern Side Setback

The Hornsby DCP permits up to 1/3 of the building to be setback between 4m and 6m to a side boundary. The extent of the non-compliance is less than 1m in width and is minor and does not compromise the setback element objective of requiring well-articulated buildings that are setback to incorporate landscaping, open space, privacy and separation between buildings.

Rear Setback

The Hornsby DCP permits the external walls of the building to be setback 8m for a maximum of 1/3 of the building width and balconies and basements to be setback 7m. The external enclosing walls and balconies of the building comply with this control, however, there are encroachments in the rear setback from the ground floor courtyard of Unit No.3. The principal paved private open space area adjacent to the living area of Unit No.3 is setback 5m from the rear boundary, with a total encroachment of 5m². The variation to the planning control is supported taking into account that the variation is proposed on the ground level only, the overall extent of landscaping on the site is generous and the amenity of the unit would be compromised by requiring full compliance.

Top Storey Setback

The HDCP requires 5 storey residential flat buildings to incorporate a 3m additional setback for the top storey on all elevations. The top storey 3m setback is not provided in various locations around the building on each façade. Where the 3m setback is not achieved, a 1m to 2m setback has been generally provided to provide for the intent of the planning control to provide for a top storey that steps back from the walls below. The most significant variation is at the front (eastern) elevation. The proposed encroachment is balanced by a more substantial upper level setback in the south-eastern corner adjacent to Essex Street, in response to the trapezoidal shape of the lot.

2.10.7 Landscaping

The landscaping provisions of the Hornsby DCP prescribe that a 7m wide landscaped area is to be provided at the front and rear and a 4m wide landscaped area provided along the side boundaries.

The design of the basement generally achieves the prescribed setbacks. There are a number of encroachments in response to the trapezoidal shape of the lot as previously discussed under Setbacks at 2.10.6. The proposed variation to the planning control does not significantly impact on the overall extent of soft landscaping available, with 37% of the site being available as a deep soil landscape zone.

The proposed development would provide suitable landscaped areas for the presentation of the proposed buildings in the streetscape, for the provision of active and passive open space areas and for screen planting. The landscaping would include planting of locally indigenous trees in suitable locations that would contribute to the streetscape setting and the local tree canopy, with consent conditions.

Subject to recommended conditions, the proposed landscaping generally complies with the landscaping prescriptive measures.

2.10.8 Articulation

The proposed building is articulated with the façade treatment, size and placement of windows, wrap-around balconies, vertical panels, indentations and setback variations to minimise the bulk and scale of the building. The proposed facades include a mix of contrasting materials, finishes and fenestration that contribute to the building articulation.

The northern and southern façades are designed to appear as two separate pavilions with a central 4m wide indentation. The building is divided into vertical panels by including indentations in the alignment of the external walls and the inclusion of balconies that project forward of the walls. The maximum sheer vertical rise of the building is limited to 4 storeys and the facades are expressed as 2 or 3 distinct levels. The proposed buildings comply with the *Hornsby DCP* and meet the desired outcome for development of a scale and bulk which enhances the streetscape character.

2.10.9 Open Space

The proposed private open space areas generally comply with the prescriptive area requirements, include a range of layouts with access off living areas and would provide for a range of outdoor activities.

2.10.10 Privacy

The proposed development is appropriately designed for privacy with the majority of units having an orientation towards the front or rear boundary. In addition, high sill windows and balcony screens are

proposed to be erected along the façades where required to further mitigate against future privacy conflicts.

2.10.11 Sunlight and Ventilation

The proposed development complies with the *Hornsby DCP* prescriptive measure for at least 70% of dwellings to receive 2 or more hours of sunlight to living room windows and private open space. The proposal complies with the requirement for at least 60% of dwellings to have dual aspect and natural cross ventilation.

The solar access diagrams submitted indicate the overshadowing impacts of the development to adjoining properties at 9am, 12pm and 3pm on June 22. The extent of overshadowing likely to occur would generally be consistent with that expected within the redevelopment precinct, if the development generally complies with the height and setback controls.

2.10.12 Housing Choice

The proposed buildings include a mix of one, two and three bedroom units that range in size and style. The proposal is for 10 x 1 bed, 16 x 2 bed and 4 x 3 bed units. The proposed housing mix complies with the *HDCP* requirement for at least 10% of each dwelling type. Adaptable dwellings are able to comply with the 30% required by the *HDCP*.

2.10.13 Vehicle Access and Parking

Vehicle access to the proposed basement car park is via a driveway off Essex Street. The driveway is designed to accommodate Council's SRV garbage truck and comply with the Australian Standard in terms of gradients and widths.

The basement includes 36 car parking spaces including 3 disabled parking spaces and 9 bicycle spaces and 1 motorcycle space.

Subject to recommended conditions, the proposal is considered satisfactory in respect to the *Hornsby DCP* requirements for vehicle access and parking.

2.10.14 Essex/Pembroke Street Epping Housing 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 outcome for the precinct. The scheme is consistent with the built form controls to provide for design quality for all facades that are visible from the street frontages.

The proposal maintains setbacks generally in accordance with the *Hornsby DCP* with consent conditions, and provides for extensive tree planting and landscaping around the building. The development would provide a landscaped setting and a built form that is consistent with the desired future outcome for the precinct.

2.11 Section 94 Contributions Plans

Hornsby Shire Council Section 94 Contributions Plan 2012-2012 applies to the development as it would result in the addition of 28 residential units in lieu of the two existing residences. Accordingly, the requirement for a monetary contribution has been recommended as a condition of development 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 site comprises a number of exotic, native planted trees and locally indigenous specimens. The application is supported by an arborist report that assesses 6 existing trees on site and 4 trees on neighbouring properties.

On the site, there are 6 trees including a magenta Lilly Pilli, a camellia, a cypresses and 3 weed trees. Only the magenta Lilly Pilli is a protected tree pursuant to Clause 5.9 of the HLEP. The tree is also listed as an endangered species under the NSW Threatened Species Conservation Act 1995 and as a vulnerable species under the Commonwealth Environment Protection and Biodiversity Conservation Act 1999. The magenta Lilly Pilli is proposed to be retained and the other 5 trees on the site are to be removed.

The proposal would likely damage a neighbouring Jacaranda tree (Tree No.8), given the proposed location of the proposed on-site stormwater detention system. The Jacaranda is not a protected tree pursuant to Clause 5.9 of the HLEP. The neighbouring owner has provided written consent for the applicant to remove the tree.

A landscape plan has been submitted with the application that includes a range of locally native plant species including 14 medium and 8 large sized canopy trees, shrub layer and ground covers. Subject to conditions and on-going maintenance of the landscaped area, the development would achieve a landscape setting and would be acceptable with respect to the natural environment.

3.2 Built Environment

3.2.1 Built Form

The buildings would be located within a precinct identified with a future character of five storey residential flat buildings. The built form of the proposal would be consistent with the desired future character of the precinct.

3.2.2 Traffic

A Traffic and Parking Impact Assessment submitted with the proposal estimates traffic generation of the existing site and proposed development using RMS traffic generation rates. The net traffic generation is estimated to be 7 vehicle trips per hour in the AM and PM peak hours, which is negligible when compared with the traffic volumes on the adjacent road network.

3.3 Social Impacts

The residential development would improve housing choice in the locality by providing for a range of house hold types. The location of the development is in close proximity to Epping Railway Station and shops allowing direct access to retail facilities and transportation.

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”*.

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

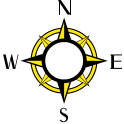
Section 79C(1)(d) of the Act requires Council to consider *“any submissions made in accordance with this Act”*.

5.1 Community Consultation

The proposed development was placed on public exhibition and was notified to adjoining and nearby landowners between 15 September 2014 and 1 October 2014 in accordance with the Notification and Exhibition requirements of the *Hornsby Development Control Plan*. During this period, Council received 3 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	
3 SUBMISSIONS RECEIVED OUT OF MAP RANGE			

Three submissions objected to the development, generally on the grounds that the development would result in:

- Inadequate infrastructure to support an increase in population;
- Unacceptable traffic impacts during the construction phase; and
- Development that is incompatible with the Essex Street Heritage Conservation Area.

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 Inadequate Infrastructure

Concerns are raised that existing infrastructure is inadequate to cater for an increased population. In particular, there is traffic congestion and, inadequate on-street parking. It is suggested that an additional passenger foot bridge should be constructed over Epping Road.

The suitability of the locality for high density residential development was considered by the Department of Planning and Environment during the rezoning of the precinct. Weight must be given to the applicable zoning of the land in the resolution of a dispute as to the appropriate development of any site.

Concerns were raised that the new residents would decrease the amount of on-street parking currently available. The volume of on-site parking provided is consistent with that required by the Hornsby DCP for the proposed unit mix.

5.1.2 Traffic Impacts During Construction

Concerns are raised that there will be traffic congestion as a result of lane closures arising from construction activities. The recommended consent conditions require the preparation of a Traffic Management Plan for the construction phase.

5.1.3 Impact on Essex Street Heritage Conservation Area

Concerns are raised that the development's built form is not consistent with the existing character of the Essex Street Heritage Conservation area located on the southern side of Epping Road. The Land and Environment Court planning principle regarding the "*assessment of height and bulk*" as described in *Veloshin v Randwick Council* [2007] NSWLEC 428 advises that the appropriateness of a proposal's height and bulk is most usefully assessed against planning controls related to these attributes, such as maximum height, floor space ratio, site coverage and setbacks. The planning controls for the 5 storey precinct are aimed at creating a new character for the precinct. Therefore, the planning principle requires that the development be consistent with the bulk and character intended by the planning controls. As previously discussed, the development is consistent with the desired future character for the precinct identified in the *Hornsby Development Control Plan*.

5.2 Public Agencies

The development application was referred to the following Public Agencies for comment.

5.2.1 Roads and Maritime Service

The development application was referred to the Roads and Maritime Service. The proposed development would result in the isolation of No.36 Essex Street located to the south of the property. This land is owned by the NSW Roads and Maritime Service (RMS) and is required for road widening. On 12 November 2014, the RMS provided written confirmation that the RMS' plans for its land at the corner of Essex Street and Epping Road are not far enough advanced to be able to sell any residue land at this point in time. Consequently RMS has no objection to the subject DA being determined without the inclusion of No. 36 Essex Street.

5.2.2 NSW Police

The development application was referred to the NSW Police for consideration of Crime Prevention Through Environmental Design. The NSW Police provided comments that are addressed in the recommended consent conditions.

6. 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 existing structures and construction of a five storey residential flat building comprising 30 units and basement car parking.

The proposed development is generally in accordance with the development controls for the ‘Essex Street/Pembroke Street, Epping’ Precinct of the *Hornsby DCP* and would contribute to the future desired five storey residential character of the precinct. The proposal complies with the design principles of SEPP 65 and the *Residential Flat Design Code*. With conditions, the minor non-compliances with prescriptive measures for setbacks, height of basement, landscaping, minimum dwelling size, maximum kitchen distance and storage areas is considered acceptable.

The proposal would result in a development that would be in keeping with the desired future character of the precinct.

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

RESPONSIBLE OFFICER

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

ROD PICKLES
Manager - Development Assessment
Planning Division

JAMES FARRINGTON
Group Manager
Planning Division

Attachments:

1. Locality Map
2. Site Plan
3. Landscape Plan
4. Floor Plans
5. Elevations
6. Shadow Plans
7. Photomontage

File Reference: DA/1002/2014
Document Number: D04380234

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
E3757-69019	Detail Survey	Burton & Field	7.04.14
Sk11	Site Plan + Roof Plan	Brooks Projects Architects	18.08.14
Sk1g	Basement 2 Plan	Brooks Projects Architects	14.08.14
Sk2i	Basement 1 Plan	Brooks Projects Architects	13.11.14
Sk3l	Level 1 Plan	Brooks Projects Architects	13.11.14
Sk4l	Level 2-3 Plan	Brooks Projects Architects	13.11.14
Sk5l	Level 4 Plan	Brooks Projects Architects	13.11.14
Sk6l	Level 5 Plan	Brooks Projects Architects	13.11.14
Sk7c	Elevation Sheet 1	Brooks Projects Architects	14.11.14
Sk8c	Elevation Sheet 2	Brooks Projects Architects	14.11.14
Sk0d	Section	Brooks Projects Architects	13.11.14
Sk10a	Post Adaptation Plan	Brooks Projects Architects	22.08.14
Sk12-14	Shadow Diagrams	Brooks Projects Architects	18.08.14
001973/TM Rev D sheet 1	Landscape Proposal	Urban Landscape Planners	01.09.14
001973/TM Rev A sheet 2	Landscape Proposal	Urban Landscape Planners	24.06.14
Sw01 Issue A	Stormwater Services Site/Basement Plan	Sparks and Partners	Aug 2014

Sw02 Issue A	Stormwater Services Levels 1&2-3 Plans	Sparks and Partners	Aug 2014
Sw03 Issue A	Stormwater Services Levels 4&5 Plans	Sparks and Partners	Aug 2014
Sw04 Issue A	Stormwater Services Basement 2 Plan	Sparks and Partners	Aug 2014
Sw05 Issue A	Stormwater Services – Erosion Control Plan	Sparks and Partners	Aug 2014
Sw06 Issue A	Stormwater Services	Sparks and Partners	Aug 2014

Document Title	Prepared by	Dated
Basix Certificate 568307M	Gradwell Consulting	28.08.14
Noise Impact Assessment	Marshall Day Acoustics	19.08.14
Stormwater Report	Sparks and Partners	August 2014
Addendum stormwater advice letter (Doc No.D04439885)	Sparks and Partners	6.01.15
Waste Management Plan	Brooks Projects Architects	27.08.14
Photomontage (Doc No.D03636899)	Brooks Projects Architects	undated
Schedule of external finishes (Doc No.D04450800)	Brooks Projects Architects	13.01.15

2. Amendment of Plans

The approved plans are to be amended as follows:

- a) The Stormwater Services Plans by Sparks and Partners are to be amended to be consistent with the architectural plans by Brooks Projects.
- b) Visitor parking space V2 is to be deleted to increase the truck loading bay to (8m long x 3.5 m wide) and for placement of recycling bins for servicing.
- c) Amend Plan Sk3l by removing the private open space to Unit 1 located to the east of the 16sqm paved courtyard and maintaining the landscaped setbacks as communal open space.

3. Removal of Existing Trees

This development consent only permits the removal of tree(s) numbered T1, T3, T5, T9 & T10 as identified in red on the Survey Plan prepared by Burton & Field, dated 07-04-14.

The removal of any other trees requires separate approval in accordance with the Tree & 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 94 Development Contributions

- a) In accordance with Section 80A(1) of the *Environmental Planning and Assessment Act 1979* and the *Hornsby Shire Council Section 94 Development Contributions Plan 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	\$20,355.10
Open Space and Recreation	\$334,686.40
Community Facilities	\$46,668.65
Plan Preparation and Administration	\$1,380.75
TOTAL	\$403,090.90

being for 10 x 1 bedroom units, 16 x 2 bedroom units and 4 x 3 bedroom units and including a credit for 2 existing allotments

- b) The value of this contribution is current as at 12 January 2015. 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:

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

Where:

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

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

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

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

- c) The monetary 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

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. 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.

8. 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.

9. Accessible Units

The development is required to provide 9 units designed as adaptable housing pursuant to the requirements of 1C.2.2 of the Hornsby Development Control Plan. In this regard, three (3) car parking spaces are to be designed for people with a disability and allocated to 3 adaptable units. The details of all adaptable units must be provided with the Construction Certificate plans.

10. Letterboxes

The details of letter boxes and meter enclosures must be provided with the Construction Certificate Plans. The letter boxes and meter enclosures must be provided with a minimum setback of 2 metres from all boundaries and must be suitably screened.

11. Dilapidation Report

A 'Dilapidation Report' is to be prepared by a 'chartered structural engineer' detailing the structural condition of the adjoining property to the north, No.30B Essex Street.

12. Storage

Each dwelling within the development must have a minimum area for storage (not including kitchen and bedroom cupboards) of 6m³ for one bedroom units, 8m³ for two bedroom units and 10m³ for three bedroom units, where 50% is required to be located within the apartment and accessible from either the hall or living area. Details must be submitted with the Construction Certificate plans.

13. Noise – Epping Road Corridor

The development must be carried out in accordance with the recommendations contained within the acoustic report submitted with the development application, titled, prepared by Marshall Day Acoustics and dated 19/08/2014 and the requirements of the Department of Planning's *Development Near Rail Corridors and Busy Roads – Interim Guideline* and RailCorp's *Interim Guidelines for Applicants*.

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

14. 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 to the extension of an existing Council piped drainage system in Essex Street.
- b) In regard to HDCP2013 s1C.1.2.j, a minimum of 80% of roof and patio areas of the top floor to be drained to the proposed harvesting system and subsequently the on-site detention system. Details of the proposed 17 kL harvesting system and drainage layout to be shown on hydraulic plans.
- c) The internal drainage system be piped to contain at least the 20 year *Average Recurrence Interval* storm event, with an emergency outlet system to drain storm events in excess of the 20 year ARI to be drained directly to the Council controlled drainage system.

15. On-Site Stormwater Detention

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

- a) Have a capacity of not less than 18 cubic metres, and a maximum discharge (when full) of 30 litres per second.
- b) Have a 900mm x 900mm surcharge/inspection grate located directly above the outlet at least.
- 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) Provision of an emergency overflow system for storms in excess of the 20 year average recurrence interval, directly to Council's kerb using 75 mm high hot dip galvanised rectangular hollow sections.

- e) Not be constructed in a location that would impact upon the visual or recreational amenity of residents.

16. Essex Street Stormwater Drainage Extension and Road Works

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) Pursuant to Section 59A and 68 of the *Local Government Act 1993*, and s138 *Roads Act 1993*, an Application shall be made to Hornsby Shire Council for consideration and approval of the proposed Council-controlled drainage works, prior to the release of that Construction Certificate. Application requires payment of Council's fee for assessment, approval and inspection.
- b) The drainage and road work includes the removal of the existing pits in Essex Street adjacent 30 and 30A Essex Street, removal of the existing kerb and gutter and road shoulder for the extent of the Council drainage work as well as the Essex Street frontage of the site, and construction of a new reinforced concrete pipe and 1.8m kerb inlet pit and new kerb and gutter.
- c) The pipeline shall be designed to carry the 20 year average recurrence interval storm flow in its catchment, be at least 375 mm diameter reinforced concrete pipe, and connected to the existing council controlled pipeline.
- d) Access to affected properties shall be maintained at all times during the proposed works. Steel plates or other acceptable method for providing vehicular access shall be used for constant access and site safety.
- e) A vehicular crossing shall be designed and constructed with finished levels as required by Council. Redundant crossings shall be removed and restored to Council's standard.
- f) The footpath verge shall be graded to suit the levels of the proposed crossing and existing levels at either end. Council's standard 80 mm thick concrete footpath to be constructed within the footpath verge with the remaining area turfed.
- g) The existing road shoulder pavement to be saw cut a minimum of 600 mm from the lip of kerb and reconstructed to match existing kerb levels.
- h) The submission of a compaction certificate from a geotechnical engineer for any fill within road reserves, and all road sub-grade and road pavement materials.
- i) Construction, relocation or adjustment of all other utilities and assets at the Applicant's cost to make good all proposed drainage and civil works.

17. Traffic Control Plan

A Traffic Control Plan (TCP) must be prepared by a qualified traffic controller in accordance with the *Roads & Traffic Authority's Traffic Control at Worksites Manual 1998* and *Australian Standard 1742.3* for all work on a public road and be submitted to Council for approval. 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.

18. Internal Driveway/Vehicular Areas

The driveway and parking areas on site must be designed in accordance with *Australian Standards 2890.1, 2890.2*, 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 grade for SRV access must not exceed 15.4 percent and changes in grade must not exceed 8.3 percent per 4.0m of travel, with provision of 3.5m of SRV clearance in servicing and manoeuvring areas;
- d) The driveway ramp shall have suitable provision for drainage; and
- e) Retaining walls required to support the basement ramp and the compaction of all fill batters must be in accordance with the requirements of a chartered structural engineer.

REQUIREMENTS PRIOR TO THE COMMENCEMENT OF ANY WORKS
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19. 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.

20. 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.

21. 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*.

22. 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.

23. 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.

24. Tree Protection Barriers

Tree protection fencing must be erected around tree numbered T4 to be retained at the nominated Tree Protection Zone (TPZ) listed below

Tree protection fencing must be erected around tree numbered T2 to be retained at the nominated TPZ listed below except where it conflicts with the approved basement and stormwater plan where fencing can be located at a distance of 3m and works are carried out in accordance with those listed below.

The tree fencing must be contiguous and constructed of 1.8 metre 'cyclone chainmesh fence' and must be erected in accordance with AS 4970-2009 (Section 4 & Fig.3)

Tree Protection Zones (TPZ)

TREE	TPZ
T2	6m
T4	5m

25. Tree Protection – Ground Protection

Prior to works commencing and throughout construction, the area of the Tree Protection Zone (located on the property) of trees T2 & T4 is to be protected by the use of wood-chip mulch. Wood-chip mulch is to be installed on top of a geotextile landscape fabric, placed over the

root zone of the tree. The mulch is to be maintained at a depth of 150mm – 300mm using material that complies with AS 4454.

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.

REQUIREMENTS DURING CONSTRUCTION

26. 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.

27. 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.

28. 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.

29. Street Sweeping

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

30. Works Near Trees

All required tree protection measures are to be maintained in good condition for the duration of the construction period.

Existing soil grades within the fenced Tree Protection Zones of trees to be retained must be maintained.

Consent is granted to undertake works within six metres (6m) of tree T2 only, with the following conditions:

- a) *Project Arborist*
 - i) Works must not reduce the useful life expectancy of the tree and be carried out under the direct supervision of the Project Arborist. The project arborist must assess the condition of tree and the growing environment and make recommendations for, and if necessary carry out remedial action to ensure the health and vigour of the tree.
- b) *Excavation*
 - i) Excavation to a depth of one metre (1m) to facilitate the construction of the basement and the stormwater shall be carried out by hand excavation ONLY. Excavation must not exceed 15% of the TPZ and is to occur at a distance greater than 3m from the trunk of the tree.
- c) *Root Pruning*
 - i) Where tree roots are required to be severed for the purposes of this consent all pruning shall be undertaken as specified in AS 4970-2009 Sections 3.3.4, 4.5.4 and 4.5.5. A certificate must be submitted by the Project Arborist to the principal certifying authority detailing the methods used to preserve the tree.

31. 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.

32. Disturbance of Existing Site

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

33. Landfill

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

- a) 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.
- b) A compaction certificate is to be obtained from a geotechnical engineer verifying that the specified compaction requirements have been met.

34. 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.

35. 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.

36. 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 record 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.

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. 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.

40. 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 and harvesting systems.

41. Creation of Easements

The following matter(s) must be nominated on the title under s88B or s88E of the *Conveyancing Act 1919*:

- a) An easement for access for Council's waste and recycling vehicles, using terms available from Council, over that part of the land required for SRV service.
- b) 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 must be clearly marked on the Registered Surveyor's documentation.
- c) 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.

42. Certificate of Tree Protection

Where works have been undertaken within the Tree Protection Zone of a tree, the project Arborist must assess the condition of tree(s) and the growing environment and make recommendations for, and carry out remedial actions where necessary.

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 and AS 4970-2009.

43. Retaining Walls

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

44. Boundary Fencing

Fencing must be erected along all property boundaries behind the front building alignment to a height of 1.8 metres above existing ground level. Fences to the primary frontage in front of

the building alignment are to retain visual transparency (not lapped / solid) and be 1.2 metres in height.

If an electrical substation is required as indicated on Dwg No.Sk31 (Level 1 Plan), a gate is to be used to screen the substation from Essex Street that is compatible with the fencing installed along the property boundary.

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

45. 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.

46. Modification to Landscape Plan

The following modifications to the landscape plan are required:

- a) Substitute 16 x no. plantings of *Westringia fruticosa* 'Mundi' (*Coastal Rosemary*) from the proposed location along the northern boundary / southern side of hedge plantings, with a more shade-tolerant species.
- b) Remove the paving within the side setback (Unit 4) and the rainwater tank adjacent to Unit 5 to be consistent with the superseding Architectural Plans.

47. Street Tree Planting

Planting to the front verge must include three *Tristaniopsis laurina* (Water Gum), installed at minimum 100 Litre pot size.

48. Completion of Landscaping

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.

49. 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.

50. 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.

51. Waste Management

The following waste management requirements must be complied with:

- a) The garbage 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. 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) A report(s) must be prepared by a registered surveyor and submitted to the principal certifying authority prior to the issue of the Subdivision/Occupation Certificate, certifying that the finished access way (including ramp, 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;

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

- f) The bin carting routes must be devoid of any steps.
Note: Ramps between different levels are acceptable.
- g) “No Parking” signs must be installed to prevent cars parking in the loading bay.
- h) The 3.5 metre vertical clearance height within the truck travel path must not be reduced by ducting, lights, pipes or anything else.
- i) Access to the automatic waste volume handling equipment by unauthorised persons (including residents and waste collectors) must be prevented.
- j) A report(s) must be prepared by a registered surveyor and submitted to the principal certifying authority prior to the issue of the Subdivision/Occupation Certificate, certifying that: The finished access way (including ramp, vehicle 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 with minimum design vehicle dimensions of 6.4 metres overall length, width of 2.3 metres, with maximum gradient of 1:6.5 and minimum 3.5 metre clearance height.

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

52. Unit Numbering

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

53. Consolidation of Allotments

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

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

54. Safety and Security

This site must include the following elements:

- a) An intercom system must be installed at gate locations to ensure screening of persons entering the units.
- b) 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.
- c) Lighting is to be provided to pathways, building foyer entries, driveways and common external spaces.
- d) Security gate access is to be provided to the car parking areas allowing residents-only access to private car spaces.
- e) The communal open space, at the rear and north of the site must be illuminated with high luminance by motion sensor lighting.

- f) The driveway and basement car parking must be illuminated with low luminance at all times.
- g) Security deadlocks are to be provided to each apartment door.
- h) Peep holes are to be provided to individual apartment doors to promote resident safety.

OPERATIONAL CONDITIONS

55. Landscape Establishment

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

56. Car Parking

All car parking must be constructed and operated in accordance with Australian Standard AS/NZS 2890.1:2004 – Off-street car parking and Australian Standard AS 2890.2:2002 – Off-street commercial vehicle facilities and,

- a) All parking areas and driveways are to be sealed to an all-weather standard, line marked and signposted;
- b) Car parking, loading and manoeuvring areas to be 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) Residential parking spaces are to be secure spaces with access controlled by card or numeric pad;
- e) Visitors are to have access to the parking area at all times. Visitors are to be able to access the basement car park by an audio/visual intercom system located at the top of the ramped driveway.
- f) All vehicular entry on to the site and egress from the site shall be made in a forward direction.

57. Allocation of Car Parking

- a) Parking spaces number R9 and R10 shall be allocated to the same unit as there is a possibility of conflict if vehicles are not parked accurately.
- b) Parking spaces number R25 and R26 shall be allocated to the same unit.

58. Sight Lines

Minimum sight lines for pedestrian safety are to be provided at the driveway. Any proposed landscaping and/or fencing must not restrict sight distance to pedestrians and cyclists travelling along the footpath.

59. Disabled Parking

All parking spaces for people with disabilities must be constructed and operated in accordance with *Australian Standard AS/NZS 2890.6:2009 – Off-street parking for people with disabilities*

60. Bicycle Parking

- a) All bicycle parking spaces are to be designed in accordance with *Australian Standard 2890.3-1993 – Bicycle parking facilities*.
- b) 6 resident and 3 visitor bicycle parking spaces are to be provided in the basement.

61. Motorcycle Parking Spaces

One motorcycle parking spaces are to be provided in accordance with AS 2890.5-1993

62. 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 cars do not park in the loading bay and that 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.

63. 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).

64. 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.

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.

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.

Rain Water Tank

It is recommended that water collected within any rainwater tank as part of the development be limited to non-potable uses. *NSW Health* recommends that the use of rainwater tanks for drinking purposes not occur where a reticulated potable water supply is available.

9 DEVELOPMENT APPLICATION - DWELLING-HOUSE - 41 ASHLEY STREET, HORNSBY

EXECUTIVE SUMMARY

DA No:	DA/1247/2014 (Lodged 16 October 2014)
Description:	Demolition of an existing dwelling and erection of a dwelling-house
Property:	Lot B, DP 385307, No. 41 Ashley Street, Hornsby
Applicant:	Tullipan Homes Pty Ltd
Owner:	Mr Nathan Toussaint
Estimated Value:	\$600,000
Ward:	B

- The application proposes the demolition of a single storey dwelling-house and the construction of a two storey dwelling-house.
- The proposal does not comply with the maximum building height development standard within the *Hornsby Local Environmental Plan (HLEP) 2013*. The applicant has made a submission pursuant to Clause 4.6 'Exceptions to development standards' of the *HLEP 2013* to vary the 8.5 metre maximum building height development standard by more than 10%. The proposed variation to the development standard is considered well founded and is supported.
- 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 the Department of Planning and Environment pursuant to Clause 4.6 of the *Hornsby Shire Local Environmental Plan 2013* and approve Development Application No. DA/1247/2014 for the demolition of a dwelling-house and the construction of a two storey dwelling-house at Lot B, DP 385307, No. 41 Ashley Street, Hornsby subject to the conditions of consent detailed in Schedule 1 of Group Manager's Report No. PL2/15.

SITE

The narrow, irregular shaped, 1,285m² site is located on the southern side of Ashley Street, Hornsby and contains a single storey dwelling-house with an attached, single carport.

The site experiences an average fall of 27% to the rear, southern boundary.

The site is bushfire prone and is not flood prone.

The site does not contain a heritage listed item and is not within the vicinity of a heritage listed item. However, the site is located adjacent to the Hornsby West Side Heritage Conservation Area - Mt Errington Precinct.

The site contains locally indigenous species of trees including remnant specimens of Blackbutt Gully Forest.

The site is not benefitted or burdened by any easements or restrictions.

PROPOSAL

The application proposes the demolition of a dwelling-house and a carport and the construction of a split level, two storey dwelling-house.

The ground floor would comprise two bedrooms, rumpus room with balcony, bathroom and laundry. The first floor would include a master bedroom with an en-suite, bedroom, powder room and kitchen/meals/living room with a deck attached to the rear of the dwelling house. Due to the slope of the land immediately below street level, the first floor would also include a double garage, front portico and an entrance foyer facing the street.

No trees would be removed as part of the development.

ASSESSMENT

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

1. STRATEGIC CONTEXT

1.1 A Plan for Growing Sydney and (Draft) North Subregional Strategy

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

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

The proposed development would be consistent with ‘*A Plan for Growing Sydney*’, by providing renewed housing stock for a growing population.

2. STATUTORY CONTROLS

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

2.1 Hornsby Local Environmental Plan 2013

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

2.1.1 Zoning of Land and Permissibility

The subject land is zoned R2 - Low Density Residential under the *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 ‘*dwelling house*’ under the *HLEP* and is permissible in the zone with Council’s consent.

2.1.2 Clause 4.3 – Height of Buildings

Clause 4.3 of the *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 9.6 metres, which does not comply with this standard. This matter is addressed below.

2.1.3 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.

The objectives of this clause are as follows:

- (a) *to provide an appropriate degree of flexibility in applying certain development standards to particular development,*
- (b) *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 standard for the proposed dwelling-house. The applicant states that strict compliance with the maximum building height requirement is both unreasonable and unnecessary in this circumstance and that there are sufficient environmental planning grounds to justify contravening the development standard as follows:

1. *The proposal provides for a dwelling that steps down the site to minimise excavation and impacts to the existing landform;*
2. *The dwelling presents as a single storey dwelling house when viewed from Ashley Street. The design is compatible with the existing surrounding development particularly having regard to the immediately adjoining development;*
3. *The orientation of the allotment and location of the dwelling ensures that the proposal does not result in any unreasonable overshadowing to the adjoining properties;*
4. *The dwelling has been orientated to overlook the rear yard and district to the south and will not result in any unreasonable loss of privacy to the adjoining properties;*
5. *The non-compliance is a direct result of the significant slope of the site with particular note to the significant embankment to the rear of the proposal; and*
6. *Strict compliance with this clause would [require] significant excavation and such a significant change in levels between the front and rear of the dwelling that the resultant dwelling would have unreasonable impacts on the useability/functionality of the dwelling.*

The applicant's objection to the 8.5 maximum building height standard is considered well founded and is supported for the following reasons:

- The departure from the maximum building height requirement is primarily at the rear of the dwelling house and would not be visible from the public domain;
- The extent of the non-compliance is within the roof form of the first floor deck and part of the roof above the kitchen. The remainder of the dwelling house is compliant;
- The design of the dwelling house incorporates a 1200mm 'step' in the centre of the footprint to address the gradient of the site;
- The rear of the adjoining property, No 43 Ashley Street, has a gutter level of RL 169.88 AHD which represents a building height of 8.88 metres above natural ground level as determined from the submitted survey; and
- Strict compliance with the 8.5 metre building height limit would require more extensive earthworks to the site to reduce the finished floor level and ridge height of the dwelling house.

Accordingly, the applicant's submission is accepted and the variation to the development standard is supported.

2.1.4 Clause 5.10 – Heritage Conservation

The objectives of Clause 5.10 of the *HLEP* are as follows:

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

The site is located adjacent to the Hornsby West Side Heritage Conservation Area - Mt Errington Precinct which extends to properties on the northern side of Ashley Street, Hornsby.

Development within the adjacent Heritage Conservation Area comprises a majority of single storey dwelling-houses of brick and weatherboard construction with both tile and metal roof claddings.

The application proposes the demolition of an existing single storey dwelling-house and the construction of a split level, two storey, brick dwelling-house with a concrete tile roof. The gradient of the site to the rear would allow for the dwelling house to appear as single storey in height when viewed from the street. This single storey height would be consistent with the predominant character of the streetscape along the southern side of Ashley Street.

The proposed dwelling-house would not interfere with the views to, or from, the Heritage Conservation Area or detract from the significance of the Hornsby West Side Heritage Conservation Area.

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

The application has been assessed against the requirements of *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008 – NSW Housing Code*. The Policy provides exempt and complying development codes that have State-wide application.

The Policy also identifies types of development that are of minimal environmental impact that may be carried out without the need for development consent and types of complying development (including dwelling houses) that may be carried out in accordance with a complying development certificate.

The proposed dwelling house cannot be approved as Complying Development, as the dwelling house would not comply with the maximum floor area for a first floor balcony, maximum building height, first floor side setbacks, the extent of excavation and the provision of private open space.

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

The application has been assessed against the requirements of *State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004*. The proposal includes BASIX Certificate No. 578638S for the proposed dwelling house and is considered to be satisfactory with respect to *SEPP BASIX*.

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

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

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.

2.5 Section 94A Environmental Planning and Assessment Act, 1979 – Fixed Development Consent Levies

Section 94A contribution fees are payable as the development is for residential accommodation with a cost of works greater than \$100,001. Should the application be approved, an appropriate condition of consent is recommended requiring the payment of a contribution in accordance with Council's Contributions plan.

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 2013

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

HDCP – Part 3.1 Dwelling-Houses			
Control	Proposal	Requirement	Complies
Site Area	1,285m ²	N/A	N/A

Building Height	10.5m	8.5m	No
No. storeys	2 storeys	max. 2 + attic	Yes
Site Coverage	18%	40%	Yes
Floor Area	280m ²	430m ²	Yes
Setbacks			
- Front	3.5m	6m	No
- Side (eastern)			
- Ground floor (dwelling)	2.276m	0.9m	Yes
- First floor	2.276m	1.5m	Yes
- Side (western)			
- Ground floor	1.8m	0.9m	Yes
- First floor	1.8m	1.5m	Yes
- Rear (southern)			
- Ground floor	60m	3m	Yes
- First floor	60m	8m	Yes
Landscaped Area	77% (989m ²)	40% (514m ²)	Yes
Private Open Space			
- minimum area	>24m ²	24m ²	Yes
- minimum dimension	3m	3m	Yes
Car Parking	2 spaces	2 spaces	Yes

As detailed in the above table, the proposed development generally complies with the prescriptive requirements within the HDCP other than the front boundary setback and building height. These matters of non-compliance are addressed below together with a brief discussion on compliance with relevant performance requirements.

2.7.1 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 proposal dwelling house would have a height of 9.6 metres which does not comply with the maximum building height requirement of 8.5 metres.

The portion of the dwelling house that exceeds the height requirement would be located at the rear of the structure, behind the ridge line and as a consequence, would not be visible from the street.

The proposal would present as a single storey dwelling house when viewed from the street, meets the desired outcomes of Part 3.1.1 Scale of the HDCP and is considered acceptable.

2.7.2 Setbacks

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

Given the steep topography of the site and the splay of the front boundary alignment, the dwelling house would be set back a minimum 3.5 metres from the front boundary alignment which does not comply with the 6 metre prescriptive measure.

In support of this variation, it is noted that this non-compliance relates only to the front-facing wall of bedroom 1 and the adjacent entry portico. The front boundary setbacks of nearby dwelling houses on the southern side of Ashley Street are characterised by encroachments within the 6 metre front setback requirement. The adjacent dwelling houses at No.s 39 and 43 Ashley Street have front boundary setbacks of 4 metres and 2.5 metres respectively. Accordingly, the proposed setback is generally consistent with the established streetscape pattern of development.

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

2.7.3 Earthworks and Slope

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

The prescriptive measures state that:

- a) *Development should be sited on the area of land presenting the least topographic constraints and away from ridge lines;*
- b) *Earthworks involving filling should not exceed 1 metre in height from the existing ground level;*
- c) *Excavation that extends outside of the building platform should be limited to a depth of 1 metre from the existing ground level, unless the excavation is required to:*
 - i) *Achieve a high quality of built form, or*
 - ii) *Provide for safe vehicular access to the site, and*
 - iii) *it maintains the amenity of the adjoining properties and the desired streetscape character.*
- d) *Filling or excavation should not occur on or adjacent to sensitive environments, such as watercourses, riparian land, wetlands, bushland or sensitive vegetation.*

The application proposes to excavate to a maximum depth of 2.8 metres adjacent to the eastern boundary which does not comply with the 1 metre prescriptive measure.

In support of this variation, it is noted that the extent of the earthworks would be limited to the centre portion of the structure and would allow for the minimisation of the building footprint to avoid encroachment into the significant vegetation at the rear of the site.

Given that the building envelope experiences a slope of approximately 40%, a condition is recommended requiring certification from a suitably qualified geotechnical engineer as to the stability of the slope in regard to the proposed design.

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

2.7.4 Sunlight Access

The desired outcomes of Part 3.1.5 Sunlight Access of the HDCP 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 state 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.”*

Notwithstanding the non-compliance with building height, the proposal complies with the prescriptive measures of Part 3.1.5 Sunlight Access and is acceptable.

2.7.5 Privacy

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

The application proposes two decks within the rear elevation of the dwelling house and active use rooms located on the first floor, including the living room, meals room and kitchen. These decks and active use rooms do not comply with the prescriptive measures of the Privacy element which states that *“living and entertaining areas of dwelling houses should be located on the ground floor only and orientated towards the private open space of the dwelling house and not the side boundaries.”*

In support of this variation, it is noted that the meals room, living room and kitchen would be primarily orientated towards the rear of the site, with large windows within the rear elevation. The kitchen and living room would also have windows orientated towards the side boundaries with the potential to overlook into the adjoining properties.

In consideration of this issue of non-compliance, it is noted that the restricted size and height of the 2 kitchen windows within the left, side elevation and their proposed location between the bench top and overhead cabinets would not allow direct line of sight overlooking into the adjoining property, No. 39 Ashley Street.

The height and size of the living room window within the right, side elevation would allow overlooking of the adjacent premises 43 Ashley Street. To address this issue of non-compliance, a condition is recommended requiring this window to be of a “highlight” design with a sill height of no less than 1500mm above finished floor level.

The prescriptive measure of the Privacy element states *“decks and the like that need to be located more than 600mm above existing ground should not face a window of another habitable room, balcony or private open space of another dwelling located within 9 metres of the proposed deck unless appropriately screened”*.

The proposed ground floor and first floor level decks within the rear elevation would have floor levels 3.8 metres and 6.6 metres respectively above ground level. Whilst the ground floor deck would allow

overlooking of the heavily vegetated areas at the rear of the subject site and not to the private open space or living areas of the adjacent dwelling houses, the first floor level deck may allow overlooking into the adjoining property, No. 43 Ashley Street.

To address this issue, a condition is recommended requiring the erection of a 1.5 metre high privacy screen along the right elevation of the deck.

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

2.7.6 Heritage

The desired outcome of Part 9 Heritage of the HDCP for development in the vicinity of heritage items and heritage conservation areas is to encourage *“new work that is sympathetic of nearby heritage items, or adjoining heritage conservation areas, and their settings”*.

The prescriptive measures state that *“development should maintain significant or historic public domain views to and from the heritage item, or heritage conservation area”* and *“original or significant landscape features that are associated with the heritage item or heritage conservation area, and which contribute to their setting should be retained”*.

In assessing the heritage impact of the proposal on the character of the adjacent Hornsby West Side Heritage Conservation Area, it is noted that the proposed dwelling house would present as single storey to the streetscape and would not impede the views to, or from, the properties within the Heritage Conservation Area. The application does not propose the removal of any trees or the construction of fencing within the front setback.

The application meets the desired outcomes of Part 9 Heritage of the HDCP and is considered acceptable.

2.7.7 Vegetation Preservation

The application does not propose the removal of any trees on site.

Council's environmental assessment has determined that the proposal would not significantly impact on the health of the trees at the rear of the site, subject to conditions requiring the erection of protection fencing prior to the commencement of any works.

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 application does not propose the removal of any trees from the site. Subject to conditions requiring appropriate tree protection fencing and sediment control measures, the proposal would have minimal impacts on the natural environment.

3.2 Built Environment

The proposed dwelling house would present as single storey to the street and would be similar in scale to the dwelling houses in the vicinity.

3.3 Social Impacts

The proposal would not result in a detrimental social impact.

3.4 Economic Impacts

The proposal would have a 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 Bushfire Risk

As the land is bushfire prone, the application was referred to the NSW Rural Fire Service for comment, together with a Bushfire Assessment Report prepared on behalf of the applicant.

No objections were raised to the proposal, subject to conditions requiring appropriate materials being used in the construction of the dwelling house in accordance with *Australian Standard AS3959-2009 'Construction of buildings in bush fire-prone areas'*.

5. PUBLIC PARTICIPATION

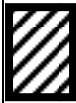
Section 79C(1)(d) of the Act requires Council to consider *“any submissions made in accordance with this Act”*.

5.1 Community Consultation

The proposed development was placed on public exhibition and was notified to adjoining and nearby landowners between 23 October 2014 and 7 November 2014 in accordance with Notification and Exhibition requirements of the Hornsby Development Control Plan. During this period, Council received no submissions. The map below illustrates the location of those nearby landowners who were notified.



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 proposes the demolition of a dwelling house and the construction of a split level, two storey dwelling-house.

As the proposal does not comply with the *Hornsby Local Environmental Plan 2013* in respect to Clause 4.3 'Building Height', the applicant has made a submission pursuant to Clause 4.6 'Exceptions

to development standards' of the *HLEP 2013*, requesting a variation to the maximum building height development standard. The proposed variation to this standard in this instance is considered well founded and is supported.

There were no submissions received in response to notification of the proposed development.

Having regard to the circumstances of the case and consideration of the Clause 4.6 variation, approval of the application is recommended.

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

RESPONSIBLE OFFICER

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

ROD PICKLES
Manager - Development Assessment
Planning Division

JAMES FARRINGTON
Group Manager
Planning Division

Attachments:

1. Locality Map
2. Site Plan
3. Floor Plans
4. Elevations and Sections
5. Tree Location Plan

File Reference: DA/1247/2014
Document Number: D04393002

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 Name	Plan No.	Drawn by	Dated
Site Plan	6438-WD2 Sheet 1 of 12	Tullipan Homes Pty Ltd	12/01/2014
Ground Floor Plan	6438-WD2 Sheet 3 of 12	Tullipan Homes Pty Ltd	14/08/2014
First Floor Plan	6438-WD2 Sheet 4 of 12	Tullipan Homes Pty Ltd	14/08/2014
Elevations (front and right)	6438-WD2 Sheet 5 of 12	Tullipan Homes Pty Ltd	14/08/2014
Elevations (rear and left)	6438-WD2 Sheet 6 of 12	Tullipan Homes Pty Ltd	14/08/2014
Section and Driveway Longsection	6438-WD2 Sheet 7 of 12	Tullipan Homes Pty Ltd	14/08/2014

Supporting Documentation

Document No.	Prepared by	Dated
Survey Plan Survey Ref: C21177	Cahill & Cameron Registered Surveyors	11/06/2013
Shadow Diagrams Dwg No. 6438-WD1 Sheet 9 of 12	Tullipan Homes Pty Ltd	14/08/2014
Waste Management Plan	Tullipan Homes Pty Ltd	2/10/2014
Bushfire Assessment Report	Building Code & Bushfire Hazard Solutions Pty Limited	23/09/2014
Schedule of External	Tullipan Homes Pty Ltd	6/08/2014

Finishes		
Concept Landscape Plan Dwg No. 6438-WD1	Tullipan Homes Pty Ltd	14/08/2014
Statement of Environmental Effects and Clause 4.6 Statement	Nolan Planning Consultants	October 2014
Tree Location Plan	Hornsby Shire Council	26/11/2014

2. Removal of Existing Trees

This development consent does not permit the removal of any trees on the site. 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. Geotechnical Certification

- a) As the site experiences an average gradient of more than 20%, certification from a suitably qualified geotechnical engineer must be prepared as to the stability of the slope in regard to the proposed design.
- b) This certification must be submitted to the principal certifying authority with the application for a construction certificate.

4. Amendment to Plans

- a) To establish and maintain an acceptable level of privacy within the adjacent premises 43 Ashley Street, the window serving the living room on the 'right' elevation of the dwelling house must have a sill height of no less than 1500mm above the first floor finished floor level.
- b) Amended plans with respect to this requirement must be submitted to the principal certifying authority with the application for a construction certificate.

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*, \$6,000.00 shall be paid to Council to cater for the increased demand for community infrastructure resulting from the development, based on development costs of \$600,000.
- b) The value of this contribution is current as at 15 January 2015. 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:

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

Where:

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

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

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

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

- c) The monetary 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.

6. 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.

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. 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.

11. Design and Construction - Bushfire Attack Category

New construction must comply with the current *Australian Standard AS3959 'Construction of buildings in bush fire-prone areas'* section 5 (BAL 12.5) and Section A3.7 Addendum Appendix 3 of Planning for Bushfire Protection.

12. 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) Roof water must be connected to a rainwater tank having capacity equal to the BASIX requirements.
- b) The overflow from the rainwater tank and collected surface water must be disposed of in accordance with Council's design specification; "*On Site Absorption System*", and the following requirements:
 - i) The trench located a minimum of 5 metres from any downstream properties and 1 metre from the side boundaries;
 - ii) The trench must be laid on contour;
 - iii) The trench must be a minimum of 0.6 metres wide, 0.6 metres deep and 1 metre long for every 25 square metres of impervious area; and
 - iv) Overland flow from the trench must be spread evenly over the site so as not to discharge water in a concentrated manner onto adjoining land.
 - v) Or be designed by a qualified hydraulic engineer.

REQUIREMENTS PRIOR TO THE COMMENCEMENT OF ANY WORKS

13. Erection of Construction Sign

A sign must be erected in a prominent position on any site on which building 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.

14. 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*.

15. Tree Protection Barriers

- a) Tree protection fencing must be erected around trees numbered 2-17 to be retained at a 4 metre setback or erected as indicated on the Tree Location Plan prepared by Hornsby Shire Council dated 26 November 2014 to prevent any access to the area.
- b) The tree protection fencing must be constructed of 1.8 metre 'cyclone chainmesh fence' or star pickets spaced at 2 metre intervals, connected by a continuous high-visibility barrier/hazard mesh at a height of 1 metre.
- c) To avoid injury or damage, trees numbered 5 and 6 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).

16. 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.

17. 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) The levels provided by Council shall be used to set the crossing level;
- b) Any redundant crossings must be replaced with integral kerb and gutter; and
- c) The footway area must be restored by turfing.

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

REQUIREMENTS DURING CONSTRUCTION

18. 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.

19. 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.

20. Works Near Trees

- a) 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 methods used to preserve the trees;
- b) All required tree protection measures are to be maintained in good condition for the duration of the construction period;
- c) Excavation within the Tree Protection Zone (TPZ) of any tree to be retained on the subject property or neighbouring property, must be undertaken by hand only; and
- d) All machinery must be cleaned of soil and debris before entering the site to prevent the spread of weeds and fungal pathogens.

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 TPZ of any tree and adjoining bushland to be retained.

21. 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.

22. 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.

23. 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.

24. 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.

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.

25. Fulfilment of BASIX Commitments

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

26. Internal Driveway/Vehicular Areas

The driveway and parking areas on site must be designed in accordance with *Australian Standards 2890.1, 3727*.

27. Retaining Walls

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

28. Installation of Privacy Devices

- a) To establish and maintain a reasonable level of privacy and amenity at the adjacent premises 43 Ashley Street, a 1.5 metre high privacy screen is to be erected along the right elevation of the first floor level deck.
- b) The screen must have no individual openings more than 30mm wide and have a total of all openings less than 30% of the surface area of the screen.

- END OF CONDITIONS -

ADVISORY NOTES

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

Environmental Planning and Assessment Act 1979 Requirements

The Environmental Planning and Assessment Act 1979 requires:

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

Long Service Levy

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

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

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

Tree and Vegetation Preservation

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

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

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.

10 DEVELOPMENT APPLICATION - DWELLING-HOUSE - 7A MARY STREET, BEECROFT

EXECUTIVE SUMMARY

DA No: DA/1335/2014 (Lodged 3 November 2014)

Description: Erection of a dwelling-house on a vacant allotment

Property: Lot 2, DP 1167742, No.7A Mary Street, Beecroft

Applicant: Clarendon Homes (NSW) Pty Ltd

Owners: Mr Pavan Devkinandan Harlalka and Mrs Vanita Harlalka

Estimated Value: \$514,027

Ward: C

- The application is for the construction of a two storey dwelling house on a vacant allotment.
- The proposal generally complies with the *Hornsby Local Environment Plan (HLEP) 2013* and the *Hornsby Development Control Plan (HDCP) 2013*.
- Two submissions have been received in respect of the application.
- A Red Sticker has been placed on the application requiring that it be determined at a Council meeting.
- It is recommended that the application be approved.

RECOMMENDATION

THAT Development Application No. DA/1335/2014 for a two storey dwelling house at Lot 2, DP 1167742, No.7A Mary Street Beecroft be approved, subject to the conditions of consent detailed in Schedule 1 of Group Manager's Report No. PL9/15.

BACKGROUND

On 14 January 2009, Council approved DA/1394/2008 for the subdivision of No. 7 Mary Street into two allotments. The subject site was created as part of the subdivision.

The consent for subdivision has been subject to minor variations under Section 96 of the *Environmental Planning and Assessment Act, 1979* on 3 subsequent occasions.

On 24 March 2014, Council released the final linen plan (SC/78/2013) for the subdivision.

SITE

The vacant, 614.7m² battle-axe allotment is located on the southern side of Mary Street and experiences a cross-fall of 2 metres towards the north western corner.

The site is bush fire prone but is not flood prone.

The site is not burdened by any easements or restrictions.

The vegetation on the site includes a remnant tree growing within part of a locally significant vegetation community (Blackbutt Gully Forest) and is within 50 metres of a mapped Critically Endangered Ecological Community (Blue Gum Shale Forest) listed under the *Threatened Species Conservation Act 1995*.

Whilst the site is not a heritage listed item, it is located in the vicinity of two heritage items of local significance, namely the house and garden at No.3 Mary Street and Chilworth Reserve at No.11X and 14X Mary Street. Both these items are listed under the provisions of Schedule 5 (Environmental Heritage) of the *HLEP 2013*. The site is also located within the Beecroft/Cheltenham Heritage Conservation Area.

PROPOSAL

The application proposes a two storey dwelling house. The ground floor would comprise a kitchen, meals room, rumpus and family room, guest bedroom, ensuite, walk-in-robe, studio, laundry, powder room, entry, living room, study and double garage.

The first floor would comprise 4 bedrooms, ensuite, leisure room, 2 walk-in-robos and bathroom.

One tree would be impacted by the proposal.

ASSESSMENT

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

1. STRATEGIC CONTEXT

1.1 A Plan for Growing Sydney and (Draft) North Subregional Strategy

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

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

The proposed development would be consistent with 'A Plan for Growing Sydney', by providing 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; and*
- (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.

2.1.1 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 8.5 metres. The 8.4 metre height of the proposal complies with this provision.

2.1.2 Heritage Conservation

Clause 5.10 of the *HLEP* sets out heritage conservation provisions for Hornsby Shire. The site is located within the Beecroft/Cheltenham Heritage Conservation Area and is in the vicinity of 2 listed items, namely the house and garden at No.3 Mary Street and Chilworth Reserve at No.11X and 14X Mary Street.

The design and siting of the proposal on a battle-axe allotment would have no detrimental impacts on the heritage qualities of the heritage items in the vicinity or streetscape and would complement the surrounding development in terms of bulk, scale, height, roof form, materials and finishes. Accordingly, the proposal is consistent with the heritage provisions of the LEP.

The proposal meets the desired outcome of Part 9.3.1 General Design Provisions of the HDCP and is considered acceptable.

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

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

The proposed dwelling house may not be approved as complying development, as the subject site is located within a heritage conservation area.

The proposal complies with the requirements of the NSW Housing Code in all other aspects.

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 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. 578285S has been submitted for the dwelling house in compliance with the requirements of the *SEPP*.

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

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

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

3. 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	614.7m ²	N/A	N/A
Height	8.48m	8.5m	Yes
Site coverage	38.4%	50%	Yes
Floor Area	374m ²	380m ²	Yes
Setbacks Ground Floor			
Front (Battle-axe)	4.28m	0.9m	Yes
Side (Eastern)	1.5m	0.9m	Yes
Side (Western)	5.37m	0.9m	Yes
Rear	3m	3m	Yes
Setbacks First Floor			
Side (Eastern)	2.6m	1.5m	Yes
Side (Western)	5.37m	1.5m	Yes
Rear	8m	8m	Yes
Landscaping	54%	30%	Yes
Open Space			
Minimum principal private Open space Area	24m ²	24m ²	Yes
Minimum width of principal private open space	6m	3m	Yes
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 complies with the prescriptive measures within Part 3 Residential of the HDCP. A brief discussion on compliance with relevant performance requirements and Part 1C General Controls is provided below.

3.1 Earthworks and Slope

The desired outcomes of Section 1C.1.4 Earthworks and Slope of the HDCP are 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 level building platform for the dwelling-house, the application proposes a maximum cut of 0.6 metres and a fill of 1 metre which complies with the 1 metre prescriptive measure.

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

3.2 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 8.48 metre building height of the proposal complies with the 8.5 metre prescriptive measure.

The 374m² maximum floor area of the proposal complies with the 380m² prescriptive measure in relation to the 614.7m² allotment size.

The 38.4% site coverage of the proposal complies with the 50% prescriptive measure.

The proposal complies with the prescriptive measures of Part 3.1.1 Scale of the HDCP and is considered acceptable.

3.3 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.”*

An objection raises concerns that the height of the proposed dwelling house would allow overlooking into the adjacent properties No.9 Mary Street and 8A and 10A Welham Street.

In addressing this concern, it is noted that the first floor of the proposal includes an active use leisure room which does not comply with the prescriptive measure which states that *“living and entertaining areas of dwelling houses should be located on the ground floor only and orientated towards the private open space of the dwelling house and not the side boundaries.”*

This leisure room is served by a window within the front, northern elevation which has a setback of 14 metres from the adjoining property, No.7 Mary Street. As a consequence, this non-compliance with the prescriptive measure is supported as it would have negligible adverse privacy impacts.

All the remaining first floor level windows serve non-active rooms such as bedrooms, a bathroom and an ensuite in accordance with the requirements of the HDCP. No windows are proposed at the first floor level on the southern elevation.

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

3.4 Sunlight Access

The desired outcomes of Part 3.1.5 Sunlight Access of the HDCP 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 state 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 proposed dwelling house would cause significant overshadowing of the adjacent property, No. 9 Mary Street.

An assessment of the shadow diagrams has confirmed that the shadows cast at 9am, 12 noon and 3pm on 22 June (the winter solstice) 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 6 hours.

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

3.5 Design Details

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

Objections have been received raising concerns that the development would result in a loss of views to Chilworth Reserve from adjacent properties No.8A and 10A Welham Street.

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 adjacent properties that would be impacted by the development.

Views of the surrounding residential area are characterised by glimpses of dwelling houses and outbuildings of varying designs and heights, interspersed with well-established trees and landscaped areas including the nearby Chilworth Reserve.

Whilst the proposal would be visible from the adjacent properties Nos. 8A and 10A Welham Street, views to, and from, these properties are considered to be neither significant or iconic.

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

3.6 Heritage

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

An objection comments that the two storey dwelling house would be out of character with surrounding heritage items.

Council's heritage assessment has determined that the design and siting of the proposal on a battle-axe allotment would have no detrimental impacts on the heritage qualities of the streetscape and would complement the surrounding development in terms of bulk, scale, height, roof form, materials and finishes. The surrounding area is characterised by a mix of one and two storey dwelling houses.

The development would be compliant with the relevant measures for heritage conservation areas prescribed within Part 9 of the HDCP.

The proposal meets the desired outcome of Part 9.3.1 General Design Provisions of the HDCP and is considered acceptable.

3.7 Hornsby Shire Council Section 94A Development Contributions Plan 2012 – 2021

The approved subdivision DA/1394/2008 paid \$21,690.42 in Section 94 contributions for the subdivision of one allotment into two lots and as a consequence the subject application is exempt from Section 94A Contributions.

4. 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”*.

4.1 Natural Environment

The desired outcomes of Part 3.1.3 Landscaping of the HDCP is 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.”*

An objection comments that the dwelling house should be relocated 6 metres rather than the proposed 3 metre setback to protect a nearby significant tree.

Council's tree assessment notes that 3 trees (numbered T1, T2 and T3) may be impacted by the development are located at the rear of the site and on the adjoining property, No. 10A Welham Street.

This group of trees forms part of a mapped stand of remnant trees growing within part of a locally significant vegetation community (Blackbutt Gully Forest) and is within 50 metres of a mapped Critically Endangered Ecological Community (Blue Gum Shale Forest).

Tree T3, a Turpentine tree, (*Syncarpia glomulifera*) growing on the subject property and adjacent to the rear, southern boundary is a locally indigenous tree that satisfies Council's criteria of an individually significant tree. As a consequence, this tree is to be retained, notwithstanding the notation on the site plan that it is to “be removed by owner prior to construction.”

Council's assessment raises no objections to the proposal, subject to conditions requiring the implementation of appropriate tree sensitive construction techniques and the appointment of an arborist to oversee the construction of the dwelling house and to carry out remedial action to ensure the health and protection of these trees.

The proposal meets the desired outcomes of Part 3.1.3 Landscaping of the HDCP and is considered acceptable.

4.2 Built Environment

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

4.3 Social and Economic Impacts

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

5. SITE SUITABILITY

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

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

5.1 Bushfire Risk

The site is bushfire prone, with a calculated Bush Fire Attack Level (BAL) of BAL-29 and BAL-40. As a consequence, the application was referred to the NSW Rural Fire Service (RFS) for comment.

The classification of the proposed development as BAL-29 and BAL-40 restricts the available design and construction methods for the site. It should be noted that a BAL-29 AND BAL-40 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.

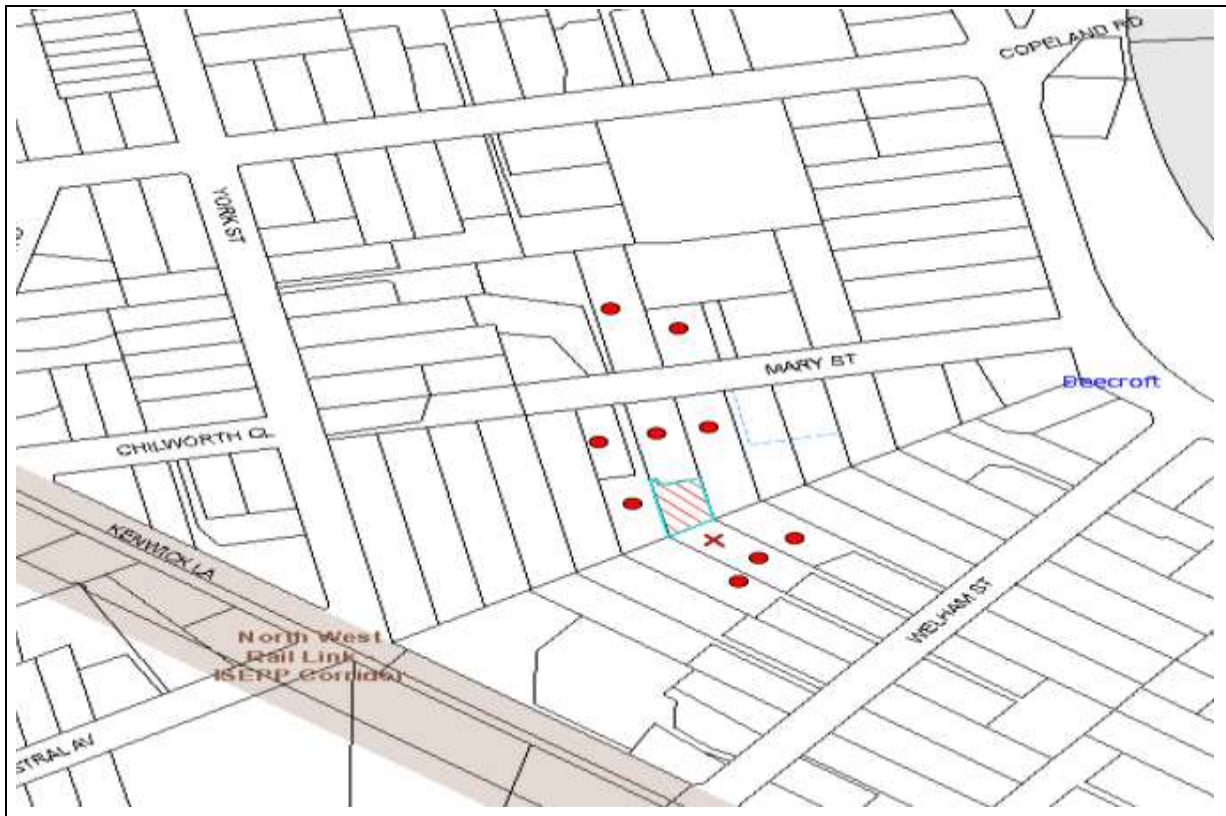
6. PUBLIC PARTICIPATION

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

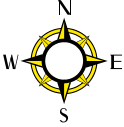
6.1 Community Consultation

The proposed development was placed on public exhibition and was notified to adjoining and nearby landowners between 12 and 26 November 2014 in accordance with the HDCP. During this period, Council received two submissions, one from the adjoining property owner and one from the Beecroft Cheltenham Civic Trust.

The map below illustrates the location of the nearby landowner who made a submission.



NOTIFICATION PLAN

• PROPERTIES NOTIFIED	2 SUBMISSIONS RECEIVED	 PROPERTY SUBJECT OF DEVELOPMENT	
ONE SUBMISSION RECEIVED OUT OF MAP RANGE			

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

- Structural integrity of retaining wall;
- Overshadowing and privacy impacts;
- Retaining wall and drainage issues;
- Proximity of development to a significant tree;
- Bulk and scale of dwelling;
- Property values;
- Loss of views;
- Heritage impacts;
- Height of dwelling;

- Heritage impacts; and
- Earthworks.

The merits of the matters raised in the submissions have been addressed in the body of the report apart from concerns about the retaining wall, conditions of consent for the subdivision and property values which are discussed below as follows:

6.1.1 Retaining Wall

An objection raises concerns that the retaining wall adjacent to the western side boundary was not approved as part of the consent for the subdivision which created the subject allotment. The submission also comments that the retaining wall appears to be unstable, causing flooding during severe rain storms.

As part of the determination of Subdivision Certificate SC/78/2013, Council's engineering assessment concluded that the retaining wall is structurally sound and that the associated drainage works had been satisfactory completed. In the unlikely event that the retaining wall shows signs of failure, the matter would be subject to an investigation by Council and where necessary, actions implemented to ensure any defects are rectified.

Furthermore, to minimise any future drainage issues, a condition is recommended in Schedule 1 for an additional 600mm x 600mm square grated pit in the south-western corner of the lot, adjacent to the southern and western boundary retaining walls connecting directly to the on-site detention system.

6.1.2 DA Conditions for Subdivision

An objection raises concerns that the original conditions of consent for the subdivision approved under DA/1394/2008 have not been complied with, particularly regarding the establishment of landscaping, replacement tree planting and driveway landscaping.

A site inspection has revealed that, in accordance with the conditions of consent, four replacement trees, having a growth height up to 20 metres, have been planted within the front western boundary of No.7 Mary Street.

In regards to issues raised with landscaping along the driveway, a condition is recommended within Schedule 1 that landscaping be planted along the eastern side boundary above the retaining wall.

6.1.3 Property Values

An objection has been received raising concerns that approval of the development would have detrimental effects on property values in the area.

It should be noted that an assessment of this impact is not a matter for consideration under Section 79C of the *Environmental Planning and Assessment Act, 1979*.

7. 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.

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

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

RESPONSIBLE OFFICER

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

ROD PICKLES
Manager - Development Assessment
Planning Division

JAMES FARRINGTON
Group Manager
Planning Division

Attachments:

1. Locality Map
2. Site Plan
3. Floor Plans
4. Elevations and Sections
5. Shadow Plans
6. Ridge Height Survey
7. Stormwater Plans

File Reference: DA/1335/2014
Document Number: D04532222

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.	Drawn by	Dated
Site plan, Ridge height survey, Elevations, Section A-A, Site analysis plan, Shadow diagrams, Ground & First floor plan, Sheet Nos 2 – 7 and 21 – 24 & 26 – 27, Rev G	Clarendon Homes	29.07.2014
Stormwater layout, Sheet 1-2, Job No. C5523-09152	Ibrahim stormwater consultants	24.10.2014

Document No.	Prepared by	Dated
BASIX Certificate No. 578285S	Frys Energywise	26 Sept 2014
Bushfire Assessment Report, Ref No.141185	Building Code & Bushfire Hazard Solutions Pty Ltd	16 July 2014

2. Removal of Existing Trees

No consent is granted for the removal of the Turpentine tree, (T3 - *Syncarpia glomulifera*) growing on the subject property and adjacent to the rear, southern boundary, as it is a locally indigenous tree that satisfies Council's criteria of an individually significant tree. The removal of any trees requires separate approval in accordance with the Tree and Vegetation Chapter 1B.6 Hornsby Development Control Plan (HDCP).

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.

REQUIREMENTS PRIOR TO THE ISSUE OF A CONSTRUCTION CERTIFICATE

4. Building Code of Australia

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

5. 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.

6. 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.

7. 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.

8. Design and Construction - Bushfire Attack Category

- a) New construction on the western, northern and southern elevations must comply with Sections 3 and 8 (BAL 40) Australian Standard AS3959-2009 'Construction of buildings in bush fire-prone areas' and section A3.7 Addendum Appendix 3 of 'Planning for Bush Fire Protection'.
- b) New construction on the eastern elevation must comply with Sections 3 and 7 (BAL 29) Australian Standard AS3959-2009 'Construction of buildings in bush fire-prone areas' and section A3.7 Addendum Appendix 3 of Planning for Bushfire Protection
- c) Any new boundary fencing and gates must be non-combustible.

- d) Landscaping to the site is to comply with the principles of Appendix 5 of 'Planning for Bush Fire Protection 2006'.
- e) Water, electricity and gas are to comply with section 4.1.3 of 'Planning for Bush Fire Protection 2006' and the following requirements:
 - i) Where the rear or most distant part of the building is greater than 70 metres from the nearest hydrant, a new hydrant is required to be installed as per Australian Standard AS 2419.1– 2005 'Fire Hydrant Installations'. Locations of fire hydrants are to be delineated by blue pavement markers offset 150mm from the centre of the road. The direction of offset shall indicate on which side of the road the hydrant is located. Alternatively, an onsite 5,000 litre water supply shall be provided for fire fighting purposes.
 - ii) A 65mm metal Storz outlet with a gate or ball valve shall be provided.
 - iii) Above ground tanks are manufactured of concrete or metal and raised tanks are to have their stands protected. Plastic tanks shall not be used.
 - iv) Polycarbonate/plastic tanks shall be shielded from the impact of radiant heat and direct flame contact.
 - v) Underground tanks shall have an access hole of 200mm to allow tankers to refill direct from the tank.
 - vi) A hardened ground surface for truck access is to be supplied within 4 metres of the access hole.
 - vii) A minimum 5hp or 3kW petrol or diesel powered pump shall be made available to the water supply.
 - viii) An 'SWS' marker shall be obtained from the local NSW Rural Fire Service and positioned for ease of identification by brigade personnel and other users of the SWS.
 - ix) Markers must be fixed in a suitable location so as to be highly visible and Markers should be positioned adjacent to the most appropriate access for the static water supply.

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.

11. Tree Protection

- a) Tree protection fencing must be erected onsite around trees numbered T3 and T5.
- b) The tree fencing must be constructed of 1.8 metre 'cyclone chainmesh fence' and be in accordance with Australian Standard Protection of Trees on Development Sites (AS 4970-2009), Section 4 Tree protection Measures.
- c) Prior to works commencing and throughout construction, the area of TPZ (located on the property) of trees T3 & T5 is to be protected by the use of wood-chip mulch. Wood-chip 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. The mulch must use material that complies with AS 4454.
- d) A certificate from the project arborist (AQF 5) must be submitted to the Principal Certifying Authority stating that all tree protection measures have been installed 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.

12. 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.

REQUIREMENTS DURING CONSTRUCTION

13. Construction Work Hours

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

14. Project Arborist

- a) 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.

- b) The project arborist and site foreman must clearly identify and mark on site the 7 metre Tree Protection Zone of tree T3.
- c) All site personnel must be informed of the position, and understand the requirements in this consent for the Tree Protection Zone (TPZ).

15. Works Near Trees

- a) All required tree protection measures are to be maintained in good condition for the duration of the construction period.
- b) Existing soil grades within the nominated TPZ of tree T3 (7m) and of tree T5 (4m) must be maintained.
- c) Consent is granted to undertake works within the nominated 7m Tree Protection Zone of tree T3 only.

16. Drilling/ Boring

- a) The installation of any services within the nominated Tree Protection Zone must utilise the thrust boring method.
- b) Thrust boring must be carried out so that 'top of pipe' is a minimum 700mm depth beneath existing ground level.

17. Excavation

Excavation for the installation of isolated pier or pier and beam construction within the nominated 7m Tree Protection Zone must be carried out by hand excavation only.

18. Pier and Beam Construction

- a) Piers must be located at a distance greater than 100mm from any retained tree root regardless of diameter.
- b) Excavations for piers must be located no closer than 5 metres to the trunk of tree T3.
- c) Beams are to be placed so that the base of the beam is on or above the existing soil level.

19. Root Pruning

Where tree roots are required to be severed for the purposes of this consent, all pruning must be undertaken as specified in AS4970 – 2009 Sections 3.3.4, 4.5.4 and 4.5.5. A certificate must be submitted by the project arborist to the principal certifying authority detailing the methods used to preserve the tree.

20. Final Certification

- a) Where works have been undertaken within the Tree Protection Zone of any tree to be retained, the project arborist must assess the condition of the tree(s) and the growing environment and make recommendations for, and carry out remedial actions, where necessary.
- b) 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 in this consent and AS 4970-2009.

21. 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.

22. 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.

23. 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.

24. Landscaping

Landscaping is to be provided along the entire eastern side boundary of the carriageway above the retaining wall.

25. Fulfilment of BASIX Commitments

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

26. 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) Connection of roof areas to the on-site detention system via the proposed water harvesting overflow system, and connection of paved areas in the front setback directly to the on-site detention system,
- b) Design and construction of an additional 600 mm x 600 mm square grated pit in the south-western corner of the lot, adjacent the southern and western boundary retaining walls, and direct connection to the existing on-site detention system.

27. Internal Driveway/Vehicular Areas

The driveway to the garage must be designed in accordance with *Australian Standards 2890.1, 3727* and the following requirements:

- a) The driveway must be a rigid pavement; and
- b) The driveway grade must not exceed 25 percent and changes in grade must not exceed 8 percent.

28. 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 written requirements and at the sole cost of the applicant.

29. Retaining Walls

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

30. 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.

- END OF CONDITIONS -

ADVISORY NOTES

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

Environmental Planning and Assessment Act 1979 Requirements

The Environmental Planning and Assessment Act 1979 requires:

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

Long Service Levy

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

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

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

Tree and Vegetation Preservation

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

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

11 DEVELOPMENT APPLICATION - ALTERATIONS AND ADDITIONS TO A DWELLING-HOUSE AND ERECTION OF A SECONDARY DWELLING - 7 LYNE ROAD, CHELTENHAM

EXECUTIVE SUMMARY

DA No:	DA/996/2014 (Lodged 1 September 2014)
Description:	Alterations and additions to a dwelling house and the erection of a detached single storey secondary dwelling
Property:	Lot A, DP 323398, No.7 Lyne Road, Cheltenham
Applicant:	Ms Amy Oi Chu Poon
Owner:	Ms Amy Oi Chu Poon
Estimated Value:	\$350,000
Ward:	C

- The application involves demolition of a carport, garage and detached shed and alterations and additions to a dwelling house and erection of a detached single storey secondary dwelling.
- The proposal generally complies with the requirements of the *Hornsby Local Environmental Plan 2013*, the *Hornsby Development Control Plan 2013* and *State Environmental Planning Policy (Affordable Rental Housing) 2009*.
- Two submissions have been received in respect of the application.
- A Red Sticker has been placed on the application requiring that it be determined at a Council meeting.
- It is recommended that the application be approved.

RECOMMENDATION

THAT Development Application No. DA/996/2014 for alterations and additions to a dwelling-house and a secondary dwelling at Lot A, DP 323398, No. 7 Lyne Road, Cheltenham be approved, subject to the conditions of consent detailed in Schedule 1 of Group Manager's Report No. PL11/15.

BACKGROUND

DA/996/2014 was lodged on 1 September 2014 and in response to issues raised in submissions received during the exhibition of the application, amended plans were requested to address concerns regarding the location and design of the secondary dwelling, scale, setbacks, privacy and stormwater disposal.

On 25 November 2014, amended plans were submitted relocating the secondary dwelling and reorientating the stormwater absorption trenches in accordance with Council's *Civil Works Specification*.

On 12 December 2014, amended plans were submitted proposing:

- obscured glass for the windows serving the kitchen and pantry of the primary dwelling house;
- 1.8 metre height privacy screens along the north eastern elevation of the rear deck of the primary dwelling house and the deck of the secondary dwelling; and
- a reduction of the total floor area of the secondary dwelling to 60m².

On 24 December 2014, amended plans were submitted relocating the deck of the secondary dwelling to the north western façade, facing the primary dwelling house.

On 22 January 2015, further amended plans were submitted increasing the side setback of the garage to comply with the 900mm prescriptive measure of the Hornsby Development Control Plan 2013.

SITE

The irregular shaped, 972.3m² site is located on the south western side of Lyne Road, Cheltenham. The site contains a single storey, brick and tile dwelling house, an attached carport in the front yard and a free-standing shed in the rear yard.

The site experiences a 5 metre fall towards the rear, south-eastern corner.

The site is not bushfire or flood prone.

The site is not burdened by any easements or restrictions.

The site is located within the Beecroft-Cheltenham Heritage Conservation Area – Beecroft Plateau Precinct which is listed in Part 2, Schedule 5 (Environmental Heritage) of the *Hornsby Local Environmental Plan (HLEP) 2013*. The site is also located in the vicinity of two heritage listed items, namely 'Edensor', No. 203 Beecroft Road (Item No. 268) and the 'Grounds of Cheltenham Recreation Club', Nos.60-74 The Crescent (Item No.296).

PROPOSAL

The application proposes the demolition of a carport, garage and detached shed and the erection of single storey alterations and additions to the dwelling house.

The alterations and additions involve a major reconfiguration of the internal layout of the rooms including a kitchen/dining/living room, 3 bedrooms, laundry, bathroom, ensuite, study and rear deck.

An attached, double garage is also proposed within the front, north-western elevation of the primary dwelling house, accessed via an extended replacement driveway.

The application also proposes a detached, single storey secondary dwelling in the rear yard comprising 2 bedrooms, bathroom/laundry, kitchen and living/dining room opening to a deck.

No significant trees would be impacted by the development.

ASSESSMENT

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

1. STRATEGIC CONTEXT

1.1 A Plan for Growing Sydney and (Draft) North Subregional Strategy

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

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

The proposed development would be consistent with '*A Plan for Growing Sydney*', by providing renewed and additional housing stock to support a growing population.

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 Shire Local Environmental Plan 1994

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 "dwelling house" and "secondary dwelling".

Under the *HLEP*, a "dwelling house" is permissible in the zone with Council's consent whilst a "secondary dwelling" is not permissible in the zone. Notwithstanding, a "secondary dwelling" is a permissible land use in the R2 – Low Density Residential zone pursuant to the provisions of the *State Environmental Planning Policy (Affordable Rental Housing) 2009 (AHSEPP 2009)*.

Clause 4.3 of the *HLEP* prescribes that the maximum building height for development within the R2 – Low Density Residential zone is 8.5 metres. The proposed alterations and additions and secondary

dwelling are single storey and the 7 metre maximum building height of the proposal is below the height requirement of the *HLEP*.

Clause 5.10 of the *HLEP* sets out heritage conservation provisions for Hornsby Shire which are applicable to development involving any modifications to the detail, fabric, finish or appearance of a building within a heritage conservation area.

In this instance, the site is located within the Beecroft-Cheltenham Heritage Conservation Area and is in the vicinity of 2 listed items. The application and potential impacts on the heritage significance of the HCA have been considered by Council's Heritage Advisory Committee. The details of the heritage assessment are addressed in Section 2.5.6 of this report.

2.2 State Environmental Planning Policy (Affordable Rental Housing) 2009

The *State Environmental Planning Policy (Affordable Rental Housing) 2009* was introduced by the NSW State Government to increase the supply and diversity of affordable rental and social housing across the State. The Policy covers housing types including villas, townhouses and apartments which contain an affordable rental housing component, along with secondary dwellings (also known as granny flats), new generation boarding houses, group homes, social housing and supportive accommodation.

The proposed secondary dwelling is assessed against the development standards for secondary dwellings in the *Affordable Rental Housing SEPP*, as outlined in the table below.

State Environmental Planning Policy (Affordable Rental Housing) 2009			
Control	Proposal	Requirement	Complies
Site Area	972.3m ²	450m ² (min)	Yes
Maximum No. of Dwellings (Principal dwg plus secondary dwg)	2	2	Yes
Floor Area Principal Dwelling Secondary Dwelling Total Floor Area	238.93m ² 60m ² 298.93m ²	320m ² 60m ² 380m ²	Yes Yes Yes
Site Cover (all development)	30.8%	40%	Yes
Setbacks Primary Front Setback Side (south-western) Side (north-eastern) Rear	38m 900mm 6.0m 6.3m	6.5m 1.5m 1.5m 5m	Yes No Yes Yes
Height	5.7m	8.5m	Yes
Private Open Space	161.4m ² & >6.3m	24m ² & 4m wide	Yes
Landscaped area	44.3%	40%	Yes

Car Parking			
Principal Dwelling	2 space(s)	2 spaces	Yes
Secondary Dwelling	Nil	No additional parking required	Yes

As indicated in the above table, the proposed secondary dwelling complies with the development standards under the *SEPP* other than the side setback from the south-western boundary. However, notwithstanding the non-compliance, the proposed secondary dwelling cannot be undertaken as complying development under the provisions of the *Policy* as the subject site is located within a heritage conservation area. The approval of secondary dwellings as complying development is excluded for heritage conservation areas for the purposes of the *Policy* and therefore, development consent is required.

The heritage implications of the proposal are addressed in Section 2.5.6 of this report. The non-compliance with the setback development standard is addressed below.

Setbacks

As the site has an area greater than 900m², the *SEPP* requires that a minimum side boundary setback of 1.5 metres be provided for the secondary dwelling.

The proposed secondary dwelling would have a setback of 900mm from the south-western side of the property, which does not comply with the above requirement. In support of this variation, it is noted as follows:

- The boundary alignment immediately adjoins a 8.7 metre wide right-of-carriageway which provides access to two adjoining properties, namely Nos. 9 and 9A Lyne Road, Cheltenham. Accordingly, appropriate separation would be provided between the proposed structure and existing dwellings; and
- The proposed secondary dwelling would be a single storey structure and as a consequence, would have minimal amenity impacts on adjoining properties in terms of height, privacy or sunlight access.

The proposed secondary dwelling has been sited on the property to provide the maximum possible separation from the adjoining dwelling at No. 5 Lyne Road. Given these circumstances, the proposal is considered acceptable.

2.3 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*.

2.4 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

The proposed development has been assessed having regard to the relevant performance 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:

HDCP – Part 3.1 Dwelling Houses			
Control	Proposal	Requirement	Complies
Building Height	7m for primary dwelling and 5.7m for secondary dwelling	8.5m (max.)	Yes
No. storeys	1 storey	max. 2 + attic	Yes
Site Coverage	31%	40%	Yes
Floor Area	298.9m ²	430m ²	Yes
Setbacks			
- Front	8.9m for the existing study of the dwelling house and 11.3m for the proposed garage	An average of the adjoining properties' setbacks if the established front setbacks along the street exceeds 7.6m	Yes
- Side (North)	900mm for the garage and rear addition and 6m for the secondary dwelling	900mm	Yes

- Side (Southern)	1.36m for the dwelling and 900mm for the secondary dwelling	900mm	Yes
- Rear	24m for the dwelling and 6.34m for the secondary dwelling	3m	Yes
Landscaped Area	44.3%	40%	Yes
Private Open Space			
- minimum area	161m ²	24m ²	Yes
- minimum dimension	8.8m	3m	Yes
Car Parking	2 spaces	2 spaces	Yes

As detailed in the above table, the proposal complies with the prescriptive requirements of Parts 1, 3 and 9 of the HDCP. A discussion on compliance with the relevant desired outcomes and issues raised in submissions is outlined below.

2.5.1 Scale

An objection raises concerns regarding the excessive bulk and scale of the proposal.

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 existing 7 metre building height of the dwelling house and the proposed 5.7 metre building height of the secondary dwelling comply with the 8.5 metre prescriptive measure.

The height of the proposal would be in keeping with the height of surrounding residential development which is characterised by a blend of one and two storey dwelling houses typical, in terms of scale and design, with the inter-war and post-war eras.

The impact of the scale of the proposal is discussed in more detail below under the headings “Privacy” and “Solar Access.”

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

2.5.2 Setbacks

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

An objection raised concerns regarding the plans as originally submitted, which proposed a 400mm side boundary setback for the garage. This setback did not comply with the 900mm prescriptive measure for single storey development.

To address this objection, amended plans have been submitted relocating the garage to comply with the 900mm prescriptive measure.

The 900mm northern side setback of the deck at the rear of the dwelling house does not comply with the 1.5 metre prescriptive measure for structures over 4.5 metres in height. This deck includes a roof 5.5 metres in height.

The 1 metre encroachment is supported in this instance, given that the rear deck is a direct extension of the floor level of the single storey dwelling house. The rear deck is consistent with the character of the adjacent development at No. 5 Lyne Road which also has an elevated rear deck. Due to the orientation of the site and the location of the deck, it would not overshadow adjoining properties or impact on the streetscape.

The setbacks of the secondary dwelling from all site boundaries comply with the prescriptive measures of the HDCP.

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

2.5.3 Landscaping

Objections raise concerns regarding the impacts of the proposal on the shrubs growing along the north-eastern side boundary adjoining No. 5 Lyne Road and the lack of soft landscaped areas.

The desired outcomes of Part 3.1.3 Landscaping of the HDCP 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 Part 3.1.3 Landscaping 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 environmental assessment notes that the site comprises exotic species, shrubs and noxious weeds and that no significant tree or trees on the site or adjacent properties would be impacted by the proposed development.

There are a number of shrubs growing within the strip of land adjoining the north-eastern side boundary and adjacent to the existing garage and carport. These shrubs would be impacted by the proposed double garage and the alterations and additions to the north-eastern side of the dwelling house.

The applicant has submitted amended plans increasing the north eastern side setback of the garage from 400mm to 900mm to address the impacts on the residential amenity of the adjoining property at No. 5 Lyne Road. The amended side setback would mitigate the impacts on the shrubs by the building to a reasonable extent.

However, a drainage pipe is proposed to be located within the side setback. A submission suggests that the pipe should be relocated to below the garage to mitigate impacts on the shrubs. However, this would be inconsistent with engineering best practice to ensure that, where possible, services should be accessible for maintenance purposes. As the shrubs have not been assessed as significant, the relocation of the services is not considered justified in this instance.

In accordance with the relevant prescriptive requirements of the HDCP, 44% of the site is available for soft landscaping which complies with the 40% prescriptive measure.

The proposal meets the desired outcomes of Part 3.1.3 Landscaping of the HDCP and is considered acceptable.

2.5.4 Sunlight Access

Objections raise concerns regarding overshadowing from the proposed secondary dwelling over the adjoining property, No. 207 Beecroft Road, Cheltenham and overshadowing from the proposed double garage of the living areas of the adjacent premises, No.5 Lyne Road.

The desired outcomes of Part 3.1.5 Sunlight Access of the HDCP 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 state 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.”

In assessing this impact, it is noted that the single storey height of the proposed alterations and additions and the secondary dwelling would have minimal sunlight access impacts.

Although no shadow diagrams were submitted, given the orientation of the allotments and the single storey height of the development, it is assessed that the adjoining properties would receive unobstructed sunlight over 50% of their respective rear yards for more than 3 hours between 9am and 3pm in accordance with the prescriptive measures.

In assessing the sunlight access impacts of the proposal on the dwelling house at No. 5 Lyne Road, it should be noted that the quality of sunlight access enjoyed by the internal living and entertaining areas of any adjoining dwelling house is not a prescribed requirement of the HDCP.

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

2.5.5 Privacy

Objections raise concerns regarding a loss of privacy for two adjoining properties namely, No 5 Lyne Road and No. 207 Beecroft Road, Cheltenham.

The desired outcome of Part 3.1.6 Privacy is to encourage “*development that is designed to provide reasonable privacy to adjacent properties.*”

The prescriptive measures of Part 3.1.6 Privacy require a privacy screen for a window if:

- “*it is a window to a habitable room, other than a bedroom, that has a floor level of more than 1 metre above existing ground level;*
- *the window is setback less than 3 metres from a side or rear boundary; and*
- *the window has a sill height of less than 1.5 metres.*”

The prescriptive measures of Part 3.1.6 Privacy also require that “*decks and the like that need to be located more than 600mm above existing ground should not face a window of another habitable room, balcony or private open space of another dwelling located within 9 metres of the proposed deck unless appropriately screened.*”

The objection received with respect to No. 5 Lyne Road raises concerns that 3 windows to serve the kitchen and pantry within the north-eastern elevation of the proposal would allow overlooking into the windows and private open space of the adjacent premises. The objection also notes that the proposed deck at the rear of the dwelling house would allow overlooking of the private open space

and bathroom of the adjacent premises and that the deck within the north eastern elevation of the secondary dwelling would have unacceptable amenity impacts.

To address these issues, conditions are recommended requiring the 3 windows that serve the kitchen and pantry to be fitted with obscure glazing and the proposed 1.8 metre high privacy screens along the north-eastern elevation of the decks of the primary and secondary dwelling houses to incorporate vertical slats orientated to prevent a direct line of sight towards active use living rooms.

The objection received with respect to No. 207 Beecroft Road raises concerns regarding a loss of privacy due to the orientation of the windows serving the secondary dwelling toward the adjoining property's principal private open space.

In assessing this objection, it is noted that the 2 windows within the south-western elevation of the secondary dwelling serve bedrooms only. Minimal impacts are anticipated in this regard given the non active use of these rooms and noting that the secondary dwelling is single storey in height and therefore, any line of sight would largely be mitigated by boundary fencing.

Subject to recommended conditions of consent, the proposal meets the desired outcomes of Part 3.1.6 Privacy of the HDCP and is considered acceptable.

2.5.6 Heritage

The subject site is within the Beecroft-Cheltenham Heritage Conservation Area (HCA) – Beecroft Plateau Precinct which is listed in Part 2, Schedule 5 (Environmental Heritage) of the *HLEP 2013*. The site is also located in the vicinity of two heritage listed items, namely 'Edensor', No. 203 Beecroft Road (Item No. 268) and the 'Grounds of Cheltenham Recreation Club', Nos. 60-74 The Crescent (Item No.296).

The desired outcomes of Part 9.3.1a General Design Provisions of the HDCP is to encourage development in a heritage conservation area *"that complements the existing character of the conservation area and the elements that are significant to that character"*.

Council's heritage assessment notes that the additions and alterations are single storey, complementing the single storey scale and form of the existing dwelling. The roof additions visible to the street match the hipped design and ridge height of the existing dwelling. The proposed garage, although located in the front of the dwelling, is sited below the main roof, and has a roof form and height sympathetic to the style of the existing dwelling, which is considered to reduce its impact on the streetscape.

The proposed setbacks are compatible with the predominant setback in the street, including those of immediately adjoining buildings to the east and west of the site. Accordingly, the assessment raises no objections on heritage grounds, subject to conditions with respect to screen planting, the colour scheme for the garage doors and driveway, the use of wheel strips and retention of the face brickwork of the existing dwelling.

An objection raises concerns regarding the proposed "Colorbond" roof for the secondary dwelling, noting that its lightweight appearance would be inconsistent with the architectural style of the surrounding Heritage Conservation Area.

Council's heritage assessment notes that the secondary dwelling would be screened by the primary dwelling house and would not be visible from the street level. Accordingly, no objections are raised to the use of the "Colorbond" roofing as it would not have adverse impacts on the streetscape and would not diminish the heritage characteristics of the surrounding Heritage Conservation Area.

Given the retention of the existing dwelling, sympathetic design of the alterations and additions and the screened location of the secondary dwelling, the proposal would have minimal impacts on the heritage values of the nearby listed items.

The proposal meets the desired outcomes of Part 9.3.1 General Design Provisions and is considered acceptable.

2.5.7 Noise and Vibration

An objection raises concerns regarding a loss of acoustic amenity for the adjoining properties due to the increase in the number of residential occupancies on the site.

The generation of noise associated with the day-to-day activities in a dwelling house is not a matter for consideration under this assessment pursuant to Section 79C of the *Environmental Planning Assessment Act, 1979* and a residential occupancy is not considered to be a noise generating development in accordance with the definition under Part 1C. 2.5 Noise and Vibration of the HDCP.

A condition of consent is recommended with respect to hours of work during construction.

2.5.8 Drainage Control

An objection raises concerns regarding the proposed location of the stormwater absorption trenches over the Sydney Water sewer main and the lack of detail in the information submitted for the proposed stormwater drainage system. A further submission raises concerns over the absence of geotechnical assessment with respect to the ability of the soils to accommodate the absorption trench system.

The desired outcomes of Part 1C.1.2 Stormwater Management of the HDCP is to encourage *“development that protects waterways from erosion, pollution and sedimentation, and maintains or improves water quality and aquatic habitats.”*

The prescriptive measures of Part 1C.1.2 Stormwater Management of the HDCP require *“an onsite stormwater management system for all development involving external works.”*

As the site does not fall to the street and noting that an easement to drain water is not available, the application proposed an onsite absorption system which would have the capacity to disperse stormwater run-off collected over the roof and impervious area of the development.

Following an initial assessment, amended plans were submitted relocating the secondary dwelling a further 5.4 metres towards the front of the site together with details of the stormwater dispersal trench system.

Council's engineering assessment of these amended plans has determined that they address the requirements of Council's *Civil Works Specification* and that a geotechnical assessment is not warranted given the moderate scale of the development which complies with the Scale provisions of the HDCP.

With respect to the proposed location of the dispersal trenches above the Sydney Water sewer main, it is noted that a typical sewer main in a common urban context is a minimum of 1 to 1.5 metres below ground level and this depth would be adequate to ensure the proper functioning of the dispersal trenches in accordance with Council's *Civil Works Specification* and without impacting on the functioning of the sewer main.

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

2.5.9 Demolition

An objection raises concerns regarding the removal of asbestos during the demolition of structures on the site. To address this issue, a condition is recommended requiring demolition works to be undertaken by a licensed contractor and in compliance with the relevant Australian Standard.

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 does not require the removal of any significant trees and would have minimal impacts on the natural environment.

3.2 Built Environment

The proposal would be in keeping with the low density residential character of surrounding development. The proposal includes the retention of the existing dwelling house on the site with sympathetic single storey alterations and additions.

Pursuant to the provisions of the *SEPP (Affordable Rental Housing) 2009*, the provision of car parking spaces for the secondary dwelling is not a compulsory requirement. Lyne Road is a local road within a low density residential area and experiences small volumes of infrequent traffic movement.

Due to the floor area constraint and the limited number of occupants accommodated by the secondary dwelling, additional traffic impacts from the development would be minimal. There is adequate on and off-street car parking space available and traffic movements entering and exiting the property would be within reasonable limits.

The proposal would have acceptable impacts on the built environment and is considered acceptable.

3.3 Social Impacts

The proposed development incorporating a secondary dwelling is a form of development encouraged by the NSW Government to assist address housing affordability and the State’s growing housing shortage by providing a form of rental housing stock.

The introduction of new residents into the locality would also strengthen the local community as the new residents would add the new set of skills and interests enhancing the cultural diversity of the local community.

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*”.

The subject site is not bushfire prone or flood prone. 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

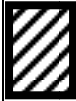
Section 79C(1)(d) of the Act requires Council to consider “any submissions made in accordance with this Act”.

5.1 Community Consultation

The proposed development was placed on public exhibition and was notified to adjoining and nearby landowners between 15 September 2014 and 1 October 2014 in accordance with Part 1B.5.2. Notification and Exhibition of the HDCP. During this period, Council received 2 submissions. The map below illustrates the location of those nearby landowners who made a submission.



NOTIFICATION PLAN

• PROPERTIES NOTIFIED	X SUBMISSIONS RECEIVED	 PROPERTY SUBJECT OF DEVELOPMENT	
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Two submissions objected to the development, generally on the grounds that the development would result in:

- Overshadowing and loss of privacy of adjoining properties at No.5 Lyne Road and No. 207 Beecroft Road Cheltenham;
- Excessive noise from activities from the addition of a secondary domicile;
- Detrimental impacts on shrubs growing near the northern side boundary of the subject site, within the adjoining property at No. 5 Lyne Road;
- Unacceptable visual impacts on the streetscape and loss of residential amenity due to the narrow (400mm) northern side setback of the double garage; and
- Unacceptable visual impacts from the secondary dwelling due to the use of “Colorbond” and lightweight material which are not in keeping with the heritage character of the surrounding area.

The objections also noted:

- Lack of clarity for the future use of the existing fibro shed and the battle axe handle serving the adjoining properties to the rear;
- The possible “unauthorised” entry from the adjacent right-of-carriageway serving the battle axe properties No.s 9 and 9a Lyne Road to access the secondary dwelling;
- Dangers associated with the unmanaged removal of asbestos;
- Lack of integrity and detail for the information submitted for the proposed stormwater drainage system;
- Lack of accuracy for the survey information submitted;
- Possible failure of the proposed stormwater drainage system as it crosses over the Sydney Water sewer main;
- Lack of soft landscaped area not in keeping with the character of the surrounding area; and
- Development that is excessive in bulk and scale.

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

- Lack of clarity for the future use of the existing fibro shed;
- Whether there is a legal entitlement to use of the battle axe handle serving the adjoining properties 9 and 9a Lyne Road for access to the secondary dwelling; and
- Lack of accuracy for the survey information submitted.

In addressing these additional concerns, it is noted that:

- the fibro shed would be demolished
- the application proposes that access for the secondary dwelling would be from the street and within the boundaries of the subject property; and
- the plans submitted were sufficient in terms of dimensions and details to enable a full and proper assessment to be made.

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 a detached shed and a carport, single storey alterations and additions to the existing dwelling house and the erection of a detached single storey secondary dwelling.

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

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

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

RESPONSIBLE OFFICER

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

ROD PICKLES
Manager - Development Assessment
Planning Division

JAMES FARRINGTON
Group Manager
Planning Division

Attachments:

1. Locality Map
2. Architectural Plans
3. Amended Floor Plans
4. Stormwater Plans

File Reference: DA/996/2014
Document Number: D04607624

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.	Drawn by	Dated
DA 01 to DA 05 (8 sheets)	Vienna Design Pty Ltd	January 2015
DA 06 to DA 08 (3 Sheets)	Vienna Design Pty Ltd	23 December 2014
12067 D1 to D4 (4 sheets)	EZE Hydraulic Engineers	9 December 2014

Document No.	Prepared by	Dated
BASIX Certificate – A196137	Baxbury Consultancy	6 August 2014

2. Amendment of Plans

- a) The Stormwater management plans by EZE Hydraulic Engineers dated 9 December 2014 are to be amended to be consistent with the approved location of the secondary dwelling shown on the architectural plans by Vienna Design PTY Ltd.
- b) To maintain the character of the Beecroft/Cheltenham Heritage Conservation Area, the following amendments are to be made on the approved plans:
 - i) The existing colour and texture of the exterior bricks are to be retained and matched bricks are to be used for the additions;
 - ii) The "New Garage Rolling Door" must be replaced by a two doors incorporating a central column;
 - iii) The garage doors should be dark toned in colour;

- iv) To soften the additional hard stand area of the driveway, wheel strips are to be provided for at least the first 6 metres of the driveway as measured from the front boundary.
- v) The hardstand area of driveway in front of the garage must be of a dark or recessive colour/material.

These amendments are to be shown on the plans submitted with the application for the construction certificate.

3. Removal of Existing Trees

This development consent does not permit the removal of any trees on the site. 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. 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 94 Development Contributions

- a) In accordance with Section 80A(1) of the *Environmental Planning and Assessment Act 1979* and the *Hornsby Shire Council Section 94 Development Contributions Plan 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	\$245.60
Open Space and Recreation	\$8,324.70
Community Facilities	\$1,160.90
Plan Preparation and Administration	\$34.90
TOTAL	\$9,766.10

being for the erection of a secondary dwelling.

- b) The value of this contribution is current as at 15 January 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:

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

Where:

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

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

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

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

- c) The monetary contributions 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
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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. 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.

8. Notification of Home Building Act 1989 Requirements

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

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

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

9. Sydney Water – 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.

REQUIREMENTS PRIOR TO THE COMMENCEMENT OF ANY WORKS

10. 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.

11. 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.

12. 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.

REQUIREMENTS DURING CONSTRUCTION

13. 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.

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. 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.

16. 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.

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. Fulfilment of BASIX Commitments

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

18. Stormwater Drainage

The stormwater drainage system for the development must be designed and constructed for an average recurrence interval of 20 years, be generally in accordance with plans prepared by EZE Hydraulic Engineers job No 12067 issue C and be gravity drained in accordance with the following requirements:

- a) Roof and collected surface water must be disposed of in accordance with Council’s design specification; “*On Site Absorption System*”;

- b) The trench must be located a minimum of 5 metres from any downstream properties and 1 metre from the side boundaries;
- c) The trenches must be laid on contour;
- d) The trench must be a minimum of 0.6 metres wide, 0.6 metres deep and 1 metre long for every 25 square metres of impervious area; and
- e) The design and location of the trench must ensure that the overland flow from the trench is spread evenly over the site so as not to discharge water in a concentrated manner onto adjoining lands.

19. Internal Driveway

The driveway and parking areas on site must be designed in accordance with *Australian Standards 2890.1, 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 consisting of 2 x 600mm wide concrete strips for the first 6 metres from the property boundary.
- c) The remainder of the driveway is to be a minimum of 3metres wide;
- d) The driveway pavement must be 0.15 metres thick reinforced concrete with F72 steel reinforcing fabric and a 0.15 metre sub-base;

20. 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 written requirements and at the sole cost of the applicant.

21. Installation of Privacy Devices

To establish and maintain a reasonable level of privacy towards the adjoining property No. 5 Lyne Road Cheltenham:

- a) Fixed frosted glazing is to be installed in the 3 windows W5, W6 and W7 serving the kitchen and the pantry of the primary dwelling;
- b) 1.8 metre high privacy screens are to be erected within the north-eastern elevations of the deck at the rear of the primary dwelling and the deck of the secondary dwelling;
- c) These privacy screens are to incorporate vertical slats orientated in such a way as to restrict a direct line of sight towards active use living rooms.

- END OF CONDITIONS -

ADVISORY NOTES

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

Environmental Planning and Assessment Act 1979 Requirements

The Environmental Planning and Assessment Act 1979 requires:

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

Long Service Levy

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

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

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

Tree and Vegetation Preservation

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

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

ITEM 11

12 DEVELOPMENT APPLICATION - ALTERATIONS AND ADDITIONS TO A DWELLING-HOUSE - 3 TALLOWWOOD AVENUE, CHERRYBROOK

EXECUTIVE SUMMARY

DA No:	DA/1166/2014 (Lodged 30 September 2014)
Description:	Alterations and additions to a dwelling house and construction of a swimming pool
Property:	Lot 2009, DP 260332, No. 3 Tallowwood Avenue, Cherrybrook
Applicant:	Mr Daniel Kenneth Welsh
Owners:	Mr Daniel Kenneth Welsh and Mrs Jacqueline Adele Welsh
Estimated Value:	\$235,400
Ward:	B

- The application is for the demolition of a carport, shed and deck and the erection of alterations and additions to a dwelling house including the construction of a swimming pool and two detached garages.
- The proposal generally complies with the provisions of the Hornsby Local Environmental Plan 2013 and the Hornsby Development Control Plan.
- Two submissions have been received in respect of the application.
- A Red Sticker has been placed on the application requiring that it be determined at a Council Meeting.
- It is recommended that the application be approved.

RECOMMENDATION

THAT Development Application No. DA/1166/2014 for alterations and additions to a dwelling house, a swimming pool and two detached garages at Lot 2009, DP 260332, No. 3 Tallowwood Avenue, Cherrybrook be approved, subject to the conditions of consent detailed in Schedule 1 of Group Manager's Report No. PL8/15.

SITE

The irregular shaped, 1,053m² battle-axe allotment is located on the southern side of Tallowwood Avenue, Cherrybrook and contains a single storey dwelling house and detached carport.

The site adjoins seven properties, namely Nos. 1, 5, 7 and 9 Tallowwood Avenue, No. 23 Macquarie Road and Nos. 9 and 11 Holly Road, Cherrybrook.

The site experiences a 10% gradient towards Tallowwood Avenue.

The site is not bushfire prone and is not flood prone.

The site is burdened by an easement for drainage along the accessway that adjoins the eastern side boundary.

The site is not a heritage item, is not located within a heritage conservation area and is not in the vicinity of heritage items.

PROPOSAL

The application proposes the demolition of a carport, shed and deck and the erection of alterations and additions to the existing dwelling house, two detached garages and an above-ground swimming pool with a covered deck.

The alterations and additions include:

- Reconfiguration of the ground floor to incorporate a combined kitchen, dining and rumpus area, bathroom, laundry, lounge room, bedroom, ensuite and walk-in-robe;
- First floor addition comprising 3 bedrooms, corridor and bathroom;
- Row of skylights within the roof of the dwelling house and the installation of solar panels to heat the swimming pool.

The deck adjacent to the northern elevation of the dwelling house would be covered by a polycarbonate roof awning.

Both garages would be of brick construction with metal roofing.

The swimming pool would be an above-ground structure surrounded by a timber deck.

Four trees would be impacted by the proposed development.

ASSESSMENT

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

1. STRATEGIC CONTEXT**1.1 A Plan for Growing Sydney and (Draft) North Subregional Strategy**

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

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

The proposed development would be consistent with ‘*A Plan for Growing Sydney*’, by providing renewed housing stock to support a growing population.

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 – Low Density Residential zone are:

- (a) *To provide for the housing needs of the community within a low density residential environment; and*
- (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 “dwelling house” under the *HLEP* and is permissible in the zone with Council’s consent.

Clause 4.3 Height of Buildings prescribes a maximum 8.5 metre height limit for any on the site. The proposed 7.2 metre maximum height of the dwelling house meets the above requirement and satisfies Clause 4.3.

2.2 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.

2.3 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.

2.4 State Environmental Planning Policy (Exempt and Complying Development Codes) 2008

SEPP (Exempt and Complying Development Codes) 2008 aims to provide streamlined assessment processes for development that complies with specified development standards by providing exempt and complying development codes that have State-wide application and identifying types of complying development that may be carried out in accordance with a complying development certificate.

The proposed development has been considered having regard to the relevant requirements of the SEPP as prescribed under Part 3 General Housing Code.

The proposal cannot be defined as “complying development”, as it does not comply with the setback requirements under the SEPP. The 940mm southern side boundary setback of the single space garage and the 642mm northern side boundary of the double garage do not comply with the 1.5 metre side setback requirement of the SEPP, as applied to residential allotments over 900m² in area. Further, the 10.22 metre western rear boundary setback of the first floor addition does not comply with the 12 metre rear setback requirement.

Apart from the above mentioned non-compliances with the setback requirements for a complying development, the proposal satisfactorily meets the requirements in all other aspects of the NSW Housing Code.

2.5 Hornsby Development Control Plan

The proposed development has been assessed having regard to the relevant performance and prescriptive requirements within Part 1 and 3 of the *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
Building Height		Maximum 7.2m for the dwelling house	8.5m	Yes
No. storeys		2	max. 2 + attic	Yes
Site Coverage		26%	40%	Yes
Floor Area		292.9m ²	430m ²	Yes
Setbacks				
<i>Side (Northern)</i>	<i>Ground floor</i>	642mm (double garage)	900mm	No

<i>boundary)</i>	<i>First floor</i>	5.45m (dwelling house)	1.5m	Yes
<i>Front (Eastern boundary)</i>	<i>Ground floor</i>	3m (single garage)	900mm	Yes
	<i>First floor</i>	10m (first floor addition to dwelling house)	1.5m	Yes
<i>Side (Southern boundary)</i>	<i>Ground floor</i>	940mm (single garage)	900mm	Yes
	<i>First floor</i>	1.4m (first floor addition to dwelling house)	1.5m	No
<i>Rear (Western boundary)</i>	<i>Ground floor</i>	10.22m (dwelling house)	3m	Yes
	<i>First floor</i>	10.22m (first floor addition to dwelling house)	8m	Yes
Landscaped Area (% of lot size)		42%	40%	Yes
Private Open Space				
- <i>minimum area</i>		222m ²	24m ²	Yes
- <i>minimum dimension</i>		10.22m	3m	Yes
Car Parking		3 spaces	2 spaces	Yes

As detailed in the above table, the proposal does not comply with the setback prescriptive measures within Parts 1 and 3 of the HDCP. This matter is addressed below, together with a discussion on compliance with the relevant desired outcomes and issues that have been raised within objections received by Council regarding the development.

2.5.1 Scale

A submission raises concerns regarding the bulk and scale of the development.

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 7.2 metre maximum building height of the dwelling house complies with the 8.5 metre prescriptive measure.

The proposed two storey dwelling house would be consistent in terms of bulk and scale with the surrounding two-storey development and the sunlight and privacy impacts in relation to adjoining properties would be within reasonable limits. These impacts are further discussed below under the headings 2.5.4 Solar Access and 2.5.5 Privacy.

The 292.9m² maximum floor area of the proposal complies with the 430m² prescriptive measure in relation to the 958m² allotment size.

The 26% site coverage of the proposal complies with the 40% prescriptive measure in relation to the 958m² allotment size.

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

2.5.2 Setbacks

A submission comments that the proposal would be inconsistent with residential development patterns in the vicinity and would result in a loss of residential amenity in relation to the adjacent premises, No.9 Holly Road, Cherrybrook. The submission also notes that the southern boundary of the subject site (being the common alignment between the respective premises) should be designated as the “rear” rather than the “side” boundary and that the proposal should therefore maintain a minimum 8 metre setback.

The desired outcomes of Part 3.1.2 Setbacks of the HDCP 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.”

The subject battle-axe site comprises an irregular shaped, rectangular allotment with an accessway to Tallowood Avenue. Applying the concept for a corner allotment, the shorter alignments (eastern and western) are considered to be the front and rear boundaries and the longer alignments (northern and southern) are considered to be the front and rear boundaries respectively. To confirm these alignments, it is noted as follows:

- The existing dwelling house is located at setbacks of 7.5 metres to 1.4 metres from the southern (side) boundary.
- The principal private open space area of 222m² is located on the western (rear) side of the subject site.
- The northern (side) boundary setback, which varies between 6.4 and 11 metres, maximises solar access to the active use rooms of the subject property.
- The eastern side of the site is considered to be the “front” setback, as it incorporates landscaping and paved areas commensurate with its use for vehicular access and parking.

Accordingly, the proposal meets the desired outcomes of Part 3.1.2 Setbacks of the HDCP and is considered acceptable.

The details for the consideration of the application in relation to the setback requirements of NSW Housing Code as mentioned in Section 2.4 of this report are as follows:

Double Garage

The proposed 642mm northern side setback of the double garage does not comply with the 900mm side setback prescriptive measure.

The double garage is a single storey structure that would replace the existing double carport which is currently in the same location. The garage would not overshadow adjoining properties, impact on the privacy of the adjacent development, or compromise the streetscape given its location on a battle-axe allotment.

Single Garage

The 940mm southern side boundary setback of the single space garage does not comply with the 1.5 metre side setback requirement of the SEPP, as applied to residential sites over 900m² in area.

A similar sized outbuilding such as a carport or a garden shed could be built as an “exempt development”, if the proposal meets the 900mm setback requirement of the SEPP. Therefore, the 940mm side setback of the garage satisfies the requirements for a residential outbuilding and the compliance with more stringent requirements of the complying development would be unreasonable and unnecessary.

First Floor Addition

The 10.22 metre western rear boundary setback of the first floor addition does not comply with the 12 metre rear setback requirement of the SEPP.

The setback of the first floor addition is in keeping with the rear setback of the existing dwelling house over which the addition is proposed. The linear design of the proposed development and its unique skillion roof design would not be achieved if a request for the setback to 12 metres is made. The proposed development is a contemporary design which is consistent with the surrounding residential development.

2.5.3 Landscaping

A submission raises concerns regarding the loss of vegetation that would adversely impact on the local birdlife.

The desired outcomes of Part 3.1.3 Landscaping of the HDCP 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 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 environmental assessment notes that 4 trees including 3 trees on 2 of the adjoining properties would be impacted by the development as follows:

- Tree 8 (growing within the subject property);
- Trees 1 and 2 growing on the adjoining property 5 Tallowwood Avenue; and
- Tree 9 growing on No. 9 Holly Road.

The environmental assessment raises no objections to the removal of Tree 8 as it is determined not to be significant. It also notes that the proposed building encroachments into the tree protection zones of Trees 1, 2 and 9 would not impact on the longevity of the trees, subject to the implementation of

sensitive construction methods. It is also recommended that replacement planting of three indigenous trees such as *Syncarpia glomulifera* (Turpentine), *Allocasuarina littoralis* (Black She Oak), *Allocasuarina torulosa* (Forest Oak) are to be provided on the subject site in the setback between the dwelling and the boundary with No. 9 Holly Road.

The proposal meets the desired outcomes of Part 3.1.3 Landscaping of the HDCP and is considered acceptable.

2.5.4 Sunlight Access

A submission comments that the proposed development would result in the loss of sunlight for the principal private open space and the living areas of the dwelling house within the adjoining property at No. 9 Holly Road, Cherrybrook.

The desired outcomes of Part 3.1.5 Sunlight Access of the HDCP 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 state 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.”

The shadow diagrams demonstrate that the principal private open spaces of the subject site and the adjoining properties to the south at No. 9 and 11 Holly Road, Cherrybrook would receive unobstructed sunlight over 50% of their respective principal private open spaces for more than 3 hours between 9am and 3pm on 22 June (the winter solstice).

The shadow diagrams also demonstrate that the extent of overshadowing from the development on 22 June would not encroach into the buildings of these adjacent properties.

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

2.5.5 Privacy

A submission raises concerns regarding the loss of privacy from the 3 windows on the southern elevation of the first floor addition overlooking the living areas and principal private open space of the adjoining property at No.9 Holly Road.

The desired outcome of Part 3.1.6 Privacy of the HDCP is to encourage “development that is designed to provide reasonable privacy to adjacent properties.”

The first floor of the proposal comprises 3 bedrooms, a bathroom and a corridor (for access to these rooms) along the southern elevation. The use and configuration of these non-active use rooms complies with the prescriptive measures which states that “living and entertaining areas of dwelling houses should be located on the ground floor only and be orientated towards the private open space of the dwelling house and not the side boundaries.”

The 3 windows within the southern elevation of the first floor addition facing No. 9 Holly Road are to provide indirect light to the corridor. The glazing within each of these windows would not exceed 200mm in width and would not allow sustained overlooking of the private open space or living rooms of the adjacent property.

The remaining first floor level windows (northern elevation only) serve the bedrooms, bathroom and

stairwell in compliance with the prescriptive measures.

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

2.5.6 Vehicle Access and Parking

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

The proposal incorporates three covered car spaces and a vehicle turning area in compliance with the prescriptive measures of Part 1C.2.1 Transport and Parking.

2.5.7 Design Details

A submission raises concerns regarding the inadequate articulation of the first floor addition, insensitive choice of materials, unsympathetic design and lack of fenestration within the southern elevation. The submission also notes that the proposed design would not be compatible with surrounding residential development.

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

In support of the proposed first floor addition, it is noted as follows:

- The irregular shape of the allotment and the location of the dwelling house thereon has limitations in terms of an available building footprint to accommodate alterations and additions;
- The incorporation of articulation detail within the first floor component would require the reconstruction of the ground floor level external walls. This would be an unreasonable and unjustified request;
- In relation to the fenestration within the southern elevation, it is noted that the number of windows has been minimised to reduce heat loss during winter and to minimise privacy impacts; and
- The design of the proposal is not inconsistent in terms of style and materials with the supporting structure and surrounding residential development.

The objection also raises concerns regarding loss of views from the living areas of the adjacent property, No. 9 Holly Road.

The prescriptive measures of Part 3.1.8 Design Details of the HDCP states that *“Development should allow for the reasonable sharing of significant views, including water views and iconic views, in particular:*

- *Views from front and rear boundaries whilst in a standing position, and*
- *Views from living and entertaining areas (including kitchens).”*

In assessing this objection, it is noted that views of the surrounding residential area are typified by glimpses of dwelling houses interspersed with trees, landscaping and boundary fences. There are no views to, or from, dwelling houses in the area that are considered as being either significant or iconic.

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

2.6 Section 94A Environmental Planning and Assessment Act 1979 – Fixed Development Consent Levies

Section 94A contribution fees are payable as the development is for alterations and additions to residential accommodation with a cost of works greater than \$100,001. Should the application be approved, an appropriate condition of consent is recommended requiring the payment of a contribution in accordance with Council's Contributions plan.

2.7 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. A198050 for alterations and additions and is considered to be satisfactory with respect to *SEPP BASIX*.

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 proposal would require the removal of a tree on the subject site which is not considered to be significant and would, subject to sensitive construction techniques being implemented; have reasonable impacts on the tree protection zones of 3 trees growing on adjoining properties.

3.2 Built Environment

The surrounding area is characterised by detached dwelling houses on large allotments. The proposal would be consistent with the established built form character and would have reasonable and acceptable impacts on the character and amenity of surrounding built environment.

3.3 Social and Economic Impacts

The proposal would be consistent with the established character of the low density area and would have a minimal additional impact on the local economy and the local community. The dwelling house would remain as a single residential occupancy with the scale and bulk enhancement which would generate a marginal increase in demand for local services.

4. SITE SUITABILITY

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

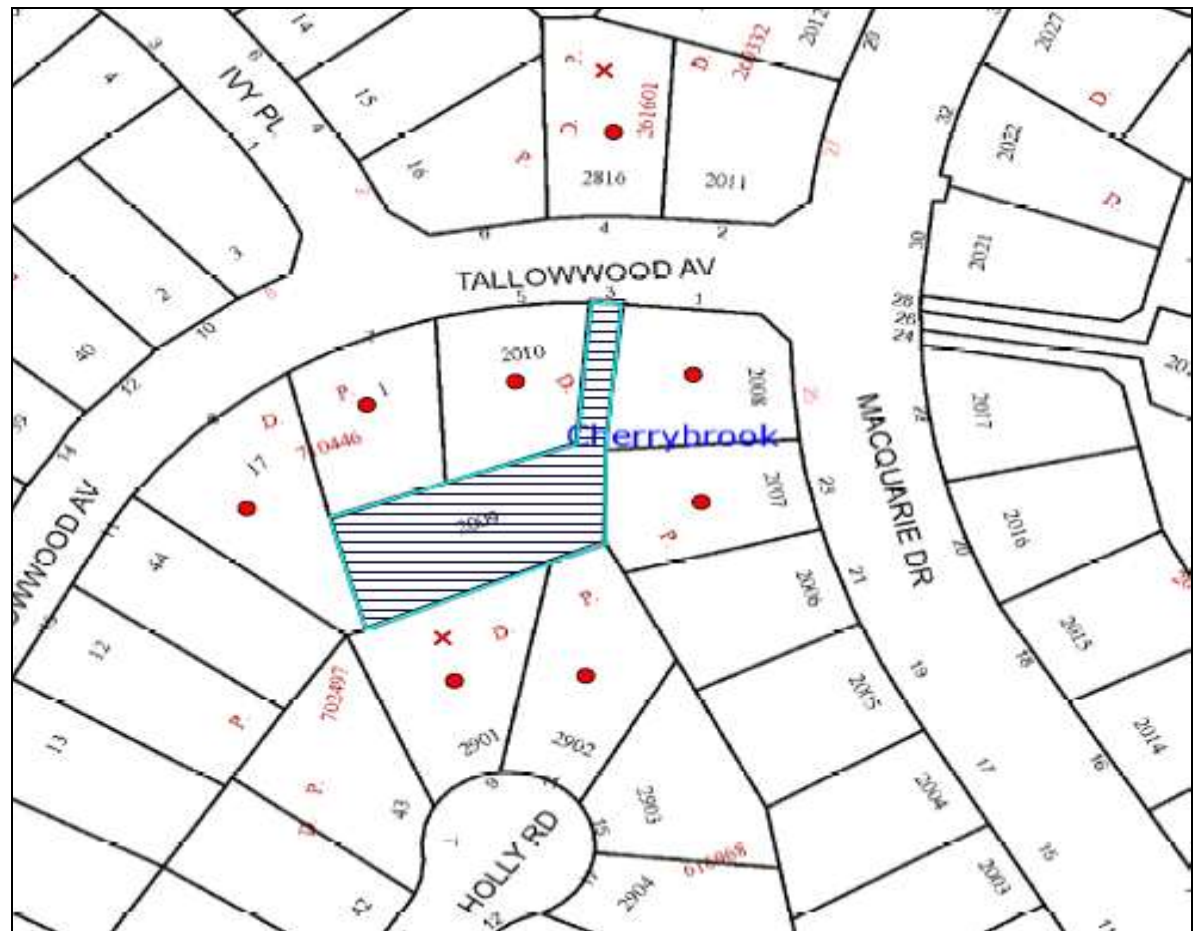
The subject site has not been identified as bushfire prone or flood prone land. The site is considered to be capable of accommodating the proposed development. The scale of the proposed development is consistent with the capability of the site and is considered acceptable.

5. PUBLIC PARTICIPATION

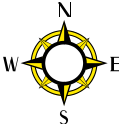
Section 79C(1)(d) of the Act requires Council to consider *“any submissions made in accordance with this Act”*.

5.1 Community Consultation

The proposed development was placed on public exhibition and was notified to adjoining and nearby landowners between 7 October and 22 October 2014, in accordance with Part 1B.5 Notification and Exhibition of the HDCP. During this period, Council received 2 submissions. The map below illustrates the location of those nearby landowners who made a submission.



NOTIFICATION PLAN

PROPERTIES NOTIFIED	X SUBMISSIONS RECEIVED	 PROPERTY SUBJECT OF DEVELOPMENT	
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Two submissions were received objecting to the development, generally on the grounds that the development would result in:

- Loss of views from the living area of the adjoining property, No. 9 Holly Road;
- Loss of privacy from the first floor windows on the southern elevation;
- Inadequate setback of the dwelling house from the southern boundary;

- Overshadowing of adjoining properties;
- Unsympathetic design that would not be in keeping with surrounding residential development;
- Removal of, or adverse impacts on, the local vegetation growing within the subject site and adjoining properties;
- Development that is excessive in bulk and scale; and
- Loss of property values of the adjoining properties.

The merits of the matters raised in these community submissions have been addressed in the body of the report apart from the submission that approval of the development would result in a loss of a property values.

In addressing this issue, it should be noted that impacts on property values are not matters for assessment pursuant to the heads of consideration listed under Section 79C of the *Environmental Planning and Assessment Act, 1979*.

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 a carport and the erection of alteration and additions to a dwelling house, a swimming pool and two detached garages.

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 two submissions during the public notification period.

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

Conditions are recommended to minimise disruption to residential amenity.

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

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

RESPONSIBLE OFFICER

The officer responsible for the preparation of this Report is the Acting Manager – Development Assessments – Philip Vergison, who can be contacted on 9847 6875.

PHILIP VERGISON
Acting Manager - Development Assessment
Planning Division

JAMES FARRINGTON
Group Manager
Planning Division

Attachments:

1. Locality Map
2. Floor Plans
3. Architectural Plans

File Reference: DA/1166/2014
Document Number: D04531995

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.	Drawn by	Dated
DA 00 – B to DA 11 –B (12 sheets)	Maccormick and Associates Architects	27/11/2014

Document No.	Prepared by	Dated
Site Tree Location Plan	Hornsby Shire Council	29/10/2014

2. Removal of Existing Tree

This consent only permits the removal of Tree 8 as indicated on the Site Tree Location Plan prepared by Hornsby Shire Council dated 29/10/2014. The removal of any other trees requires separate approval in accordance with the Tree and Vegetation Chapter 1B.6 Hornsby Development Control Plan (HDCP).

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*, \$2,354.00 shall be paid to Council to cater for the increased demand for community infrastructure resulting from the development, based on development costs of \$235,400.

- b) The value of this contribution is current as at 20 January 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:

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

Where:

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

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

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

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

- c) The monetary 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

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.

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 be a standard flushing toilet connected to a public sewer.

11. Erosion and Sediment Control

- a) 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.
- b) 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.

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. Demolition

All demolition work must be carried out in accordance with "Australian Standard 2601-2001 – The Demolition of Structures" and all 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.

14. Works Near Trees

All works (including driveways and retaining walls) within the measured TRZ of trees numbered 1, 2 and 9 growing on adjoining properties are 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: Tree Root Zones (TRZ) are as follows:

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

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.

15. 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.

16. 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.

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. Fulfilment of BASIX Commitments

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

18. 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 and be connected to the existing stormwater drainage system.

19. Internal Driveway/Vehicular Areas

The driveway and parking areas on site must be designed in accordance with *Australian Standards 2890.1, 2890.2, 3727*, the driveway grade must not exceed 25 percent and changes in grade must not exceed 8 percent.

20. 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 written requirements and at the sole cost of the applicant.

21. Maintain Canopy Cover

- a) To maintain canopy cover and screen the proposed second storey addition. Three medium trees selected from Council's booklet *'Indigenous Plants for the Bushland Shire'* such as *Syncarpia glomulifera* (Turpentine), *Allocasuarina littoralis* (Black She Oak), *Allocasuarina torulosa* (Forest Oak) are to be planted on the subject site in the setback between the dwelling and the boundary with No. 9 Holly Road.
- b) The planting location must not be within 4 metres of the foundation walls of the dwelling house or swimming pool.
- c) The pot size is to be a minimum 25 litres and the tree must be maintained until it reaches the height of 3 metres.

OPERATIONAL CONDITIONS

22. Swimming Pool Requirements

The construction and operation of the swimming pool must comply with the provisions of the *Swimming Pool Act 1992*, the *Swimming Pool Regulation 2008 Australian Standards 1926.1-3 – Swimming Pool Safety* and the following requirements:

- a) All waste water from the pool's filtration system must be piped to *Sydney Water's* sewer system. In the event that *Sydney Water's* sewer system is not accessible, a filtration system that does not require backwashing must be installed; and
- b) The filtration motor and pump, or spa heater and blower unit must be housed in a soundproofed structure. Sound from the equipment must not exceed 5(dBA) above ambient noise levels at any residential property boundary.

- END OF CONDITIONS -

ADVISORY NOTES

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

Environmental Planning and Assessment Act 1979 Requirements

The Environmental Planning and Assessment Act, 1979 requires:

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

Long Service Levy

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

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

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

Tree and Vegetation Preservation

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

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

13 MARKETS, FESTIVALS AND SPECIAL EVENTS - HORNSBY MALL, FLORENCE STREET, HORNSBY

EXECUTIVE SUMMARY

DA No:	DA/1206/2014 (Lodged 9 October 2014)
Description:	Markets, Festivals and Special Events – Hornsby Mall
Property:	Florence Street, Hornsby
Applicant:	Hornsby Shire Council
Owner:	Hornsby Shire Council
Estimated Value:	Nil
Ward:	A

- The development application proposes allowing weekly, monthly, special event markets and festivals in Hornsby Mall.
- The site is owned by Council and therefore, in accordance with Council's adopted Policy 'Proposed Council Developments', an independent assessment of the development application has been undertaken by The Design Partnership.
- The proposal complies with the *Environmental Planning and Assessment Act 1979*, *Hornsby Local Environmental Plan 2013*, and *Hornsby Development Control Plan 2013*.
- One submission has been received in respect of the application.
- The report by The Design Partnership is attached to this report for Council's consideration. The independent consultant's report recommends approval of the application.

RECOMMENDATION

THAT Development Application No. DA/1206/2014 for markets at Hornsby Mall, Florence Street, Hornsby be approved subject to the conditions of consent detailed in Schedule 1 of Group Manager's Report No. PL7/15.

ASSESSMENT

In accordance with Council's adopted Policy '*Proposed Council Developments*', the assessment of the development application was referred to an independent town planning consultant. The report by *The Design Partnership* is held at Attachment 2 of this report.

CONCLUSION

The application proposes allowing weekly, monthly, special event markets and festivals in Hornsby Mall.

Council has referred the application to an independent planning consultancy to carry out an assessment of the application and to consider the public submissions. The assessment concludes that the application should be approved for the operation of markets at Hornsby Mall, Florence Street Hornsby, as follows:

Type	Days	Maximum Frequency	Duration	Hours of Operation
Weekday Markets	Mon-Fri	2 per week	1 day	Mon-Fri 8am-9pm
Weekend Markets	Sat-Sun	1 per week	1 day	Sat 8am-9pm Sun 9am-8pm
Special Event Markets and Festivals	Mon-Sun	8 per year	1-3 days	Mon-Sat 8am-9pm Sun 9am-8pm

It is recommended that Council approve the application in accordance with the recommendation in the report prepared by *The Design Partnership* and the conditions of consent held at Schedule 1.

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

RESPONSIBLE OFFICER

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

CASSANDRA WILLIAMS
Team Leader - Major Applications
Planning Division

JAMES FARRINGTON
Group Manager
Planning Division

Attachments:

1. Locality Map
2. Consultant's Report
3. Statement of Environmental Effects

4. Proposed Market Site Plan

File Reference: DA/1206/2014

Document Number: D04462606

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.	Drawn by	Dated
Site Survey and Location of Proposed Market Stalls (Job No. 4430/2014-24)	Hornsby Shire Council	20/08/2014

Document Title	Prepared by	Dated
Statement of Environmental Effects Project No. 8845A Revision 3	Don Fox Planning	22/09/2014

2. Amendment of Plans

The approved plans are to be amended as follows:

- a) On Plan No. 4430/2014-24, stall 4K is to be removed from the splay corner outside Nos. 33-41 Florence Street to make this plan consistent with the Figure 4, 5 and 6 of the Statement of Environmental Effects.

3. Removal of Existing Trees

This development consent does not permit the removal of tree(s) on the site. The removal of any other trees requires separate approval in accordance with the Tree and Vegetation Chapter 1B.6 Hornsby Development Control Plan (HDCP).

OPERATIONAL CONDITIONS**4. Frequency of Market Operation**

The maximum frequency of the markets shall be as follows:

Type	Days	Maximum Frequency	Duration	Hours of Operation
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Weekday Markets	Mon-Fri	2 per week	1 day	Mon-Fri: 8am-9pm
Weekend Markets	Sat or Sun	1 per week	1 day	Sat: 8am-9pm Sun: 9am-8pm
Special Event Markets and Festivals	Mon-Sun	8 per year	1-3 days	Mon-Sat: 8am-9pm Sun: 9am-8pm

5. Car Parking

- a) Access to the Hornsby mall for vehicles loading, unloading or servicing shall be limited to setup and dismantle hours and subject to mall manager approval.
- b) A 4m wide emergency access lane (free from any obstructions) shall be maintained throughout the mall at all times.
- c) Vehicles used in delivery or collection of goods shall not wait or queue upon the public roads.
- d) The operation of the markets during the Christmas trading period be subject to Westfield's parking impact monitoring and review.

6. Advertising Signs

The advertising signage approved under this consent must not be illuminated, flash, move or display electronic images.

7. Use of Premises

The development approved under this consent shall be used for markets and festivals and not for any other purpose without Council's separate written consent.

8. Hours of Operation

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

Monday to Friday	8 am to 9 pm
Saturday	8 am to 9 pm
Sunday & Public Holidays	9 am to 8 pm

Monday to Saturday, set up is to occur between 5.30am and 8.00am and dismantle is to occur between 9pm and 11pm. Sunday, set up is to occur between 7am and 9am and dismantle is to occur between 8pm and 10pm. Where relevant, stage erection and other infrastructure is to be installed between 5pm and 8pm the day before the event/market.

9. Setbacks

A minimum setback of 3m must be provided between any stall and any building.

10. Use of Building as Place of Public Entertainment – Tent or Marquee

Prior to the use of the tent or marquee, a sign must be displayed in a prominent position in the tent or marquee that specifies the following:

- a) The maximum number of persons, as specified in the development consent, that are permitted in the tent or marquee; and
- b) The name, address and telephone number of the council of the area in which the building is located.

Note: For the purpose of part b) of this condition, Hornsby Shire Council's contact details are: 296 Peats Ferry Road, Hornsby NSW 2077, and telephone number is: 9847 6666.

11. Operation of Temporary Food Stall

The operation of the temporary stall, and vehicles used in conjunction with the business, must comply with the requirements of the *Food Act 2003*, the *Food Regulation 2004*, *Food Safety Standards 3.1.1, 3.2.2, 3.2.3* and the *NSW Food Authority* publication '*Food Handling Guidelines for Temporary Events*'.

12. Waste Storage and Collection

- a) Waste must be stored in bins within each stall until the end of the operating hours. The market operator will be responsible for waste removal.
- b) On festival or long operating days that will generate additional waste, the market operator must liaise with Council to arrange additional bins, more frequent bin changes or additional staff.

13. Lighting

Any additional lighting for special events must be angled downward to reduce light spillage to neighbouring land uses.

14. Noise

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

- END OF CONDITIONS -

14 REPORTING VARIATIONS TO DEVELOPMENT STANDARDS

EXECUTIVE SUMMARY

- In accordance with Department of Planning and Environment's *Planning Circular PS 08-14*, Council is required to report variations to development standards for development applications approved under delegated authority, which relied upon *State Environmental Planning Policy No. 1 – Development Standards (SEPP 1)* or Clause 4.6 of the *Hornsby Local Environmental Plan - 2013 (HLEP)*.
- Council's consideration of this report ensures Council's obligation to monitor variations to development standards is complied with.

RECOMMENDATION

THAT the contents of Group Manager's Report No. PL5/15 be received and noted.

PURPOSE

The purpose of this report is to advise Council of determined development applications under delegated authority involving a *SEPP 1* or *Clause 4.6* variation to a development standard for the period 1 October 2014 to 31 December 2014.

DISCUSSION

Department of Planning and Environment's *Circular B1*, issued in March 1989, requested that councils monitor the use of the Secretary's assumed concurrence under *SEPP 1* on a quarterly basis. This reporting requirement remains effective.

Monitoring of variations to development standards is important to provide the Department and councils with an overview of the manner in which established development standards are being varied and whether the assumed concurrence is being used as intended. This enables Council and the Department to determine whether development standards are appropriate, or whether changes are required.

The Department issued *Circular PS 08-014* on 14 November 2008. The purpose of the Circular was to remind councils of their responsibilities to monitor the use of the Secretary's assumed concurrence under *SEPP 1*. Councils were reminded of the need to keep accurate records of the use of *SEPP 1* and to report on a quarterly basis.

The *Circular* also provides that councils are required to adopt the following four measures:

1. Establish a register of development applications determined with variations in standards under *SEPP 1*.
2. Require all development applications where there has been a variation greater than 10% in standards under *SEPP 1* to be determined by full council (rather than General Manager or nominated staff member).
3. Provide a report to Council on the development applications determined where there had been a variation in standards under *SEPP 1*.
4. Make the register of development applications determined with variations in standards under *SEPP 1* available to the public on the council's website.

In accordance with Point 3 of Department Circular, attached is a list of development applications determined between 1 October 2014 and 31 December 2014.

A copy of the attachment to this report is also reproduced on Council's website.

BUDGET

There are no budget implications.

POLICY

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

CONCLUSION

Council is required to monitor the manner in which development standards are being varied. This assists in determining whether changes are required to relevant standards. This report provides advice to Council on standards varied under delegated authority which relied upon SEPP 1 or Clause 4.6 of the HLEP during the reporting period from 1 October 2014 to 31 December 2014.

RESPONSIBLE OFFICER

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

JAMES FARRINGTON
Group Manager
Planning Division

Attachments:

1. SEPP 1 Returns - Quarter for 1 October 2014 to 31 December 2014

File Reference: F2004/07599
Document Number: D04451025

15 PLANNING PROPOSAL FOR PROPERTY NOS. 2-4 EPPING ROAD, EPPING

EXECUTIVE SUMMARY

- In March 2014, *State Environmental Planning Policy (Epping Town Centre) 2013* amended *Hornsby Local Environmental Plan 2013* and zoned property Nos. 2 – 4 Epping Road R4 – High Density Residential with a maximum building height of 17.5m (5 storeys).
- On 8 October 2014, Council considered Group Manager's Report No. PL72/14 reviewing submissions received in response to the exhibition of development control plan amendments for the Epping Town Centre. Council resolved (in part) that a Planning Proposal be prepared to increase the permissible height of building for property Nos. 2 – 4 Epping Road from five to eight storeys.
- To avoid site isolation and maximise opportunities for better urban form and vehicle access, it is recommended that Council endorse the Planning Proposal for submission to the Department of Planning and Environment for Gateway Determination and exhibition.

RECOMMENDATION**THAT:**

1. Council forward the Planning Proposal for property Nos. 2-4 Epping Road, Epping attached to Group Manager's Report No. PL6/15 to the Department of Planning and Environment seeking endorsement for exhibition.
2. In accordance with the plan making powers delegated to Council, Council exercise Authorisation to prepare and make the Planning Proposal following the receipt of Gateway Authorisation.
3. The General Manager be given delegated authority to endorse the exhibition material.
4. Following the exhibition, a report on submissions be presented to Council.

PURPOSE

The purpose of this Report is to present a Planning Proposal that proposes to increase the maximum building height permitted at property Nos. 2-4 Epping Road, Epping from 17.5m (5 storeys) to 26.5m (8 storeys) to resolve a planning anomaly arising from the final Epping Town Centre Urban Activation Precinct Plan.

BACKGROUND

In March 2014, *State Environmental Planning Policy (Epping Town Centre) 2013* (the SEPP Amendment) amended *Hornsby Local Environmental Plan 2013* and zoned properties Nos. 2-14 Epping Road R4 – *High Density Residential*. A maximum building height of 17.5m (5 storeys) was applied to property Nos. 2-4 Epping Road and 26.5m (8 storeys) to the adjacent property Nos. 6-14 Epping Road.

Draft amendments to the *Hornsby Development Control Plan 2013* (HDCP) to support the SEPP Amendment were exhibited in June 2014. Submissions included concerns that the 5 storey (17.5m) building height for No. 4 Epping Road would not provide a return that would enable owners to purchase an equivalent unit elsewhere in Epping. The concerns were subsequently substantiated by a Hill PDA feasibility appraisal, commissioned by the landowners, which concluded that a maximum building height of at least 8 storeys would be needed to achieve a dwelling yield that would encourage re-development.

On 8 October 2014, Council considered Group Manager's Report No.PL72/14 regarding submissions received during the exhibition of amendments to the HDCP in relation to the Epping Town Centre Urban Activation Precinct. The report concluded that *'.....on the grounds that Council previously adopted an 8 storey outcome for Property Nos. 2-4 Epping Road (by its adoption of the Epping Town Centre Study in 2012), it is considered reasonable in this case, to support a change in building height...'*

Council resolved that a Planning Proposal be prepared to increase the permissible height of building for property Nos. 2-4 Epping Road from five to eight storeys.

SITE

The subject sites are located on the southern side of Epping Road. Property No. 2 Epping Road is located on the corner of Blaxland Road and contains a mechanic's garage and property No. 4 Epping Road is improved by a 1920s residential flat building of 8 strata units. Lots immediately to the east (Nos. 6-14 Epping Road) largely contain single dwelling houses in garden settings.

Land immediately to the south of the subject sites is unimproved and zoned Local Open Space RE1. It is privately owned and identified for Council open space acquisition.

The frontages of the subject properties are reserved for acquisition by Roads and Maritime Services for road widening to a depth of 3-4m. The properties are approximately 1,500sqm each with dimensions of 30m (width) x 50m (depth). The proposed road acquisition would reduce their depth to 46-47m and overall area to approximately 1,380sqm.

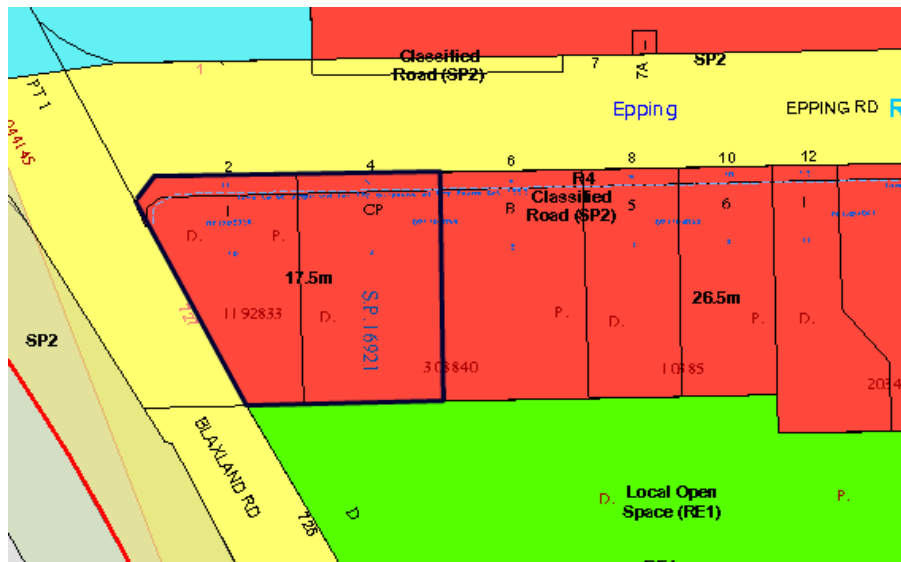


Figure 1 – Location of Property Nos. 2 – 4 Epping Road, Epping

PROPOSAL

The Planning Proposal aims to amend the Height of Building Map of the *Hornsby Local Environmental Plan 2013* to increase the maximum building height limit for property Nos. 2-4 Epping Road, Epping from the current 17.5m (5 storeys) to 26.5m (8 storeys).

The intended outcomes for the Planning Proposal are to:

- Resolve a planning anomaly that arose from the final Epping Town Centre Urban Activation Precinct Structure Plan and subsequent SEPP Amendment;
- Provide a building height consistent with Council's adopted *Epping Town Centre Study 2011* and adjoining properties along Epping Road; and
- Encourage redevelopment, avoid site isolation risk and maximise opportunities for better urban form and vehicle access outcomes.

A copy of the draft Planning Proposal is attached.

DISCUSSION

This report considers the merit of the Planning Proposal in relation to previous studies undertaken for the Epping Town Centre and the potential impacts of the proposal:

1.1 Epping Town Centre Study

Council adopted the *Epping Town Centre Study 2011* in 2012. It provided for 8 storey development on the subject sites due to the width of Epping Road and location within the 400m walking catchment to the Epping Railway Station.

The Study further identified that 8 storeys on the subject sites would provide for a transition in heights between the adjacent proposed 5 storey Forest Grove Residential Precinct and the adjoining new residential intensification area in the Epping Town Centre Core to the north.

Potential impacts from traffic generation and overshadowing were addressed by the Study based on an 8 storey configuration and embodied within the final recommended traffic improvements to be delivered by Roads and Maritime Services based on funding provided by the NSW Government's Housing Acceleration Fund.

1.2 Urban Activation Program

The subject sites are within the *Epping Town Centre Urban Activation Precinct*. In 2012, the then Department of Planning and Infrastructure undertook a number of studies to inform the proposed rezoning of the Precinct and engaged Architects to undertake a built form review of the *Epping Town Centre Study 2011*. The Architects' review generally supported the key recommendations of the Town Centre Study but recommended a greater range of building options in residential areas adjoining the Town Centre Core including smaller (2 – 6 storey) residential flat buildings on single lots.

The Department's subsequent *Epping Town Centre Urban Activation Precinct Structure Plan* provided for 5 storey development on the subject sites when exhibited. The Department has advised that the reduction in building height from the *Epping Town Centre Study 2011* to the *Epping Town Centre Urban Activation Precinct Structure Plan* and subsequent SEPP Amendment was most likely for urban design reasons and because of the (then) proposed heritage listing of No. 4 Epping Road.

The heritage listing for property No. 4 Epping Road, however, did not proceed.

1.3 Development Feasibility

In August 2014, the body corporate of property No. 4 Epping Road (Strata Plan 16921) commissioned Hill PDA Consulting to undertake a development feasibility appraisal of the site using 5, 8 or 10 storey building height scenarios. The appraisal identified that the cost to purchase the existing 8 strata units would exceed the residual land value and would produce a negative return. The appraisal concluded that 8 storey development, which would potentially result in 44 - 49 dwelling units (an additional 15 – 20 dwelling units), was required to return a profit margin and encourage redevelopment.

Hill PDA Consulting previously prepared the economic assessment that supported the recommendations of the Epping Town Centre Study (2011). Within this report, Hill PDA calculated development feasibility for five storey development based on the amalgamation of two allotments with single dwelling houses. In the case of property No.4 Epping Road, Hill PDA's new assessment is based on the same methodology as the 2011 study with updates to reflect the acquisition cost of eight units. Accordingly, the findings of the new Hill PDA report support the case to review the permitted building height.

Whilst the development feasibility of No. 2 Epping Road has not been assessed, it would be desirable that this property also permit an 8 storey development given its prominent location at the corner of Epping and Blaxland Roads.

1.4 The Need for a Stand Alone Planning Proposal

In July 2014, Council sought advice from the Department of Planning and Environment about whether it would support a SEPP Amendment or Local Environmental Plan Amendment to amend the maximum building heights at the subject sites. The Department advised that:

'.....It appears that the site could be considered for further development, however (it) would be subject to detailed assessment to determine whether a development density beyond that provided under the LEP was found to have strategic merit'.

The Strategic Planning Branch undertakes annual house-keeping HLEP amendments intended to address minor or inconsequential amendments. Whilst this amendment would normally be undertaken this way, it is recommended that a stand-alone Planning Proposal be prepared for the following reasons:

- It has been 10 months since the Epping Town Centre Urban Activation Precinct SEPP Amendment was gazetted;
- Land assembly is well advanced as evidenced by recent Development Applications including an application for the construction of an eight-storey residential flat building at property Nos. 6-8 Epping Road;
- There is a risk of isolation should developers be unable to acquire all 8 strata units at No. 4 Epping Road; and
- There is an opportunity to achieve rear lane access to service all adjoining properties.

Accordingly, it is recommended that a stand-alone planning proposal proceed to provide certainty that the properties may be viably redeveloped.

STATUTORY CONSIDERATIONS

As part of the Gateway Authorisation process, Section 23 of the *Environmental Planning and Assessment Act 1979* allows the Minister and the Secretary to delegate functions to a council and/or an officer or employee of a council. When submitting a planning proposal, Council is required to identify whether it wishes to Exercise Delegation (the Authorisation). Authorisation delegates the following plan making powers to Council:

- to make and determine not to make an LEP;
- to defer inclusion of certain matters; and
- to identify which matters must be considered and which stages of the plan making process must be carried out again.

At its meeting on 12 December 2012, Council resolved to formally accept the plan making delegations and delegate the plan making functions to the General Manager. Acknowledgement of Council's resolution was received from (then) Department of Planning and Infrastructure (now the Department of Planning & Environment), on 3 March 2013.

On the grounds that the planning proposal is consistent with the types of draft LEPs to be routinely delegated, it is recommended that Council exercise the Authorisation in this instance.

CONSULTATION

Should Council resolve to proceed with the Planning Proposal, and Gateway Authorisation is issued by the Department of Planning and Environment, the Plan will be formally exhibited in accordance with the Consultation Strategy contained within the attached Planning Proposal and in accordance with "*A guide to preparing local environmental plans*" prepared by the Department of Planning and Infrastructure (2009). The Planning Proposal will be exhibited for a period of 28 days and, at a minimum will include the following:

- Notification letters and a copy of the Planning Proposal will be sent to relevant public authorities (if any) outlined in the Gateway Determination;
- An advertisement will be placed in local newspapers that identify the purpose of the Planning Proposal and where the Planning Proposal can be viewed;
- The Planning Proposal will be exhibited on the Council website under On Exhibition (www.hornsby.nsw.gov.au/onexhibition). Council's libraries have access to the website;

- A letter will be sent to adjoining land owners advising them of the exhibition and how to make a submission; and
- The Planning Proposal will be displayed at the Council Administration Centre, 296 Peats Road, Hornsby and Epping Library.

A report outlining the outcomes of the public agency consultation and submissions received during public exhibition would be presented to Council for its consideration at the conclusion of the exhibition period.

BUDGET

There are no budgetary implications associated with this report.

POLICY

There are no policy implications associated with this Report.

CONCLUSION

The purpose of the attached Planning Proposal is to resolve a planning anomaly arising from the final Epping Town Centre Urban Activation Precinct Plan. An amendment to increase the permitted height of buildings from 5 storeys to 8 storeys would enable the owners of No.4 Epping Road to sell their units within a timeframe that is supportive of land assembly by developers thereby avoiding isolation. Accordingly, it is recommended that Council endorse the Planning Proposal for submission to the Department of Planning and Environment for Gateway Determination and exhibition.

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. Planning Proposal - Property Nos. 2-4 Epping Road, Epping

File Reference: F2014/00222
Document Number: D04461347

16 TENDER T40/2014: SUPPLY AND DELIVERY OF CONCRETE

EXECUTIVE SUMMARY

- The proposed contract for "Supply and Delivery of Concrete" is required to service Council's needs in carrying out construction and maintenance of kerb and gutters, footpaths and crossings, drainage structures etc. Council uses a substantial amount of concrete in its annual roads and drainage construction and maintenance program.
- Council does not have the specialist personnel and equipment required to produce concrete and therefore open tenders have recently been called in accordance with the Local Government Act. Given the work available in the future works program, it is recommended that two tenderers be selected to allow for the work to be carried out efficiently and effectively and to allow for programming flexibility.
- The proposed contract will be for 12 months duration with an option to extend the contract for a further 12 month period. Hanson Construction Materials Pty Ltd and Able Metromix Concrete have been recommended for acceptance for this tender.

RECOMMENDATION

THAT Council accept tenders from Hanson Construction Materials Pty Ltd and Able Metromix Concrete for all work under Tender No. T40/2014: Supply and Delivery of Concrete.

PURPOSE

The purpose of this Report is to provide a recommendation for the acceptance of Tender No. T40/2014: Supply and Delivery of Concrete.

BACKGROUND

The supply and delivery of concrete is a specialised service and currently the works are being carried out by Hanson Construction Materials Pty Ltd and Able Metromix Concrete. The term of the current contract expires soon and the purpose of this tender is to enter into a new contract through a public tender process.

DISCUSSION

Tender No. T40/2014 is a Schedule of Rates tender. A summary, together with full evaluation details are in Folder F2014/00497. 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 suitable contractors who can provide Council value for money for the supply and delivery of concrete.

A public tender notice was advertised in the Sydney Morning Herald, relevant local newspapers together with Tenderlink. The tender was issued in November 2014 with a closing date of 17 December 2014.

Two tenders were received for Tender No. T40/2014 from the following companies:

- Hanson Construction Materials Pty Ltd.
- Able Metromix Concrete.

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
- Material type and supply sources
- Quality assurance systems
- Work Health and Safety Systems
- Sustainability.

The tendered schedules 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 tenders from Hanson Construction Materials Pty Ltd and Able Metromix Concrete are advantageous to Council.

The total estimated work under this contract is in the order of \$500,000 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 F2014/00497.

BUDGET

There are no budgetary implications associated with this Report.

POLICY

There are no policy implications associated with this Report.

CONCLUSION

Based on the evaluation, the tenders from Hanson Construction Materials Pty Ltd and Able Metromix Concrete are advantageous to Council. It is recommended that these tenders be accepted for the supply and delivery of concrete.

RESPONSIBLE OFFICER

The officer responsible for the preparation of this Report is the Manager Design and Construction – Rob Rajca, who can be contacted on 9847 6675.

ROBERT STEPHENS

Deputy General Manager

Infrastructure and Recreation Division

Attachments:

1. Confidential Memo dated 15 January 2015 - *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: F2014/00497

Document Number: D04469087

17 TENDER T41/2014: SUPPLY AND DELIVERY OF ROAD MATERIALS

EXECUTIVE SUMMARY

- The proposed contract for "Supply and Delivery of Road Materials" is required to service Council's needs in carrying out road and drainage construction and maintenance programs. Council uses a substantial amount of road materials in its annual roads and drainage construction and maintenance works.
- Council does not have the specialist personnel and equipment required to produce road construction materials 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. Hanson Construction Materials Pty Ltd and Concrete Recyclers Group Pty Ltd have been recommended for acceptance for this tender.

RECOMMENDATION

THAT Council accept tenders of Hanson Construction Materials Pty Ltd for the supply and delivery of normal DGB, modified DGB and aggregates, and Concrete Recyclers Group Pty Ltd for the supply and delivery of recycled DGB for work under Tender No. T41/2014: Supply and Delivery of Road Materials.

PURPOSE

The purpose of this Report is to provide a recommendation for the acceptance of Tender No.T41/2014: Supply and Delivery of Road Materials.

BACKGROUND

Supply and delivery of road materials is a specialised service and currently the works are being carried out by Hanson Construction Materials Pty Ltd. The term of the current contract expires soon and the purpose of this tender is to enter into a new contract through a public tender process.

DISCUSSION

Tender No. T41/2014 is a Schedule of Rates tender. A summary, together with full evaluation details are in Folder F2014/00498. 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 suitable contractors who can provide Council value for money for supply and delivery of road materials.

A public tender notice was advertised in the Sydney Morning Herald, relevant local newspapers together with Tenderlink. The tender was issued in November 2014 with a closing date of 17 December 2014.

Three (3) tenders were received for Tender No. T41/2014 from the following companies:

- Hanson Construction Materials Pty Ltd.
- Concrete Recyclers Group Pty Ltd.
- Fairfield City Council.

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
- Material type and supply sources
- Quality assurance Systems
- Work Health and Safety Systems
- Sustainability.

The tendered schedules 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 tenders from Hanson Construction Materials Pty Ltd. and Concrete Recyclers Group Pty Ltd are advantageous to Council.

The total estimated work under this contract is in the order of \$300,000 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 F2014/00498.

BUDGET

There are no budgetary implications associated with this Report.

POLICY

There are no policy implications associated with this Report.

CONCLUSION

Based on the evaluation, the tenders from Hanson Construction Materials Pty Ltd and Concrete Recyclers Group Pty Ltd are advantageous to Council. It is recommended that these tenders be accepted for the supply and delivery of road materials.

RESPONSIBLE OFFICER

The officer responsible for the preparation of this Report is the Manager Design and Construction – Rob Rajca – who can be contacted on 9847 6675.

ROBERT STEPHENS

Deputy General Manager

Infrastructure and Recreation Division

Attachments:

1. Confidential Memo dated 15 January 2015 - *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: F2014/00498

Document Number: D04469771

18 REQUEST FOR TENDER RFT38/2014: CONSTRUCTION OF HORNSBY STATION FOOTBRIDGE

EXECUTIVE SUMMARY

- Requests for Tender (RFT) have been called in accordance with the Local Government Act in order to select a suitably qualified and experienced contractor for the construction of Hornsby Station Footbridge.
- It is recommended that Council not accept any tender and that negotiations be entered into in the first instance with Fernandes Constructions Pty Ltd for the construction of the footbridge. If negotiations are unsuccessful then Council will enter into negotiations with Abergeldie Contractors Pty Ltd.
- Negotiations are required as there are late changes to some parts of the design and it is better to include these changes as part of the lump sum to minimise the expense which would otherwise become a variation.
- The construction program has the footbridge completed in 2015 with the works in Florence Street mall extending into early 2016, weather permitting.

RECOMMENDATION

THAT:

1. Council not accept any tender and negotiate with Fernandes Constructions Pty Ltd to arrive at a lump sum tender price.
2. Council decline to invite fresh tenders or seek fresh applications from tenderers or persons expressing interest in the contract for the following reasons:
 - a) Council has tested the market for the project and further tendering or fresh applications are not likely to produce a better result.
 - b) Timing constraints to not unduly delay this project.
3. Subject to the conclusion of successful negotiations with Fernandes Constructions Pty Ltd, the General Manager be delegated authority to enter into a Contract for the construction of Hornsby Station Footbridge.
4. If negotiations with Fernandes Constructions Pty Ltd are unsuccessful then Council enter into negotiations with Abergeldie Contractors Pty Ltd and the outcome of these negotiations be reported back to Council.

PURPOSE

This report provides a recommendation for RFT 38/2014 – Construction of Hornsby Station Footbridge.

BACKGROUND

The existing footbridge from Hornsby Railway Station to Florence Street was constructed in the early 1980s to provide a grade separated pedestrian crossing over George Street, providing an improved connection between the retail and high density residential land uses on the east side of Hornsby and the major public transport interchange at Hornsby.

The current footbridge does not meet a number of design parameters including clearance over an arterial road, disabled access provisions and accepted level of service provisions for pedestrian access to a major transport interchange.

Council at the General Meeting on 8 October 2014 in considering report IR21/14 for EOI 28/2014 – Expression of Interest for Construction of Hornsby Station Footbridge resolved:

“THAT Council invite Abergeldie Contractors Pty Ltd, Delaney Civil Pty Ltd, Fernandes Constructions Pty Ltd and Talis Civil Pty Ltd to tender for the construction of Hornsby Station Footbridge”.

DISCUSSION

RFT No. 38/2014 was called to select a contractor for the construction of Hornsby Station Footbridge. A summary of all submissions together with full evaluation details have been placed on file (Trim Folder F2014/00470). Excepting this report, the summary and details of the RFT's received are to be treated as confidential in accordance with the Local Government Act.

Four (4) RFT submissions were received from all the selected tenderers:

- Abergeldie Contractors Pty Ltd
- Delaney Civil Pty Ltd
- Fernandes Constructions Pty Ltd
- Talis Civil Pty Ltd.

The following criteria have been used for the evaluation of the RFTs:

- Skills, Qualifications and Experience of the Project Team. The level of skills, qualifications and experience of proposed staff, contractors and sub-contractors.
- Past performance and experience. Evidence that tenderers have satisfactorily completed projects similar in nature to that required by a potential contract (type, size and value of work) and that they are competent to carry out the works pertaining to the contract in a workmanlike manner and to the satisfaction of the Principal.
- Organisational Structure. Company organisation plan submitted with explanations where necessary. Satisfactory support resources available for this project.
- Sustainability. Evidence of a comprehensive environmental management system and/or evidence of certification to AS/NZS ISO 14001:2004.
- Financial Capability. Financial documents as requested have been submitted.
- Contractual Commitments. Contract commitments for 2015 allow sufficient resources for this project.

- Quality Assurance Systems. Evidence of a comprehensive quality assurance management system and/or evidence of certification to AS/NZS ISO 9001:2008.
- Occupational Health and Safety systems. Evidence of a comprehensive OH&S Policy and documented management system and/or evidence of certification to AS/NZS ISO 4801:2001.
- Construction Methodology and Project Program. Construction methodology is realistic and practical and minimises pedestrian and vehicular delays. Project Program is realistic and achievable and minimises time on site.
- Insurances.

These criteria were assessed on information provided with each submission, additional information provided by the organisation and interviews held on 22 January 2015.

The attached Confidential Memo provides a summary of the evaluation. The RFT evaluation report is also attached.

The evaluation panel recommends that Council not accept any tender for RFT 38/2014 - Construction of Hornsby Station Footbridge and that negotiations be entered into in the first instance with Fernandes Constructions Pty Ltd for the construction of the footbridge. If these negotiations are unsuccessful then Council enter into negotiations with Abergeldie Contractors Pty Ltd.

Negotiations are required as there are late changes to some parts of the design and it is better to include these changes as part of the lump sum to minimise the expense which would otherwise become a variation.

The construction program has the footbridge completed in 2015 with the works in Florence Street mall extending into early 2016, weather permitting.

BUDGET

The NSW State Government approved, in August 2014, funding under the Transport for NSW (TfNSW) Easy Access Program for replacement of the pedestrian footbridge at Hornsby Railway Station across George Street. The approved funding commitment is for a maximum of \$4.78M towards the total cost of the bridge and associated works. Council is required to meet any additional costs. Sufficient funds are available to cover the anticipated total cost of the works.

POLICY

There are no policy implications associated with this Report.

CONCLUSION

The evaluation panel has recommended that Council not accept any tender for the construction of Hornsby Station Footbridge and that negotiations be entered into in the first instance with Fernandes Constructions Pty Ltd. If these negotiations are unsuccessful then Council will enter into negotiations with Abergeldie Contractors Pty Ltd.

RESPONSIBLE OFFICER

The officer responsible for the preparation of this Report is the Manager, Design and Construction Branch – Rob Rajca, who can be contacted on 9847 6675.

ROBERT STEPHENS
Deputy General Manager
Infrastructure and Recreation Division

Attachments:

1. Confidential Memo RFT 38-2014 - Construction of Hornsby Station Footbridge - *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 RFT 38-2014 - Final - signed by Evaluation Panel - *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: F2014/00470

Document Number: D04544133

19 REQUEST TO REMOVE TREE - 6 TOORADIN PLACE, WEST PENNANT HILLS

EXECUTIVE SUMMARY

- The owners of 6 Tooradin Place, West Pennant Hills sought approval to remove two *Eucalyptus saligna* (Sydney Blue Gum) trees. Removal of the tree at the rear of the property was approved due to its declining health, but the tree at the front of the property was refused. Approval was granted for crown maintenance involving removal of deadwood and works to alleviate problems associated with rubbing branches.
- An appeal, lodged in February 2014 (TA/808/2013/A), to remove the Sydney Blue Gum located at the front of the property was refused.
- The owner has sought a review of the refusal to remove the Sydney Blue Gum, claiming the tree has a history of losing branches, both live and dead, and that the roots have damaged the driveway.
- Insufficient evidence (such as an arborist or geotechnical report) has been supplied to demonstrate that there has been tree maintenance to address conflicting or rubbing branches and deadwood build up or that tree roots are the sole cause of damage to the driveway and cracking in the brickwork of the house.
- This report recommends that Council refuse the application for consent to remove the Sydney Blue Gum tree.

RECOMMENDATION

THAT Council refuse consent to remove one *Eucalyptus saligna* (Sydney Blue Gum) tree located at the front of the property at 6 Tooradin Place, West Pennant Hills.

PURPOSE

The purpose of this report is to provide Council with the information required to consider an application by the owner of 6 Tooradin Place, West Pennant Hills to remove one *Eucalyptus saligna* (Sydney Blue Gum), located in the front yard of the property.

BACKGROUND

In November 2013, Council received an application from the owner of 6 Tooradin Place, West Pennant Hills (TA/808/2013) to remove two *Eucalyptus saligna* (Sydney Blue Gum) one located at the front of the property and one at the rear of the property. The tree located in the rear of the property was declining in health and Council granted consent to remove this tree.

Inspections undertaken by Council officers in 2013 (TA/808/2013) recorded that the tree in the front yard was noted to be in good health and condition. There were insufficient arboricultural reasons to support the removal of the tree and consent was refused. However consent for crown maintenance was granted. Crown maintenance is capable of reducing the risk of falling branches to an acceptable level. No such maintenance has been undertaken.

In February 2014 the resident lodged an appeal (TA/808/2013/A) on the grounds that the tree was dangerous and causing property damage. Supporting evidence was supplied in the form of letters, photographs and newspaper clippings. No expert arboricultural reports or other technical documents were supplied.

This application was refused by Council officers on the basis of insufficient evidence.

DISCUSSION

Species: *Eucalyptus saligna*

Common Name: Sydney Blue Gum

Height: 24m

Age: Mature

The subject tree is of good health and condition with no major structural defects observed to warrant its removal. There is a requirement for some canopy maintenance such as removal of conflicting or rubbing branches and deadwood.

The subject tree is a locally indigenous remnant representative of the Blue Gum High Forest (BGHF), an Endangered Ecological Community (EEC). The tree is located on land mapped as EEC and is within the Biodiversity buffer on the Hornsby Local Environmental Plan (HLEP) Biodiversity Map. The rear section of the property is mapped as a Critical Endangered Ecological Community (CEEC) - Blue Gum High Forest (BGHF).

Today BGHF is among the most threatened ecological communities in Australia. With less than 4.5% of its pre-1788 distribution remaining, and less than 1% in conservation reserves, it has been listed as a critically endangered ecological community under both the *Environment Protection and Biodiversity Conservation Act 1999* (Commonwealth) and the *Threatened Species Conservation Act 1995* (NSW).

The remaining remnants of BGHF are located in the local government areas of Ku-ring-gai, Ryde, Hornsby, Parramatta and Baulkham Hills. BGHF community consists of individual and small clumps of trees with no native understorey, such as the subject tree.

However, should the tree cause damage, for example as a result of a storm, Council could be liable, especially if this occurred in the near future following further refusal of consent to remove it.

This is always the situation which must be considered when assessing trees. Council's guidelines allow a tree to be removed in the case of safety concerns if there are signs that the tree is diseased, dying or dangerous, but none of these signs were evident.

Concerns Regarding Safety and Property Damage

The property owner supplied additional evidence for the first appeal TA/808/2013/A in two parts; one part regarding tree safety the other regarding property damage.

Attachment 3 is a photograph of a branch failure that occurred in October 2013 and the image in Attachment 4 is of a recent branch failure in December 2014 (a limb of approximately 80mm diameter) which failed due to rubbing branches.

The determination letter for TA/808/2013 (D02729608) provided the owner with consent to carry out crown maintenance by up to 10% of the total foliage canopy (i.e.: removal of poorly attached epicormic growth, damaged or diseased branches and deadwood). Crown maintenance is described in the Australian Amenity Pruning Standard AS 4373-2007. Had such maintenance been undertaken, it would have prevented the branch failure event in December 2014.

The images of alleged property damage to walls and the driveway (Attachment 5) does not indicate:

- any surface roots near the house foundations or the driveway
- damage to the retaining wall
- heaving of soil or the adjacent infrastructure.

The images and observations by Council officers do indicate a degrading driveway, and cracks to brick work not associated with tree roots. It is considered that removal of the tree would not resolve the applicant's current problems. It is recommended that the applicant undertakes a geotechnical assessment to identify the causes of the cracking in the brickwork. It is likely there are other reasons to explain the cracking in the brickwork and the deterioration of the concrete driveway.

BUDGET

There are no budgetary implications associated with this Report.

POLICY

The Sydney Blue Gum in front of the applicant's property is worthy of being retained and such a recommendation is consistent with Council's Tree Preservation Policy (Hornsby Development Control Plan). The Policy only permits removal of a tree in the case of safety concerns if there are signs that the tree is diseased, dying or dangerous – none of these signs were evident.

CONCLUSION

It is recommended that Council refuse the application for consent to remove one *Eucalyptus saligna* (Sydney Blue Gum) at 6 Tooradin Place, West Pennant Hills on the basis that there is insufficient evidence to justify its removal.

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. Attachment 1 - 6 Tooradin Place - Location of Tree to Dwelling - Photo
2. Attachment 2 - 6 Tooradin Place - Location of Tree to Driveway - Photo
3. Attachment 3 - Extract from Appeal Application - Photos
4. Attachment 4 - Extract from D04469772 - Tree Photo
5. Attachment 5 - Extract from D04469837 - Property Damage Photos
6. Attachment 6 - Tree Photo 1 - February 2014
7. Attachment 7 - Tree Photo 2 - December 2013

File Reference: TA/808/2013
Document Number: D04586522

21 MAYOR'S NOTES FROM 1 TO 31 DECEMBER 2014

Tuesday 2 December 2014 – The Mayor attended the Barker College Junior School Celebration and retirement of Mr Neil Harrison.

Tuesday 2 December 2014 – The Mayor attended the Galston High School Presentation Evening.

Thursday 4 December 2014 – The Mayor attended Hornsby Council's Volunteers Thank You Morning Tea at Wallarobba.

Thursday 4 December 2014 – The Mayor attended the Year 7-11 Awards Ceremony at Loreto Normanhurst High School

Friday 5 December 2014 – The Mayor attended the Celebration of Learning at Karonga School, Epping.

Friday 5 December 2014 – The Deputy Mayor Councillor Singh, on the Mayor's behalf, attended the Volunteers Morning Tea at Council Chambers.

Saturday 6 December 2014 – The Deputy Mayor Councillor Singh, on the Mayor's behalf, attended the Cherrybrook Chinese Community Association's Chinese Language School Presentation at Cherrybrook.

Saturday 6 December 2014 – The Deputy Mayor Councillor Singh, on the Mayor's behalf, officiated at the Hornsby Shire Council Christmas Spectacular at Rofe Park.

Monday 8 December 2014 – The Mayor, Deputy Mayor Councillor Singh and Councillor Gallagher hosted three Citizenship Ceremonies in the Council Chambers.

Tuesday 9 December 2014 – The Mayor attended the Cheltenham Girls High School Annual Presentation Day at the Sydney Opera House.

Tuesday 9 December 2014 – The Mayor attended the Hornsby Lions Club Christmas Party at Event Cinema Westfield.

Wednesday 10 December 2014 – The Mayor attended the Hills Grammar School Annual Presentation at Hillsong Convention Centre.

Friday 12 December 2014 – Councillor Tilbury, on the Mayor's behalf, attended the Asquith Girls High School Annual Presentation at the Hornsby RSL Club.

Friday 12 December 2014 – The Mayor attended Wideview Public School Annual Presentation Day at Berowra Heights.

Saturday 13 December 2014 – Councillor Browne, on the Mayor's behalf, attended the Hornsby War Memorial Hall Committee Christmas Function at Hornsby RSL Club.

Monday 15 December 2014 – The Mayor attended the Mission Australia Opening of the Northern Sydney Homelessness Early Intervention and Prevention Service in Hornsby.

Monday 15 December 2014 – The Mayor attended the Asquith Boys High School Annual Presentation.

Tuesday 16 December 2014 – The Mayor attended the 1st Cherrybrook Scout Group End of Year Christmas BBQ.

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

File Reference: F2004/07053

Document Number: D04634088

22 MAYOR'S NOTES FROM 1 TO 31 JANUARY 2015

Wednesday 21 January 2015 – The Mayor attended the Celebrate Our Australia 2015 Lunch at The Epping Club.

Monday 26 January 2015 – The Mayor, Deputy Mayor Councillor Singh and Councillors hosted an Australia Day Citizenship Ceremony in Council Chambers.

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

File Reference: F2004/07053

Document Number: D04634106

23 FUTURE USE OF 179 BEECROFT ROAD, CHELTENHAM

COUNCILLOR AZIZI TO MOVE

THAT:

1. Council note that the church building at 179 Beecroft Road, Cheltenham is heritage listed and a prominent feature of the local area.
2. Council defer the sale of 179 Beecroft Road, Cheltenham to consider other options, including a lease, that would enable Council to retain ownership of and sustainably maintain the property.
3. Council seek expressions of interest for the lease of the property.
4. The General Manager be required to bring a further report back to Council outlining the results of the expression of interest process.
5. Council continue to consult with the community regarding its strategic direction in the provision of community and cultural facilities.

Attachments:

There are no attachments for this report.

File Reference: F2004/09440

Document Number: D04535926