



BUSINESS PAPER

GENERAL MEETING

**Wednesday 8 March 2017
at 6:30PM**



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AGENDA AND SUMMARY OF RECOMMENDATIONS

PRESENT

NATIONAL ANTHEM

OPENING PRAYER/S

Pastor David Nathan of The Hive Church, South Turramurra will open the meeting in prayer.

ACKNOWLEDGEMENT OF RELIGIOUS DIVERSITY

Statement by the Chairperson:

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

ABORIGINAL RECOGNITION

Statement by the Chairperson:

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

AUDIO RECORDING OF COUNCIL MEETING

Statement by the Chairperson:

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

APOLOGIES / LEAVE OF ABSENCE

POLITICAL DONATIONS DISCLOSURE

Statement by the Chairperson:

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

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

DECLARATIONS OF INTEREST

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

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

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

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

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

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

OR

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

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

CONFIRMATION OF MINUTES

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

PETITIONS

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

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

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

GENERAL BUSINESS

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

OFFICE OF THE GENERAL MANAGER

Nil

CORPORATE SUPPORT DIVISION**Page Number 1**

**Item 1 CS4/17 INVESTMENTS AND BORROWINGS FOR 2016/17 - STATUS FOR PERIOD
ENDING JANUARY 2017**

RECOMMENDATION

THAT the contents of Deputy General Manager's Report No. CS4/17 be received and noted.

ENVIRONMENT AND HUMAN SERVICES DIVISION

Nil

PLANNING DIVISION**Page Number 4**

**Item 2 PL8/17 DEVELOPMENT APPLICATION - CHILD CARE CENTRE - 22 QUARRY
ROAD AND 1 HARRIS ROAD, DURAL**

RECOMMENDATION

THAT Development Application No. DA/1109/2016 for construction of a child care centre comprising 90 child care places and signage at Lot 4 DP 615254 and Lot 12 DP 831790, No. 22 Quarry Road and No. 1 Harris Road, Dural be approved subject to the conditions of consent detailed in Schedule 1 of Group Manager's Report No. PL8/17.

Page Number 43**Item 3 PL12/17 DEVELOPMENT APPLICATION - SUBDIVISION OF ONE ALLOTMENT INTO TWO LOTS - 32 CARDINAL AVENUE, BEECROFT****RECOMMENDATION**

THAT Development Application No. DA/1236/2016 for the Torrens Title subdivision of one allotment into two lots and demolition of an existing dwelling house at Lot 1 DP 20358, No. 32 Cardinal Avenue, Beecroft be approved subject to the conditions of consent detailed in Schedule 1 of Group Manager's Report No. PL12/17.

Page Number 66**Item 4 PL9/17 DRAFT NORTH DISTRICT PLAN****RECOMMENDATION**

THAT a submission be forwarded to the Greater Sydney Commission indicating Council's general support for the draft *North District Plan* subject to the Commission addressing the major issues for Hornsby Shire identified in Group Manager's Report No. PL9/17, including:

1. Reclassification of the Hornsby Town Centre as a 'Strategic Centre' to reflect the future target of 22,000 jobs;
2. Ensuring that priority road and open space projects to support future population growth are incorporated in the revised Plan;
3. Ensuring the staging of the 20 year dwelling targets to align with local housing strategies and infrastructure delivery plans;
4. Supporting the strategic approach for urban development in the rural area, subject to the NSW Government assisting the development of a clear vision and infrastructure plan; and
5. Strengthening the criteria for determining 'strategic merit' to give greater weight to local planning strategies when considering proponent led planning proposals.

Page Number 77**Item 5 PL10/17 REPORTING VARIATIONS TO DEVELOPMENT STANDARDS**

RECOMMENDATION

THAT the contents of Group Manager's Report No. PL10/17 be received and noted.

INFRASTRUCTURE AND RECREATION DIVISION

Page Number 80

**Item 6 IR1/17 PROPOSAL TO CREATE ELECTRICITY EASEMENTS ON COMMUNITY
LAND AT WAITARA PARK**

RECOMMENDATION

THAT:

1. Council agree to the creation of easements for electricity and access over Lots 300 and 301 DP 832745 being land within Waitara Park.
2. The Acting General Manager be authorised to negotiate detailed terms and conditions of the agreement generally as outlined in Deputy General Manager's Report No. IR1/17 and to execute documents in relation to creation of the easements as deemed appropriate by Council's legal advisors.
3. Council authorise the use of Council's seal on any legal, survey or other documents directly related to creation of the easements as deemed appropriate by Council's legal advisors.

PUBLIC FORUM – NON AGENDA ITEMS

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MAYOR'S NOTES

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Item 7 MN3/17 MAYOR'S NOTES FROM 1 TO 28 FEBRUARY 2017

NOTICES OF MOTION

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Item 8 NOM1/17 BRUSH TURKEYS

COUNCILLOR TILBURY TO MOVE

THAT Council:

1. Work with residents on developing strategies to live with native animals such as brush turkeys.
2. Offer workshops, education sessions and material prior to brush turkey breeding season about living with native animals to increase understanding and awareness.

Note from Councillor:

With a large interface with the bush it is good to see wildlife coming back into our urban areas. Over the past few years there has been a sharp increase in the return of brush turkeys, also called the scrub turkey or bush turkey. The increase is thought to have occurred due to a combination of a number of factors, including the creation of ideal environments, like lush gardens, for them to live and effective control of predators, such as foxes.

While their return is welcomed they can cause considerable damage to gardens. Gardens can be stripped by a mound-building male brush turkey in less than a day. If you disturb or move the mound during the day, the male will probably rebuild it in the same location the next day persisting in a location until the end of the breeding season. This activity is seasonal, and will decrease dramatically towards the end of the breeding season, however can cause a lot of frustration and distress for residents.

As brush turkeys are protected under the National Parks and Wildlife Act 1974 I am keen to see educational sessions and material developed to inform and educate residents on what they can do to discourage brush turkeys from their garden and how to interact with them appropriately.

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Item 9 NOM3/17 FOOTPATH IMPROVEMENT PROGRAM FUNDING

COUNCILLOR TILBURY TO MOVE

THAT Council:

1. Agree that consideration be given as to how funding allocated to the Footpath Improvement Program could be increased from \$266,000 per annum to \$1 million per annum for the next five year period to accelerate the Program and start to seriously address the unacceptable footpath infrastructure backlog across the Shire.
2. The information in point 1 above be presented to Councillors at the 2017/18 Draft Operational Plan and Budget Briefing scheduled to be held on 22 March 2017.

Note from Councillor

The health, wellbeing, environmental and economic benefits of walking are now widely researched and published, however research also shows that uptake is greatly determined by the supportive environments for walking within a resident's immediate locality.

Convenience, amenity and safety are critical factors. Council's goal must be to increase participation of the Shire's community, of all ages and backgrounds, in walking for recreation, health and transport. Currently Council is badly failing the residents in this area.

As a Councillor I receive many requests for the provision of paved footpaths throughout the Shire. In fact it is by far the number one general Council issue that our residents contact me on.

Due to competing requirements for funding of Council's many assets throughout the Shire, there is woefully limited annual funding of \$266,000 currently made available through the Footpath Improvement Program.

A priority system is used to equitably allocate the available funding and higher priority is generally given to those streets with high volumes of school children or aged residents or vehicular traffic. However, because of the very limited budget and the massive total footpath infrastructure backlog of \$10 million across the Shire, lead times for some areas requiring footpaths are up to 40 years.

SUPPLEMENTARY AGENDA

MATTERS OF URGENCY

QUESTIONS WITHOUT NOTICE

1 INVESTMENTS AND BORROWINGS FOR 2016/17 - STATUS FOR PERIOD ENDING JANUARY 2017

EXECUTIVE SUMMARY

- This Report provides details of Council's investment performance for the period ending 31 January 2017 as well as the extent of its borrowings at the end of the same period.
- Council invests funds that are not, for the time being, required for any other purpose. The investments must be in accordance with relevant legislative requirements and Council's policies and the Chief Financial Officer must report monthly to Council on the details of funds invested.
- All of Council's investments have been made in accordance with the Local Government Act, the Local Government (General) Regulation and Council's Investment of Surplus Funds Policy and Investment Strategy.
- In respect of Council's cash and term deposit investments, the annualised return for the month of January was 2.75% compared to the benchmark of 1.50%.

RECOMMENDATION

THAT the contents of Deputy General Manager's Report No. CS4/17 be received and noted.

PURPOSE

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

BACKGROUND

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

DISCUSSION

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

Council's investment performance for the month ending 31 January 2017 is detailed in the attached document. In summary, the At-Call and Term Deposits achieved an annualised return of 2.75% for January 2017, compared to the benchmark of 1.5%.

In respect of Council borrowings, the weighted average interest rate payable on outstanding loans taken out from June 2007 to date, based on the principal balances outstanding is 7.23%. The Borrowings Schedule as at 31 January 2017 is also attached for Council's information.

CONSULTATION

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

BUDGET

Budgeted investment income for 2016/17 is \$3,000,000 with an average budgeted monthly income of \$250,000. Total investment income for the period ended January 2017 was \$2,555,000 compared to the budgeted income of \$1,750,000. Approximately 41% of the investment income received by Council relates to externally restricted funds (e.g. Section 94 monies) and is required to be allocated to those funds.

All investments have been made in accordance with the Local Government Act, the Local Government (General) Regulation and Council's Investment of Surplus Funds Policy and Investment Strategy.

CONCLUSION

The investment of Council funds and the extent of its borrowings as at 31 January 2017 are detailed in the documents attached to this Report. Council's consideration of the Report and its attachments ensures that the relevant legislative requirements and Council protocols have been met in respect of those investments and borrowings.

RESPONSIBLE OFFICER

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

GLEN MAGUS
Chief Financial Officer - Financial Services
Corporate Support Division

GARY BENSLEY
Deputy General Manager - Corporate Support
Corporate Support Division

Attachments:

- 1.[ViewViewView](#) HSC Investment Holdings Report January 2017
- 2.[ViewViewView](#) HSC Borrowings Schedule - January 2017

File Reference: F2004/06987-02
Document Number: D07139651

2 DEVELOPMENT APPLICATION - CHILD CARE CENTRE - 22 QUARRY ROAD AND 1 HARRIS ROAD, DURAL

EXECUTIVE SUMMARY

DA No: DA/1109/2016 (12 September 2016)

Description: Construction of a 136 place child care centre and signage

Property: Lot 4 DP 615254 and Lot 12 DP 831790, No. 22 Quarry Road and No. 1 Harris Road, Dural

Applicant: Mr Sam Falcone

Owner: Mr A Falcone

Estimated Value: \$2,449,500

- The proposed child care centre generally complies with *Hornsby Local Environment Plan 2013* and the *Children (Education and Care Services) Supplementary Provisions Regulation 2012* and *State Environmental Planning Policy No. 55 – Remediation of Land*. The proposal would be consistent with the draft *State Environmental Planning Policy (Educational Establishments and Child Care Facilities) 2017* and the draft *Child Care Planning Guideline*.
- The proposed child care centre does not comply with the *Hornsby Development Control Plan 2013* requirement for a maximum of 90 child care places in rural zones. A condition is recommended for the proposed centre to have a maximum of 90 child care places.
- The proposed signage is satisfactory in meeting the assessment criteria of *State Environmental Planning Policy No. 64 – Advertising and Signage*.
- The NSW Rural Fire Service has approved a Bushfire Safety Permit for the proposal.
- 25 submissions have been received in respect of the application.
- It is recommended that the application be approved.

RECOMMENDATION

THAT Development Application No. DA/1109/2016 for construction of a child care centre comprising 90 child care places and signage at Lot 4 DP 615254 and Lot 12 DP 831790, No. 22 Quarry Road and No. 1 Harris Road, Dural be approved subject to the conditions of consent detailed in Schedule 1 of Group Manager's Report No. PL8/17.

BACKGROUND

On 7 November 2001, Council refused a development application (DA/2148/2000) for demolition of existing structures and construction of a science classroom, library, playing fields, tennis courts, basketball courts and car park for 82 spaces at the subject property and including No. 20 Quarry Road, Dural. The application, lodged by Pacific Hills Christian Education Limited, was refused on the following grounds:

- The proposed extension of the Pacific Hills Christian School to a site opposite the existing school premises is considered to be out of character with the surrounding rural area and contrary with good planning and traffic management practice.
- The application is considered to be deficient on merit with respect to traffic and parking generation of the proposed facilities.
- The proposal is inconsistent with the setback requirements of the Rural Lands DCP.
- The proposal is inconsistent with the requirements of the Access and Mobility DCP.
- The proposal will have an adverse visual and acoustic impact upon adjoining residences.
- The proposal will have an adverse impact on traffic flow along Quarry Road immediately adjacent the proposed site entry and exit.
- The proposal is inconsistent with the objectives of the Rural B zone, in that the development does not preserve productive agricultural land, the proposed use is not compatible land use which maintains the rural environment of the area; and will not improve the environmental qualities of the area, since the proposal has potential to create adverse visual and traffic congestion impacts.

On 17 February 2004, Council approved DA/2483/2003 for construction of a dwelling house and front gates on the subject site with access off Harris Road. The construction of the substantial single storey dwelling with site coverage of 1,993.5m² was discontinued following the completion of the concrete slab, retaining walls and front gate.

On 16 April 2004, Council approved DA/379/2004 for construction of an in-ground swimming pool and tennis court on the subject site adjoining the approved dwelling house.

On 24 September 2015, the applicant attended a Pre DA Meeting (PL/107/2015) with Council officers regarding the proposed child care centre. At the meeting, the applicant was requested to address bush fire protection, the non-compliance with the maximum of 90 children, separation of sensitive land uses, waste water management, traffic impacts, tree protection, waste management and utilities.

SITE

The site has an area of 2.428 hectares and comprises a battleaxe lot with a 6m wide access handle off the southern side of Quarry Road. The site also has access via an existing driveway off Harris Road through the adjoining land which is in the same ownership (Lot 12 DP 831790 – No. 1 Harris Road, Dural).

The site has been subject to substantial landform modification and forms upper, middle and lower areas used in association with the adjoining lot in the same ownership. The adjoining lot is used for residential and home business purposes for a building company. The site was previously used for a plant nursery. The site has an average fall of 8% to the southern boundary.

The upper area of the site includes a large cleared area comprising gravel areas and the concrete slab of an uncompleted dwelling house and associated retaining walls. The upper land area is generally cleared of vegetation.

The middle level area includes a large metal shed and level gravel area used in association with the adjoining lot for the storage of building materials.

The lower level area of the site has a more rural landscape and includes trees and shrubs and a farm dam. The dam forms the headwaters of a watercourse tributary of Berowra Creek.

The surrounding area is semi-rural with developments involving rural/residential land uses and limited agricultural production. The Pacific Hills Christian School is opposite the site's access handle off Quarry Road. The School is the dominant land use activity in the vicinity of the site. The school caters for kindergarten to Year 12 students and has an approved school population of 1,360 students. A special needs school (Warrah School) is located south of the site on Harris Road.

The site is located 680m east of the Dural Service Centre on New Line Road and Old Northern Road, Dural.

PROPOSAL

The proposal is for the construction of a child care centre for 136 child care places including 40 places for 0-2 year olds, 35 for 2-3 year olds and 61 for 3-6 year olds. The proposed centre would include 24 staff.

The proposed hours of operation are 7.00am to 6.00pm Monday to Friday. The proposal also includes the use of the centre for four Saturdays per year for special occasions.

The proposed child care centre would comprise a single storey building of masonry and timber frame construction with a metal roof.

The proposed centre would occupy approximately 6,600m² of the northern part of the site and include a bitumen paved car park with 35 car parking spaces accessed off Harris Road.

The proposed 10m wide accessway off the eastern side of Harris Road is via an existing right of carriageway over Lot 12 DP 831790, No. 1 Harris Road, Dural.

The proposal includes a business identification sign at the front gate on Harris Road.

ASSESSMENT

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

1. STRATEGIC CONTEXT

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

A Plan for Growing Sydney has been prepared by the NSW State Government to guide land use planning decisions for the next 20 years. The Plan sets a strategy and actions for accommodating Sydney's future population growth and identifies dwelling targets to ensure supply meets demand. The Plan identifies that the most suitable areas for new housing are in locations close to jobs, public transport, community facilities and services.

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

The proposed development would be consistent with '*A Plan for Growing Sydney*' and '*Draft North District Plan*', by providing additional services 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 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 part RU2 Rural Landscape (area 21,930m²) and part E3 Environmental Management (area 2,250m²) under the *HLEP*. The objectives of the RU2 Rural Landscapes zone are:

- *To encourage sustainable primary industry production by maintaining and enhancing the natural resource base.*
- *To maintain the rural landscape character of the land.*
- *To provide for a range of compatible land uses, including extensive agriculture.*
- *To encourage land uses that support primary industry, including low-scale and low-intensity tourist and visitor accommodation and the provision of farm produce direct to the public.*
- *To ensure that development does not unreasonably increase the demand for public infrastructure, services or facilities.*

The objectives of the E3 Environmental Management zone are:

- *To protect, manage and restore areas with special ecological, scientific, cultural or aesthetic values.*

- *To provide for a limited range of development that does not have an adverse effect on those values.*
- *To protect the natural environment of steep lands and floodplains within the catchment of the Hawkesbury River.*

The area of the site proposed for the child care centre development is within the RU2 Rural Landscape zone. The proposal does not involve development within the E3 Environmental Management zone area which comprises approximately 2,250m² of the site area.

The proposed development is defined as '*child care centre*' and '*business identification sign*' and is permissible in the RU2 Rural Landscape zone with Council's consent.

2.1.2 Height of Buildings

Clause 4.3 of the *HLEP* provides that the height of a building on any land should not exceed the maximum height shown for the land on the Height of Buildings Map. The maximum permissible height for the subject site is 10.5m. The proposal complies with this provision.

2.1.3 Heritage Conservation

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

2.1.4 Earthworks

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

The proposal would utilise the existing building slab constructed on the site for the previously approved dwelling house. Accordingly, the proposal would involve limited excavation work. Subject to implementation of erosion and sediment control measures, the proposal would not impact on adjoining properties, drainage patterns or soil stability.

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

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

The applicant has submitted a Detailed Site Investigation Report which includes the following findings:

- The rural site encompasses a total area of approximately 6,600m², and at the time of assessment was largely free of structures and hardstand pavement with the exception of a concrete slab, pool and temporary storage containers;
- Historical records indicate the site was horticultural in nature from the 1930s to early 2000s, before being cleared and partially developed to the current layout;
- Field investigations completed by EI Australia included one round of soil and groundwater sampling;
- Soil sampling and analyses were conducted at 16 borehole locations (BH1-BH16) down to a maximum depth of 5.6 mBGL. The sampling regime was developed using a systematic

- (triangular grid) sampling pattern, with allowance for structural obstacles (e.g. building walls, underground services etc.);
- The sub-surface profile comprised primarily of gravelly/sandy clay fill material overlying residual sandy clays with sandstone rock at depth;
 - Laboratory results for all analysed soil samples were compliant with the adopted human health based screening criteria (HILs/HSLs). A marginal exceedance of the ecological criteria was reported for nickel in surface soils at BH3 and BH4, however, statistical analysis indicated that the site wide nickel concentrations were below the adopted EIL;
 - Asbestos was not identified in any analysed soil samples;
 - Three test bores were converted to groundwater monitoring wells (MW1, MW2 and MW3). Stabilized water levels were encountered between approximately 200.2 and 203.8 mAHD, with groundwater inferred to flow in a south/south-easterly directions towards Pyes Creek;
 - Isolated exceedances of the adopted groundwater investigation levels (GILs) were reported for copper, nickel and zinc. The heavy metal concentrations were considered to be representative of regional ground water quality and therefore not considered to pose an immediate threat to the environment.
 - On review of the Preliminary Conceptual Site Model (CSM) developed for site, it was concluded that the model remains valid for the proposed redevelopment, however, the following gaps remain and require closure:
 - The contamination status of soils within stockpiled materials present on-site; given the presence of demolition wastes observed on stockpile surfaces; and
 - Quality of soils beneath stockpiles.

Based on the findings of the report, the consultant concludes that widespread contamination was not identified at the site and considers that limited further investigation will be required prior to redevelopment, subject to the following recommendations:

- Characterise stockpiled fill material at the site; and
- Characterise surface soils beneath stockpiles.

The consultant states that the site contamination issues can be managed through the development application process with the *SEPP 55* requirements for remediation and validation incorporated into conditions of development consent.

The detailed site investigation involved 16 bore holes over the 6,600m² area of the site proposed for the child care centre. The investigation determined that widespread contamination was not evident on the site. Further investigation is warranted given the previous horticultural use of the site, the gaps between boreholes and the stockpile of materials on site. In this regard, appropriate conditions are recommended for further investigation and preparation of a Remedial Action Plan (RAP) and for verification of remediation.

Subject to recommended conditions the site is acceptable for the proposed child care centre use in respect to *SEPP 55*.

2.3 State Environmental Planning Policy No. 64 - Advertising and Signage

The application has been assessed against the requirements of *State Environmental Planning Policy No. 64 – Advertising and Signage (SEPP 64)*. The aims of the Policy are to ensure that advertising and signage is compatible with the desired amenity and visual character of an area, to provide effective communication in suitable locations and to ensure signage is of high quality design and finish.

The proposed unilluminated 2.275m x 2.4m high plinth sign fixed to the existing block wall at the frontage of the right of carriageway is subject to *SEPP 64* and is identified as a '*business identification sign*' and is subject to the assessment criteria under Schedule 1 of the Policy.

The proposed unilluminated 3.15m x 3m high business identification sign on the façade of the proposed child care centre would not be visible from a public place and is not subject to *SEPP 64* pursuant to Clause 6 of the Policy.

The proposed signs each feature a 2.1m x 1.4m central logo for the identification of the centre. The proposed signs are in timber cladding construction and are designed to complement the materials and finishes of the proposed development with regard to the rural character of the locality.

The assessment of the proposed sign at the Harris Road frontage in accordance with Schedule 1 of *SEPP 64* is as follows:

State Environmental Planning Policy No. 64 – Advertising and Signage		
Schedule 1 – Assessment Criteria		
Control	Requirement	Yes/No
Character of the area	Is the proposal compatible with the existing or desired future character of the area or locality in which it is proposed to be located?	Yes
	Is the proposal consistent with a particular theme for outdoor advertising in the area or locality?	Yes
Special areas	Does the proposal detract from the amenity or visual quality of any environmentally sensitive areas, heritage areas, natural or other conservation areas, open space areas, waterways, rural landscapes or residential areas?	No
Views and vistas	Does the proposal obscure or compromise important views?	No
	Does the proposal dominate the skyline and reduce the quality of vistas?	No
	Does the proposal respect the viewing rights of other advertisers?	Yes
Streetscape, setting or landscape	Is the scale, proportion and form of the proposal appropriate for the streetscape, setting or landscape?	Yes
	Does the proposal contribute to the visual interest of the streetscape, setting or landscape?	Yes
	Does the proposal reduce clutter by rationalising and simplifying existing advertising?	N/A
		No

	Does the proposal screen unsightliness?	No
	Does the proposal protrude above buildings, structures or tree canopies in the area or locality?	No
	Does the proposal require ongoing vegetation management?	
Site and building	Is the proposal compatible with the scale, proportion and other characteristics of the site or building, or both, on which the proposed signage is to be located?	Yes
	Does the proposal respect important features of the site or building, or both?	Yes
	Does the proposal show innovation and imagination in its relationship to the site or building, or both?	Yes
Associated devices and logos	Have any safety devices, platforms, lighting devices or logos been designed as an integral part of the signage or structure on which it is to be displayed?	No
Illumination	Would illumination result in unacceptable glare?	N/A
	Would illumination affect safety for pedestrians, vehicles or aircraft?	N/A
	Would illumination detract from the amenity of any residence or other form of accommodation?	N/A
	Can the intensity of the illumination be adjusted, if necessary?	N/A
	Is the illumination subject to a curfew?	N/A
Safety	Would the proposal reduce the safety for any public road?	No
	Would the proposal reduce the safety for pedestrians or bicyclists?	No
	Would the proposal reduce the safety for pedestrians, particularly children, by obscuring sightlines from public areas?	No

The proposed sign is designed with regard to the character of the locality, is non-illuminated and appropriate to the setting at the gateway frontage of the proposed accessway for the child care centre. Accordingly, the proposed sign is acceptable with regard to the assessment criteria contained within *SEPP 64* and would meet the objective of the Policy.

2.4 Rural Fires Act 1997

The site is in a bushfire prone area with the fire threat to the south and east of the site from bushland corridors along creek lines which link Berowra Valley National Park.

The proposed child care centre is '*integrated development*' subject to approval of the NSW Rural Fire Service for the issue of a Bush Fire Safety Authority pursuant to Section 100B of the *Rural Fires Act 1997*.

The NSW Rural Fire Service has raised no objections and has issued a Bush Fire Safety Authority for the proposed child care centre subject to conditions concerning asset protection zones, water and utilities, access, evacuation and emergency management, design and construction and landscaping.

2.5 Children (Education and Care Services) Supplementary Provisions Regulation 2012

NSW Education and Communities regulates the licensing and operation of child care centres in accordance with the above Regulation. Clause 28 of the Regulation provides for the functional space requirements of child care centre premises.

The following table sets out the proposal's compliance with the Regulation:

Control	Proposal	Compliance
Consultation Room	Office / Interview Room	Yes
Respite Staff Room	Staff Room	Yes
Sleeping Room 0-2 yr	Cot Room – 20 cots	Yes
Min 3.25m ² Indoor Play Space per child	4.53m ²	Yes
Min 7.0m ² Outdoor Play Space per child	16m ²	Yes
Max 40 places 0-2 year old	40	Yes
Laundry	Laundry 8.1m ²	Yes
Separate Sink Craft Area	Indoor play areas include craft sinks	Yes
Food Preparation Facilities	Kitchen 24.8m ²	Yes
Toilets and Washing Facilities	Three bathroom/toilets for children and two toilets for staff	Yes
Nappy Change Facilities	Nappy Change Room	Yes
Storage Facilities	Storerooms – Indoor and Outdoor	Yes

The proposal would meet NSW Education and Communities regulatory space requirements for the operation of a child care centre.

The centre would employ 24 staff members in compliance with the respective staff/child ratios as follows:

- 1:4 for children under 2 years (40 children = 10 staff)
- 1:8 for children between 2 and 3 years (35 children = 5 staff)

- 1:10 for children between 3 and 6 years (61 children = 6 staff)

A minimum of 4 qualified teaching staff would be required for the proposed centre.

A condition is recommended that the outdoor play space be adequately shaded in accordance with *The Shade Handbook, published by the New South Wales Cancer Council* in 2008 prior to the issue of the Occupation Certificate.

The proposal is assessed as satisfactory with respect to the provisions of the *Regulation*. The applicant submitted a Plan of Management for the operation of the child care centre consistent with the *Regulation* and relevant to the site. A condition is recommended for the Plan of Management to be maintained in respect to the regulatory requirements for the operation of the centre.

2.6 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.

The proposed waste water treatment system is to a tertiary level and would meet WaterNSW guidelines for water supply catchment areas and would not adversely impact on the Hawkesbury-Nepean River. Refer to discussion in Section 2.9.5.

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 Draft State Environmental Planning Policy (Educational Establishments and Child Care Facilities) 2017

Draft State Environmental Planning Policy (Educational Establishments and Child Care Facilities) 2017 (draft SEPP) is currently subject to public consultation by the Department of Planning and Environment until 24 March 2017.

The draft SEPP makes provision for compliance with the space requirements of the *Education and Care Services National Regulations* and the *Children (Education and Care Services) Supplementary Provisions Regulation 2012* and requires the concurrence of the Regulatory Authority for the approval of proposed child care centres that do not comply. The draft SEPP includes non-discretionary development standards and requires consideration of the *Child Care Planning Guideline* (also on exhibition) which includes development control measures for child care centres and excludes certain requirements under existing Development Control Plans. The draft SEPP includes matters for consideration for proposed centres in IN1 General Industrial and IN2 Light Industrial zones.

The proposed child care centre complies with the space requirements of the *Children (Education and Care Services) Supplementary Provisions Regulation 2012* and would not be inconsistent with the provisions of the draft SEPP or the *Child Care Planning Guideline*. It is noted a maximum total number of child care centre places is not a matter for consideration in either the draft SEPP or the Guideline.

The applicant submitted an addendum to the Statement of Environmental Effects in respect to the provisions of the draft SEPP and the *Child Care Planning Guideline*. The proposed child care centre would comply with the draft provisions and the Guideline.

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

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

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

2.9 Hornsby Development Control Plan 2013

The proposed development has been assessed having regard to the relevant desired outcomes and prescriptive requirements within the *Hornsby Development Control Plan 2013 (HDCP)*. An assessment of the development against the relevant sections of the *HDCP* is provided below.

2.9.1 Accessible Design

The proposed child care centre is a single storey building and involves an at grade car parking area.

The applicant has submitted an Accessibility Review Report concerning the proposal in respect to the design of the proposed development for people with a disability and the *Building Code of Australia* requirements and the *Disability (Access to Premises – Buildings) Standards 2010* for which compliance is required in accordance with *HDCP* Section 1C.2.2 Accessible Design.

The review determined the proposal can readily achieve compliance with the access design provisions, subject to implementation of the recommendations of the Accessibility Review Report. A condition is recommended in this regard.

2.9.2 Transport and Parking

The proposed child care centre is located 800m from public transport (bus route).

The proposed child care centre includes 35 car parking spaces in accordance with the *HDCP* requirement for 1 space per 4 children (34 spaces). Refer also to discussion in Section 2.9.6 b.

The design of the proposed car park is satisfactory for the safe movement of vehicles and pedestrians in accessing the child care centre. Separate pedestrian and vehicle access is proposed off Harris Road.

The proposed design would enable a HRV waste collection vehicle to enter and leave the site in a forward direction. In this regard, a condition is recommended for a car park management plan to ensure the safety of waste collection services during the centre's operating hours.

The proposal is acceptable in respect to the *HDCP* desired outcome for transport and parking.

Refer also to discussion concerning traffic in Section 3.2.2.

2.9.3 Noise and Vibration

The site is in a semi-rural area with low background noise levels (35 dB(A)).

The applicant has submitted an Acoustic Assessment which includes an analysis of the background noise levels, noise emissions from the proposed indoor / outdoor play areas and the car park and the noise emissions from traffic on surrounding roads.

The assessment adopted a noise criteria of + 10 dB(A) above background noise levels for up to two hours duration for the outdoor play areas and + 5 dB(A) for unlimited duration. The adopted noise criteria is above the NSW Industrial Noise Policy measure of + 5 dB(A) above background noise levels. The disparity between industrial noise and noise generated by groups of children has been a consideration in decisions of the Land and Environment Court. A measure of + 10 dB(A) has been adopted in Court decisions concerning child care centre developments (*Janusz Usien v Hornsby Shire Council*). The adopted noise level is therefore acceptable.

The predicted noise level from the outdoor play areas with a maximum of 68 children is 44 dB(A) at the nearest residential premises (50m – No. 24 Quarry Road, Dural) which would comply with the adopted noise criteria, subject to recommended acoustic fencing of the playground area. A condition is recommended for not more than 68 children within the outdoor play areas at any one time.

The predicted noise level of 40 dB(A) for the indoor play areas complies with the NSW Industrial Noise Policy.

A condition is recommended for the proposed acoustic fence along the northern boundary of the playground area to also be provided along the northern boundary of the proposed accessway and car park to minimise noise impacts from vehicles accessing the child care centre.

The proposed hours of operation are acceptable in respect to amenity and noise impacts. The proposal includes a Plan of Management which addresses operational procedures to minimise noise impacts.

The proposal would meet the *HDCP* desired outcome to minimise noise impacts subject to recommended conditions.

2.9.4 Land Use Separation

The proposed child care centre would be a sensitive land use and adjoin land on the northern boundary and eastern boundary which have potential for intensive rural activity.

The northern and eastern boundaries are well vegetated with existing trees and shrubs which would provide a vegetation buffer to surrounding land uses. In this regard, the *HDCP* requires a land use separation of 20m to intensive plant agriculture (irrigated crops, horticulture, turf farming and viticulture). The nearest intensive plant agriculture use is located 250m north-west of the site. The adjoining properties involve rural/residential and home business uses. Any change of use of the adjoining land to intensive plant agriculture would be subject to development consent in the subject RU2 Rural Landscape zone.

The proposed child care centre would not result in a land use conflict with any agricultural land given the land use planning controls under *HLEP*.

2.9.5 Effluent Disposal

The proposed child care centre would require the on-site disposal of waste water.

The proposed on-site waste water management system is an Aerated Wastewater Treatment System (AWTS) which would enable on-site disposal of treated waste water to a tertiary level. The proposal is for the disposal of chlorine treated effluent to a mound system which comprises an Ecomax Advanced

Tertiary Amended Soil solid matrix filtration (Ecomax cell). The treated effluent from the system is effectively odourless and would meet the WaterNSW *Neutral or Beneficial Effect on Water Quality Assessment Guideline 2011* but is not potable.

The applicant has submitted an Ecomax Waste Management which details the layout, design, technical specifications and maintenance of the proposed waste water management system which addresses the *HDGP* prescriptive measures for effluent disposal.

The proposed system is similar to the system installed at the existing child care centre complex at No. 831 Old Northern Road, Dural. An operating licence was reissued for this system by Council on 22 July 2015 in accordance with the *Local Government (General) Regulation 2005*.

The proposed system is acceptable for the safe operation of the proposed child care centre, the adjoining land uses, downstream water quality and ongoing maintenance, subject to recommended conditions.

2.9.6 HDGP Part 7 Community Uses

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

Hornsby Development Control Plan 2013 – Part 7 Community Uses			
Control	Proposal	Requirement	Compliance
Height	7.5m	10.5m	Yes
Site Coverage	1,300m ² - 20%	on merit	Yes
Maximum Number of Places	136	90	No
% Places 0-2 yr	29%	25%	Yes
North Side Setback	10m	10m	Yes
East Side Setback	36m	10m	Yes
West Side Setback	46m	10m	Yes
Rear Setback	150m	15m	Yes
Outdoor Play	16m ² per child	15m ² per child	Yes

Area			
Indoor Play Space	4.5m ² per child	4.5m ² per child	Yes
Car Parking	35 spaces	34 spaces	Yes

As detailed in the above table, the proposed development complies with the prescriptive requirement for child care centres within a rural zone other than the maximum number of child care places. Below is a brief discussion on compliance with relevant development controls.

a. Site Requirements

The proposed child care centre is located within a rural zone.

The *HDCP* prescriptive measure is for community uses not to be located on battle-axe allotments. The proposed centre is accessed off a 10m wide right of carriageway off Harris Road which provides for two-way traffic. The carriageway frontage is a uniform alignment which provides an appropriate frontage to the site 70m south of the intersection with Quarry Road. The road alignment south of the carriageway is curvilinear to No. 1 Harris Road, providing for a curved frontage different to the subject site. The width of the carriageway and the existing block walls to the entry gateway and the proposed signage would adequately define the site frontage as suitable for the proposed use. In this regard, the proposal is acceptable in respect to the *HDCP* site requirement prescriptive measure.

The site would be a preferred location for a community facility being within 400m walking distance of an existing school, in accordance with the *HDCP* site requirements.

The proposal is acceptable in addressing the *HDCP* requirement for separation from intensive, offensive or hazardous landuses as discussed in Section 2.9.4.

b. Scale

The 2.428 hectare site is physically divided into upper, middle and lower areas.

The upper area of the site proposed for the child care centre has an area of approximately 6,600m². The proposed child care centre would result in a site coverage of 20% of the upper site area. The proposed site coverage is acceptable in being proportionally less than the *HDCP* maximum site coverage of 30% for rural zoned sites 1,500m² to 3,999m² in area.

The proposed 136 child care centre places would exceed the maximum of 90 places required in accordance with the *HDCP* prescriptive measure for rural zoned land. The proposed centre would however, comply with the maximum site coverage for rural development and is acceptable in respect to the site requirements for community facilities, car parking, traffic, the acoustic environment, the existing building footprint and minimal impact on the natural environment.

The *Hornsby Child Care Planning Review 2006* included discussion concerning the maximum number of child care centre places which notes that (at the time of the Study) around 50 places is the baseline level required to operate a viable service. However, the commercial viability of a centre should be balanced against the environmental and amenity impacts of the development. In this regard, the Study notes that a number of councils, including Hornsby, limit the numbers of places in a child care centre to limit amenity impacts on surrounding residents. Accordingly, the Study recommended a maximum size for childcare centres in the rural areas of the Shire of 90 children. It was submitted that the size provides an appropriate balance between an economically viable service and maintaining the

amenity and character of the area. In accordance with the recommendations of the Study, the HDCP 2013 includes a maximum size for childcare centres and limits the number of centres per allotment to a maximum of one centre.

Accordingly, a condition is recommended for the proposed development to comply with the maximum of 90 child care centre places in accordance with the *HDCP*. In this regard, a condition is also recommended for 11 car parking spaces to be deleted. The imposition of this condition would limit the intensity of the development to that envisaged for the rural areas of the Shire and reduce associated traffic generation and noise impacts.

It is noted a child care centre complex at No. 831 Old Northern Road, Dural (corner Quarry Road) has approval for 110 places (DA/71/2002 – Land and Environment Court appeal decision). However, in the case of this appeal, the Commissioner noted that the site was located adjacent to the Dural Service Centre. Therefore, the proposal was not inconsistent with the changing character of the area. Furthermore, the Commissioner noted that the approval permitted a total of 110 children between 3 centres on the subject site and not 90 children per centre.

c. Landscaping and Open Space

The submitted playspace/landscape design plan has been prepared with regard to the relevant Australian Standards for playgrounds and playground equipment. The outdoor play areas comply with the *HDCP* requirement for rural zones for 15m² of outdoor play area per child.

The proposed playground areas would be provided with compliant solar access and shade areas and would meet the activity needs of children in accordance with the *Best Practice Guidelines in Early Childhood Physical Environments* (DoCS 1997).

The proposed landscaping of the child care centre site retains existing trees and is appropriate in meeting the *HDCP* prescriptive measures for landscaping to soften the development and provide screen planting. A condition is recommended for the landscaping to be extended along the right of carriageway and to include the entry gateway.

The landscape plan includes the undeveloped north eastern corner of the site comprising an area of approximately 700m² for 'natural turf'. A condition is recommended for the area to form a natural landscape area and be regenerated for locally indigenous Peppermint-Angophora Forest vegetation community, subject to requirements of the Rural Fire Service.

Refer also to Section 3.1.1.

d. Privacy, Security and Sunlight

The proposed child care centre is > 50m from the nearest residence and therefore, would not detract from the amenity of adjoining properties in respect to privacy and access to sunlight.

The applicant has submitted a Crime Risk Assessment for the proposed child care centre in respect to Crime Prevention Through Environmental Design (CPTED) principles and Crime Statistics Hornsby LGA. The assessment includes the following conclusion:

The design of the proposed child care centre meets the CPTED principles. The development has been designed with clear definition between private and public space, the design of the child care centre and clearly demarcated entry allows for casual surveillance of the public domain and access points to/within the site.

The crime statistics indicate that offences relevant to the child care centre are stable or decreasing in Hornsby LGA, the proposed design and management of the site ensures the development proposal is not considered to be a crime risk.

The assessment is supported in respect to the layout and design of the centre in providing casual surveillance of the public domain.

The proposed child care centre site is a stand-alone site separate from surrounding land uses and with independent access off Harris Road. The site's existing access handle off Quarry Road would not be required for the proposal. A condition is recommended for the Quarry Road access to be secured for the operation of the centre.

The proposed centre would meet the HDCP desired outcome for privacy, security and sunlight.

e. Design Details

The proposed child care centre building would comply with the *HDCP* requirements for rural setbacks, height and site coverage. The proposed low scale contemporary designed building would not be visually intrusive or detract from the rural character of the locality.

The proposed child care centre floor plan, room sizes and layout of the outdoor play areas, would accord with best practice in accordance with the draft *Child Care Planning Guideline*.

The proposed materials and finishes are appropriate in complementing the character of the area and defining the function of the building. The design incorporates the proposed business identification sign.

The proposal would meet the HDCP desired outcomes for design details.

2.10 Section 94 Contributions Plans

Hornsby Shire Council Section 94A Contributions Plan 2012 – 2021 applies to the development as the estimated costs of works is greater than \$100,000. Should the application be approved, an appropriate condition of consent is recommended requiring the payment of a contribution in accordance with the Plan.

3. ENVIRONMENTAL IMPACTS

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

3.1 Natural Environment

3.1.1 Tree and Vegetation Preservation

There are ten trees on the site of the proposed child care centre comprising the upper area of the site which is predominantly cleared of vegetation.

The proposed development would necessitate the removal of one tree (Tree No. 1 – *Eucalyptus microcorys* – Tallowood) from the site. The tree is on the Harris Road nature strip and is proposed for removal for the proposed accessway. The tree is not locally indigenous, has poor form and is acceptable for removal subject to condition for replacement tree planting.

The remaining trees on the site are mainly exotic species and would be retained in the proposed landscaping.

A condition is recommended for the replacement planting of 3 trees on the site. A condition is also recommended for the landscape plan to be amended for the regeneration of the locally indigenous Peppermint-Angophora Forest vegetation community in the north east portion of the site.

3.1.2 Stormwater Management

The proposed stormwater drainage system includes water sensitive urban design and stormwater detention facilities to minimise impacts on downstream water quality. The proposed system would drain to the existing farm dam and a natural watercourse.

The submitted stormwater drainage system is acceptable subject to recommended conditions.

3.2 Built Environment

3.2.1 Built Form

The proposed child care centre is a large, single storey purpose built building on a battleaxe site on rural zoned land.

The proposed building would not be readily visible from Harris Road or Quarry Road. The proposed accessway off Harris Road is existing and would generally maintain the presentation of the site in respect to the rural character of the locality.

3.2.2 Traffic

A traffic and parking assessment has been submitted with the proposal which was revised during the assessment to include a Level of Service (LoS) analysis of the intersection of Harris Road and Quarry Road. The intersection would continue to maintain an 'A' rating LoS for the proposed traffic generation of an estimate of 80 vehicles in the AM peak (7.00am to 9.30am) and 80 vehicles in the PM peak (3.00pm to 6.30pm). The traffic would be evenly spread over the peak periods. The assessment includes the following statement:

The traffic movements along Quarry Road are relatively minor although heightened to some extent during the arrival and departure times at the Pacific Hills School. The traffic movements along Harris Road are also quite minor although again there is some heightened activity during the arrival and departure times at Warrah School.

Traffic conditions in the area are generally satisfactory despite significant peak period traffic movements on the Old Northern Road however the traffic signals at the Quarry Road intersection provides safe controlled access to/from Old Northern Road.

The assessment concludes that:

- *The traffic generation of the proposed development will be relatively minor and not present adverse traffic implications;*
- *The proposed parking provision will be quite adequate for the needs of the development; and*
- *The proposed vehicle access, internal circulation and parking arrangements will be appropriate to current design standards.*

Council's engineering assessment of the traffic impacts of the proposal notes that the traffic issue on Quarry Road in the PM peak due to the neighbouring Pacific Hills Christian School (PHCS) will not be exacerbated. The PM Peak of PHCS is at 2:45pm-3:45pm while the proposed child care centre PM

Peak is at 4:00pm-5:00pm which does not coincide, maintaining a level of service (LOS) A at the intersection of Quarry Road and Harris Road.

In addition to the above, the AM peaks do coincide but for 15 minutes over 2 hour duration and hence traffic impacts are reduced and also maintain a LOS A at the intersection of Quarry Road and Harris Road. The traffic generation of the proposed child care centre is approximately 48 vehicle trips per hour during the AM peak which represents less than 1 vehicle per minute.

Given that less than 1 vehicle per minute in the AM peak would be contributing to the intersection of Quarry Road and Harris Road by the proposed child care centre, the increase in traffic generation would not show any significant changes to the intersection analysis of Old Northern Road and Quarry Road. This would also be the case for the PM peak as it does not coincide with the PHCS PM peak.

The proposed child care centre is therefore acceptable on traffic and parking grounds subject to recommended conditions. It should be noted the above assessment is for a 136 place centre. Therefore, the traffic impacts associated with the recommended 90 place centre would be reduced.

3.3 Social Impacts

The proposed child care centre would be of positive social benefit in the provision of child care centre places in an area in close proximity to an existing school. The proposal would also provide local employment opportunities.

3.4 Economic Impacts

The proposal would have a minor positive impact on the local economy 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”*.

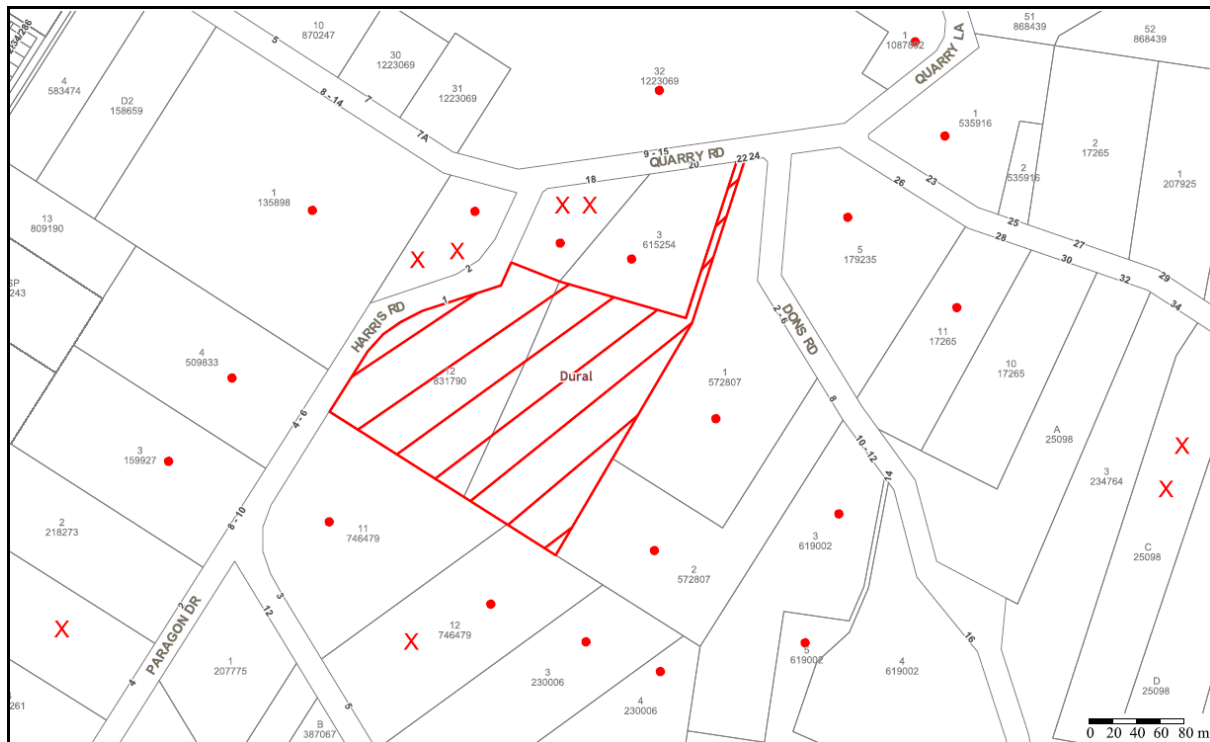
The site is considered to be capable of accommodating the proposed development.

5. PUBLIC PARTICIPATION

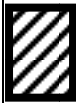
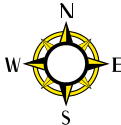
Section 79C(1)(d) of the Act requires Council to consider *“any submissions made in accordance with this Act”*.

5.1 Community Consultation

The proposed development was placed on public exhibition and was notified to adjoining and nearby landowners between 29 September and 28 October 2016 in accordance with the Notification and Exhibition requirements of the *HDCP*. The proposal was renotified from 3 November to 17 November 2016 for the placement of a notification sign at the Harris Road frontage of the site. During these periods, Council received 25 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	
17 SUBMISSIONS RECEIVED OUT OF MAP RANGE			

Twenty five submissions objected to the proposal. The grounds for objection are addressed as follows:

5.1.1 Traffic and Road Safety

Traffic generation was raised as a concern in association with the traffic impacts of the existing Pacific Hills Christian School on Quarry Road.

The applicant submitted an analysis (SIDRA) of the intersection of Harris Road and Quarry Road which demonstrates the proposal would maintain an 'A' Level of Service for the intersection.

The proposal would comply with the *HDCP* requirements for car parking provision and vehicle access for child care centres.

Refer to discussion in Section 2.9.2 and Section 3.2.2.

5.1.2 Bush Fire Impact

Evacuation of the child care centre during a bush fire emergency was raised as a concern.

An Emergency/Evacuation Plan is required to be implemented for the proposal in accordance with the NSW Rural Fire Service recommended conditions.

5.1.3 Waste Water Management

The capacity of the proposed waste water management system was raised as a concern.

The proposed waste water management system is designed with surplus operating capacity and includes an auxiliary pump-out facility in the event the Ecomax system is non-functional.

5.1.4 Waste Collection Hours

Out of hours waste collection was raised as a concern due to noise impacts.

The proposed waste collection is to be undertaken during operating hours subject to a Plan of Management.

5.1.5 Unclear address of the proposed development

The submitted plans and documentation referred to No. 1 Harris Road, Dural. However, the proposal was notified as No. 22 Quarry Road, Dural.

An additional notification sign for the proposed development was placed at the No. 1 Harris Road frontage. The proposed development has been notified in accordance with the *HDGP* requirements.

5.1.6 The proposed number of child care places exceeds the maximum number of 90 places

The non-compliance with the maximum number of places was raised as a concern.

Refer to discussion in Section 2.9.6 b. It is recommended that the proposal be conditioned to comply with the maximum 90 place size requirement of the *HDGP* 2013.

5.1.7 Loss of rural amenity

The loss of rural amenity was raised as a concern.

Refer to discussion in Section 2.9.6 e and Section 3.2.1.

5.2 Public Agencies – NSW Rural Fire Service

The proposed child care centre was referred to the NSW Rural Fire Service pursuant to Section 100B of the *Rural Fires Act 1997*.

The NSW Rural Fire Service has granted approval for a Bush Fire Safety Authority for the proposed child care centre subject to conditions concerning asset protection zones, water and utilities, access, evacuation and emergency management, design and construction and landscaping.

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 proposal is for the construction of a child care centre for 136 child care places and signage on rural zoned land.

The proposed child care centre complies with *HLEP* and the *Children (Education and Care Services) Supplementary Provisions Regulation 2012* and *SEPP 55*. The proposal would be consistent with the draft *State Environmental Planning Policy (Educational Establishments and Child Care Facilities) 2017* and the draft *Child Care Planning Guideline*.

The proposal is generally satisfactory in respect to the *HDCP* requirements for accessible design, transport and parking, noise and vibration, land use separation, effluent disposal and the site requirements, landscaping, open space, privacy, security, sunlight and design requirements of the *HDCP* for community facilities. A condition is recommended for the proposal to comply with the *HDCP* maximum of 90 places for child care centre development in rural zones.

The proposed signage is satisfactory in meeting the assessment criteria of *SEPP 64*.

25 submissions were received in response to notification of the proposed development.

The application is recommended for approval subject to conditions in Schedule 1 of this report.

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.[ViewViewView](#) Locality Map
- 2.[ViewViewView](#) Site Plan
- 3.[ViewViewView](#) Landscape Plan
- 4.[ViewViewView](#) Car Park Plan
- 5.[ViewViewView](#) Floor Plans
- 6.[ViewViewView](#) Elevations
- 7.[ViewViewView](#) Signage Details
- 8.[ViewViewView](#) Survey Plan
- 9.[ViewViewView](#) Roof Plan

File Reference: DA/1109/2016
Document Number: D07132256

ITEM 2

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
A02.00 Issue A	General Site Plan	Art Made Architects	05.09.2016
A02.01 Issue C	Childcare Site Plan	Art Made Architects	21.12.2016
A03.01 Issue B	Car Parking Area Plan	Art Made Architects	21.12.2016
A03.02 Issue A	Floor Plan	Art Made Architects	05.09.2016
A03.03 Issue A	Roof Plan	Art Made Architects	05.09.2016
A04.01 Issue A	External Elevations	Art Made Architects	05.09.2016
A05.01 Issue A	Building Sections	Art Made Architects	05.09.2016
A06.03 Issue A	Proposed Finishes	Art Made Architects	05.09.2016
1/4	Final Tree Plan	Tessa Rose Landscapes	26 Aug 2016
2/4	Final Play Area	Tessa Rose Landscapes	29 Aug 2016
3/4	Final Full site	Tessa Rose Landscapes	29 Aug 2016
4/4	Final Details	Tessa Rose Landscapes	26 Aug 2016
A50.1 Issue A	Signage Details	Art Made Architects	25.01.2017
C3.01 Issue B	Soil and Water Management Plan	ACOR Consultants	31.08.16
C1.06 Issue B	Details Sheet 2	ACOR Consultants	31.08.16

Document Title	Prepared by	Dated
Water Sensitive Urban Design Strategy Report	Acor Consultants Pty Limited	Sept 2016
On-site Wastewater Management Report	Envirotech	5 April 2016
Ecomax Waste Management Report	Australian Environmental Wastewater Solutions P/L	4/11/16
Arboricultural Impact Assessment Report	DKG Arboricultural Services	5 Sept 2016
Bushfire Risk Assessment	Bushfire Planning Services	12 July 2016
DA Acoustic Assessment for Childcare Centre	Acoustic Logic	12/10/2016
Accessibility Review Report – DA Review	ABE Consulting	29 August 2016
Detailed Site Investigation	E I Australia	30 Nov 2016
Waste Management Plan	Art Made Architects	5 Sept 2016
Plan of Management Proposed Childcare Centre	Unknown	7 Sept 2016

2. Removal of Existing Trees

- a) This development consent permits the removal of tree numbered T1 as identified on plan number A02.1 Issue A Child Care Site Plan prepared by Art Made Architects, dated 05.06.2016.
- b) The removal of any other trees requires separate approval in accordance with the Tree and Vegetation Chapter 1B.6 *Hornsby Development Control Plan (HDCP)*.

3. Amendment of Plans

- a) To comply with Councils requirement in terms of tree protection, landscaping, acoustics and scale, the approved plans are to be amended as follows:
 - i) The unidentified tree on the Harris Road nature strip on the southern side of the accessway is to be identified as T1A *Eucalyptus saligna* – Sydney Blue Gum and retained.
 - ii) The unidentified tree on the Harris Road nature strip on the northern side of the tree T1 is to be identified as T1B *Corymbia maculate* – Spotted Gum and retained.
 - iii) The north eastern part of the child care centre site shown as ‘native grass turf area’ on the landscape plan drawing No 2/4 is to be replaced with plant species of the locally indigenous Peppermint-Angophora vegetation community and the landscape plan amended accordingly to establish a

natural landscaped area (subject to NSW Rural Fire Service landscaping requirements).

- iv) The landscape plan is to be amended to extend the landscaping along the right of carriageway and to include appropriate treatment of the gateway entry.
- v) The acoustic fence detailed on the northern boundary is to also be constructed along the northern boundary to the car park and the right of carriageway.
- vi) The number of child care centre places is to reduce from 136 to a maximum of 90 children and the car parking area plan amended for deletion of spaces Nos 1 to 11.
- b) These amended plans must be submitted with the application for the Construction Certificate.

4. Construction Certificate

- a) A Construction Certificate is required to be approved by Council or a Private Certifying Authority prior to the commencement of any works under this consent.
- b) A separate Construction Certificate must be obtained from Council for all works within the public road reserve under S138 of the *Roads Act*.
- c) A separate Construction Certificate must be obtained from Council for all works within drainage easements vested in Council.
- d) The Construction Certificate plans must not be inconsistent with the Development Consent plans.

5. Section 94A Development Contributions

- a) In accordance with Section 80A(1) of the *Environmental Planning and Assessment Act, 1979* and the *Hornsby Shire Council Section 94A Development Contributions Plan 2014-2024*, \$24,495.00 must be paid to Council to cater for the increased demand for community infrastructure resulting from the development, based on development costs of \$2,449,500.
- b) The value of this contribution is current as at 15 February 2017. If this contribution is not paid within the financial quarter that this condition was generated, the contribution payable will be adjusted in accordance with the provisions of the Hornsby Shire Council Section 94 Development Contributions Plan and the amount payable will be calculated at the time of payment in the following manner:

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

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 must be paid to Council:
- d) prior to the issue of the Subdivision Certificate where the development is for subdivision; or
- e) prior to the issue of the first Construction Certificate where the development is for building work; or
- f) prior to issue of the Subdivision Certificate or first Construction Certificate, whichever occurs first, where the development involves both subdivision and building work; or
- g) prior to the works commencing where the development does not require a Construction Certificate or Subdivision Certificate.

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

Council's S94A Development Contributions Plan may be viewed at www.hornsby.nsw.gov.au 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 approved building work must be carried out in accordance with the relevant requirements of the Building Code of Australia.

7. Utility Services

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

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

8. Traffic Control Plan

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

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

- f) Pedestrian and cyclist access/safety.

9. Stormwater Drainage

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

- a) Constructed generally in accordance with the drawing No C2.01, issue C, project No Sy160440 dated 31.08.16.
- b) Be designed by a Chartered Professional Civil/ Hydraulic Engineer of the Institution of Engineers, Australia.

10. On Site Stormwater Detention

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

- a) Storage capacity to accommodate volume from up to 20 years ARI (average recurrence interval) storms and a maximum discharge (when full) limited to 5 years pre development rate.
- b) Have a surcharge/inspection grate located directly above the outlet. 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 system.
- c) Where above ground system is proposed and the average depth is greater than 0.3 metres, a 'pool type' safety fence and warning signs to be installed.
- d) Not be constructed in a location that would impact upon the operation requirements of the child care centre.
- e) Detail calculations are to be shown on the construction certificate plan.
- f) An overflow/escape path shall be incorporated in the design.

11. Vehicular Crossing

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

- a) Design levels at the front boundary must be obtained from Council for the design on the internal driveway;
- b) A 5.5m wide and 6m long passing bay is to be constructed at the intersection of the driveway and Harris Road;
- c) Any redundant crossings must be replaced with integral kerb and gutter;
- d) The footway area must be restored by turfing; and

- e) Approval must be obtained from all relevant utility providers that all necessary conduits be provided and protected under the crossing.

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

12. Internal Driveway/Vehicular Areas

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

- a) Design levels at the front boundary shall be obtained from Council if a private accredited certifier is engaged to obtain a construction certificate for these works.
- b) The driveway be a rigid pavement.
- c) Longitudinal sections along both sides of the access driveway shall be submitted to the principal certifying authority in accordance with the relevant sections of AS 2890.1. The maximum grade shall not exceed 1 in 4 (25%) with the maximum changes of grade of 8%. Any transition grades shall have a minimum length of 2 metres. The longitudinal sections shall incorporate the design levels obtained by Council.

13. Acoustical Treatment

The child care centre development must be carried out in accordance with the recommendations contained within the Acoustic Assessment document number 20160902.1/1507A/R3/HP prepared by Acoustic Logic dated 12 October 2016.

14. Accessible Design

The child care centre development must be carried out in accordance with the recommendations contained within the Accessibility Review Report dated 29 August 2016 prepared by ABE Consulting.

15. Construction Traffic Management Plan

To enable unencumbered movement of traffic in the public road during construction works, a Construction Management Plan, including a Traffic Management Plan and scaled construction plans prepared by a suitably Chartered and Qualified Chartered Civil Engineer and Qualified Worksite Traffic Controller shall be prepared and submitted to Hornsby Shire Council for approval according to the following requirements:

- a) A copy of the plans shall be submitted for consideration and written approval by Hornsby Shire Council prior to the release of the Construction Certificate.
- b) The plans shall detail the order of construction works and arrangement of all construction machines and vehicles being used at the same time during all stages.
- c) The CTMP plans shall be in accordance with the approved Development Application plans and the Development Consent conditions.

- d) To prevent injury, accident and loss of property, no building materials, work sheds, vehicles, machines or the like shall be allowed to remain in the road reserve area without the written consent of Hornsby Shire Council.
- e) The Plan shall be generally in compliance with the requirements of the Road and Traffic Authority's "Traffic Control at Worksites Manual 1998" and detailing:-
 - i) Public notification of proposed works;
 - ii) Long term signage requirements;
 - iii) Short term (during actual works) signage;
 - iv) Vehicle Movement Plans, where applicable;
 - v) Traffic Management Plans;
 - vi) Pedestrian and Cyclist access and safety;
- f) The plans shall indicate traffic controls including those used during non-working hours and shall provide pedestrian access and two-way traffic in the public road to be facilitated at all times.
- g) The plans shall include the proposed truck routes to and from the site including details of the frequency of truck movements at the different stages of the development. The plan shall also include details of parking arrangements for all employees and contractors.
- h) The Applicant and all employees of contractors on the site must obey any direction or notice from the Prescribed Certifying Authority or Hornsby Shire Council to ensure the above.
- i) If there is a requirement to obtain a Work Zone, partial Road Closure or Crane Permit an application to Hornsby Shire Council is to be made prior to the issue the Construction Certificate

16. Wastewater System Approval

- a) An on-site sewage management system, separately approved under the *Local Government Act, 1993*, must be installed, commissioned and certified by a licensed plumber in accordance with Australian Standard 1547 – Onsite Domestic Wastewater Management (2000) and Environment & Health Protection Guidelines – Onsite Sewage Management for Single Households (1998).
- b) The certificate must be submitted to the PCA prior to the issue of an occupation certificate.

17. Waste Management Details

The following waste management requirements must be complied with:

- a) A Waste Management Plan Section One – Demolition Stage and Section Three – Construction Stage, covering the scope of this project and including the following details, is required to be submitted to Council:
 - i) An estimate of the types and volumes of waste and recyclables to be generated;

- ii) A site plan showing sorting and storage areas for demolition and construction waste and the vehicle access to these areas;
 - iii) How excavation, demolition and construction waste materials will be reused or recycled and where residual wastes will be disposed;
 - iv) The total percentage (by weight) of demolition and construction waste that will be reused or recycled.
- b) Parking spaces numbered 19-32 must be marked by paint (not by raised kerb).
 - c) There must be a path no less than 1.5 m wide between the bin storage area and the waste collection vehicle parking location and adjoining car parking space number 16, 17 or 18. There must be no steps along this path.

REQUIREMENTS PRIOR TO THE COMMENCEMENT OF ANY WORKS

18. Erosion and Sediment Control

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

Note: On the spot penalties may be issued for any non-compliance with this requirement without any further notification or warning.

19. Installation of Tree Protection

- a) Tree protection zone fencing (TPZF) must be erected around Tree 1A *Eucalyptus saligna* and Tree 1B *Corymbia maculata* in accordance with section 1B.6.1.i of HDGP. The fencing must be retained at the perimeter of the nominated TPZ setbacks contained in the Council Tree assessment sheets D07082018

Tree Number and Species	TPZF
Tree 1A <i>Eucalyptus saligna</i>	7.2
Tree 1B <i>Corymbia maculata</i>	5.4

- b) Excavation
 - i) Any necessary excavation must be undertaken by sensitive methods such as pneumatic or by hand as prescribed in AS 4970-2007 Sections 4.5.5.
 - ii) Existing grade must be retained within the TPZ of all trees being retained.
- c) Installing Services
 - i) The installation of all services which enter or transects a designated TPZ must utilise sensitive methods of installation such as directional drilling or in manually excavated trenches.
 - ii) The process must be monitored by the project arborist to assess the likely impacts of boring and bore pits on retained trees.

- iii) For manual excavation of trenches the project arborist must advise on roots to be retained and must monitor the works. Manual excavation may include the use of pneumatic and hydraulic tools. Refer AS 4970-2007 Section 4.5.3.

20. Building Materials and Site Waste

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

21. Detailed Contamination Report – prior to construction

To resolve data gaps noted in the Detailed Site Investigation dated 30 November 2016 a further detailed investigation of the proposed development site must be prepared by a suitably qualified environmental consultant and submitted to Council for approval. Such investigation must be undertaken in accordance with NSW Environment Protection Authority's Contaminated Sites – Guidelines for Consultants Reporting on Contaminated Sites and Contaminated Sites – Sampling Design Guidelines.

A Remedial Action Plan (RAP) must be prepared by a suitably qualified environmental consultant and submitted to Council should the detailed investigation reveal contamination exceeding criteria prescribed by the NSW Environment Protection Authority's *Contaminated Sites – Guidelines for the NSW Site Auditor Scheme*.

22. Site Remediation Verification

Should a Remedial Action plan be required as in Condition No. 21 above, the applicant must provide documentation from a suitably qualified environmental consultant verifying that the site has been remediated in accordance with the NSW Environment Protection Authority's Contaminated Sites – Guidelines for Consultants Reporting on Contaminated Sites, the Contaminated Sites- Sampling Design Guidelines Contaminated Sites – Guidelines for the NSW Site Auditor Scheme and the recommendations of the approved Remedial Action Plan.

REQUIREMENTS DURING CONSTRUCTION

23. Council Property

To ensure that the public reserve is kept in a clean, tidy and safe condition during construction works, no building materials, waste, machinery or related matter is to be stored on the road or footpath.

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.

24. 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.

25. Demolition

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

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

26. 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.

27. Landfill

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

- a) Prior to fill material being imported to the site, a certificate shall be obtained from a suitable qualified environmental consultant confirming the fill wholly consists of Virgin Excavated Natural Material (VENM) as defined in Schedule 1 of the *Protection of the Environment Operations Act, 1997* or material approved under the *Department of Environment and Climate Change*’s general resource recovery exemption.

28. Excavated Material

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

29. Construction Vehicles

All construction vehicles associated with the development are to be contained on site.

30. Waste Management Details

Waste management during the demolition and construction phase of the development must be undertaken in accordance with the approved Waste Management Plan. Additionally written records of the following items must be maintained during the removal of any waste from the site and such information submitted to the Principal Certifying Authority within fourteen days of the date of completion of the works:

- d) The identity of the person removing the waste.
- e) The waste carrier vehicle registration.
- f) Date and time of waste collection.
- g) A description of the waste (type of waste and estimated quantity).
- h) Details of the site to which the waste is to be taken.
- i) 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).
- j) 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.

31. Food Premises

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

Note: Walls are to be of solid construction.

32. Kitchen Exhaust Installation

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

33. Grease Trap Installation

A permanent grease trap must be installed for all kitchen wastewater in accordance with the requirements of *Australian Standard 3500 1998*, *National Plumbing Code*. A licensed plumber must submit a Certificate of Compliance to the principal certifying authority certifying that all plumbing and drainage works have been carried out in accordance with the prescribed standards.

34. Creation of Easements

The following matter(s) must be complied with in accordance with the *Conveyancing Act, 1919*

- a) The creation of an appropriate "*Positive Covenant*" and "*Restriction as to User*" over the constructed on-site detention/retention systems and outlet works, within the lots in favour of Council in accordance with Council's prescribed wording. The position of the on-site detention system is to be clearly indicated on the title;

- b) To register the OSD easement, the restriction on the use of land “*works-as-executed*” details of the on-site-detention system must be submitted verifying that the required storage and discharge rates have been constructed in accordance with the design requirements. The details must show the invert levels of the on site system together with pipe sizes and grades. Any variations to the approved plans must be shown in red on the “*works-as-executed*” plan and supported by calculations;

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

35. Completion of Works and Compliance Certificate

All engineering works identified in this consent are to be completed and a Compliance Certificate issued prior to the release of occupation permit.

36. Waste Management Details

The following waste management requirements must be complied with:

- a) The bin storage area must include water or a hose for cleaning, graded floors, 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 demolition and construction waste type against the actual quantities of each waste type.

Note: Explanations of any deviations to the approved Waste Management Plan is required to be included in this report

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

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

Note: The location of the compost container should have regard for potential amenity impacts.
- d) The bin carting routes must be devoid of any steps.

Note: Ramps between different levels are acceptable.

37. Shade Structures

The outdoor play space must be adequately shaded in accordance with *The Shade Handbook*, published by the New South Wales Cancer Council in 2008.

38. 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.

39. Access Certification

A certificate must be submitted by the appointed access consultant to certify that the access requirements required in accordance with condition Nos. 14 have been installed.

40. Acoustic Certification

A certificate must be submitted by the appointed acoustic consultant to certify that any acoustic requirements required in accordance with condition No. 13 have been installed.

OPERATIONAL CONDITIONS

41. Advertising Signs

The advertising signage approved under this consent must not be illuminated, flash, move or display electronic images.

42. Use of Premises

The development approved under this consent shall be used for a child care centre and not for any other purpose without Council's separate written consent.

43. Hours of Operation

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

Monday to Friday 7 am to 6 pm

(Other than for 4 Saturdays per year for special occasions)

44. Number of Children

- a) The centre shall accommodate a maximum of 90 children with a minimum of 25% of children within the 0-2 age group as at 1 January of each calendar year.
- b) Not more than 68 children are to be within the outdoor play areas at any one time.

45. Waste Management

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

- a) The operator must keep written evidence on site of a valid contract with a licensed waste contractor(s) for the regular collection and disposal of the waste and recyclables that are generated on site.
- b) The operator must have a sufficient number of bins to contain the volume of waste and recycling expected to be generated between collection services.

- c) The operator must prepare and implement a Car Park Management Plan that ensures waste collection services are able to take place during centre operating hours without requiring the vehicle to make reverse manoeuvres.

Note: it will most likely be necessary for parking spaces #26, 19, and 25 to be kept clear of parked cars on waste collection days to enable the waste collection vehicle to turn without requiring reverse manoeuvres. The waste collection service provider will need to be consulted with regards to the Car Park Management Plan.

46. Waste Removal

Truck movements for removal of waste (solid and liquid) generated by the operation of the child care centre are only to occur between the hours of 6:00 am and 8:00 pm.

47. Noise – Plant and Machinery

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

48. 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*.

- 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) All vehicular entry on to the site and egress from the site shall be made in a forward direction;
- e) Any proposed landscaping and/or fencing must not restrict sight distance to pedestrians and cyclists travelling along the footpath; and
- f) All parking for people with disabilities is to comply with *AS/NZS 2890.6:2009 Off-street parking for people with disabilities*.

49. Maintain Canopy Cover

- a) A minimum of 3 trees must be planted on the subject site and must be species selected from the Council's indigenous species listing located in the *HDCP Tree Preservation Measures Section 1B.6 Table 1B.6(b)* such as *Angophora costata*, *Angophora floribunda*, *Eucalyptus elata*.
- b) Location and Size of Plantings
 - i) Replacement trees must be located in front setback and setback 4 metres or greater from the foundation walls of the approved development.

- ii) The pot size of the replacement tree(s) must be a minimum 25 litres and replacement tree(s) must be maintained until they reach the height of 3 metres.
- iii) The replacement trees must reach a mature height greater than 10 metres.
- iv) All tree stock must meet the specifications outlined in '*Specifying Trees*' (Ross Clark, NATSPEC Books).
- v) Planting methods must meet professional (best practice) industry standards
- c) A suitably qualified person holding a Certificate III in Horticulture must submit to the principal certifying authority a statement confirming all landscaping requirements has been completed in accordance with approved landscape plans and conditions of consent.

50. Plan of Management

The child care centre is to operate in accordance with the Plan of Management dated 7 September 2016 subject to the conditions of development consent and applicable legislative regulatory requirements. The Plan of Management is to be updated and maintained accordingly.

51. Quarry Road Access

The site's access handle at Quarry Road is to be secured for the operation of the child care centre.

GENERAL TERMS OF APPROVAL – NSW RURAL FIRE SERVICE

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

52. Asset Protection Zone

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

53. Water and Utilities

Water, electricity and gas provisions shall comply with section 4.2.7 of 'Planning for Bush Fire Protection 2006'.

54. Access

Proposed right of carriageway and new internal roads within the subject site shall comply with section 4.2.7 of 'Planning for Bush Fire Protection 2006', including the requirement for a minimum carriageway width of 8 metres kerb to kerb.

55. Evacuation and Emergency Management

An Emergency/Evacuation Plan shall be prepared consistent with section 4.2.7 of 'Planning for Bush Fire Protection 2006'.

56. Design and Construction

New construction shall comply with Australian Standard AS3959-2009 'Construction of buildings in bush fire-prone areas' section 3 and section 5 (BAL 12.5) and section A3.7 of Addendum Appendix 3 of 'Planning for Bush Fire Protection 2006'.

57. Landscaping

Landscaping to the site is to comply with the principles of Appendix 5 of 'Planning for Bush Fire Protection 2006'.

- END OF CONDITIONS -

ADVISORY NOTES

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

Environmental Planning and Assessment Act 1979 Requirements

The Environmental Planning and Assessment Act 1979 requires:

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

Long Service Levy

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

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

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

Tree and Vegetation Preservation

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

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

Food Premises

Prior to the commencement of the business, the operator is requested to contact Council's Compliance and Certification Team to arrange an inspection for compliance against the relevant legislation and guidelines outlined in this approval. *Contact Council's Administration Officer on 9847 6784.*

**3 DEVELOPMENT APPLICATION - SUBDIVISION OF ONE ALLOTMENT INTO TWO LOTS -
32 CARDINAL AVENUE, BEECROFT**

EXECUTIVE SUMMARY

DA No:	DA/1236/2016 (Lodged 6 October 2016)
Description:	Torrens Title subdivision of one allotment into two lots and demolition of an existing dwelling
Property:	Lot 1 DP 20358, No. 32 Cardinal Avenue, Beecroft
Applicant:	P S Graham and Associates
Owner:	Mr Nihal Ekanayake and Mrs Pradeepika Ekanayake
Estimated Value:	\$20,000

- The proposal is for the Torrens Title subdivision of one allotment into two lots and demolition of an existing dwelling house.
- The proposal generally complies with the *Hornsby Local Environmental Plan (HLEP) 2013* and the *Hornsby Development Control Plan (HDCP) 2013*.
- Two submissions have been received from the Beecroft-Cheltenham Civic Trust 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/1236/2016 for the Torrens Title subdivision of one allotment into two lots and demolition of an existing dwelling house at Lot 1 DP 20358, No. 32 Cardinal Avenue, Beecroft be approved subject to the conditions of consent detailed in Schedule 1 of Group Manager's Report No. PL12/17.

BACKGROUND

On 6 October 2016, DA/1236/2016 was lodged for the Torrens title subdivision of one allotment into two lots and the demolition of the existing dwelling house. The application is the subject of this report.

On 10 January 2017, following issues raised by Council regarding exclusion of the access handle to calculate the area of lot 2, amended plans were submitted to reconfigure the allotment boundaries to exclude the area of the access handle from the allotment.

SITE

The 1,311m² site is located on the eastern side of Cardinal Avenue, Beecroft and contains a single storey dwelling house. The site is a regular shaped allotment with a frontage of 18.29metres to Cardinal Avenue. The site experiences a fall of 8 metres towards the front, south-western corner of the property.

The subject site contains Blue Gum High Forest (BGHF) which is listed as Endangered Ecological Community under the *Threatened Species Conservation Act, 1995* and the Commonwealth *Environment Protection and Biodiversity Conservation Act, 1999*.

The site is located adjacent to a heritage listed item, namely a 'Road Reserve' which is listed as item No. 68 in Schedule 5 of the HLEP 2013. This heritage listed public reserve contains Blue Gum High Forest (BGHF) which is listed as Endangered Ecological Community under the *Threatened Species Conservation Act, 1995* and the Commonwealth *Environment Protection and Biodiversity Conservation (EPBC) Act, 1999*.

The surrounding developments include low density, single and two storey dwelling houses located on moderately steep land. The dwellings in the immediate locality comprise of a mixture of original brick and tile and contemporary dwellings. Directly opposite the site, there are new dwellings currently under construction. The subdivision pattern in the locality includes regular shaped and battle-axe shaped allotments.

PROPOSAL

The proposal is for the Torrens Title subdivision of one allotment into two lots and demolition of an existing dwelling house.

Proposed Lot 1 is a rectangular shaped allotment with an area of 600.8m² and a frontage of 14.79 metres to Cardinal Avenue. The existing dwelling house on this lot is to be demolished.

Proposed Lot 2 is a battle-axe shaped allotment with an area of 600.2m² (excluding access handle). Access to the allotment would be via a 3.5 metre wide access handle to Cardinal Avenue. Lot 2 is a vacant allotment and contains a number of native trees.

Stormwater runoff from proposed Lot 2 would be drained to the street via an inter-allotment drainage easement.

Four trees have been identified for removal to accommodate the vehicle turning area and proposed building footprint on proposed Lot 2.

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 District Plan

A Plan for Growing Sydney has been prepared by the NSW State Government to guide land use planning decisions for the next 20 years. The Plan sets a strategy and actions for accommodating Sydney's future population growth and identifies dwelling targets to ensure supply meets demand. The Plan identifies that the most suitable areas for new housing are in locations close to jobs, public transport, community facilities and services.

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

The proposed development would be consistent with '*A Plan for Growing Sydney*' and '*Draft North District Plan*' by providing one additional residential allotment capable of accommodating a future dwelling house and 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 proposed development has been assessed having regard to the provisions of the *Hornsby Local Environmental Plan 2013 (HLEP)*.

2.1.1 Zoning of Land and Permissibility

The subject land is zoned R2 Low Density Residential under the *HLEP 2013*. The objectives of the zone are:

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

The proposed development is defined as "*subdivision*" and is permissible in the zone with Council's consent.

2.1.2 Minimum Lot Size

Clause 4.1 of the *HLEP* provides that the subdivision lot size should not be less than the minimum area shown for the land on the Lot Size Map. The minimum lot size for the subject site is 600m²,

excluding the access handle. The proposed lots have an area of 600.8m² and 600.2m² complying with this provision.

2.1.3 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.

The earthworks proposed as part of this application are limited to minor earthworks to facilitate the construction of a driveway, vehicular turning area and stormwater drainage system. Council's assessment of the proposed works and excavation concludes that the works are unlikely to have a detrimental effect on drainage patterns and soil stability in the locality of the development, subject to recommended consent conditions.

2.1.4 Heritage Conservation

Clause 5.10 of the *HLEP* sets out heritage conservation provisions for Hornsby Shire. The site does not include a heritage item and is not located in a heritage conservation area. However, the site is located adjacent to the heritage listed street trees along Cardinal Avenue (Item No.68 – landscape) under the provisions of Schedule 5 (Environmental Heritage) of the *Hornsby Local Environmental Plan 2013*. The nature strip to the front of the site does not contain any street trees. Accordingly, no further assessment regarding heritage is necessary.

2.2 State Environmental Planning Policy No. 55 (Remediation of Land)

The Policy provides guidelines for the remediation of contaminated land for the purpose of reducing the risk of harm to human health or any other aspect of the environment. Clause 7 requires Council to consider whether land is contaminated prior to granting consent to the carrying out of any development on that land.

Should the land be contaminated, Council must be satisfied that the land is suitable in a contaminated state for the proposed use. If the land requires remediation to be undertaken to make the land suitable for the proposed use, Council must be satisfied that the land will be remediated before the land is used for that purpose.

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

2.3 Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005

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

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

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

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

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

2.5 Hornsby Development Control Plan 2013

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

Hornsby Development Control Plan 2013 – Part 6 – Subdivision			
Control	Proposal	Requirement	Complies
Site Area	1,311m ²	N/A	N/A
Lot Area			
Lot 1	600.8m ²	600m ²	Yes
Lot 2	600.2m ² (ex access handle)	600m ²	Yes
Lot Width (building line)			
Lot 1	14.79m	15m	No
Lot 2	18.29m	15m	Yes
Access-way Design			
Width	3.5m	3.5m	Yes
Lot 1 – Proposed Building Envelope			
Building Envelope	200m ²	200m ²	Yes
Setbacks			
- Front	8m	6m	Yes
- Side (north)	1.5m	0.9m	Yes
- Side (south)	0.9m	0.9m	Yes
- Rear	5.5m – 13m	5m	Yes
Landscaped Area (% of lot	56%	30%	Yes

size)			
Private Open Space	24m ²	24m ²	Yes
Car Parking	2 spaces	2 spaces	Yes
Lot 2 – Proposed Building Envelope			
Building Envelope	200m ²	200m ²	Yes
Setbacks			
- <i>Front (Battle-axe)</i>	5.9m	0.9m	Yes
- <i>Side (north)</i>	3.5m	0.9m	Yes
- <i>Side (south)</i>	1m	0.9m	Yes
- <i>Rear</i>	6m	5m	Yes
Landscaped Area (% of lot size)	54%	30%	Yes
Private Open Space	24m ²	24m ²	Yes
Car Parking	2 spaces	2 spaces	Yes

As detailed in the above table, the proposed development generally complies with the prescriptive measures within the HDCP, with the exception of the width of proposed Lot 1. A brief discussion on compliance with relevant performance requirements is provided below.

2.5.1 Lot Width

One submission raises concerns with regard to the non-compliant 14.79 metre width of proposed Lot 1.

Table 6.2(b) within the prescriptive measures of Part 6.2.1(d) of the HDCP states that a minimum lot width of 15 metres should be achieved for any proposed lot located within the HLEP area identified as 'M' on the HLEP map. Proposed Lot 1 would have a width of 14.79 metres measured at the existing building line and would not comply with this prescriptive measure.

In support of this variation, it is noted that a 200m² indicative building envelope could be accommodated on the site whilst maintaining compliance with Council's DCP setback requirements to all boundaries and minimum lot size requirements. The minor 210mm lot width variation would be indiscernible when viewed from Cardinal Avenue and would not pose an adverse impact on the streetscape. Accordingly, the minor non-compliance does not warrant refusal of the application.

The proposal meets the desired outcomes of Part 6.2 Urban Subdivision of the HDCP and is considered acceptable.

2.5.2 Lot Shape

One submission raises concerns with respect to the shape of the proposed access handle and the curved shape of the common boundary between the two proposed lots.

The applicant submitted amended plans on 10 January 2017, reconfiguring the allotment boundaries to exclude the area of the access handle from the allotment and altering the shape of the common allotment boundary to a more regular shape. The submitter maintains their objection following re-notification of the amended plans.

The common allotment boundary between lots 1 and 2 is splayed to facilitate a vehicular turning area open space and landscaping. That part of the access handle (the shaft) which would be used exclusively for vehicular and pedestrian access has been excluded from the allotment area for the purpose of calculating the minimum allotment size.

The proposed subdivision would result in a rectangular shaped lot (Lot 1) with a frontage of 14.79 metres to Cardinal Avenue which complies with the minimum lot size requirements of the *HLEP* and can accommodate a 200m² building envelope with a 24m² principal private open space area and car parking for two vehicles.

Proposed Lot 2 is a battle-axe shaped allotment with an area of 600.2m² (excluding the access handle). Proposed lot 2 would be accessed via a 3.5 metre wide access handle. The allotment has a width of 18.25 metres when measured at the centre of the lot. The applicant has provided a 200m² building envelope over Lot 2 with area for two car spaces and a vehicle turning area which demonstrates that a future dwelling house would be capable of complying with setbacks, private open space, landscaping and parking requirements of the Hornsby DCP 2013.

It is considered that the layout and design of the proposed subdivision would be in keeping with the established pattern in the locality. The minor non-compliance with respect to the lot shape does not warrant refusal of the application.

The proposal meets the desired outcomes of Part 6.2 Urban Subdivision of the HDGP and is considered acceptable.

2.6 Section 94 Contributions Plans

Hornsby Shire Council Section 94 Contributions Plan 2012-2021 applies to the development as it would result in one additional residential lot. Accordingly, the requirement for a monetary Section 94 contribution is recommended as a condition of consent.

3. ENVIRONMENTAL IMPACTS

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

3.1 Natural Environment

3.1.1 Tree and Vegetation Preservation

The site comprises a number of exotic and locally indigenous trees and includes a group of predominantly locally indigenous trees determined as significant under Council's assessment of a significant group of trees.

Council's assessment of the proposal included a detailed examination of the trees on site in conjunction with the submitted Arboricultural Impact Assessment prepared by Australis Tree Management.

The submitted Arboricultural Impact Assessment supports the removal of four trees from the site (tree Nos. 4, 9, 10 and 11) to accommodate the right of access, vehicle turning circle and the siting of the indicative building envelope over proposed Lot 2. The report identifies six trees, two of which are considered significant, would be retained and protected through recommended conditions. Of the four trees to be removed, two are indigenous to Hornsby Shire (tree Nos. 4 and 10).

Tree 4 (*Eucalyptus saligna*)- (Sydney Blue Gum) is significant and is of mature age and in good health. Tree 10 (*Eucalyptus paniculata*) - (Grey Ironbark) is located within a significant group and is young in age and in poor, declining health. Council's tree assessment notes that tree 4 positively contributes to the existing Blue Gum High Forest vegetation community.

Tree 4 is positioned centrally on Lot 2, would be located within the proposed vehicle turning area and tree protection zone of a future dwelling house on the Lot. Retention of tree 4 would sterilise residential development on the proposed Lot. Consequently, the removal of this tree on balance is considered reasonable to facilitate the subdivision. Furthermore, the removal of these two significant trees would facilitate development in accordance with the objectives of the Low Density Residential Zone *"to provide for the housing needs of the community within a low density residential environment"*.

Removal of a significant tree within a proposed building envelope has been raised in previous Land and Environment Court matters involving Hornsby Shire Council. In this regard, the Court has based its decision on a question of balance in retaining native vegetation versus the housing needs of the community. The Court has been satisfied that whilst a tree may be significant, if the species is common and widespread in the locality, there would be unlikely to be an adverse impact on biodiversity.

Conditions are recommended in Schedule 1 that require the implementation of appropriate tree sensitive construction techniques, the appointment of an Arborist to oversee any construction works and to carry out remedial action to ensure the health and protection of trees to be retained. A condition of consent is also recommended for the replacement of trees within the site of similar species native to the locality.

Subject to conditions, the proposal on balance has an acceptable impact on the natural environment and achieves an outcome that retains a number of significant trees whilst facilitating the provision of additional housing consistent with the objectives of the residential zone.

3.1.2 Stormwater Management

Stormwater runoff from proposed Lots 1 and 2 would be drained to Council's street drainage system via an inter-allotment drainage system. The proposed stormwater management solution is considered satisfactory and the development would not have any adverse impact on the existing street drainage system nor adjoining properties, subject to the recommended conditions.

3.2 Built Environment

3.2.1 Built Form

The extent of works required as part of the subdivision application is limited to civil works including driveway, vehicle turning circle and stormwater drainage works. Subject to conditions, the proposal would not pose an impact to the surrounding built environment and is considered acceptable.

The proposed allotments would be capable of accommodating future dwelling houses in accordance with the requirements of the Hornsby Development Control Plan 2013.

3.3 Social Impacts

The residential subdivision would improve housing supply in the locality. This is consistent with Council's Housing Strategy which identifies the need to provide a mix of housing options to meet future demographic needs in Hornsby Shire.

3.4 Economic Impacts

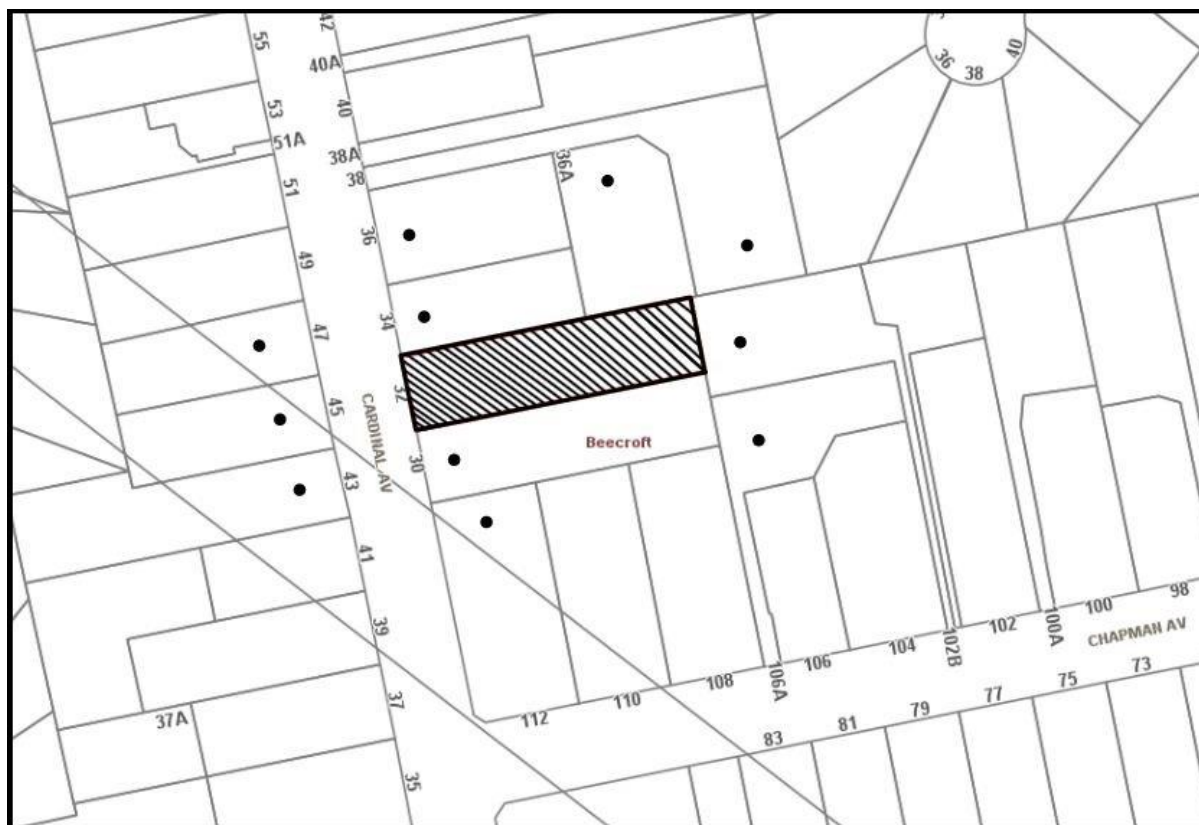
The proposal would have a minor positive impact on the local economy in conjunction with other new low density residential development by generating an increase in demand for local services.

4. PUBLIC PARTICIPATION

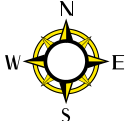
Section 79C(1)(d) of the Act requires Council to consider *"any submissions made in accordance with this Act"*.

4.1 Community Consultation

The proposed development was placed on public exhibition and was notified to adjoining and nearby landowners between 19/10/2016 and 2/11/2016 in accordance with the Notification and Exhibition requirements of the HDCP. During this period, Council received two submissions from the Beecroft Heritage Trust.



NOTIFICATION PLAN

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

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

- The shape of the proposed access handle and the shape of the common boundary between the two proposed lots would be irregular.
- The 14.79 metre width of proposed Lot 1 would not comply with the prescriptive measures of the HDCP.
- The Statement of Environmental Effects submitted as part of the application *“has numerous errors”* relating to the loss of tree No. 4.
- The application does not propose the replacement of the Grey Ironbark tree (Tree No.10) that is proposed to be removed.
- Council’s offset policy should apply to both indigenous trees and not only the Blue Gum that is proposed for removal (Tree No.4).

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

4.1.1 Errors within Statement of Environmental Effects

The Statement of Environmental Effects incorrectly mentions that tree No.5 (located on the adjacent residential site at No. 36A Cardinal Avenue) would be required to be removed to facilitate the proposed development. The tree referred to as *“tree No 5”* on pages No. 4, 8 and 9 of the SEE is identified as tree ‘4’ on the plans of subdivision.

Additionally, page No. 9 of the submitted SEE states that *“there is no significant bushland on the site”*. Numerous significant trees are located on the site, including Blue Gum High Forest (BGHF), which is listed as Endangered Ecological Community under the *Threatened Species Conservation Act, 1995* and the Commonwealth *Environment Protection and Biodiversity Conservation Act, 1999*.

Section 3.1.2 of this report discusses the potential impact of the proposal on the trees on the site and adjacent sites.

4.1.2 Council’s Green Offset Policy

Trees 4 and 10 are located towards the centre of the site and their removal would be unavoidable to accommodate the proposed subdivision and a future dwelling house. There is insufficient area within proposed Lot 2 to relocate a future dwelling that would enable the trees to be retained.

It is Council's preference that any offsets should be provided within the property where the impacts are occurring rather than on another site. A condition of consent is recommended for two Sydney Bluegums (*Eucalyptus saligna*) trees to be planted within the rear yard of proposed Lot 2, 4 metres clear of the proposed building envelope, to replace those trees removed.

5. 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 proposed development is for the Torrens title subdivision of one allotment into two lots and the demolition of a dwelling house.

The proposal would result in the removal of four trees on the site, two of which are considered significant. Removal of the trees is supported as it would facilitate subdivision in accordance with the objectives of the low density residential zone.

The proposed subdivision is considered satisfactory in maintaining the residential character of the locality and the pattern of subdivision and in this regard, would not establish an undesirable precedent.

The proposed development is considered acceptable with regard to the provisions of the relevant environmental planning instruments applicable to the site and the Hornsby Development Control Plan.

The application is recommended for approval.

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

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. [ViewViewView](#) Locality Map
2. [ViewViewView](#) Amended plan of proposed subdivision

File Reference: DA/1236/2016

Document Number: D07148667

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
S.15376, Rev A	Plan of Proposed Subdivision	P.S. Graham & Associates	12 Aug 2016

Document title	Prepared by	Dated
Arboricultural Impact Assessment	Australis Tree Management	22 Sep 2016
Statement of Environmental Effects	P.S Graham & Associates	5 October 2016

2. Section 94 Development Contributions

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

Description	Contribution (4)
Roads	\$1,994.75
Open Space and Recreation	\$12,975.30
Community Facilities	\$4,988.10
Plan Preparation and Administration	\$41.85
TOTAL	\$20,000

being for one additional lot.

- b) The value of this contribution is current as at 9 February 2017. If the contribution is not paid within the financial quarter that this condition was generated, the contribution payable will be adjusted in accordance with the provisions of the Hornsby Shire Council Section 94 Development Contributions Plan and the amount payable will be calculated at the time of payment in the following manner:

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

Where:

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

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

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

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

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

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

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

3. Removal of Existing Trees

- a) This development consent permits the removal of trees numbered 4, 9, 10 and 11 as identified on the Plan of Proposed Subdivision prepared by P.S. Graham & Associates, dated 12 August 2016.
- b) The removal of any other trees requires separate approval in accordance with the Tree and Vegetation Chapter 1B.6 Hornsby Development Control Plan (HDCP).

4. Construction Certificate

- a) A Construction Certificate is required to be approved by Council or a Private Certifying Authority prior to the commencement of any works under this consent.
- b) A separate Construction Certificate must be obtained from Council for all works within the public road reserve under S138 of the *Roads Act*.

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

REQUIREMENTS PRIOR TO THE ISSUE OF A CONSTRUCTION CERTIFICATE
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5. Utility Services

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

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

6. Stormwater Drainage

The stormwater drainage system for the development must be designed in accordance with Council's *Civil Works – Design and Construction Specification 2005* and the following requirements:

- a) Connected directly to Council's street drainage system.
- b) An inter-allotment stormwater drainage system to service the proposed subdivision with pits being cast in situ or pre cast concrete pits must be used.

7. Vehicular Crossing

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

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

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

8. Internal Driveway/Vehicular Areas

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

- a) Design levels at the front boundary be obtained from Council.

- b) The driveway be a rigid pavement.
- c) The driveway grade must not exceed 25 percent and changes in grade must not exceed 8 percent per plan metre.
- d) The driveway pavement be a minimum 3 metres wide, 0.15 metres thick reinforced concrete with F72 steel reinforcing fabric and a 0.15 metre sub-base.
- e) The pavement have a kerb to one side and a one-way cross fall with a minimum gradient of 2 percent and a lintel and pit provided at the low point.
- f) Conduit for utility services including electricity, water, gas and telephone be provided. All existing overhead assets including electricity and telecommunications cabling shall be relocated underground at no cost to Council. A certificate from an appropriately licensed contractor shall be submitted to the principal certifying authority certifying that the service conduits have been installed in accordance with the relevant utility provider and Australian Standards.
- g) Longitudinal sections along both sides of the access driveway shall be submitted to the principal certifying authority in accordance with the relevant sections of AS 2890.1. The maximum grade shall not exceed 1 in 4 (25%) with the maximum changes of grade of 1 in 8 (12.5%) for summit grades and 1 in 6.7 (15%) for sag grades. Any transition grades shall have a minimum length of 2 metres. The longitudinal sections shall incorporate the design levels obtained by Council.

9. Sydney Water – Approval

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

Building plan approvals can be obtained online via *Sydney Water Tap in™* through www.sydneywater.com.au under the Building and Development tab.

REQUIREMENTS PRIOR TO THE COMMENCEMENT OF ANY WORKS
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10. Appointment of a Project Arborist

- a) A Project Arborist (AQF5 qualified) must be appointed to oversee the installation of tree protection and fencing required to protect the tree root zones. Details of the Arborist must be submitted to Council prior to the commencement of works.
- b) The installation and maintenance of tree protection fencing must be in accordance with Australian Standard AS 4970-2009 (1.4.4).
- c) Tree protection fencing must be erected around trees numbered 2, 6, 7, 15, 19 and 21 as identified in Appendix D - Aboricultural Impact Assessment provided by Australis Tree Management dated 22 September 2016.
- d) The Tree protection fencing must be in accordance with the required tree protection zones as identified in Appendix A contained in the Aboricultural Impact Assessment provided by Australis Tree Management dated 22 September 2016.

- e) The Project Arborist (AQF5 qualified) must monitor the integrity of the tree protection methods, recording any modifications or alterations to the tree protection zone fencing for the duration of the construction period.
- f) The Project Arborist (AQF5 qualified) must submit to the Principal Certifying Authority (PCA) a certification/statement confirming that all tree protection measures have been installed in accordance with this consent and the specific requirements of Australian Standard "Protection of Trees on Development Sites" (AS 4970-2009).
- g) All Tree Protection Zones must have a layer of wood-chip mulch installed prior to works commencing and must be maintained throughout the period of construction at a depth of 150mm – 300mm using material that complies with Australian Standard AS 4454.

11. Traffic Control Plan

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

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

12. Erection of Construction Sign

- a) A sign must be erected in a prominent position on any site on which any approved work is being carried out:
 - i) Showing the name, address and telephone number of the principal certifying authority for the work;
 - ii) Showing the name of the principal contractor (if any) for any demolition or building work and a telephone number on which that person may be contacted outside working hours; and
 - iii) Stating that unauthorised entry to the work site is prohibited.
- b) The sign is to be maintained while the approved work is being carried out and must be removed when the work has been completed.

13. Toilet Facilities

- a) To provide a safe and hygienic workplace, toilet facilities must be available or be installed at the works site before works begin and must be maintained until the works are completed at a ratio of one toilet for every 20 persons employed at the site.
- b) Each toilet must:

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

14. Erosion and Sediment Control

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

Note: On the spot penalties may be issued for any non-compliance with this requirement without any further notification or warning.

REQUIREMENTS DURING DEMOLITION AND CONSTRUCTION

15. Construction Work Hours

All works on site, including demolition and earth works, must only occur between 7am and 5pm Monday to Saturday.

No work is to be undertaken on Sundays or public holidays.

16. Consenting to Works within Tree Protection Zones

Consent is granted to undertake works within the Tree Protection Zone of trees 2, 6, 7, 12, 13, 14, 15, 19, 21, 22 and 23 where the works are undertaken under the supervision of the Project Arborist and the following conditions:

- a) Tree protection fencing must only be adjusted to facilitate the installation of the driveway.
- b) The driveway must be built on grade, with the use of piers to provide support to minimise compaction with the tree protection zone.
- c) Driveway aprons, layback must be installed with minimal excavation. All work must be under taken by hand.
- d) Material being imported to the site to create level grade for driveway must be distributed by hand within the tree protection zone.
- e) Where the driveway foundation encroaches within the tree protection zone (of any retained tree), that portion of the foundation must be on piers or of a canter lever design.

17. Root Pruning

- a) Where tree roots are required to be severed for the purposes of this consent, all pruning must be undertaken under the supervision of the Project Arborist and as specified in Australian Standard AS 4970-2009 Sections 3.3.4, 4.5.4 and 4.5.5.

- b) Where a tree root 50mm or greater in diameter intersects the location of a pier, the pier must be relocated a minimum 200mm away from the root.

18. Drilling/Boring to Install Underground Services

- a) The installation of any services within the nominated tree protection zone of any tree to be retained must utilise the thrust boring method.
- b) Thrust boring must be carried out so that 'top of pipe' is a minimum 600mm depth beneath existing ground level.

19. Demolition

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

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

20. 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.

21. Council Property

To ensure that the public reserve is kept in a clean, tidy and safe condition during construction works, no building materials, waste, machinery or related matter is to be stored on the road or footpath.

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.

REQUIREMENTS PRIOR TO THE ISSUE OF A SUBDIVISION CERTIFICATE

Note: For the purpose of this consent, a reference to 'occupation certificate' shall not be taken to mean an 'interim occupation certificate' unless otherwise stated:

23. Sydney Water – s73 Certificate

An s73 Certificate must be obtained from *Sydney Water*.

24. Preservation of Survey Marks

A certificate by a Registered Surveyor must be submitted to the Principal Certifying Authority, certifying that there has been no removal, damage, destruction, displacement or defacing of the existing survey marks in the vicinity of the proposed development or otherwise the re-establishment of damaged, removed or displaced survey marks has been undertaken in accordance with the Surveyor General's Direction No.11 – *"Preservation of Survey Infrastructure"*.

25. Creation of Easements

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

- a) A right of access and easement for services over the access corridor;
- b) An inter-allotment drainage easement(s) over each of the burdened lots;
- c) The creation of a *"Positive Covenant"* over the proposed Lot 2 requiring that any future development is to provide an on-site detention system. The on-site detention system is to have a storage capacity of 5 cubic metres and a maximum discharge of 8 litres per second into Council's drainage system in accordance with Council's prescribed wording;

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

26. Works as Executed Plan

A works-as-executed plan(s) must be prepared by a registered surveyor and submitted to Council for completed driveways and inter-allotment drainage system. The plan(s) must be accompanied by a certificate from a registered surveyor certifying that all pipelines and associated structures lie wholly within any relevant easements. The location of all necessary service conduits provided to facilitate the proposed subdivision shall be clearly indicated on the works as executed plan.

27. Maintain Canopy Cover

- a) To maintain canopy cover, two Sydney Bluegums (*Eucalyptus saligna*) trees are to be planted within the rear yard of proposed Lot 2, 4 metres clear of the proposed building envelope.
- b) The pot size is to be a minimum 25 litres and the trees must be maintained until they reach the height of 3 metres.

28. Damage to Council Assets

To protect public property and infrastructure, any damage caused to Council's assets as a result of the construction or demolition of the development must be rectified by the applicant in accordance with Council's Civil Works Specifications. Rectification works must be undertaken prior to the issue of an Occupation Certificate, or sooner, as directed by Council.

- 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.

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.

Subdivision Certificate Requirements

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

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

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

Fees and Charges – Subdivision

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

House Numbering

The house numbering for this subdivision shall be:

Lot	Street Number	Street Name	Street Type	Locality
<i>Lot 1</i>	32	<i>Cardinal</i>	<i>Avenue</i>	<i>Beecroft</i>
<i>Lot 2</i>	32A	<i>Cardinal</i>	<i>Avenue</i>	<i>Beecroft</i>

4 DRAFT NORTH DISTRICT PLAN

EXECUTIVE SUMMARY

- In November 2016, the NSW Government's Greater Sydney Commission (GSC) commenced exhibition of the draft *North District Plan (the draft Plan)*. Submissions are invited to be received until 31 March 2017.
- The draft Plan provides a strategic framework to facilitate and manage the growth of the North District over a 20 year planning horizon to 2036. Councils will be required to give effect to the District Plan as soon as practical after it is made.
- Key issues relate to the classification of the Hornsby Town Centre as a District Centre rather than a Strategic Town Centre, inclusion of priority transport infrastructure and open space projects, staging of future dwelling targets to align with local housing strategies, planning for the rural area to avoid ad-hoc outcomes and strengthening of the strategic merit test for proponent led planning proposals.

RECOMMENDATION

THAT a submission be forwarded to the Greater Sydney Commission indicating Council's general support for the draft *North District Plan* subject to the Commission addressing the major issues for Hornsby Shire identified in Group Manager's Report No. PL9/17, including:

1. Reclassification of the Hornsby Town Centre as a 'Strategic Centre' to reflect the future target of 22,000 jobs;
2. Ensuring that priority road and open space projects to support future population growth are incorporated in the revised Plan;
3. Ensuring the staging of the 20 year dwelling targets to align with local housing strategies and infrastructure delivery plans;
4. Supporting the strategic approach for urban development in the rural area, subject to the NSW Government assisting the development of a clear vision and infrastructure plan; and
5. Strengthening the criteria for determining 'strategic merit' to give greater weight to local planning strategies when considering proponent led planning proposals.

PURPOSE

The purpose of this report is to outline the GSC draft *North District Plan*, identify implications for Hornsby Shire and provide recommendations for a submission to the Greater Sydney Commission.

BACKGROUND

Planning in Greater Sydney has traditionally occurred through the State Government's Metropolitan Plan and implemented through local environmental plans by local government.

Subregional planning was introduced under the NSW Department of Planning and Environment's (DP&E) 2005 Metropolitan Plan *Sydney City of Cities*. The Plan provides a subregional framework for greater Sydney to better inform local environmental plans, providing targets for dwellings and employment growth.

In December 2014, the DP&E released the revised Metropolitan Plan, *A Plan for Growing Sydney*, and established the GSC as an independent agency to drive the implementation of the Plan across six revised Sydney subregions referred to as districts.

Hornsby Shire is located in the North District, along with Hunters Hill, Ku-ring-gai, Lane Cove, Northern Beaches, Mosman, North Sydney, Ryde and Willoughby Local Government Areas.

In November 2017, the GSC released the draft *North District Plan* (the 'draft Plan') for exhibition until the end of March 2017. As part of the exhibition, the GSC held community forums and meetings with key stakeholders throughout NSW and also invited written submissions. The content of this report will form the basis of Hornsby Council's submission on the draft Plan.

DISCUSSION

This section provides an overview of the draft Plan and identifies the key implications for Hornsby Shire.

1. CONTEXT

The draft Plan provides a strategic framework to facilitate and manage the growth of the North District over a 20 year planning horizon to 2036.

For local government, the Plan will guide strategic land use planning by informing the preparation of local environmental plans and planning proposals in accordance with Part 3 of the *Environmental Planning and Assessment Act 1979* (EP&A Act). Councils are required to give effect to District Plans as soon as practicable after a District Plan is made. It is anticipated that the draft Plan will be finalised towards the end of 2017 to align with a review of *A Plan for Growing Sydney* and to enable Councillors of newly amalgamated councils to provide comment.

The final *North District Plan* will include a NSW Government's Annual Infrastructure Priority List and implementation will include monitoring of cross-District issues and actions reported on a web-based Greater Sydney Dashboard, and a formal review would be undertaken every 5 years.

2. STRUCTURE OF THE PLAN

The key themes of the draft Plan are economic productivity, improved liveability and sustainable development to align with *A Plan for Growing Sydney*.

The draft Plan comprises four chapters which detail priorities and actions to facilitate planning outcomes. The actions are delegated as a key responsibility to 'lead agencies' and in consultation with 'partner' agencies. Lead and partner agencies include state government departments, local government and relevant stakeholder groups.

3. ISSUES

The GSC is seeking feedback on the draft Plan including proposed amendments to the Metropolitan Strategy for Sydney, *A Plan for Growing Sydney*. Accordingly, it is recommended that Council's submission be based on the following issues in accordance with the key themes:

3.1 A PRODUCTIVE CITY

The productivity priorities for the North District primarily relate to the District's major centres as generators of job growth and the opportunity to leverage health, education and knowledge clusters. The overarching priorities relate to managing employment land, planning for job targets, accessing a greater number of jobs, centres within 30 minutes and growing the tourism economy.

Key issues for Council

- a) The Hornsby Town Centre has been downgraded from a Strategic Centre to a District Centre despite meeting the 2036 employment threshold of 20,000 jobs servicing a large catchment including the Central Coast. Classification as a District Centre may restrict future renewal strategies and discourage potential investors given the NSW Government's greater focus on the metropolis of three cities model.

Recommend: *Section 3.3.1 'Plan for the growth of centres' should be amended to identify the Hornsby Town Centre as a Strategic Centre to reflect the aspirational target of 22,000 jobs.*

- b) The draft Plan identifies that an economic development strategy should be developed for the 'Eastern City'. However, the draft Plan does not acknowledge that a significant part of the North District is located in the 'Central City'.

Recommend: *Section 3.1 'The North District's Economy' which sets out the economic development strategy for Strategic Centres located within the Eastern City, should be expanded to recognise and provide a description for all district and strategic centres in the North District. In particular, the Plan should identify the potential to support the Hornsby TAFE and Hospital as a health and education super precinct.*

- c) The job target of between 18,000 and 22,000 jobs for the Hornsby Town Centre appears based on incremental employment growth arising from population growth. Realisation of these jobs would be market driven and would mainly provide for the day to day needs of households. However, to promote higher order office style employment, government intervention to locate new public sector headquarters in Hornsby is required.

Recommend: Section 3.3 'Planning for job target ranges in Strategic and District Centres' should include actions that require governments to consider employment targets when making decisions on locations for government offices. Figures 3.2 and 3.3 within this section should be amended so that the symbols that illustrate the Centres align with the classification.

- d) Priority projects identified for the Hornsby Town Centre do not identify the relocation of the Hornsby bus interchange and the Hornsby Quarry Parklands as key projects supported by Council to assist the Centre's revitalisation.

The current location of the Hornsby bus interchange creates a barrier between the east and west sides of the Town Centre. Previous submissions on the proposed Hornsby Junction Remodelling and Commuter Car Park project recognise that the expansion of the commuter car park provides the opportunity to create a new covered bus interchange, significant housing and employment opportunities and public domain improvements on the western side of the Town Centre.

Work has commenced to rehabilitate the Hornsby Quarry, through filling and restoring the site to realise a new destination park for recreation and entertainment in close proximity to the Hornsby Town Centre. This project will have ongoing economic benefits and supports Council's existing urban renewal initiatives.

Recommend: Section 3.4.1 'Growing Economic activity in centres' priority project list and accompanying diagram of the Hornsby Town Centre, should be amended to include the relocation of the Hornsby bus interchange to George Street and the Hornsby Quarry Parklands. Images used in the plan should identify sites that are within the mapped extent of the Town Centre.

- e) The draft Plan is absent of any road corridor improvements for New Line Road and Boundary Road, despite significant future housing growth in the Northwest Priority Precincts located in the Hills Shire Council and Blacktown Local Government Areas. The draft Plan's objective of accessing a greater number of jobs and centres within 30 minutes would not be realised in locations such as Cherrybrook, Dural and the rural area as traffic modelling identifies that these roads are at, or very near, capacity.

Recommend: The actions within Section 3.7 'Accessing local jobs, goods and services within 30 minutes' be amended to include investigations and priority funding of upgrades to New Line Road, Old Northern Road and Boundary Road.

- f) The proposal to develop a clear future for Brooklyn and to develop a comprehensive North District Tourism and Transport Study is supported. Council has commenced community consultation on the development of an Improvement Master Plan for Brooklyn. Preliminary feedback indicates that the strategy should not just focus on Brooklyn but should also include the various river communities who rely on Brooklyn.

Recommend: Section 3.9 'Growing the tourism economy' references the Comprehensive Tourism and Transport Study. The Study's scope should be extended to include Brooklyn

and the Hawkesbury River communities who rely on Brooklyn for commuter vessel berthing, parking and rail access.

3.2 A LIVEABLE CITY

The liveability priorities for the North District primarily relate to improving housing choice, diversity and affordability, coordination and monitoring of housing targets and demographic trends, enhancing the design of community spaces and responding to the need for services.

Key issues for Council

- a) The draft Plan identifies that 24,100 new dwellings (including Epping) would be required for the North District for the next five years based on projections of population and household growth. However, the North District dwelling target is 8% higher than the projected demand, suggesting that development potential of land south of the M2 Motorway is still included in the forecast.

Recommend: Amend Section 4.3.3 'Deliver North District's five-year housing supply target', to clarify and amend the 5 year dwelling target of 25,950 for the North District (4,350 for Hornsby) to ensure that future dwelling growth south of the M2 Motorway (being land located within the City of Parramatta) is not included in Council's target.

- b) Planning for the 20 year housing target is supported in principle and is understood to require a similar number of dwellings as required by the 5 year target, for every five years until 2036. To ensure planning occurs in a measured and coordinated way, so that appropriate infrastructure plans may be prepared and to manage land owner expectations, announcements regarding precinct planning should be staged. This would ensure that land values for future renewal areas are not inadvertently escalated thereby reducing the opportunity for initiatives such as value capture, delivery of open space or renewal of streets and provision of improved water management facilities.

Recommend: Amend Action L2 to clarify that the identification of investigation areas would be staged to align with dwelling delivery under local housing strategies and preparation of infrastructure delivery plans (State and Local).

- c) The five year target of 4,350 dwellings from 2016 to 2021 would largely be accommodated within the existing zoned and undeveloped lands previously rezoned by Council as part of the 2011 Hornsby Housing Strategy. This provision does not include development within the Pennant Hills Road corridor which Council recently surveyed to prioritise issues to be addressed in a future master plan. Council has not yet committed to proceeding with the preparation of a new master plan which would contribute to the 20 year target.

Recommend: Section 4.3.5 'Create housing capacity in the North District' should be amended to identify dwelling potential along the Pennant Hills Road corridor as a medium term action. New actions should also be included to investigate opportunities to improve the streetscape and amenity of the Pennant Hills Road corridor arising from the undergrounding

of regional traffic into North Connex. This work should complement Council led renewal strategies for Pennant Hills and Thornleigh Town Centres.

- d) The provision of affordable housing is recognised as a significant concern for Sydney and is primarily the responsibility of the State and Federal Government to progress meaningful change. The proposed target of 5% - 10% of new floorspace to be provided as affordable rental housing requires further detail before implementation. Council has previously advocated that a whole of government approach is required to address affordability by promoting financial incentives rather than only relying on planning concessions.

Recommend: *The use of financial incentives to complement inclusionary zoning initiatives should be further explored by the State Government as a delivery model for affordable housing.*

- e) The draft plan does not identify existing and proposed land release areas within the North District. The South Dural precinct was issued a Gateway Determination in 2014 and has been publicly exhibited. Council considered Mayoral Minute on 8 February 2017 and resolved (in part), to discontinue its evaluation of the South Dural Planning Proposal and work with the State Government and The Hills Council to develop a clear vision for the rural areas in the region. This work would include an infrastructure and funding plan to cater for existing and future development.

There is significant pressure to convert rural land to urban uses in the Dural locality as evidenced by the numerous planning proposals and Gateway Authorisations issued by the DP&E. Council has written to the relevant NSW Government Ministers and The Hills Council seeking their support on this issue to avoid an ad-hoc planning outcomes resulting from site specific planning proposals and the proliferation of seniors housing developments.

Recommend: *Section 4.3.4 'Establish the North District's 20 year housing strategy' should identify land release areas for the North District to reflect the need for future urban development. In addition, the draft Plan should also identify the need for a clear vision for the rural areas in the region including an infrastructure and funding plan to cater for existing and future development.*

- f) Arising from a submission from the NSW Rural Fire Service (RFS), housing precincts north of Asquith were removed from Council's 2011 Housing Strategy. These precincts were removed to enable the RFS to review its planning for bushfire protection guideline and to address emergency evacuation concerns and remain unresolved. This issue has previously been raised by Council as a constraint to future housing delivery and should be an RFS rather than Council matter to resolve.

Recommend: *Section 4.8.8 'Plan for emergency services' should be amended to include a new action for the RFS to finalise its review of planning controls for multi-unit housing on bushfire prone land and emergency evacuation strategy. Should the State Government accept the RFS opinion that land north of Asquith is constrained for future increased housing densities, Hornsby Council's dwelling target should be reduced accordingly in the draft Plan.*

3.3 A SUSTAINABLE CITY

The sustainability priorities for the North District primarily relate to protecting and enhancing biodiversity, landscapes and waterways, management of coastal landscapes delivering Sydney's Green Grid, managing the Metropolitan Rural Area and planning for resilience.

Key issues for Council

- a) The description of the North District's environment does not include a description for the Hornsby Shire which represents the largest LGA within the District.

Recommend: *Section 5.1 'The North District's environment' be amended to identify the Hornsby Shire as comprising scenic foreshore and bushland areas.*

- b) Mapping of Sydney's Green Grid may provide an important reference when evaluating the allocation of grant funds to local councils. The map does not include important open space projects for Hornsby, or identify future potential open space areas to meet an increasing demand for access to sportsgrounds. The draft Plan is also absent of funding strategies to support delivery of the identified projects.

In addition, the objective of extending the urban tree canopy should equally apply to the transport agencies responsible for regional roads as Council does not control the land within these corridors. Within local residential areas, power lines are an impediment to enhancing the tree canopy as pruning by electrical authorities limits the growth, form and effectiveness of street trees.

Recommend: *Section 5.6 'Delivering Sydney's Green Grid' should be amended to:*

- *Map and list with priority projects (p137), including the Hornsby Quarry Parklands and Westleigh Park (land which Council owns) which will be major destination parks when complete.*
- *Detail funding mechanisms available to councils to facilitate the delivery of the Green Grid network including costs associated with acquisition of new open space lands, construction of sport facilities, cycle ways and pathways.*
- *Include references to partnership opportunities with other government agencies such as the Department of Education and NSW National Parks and Wildlife Services to create more sportsgrounds and indoor sports centres. These agencies manage large land holdings within the North District.*
- *Include the provision of cycle ways, footpaths and enhanced tree canopy along the Pennant Hills Road corridor, as a key project for the implementation of the Green Grid.*
- *Include an action to require new medium and high density housing developments to underground services to support the Green Grid's objective of establishing an urban tree canopy.*

- c) The draft Plan identifies that urban development in the Metropolitan Rural Area will not be supported unless the planning authority has undertaken strategic planning in accordance with Sustainability Priorities 9 and 10. As detailed in Issue 3.2 (e). Council has resolved (in part) to develop a clear vision for the rural areas in the region including an infrastructure and funding plan to cater for existing and future development. Therefore, Council is supportive of a strategic approach to addressing future urban pressures on rural lands. However, research suggesting the feasibility of agriculture should be balanced against the role the area plays in relation to housing diversity, which should equally be considered as part of the “housing continuum”.

Recommend: *That Sustainability Priorities 9 and 10 be amended to reflect the resolution of Hornsby Council that the State Government work with Hornsby and The Hills Councils to develop a clear vision for the rural areas in the region including an infrastructure and funding plan to cater for existing and future development. A coordinated and holistic planning strategy is required for the area to avoid ad-hoc planning outcomes resulting from site specific planning proposals and proliferation of senior housing developments.*

- d) The draft Plan's promotion of biodiversity offsets for the protection of biodiversity will encourage offsetting over best practice precautionary approaches of mitigation and rehabilitation of bushland.

Recommend: *Section 5.5 'Protecting and enhancing biodiversity' should be amended to provide a description of different approaches to protect biodiversity, and a balanced position on offsetting.*

- e) The draft Plan seeks to encourage the design of sustainable housing throughout the District. However, the actions do not provide a clear direction on how the priority would be implemented.

Recommend: *Section 5.8 'Creating an efficient North District' should be amended to provide further guidelines on how sustainable design outcomes would be achieved for dwelling houses within the current planning framework given the existing requirements of BASIX and the NSW Housing Code.*

- f) The draft Plan notes that cars are the dominant mode for all trips and traffic congestion is a major issue in the North District. However, the plan only identifies existing policies and initiatives of the NSW Government.

Recommend: *The draft Plan should be expanded to include 'Easing and Managing Traffic Congestion' as an additional Sustainability Priority.*

4. DOCUMENT STRUCTURE

The North District Plan will be a key planning document for agencies and the community into the future. Clear directions to implement the Plan's actions and priorities will be critical to its success.

Current drafting of the document includes proposed amendments to *A Plan for Growing Sydney*, details concerning public consultation undertaken to inform the draft Plan and research from a number of background papers.

Key issues for Council

- a) The structure of the draft Plan is difficult to navigate due to the absence of clear references to actions and priorities dispersed throughout the document.

Recommend: *The Draft North District Plan be amended to:*

- *Provide a concise vision in the introductory chapter and key challenges for meeting employment and dwelling targets by 2036. The revised introductory chapter should also provide further explanation of the productive, liveable and sustainable Sydney vision. A separate explanatory note should be used to detail the background and procedural information.*
- *To improve readability, background and contextual information should be clustered together with actions and priorities, so that they can be read concurrently, and actions with the same outcome should be consolidated to avoid repetition.*
- *It is suggested that the following revised structure be consistently applied throughout the document:*
 - *Numbered priority with a heading and discussion;*
 - *Numbered issue with a heading and discussion;*
 - *Numbered action with a heading, steps for implementation and delegated Government and/ or Council responsibilities; and*
 - *Numbered consideration with a heading and a succinct list of general and (where relevant) place based matters of consideration for preparing Environmental Planning Instruments and evaluating Planning Proposals.*

- b) The draft Plan's reference to an Infrastructure Priority List is a welcome initiative. The delivery of high quality urban renewal and Greenfield precincts requires a coordinated approach to infrastructure delivery with clear responsibilities for each relevant government agency.

As part Council's 2011 Housing Strategy, submissions raised significant concern regarding the need for intersection and road improvements on Pennant Hills Road and Carlingford Road. In response to these concerns, Council requested the then Department of Planning and Infrastructure defer the rezonings associated with the Housing Strategy until a written guarantee was given that the Government would deliver on all necessary infrastructure commitments to meet demands. The Minister subsequently made the Housing Strategy with a commitment that the Department would continue to work with the State authorities and Council to develop the necessary infrastructure plans.

The proposed Infrastructure Priority List would assist with providing a more transparent approach to identifying priority infrastructure to support housing strategies and would assist

with providing local communities greater assurance that population growth would be matched with a proportionate improvement in facilities.

Recommend: *The introductory chapter should clarify the role, purpose and status of the Infrastructure Priority List, how population growth will be supported by this Plan and how the list of works will be funded and provided by other agencies.*

- c) There is no discussion on how the North District fits within the framework of the three cities of the metropolis.

Recommend: *Chapter 2 'Our vision towards our Greater Sydney 2036' should be amended to clearly describe the location and role of the North District in relation to the three city metropolis. Actions, outcomes and references to areas unrelated to the role of the North District should be removed.*

- d) The Department of Planning and Environment's *Rezoning Review* (August 2016) identified the need for a strengthened strategic merit test. This test is articulated in the Department's *Guide to preparing planning proposals* which was updated in August 2016. Currently, the draft Plan provides little guidance in relation to assessing how a planning proposal would be considered consistent.

Recommend: *The Draft North District Plan be amended to:*

- *Introduce assessment criteria for determining 'strategic merit' in relation to consistency with the final North District Plan; and*
- *Discourage proponent led planning proposals that are inconsistent with recently updated housing strategies, unless it can be demonstrated that a proposal would provide a significant public benefit (other than simply providing more housing).*

BUDGET

There are no budgetary implications associated with this report.

POLICY

When finalised, Council will be required to give effect to the North District Plan via updated local strategies and amendments to the *Hornsby Local Environmental Plan 2013*.

CONCLUSION

In November 2016, the NSW Government placed the draft North District Plan on public exhibition until the end of March 2017. The draft Plan includes actions and priorities relevant to the key planning outcomes of a productive, liveable and sustainable Sydney.

Unlike previous Metropolitan Plans for Sydney, recent amendments to the Environmental Planning and Assessment Act 1979 now give greater statutory weight to district plans. Council's will be required to give effect to district plans as soon as practical after the plan is made. Therefore, the consistency of future amendments to the *Hornsby Local Environmental Plan 2013* against the priorities and actions

contained within the draft North District Plan must be considered when undertaking or reviewing future strategic plans or planning proposals.

It is recommended that a submission be made to the Greater Sydney Commission supporting the intent of the draft north District Plan, and suggesting amendments that would assist with addressing key local issues and future initiatives.

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.

JAMES FARRINGTON
Group Manager
Planning Division

FLETCHER RAYNER
Manager - Strategic Planning
Planning Division

Attachments:

There are no attachments for this report.

File Reference: F2010/00554
Document Number: D07134468

5 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. PL10/17 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 2016 to 31 December 2016.

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 2016 to 31 December 2016.

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 continues 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 2016 to 31 December 2016.

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. [ViewView](#) SEPP 1 Returns Quarter - 1 October 2016 to 31 December 2016
[View](#)

File Reference: F2004/07599
Document Number: D07136738

6 PROPOSAL TO CREATE ELECTRICITY EASEMENTS ON COMMUNITY LAND AT WAITARA PARK

EXECUTIVE SUMMARY

- Council received a proposal from Police Citizens Youth Clubs NSW Ltd (PCYC) to construct an indoor recreation and performing arts centre within Waitara Park.
- At the 8 July 2015 General Meeting, Council delegated authority to the General Manager to negotiate lease terms and conditions and also Council's financial contribution to the project.
- An Agreement to Lease was exchanged with PCYC on 7 April 2016.
- Construction of the centre by PCYC's contractors is currently progressing.
- Easements are required over Waitara Park to provide electricity to the premises.
- Approval to creation of the required easements is recommended, subject to PCYC being responsible for maintenance and repair of the electricity supply infrastructure.

RECOMMENDATION

THAT:

1. Council agree to the creation of easements for electricity and access over Lots 300 and 301 DP 832745 being land within Waitara Park.
2. The Acting General Manager be authorised to negotiate detailed terms and conditions of the agreement generally as outlined in Deputy General Manager's Report No. IR1/17 and to execute documents in relation to creation of the easements as deemed appropriate by Council's legal advisors.
3. Council authorise the use of Council's seal on any legal, survey or other documents directly related to creation of the easements as deemed appropriate by Council's legal advisors.

PURPOSE

The purpose of this Report is to obtain Council's approval to the creation of easements over Lots 300 and 301 DP 832745 within Waitara Park to enable connection of an electricity supply to the indoor recreation and performing arts centre currently under construction by PCYC.

BACKGROUND

At the 8 July 2015 General Meeting, Council considered Deputy General Manager's Report No. IR22/15 and resolved that Council:

1. *Support the proposal from PCYC to lease Council land at Waitara Park to develop and operate a recreation facility accessible to the community in return for supporting Council access to Crown land at the former Hornsby Bowling Club.*
2. *Support making a capital contribution towards the proposal.*
3. *Delegate to the General Manager to negotiate:*
 - a) *the terms of a Deed of Agreement for Lease and a specific lease between Council and PCYC NSW, based on the terms identified in Deputy General Manager's Report No. IR22/15;*
 - b) *the terms of a new agreement with Kim Warwick Tennis Academy for use of new tennis courts on the Crown Land; and*
 - c) *the value of the contribution to PCYC based on an independent quantity survey of the proposed PCYC facility.*
4. *Write to the Minister for Local Government seeking consent for Council entering into a 30 year lease with PCYC, subject to adoption of the draft Plan of Management for Waitara Park.*
5. *Provide owner's consent to PCYC NSW for the submission of a Development Application for the building.*

DISCUSSION

In order to provide an electricity supply to the indoor recreation and performing arts centre currently under construction by PCYC, "Ausgrid" (now known as Alpha Distribution Ministerial Holding Corporation) will need to construct a substation on Lot 300 DP 832745 which is within Waitara Park. The substation will be situated adjacent to the existing grandstand on the Park's Waitara Avenue frontage and require an area of approximately 17.5m² being 5.3 metres by 3.3 metres. Ausgrid has a registered memorandum (AK980903) outlining standard terms for electricity easements and the associated rights of access.

A second easement will allow connection of electrical cabling from the substation to the recreation centre which is situated on Lot 301 DP 832745. This requires an area of approximately 50m² being one metre wide by about 50 metres long. The terms of this easement will include a positive covenant or similar instrument requiring PCYC to be responsible for maintenance and repair of the cabling infrastructure. The land areas and dimensions in this Report are approximate pending preparation of a survey plan for registration at Land and Property Information NSW. This will record the exact size and location of the easements within the Park after these details have been finally determined.

The easements were a component of negotiations for construction of the recreation centre within the Park, the granting of a long-term lease and Council's appointment as Trust Manager of the Crown Reserve containing the former Hornsby Bowling Club. On that basis, no compensation or

reimbursement of legal costs from PCYC is proposed. The “Waitara Park Plan of Management” adopted by Council on 9 September 2016 permits creation of easements over this “Community Land”.

CONSULTATION

In the preparation of this Report there was consultation with Council’s Solicitor, representatives of Ausgrid and contractors acting on behalf of PCYC for the building works.

BUDGET

There are no budgetary implications associated with this Report as professional costs to create the easements will be available from existing budget allocations.

POLICY

While there is no specific Policy for requests of this nature, the Plan of Management adopted for Waitara Park permits both the PCYC Indoor Recreation and Performing Arts Centre and the creation of easements over this “Community Land”.

CONCLUSION

The proposed easements to provide an electricity supply to the PCYC centre will have minimal impact on Waitara Park. Council has previously recognised the community benefits which will result from this development by approving a lease over the land and agreeing to make a financial contribution to the project. It is, therefore, reasonable for Council to waive the usual requirements for the payment of compensation and reimbursement of professional costs.

RESPONSIBLE OFFICER

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

GARY BENSLEY

Deputy General Manager - Corporate Support
Corporate Support Division

PETER POWELL

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

Attachments:

There are no attachments for this report.

File Reference: F2015/00238

Document Number: D07159285

7 MAYOR'S NOTES FROM 1 TO 28 FEBRUARY 2017

Note: These are the functions that the Mayor, or his representative, has attended in addition to the normal Council Meetings, Workshops, Mayoral Interviews and other Council Committee Meetings.

Saturday 4 February 2017 – On behalf of the Mayor, Councillor Gurdeep Singh attended the 69th Sri Lankan Independence Day Celebrations at Roselea Community Centre in Carlingford.

Sunday 19 February 2017 – On behalf of the Mayor, Deputy Mayor Councillor Michael Hutchence attended the first 2017 Galston Concert “A Man and a Baby Grand – Bernard Walz” at Galston Uniting Church.

Sunday 19 February 2017 – On behalf of the Mayor, Councillor Robert Browne attended Hornsby Shire Historical Society's 50th Anniversary Celebrations at Joseph Collingridge Hall in Normanhurst.

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

Thursday 23 February 2017 – The Mayor participated as a Keynote Speaker at the CPA Australia Risk Discussion Group event at the Governance Institute of Australia in Sydney.

Friday 24 February 2017 – The Mayor participated in a panel discussion group at the Link Housing Community Forum “Housing Futures: How does Sydney grow – the expanding role of Community Housing?” at The Epping Club in Epping.

Friday 24 February 2017 – The Mayor attended the Grand Opening of Studio ARTES new studio at 33 Jersey Street, Hornsby.

Sunday 26 February 2017 – On behalf of the Mayor, Deputy Mayor Councillor Michael Hutchence attended the official opening of the North Epping Multipurpose Community Courts in Boundary Road, North Epping.

File Reference: F2004/07053
Document Number: D07155806

8 BRUSH TURKEYS

COUNCILLOR TILBURY TO MOVE

THAT Council:

1. Work with residents on developing strategies to live with native animals such as brush turkeys.
2. Offer workshops, education sessions and material prior to brush turkey breeding season about living with native animals to increase understanding and awareness.

Note from Councillor:

With a large interface with the bush it is good to see wildlife coming back into our urban areas. Over the past few years there has been a sharp increase in the return of brush turkeys, also called the scrub turkey or bush turkey. The increase is thought to have occurred due to a combination of a number of factors, including the creation of ideal environments, like lush gardens, for them to live and effective control of predators, such as foxes.

While their return is welcomed they can cause considerable damage to gardens. Gardens can be stripped by a mound-building male brush turkey in less than a day. If you disturb or move the mound during the day, the male will probably rebuild it in the same location the next day persisting in a location until the end of the breeding season. This activity is seasonal, and will decrease dramatically towards the end of the breeding season, however can cause a lot of frustration and distress for residents.

As brush turkeys are protected under the National Parks and Wildlife Act 1974 I am keen to see educational sessions and material developed to inform and educate residents on what they can do to discourage brush turkeys from their garden and how to interact with them appropriately.

Attachments:

There are no attachments for this report.

File Reference: F2004/06682

Document Number: D07133502

9 FOOTPATH IMPROVEMENT PROGRAM FUNDING**COUNCILLOR TILBURY TO MOVE****THAT Council:**

1. Agree that consideration be given as to how funding allocated to the Footpath Improvement Program could be increased from \$266,000 per annum to \$1 million per annum for the next five year period to accelerate the Program and start to seriously address the unacceptable footpath infrastructure backlog across the Shire.
2. The information in point 1 above be presented to Councillors at the 2017/18 Draft Operational Plan and Budget Briefing scheduled to be held on 22 March 2017.

Note from Councillor

The health, wellbeing, environmental and economic benefits of walking are now widely researched and published, however research also shows that uptake is greatly determined by the supportive environments for walking within a resident's immediate locality.

Convenience, amenity and safety are critical factors. Council's goal must be to increase participation of the Shire's community, of all ages and backgrounds, in walking for recreation, health and transport. Currently Council is badly failing the residents in this area.

As a Councillor I receive many requests for the provision of paved footpaths throughout the Shire. In fact it is by far the number one general Council issue that our residents contact me on.

Due to competing requirements for funding of Council's many assets throughout the Shire, there is woefully limited annual funding of \$266,000 currently made available through the Footpath Improvement Program.

A priority system is used to equitably allocate the available funding and higher priority is generally given to those streets with high volumes of school children or aged residents or vehicular traffic. However, because of the very limited budget and the massive total footpath infrastructure backlog of \$10 million across the Shire, lead times for some areas requiring footpaths are up to 40 years.

Attachments:

There are no attachments for this report.

File Reference: F2004/09262

Document Number: D07159215