



MINUTES OF LOCAL PLANNING PANEL MEETING

HOSTED AUDIO-VISUALLY VIA ZOOM
on Wednesday 30 March 2022
at 4:00pm



PRESENT

Chairperson - Garry Fielding

Expert Panel Member - Linda McClure

Expert Panel Member - Mary-Lynne Taylor

Community Member - John Filocamo

Community Member - Brian Scarsbrick

Community Member - Barbra Wynn

Staff Present

Director, Planning and Compliance - James Farrington

Manager, Development Assessments - Rod Pickles

Major Development Manager - Cassandra Williams

Team Coordinator - Matthew Miles

Senior Town Planner - Ben Jones

Town Planner - Katrina Maxwell

Town Planner - Lawrence Huang

Consultant Planner - Nicola Neil

The public meeting commenced at 4.00pm.

AUDIO RECORDING OF LOCAL PLANNING PANEL MEETING

Statement by the Chairman:

"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

Nil

ADDRESSES TO THE PANEL

The following members of the public addressed the Panel on items on the agenda:

LOCAL PLANNING PANEL

1 LPP2/22 DA/131/2021 - Construction of a 11 Room Boarding House on Proposed Lot B - 134 Burdett Street, Wahroonga

Audrey Xuchen	Against
Sarah Laughlin	Against
Daniel Pethers	Against
Adam Hollitzer	Against
Tim Cooper (Town Planner on behalf of applicant)	For

2 LPP16/22 DA/133/2021 - Construction of a 11 Room Boarding House on Proposed Lot A - 134 Burdett Street, Wahroonga

Mark Jones	Against
Tim Cooper (Town Planner on behalf of applicant)	For

IN ACCORDANCE WITH CLAUSE 3.3(5.b) OF SCHEDULE 1 OF THE OPERATIONAL PROCEDURES DIRECTIONS ISSUED 23 FEBRUARY 2018.

The Panel Chair closed the public meeting at 4.45pm.

PUBLIC MEETING ITEMS

1 LPP2/22 DA/131/2021 - Construction of a 11 Room Boarding House on Proposed Lot B - 134 Burdett Street, Wahroonga

(DA/131/2021)

RECOMMENDATION

THAT Council assume the concurrence of the Secretary of the Department of Planning and Environment pursuant to Clause 4.6 of the Hornsby Local Environmental Plan 2013 and approve Development Application No. DA/133/2021 for construction of a boarding house consisting of 11 rooms and 6 parking spaces on proposed Lot B at Lot 7 DP 263708, No. 134 Burdett Street, Wahroonga as a deferred commencement pursuant to Section 4.16(3) of the *Environmental Planning and Assessment Act 1979* subject to the conditions of consent detailed in Schedule 1 of LPP Report No. LPP2/22.

PANEL'S CONSIDERATION AND DETERMINATION

The Panel considered the matters raised in the written submissions and by the speakers at the meeting, including scale of the development, inappropriate development in the locality, traffic and parking impacts, noise, privacy and amenity impacts, management of the boarding house and reduction in property values.

The Panel considered the Clause 4.6 submission and is satisfied that the applicant's written request has adequately addressed the matters required to be demonstrated by Clause 30AA of State Environmental Planning Policy (Affordable Rental Housing) 2009 and in accordance with clause 4.6(4) of the HLEP, and is satisfied that the proposed development will be in the public interest because it is consistent with the objectives of the development standard and the objectives for development within the zone in which the development is proposed to be carried out.

The Panel resolved to adopt the officer's report recommendation and approve the proposed development as a deferred commencement consent, subject to the conditions contained in Schedule 1 of the report.

The reasons for this decision are:

- The development is a form of affordable housing that is encouraged by the objectives of State Environmental Planning Policy (Affordable Rental Housing) 2009 and the development complies with the non-discretionary development standards contained within the SEPP, including parking.
- The applicant provided a legal opinion supporting the conclusion that the proposed development does not contravene Clause 30AA of State Environmental Planning Policy (Affordable Rental Housing) 2009 subject to the submission of a satisfactory Clause 4.6 written request. The submitted request under Clause 4.6 of Hornsby Local Environmental Plan 2013 is considered well founded and is supported. Strict compliance with the development standard is considered unreasonable and unnecessary in the circumstances of the case as the proposal would comply when both approved Lots A and B are registered

under DA/248/2019/B.

- With the exception of Clause 30AA of State Environmental Planning Policy (Affordable Rental Housing) 2009, the proposed development generally complies with the requirements of the relevant environmental planning instruments including the State Environmental Planning Policy (Affordable Rental Housing) 2009 and the Hornsby Local Environmental Plan 2013. Having regard to Clause 30A of State Environmental Planning Policy (Affordable Rental Housing) 2009 the panel considers that the design of the proposed development is compatible with the character of local area.
- The proposed development is consistent with the Hornsby Development Control Plan 2013.
- The proposed development does not create unreasonable environmental impacts to adjoining development with regard to visual bulk, overshadowing, solar access, amenity or privacy.

VOTING OF THE PANEL MEMBERS

FOR: Garry Fielding, Linda McClure, Mary-Lynne Taylor, John Filocamo

AGAINST: NIL

2 LPP16/22 DA/133/2021 - Construction of a 11 Room Boarding House on Proposed Lot A - 134 Burdett Street, Wahroonga

(DA/133/2021)

RECOMMENDATION

THAT Council assume the concurrence of the Secretary of the Department of Planning and Environment pursuant to Clause 4.6 of the Hornsby Local Environmental Plan 2013 and approve Development Application No. DA/133/2021 for construction of a boarding house consisting of 11 rooms and 6 parking spaces on proposed Lot A at Lot 7 DP 263708, No. 134 Burdett Street, Wahroonga as a deferred commencement pursuant to Section 4.16(3) of the *Environmental Planning and Assessment Act 1979* subject to the conditions of consent detailed in Schedule 1 of LPP Report No. LPP16/22.

PANEL'S CONSIDERATION AND DETERMINATION

The Panel considered the matters raised in the written submissions and by the speakers at the meeting, including scale of the development, inappropriate development in the locality, traffic and parking impacts, noise, privacy and amenity impacts, management of the boarding house and reduction in property values.

The Panel considered the Clause 4.6 submission and is satisfied that the applicant's written request has adequately addressed the matters required to be demonstrated by Clause 30AA of State Environmental Planning Policy (Affordable Rental Housing) 2009 and in accordance with clause 4.6(4) of the HLEP, and is satisfied that the proposed development will be in the public interest because it is consistent with the objectives of the development standard and the objectives for development within the zone in which the development is proposed to be carried out.

The Panel resolved to adopt the officer's report recommendation and approve the proposed

development as a deferred commencement consent, subject to the conditions contained in Schedule 1 of the report.

The reasons for this decision are:

- The development is a form of affordable housing that is encouraged by the objectives of State Environmental Planning Policy (Affordable Rental Housing) 2009 and the development complies with the non-discretionary development standards contained within the SEPP, including parking.
- The applicant provided a legal opinion supporting the conclusion that the proposed development does not contravene Clause 30AA of State Environmental Planning Policy (Affordable Rental Housing) 2009 subject to the submission of a satisfactory Clause 4.6 written request. The submitted request under Clause 4.6 of Hornsby Local Environmental Plan 2013 is considered well founded and is supported. Strict compliance with the development standard is considered unreasonable and unnecessary in the circumstances of the case as the proposal would comply when both approved Lots A and B are registered under DA/248/2019/B.
- With the exception of Clause 30AA of State Environmental Planning Policy (Affordable Rental Housing) 2009, the proposed development generally complies with the requirements of the relevant environmental planning instruments including the State Environmental Planning Policy (Affordable Rental Housing) 2009 and the Hornsby Local Environmental Plan 2013. Having regard to Clause 30A of State Environmental Planning Policy (Affordable Rental Housing) 2009 the panel considers that the design of the proposed development is compatible with the character of local area.
- The proposed development is consistent with the Hornsby Development Control Plan 2013.
- The proposed development does not create unreasonable environmental impacts to adjoining development with regard to visual bulk, overshadowing, solar access, amenity or privacy.

VOTING OF THE PANEL MEMBERS

FOR: Garry Fielding, Linda McClure, Mary-Lynne Taylor, John Filocamo

AGAINST: NIL

NON-PUBLIC MEETING ITEMS

3 LPP4/22 DA/1302/2021 - Torrens Title Subdivision of an Existing Strata Titled Property - 22 Murray Road, Becroft

(DA/1302/2021)

RECOMMENDATION

THAT Hornsby Shire Council Local Planning Panel assume the concurrence of the Secretary of the Department of Planning and Environment pursuant to Clause 4.6 of the Hornsby Local Environmental Plan 2013 and approve Development Application No. DA/1302/2021 for the conversion of a strata title

subdivision to a Torrens title subdivision at Lot 1 and 2 SP 34827, No. 22 Murray Road, Beecroft subject to the conditions of consent detailed in Schedule 1 of LPP Report No. LP4/22

PANEL'S CONSIDERATION AND DETERMINATION

The Panel considered the Clause 4.6 submission and is satisfied that the applicant's written request has adequately addressed the matters required to be demonstrated by clause 4.6(3) of the HLEP and in accordance with clause 4.6(4) of the HLEP, is satisfied that the proposed development will be in the public interest because it is consistent with the objectives of the 'Height of Buildings' development standard and the objectives for development within the zone in which the development is proposed to be carried out.

The Panel resolved to adopt the officer's report recommendation and approve the proposed development, subject to the conditions contained in Schedule 1 of the report.

The reasons for this decision are:

- The request under Clause 4.6 of Hornsby Local Environmental Plan 2013 to contravene the minimum allotment size development standard is well founded. Strict compliance with the development standard is considered unreasonable and unnecessary in the circumstances of the case and sufficient environmental planning grounds have been submitted to justify the contravention to the development standard.
- The proposed development generally complies with the requirements of the relevant environmental planning instruments and the Hornsby Development Control Plan 2013.
- The proposed development does not create unreasonable environmental impacts to adjoining properties.

VOTING OF THE PANEL MEMBERS

FOR: Garry Fielding, Linda McClure, Mary-Lynne Taylor

AGAINST: Barbra Wynn

4 LPP17/22 DA/61/2022 - Alterations and Additions to a Dwelling House - 21 Lowanna Place, Hornsby

(DA/61/2022)

RECOMMENDATION

THAT Council assume the concurrence of the Secretary of the Department of Planning and Environment pursuant to Clause 4.6 of the Hornsby Local Environmental Plan 2013 and approve Development Application No. DA/61/2022 for alterations and additions to a dwelling house at Lot 16 DP 240146, No. 21 Lowanna Place, Hornsby subject to the conditions of consent detailed in Schedule 1 of LPP Report No. LPP17/22.

PANEL'S CONSIDERATION AND DETERMINATION

The Panel considered the Clause 4.6 submission and is satisfied that the applicant's written request

has adequately addressed the matters required to be demonstrated by clause 4.6(3) of the HLEP and in accordance with clause 4.6(4) of the HLEP, is satisfied that the proposed development will be in the public interest because it is consistent with the objectives of the 'Height of Buildings' development standard and the objectives for development within the zone in which the development is proposed to be carried out. The Panel resolved to adopt the officer's report recommendation and approve the proposed development, subject to the conditions contained in Schedule 1 of the report and the following amendments:

Amend condition No. 3 to read:

3. Removal of Trees

- a) This development consent permits the removal of trees numbered 4, 12, 19, 21, 23 as identified on page 38 in the Arboricultural Impact Assessment prepared by Arbor Central dated 13/09/2021.
- b) No consent is granted for the removal of trees numbered 2, 3, 5, 6, 7, 8, 9, 11, 13, 14, 15, 16, 17, 18, 20, 22 and 24 as these trees contribute to the established landscape amenity of the area/ streetscape.
- c) No consent is granted to the removal of trees T1, T1a as these trees are on adjoining properties. Removal of these trees would require separate approval by Council.

Note: The removal of any other trees from the site requires separate approval by Council in accordance with Part 1B.6 Tree and Vegetation Preservation of the Hornsby Development Control Plan, 2013 (HDCP)

Amend condition No. 18(a) to read:

18. Installation of Tree Protection Measures

- d) Trees to be retained and numbered 2, 3, 5, 6, 7, 8, 9, 11, 13, 14, 15, 16, 17, 18, 20, 22 and 24 as identified on the Tree Location Plan prepared by Tree Central 24/1/2022 D08334319 must have tree protection measures for trunk installed by the project arborist as follows:

Amend condition No. 26 to read:

26. Maintaining the health of trees approved for retention

The appointed project arborist must monitor and record any and all necessary actions required to maintain tree health and condition for trees numbered 2, 3, 5, 6, 7, 8, 9, 11, 13, 14, 15, 16, 17, 18, 20, 22 and 24 on the approved plans.

Amend condition No. 27 to read:

27. Maintaining Tree Protection Measures

Tree Protection Measures must be maintained by the project arborist in accordance with

Condition No. 18 of this consent for the duration of work.

Amend condition No. 28 to read:

37. Replacement Tree Requirements

- a) The trees approved for removal under this consent, being trees numbered 4, 12, 19, 21 and 23 must be offset through replacement planting of a minimum of 5 trees.
- b) All replacement plantings must be species selected from the 'Trees Indigenous to Hornsby Shire (as of 1 September 2011)' document available for viewing on the Hornsby Council's website <http://www.hornsby.nsw.gov.au/environment/flora-and-fauna/tree-management/indigenous-trees>
- c) The location and size of tree replacement planting must comply with the following:
 - i) All replacement trees must be located in either front or rear setbacks and planted 4 metres or greater from the foundation walls of the approved development.
 - ii) The pot size of the replacement trees must be a minimum 45 litres.
 - iii) All replacement trees must be a minimum of 3 metres in height.
 - iv) All replacement trees must have the potential to reach a mature height greater than 10 metres.

The reasons for this decision are:

- The request under Clause 4.6 of Hornsby Local Environmental Plan 2013 to contravene the 'Height of buildings' development standard is well founded. Strict compliance with the development standard is considered unreasonable and unnecessary in the circumstances of the case and sufficient environmental planning grounds have been submitted to justify the contravention to the development standard.
- The proposed development generally complies with the requirements of the relevant environmental planning instruments and the Hornsby Development Control Plan 2013.
- The proposed development does not create unreasonable environmental impacts to adjoining development with regard to visual bulk, overshadowing, solar access, amenity or privacy.

VOTING OF THE PANEL MEMBERS

FOR: Garry Fielding, Linda McClure, Mary-Lynne Taylor, John Filocamo

AGAINST: NIL

5 LPP14/22 DA/528/2020 - Concept Development Application for Shop Top Housing Development - 409-411 Pacific Highway, Asquith

(DA/528/2020)

RECOMMENDATION

THAT Council assume the concurrence of the Secretary of the Department of Planning and Environment pursuant to Clause 4.6 of the Hornsby Local Environmental Plan 2013 and approve Development Application No. DA/528/2020 for a Concept Development Application for shop top housing development comprising ground floor retail and 31 units over four residential floors at Lot 4 DP 650304, Lot 5 DP 650059, Lot 5 DP 136220, No. 409-411 Pacific Highway, Asquith subject to the conditions of consent detailed in Schedule 1 of LPP Report No. LPP14/22.

PANEL'S CONSIDERATION AND DETERMINATION

The Panel considered the matters raised in the written submissions, including building height, non-compliant front setback, privacy and amenity impacts, offensive odour and fire risk from mixed use.

The Panel considered the Clause 4.6 submission and is satisfied that the applicant's written request has adequately addressed the matters required to be demonstrated by clause 4.6(3) of the HLEP and in accordance with clause 4.6(4) of the HLEP, is satisfied that the proposed development will be in the public interest because it is consistent with the objectives of the 'Height of Buildings' development standard and the objectives for development within the zone in which the development is proposed to be carried out.

The Panel also notes that traffic improvements within the locality will occur as part of the Traffic Improvement Plan prepared for the precinct.

The Panel resolved to adopt the officer's report recommendation and approve the proposed development, subject to the conditions contained in Schedule 1 of the report.

The reasons for this decision are:

- The request under Clause 4.6 of Hornsby Local Environmental Plan 2013 to contravene the 'Height of buildings' development standard is well founded. Strict compliance with the development standard is considered unreasonable and unnecessary in the circumstances of the case and sufficient environmental planning grounds have been submitted to justify the contravention to the development standard.
- The proposed development does not create unreasonable environmental impacts to adjoining development with regard to visual bulk, overshadowing, solar access, amenity or privacy.
- Detailed assessment of the impact of the development on the natural and built environment of the locality would be considered under a future development application for building works within the approved building envelope on the site.

VOTING OF THE PANEL MEMBERS

FOR: Garry Fielding, Linda McClure, Mary-Lynne Taylor, Brian Scarsbrick

AGAINST: NIL

6 LPP15/22 DA/1353/2021 - Alterations and Additions to a Dwelling House - 28

RECOMMENDATION

THAT Council assume the concurrence of the Secretary of the Department of Planning and Environment pursuant to Clause 4.6 of the Hornsby Local Environmental Plan 2013 and approve Development Application No. DA/1353/2021 for alterations and additions to a dwelling house at Lot 3 DP 204635, No. 28 Landra Avenue Mount Colah subject to the conditions of consent detailed in Schedule 1 of LPP Report No. LPP15/22.

PANEL'S CONSIDERATION AND DETERMINATION

The Panel considered the Clause 4.6 submission and is not satisfied that the proposed development will be in the public interest because it has not been demonstrated through the Clause 4.6 submission and the submitted shadow diagrams that the extent of the existing shadow to the windows on the eastern elevation of No. 30 Landra Avenue is not further increased due to the proposed first floor addition. Accordingly, the Panel resolved to:

1. Defer the determination of the application and require the preparation of shadow diagrams demonstrating the extent of the existing shadows cast on No. 30 Landra Avenue compared with the shadows caused by the proposed building addition.
2. Delegate to the Director, Planning and Compliance and the Manager, Development Assessments of the Council the power to make a determination of the application as the consent authority.

VOTING OF THE PANEL MEMBERS

FOR: Garry Fielding, Linda McClure, Mary-Lynne Taylor, Brian Scarsbrick

AGAINST: NIL

7 LPP18/22 DA/1374/2021 - Change of Use of a Shed for the Purposes of a Rural Supplies Business - 377-389 Galston Road, Galston

(DA/1374/2021)

RECOMMENDATION

THAT Development Application No. DA/1374/2021 for the change of use of a fruit packing shed to a rural supplies business at Lot 4 DP 1231874, No. 377-389 Galston Road, Galston be approved subject to the conditions of consent detailed in Schedule 1 of LPP Report No. LPP18/22.

PANEL'S CONSIDERATION AND DETERMINATION

The Panel resolved to adopt the consultant planner's assessment report recommendation and approve the proposed development, subject to the conditions contained in Schedule 1 of the report.

The reasons for this decision are:

- The proposed development complies with the requirements of the relevant environmental planning instruments and the Hornsby Development Control Plan 2013.
- The proposed development is complementary to surrounding land uses and does not create unreasonable environmental impacts to adjoining development with regard to noise, traffic, parking.
- The proposed development would have a positive social and economic impact on the locality.

VOTING OF THE PANEL MEMBERS

FOR: Garry Fielding, Linda McClure, Mary-Lynne Taylor, Brian Scarsbrick

AGAINST: NIL

8 LPP19/22 Reporting Development Applications for Determination by the Hornsby Local Planning Panel over 180 Days

(F2013/00295-003)

RECOMMENDATION

THAT the contents of LPP Report No. LPP19/22 be received and noted.

PANEL'S CONSIDERATION AND DETERMINATION

The Panel resolved that:

1. The report be received and noted.
2. With regards to DA/416/220, the Panel Chair write to the Planning Delivery Unit to request that the outstanding concurrence referrals for both Sydney Trains and Transport for NSW be expedited to enable a report for determination to be prepared for the May Local Planning Panel meeting.

VOTING OF THE PANEL MEMBERS

FOR: Garry Fielding, Linda McClure, Mary-Lynne Taylor, Brian Scarsbrick, Barbra Wynn, John Filocamo

AGAINST: NIL

The Panel's meeting concluded at 5.10pm.

A handwritten signature in black ink, appearing to be 'D. Adams', written in a cursive style.

Chairperson