

CONSULTANT ASSESSMENT REPORT

DA No:	DA/514/2022 (Lodged on 19 May 2022)
Description:	Demolition of structures and Torrens title subdivision of 1 lot into 4 lots
Property:	Lot M DP 28986, No. 263 Malton Road (3 Walker Place), North Epping
Applicant:	Mr Warren Eldridge
Owner:	Suzanne Christine Neil
Estimated Value:	\$45,000
Ward:	C Ward

- The application involves the demolition of structures and Torrens title subdivision of one lot into four lots.
- The proposed development was amended to alter the proposed road design to be consistent with the adjoining application to the north (DA/431/2022).
- The proposal complies with the requirements of the relevant environmental planning instruments and the Hornsby Development Control Plan 2013.
- A total of ten (10) submissions, including a letter signed by four parties, have been received in respect of the original application. The re-notification of the amended application received a total of four (4) submissions, plus a petition signed by landowners of nine (9) properties in Walker Place and Boundary Rd.
- As the proposal involves the dedication of land for the Walker Place road widening, an independent assessment of the application has been undertaken.
- The application is required to be determined by the Hornsby Council Local Planning Panel as 10 or more unique submissions were received by way of objection.
- It is recommended that the application be approved.

BACKGROUND

The subdivision that originally created Walker Place was approved in 1974. At this time the road, kerb and footpath were only completed for the western side of Walker Place. It was envisaged at this time that as development occurs along the eastern side of Walker Place, individual property owners would be required to construct the remaining part of the roadway, kerb and gutter relevant to their property. However, no masterplan provisions or caveats on land titles are in place to enforce compulsory dedication of land for road construction.

On 17 December 2012, DA/585/2003 for subdivision of 1 lot into 4 on subject site was refused by Council due to the vehicular access for the remainder of Walker Place from the cul-de-sac to Boundary Rd not being proposed.

On 2 May 2022, DA/431/2022 for a six lot subdivision was lodged on Nos. 127 & 127A Boundary Road, North Epping, being land immediately adjoining the site to the north. This application has not yet been determined.

On 19 May 2022 the subject application was lodged.

On 29 June 2022, a request for information letter was sent by Council with respect to the proposed road width and design.

Additionally, the amendments required for DA/431/2022 impacted the road and cul-de-sac design of the subject DA. Subsequently, the road and cul-de-sac design was updated to reflect these changes and ensure the overall design of Walker Place would work seamlessly.

On 15 September 2022, amended plans and information was submitted in response to Council's request for information.

SITE

The site comprises one lot being Lot M DP 28986, with a total area of 2,351m² lot is located on the eastern side of Walker Place, with an access handle to the south providing direct access to Malton Road.

The site is a rectangular shaped allotment that contains a dwelling house with free standing garage, outbuildings, tennis court, fencing, and scattered vegetation and grass.

The site is generally flat, with a slope towards the eastern boundary.

The site is not identified as bushfire prone land, nor flood prone. The site is not burdened by any easements or restrictions.

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

PROPOSAL

The application proposes:

- Demolition of structures;
- Torrens title subdivision of one lot into four lots, to occur in two stages;
- Civil works including services to each site, widening of Walker Place; drainage of the proposed lots to Walker Place via a new drainage easement; and
- Removal of trees 8 trees (numbered 2, 3, 5-9 inclusive and 21).

The Torrens title subdivision is outlined below:

Stage 1:

- Proposed Lot 19 would have an area of 1,801m², including the access handle. Vehicle access to this lot would be from Malton Road via the existing access handle.
- Proposed Lot 20 would have an area of 550m². Vehicle access to this lot would be from Walker Place.
- Road widening and dedication to Council.

Stage 2:

- Re-subdivision of Proposed Lot 19.

- Demolition of Structures.
- Drainage including an on-site detention tank and drainage easement over the access handle.
- Proposed Lot 21 would have an area of 515m². Vehicle access to this lot would be from Walker Place.
- Proposed Lot 22 would have an area of 701.8m² (523.2m² excluding the access handle). Vehicle access to this lot would be from Malton Road via the existing access handle.
- Proposed Lot 23 would have an area of 584m². Vehicle access to this lot would be from Walker Place.

ASSESSMENT

The development application has been assessed having regard to the Greater Sydney Region Plan - A Metropolis of Three Cities, the North District Plan and the matters for consideration prescribed under Section 4.15 of the *Environmental Planning and Assessment Act 1979* (the Act). The following issues have been identified for further consideration.

1. STRATEGIC CONTEXT

1.1 Greater Sydney Region Plan - A Metropolis of Three Cities and North District Plan

The Greater Sydney Region Plan - A Metropolis of Three Cities has been prepared by the NSW State Government to guide land use planning decisions for the next 40 years (to 2056). 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 also 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 released the North District Plan which includes priorities and actions for 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 the Greater Sydney Region Plan - A Metropolis of Three Cities and the North District Plan, by contributing to achieving the dwelling targets for the region.

2. STATUTORY CONTROLS

Section 4.15(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 Hornsby Local Environmental Plan 2013 (HLEP) applies to all land within Hornsby Shire. An assessment of the development against the relevant sections of the HLEP is provided below.

2.1.1 Zoning of Land and Permissibility

Clause 2.6 of the HLEP permits the subdivision of land to which the instrument applies, but only with development consent. The proposed subdivision of the subject land is permissible with Council's consent.

The subject land is zoned R2 Low Density Residential under the HLEP. The objectives of the R2 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 subdivision would facilitate the provision of housing to meet the needs of the community. It is considered that the proposal satisfies the zone objectives.

2.1.2 Minimum lot size

Clause 4.1 of the HLEP provides that the minimum size of any lot resulting from the subdivision of the subject site is 500m².

The proposed lots comply with the minimum lot size requirement.

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 objectives of this clause are to ensure that required earthworks will not have a detrimental impact on environmental functions and processes. Given the land is generally flat, minor earthworks only are likely to be required for the proposed development however it is considered that the proposed excavation would not adversely impact on environmental functions and processes, subject to standard conditions of consent being applied in regard to sediment control.

Council's assessment of the proposed works and excavation concludes that minor cut and fill works will not impact upon surrounding properties, including drainage.

2.2 State Environmental Planning Policy (Resilience and Hazards) 2021

The application has been assessed against the requirements of Chapter 4 of State Environmental Planning Policy (Resilience and Hazards) 2021.

2.2.1 Chapter 4 Remediation of Land

Chapter 4 of SEPP (Resilience and Hazards) requires that consent must not be granted to the carrying out of any development on land unless Council has considered whether the land is contaminated or requires remediation for the proposed use.

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. It is therefore unlikely that the site has experienced any significant contamination and further assessment under SEPP (Resilience and Hazards) is not necessary.

2.3 State Environmental Planning Policy (Biodiversity and Conservation) 2021

The application has been assessed against the requirements of Chapters 2 and 10 of State Environmental Planning Policy (Biodiversity and Conservation) 2021.

2.3.1 Chapter 2 Vegetation in non-rural areas

Chapter 2 of this Policy seeks to protect the biodiversity values of trees and other vegetation in nonrural areas of the State, and to preserve the amenity of non-rural areas of the State through the preservation of trees and other vegetation.

Part 2.3 of the Policy states that a development control plan may make a declaration in any manner relating to species, size, location and presence of vegetation. Accordingly, Part 1B.6.1 of the Hornsby Development Control Plan 2013 (HDCP) prescribes works that can be undertaken with or without consent to trees.

Section 2.5.4 of this report provides an assessment in accordance with Part 1B.6.1 of the HDCP.

2.3.2 Chapter 10 Sydney Harbour Catchment

The site is located within the catchment of Sydney Harbour. The aim of this chapter is to ensure that the catchment, foreshores, waterways and islands of Sydney Harbour are recognised, protected, enhanced and maintained. This chapter provides general planning considerations and strategies to ensure that the catchment, foreshores, waterways and islands of Sydney Harbour are recognised, protected, enhanced and maintained.

The policy addresses matters related to biodiversity, ecology and environment protection; public access to, and use of, foreshores and waterways; maintenance of a working harbour; interrelationship of waterway and foreshore uses; foreshore and waterways scenic quality; maintenance, protection and enhancement of views and boat storage facilities.

Subject to the implementation 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 and would comply with the requirements of chapter 10 of the Biodiversity and Conservation SEPP.

2.4 Section 3.42 Environmental Planning and Assessment Act 1979 - Purpose and Status of Development Control Plans

Section 3.42 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:

HDCP – Part 6 Subdivision					
Control	Proposal	Requirement	Complies		
Site Area	2,351m ²	N/A	N/A		
Lot Sizes – Stage 1 - Lot 19 - Lot 20 (residue)	1,801m ² 550m ²	500m ²	Yes		
Lot Sizes – Stage 2 - Lot 21 - Lot 22 - Lot 23	515m ² 523.2m ² 584m ²				
Lot Widths - Lot 19 - Lot 20 - Lot 21 - Lot 22 - Lot 23	>12m >12m >12m >12m >12m			12m	Yes
Lot 20					
Building Envelope	>200m ²	200m ²	Yes		
Setbacks - Front (Walker Place) - Side (north) - Side (south) - Rear (east)	6m 1m 1m >5m	6m 0.9m 0.9m 5m	Yes Yes Yes Yes		
Landscaped Area	>20%	20%	Yes		
Private Open Space - minimum area - minimum dimension	>24m ² >3m	24m ² 3m	Yes Yes		
Car Parking	2 spaces	2 spaces	Yes		
Lot 21					

Building Envelope	>200m ²	200m ²	Yes
Setbacks			
- <i>Front (Walker Place)</i>	6m	6m	Yes
- <i>Side (north)</i>	1m	0.9m	Yes
- <i>Side (south)</i>	1m	0.9m	Yes
- <i>Rear (east)</i>	>5m	5m	Yes
Landscaped Area	>20%	20%	Yes
Private Open Space			
- <i>minimum area</i>	>24m ²	24m ²	Yes
- <i>minimum dimension</i>	>3m	3m	Yes
Car Parking	2 spaces	2 spaces	Yes
Lot 22			
Building Envelope	>200m ²	200m ²	Yes
Setbacks			
- <i>Internal Accessway</i>	5.9m	5.5m	Yes
- <i>Side (east)</i>	3.1m	0.9m	Yes
- <i>Side (west)</i>	1m	0.9m	Yes
- <i>Rear (north)</i>	>5m	5m	Yes
Landscaped Area	>20%	20%	Yes
Private Open Space			
- <i>minimum area</i>	>24m ²	24m ²	Yes
- <i>minimum dimension</i>	>3m	3m	Yes
Car Parking	2 spaces	2 spaces	Yes
Lot 23			
Building Envelope	>200m ²	200m ²	Yes
Setbacks			
- <i>Front (Walker Place)</i>	6m	6m	Yes

- Side (east)	1m	0.9m	Yes
- Side (west)	1m	0.9m	Yes
- Rear (south)	>5m	5m	Yes
Landscaped Area	>20%	20%	Yes
Private Open Space			
- minimum area	>24m ²	24m ²	Yes
- minimum dimension	>3m	3m	Yes
Car Parking	2 spaces	2 spaces	Yes

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

2.5.1 Site Requirements

The proposed subdivision would result in the proposed lots having a lot size and width which exceeds the minimum subdivision lot size and width requirements of the HDCP.

The proposed subdivision design provides for regular shaped lots and demonstrates compliance with the relevant HDCP controls including site coverage, landscaping, open space and car parking.

The plans indicate building envelopes well in excess of the DCP requirements. As such, the setbacks are often greater than indicated on the plan and achieve compliance.

2.5.2 Setbacks

HDCP requires a front setback from the building envelope on each lot to be a minimum of 6m, however also states “on local roads, where an existing setback of 7.6m or greater exists, it may be necessary to conform to this setback to maintain the streetscape character”. On Walker Place, there is a variety of front setbacks, with some exceeding 7.6m. For the purposes of the building envelope, a 6m setback has been adopted, noting that the required building envelope allows for ample room available for the future dwelling beyond the indicated envelope. The plans indicate building envelopes well in excess of the DCP requirements and there is ample opportunity for a larger front setback to a future dwelling.

This allows for flexibility in the dwelling design and likely increase in the front setback. As this application is for subdivision only, the constraints Plan indicates that there is the opportunity to increase setbacks and still achieve the necessary private open space, which would be assessed in detail as to the time of an application for the dwelling. The building envelope on the plans is indicative only and does not form a restriction on the land, to allow for flexibility in the dwelling design and ability to increase front setbacks.

2.5.3 Open Space & Landscaping

In accordance with the requirements of HDCP, the proposed subdivision a principal private open space area of 24m² for each lot. This area is to be generally level, with a minimum width of 3 metres, sited adjacent to the building envelope within the rear setback.

2.5.4 Tree Preservation

The removal of eight trees is indicated on the Architectural Plans.

An Arboricultural Assessment accompanies the subject application and recommends removal of the trees and tree protection zones to protect trees on adjoining land.

Council's Tree Management Officer reviewed the proposal and provided the comments below.

Constraints

The constraints (Tree Protection Zones (TPZ)) for this current proposal relates to trees numbered 1, 4 and 10-20 inclusive as indicated on the Survey of Subject Trees, Appendix C, page 18 of the Arboricultural Impact Assessment (AIA) provided by Redgum Horticultural dated 04 February 2022 (TRIM: D08412033).

For this proposal to be considered viable it must be clearly demonstrated that appropriate sensitive construction methodology, tree protection measures and management has been applied in accordance with the Australian Standard AS4970-2009 Protection of trees on development sites.

Building Envelope / Footprint

The proposal indicates trees numbered 2, 3, 5-9 inclusive and 21 are located within the building envelope or footprint and would require removal if the proposal is granted consent. Trees numbered 4 and 20 are also impacted by the indicative building envelope; the Tree Protection zone incursion is as follows:

T4 27 percent (24 percent is existing)

T20 30 percent (10 percent existing)

The encroachment is considered a major TPZ incursion as prescribed in the Australian Standard AS4970-2009 Protection of trees on development sites.

TPZ incursions for retained trees would require further assessment and consideration under future applications involving construction works within the relevant allotments.

Tree Removal & Replacement Plantings

The current proposal will result in the removal of 8 trees numbered 2, 3, 5-9 inclusive and 21. Whilst tree loss is not ideal, there is sufficient space on the site to provide compensatory plantings of locally occurring species to maintain the local amenity.

Despite the above comments from Council's Tree Management Officer, it is considered that Trees 2 and 3 can be retained under this application for subdivision and a separate approval can be sought for removal under future application for the built form on the new lots if required.

Subject to conditions, the proposal meets the requirements of Part 1B.6.1 Tree Preservation under the HDCP and is considered acceptable. Additional conditions have been recommended regarding replacement planting and landscaping.

2.5.5 Stormwater Management

The amended plans propose satisfactory stormwater arrangements for drainage of the lots, including drainage to Walker Place for Lot 20, connecting into the existing system in Boundary Road. An on-site detention tank and drainage easement over the access handle is proposed in Stage 2 to drain the remaining lots. The proposed drainage scheme has been reviewed by Council's Engineer and deemed satisfactory.

2.5.6 Traffic, Vehicle Access & Parking

During the assessment of the subject and adjoining application (DA/431/2022), Council originally requested that the road be increased to the standard of a local road. The applicant's traffic engineer for the subject application provided commentary which supported a lower standard of road. Whilst Council's Engineers do not support the Access Road definition as discussed in the supporting traffic report, a narrower verge on the development side is supported provided that the Local Road carriageway width of 7.5 metres is achieved.

The submitted commentary, whilst not agreed with regarding classification, provides information regarding existing and future conditions in Walker Place. A copy forms an attachment to both assessment reports for completeness.

As such, the two applications have been amended to be consistent with respect to road width and Walker Place is proposed as follows:

- Widening of road reserve, consisting of the existing 3.6-metre verge on the north-western side, minimum 6.3-metre roadway pavement, and a 1.2-metre verge on the south-eastern side.
- The proposed roadway will allow for two-way passing of vehicles and the provision of on-street, or 'carriageway', car parking, and be designed in accordance with the Council Specifications.
- Widening at the intersection of Walker Place and Boundary Road would be designed to maintain access for vehicles up to Council's domestic waste collection vehicle.
- Completion of the cul-de-sac.

The commentary has been reviewed by Council's Engineers and the reduced verge on the development side is supported. Accordingly, the proposed roadway (Walker Place) has been amended on both applications and the subject proposal is consistent with the adjoining proposed subdivision. It was also recommended by Council's Engineer that "No Parking" restrictions be posted along the eastern side of the road (development side) subject to the Local Traffic Committee agreement, and a footpath be provided along the western side of Walker Place and cul-de-sac and appropriate conditions have been recommended.

The DCP requires sufficient and convenient parking for residents with vehicular access that is simple, safe and direct, and requires car parking for dwelling houses should be provided behind the front building line. In this instance, the proposed building envelopes indicate safe and direct access off Walker Place and Malton Road. The DCP requires 2 spaces for the dwelling house, and 2 spaces can be accommodated within the building envelope for a future dwelling.

The site is currently served by a driveway from Malton Road. Stage 1 creates the new Walker Place access by way of the proposed road widening and all lots will be provided access to the Walker Place, with the exception of Lot 22 which will remain via the battle-axe handle. No objections are raised to the proposed vehicle access arrangements.

On 17 December 2012, DA/585/2003 for subdivision of 1 lot into 4 on subject site was refused by Council due to the vehicular access for the remainder of Walker Place from the cul-de-sac to Boundary Road not being proposed. A review of the report indicated that Council raised no objection to the subdivision pattern, nor the works to the cul-de-sac head. Concerns were however raised regarding the connection to Boundary Road via the existing Walker Place and the absence of “adequate and safe vehicular access”.

In this instance, as the two current applications have been lodged and assessed at the same time, there is greater certainty regarding the widening of Walker Place. In this regard, appropriate conditions of consent are recommended which restricts use of the land or built form development on Proposed Lots 19 (residue), 20, 21 or 23 until such time the widening of Walker Place has occurred under DA/431/2022. This does not preclude registration of lots, however, does not allow use of the land until such time as the road widening occurs.

2.6 Section 7.11 Contributions Plan

Hornsby Shire Council Section 7.11 Contributions Plan 2020-2030 applies to the subdivision as it would result in six lots in lieu of the two existing lots. Accordingly, the requirement for a monetary Section 7.11 contribution is recommended as a condition of consent.

3. ENVIRONMENTAL IMPACTS

Section 4.15(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

Council’s assessment regarding the impacts to trees arising from the proposal is provided in Section 2.5.4 of this report.

3.1.2 Stormwater Management

Council’s assessment regarding stormwater management arising from the proposal is provided in Section 2.5.5 of this report.

3.2 Built Environment

3.2.1 Built Form

The indicative building envelopes illustrated on the submitted Site Plan demonstrates that future dwellings on proposed lots can comply with the relevant HDCP controls for built form.

3.2.2 Traffic

As established in Table 2.5 of this report, the proposal complies with the HDCP requirement for the provision of two car parking spaces behind the building line.

New vehicle crossings would be proposed along Walker Place to serve the proposed lots and the existing access from Malton Road retained.

Council's assessment regarding traffic management arising from the proposal is provided in Section 2.5.6 of this report.

The proposal meets the provisions of the HDCP with respect to transport and parking.

3.3 Social Impacts

The subdivision would facilitate the improvement of housing choice in the locality by providing an opportunity for residential redevelopment. 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

There would be no adverse economic impacts arising from the proposed subdivision.

The proposal would have a minor positive impact on the local economy by introducing future residential development to the locality and an increase in demand for local services.

4. SITE SUITABILITY

Section 4.15(1)(c) of the Act requires Council to consider "*the suitability of the site for the development*".

The subject site has not been identified as bushfire prone or flood prone land. The site is considered to be capable of accommodating the proposed development. The scale of the proposed development is consistent with the capability of the site and is considered acceptable.

5. PUBLIC PARTICIPATION

Section 4.15(1)(d) of the Act requires Council to consider "any submissions made in accordance with this Act or the regulations".

5.1 Community Consultation


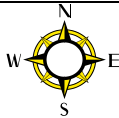
The proposed development was placed on public exhibition and was notified to adjoining and nearby landowners between 20 May 2022 to 14 June 2022 in accordance with the Community Engagement Plan. During this period, Council received ten (10) submissions, including a letter signed by four parties.

The re-notification of the amended application between 18 October 2022 to 4 November 2022 received a total of four (4) submissions, plus a petition signed by landowners of nine (9) properties in Walker Place and Boundary Rd.

The map below illustrates the location of the nearby landowner who made a submission that are in close proximity to the development site.



NOTIFICATION PLAN

<ul style="list-style-type: none"> • PROPERTIES NOTIFIED 	<ul style="list-style-type: none"> X SUBMISSIONS RECEIVED 	 PROPERTY SUBJECT OF DEVELOPMENT	
<p>SIX (6) SUBMISSIONS RECEIVED OUT OF MAP RANGE OR UNKNOWN</p>			

Ten (10) submissions, including a letter signed by four parties in Walker Place, and four (4) submissions, plus a petition signed by landowners of nine (9) properties in Walker Place and Boundary Road to the amended proposal objected to the development, generally on the grounds that:

- No decision can be made on this application until the uncertainties regarding DA/431/2022 to the north are resolved and Walker Place widened.
- Similar proposal to refused DA/585/2003, which was on grounds of unsatisfactory vehicular access to Walker Place.
- Heritage significance of No. 263 Malton Road should be considered, even though not listed as it formed part of the early development of North Epping. The substantial full brick house is a Californian bungalow with the characteristics of a house built in the 1930's. Being mostly acreage lots, North Epping would have been sparsely populated at that time. This house, set back above the road, would have been quite prominently positioned on its lot and typical of houses built on broad acreage lots in the pre-building boom era of the 60's when many lots were subdivided and built upon. The house has been extended but the fabric remains and opens onto the remaining open land. the house and land should be added to the Hornsby Council heritage register as it represents a vital piece of local history. The local story is that the

land was used as a rose nursery. North Epping was originally cleared by timber fellers, subdivided into acreages and utilised for orchards, nurseries and poultry farms. Typical were F Bailey's and M Jacobs poultry farms after whom Bailey Crescent and Jacobs Close were named. There are few residences from this era remaining. These houses should be protected to provide a link to the farming era.

- Two lots, rather than four, would be more appropriate and larger lots as lots in North Epping are minimum 750m².
- Excessive tree removal and habitat loss, and Trees 5, 6, 7 and 8 should be retained.
- Road widening for the entire length of Walker Place must occur before dwelling construction on these proposed lots.
- Vehicular access should be from Malton Road for all lots, except one to Walker Place due to narrowness and heavy use for parking from parents of nearby Epping North Public School and residents.
- No acknowledgement of the existing traffic issues, or cumulative traffic impact from current DA and DA/514/2022.
- Access for residents of Walker Place to be maintained at all times during construction works.
- Road to be widened before building on new lots.
- The amended plans narrow the Walker Place road reserve and pavement to match the adjoining DA and requires the road reserve to be 14.5m, carriageway 7.5m and verge 3.5m, being Local Road standard and be consistent with what was provided on the western side of Walker Place.
- Services for the new lots should be located on Malton Road, be underground and no connection to existing services in Walker Place as they were paid for by the existing development.
- Stormwater and sediment issues / inaccuracies.
- Setbacks to new buildings should be minimum 7.6m to maintain existing streetscape.
- Access to the lots should be via the existing battle-axe handle off Malton Road.
- Developer to construct new 1.8m high fences along boundaries.
- North Epping is a fire prone suburb with only one access road.
- Increased demand on services and parking.

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

5.1.1 Road & Traffic & Previous Refusal

Council's Engineer has determined that Walker Place is classified as a Local Road, however a narrower verge on the development side is supported provided the Local Road carriageway width of 7.5 metres is achieved. As such, the road will not be widened to the standard requested in the submissions with respect to the verge.

The amended plans increase the width of the proposed road and to match DA/431/2022 to ensure a consistent full length of Walker Place is delivered. Given the timing of the two applications being determined, it is likely that the road will be constructed for the full length at the same time. However,

given there are two separate applications and landowner, appropriate conditions of consent requiring restrictions on built form on the proposed lots have been recommended in the instance they occur separately. In this regard, conditions of consent are recommended regarding the road construction and dedication to Council prior to the issue of the Subdivision Certificate for creation of the lots under this application and appropriate conditions of consent are recommended which restricts use of the land or built form development on Proposed Lots 19 (residue), 20, 21 or 23 until such time the widening of Walker Place has occurred under DA/431/2022. This does not preclude registration of lots, however, does not allow use of the land until such time as the road widening occurs.

Conditions of consent are also recommended regarding a traffic control plan to ensure that residents in Walker Street are notified of the works and plans are in place for resident access; and a “No Parking” restriction be posted along the eastern side of the road (development side) subject to consideration and approval by the Hornsby Local Traffic Committee; and a footpath be provided along the western side of Walker Place.

Council’s Traffic and Development Engineers reviewed the proposal and recommended road widths, “No Parking” restriction and footpath location in order to address traffic and pedestrian safety concerns. It is envisaged that the completion of Walker Place will reduce existing traffic and parking issues associated with the school as there will be limited parking opportunities in Walker Place for pick up or drop off due to the completion of the road and development of the vacant land.

The existing fence in the cul-de-sac will be removed as part of the road construction of DA/514/2022.

On 17 December 2012, DA/585/2003 for subdivision of 1 lot into 4 on subject site was refused by Council due to the vehicular access for the remainder of Walker Place from the cul-de-sac to Boundary Rd not being proposed. A review of the report indicated that Council raised no objection to the subdivision pattern, nor the works to the cul-de-sac head. Concerns were however raised regarding the connection to Boundary Rd via the existing Walker Place and the absence of “*adequate and safe vehicular access*”.

In this instance, as the two current applications have been lodged and assessed at the same time, there is greater certainty regarding the widening of Walker Place. As discussed above, appropriate conditions of consent are recommended which restricts use of the land or built form development on the proposed lots.

A submission has also raised concern that North Epping is fire prone and only has one access. The subject area is not bushfire prone, and this proposal does not alter the wider road network.

5.1.2 Services

Services will be constructed underground and there is no ability to dictate connections or prevent connection into the western side of Walker Place, which is determined by the relevant public authority.

5.1.3 Drainage

The amended plans propose satisfactory stormwater arrangements for drainage of the lots, including drainage to Walker Place for Lot 20, connecting into the existing system in Boundary Road. An on-site detention tank and drainage easement over the access handle is proposed in Stage 2 to drain the remaining lots. The proposed drainage scheme has been reviewed by Council’s Engineer and deemed satisfactory.

5.1.4 Lot Layout, Front Setback & Future Dwellings

A review of the plans demonstrates that the proposed subdivision design provides for useable lots and demonstrates compliance with the relevant HDCP controls including site coverage, landscaping, open space and car parking.

On Walker Place, there is a variety of front setbacks, with some exceeding 7.6m. For the purposes of the building envelope, a minimum 6m setback has been adopted, noting that the required building envelope allows for ample room available for the future dwelling beyond the indicated envelope, which would provide an increased front setback.

This allows for flexibility in the dwelling design and likely increase in the front setback. As this application is for subdivision only, the Constraints Plan indicates that there is the opportunity to increase setbacks and still achieve the necessary private open space, which would be assessed in detail as to the time of an application for the dwelling. The building envelope on the plans is indicative only and does not form a restriction on the land, to allow for flexibility in the dwelling design and ability to increase front setbacks.

A submission has indicated that the subdivision layout should be two lots rather than 4 and be accessed via Malton Road only. This is not necessary given the variety of housing forms and lot sizes and shapes in the area and the proposed lots comply with the minimum allotment size and will have a regular street frontage to Walker Place when fully constructed. Section 2.1.2 considers the proposed subdivision layout and lot size in detail.

An appropriate condition has been recommended regarding boundary fencing.

5.1.5 Tree Removal

The proposed development retains vegetation within the lots, with the tree removal proposed primarily to facilitate vehicular access. Replacement planting is proposed and there is ample room available on the lots for this to occur. Council's Tree Management Officer has reviewed the proposal and raises no objections to the tree removal, proposed tree protection zones and replacement planting.

5.1.6 Heritage

A submission requested that the dwelling at No. 263 Malton Road and its heritage significance should be considered. This dwelling is proposed to be demolished. This dwelling is not a heritage item and is not located in a Heritage Conservation Area and no further concerns are raised in this regard.

5.2 Public Agencies

The development application does not trigger referral to external agencies.

6. THE PUBLIC INTEREST

Section 4.15(1)(e) of the Act requires Council to consider "*the public interest*".

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

The application is considered to have satisfactorily addressed Council's and relevant agencies' criteria and would provide a development outcome that, on balance, would result in a positive impact for the

community. Accordingly, it is considered that the approval of the proposed development would be in the public interest.

CONCLUSION

The application proposes the demolition of structures and Torrens title subdivision of 1 lot into 4 lots.

The development generally meets the desired outcomes of Council's planning controls and is satisfactory having regard to the matters for consideration under Section 4.15 of the *Environmental Planning and Assessment Act 1979*.

Council received Eleven (11) submissions, plus a petition signed by landowners of nine properties in Walker Place and Boundary Rd, during the public notification period and re-notification of the amended application received a total of two and four (4) submissions, plus a petition signed by landowners of nine (9) properties in Walker Place and Boundary Rd. The matters raised have been addressed in the body of the report and the issues do not warrant amendments to the proposal.

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

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 does not create unreasonable environmental impacts to adjoining development with regard to visual bulk, overshadowing, solar access, amenity or privacy.

Note: At the time of the completion of this planning report, no persons have made a Political Donations Disclosure Statement pursuant to Section 10.4 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 Donna Clarke from Landmark Planning Pty Ltd.

RECOMMENDATION

THAT Development Application No. DA/514/2022 for demolition of structures and Torrens title subdivision of 1 lot into 4 lots at Lot M DP 28986, No. 263 Malton Road, North Epping be approved, subject to the conditions of consent detailed in Schedule 1 of this report.

Schedule 1

CONDITIONS APPLICABLE TO BOTH STAGES

GENERAL CONDITIONS

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

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

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

1. Approved Plans and Supporting Documentation

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

Approved Plans

Plan No.	Plan Title	Drawn by	Dated	Council Reference
2753-3	Plan showing Proposed Subdivision of Lot M in DP 28986, Plan of Survey, Concept Drainage & Road Design, and Sediment & Control Plan	Warren Eldridge	9/9/22	
-	Tree Protection Map	Hornsby Council	Undated	

Supporting Documentation

Document Title	Prepared by	Dated	Council Reference
Waste Management Plan	Warren Eldridge & Associates	10/3/22	D08412020
Arboricultural Impact Assessment	Redgum Horticultural	4/2/22	D08412033

2. Construction Certificate

- a) A Subdivision Works Certificate is required to be approved by Council or a Private Certifying Authority prior to the commencement of any subdivision works under this consent.
- b) A separate Section 138 Roads Act Approval must be obtained from Council for all works within the public road reserve.
- c) The Subdivision Works Certificate plans must be consistent with the Development Consent plans.

3. Section 7.11 Development Contributions

- a) In accordance with Section 4.17(1) of the *Environmental Planning and Assessment Act 1979* and the *Hornsby Shire Council Section 7.11 Development Contributions Plan 2020-2030*, 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	\$4,369.75
Open Space and Recreation	\$34,241.85
Community Facilities	\$21,089.85
Plan Preparation and Administration	\$298.50
TOTAL	\$59,999.95

being for the addition of three(3) lots.

- b) The value of this contribution is current as of 7 November 2022. 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 7.11 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.

Note: In accordance with Ministerial Directions, the payment of contribution fees for development with a cost of works of over \$10 million can be deferred to prior to Occupation Certificate.

Note: 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.

4. Appointment of a Project Arborist

- a) To ensure the trees that must be retained are protected, a project arborist with AQF Level 5 qualifications must be appointed to assist in ensuring compliance with the conditions of consent and provide monitoring reports as specified by the conditions of consent.
- a) Details of the appointed project arborist must be submitted to the PCA with the application for the construction certificate.

5. Removal of Trees

- a) This development consent permits the removal of trees numbered 5-9 (inclusive) and 21 as identified in the Survey of Subject Trees, Appendix C, page 18 of the Arboricultural Impact Assessment (AIA) provided by Redgum Horticultural, dated 04 February 2022.
- b) No consent is granted for the removal of tree(s) numbered 1-4 (inclusive) and 10-20 (inclusive) as these trees contribute to the established landscape amenity of the area/streetscape.

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 (HDCCP).

6. Tree Pruning

This development consent does not permit the pruning of any trees.

Note: The pruning 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 (HDCCP).

REQUIREMENTS PRIOR TO THE ISSUE OF A SUBDIVISION WORKS CERTIFICATE

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. Construction Management Plan (CMP)

To assist in the protection of the public, the environment and Council's assets, a separate Construction Management Plan must be prepared by a suitably qualified environmental consultant in consultation with a qualified traffic engineer and AQF 5 arborist, and submitted to Council's Compliance Team at <https://www.hornsby.nsw.gov.au/property/build/applicationforms> for review and approval according to the following requirements:

- a) The CMP must detail the contact information for developers, builder, private certifier and any emergency details during and outside work hours.
- b) A Construction Traffic Management Plan (CTMP) including the following:
 - i) The order of construction works and arrangement of all construction machines and vehicles being used during all stages.
 - ii) The CTMP plans shall be in accordance with all other plans submitted to Council as part of this development proposal.
 - iii) A statement confirming that 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.
 - iv) The Plan shall be in compliance with the requirements of the Roads and Maritime Services *Traffic control at work sites Manual 2018* and detail:
 - a. Public notification of proposed works;
 - b. Long term signage requirements;
 - c. Short term (during actual works) signage;
 - d. Vehicle Movement Plans, where applicable;
 - e. Traffic Management Plans;
 - f. Pedestrian and Cyclist access and safety.
 - v) Traffic controls including those used during non-working hours. Pedestrian access and two-way traffic in the public road must be able to be facilitated at all times.
 - vi) Details of parking arrangements for all employees and contractors, including layover areas for large trucks during all stages of works. The parking or stopping of truck and dog vehicles associated with the development will not be permitted other than on the site and the plan must demonstrate this will be achieved.
 - vii) Confirmation that a street 'scrub and dry' service will be in operation during all stages of works.
 - viii) Proposed truck routes to and from the site including details of the frequency of truck movements for all stages of the development.
 - ix) Swept path analysis for ingress and egress of the site for all stages of works.
 - x) Site plans for all stages of works including the location of site sheds, concrete pump and crane locations, unloading and loading areas, waste and storage

-
- areas, existing survey marks, vehicle entry, surrounding pedestrian footpaths and hoarding (fencing) locations.
- x) The total quantity and size of trucks for all importation and exportation of fill on site throughout all stages of works, and a breakdown of total quantities of trucks for each stage of works.
 - xii) The number of weeks trucks will be accessing and leaving the site with excavated or imported fill material.
 - xiii) The maximum number of trucks travelling to and from the site on any given day for each stage of works.
 - xiv) The maximum number of truck movements on any given day during peak commuting periods for all stages of works.
 - xv) The source site location of any proposed fill to be imported to the site, for all stages of works.
 - xvi) The Plan must state that 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 in order to ensure the above.
 - xvii) If there is a requirement to obtain a Work Zone, Out of Hours permit, partial Road Closure or Crane Permit, the Plan must detail these requirements and include a statement that an application to Hornsby Shire Council will be made to obtain such a permit.
- c) A Construction Waste Management Plan detailing the following:
- i) Details of the importation or excavation of soil and fill, the classification of the fill, disposal methods and authorised disposal depots that will be used for the fill.
 - ii) Asbestos management requirement and procedures for removal and disposal from the site in accordance with *AS 2601–2001 – ‘The Demolition of Structures’*, and the *Protection of the Environment Operations (Waste) Regulation 2005*.
 - iii) General construction waste details including construction waste skip bin locations and litter management for workers.
- d) A Tree Protection Plan (TPP) prepared by an AQF 5 Arborist in accordance with any approved Arboricultural Impact Assessment and tree location plans, detailing the following:
- iv) A site plan showing tree protection zones (TPZ) and structural root zones (SRZ) of trees to be retained and specific details of tree protection measures inclusive of distances (in metres) measured from tree trunks.
 - v) Construction methodology to avoid damage to trees proposed to be retained during construction works.
 - vi) Specifications on tree protection materials used and methods within the TPZ or SRZ.

- vii) Location of dedicated material storage space on site outside of TPZ's and SRZ's for retained trees.
- e) A Construction Noise and Vibration Management Plan (CNMP) which includes:
 - i) Existing noise and vibration levels within the proximity of the proposed development site.
 - ii) Details of the extent of rock breaking or rock sawing works forming part of the proposed development works.
 - iii) The maximum level of noise and vibration predicted to be emitted during each stage of construction.
 - iv) The duration of each stage of works where the maximum level of noise and vibration are predicted to be emitted for.
 - v) Details of mitigation measures, inclusive of respite periods, that will meet acoustic standards and guidelines at each stage of works.
 - vi) Details of a complaints handling process for the surrounding neighbourhood for each stage of works.
- f) Identification of approved sediment and erosion control measures.

REQUIREMENTS PRIOR TO THE COMMENCEMENT OF ANY WORKS

9. 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.
 - 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.

10. Protection of Adjoining Areas

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

- a) Could cause a danger, obstruction or inconvenience to pedestrian or vehicular traffic.
- b) Could cause damage to adjoining lands by falling objects.
- c) Involve the enclosure of a public place or part of a public place.
- d) Have been identified as requiring a temporary hoarding, fence or awning within the Council approved Construction Management Plan (CMP).

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

11. 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.
 - ii) Be a temporary chemical closet approved under the *Local Government Act 1993*.
 - iii) Have an on-site effluent disposal system approved under the *Local Government Act 1993*.

12. 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.

13. Installation of Tree Protection Measures

- a) Trees to be retained and numbered 1-4 (inclusive) and 10-20 (inclusive) as identified on the Survey of Subject Trees, Appendix C, page 18 of the Arboricultural Impact Assessment (AIA) provided by Redgum Horticultural dated 04 February 2022 must have tree protection measures for the ground, trunk and canopy installed by the project arborist as follows:
 - i) For the duration of demolition works, in accordance with the Tree Protection Map prepared by the Tree Management Team dated 10 June 2022.
 - ii) For the duration of construction works, in accordance Tree Protection Map prepared by the Tree Management Team dated 10 June 2022.
- b) Tree protection fencing for the trees to be retained numbered 1, 4 and 10-20 inclusive must be installed by the engaged AQF 5 project arborist and consist of 1.8m high temporary fencing panels installed in accordance with Australian Standard AS4687-2007 Temporary fencing and hoardings.
- c) The installation of all required tree protection fencing must include shade cloth attached to the fencing to reduce transport of dust, particulates and liquids from entering the tree protection zone.
- d) Tree crown protection measures are required and must be installed by the AQF 5 project arborist.
- e) The circumference of the trunk(s) must be wrapped in hessian material to provide cushioning for the installation of timber planks.

- f) Timber planks (50 x100mm) must be spaced at 100mm intervals and must be attached using adjustable ratchet straps.
- g) All tree protection zones must have a layer of wood-chip mulch at a depth of between 150mm and 300mm.
- h) Where wood-chip mulch is permitted by Council instead of tree protection fencing within the tree protection zones, the wood-chip must be covered with a layer of geotextile fabric and rumble boards.

REQUIREMENTS DURING CONSTRUCTION

14. Road Opening Permit

A road opening permit shall be obtained from the Council to permit a person to dig into Council assets, such as roads, footpaths and nature strips. The applicable fees for the restoration of any public asset by Council shall be at the applicant's full expense.

15. Construction Work Hours

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

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

16. Demolition

To protect the surrounding environment, all demolition work must be carried out in accordance with Australian Standard AS2601-2001 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; and
- b) Demolition works, where asbestos material is being removed, must be undertaken by a contractor that holds an appropriate licence issued by *SafeWork NSW* in accordance with the *Work Health and Safety Regulation 2017* and be appropriately transported and disposed of in accordance with the *Protection of the Environment Operations (Waste) Regulation 2014*; 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.

17. Environmental Management

To prevent sediment run-off, excessive dust, noise or odour emanating from the site during the construction, 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*.

18. 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.

19. 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.

20. Landfill not Permitted

The importation of fill material associated with earthworks, or structural or engineering works, is not permitted as part of this consent.

21. Waste Management

All work must be carried out in accordance with the approved waste management plan.

22. Compliance with Construction Management Plan

The Council approved Construction Management Plan must be complied with for the duration of works, unless otherwise approved by Council.

23. Prohibited Actions Within the Fenced Tree Protection Zone

The following activities are prohibited within the approved fenced tree protection zones unless otherwise approved by Council:

- a) Soil cutting or filling, including excavation and trenching
- b) Soil cultivation, disturbance or compaction
- c) Stockpiling storage or mixing of materials
- d) The parking, storing, washing and repairing of tools, equipment and machinery
- e) The disposal of liquids and refuelling
- f) The disposal of building materials
- g) The siting of offices or sheds
- h) Any action leading to the impact on tree health or structure

24. 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 1, 4 and 10-20 on the approved plans.

25. Maintaining Tree Protection Measures

Tree Protection Measures must be maintained by the project arborist in accordance with Condition No. 13 of this consent for the duration of works.

26. Approved Works within Tree Protection Zone Incursions

- a) Where tree root pruning is required for the installation of piers, driveway or underground services, the pruning must be overseen by the AQF 5 project arborist and must be undertaken as follows:
 - i) Using sharp secateurs, pruners, handsaws or chainsaws with the final cut being clean.
 - ii) The maximum diameter of roots permitted to be cut is 40 mm.
- b) The new driveway must be constructed using the following process:
 - i) To minimise soil compaction the proposed driveway must be built above grade using sensitive construction techniques in the form of piers or screw pilings.
 - ii) To minimise soil compaction all imported material in the vicinity of the replacement driveway must be distributed by hand.
- c) Approved excavations within the Tree Protection Zone of trees to be retained numbered 4 not associated with installation of services must be undertaken as follows:
 - i) Excavations for the construction and/or installation of the driveway in the Tree Protection Zone of trees to be retained numbered 4 on the approved plans must be supervised by the project arborist for the first 1 metre undertaken manually to locate roots and allow for pruning in accordance with Condition No. 26 a).
- d) Grade changes in the form of filling, are permissible outside the Structural Root Zone in conjunction with piers.
- e) Where scaffolding is required, ground protection must be installed beneath the scaffolding in the following order:
 - i) Installation of a 100mm deep layer of woodchip;
 - ii) Installation of geotextile fabric ground covering; and
 - iii) Installation of scaffold boarding above the woodchip and geotextile fabric.

REQUIREMENTS PRIOR TO THE ISSUE OF A SUBDIVISION CERTIFICATE

27. Sydney Water – s73 Certificate

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

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

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 AUS-SPEC Specifications (www.hornsby.nsw.gov.au/property/build/aus-spec-terms-and-conditions). Rectification works must be undertaken prior to the issue of an Occupation Certificate, or sooner, as directed by Council.

29. 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**".

30. Boundary Fencing

- a) The exact location, design and costing for the erection of boundary fencing are to be the subject of negotiation and agreement in accordance with the relevant requirements of the *Dividing Fences Act 1991*.
- b) Fencing must be erected along all property boundaries behind the front building alignment to a height of 1.8 metres.

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

31. Replacement Tree Requirements

- a) The trees approved for removal under this consent, being trees numbered 5-9 (inclusive) and 21 must be offset through replacement planting of a minimum of 4 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 indicative building envelopes.
 - 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 when planted.
 - iv) All replacement trees must have the potential to reach a mature height greater than 10 metres.

32. Final Certification

The AQF 5 Project arborist must submit to the Principal Certifying Authority a certificate that includes the following:

- a) All tree protection requirements complied with the as approved tree protection plan for the duration of demolition and/or construction works;
- b) All completed works relating to tree protection and maintenance have been carried out in compliance with the conditions of consent and approved plans;
- c) Dates, times and reasons for all site attendance;
- d) All works undertaken to maintain the health of retained trees;
- e) Details of tree protection zone maintenance for the duration of works; and
- f) A statement to confirm that tree replacement planting meets NATSPEC guidelines and the approved landscape plan.

Note: Copies of monitoring documentation may be requested throughout DA process.

ADDITIONAL CONDITIONS APPLICABLE TO STAGE 1 – TORRENS TITLE SUBDIVISION OF ONE LOT INTO TWO LOTS

REQUIREMENTS PRIOR TO THE ISSUE OF A SUBDIVISION WORKS CERTIFICATE

33. Road Works

A separate Section 138 Roads Act Approval must be obtained from Council for all works within the public road reserve. All road works approved under this consent must be designed in accordance with AUS-SPEC Specifications (www.hornsby.nsw.gov.au/property/build/aus-spec-terms-and-conditions) and the following requirements:

- a) Kerb and gutter across the frontage of development site in Walker Place with a minimum half road pavement construction together with drainage and turfed nature stip.
- b) The cul-de-sac in Walker Place shall be designed with a minimum 8.5m radius to provide sufficient turning area for a Council garbage truck.
- c) A Design Certifications Report Checklist in Annexure A and the civil design drawings shall be prepared in accordance with Annexure B – Minimum Drafting Guidelines in the Hornsby Council AUS SPEC Specifications.
- d) The existing road pavement to be saw cut a minimum of 500 mm from the existing edge of the bitumen and reconstructed.
- e) The submission of a compaction certificate from a geotechnical engineer for any fill within road reserves, and all road sub-grade and road pavement materials.

34. Footpath

A concrete footpath must be designed along the western side of Walker Place in accordance with AUS-SPEC Specifications (www.hornsby.nsw.gov.au/property/build/aus-spec-terms-and-conditions) and the following requirements:

- a) Pouring of the concrete footpath on the western side of Walker Place.

- b) The land adjoining the footpath to be fully turfed.
- c) Any public utility adjustments to be carried out at the cost of the applicant and to the requirements of the relevant public authority.

Note: The plans of the footpath must be submitted and approved by Council's Manager Traffic and Road Safety prior to the issue of a Construction Certificate. Please submit this information to TrafficEngineering&RoadSafety@hornsby.nsw.gov.au for approval.

35. Parking Restrictions

Subject to consideration and approval by the Hornsby Local Traffic Committee, "No Parking" restrictions be posted along the eastern side of the widened road and cul-de-sac (development side). Written evidence is to be provided to Council of the decision of the Hornsby Local Traffic Committee prior to the issue of a Construction Certificate.

REQUIREMENTS PRIOR TO THE ISSUE OF A SUBDIVISION CERTIFICATE

36. Dedication of Public Road

All proposed public roads, as detailed on the approved plans Plan No. 2753-3 dated 09-09-2022 by Warren Eldridge Surveyors must be dedicated to Council as a 'public road' at no cost.

37. Creation of Easements

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

- a) The creation of a "Positive Covenant" over the proposed Lot 20 requiring that any future development is to provide a minimum 5,000 litre rainwater tank to be connected to all toilets, laundry use and irrigation purposes or provide a raingarden with a minimum filter area of 6m² to meet the water quality targets outlined in the Hornsby DCP 2013.
- b) The creation of a "Positive Covenant" over the proposed Lot 20 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.
- c) "Restriction on the Use of Land" over Proposed Lots 19 (residue) and 20 that restricts use of the land or built form development on the land until such time the widening and dedication of Walker Place has occurred under the adjoining DA/431/2022.

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

38. Works as Executed Plan

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

ADDITIONAL CONDITIONS APPLICABLE TO STAGE 2 – DEMOLITION OF THE EXISTING DWELLING AND TORRENS TITLE SUBDIVISION OF PROPOSED LOT 19 INTO THREE LOTS**REQUIREMENTS PRIOR TO THE ISSUE OF A SUBDIVISION WORKS CERTIFICATE****39. Subdivision – Lodgement of Plan**

Evidence that a plan of subdivision creating the proposed lots in **Stage 1 has been registered** with the *NSW Department of Lands* must be submitted to Council or the Principal Certifying Authority.

40. Stormwater Drainage

The stormwater drainage system for the development must be designed in accordance with AUS-SPEC Specifications (www.hornsby.nsw.gov.au/property/build/aus-spec-terms-and-conditions) and Plan No. 2753-3 dated 10.03.2022 by Warren Eldridge Surveyors and the following requirements:

- a) Connected directly to Council's kerb and gutter in Malton Road via a 200 x 100 Galvanised Steel RHS.
- b) An inter-allotment stormwater drainage system to service the proposed subdivision with pits being cast in situ or pre cast concrete pits being used.

41. On Site Stormwater Detention

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

- a) Have a capacity of not less than 15 cubic metres, and a maximum discharge (when full) of 24 litres per second;
- b) Have a surcharge/inspection grate located directly above the outlet;
- c) Discharge from the detention system must be controlled via 1 metre length of pipe, not less than 50 millimetres diameter or via a stainless plate with sharply drilled orifice bolted over the face of the outlet discharging into a larger diameter pipe capable of carrying the design flow to an approved Council system;
- d) Where above ground and the average depth is greater than 0.3 metres, a 'pool type' safety fence and warning signs must be installed; and
- e) Not be constructed in a location that would impact upon the visual or recreational amenity of residents.

REQUIREMENTS PRIOR TO THE ISSUE OF A SUBDIVISION CERTIFICATE**42. Creation of Easements**

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

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

- b) The creation of an appropriate *"Positive Covenant"* and *"Restriction as to User"* over the constructed on-site detention/retention systems and outlet works, within the lots in favour of Council in accordance with Council's prescribed wording. The position of the on-site detention system is to be clearly indicated on the title;
- c) To register the OSD easement, the restriction on the use of land *"works-as-executed"* details of the on-site-detention system must be submitted verifying that the required storage and discharge rates have been constructed in accordance with the design requirements. The details must show the invert levels of the on site system together with pipe sizes and grades. Any variations to the approved plans must be shown in red on the *"works-as-executed"* plan and supported by calculations;
- d) The creation of a *"Positive Covenant"* over the proposed Lot 21, 22 and 23 requiring that any future development is to provide a minimum 5,000 litre rainwater tank to be connected to all toilets, laundry use and irrigation purposes or provide a raingarden with a minimum filter area of 6m² to meet the water quality targets outlined in the Hornsby DCP 2013.
- e) *"Restriction on the Use of Land"* over Proposed Lots 21 and 23 that restricts use of the land or built form development on the land until such time the widening and dedication of Walker Place has occurred under the adjoining DA/431/2022.

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

43. Works as Executed Plan

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

- 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 4.17 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.

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.

Note: At the present time Hornsby Shire Council is the only authority that can be appointed as a PCA for subdivision works within the Shire.

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.

Tree and Vegetation Preservation

Hornsby Development Control Plan 2013 Tree and Vegetation Preservation provisions have been developed under Council's authorities contained in *State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017* and the *Environmental Planning and Assessment Act 1979*.

In accordance with these provisions a person must not cut down, fell, uproot, kill, poison, ringbark, burn or otherwise destroy the vegetation, lop or otherwise remove a substantial part of the trees or vegetation to which any such development control plan applies without the authority conferred by a development consent or a permit granted by Council.

Fines may be imposed for non-compliance with the *Hornsby Development Control Plan 2013*.

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

Dial Before You Dig

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

Telecommunications Act 1997 (Commonwealth)

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

Asbestos Warning

Should asbestos or asbestos products be encountered during demolition or construction works, you are advised to seek advice and information prior to disturbing this material. It is recommended that a contractor holding an asbestos-handling permit (issued by *SafeWork 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.adfa.org.au

www.safework.nsw.gov.au

Alternatively, telephone the *SafeWork NSW* on 13 10 50.

House Numbering

The house numbering for this subdivision shall be:

Lot	Street Number	Street Name	Street Type	Locality
Lot 19	263	Malton	Road	North Epping
Lot 20	15	Walker	Place	North Epping
Lot 21	17	Walker	Place	North Epping
Lot 22	263	Malton	Road	North Epping
Lot 23	19	Walker	Place	North Epping