



# **BUSINESS PAPER**

## **GENERAL MEETING**

**Wednesday 11 October 2023  
at 6:30PM**



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## **AGENDA AND SUMMARY OF RECOMMENDATIONS**

### **ACKNOWLEDGEMENT OF COUNTRY**

Statement by the Chairperson:

*"Council recognises the Traditional Owners of the lands of Hornsby Shire, the Darug and GuriNgai peoples, and pays respect to their Ancestors and Elders past and present and to their Heritage. We acknowledge and uphold their intrinsic connections and continuing relationships to Country."*

### **PRESENT**

### **NATIONAL ANTHEM**

### **OPENING PRAYER/S**

### **ACKNOWLEDGEMENT OF RELIGIOUS DIVERSITY**

Statement by the Chairperson:

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

### **VIDEO AND AUDIO RECORDING OF COUNCIL MEETING**

Statement by the Chairperson:

*"I advise all present that tonight's meeting is being video streamed live via Council's website and also 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 audio and video recordings of the non-confidential parts of the meeting will be made available on Council's website once the Minutes have been finalised. All speakers are requested to ensure their comments are relevant to the issue at hand and to refrain from making personal comments or criticisms. No other persons are permitted to record the Meeting, unless specifically authorised by Council to do so."*

### **APOLOGIES / LEAVE OF ABSENCE**

### **POLITICAL DONATIONS DISCLOSURE**

Statement by the Chairperson:

*"In accordance with Section 10.4 of the Environmental Planning and Assessment Act 1979, any person or organisation who has made a relevant planning application or a submission in respect of a relevant planning application which is on tonight's agenda, and who has made a reportable political donation or gift to a Councillor or employee of the Council, must make a Political Donations Disclosure Statement."*

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

## **DECLARATIONS OF INTEREST**

Councillors are reminded of their Oath or Affirmation of Office made under section 233A of the Act and their obligations under the Council's Code of Conduct to disclose and appropriately manage conflicts of interest.

*Clause 4.16 and 4.17 of Council's Code of Conduct for Councillors requires that a councillor or a member of a Council committee who has a pecuniary interest in a matter which is before the Council or committee and who is present at a meeting of the Council or committee at which the matter is being considered must disclose the nature of the interest to the meeting as soon as practicable. The disclosure is also to be submitted in writing (on the form titled "Declaration of Interest").*

4.16 *A councillor who has a pecuniary interest in any matter with which the council is concerned, and who is present at a meeting of the council or committee at which the matter is being considered, must disclose the nature of the interest to the meeting as soon as practicable.*

4.17 *The councillor must not be present at, or in sight of, the meeting of the council or committee:*

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

*Clause 5.10 and 5.11 of Council's Code of Conduct for Councillors requires that a councillor or a member of a Council committee who has a non pecuniary interest in a matter which is before the Council or committee and who is present at a meeting of the Council or committee at which the matter is being considered must disclose the nature of the interest to the meeting as soon as practicable. The disclosure is also to be submitted in writing (on the form titled "Declaration of Interest").*

5.10 *Significant non-pecuniary conflict of interests must be managed in one of two ways:*

- a) *by not participating in consideration of, or decision making in relation to, the matter in which you have the significant non-pecuniary conflict of interest and the matter being allocated to another person for consideration or determination, or*
- b) *if the significant non-pecuniary conflict of interest arises in relation to a matter under consideration at a council or committee meeting, by managing the conflict of interest as if you had a pecuniary interest in the matter by complying with clauses 4.16 and 4.17.*

5.11 *If you determine that you have a non-pecuniary conflict of interest in a matter that is not significant and does not require further action, when disclosing the interest you must also explain in writing why you consider that the non-pecuniary conflict of interest is not significant and does not require further action in the circumstances.*

**CONFIRMATION OF MINUTES**

THAT the Minutes of the General Meeting held on 13 September, 2023 be confirmed; a copy having been distributed to all Councillors.

**PETITIONS****PRESENTATIONS****RESCISSION MOTIONS****Page Number 1**

**Item 1 RM1/23 MOTION TO ALTER A RESOLUTION – 13 SEPTEMBER 2023 GENERAL MEETING – DIRECTOR'S REPORT NO. CS50/23 - LOCAL GOVERNMENT NSW - 2023 ANNUAL CONFERENCE - SUBMISSION OF MOTIONS AND DETERMINATION OF VOTING DELEGATES**

**COUNCILLOR BALL TO MOVE**

THAT point 1. of the resolution adopted at the General Meeting held on 13 September 2023 in respect of Item 4. - CS50/23 - Local Government NSW - 2023 Annual Conference - Submission of Motions and Determination of Voting Delegates namely:

"THAT:

1. No motions be submitted for consideration at the 2023 Local Government NSW (LGNSW) Annual Conference."

be, and is hereby altered.

NOTE: THE ABOVE MOTION TO ALTER THE RESOLUTION IS SUPPORTED BY COUNCILLORS HEYDE AND SALITRA

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

"THAT Motions dealing with; 1. Animal Shelter, 2. Corporate Responsibility of Waste, 3. Embedded Networks; as detailed in Motion to Alter a Resolution No. RM1/23 be submitted for consideration at the 2023 Local Government NSW (LGNSW) Annual Conference."

**MAYORAL MINUTES****Page Number 5**

**Item 2 MM9/23 THE PASSING OF CATE NEWMAN**

**RECOMMENDATION**

THAT Council offer its sincere condolences to the family and friends of Ms Cate Newman whose contribution to the community was significant.

**Page Number 7****Item 3 MM10/23 THE PASSING OF JENIFER LEWIS****RECOMMENDATION**

THAT Council offer its sincere condolences to family and friends of Ms Jenifer Lewis whose contribution to the community was significant.

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

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

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

**GENERAL BUSINESS**

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

**OFFICE OF THE GENERAL MANAGER**

Nil

**CORPORATE SUPPORT DIVISION****Page Number 9****Item 4 CS55/23 PECUNIARY INTEREST AND OTHER MATTERS RETURNS - DISCLOSURES BY COUNCILLORS AND DESIGNATED PERSONS**

**RECOMMENDATION**

THAT Council note the Written Returns of Interest recently lodged with the General Manager by Councillors and Designated Staff have been tabled as required by the Local Government Act and Councils Code of Conduct.

**Page Number 12****Item 5 CS66/23 INVESTMENTS AND BORROWINGS FOR 2023/2024 - STATUS FOR THE PERIOD ENDING 31 AUGUST 2023****RECOMMENDATION**

THAT the contents of Director's Report No. CS66/23 be received and noted.

**Page Number 15****Item 6 CS68/23 COUNCILLOR NUMBERS - SECTION 224 OF THE LOCAL GOVERNMENT ACT****RECOMMENDATION**

THAT in accordance with Section 224 of the Local Government Act, Council determine that the number of Councillors for the next term of office remain at 10 (one of whom is the Mayor).

**COMMUNITY AND ENVIRONMENT DIVISION****Page Number 18****Item 7 CE12/23 COUNCIL MANAGED CROWN LAND - OPERATIONAL LAND****RECOMMENDATION**

THAT Council:

1. Endorse the Operational Land classification for the five sites, as shown in Attachment A to Director's Report No. CE12/23.
2. Request approval from the Minister administering the Crown Land Management Act to accept the proposed classification of operational land for the five sites, as shown in Attachment A to Director's Report No. CE12/23.
3. Authorise the General Manager to approve the provision of any documentation required to support Council's proposed operational land classification.

**PLANNING AND COMPLIANCE DIVISION****Page Number 23**



**Item 8 PC24/23 REPORT ON SUBMISSIONS - AGRITOURISM DEVELOPMENT CONTROL PLAN AMENDMENTS****RECOMMENDATION**

THAT:

1. Council approve the draft Agritourism amendments to the Hornsby Development Control Plan 2013, as attached to Director's Report No. PC24/23.
2. Notification of the approval of the amendments be published on Council's website.
3. Submitters be advised of Council's decision.

**Page Number 33****Item 9 PC25/23 ELECTRIC VEHICLE CHARGING - DRAFT DEVELOPMENT CONTROL PLAN AMENDMENTS****RECOMMENDATION**

THAT:

1. The draft Electric Vehicle Charging Hornsby Development Control Plan amendments attached to Director's Report No. PC25/23 be placed on public exhibition for a period for 28 days in accordance with Council's Community Engagement Plan.
2. Following the exhibition, a report on submissions be presented to Council for consideration.

**Page Number 37****Item 10 PC26/23 DRAFT SENIORS HOUSING DEVELOPMENT CONTROL PLAN AMENDMENTS****RECOMMENDATION**

THAT:

1. The draft Development Control Plan amendments for Seniors Housing in Heritage Conservation Areas attached to Director's Report No. PC26/23 be exhibited for a period of 28 days and in accordance with Council's Community Engagement Plan.
2. Following the exhibition, a report on submissions be presented to Council for consideration.
3. Council write to the Minister for Planning and Public Spaces reiterating its request for a permanent exclusion from the application of the seniors housing provision of the Housing SEPP in Heritage Conservation Areas.

**INFRASTRUCTURE AND MAJOR PROJECTS DIVISION**

Nil

**PUBLIC FORUM – NON AGENDA ITEMS**

**QUESTIONS WITH NOTICE**

**MAYOR'S NOTES**

**Page Number 43**

**Item 11 MN11/23 MAYOR'S NOTES 01 SEPTEMBER 2023 TO 30 SEPTEMBER 2023**

**NOTICES OF MOTION**

**SUPPLEMENTARY AGENDA**

**MATTERS OF URGENCY**

**1 MOTION TO ALTER A RESOLUTION – 13 SEPTEMBER 2023 GENERAL MEETING – DIRECTOR'S REPORT NO. CS50/23 - LOCAL GOVERNMENT NSW - 2023 ANNUAL CONFERENCE - SUBMISSION OF MOTIONS AND DETERMINATION OF VOTING DELEGATES**

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COUNCILLOR BALL TO MOVE

THAT point 1. of the resolution adopted at the General Meeting held on 13 September 2023 in respect of Item 4. - CS50/23 - Local Government NSW - 2023 Annual Conference - Submission of Motions and Determination of Voting Delegates namely:

"THAT:

1. No motions be submitted for consideration at the 2023 Local Government NSW (LGNSW) Annual Conference."

be, and is hereby altered.

NOTE: THE ABOVE MOTION TO ALTER THE RESOLUTION IS SUPPORTED BY COUNCILLORS HEYDE AND SALITRA

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

"THAT Motions dealing with; 1. Animal Shelter, 2. Corporate Responsibility of Waste, 3. Embedded Networks; as detailed in Motion to Alter a Resolution No. RM1/23 be submitted for consideration at the 2023 Local Government NSW (LGNSW) Annual Conference."

**Note From Councillor**

**Motion 1.**

**Category:** Animal Welfare

**Title:** Mandatory provision of shade for animals kept on fenced land.

**Motion Wording:**

That Local Government NSW calls upon the Australian, State and Territory Governments to:

1. Introduce enforceable standards in Australian Animal Welfare Standards & Guidelines and relevant legislation for the provision of adequate shade for animals kept on fenced land to mitigate heat stress.
2. Investigate options to support owners of farm animals in the transition to providing adequate shade.

**Background**

In a warming world, we are coming to understand the importance of shade. We even seek to park our cars in shade, yet animals who suffer from heat are often left to endure extreme temperatures without any respite from the sun.

According to the livestock industry, research and the RSPCA, farm animals like sheep, dairy cows, horses and cattle start to feel heat stress at 25°C. As the temperature and humidity rises, so does their suffering. For cattle, severe heat stress is experienced at 30°C and becomes deadly around 40°C. Initially causing production loss through reduced eating; severe heat stress can progress to organ failure and death.

Research conducted in conjunction with the [CSIRO](#) indicates production losses from heat stress will cost the global meat and milk industry between \$15 to \$40 billion per year by the end of the century, and studies on the effect of heat on Australian sheep estimates 2.1 million lambs are lost from heat stress in the current climate costing industry between \$97 and \$168 million a year, alone.

Current Australian Animal Welfare Standards and Guidelines fall short of mandating the basic requirement of providing shade to mitigate the effects of severe heat stress in farm animals. An effective way of mitigating heat stress, is by providing [tree shade](#). The shade effect of trees can reduce surface temperature by an average of 22°C, according to recent [research](#). With the addition of releasing water vapour into the air, the cooling properties of trees for animals is significant. Shade structures also offer animals relief from the heat, as recommended by the [Meat and Livestock Association](#), increasing productivity by reducing stress hormones and respiration rates, improving hydration and feed intake; which affect weight gain and [meat quality](#).

Whilst State and Territory governments are primarily responsible for animal welfare, the Federal government takes a leadership role in the development of national animal welfare standards and guidelines that provide clarity and consistency for industry, consumers and trading partners.

Noting that the previous Australian Animal Welfare Strategy had lapsed in 2014, as part of its May 2023 budget the Federal government committed \$5 million over the next four years to renew the Australian Animal Welfare Strategy. It is therefore timely to call upon the Australian, State and Territory governments to introduce enforceable standards for adequate shade provisions for animals kept on fenced land.

By applying an enforceable standard to provide shade across all relevant legislation and the Australian Animal Welfare Standards & Guidelines, unnecessary suffering and the deadly effects of heat stress can be mitigated for animals, enhancing the productivity of farmed livestock.

**Motion 2.**

**Category:** Environment

**Title:** Corporate Responsibility of Waste

**Motion Wording:**

THAT Local Government NSW call on the Federal Government to expedite bans on materials that cannot be recycled or recovered, and to increase extended producer responsibilities.

**Background**

Councils across NSW are in the midst of a waste crisis. It is estimated that Sydney landfills will run out of space before 2030 with some regional areas experiencing similar pressures.

NSW, with its large economy and population, creates around one-third of Australia's total waste. Over the next 20 years, NSW waste volumes are forecast to grow from 21 million tonnes in 2021 to nearly 37 million tonnes by 2041.

Councils across Australia have increasingly become concerned that a great deal of the waste being produced by our communities is not recyclable.

Products and their packaging need to be manufactured from known recyclable materials based on Australia's capability to process such materials. Furthermore, Councils would like to see expedited bans, or other appropriate regulatory mechanisms, put in place by the Commonwealth Government to eliminate these non-recyclable materials from entering our supply chains and economy.

On 18 May 2023, Mayors from numerous Sydney metropolitan councils attended a Mayoral Waste Summit to discuss the significant challenges facing local government in managing their communities' waste. They heard from the waste industry, NSW EPA and Federal Government representatives and Sydney Mayors about the problems being experienced, and importantly the initiatives and areas of influence where councils can work together to improve the situation.

If local government is to achieve State and Federal waste diversion and resource recovery targets, new or improved regulations for packaging and product design and composition are urgently needed, along with expanding the scope of materials the Extended Producer Stewardship Scheme covers.

### **Motion 3.**

**Category:** Energy

**Title:** Embedded Networks

### **Motion Wording:**

THAT Local Government NSW calls on the NSW Government to confirm its commitment to implement the Embedded Network Action Plan and clarify timeframes.

### **Background**

Recently, a constituent brought to my attention the cost impacts for residents of embedded networks. A parliamentary report released late last year found that in some cases, customers were paying more than double what their neighbours' bills were and faced hurdles, fees and ongoing costs if they attempted to switch providers.

An embedded network is when an owner of a site buys energy from an energy retailer and then 'on sells' the energy to the different consumers at the site. They can supply, individually or in combination, electricity, gas, or chilled and hot water. They are often found in strata schemes at residential apartment blocks, retirement villages, caravan parks, and shopping centres. Hornsby Westfields is an example of where an embedded network currently operates.

Although Victoria has banned embedded network contracts except in some cases, the NSW government has yet to fully implement recommendations from two separate reports which outlined the State's "outdated" regulation.

Embedded networks can deliver benefits for customers, including lower bills and the ability to share solar energy costs across multiple premises. However, it has been recognised that gaps in consumer protection and support include absence of price protections, billing transparency, independent dispute resolution services, access to retailer of choice, and emergency financial support.

At the beginning of this year, the previous State Government prepared an Embedded Network Action Plan aiming to provide more equitable consumer and price protections for embedded network customers. The Action Plan includes immediate actions such as introducing a maximum price for energy sold to customers of hot and chilled water embedded networks and for gas embedded networks to protect customers from unreasonably high prices.

Medium term actions include emergency financial support scheme for customers in times of crisis, a review by IPART to determine the appropriate method for setting maximum prices, greater opportunities to promote purchaser and tenant awareness of embedded network arrangements, and legislative review of long-term contracts.

In March, a [draft Ministerial Statement of Expectations](#) was released outlining the then NSW Government's expectations of actions to be implemented by December 2023. Although the Statement was exhibited, with the change of government, it would be appropriate to call on the current State government to confirm its commitment to implement the Embedded Network Action Plan and clarify timeframes.

**Attachments:**

There are no attachments for this report.

File Reference: F2023/00175

Document Number: D08737850

## **2 THE PASSING OF CATE NEWMAN**

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Last month we were saddened to learn of the sudden loss of the Hills District Netball Association (HDNA) President Cate Newman. Cate was well known throughout the Hornsby netball community.

I met Cate and witnessed first-hand her passion for the sport of netball and the large netball community that calls Pennant Hills Park home. This included last month at this year's netball grand final weekend. Netball as a sport provides one of the largest female participations of all sports in our area.

Cate gave tirelessly to netball both as a volunteer at HDNA and as an administrator with Netball Australia and is going to be deeply missed by everyone.

Cate held various roles at HDNA over almost a decade of service, including being part of the Umpires Committee while she also acted as Office Admin and Treasurer before becoming President.

Cate was also the Beecroft coach of her daughter Dom's team who won their first grand final last month.

While Cate was a Netball Australia employee, she worked closely with Netball NSW. Netball NSW said she brought a positive energy and warm presence to the organisation's Netball Central offices in Sydney Olympic Park.

Our Council officers praise the positive working relationship Cate maintained with a shared vision for providing opportunities for all to be active and participate in sport.

I would like to extend Hornsby Shire Council's sincere condolences to all of Cate's family, friends, colleagues and everyone who knew her.

### **RECOMMENDATION**

THAT Council offer its sincere condolences to the family and friends of Ms Cate Newman whose contribution to the community was significant.

The Honourable Cr PHILIP RUDDOCK

Mayor

**Attachments:**

There are no attachments for this report.

File Reference: F2004/05878

Document Number: D08737731

**ITEM 2**



### **3 THE PASSING OF JENIFER LEWIS**

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It is with sadness that we acknowledge the passing of Jenifer Lewis, who led a life dedicated to the preservation and understanding of bushland within the Shire.

Jenifer was born in Paddington but spent her early years in Kandos, where her dad was employed at the local cement factory. The family eventually moved back to Sydney and settled in Roseville. Jenifer studied Physics, Maths, and Botany at Sydney University, graduating in 1953. She worked for the CSIRO while raising her young family in Lindfield.

A fascination for the plant world, combined with four years of Latin at school, sparked a lifelong interest in native flora. This interest became her passion, and she joined the Australian Association of Bush Regenerators as a founding member. In 1987, with a group of Beecroft-Cheltenham Civic Trust volunteers, including Sheila Woods, she helped record over 350 native plant species on her own property in Beecroft and in the reserve behind her house. The investigation sparked action, and being concerned about the weeds found, she started removing weeds with a small group of volunteers. While Jenifer was active in regenerating and restoring bushland, she also found much joy in learning about her surroundings. This led to her active involvement in the Australian Plant Society, and she was later honoured as a life member to recognize her commitment and service to the Society.

Jenifer also established the Hornsby Herbarium, a collection of dried and pressed plants meant to record our flora in perpetuity. Every Friday, for over 20 years, the Hornsby Herbarium group would walk the many fire trails and walking tracks of the Shire, collecting, documenting, and recording local flora under Jenifer's guidance and leadership. Hornsby Library still holds the original collection. The collection of local native plant specimens amassed over 20 years has now been digitized and is accessible online. The current collection contains over 1,100 local native specimens and provides a valuable resource for high school, TAFE, university students, and the broader community. Her knowledge of native flora and local connections were sought by Council, and she was appointed to Council's Bushland Management Advisory Committee for her expertise. Jenifer served graciously on the committee for 11 years, for which Council is appreciative.

In her passing, we remember an individual whose life was a testament to the deep connection she had with nature. Her legacy serves as a reminder to protect the environment she held so dear, and for this, we are grateful. On behalf of Council, during this time of grief and remembrance, I extend our deepest sympathies to Jenifer's family and friends, and more particularly to her daughter Marie Kobler, a long-time Bushcare volunteer in the Cherrybrook area."

#### **RECOMMENDATION**

THAT Council offer its sincere condolences to family and friends of Ms Jenifer Lewis whose contribution to the community was significant.

The Honourable Cr PHILIP RUDDOCK

Mayor

**Attachments:**

There are no attachments for this report.

File Reference: F2004/05878

Document Number: D08739658

**ITEM 3**

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

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##### **EXECUTIVE SUMMARY**

- Section 440AAB (1) of the Local Government Act (the Act) advises of the requirement for lodgement of Written Returns of Interest in accordance with a council's Code of Conduct.
- Clauses 4.18 - 4.24 of Council's Code of Conduct for Staff provides details in respect of the lodgement of these Returns by Designated Persons.
- Clauses 4.9 - 4.15 of Council's Code of Conduct for Councillors provides details in respect of the lodgement of these Returns by Councillors.
- Section 440AAB (2) of the Act requires that Returns lodged under Section 440AAB (1) are to be tabled at the next available Council meeting.
- In line with Section 440AAB (2) of the Act and the relevant Clauses of Council's Code of Conduct for Staff and Code of Conduct for Councillors this Report seeks to table the Return/s recently lodged with the General Manager.

##### **RECOMMENDATION**

THAT Council note the Written Returns of Interest recently lodged with the General Manager by Councillors and Designated Staff have been tabled as required by the Local Government Act and Councils Code of Conduct.

## PURPOSE

The purpose of this Report is to table the Written Returns of Interests submitted by Councillors/Designated Persons who have left, commenced with, or internally transferred to a relevant position within Council and to table the Disclosure of Pecuniary Interests and Other Matters Returns of all Councillors and Designated Persons which were required to be lodged for the period ending June 2023.

## BACKGROUND

Section 440AAB (1) of the Act advises of the requirement for lodgement of Written Returns of Interest under a Code of Conduct. Relevantly, Clauses 4.18 - 4.24 of Council's Code of Conduct for Staff and Clauses 4.9 – 4.15 of Council's Code of Conduct for Councillors outline these requirements. (The requirements are the same for Designated Staff as they are for Councillors however, as Council has a separate Code of Conduct for Staff and Code of Conduct for Councillors, the relevant Clause references vary. For ease of interpretation in this Report, reference has been made to Designated Persons and specific clauses in only the Code of Conduct for Staff, noting that the same requirements apply to the corresponding Clauses in the Code of Conduct for Councillors).

Clause 4.18 a) of Council's Code of Conduct for Staff requires a Designated Person to complete and lodge with the General Manager a Written Return of Interest within three months after becoming a Designated Person. Clause 4.18 b) requires a Designated Person holding that position at 30 June in any year to complete and lodge with the General Manager a Return within three months after that date. Clause 4.18 c) of Council's Code of Conduct for Staff requires a Designated Person to complete and lodge with the General Manager a Written Return of Interest within three months of the designated person becoming aware of an interest they are required to disclose under schedule 1 that has not been previously disclosed in a return lodged under paragraphs a) or b).

Section 440AAB (2) of the Act requires that Returns lodged under Section 440AAB (1) are to be tabled at a meeting of Council. Clause 4.22 of the Code requires that Returns lodged under Clause 4.18 a) and 4.18 b) of the Code are to be tabled at the first meeting held after the last day for lodgement under those Clauses. Clause 4.23 of the Code requires that Returns lodged under Clause 4.18 c) are to be tabled at the first meeting after their lodgement.

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

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

## DISCUSSION

### Returns Lodged in Accordance with Council's Code of Conduct for Staff, Code of Conduct for Councillors, and Procedures

In respect of Clause 4.18 a) of Council's Code of Conduct – lodgement of a Return after becoming a Designated Person – and Clause 4.18 c) – lodgement of a Return after becoming aware of an interest not previously disclosed – there are no Returns to be tabled.

Council last considered the tabling of Disclosure of Pecuniary Interests and Other Matters Returns under Clause 4.18(b) of Council's Code of Conduct for Staff and Clauses 4.9(b) of Council's Code of Conduct for Councillors – lodgement of a Return by a Designated Person holding that position at 30 June - at the General Meeting held on 12 October 2022 (see Director's Report No. CS82/22). In preparation for the tabling of this current Report (CS55/23), action has been taken over an extended period to remind all Councillors and Designated Persons of the need to complete their Returns for the period ending 30 June 2023.

All Pecuniary Interest and Other Matters Returns in respect of the above requirement have been lodged with the General Manager are now tabled as required by the Local Government Act.

#### **BUDGET**

There are no budgetary implications associated with this Report.

#### **POLICY**

There are no policy implications associated with this Report.

#### **CONCLUSION**

Council's consideration of this Report satisfies the requirements of the Act regarding the lodgement of Written Returns of Interest in accordance with its Codes of Conduct.

#### **RESPONSIBLE OFFICER**

The officer responsible for the preparation of this Report is the Manager, Governance and Customer Service – Stephen Colburt, who can be contacted on 9847 6761.

STEPHEN COLBURT  
Manager - Governance and Customer Service  
Corporate Support Division

GLEN MAGUS  
Director - Corporate Support  
Corporate Support Division

#### **Attachments:**

There are no attachments for this report.

File Reference: F2022/00265  
Document Number: D08698116

**5 INVESTMENTS AND BORROWINGS FOR 2023/2024 - STATUS FOR THE PERIOD ENDING 31 AUGUST 2023**

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**EXECUTIVE SUMMARY**

- This Report provides details of Council's investment performance for the period ending 31 August 2023 as well as the extent of its borrowings at the end of the same period.
- Council invests funds that are not, for the time being, required for any other purpose. The investments must be made in accordance with relevant legislative requirements and Council's policies and the Chief Financial Officer must report monthly to Council on the details of funds invested.
- All of Council's investments have been made in accordance with the requirements of the Local Government Act, the Local Government (General) Regulation and Council's Investment of Surplus Funds Policy and Investment Strategy.
- In respect of Council's cash and term deposit investments, the portfolio achieved an annualised return for August 2023 of 4.50% which includes a positive yield of 3.82% from TCorp Managed Funds. On a financial year to date basis the portfolio achieved an annualised return of 4.75% which includes a yield of 7.64% from TCorp Managed Funds.

**RECOMMENDATION**

THAT the contents of Director's Report No. CS66/23 be received and noted.

**PURPOSE**

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

**BACKGROUND**

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

**DISCUSSION**

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

Council's investment performance for the month ending 31 August 2023 is detailed in the attached document. In summary, the portfolio achieved an annualised return for August 2023 of 4.50%. On a financial year to date basis the portfolio achieved an annualised return of 4.75% which includes a yield of 7.64% from TCorp Managed Funds.

The Borrowings Schedule as at 31 August 2023 is attached for Council's information, noting that Council became debt free on 1 July 2023 with no loans entered into since. The Borrowings Schedule also discloses future lease repayments for various items of plant and equipment.

**BUDGET**

Budgeted investment income for the year is \$9,823,719 with an average budgeted monthly income of \$818,643. Net investment income for the month ended 31 August 2023 was \$1,141,807, which includes an unrealised gain of \$71,888 from TCorp Managed Funds.

Budgeted investment income year to date at 31 August 2023 was \$1,637,288. Total investment income year to date at 31 August 2023 was \$2,387,202 which includes a year-to-date unrealised net gain of \$280,827 from TCorp Managed Funds.

Approximately 50.61% of the investment income received by Council relates to externally restricted funds (e.g., Stronger Communities Grant funding and Section 7.11 and Section 7.12 development contribution funds) and is required to be allocated to those funds. All investments have been made in accordance with the Local Government Act, the Local Government (General) Regulation and Council's Investment of Surplus Funds Policy and Investment Strategy.

The returns from TCorp Managed Funds are presently experiencing significant market volatility due to external economic conditions. It is noted that this product has a 7-year investment horizon and will, therefore, reflect marked to market valuations monthly. Advice provided by Council's independent investment advisor, Prudential Investment Services, is to hold this investment for the 7-year timeframe originally planned. This is due to the anticipated net positive performance returns that will be gained over the long term for this investment.

**CONCLUSION**

The investment of Council funds and the extent of its borrowings as of 31 August 2023 is detailed in the documents attached to this Report. Council's consideration of the Report and its attachments

ensures that the relevant legislative requirements and Council protocols have been met in respect of those investments and borrowings.



**RESPONSIBLE OFFICER**

The officer responsible for the preparation of this Report is the Chief Financial Officer – Duncan Chell - who can be contacted on 9847 6822.

DUNCAN CHELL  
Chief Financial Officer  
Corporate Support Division

GLEN MAGUS  
Director - Corporate Support  
Corporate Support Division

**Attachments:**

1.  HSC Investment Summary Report August 2023
2.  HSC Borrowings Summary Report August 2023

File Reference: F2004/06987-02

Document Number: D08727521



**6 COUNCILLOR NUMBERS - SECTION 224 OF THE LOCAL GOVERNMENT ACT**

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**EXECUTIVE SUMMARY**

- Section 224 of the Local Government Act 1993 states that not less than 12 months before the next ordinary election, the council must determine the number of its councillors for the following term of office.
- It has previously been thought that Council did not need to make a determination on this matter unless it had an intention to ask the community to consider a change in the number of its elected councillors through a vote at a constitutional referendum.
- The Office of Local Government's (OLG) current view is that councils should be making a determination in each term about the number of councillors to be elected for the next term – and if a change in the number of councillors to be elected is proposed, to put the proposed change to a constitutional referendum at the next general election.
- Although it would be a late decision in terms of the requirements of the Local Government Act, it is proposed that Council's determination under Section 224 of the Local Government Act be that Councillor numbers remain the same for the next term of Council.

**RECOMMENDATION**

THAT in accordance with Section 224 of the Local Government Act, Council determine that the number of Councillors for the next term of office remain at 10 (one of whom is the Mayor).

## PURPOSE

The purpose of this Report is to seek a Council determination in line with Section 224 of the Local Government Act in respect of whether it is proposed to change the number of Councillors to be elected for the following term of office.

## BACKGROUND

Section 224 of the Local Government Act 1993 states that:

- (1) *A council must have at least 5 and not more than 15 councillors (one of whom is the mayor).*
- (2) *Not less than 12 months before the next ordinary election, the council must determine the number, in accordance with subsection (1), of its councillors for the following term of office.*
- (3) *If the council proposes to change the number of councillors, it must, before determining the number, obtain approval for the change at a constitutional referendum.*

The past interpretation of this Section of the Act, which was based on the prevailing view and practice of the industry at the time, was that Council did not need to make a determination on this matter unless it had an intention to ask its community to consider a change in the number of its elected councillors through a vote at a constitutional referendum to be held in conjunction with the next general election.

However, following recent discussion about the interpretation of this matter through the Local Government Governance Network, and after seeking advice from the OLG, it is apparent that the OLG's current view is that councils should be making a determination in each term about the number of councillors to be elected at a future general election – and if a change in the number of councillors to be elected is proposed, to put the proposed change to a constitutional referendum at the next general election. (N.B. A vote in favour of a change at a constitutional referendum would result in such change coming into effect at the following general election)

## DISCUSSION

As the next Council election is due to be held on 14 September 2024, Council should have made a determination under Section 224 by 14 September 2023.

Having regard to the discussions and change in interpretation of Section 224 referred to above, and following specific advice from the OLG about Council's situation, it is appropriate that Council make a formal determination (although it be late) in respect of whether it proposes a change in the number of elected Councillors at the next election.

As the current arrangement of a popularly-elected Mayor and three Councillors being elected from each of three Wards has served the Council well over the past 20 years, and based on an apparent lack of need for a change, it is proposed that Council make a determination that its Councillor numbers remain the same for the next term of Council.

## BUDGET

There are no budgetary implications associated with this Report. If Council were to amend the number of Councillors, a constitutional referendum would need to be held at additional cost.

## POLICY

Section 224 of the Local Government Act sets out the requirements for Council in respect of this matter. If Council were to amend the number of Councillors, a constitutional referendum would need to be held to determine the number of Councillors for the following term of Council.

**CONCLUSION**

Although it would be a late decision in terms of the requirements of the Local Government Act, it is appropriate that Council make a formal determination under Section 224 of the Local Government Act in respect of the number of Councillors to serve in the next term of office. Based on the success of the current arrangement over the past two decades, it is proposed that Council's determination be that Councillor numbers remain the same for the next term of Council.

**RESPONSIBLE OFFICER**

The officer responsible for the preparation of this Report is the Manager, Governance and Customer Service – Stephen Colburt, who can be contacted on 9847 6761.

**STEPHEN COLBURT**

Manager, Governance and Customer Service  
Corporate Support Division

**GLEN MAGUS**

Director - Corporate Support  
Corporate Support Division

**Attachments:**

There are no attachments for this report.

File Reference: F2023/00011

Document Number: D08733678

## 7 COUNCIL MANAGED CROWN LAND - OPERATIONAL LAND

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### EXECUTIVE SUMMARY

- The *Crown Land Management Act 2016* was enacted on 1 July 2018.
- The Act authorises Council as the appointed Crown Land Manager to manage Crown land as if it were public land under the *Local Government Act 1993*.
- As Crown Land Manager, Council assigned land categories to the Crown land as per Section 36 of the *LG Act*, for the Minister's review.
- The Crown office has recommended Council consider classification of five (5) reserves as Operational Land, which is more in keeping with their reserve purpose.
- This report seeks Council's resolution to accept the proposed operational land classification of five (5) Crown land parcels at Brooklyn, Canoelands, Cowan, Mount Colah and Maroota, shown at Attachment 1.

### RECOMMENDATION

THAT Council:

1. Endorse the Operational Land classification for the five sites, as shown in Attachment 1 to Director's Report No. CE12/23.
2. Request approval from the Minister administering the Crown Land Management Act to accept the proposed classification of operational land for the five sites, as shown in Attachment 1 to Director's Report No. CE12/23.
3. Authorise the General Manager to approve the provision of any documentation required to support Council's proposed operational land classification.

## PURPOSE

The purpose of this Report is to seek Council's endorsement to request approval from the Minister administering the *Crown Land Management Act 2016 (CLM Act)* to:

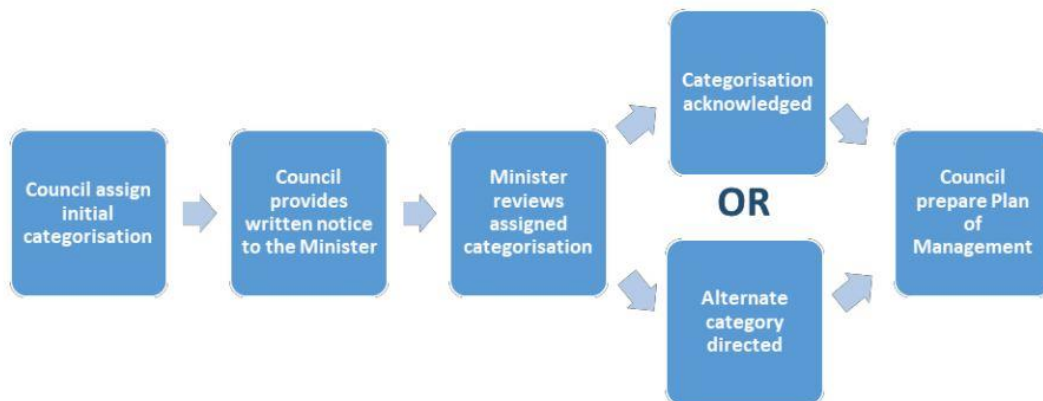
- Accept the proposed classification of operational land for:
  1. The Brooklyn Rural Fire Station.
  2. Canoelands Bush Fire Brigade.
  3. Muogamarra Bush Fire Station.
  4. Mount Kuring-gai Bushfire Brigade.
  5. Wisemans Ferry Tip.

Shown at Attachment 1.

## BACKGROUND

The *CLM Act* was enacted on 1 July 2018. Since this time, Council has become the Crown Land Manager for 90 former reserve trust lands, most of which Council already managed. Under Section 3.23 of the *CLM Act*, Council Crown Land Managers must assign one or more community land categories to Crown land in accordance with the *Local Government Act 1993 (LG Act)*. The process of assigning land categories does not propose any change of use.

The below diagram outlines the process for assigning land categories to Crown land and the eventual development of Plans of Management.



Council assigned an initial land category to Crown land as per Section 36 of the *LG Act* where Hornsby Council is the Crown Land Manager. These initial categorisations were endorsed by Council on 14 April 2021, and the categorisations were submitted to the Minister for approval on 10 May 2021.

On 24 December 2021, The Crown recommended Council re-consider the categorisation of five (5) reserves, given their Reserve Purposes' may best align with a classification of Operational Land, instead of Community Land.

A Plan of Management is not required for reserves classified as Operational Land.

## DISCUSSION

Guidelines provided by the Department of Planning, Industry and Environment – Crown Lands, notes that for some Crown land reserves, a classification of Operational Land may be more appropriate in

accordance with the Reserve Purpose. Examples include quarries, emergency services, sewage works and urban services.

The Crown suggested Council consider classifying the following reserves as Operational Land to best align with their gazetted Reserve Purpose.

**Rural Fire Brigades**

Council is the Crown Land Manager for four (4) Crown Land Rural Fire Brigades which have a Reserve Purpose of either “Rural Services” or “Bush Fire Brigade Purposes”, these being:

- Brooklyn Rural Fire Station (76C Brooklyn Road, Brooklyn).
- Canoelands Bush Fire Brigade (2 Canoelands Road, Canoelands).
- Muogamarra Bush Fire Station (1067X Pacific Highway, Cowan).
- Mount Kuring-gai Bushfire Brigade (16-18 Banyula Place, Mount Colah).



Image 1: Brooklyn Rural Fire Station



Image 2: Canoelands Bush Fire Brigade



Image 3: Muogamarra Bush Fire Station



Image 4: Mount Kuring-gai Bushfire Brigade

All four (4) reserves noted above have a long-established use as rural fire stations / bush fire brigades. The Crown’s guidelines note reserves with purposes of Urban or Emergency Services may not fall within Community Land categories, and an Operational Land classification may be more appropriate.



Hornsby Council is the Crown Land Manager for other bush fire brigades located on Crown Land. The Crown advised it does not support other reserves becoming Operational Land as they are not exclusively gazetted with a Reserve Purpose of 'Bush Fire Brigade'.

### Wiseman's Ferry Tip

Council is the Crown Land Manager for one (1) reserve which has a Reserve Purpose of "Rubbish Depot", this being:

- Wisemans Ferry Tip (Wisemans Ferry Tip, Old Northern Road, Maroota).



Image 5: Wisemans Ferry Tip

Wisemans Ferry Tip opened in 1970 and operated until 2006 when Council decided to close the tip. In line with the Closure Plan for the tip, Council continues to work on rehabilitation of the site via revegetating the site to restore it to bushland and ongoing monitoring and maintenance. The site is closed to the public via a 1.8m tall chain link fence and security gate. A key requirement for land to be classified as Community Land, is community access to the land. As the Wisemans Ferry Tip is closed to the public, it does not meet this requirement for Community Land. Given this, it is seen the most appropriate way forward is to classify the reserve as Operational Land.

Crown land which is classified as Operational remains under Crown ownership and cannot be sold as part of this process.

The Classification of Crown land as Operational Land Form can be found at Attachment A.

### CONSULTATION

An internal Project Control Group comprising of representatives from Parks, Trees and Recreation, Strategy and Place, Natural Resources and Property was established to guide the Crown Land review process. The Assets Operations and Maintenance Team were also consulted regarding the four (4) Bush Fire Brigade sites, as they are the asset owners.

Additionally, Council staff liaised with officers of the Office of Local Government and officers of Department of Industry – Crown Lands.

### BUDGET

There is no budget impact associated by changing these five (5) reserves from Community Land to Operational Land.

**POLICY**

The *Crown Land Management Act 2016* was enacted on 1 July 2018. The Act requires Council to assign one or more land categories to Crown land where Council are the Crown Land Manager, in accordance with the categories of Community Land referred to in Section 36 of the *Local Government Act 1993*. A Plan of Management is required for all Crown Land classified as Community Land. A Plan of Management is not required for Crown Land classified as Operational Land.

**CONCLUSION**

Council officers assigned land categories for 90 Crown reserves which most closely related to their current use in accordance with the land categories of the *LG Act*.

Following the Crown's review of our assigned land categories, the Crown recommended Council consider requesting five (5) reserves to become Operational Land instead of Community Land, as this was more in keeping with their gazetted Reserve Purpose.

This report seeks Council's endorsement of the proposed classification of Operational Land at Brooklyn, Canoelands, Cowan, Mount Colah, Maroota.

**RESPONSIBLE OFFICER**

The officer responsible for the preparation of this Report is the Manager Parks, Trees and Recreation – David Sheils, who can be contacted on 9847 6792.


**DAVID SHEILS**

Manager - Parks Trees and Recreation  
Community and Environment Division

**STEPHEN FEDOROW**

Director - Community and Environment  
Community and Environment Division

**Attachments:**

1.  Operational Land Classification Request Form

File Reference: F2020/00240

Document Number: D08716875



## **8 REPORT ON SUBMISSIONS - AGRITOURISM DEVELOPMENT CONTROL PLAN AMENDMENTS**

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### **EXECUTIVE SUMMARY**

- In December 2022, the Department of Planning and Environment (DPE), amended legislation to permit agritourism in rural areas as exempt development and foreshadowed the uses would become permissible with development consent.
- The DPE agritourism reforms are generally consistent with Council's Rural Lands Study (RLS) recommendations for value adding activities to support productive agriculture.
- In anticipation of agritourism land uses becoming permissible with development consent, draft amendments to the Hornsby Development Control Plan 2013 (DCP) have been prepared.
- At its meeting on 14 June 2023, Council endorsed draft Agritourism DCP amendments for public exhibition. The DCP amendments are based on the standards in the State Policy for exempt development and a Model DCP for Agritourism prepared by the State Government.
- The draft DCP amendments were placed on public exhibition from 23 June 2023 to 4 August 2023. A total of 790 submissions have been received (294 of those being form letters).
- The key issue raised in submissions is the proposed 100 person visitor cap on farm gate premises (in particular, pick your own produce activities). Other issues include amenity concerns, traffic and parking impacts as a result of agritourism and over-regulation of farming.
- On 18 August 2023 (subsequent to Council's DCP exhibition period), the NSW Government removed the 100-person visitor cap for "pick your own" produce activities and made minor updates to the Model DCP for Agritourism.
- Council's draft Agritourism DCP amendments have been updated, including removal of the visitor cap for certain activities on farm gate or farm experience premises, in response to submissions and in accordance with the most recent State Government reforms.
- It is recommended that Council approve the draft Agritourism DCP controls, as amended after exhibition.

**RECOMMENDATION**

THAT:

1. Council approve the draft Agritourism amendments to the Hornsby Development Control Plan 2013, as attached to Director's Report No. PC24/23.
2. Notification of the approval of the amendments be published on Council's website.
3. Submitters be advised of Council's decision.

**ITEM 8**

## PURPOSE

The purpose of this report is to address matters raised in submissions received during the exhibition of the draft agritourism DCP amendments and to discuss changes to the DPE Model DCP for Agritourism made since exhibition.

## BACKGROUND

In June 2022, the RLS was finalised by Council. The RLS contains short term recommendations for value adding activities to support productive agriculture, including certain 'agritourism' land uses.

On 1 December 2022, the DPE, as part of ongoing agritourism planning reforms, amended legislation to permit certain agritourism land uses in rural areas as exempt development and identified that in mid-2023, the new agritourism land uses would become permissible with development consent. To assist councils, prepare development controls for assessment of agritourism land uses, DPE released a draft model agritourism DCP.

Council officers reviewed the Model DCP for Agritourism and prepared draft amendments to the Hornsby DCP. The draft DCP amendments were prepared in consideration of the standards for exempt development, model agritourism DCP provisions and recommendations of the Hornsby RLS.

On 14 June 2023, Council considered Director's Report No. PC 13/23 and resolved that:

1. *Amendments to the Hornsby Development Control Plan 2013 attached to Director's Report No. PC13/23 be placed on public exhibition for a period of 28 days.*
2. *Following exhibition, a report on submissions be presented to Council for consideration.*

In accordance with Council's resolution, the draft DCP amendments were publicly exhibited from 23 June 2023 to 4 August 2023.

On 18 August 2023, DPE finalised amendments to the Hornsby LEP to permit agritourism as complying development or with development consent in rural zones and made changes to the Model DCP for Agritourism. In response to objections from farmers, the State Government also amended the Exempt and Complying Development Code to remove visitor limits for agritourism involving "pick your own" produce activities.

## DISCUSSION

This report addresses submissions in response to the exhibition of the draft agritourism DCP amendments and recommended changes in response to the issues raised in submissions. It also discusses amendments made by DPE to the Model DCP for Agritourism.

### 1. Submissions

The draft DCP amendments were exhibited between 23 June 2023 and 4 August 2023. During the exhibition, Council received 790 submissions from members of the public. The submissions comprise:

- 129 written submissions.
- 294 submissions in the format of a signed form letter.
- 367 comments received via the Hornsby Your Say Page.

The majority of submissions concentrated on the proposed limit for visitors to farm gate premises of 100 people at any one time. Of the submissions:

- 710 suggest that the visitor cap should be removed.

- 40 oppose the draft DCP amendments.
- 15 provide general comment on the draft DCP amendments.
- 12 do not contain any feedback (although the online contact form was completed).
- 8 provide suggestions on various amendments to the draft controls including hours of operation, traffic controls and parking.
- 3 support the draft DCP amendments.
- 2 oppose agritourism in any form.

The key issues raised in submissions objecting to, or providing suggested amendments to, the draft DCP amendments are discussed below.

### **Visitor limits to farm gate premises**

Almost 90% of submissions (710 out of 790) suggest an amendment to the 100-visitor cap for farm gate premises (in particular “pick your own” produce activities). Submissions suggest that:

- Council should not place any restriction on visitors.
- Council should adopt a visitor restriction that is based on the size of the farm such as 100 people per 2 or 4 hectares.
- Council should adopt a restriction based on family groups or the restriction should not include children or grandparents.

Many submissions specifically identify farms that undertake “pick your own” produce as impacted by the proposed visitor limit and suggest that the limit:

- Does not consider the size of the farm, with larger farms having a potential to cater for more guest.
- Does not consider the specific requirements of produce, which may be required to be picked in a short time frame to avoid waste.
- May reduce the viability of farming in the rural area.

### **Comment**

The proposed 100-person visitor cap for farm gate premises (which include “pick your own” activities) in the draft DCP is based on numerical controls contained in the Codes State Environmental Planning Policy (SEPP). Applicants may be able to exceed the proposed DCP control, subject to justification to satisfy a merit-based assessment.

However, after submissions and advocacy from farmers on the issue, on 18 August 2023, the State Government amended the Codes SEPP to remove the visitor cap for fruit and produce picking activities (i.e., “pick your own” produce).

Fruit and produce picking is an activity that can be undertaken by a visitor to a farm gate premises and is defined as “picking, gathering, selecting or otherwise harvesting fruit, vegetables and other agricultural products from the farm for purchase by the visitor.”

As the Codes SEPP no longer limits visitors for “pick your own” produce activities, it would be appropriate to update the numerical control in the draft Hornsby DCP to reflect this change. The attached DCP amendment has been modified to exclude visitors participating in fruit and produce picking, from the visitor limits for farm gate premises, in line with Codes SEPP requirements.

All other types of farm gate, farm experience or farm stay premises are still proposed to have visitor limits under the draft Hornsby DCP, with the exception of farm tours, horse riding tours or as part of a school group that are also exempted. This is reflected in the attached DCP amendments.

Development applications for farm gate premises and farm experiences premises would be required to demonstrate an appropriate number of visitors to a site through the completion of a Plan of Management that would be submitted with a development application.

This change would add flexibility and allow for maximum visitor numbers to be considered as part of the complete management of a site. Site constraints and opportunities, such as the size of the site, produce requirements, traffic, car parking, amenity impacts and any hazards would inform the appropriate maximum number of visitors to a farm.

### ***Recommendation***

That the draft agritourism DCP amendments be updated to remove the visitor cap for “pick your own” produce activities, farm tours, and horse riding tours or as part of a school group to reflect amendments to the Codes SEPP.

### **Traffic and roads**

Several submissions raise concerns about the impacts of agritourism on rural roads, such as Singleton Road and Laughtondale Gully Road. Submissions identify that existing farms that invite the public to undertake pick your own produce activities contribute to influxes of traffic on picking days which can lead to traffic jams, vehicles parking illegally and unsafe drivers. Further, the narrow width of rural roads, combined with soft edges and unfamiliar drivers are raised as potential safety concerns.

### ***Comment***

Under the draft DCP amendments, applicants would be required to address traffic and road safety as part of a plan of management for the site. This would be in addition to existing development controls for Transport and Parking contained in Part 1 General of the Hornsby DCP.

Therefore, applications for agritourism activities would be required to demonstrate that the proposed development is compatible with the surrounding road network and that access to the site is simple, safe and direct. Traffic generation from new agritourism developments and the capacity and safety of the road network, would be assessed as part of the development application process.

### ***Recommendation***

That no change be made to the draft DCP amendments in response to submissions received commenting on traffic and roads.

### **Over regulation of farmers**

Some submissions raise concerns that the additional development controls are an over regulation and that no controls should be applied to farmers undertaking agritourism development.

### ***Comment***

The RLS vision for rural areas of Hornsby Shire is that primary production is protected and supported by opportunities for value-adding that leverage farming, scenic landscapes, rural amenity and proximity to bushland. Management of the rural area includes understanding and responding to environmental risk and development constraints.

The draft DCP amendments aim to support value adding opportunities for commercial farms in the rural area, whilst balancing impacts to rural amenity, biodiversity, scenic landscapes, traffic and road safety and environmental risks in line with the recommendations of the Hornsby RLS.

The draft controls would only apply to commercial farms that seek to undertake agritourism activities which are not exempt under the Codes SEPP.

***Recommendation***

That no change be made to the draft DCP amendments in response to submissions commenting on over regulation.

**Hours of operation**

A submission suggested extended hours of operation for agritourism premises, especially during longer summer months.

***Comment***

Under the draft DCP amendments, the hours of operation for farm gate premises would be 8am to 5pm Sunday to Friday and 7am to 5pm Saturday. These hours of operation align with the hours of operation for exempt and complying development outlined in the Codes SEPP.

The hours of operation for farm gate and farm experiences premises proposed in the draft DCP amendments are appropriate for maintaining the amenity of the rural areas of Hornsby Shire.

Should an applicant for a farm gate or farm experiences premises seek operating hours that differ to the draft DCP controls, this could be considered as part of a merit assessment of a development application. Such an application should include justification for an extended hours through the submission of the required Plan of Management and supporting documentation including consideration of surrounding land uses, size of the premises, intensity of the use and location.

***Recommendation***

That no change be made to the draft amendments DCP in response to submissions commenting on hours of operation.

**Car parking**

Some submissions raise concerns that proposed car parking requirements are inadequate, which may lead to additional vehicles parking on rural roads.

***Comment***

The car parking rates in the draft DCP amendments are the same as the numerical rates provided in the finalised Model DCP clauses for agritourism released by DPE. The parking rates were developed by DPE in consultation with agritourism stakeholders and local councils.

***Recommendation***

That no change be made to the draft DCP amendments in response to submissions commenting on car parking.

**Amenity impacts**

Several submissions raise concerns that agritourism would impact on rural amenity, including noise, impacts from visitors accessing properties, and antisocial behaviour.

***Comment***

The draft DCP amendments include controls to minimise impacts of agritourism on surrounding properties, including:

- Setback requirements.
- Noise limits.
- Hours of operation.
- Floor area restrictions.
- Requirements for services for guests including toilets and access to potable water.

In addition to the controls listed above, development applications for agritourism would be required to be accompanied by a plan of management that outlines procedures for the ongoing management of the operation. The plan of management is to include requirements for management of guests, record keeping, guest access to services and procedures for receiving and managing complaints.

The controls outlined above would minimise the impacts of agritourism on surrounding properties without being onerous for commercial farmers who seek to diversify income streams.

#### ***Recommendation***

That no change be made to the draft DCP amendments in response to submissions commenting on amenity impacts.

#### **Integration of Model DCP controls into the draft Hornsby DCP**

Two submissions raise concerns with the integration of the Model DCP controls into the draft Hornsby DCP. Specifically, the submissions comment that some Model DCP controls have not been included or have been altered.

#### ***Comment***

As discussed in this report, the draft DCP amendments have been prepared in consideration of the format of the current Hornsby DCP, recommendations of the Hornsby RLS, draft Model DCP and the Codes SEPP. Although the Model DCP has been used as a basis for the draft DCP amendments, alterations have been required to reflect the overall planning context, format and structure of the Hornsby DCP. The amendments have been prepared to avoid repeating controls contained elsewhere in the Hornsby DCP and reflect the language and style of the balance of the DCP.

A full explanation of how the Model DCP controls have been incorporated into the Hornsby DCP is contained within the table attached to this report and further discussion is provided below in Section 2 of this report.

#### ***Recommendation***

That no change be made to the draft DCP amendments in response to submissions commenting on the integration of the model DCP controls.

#### **Opposition to agritourism**

Two submissions object to agritourism in any form occurring within the rural lands of Hornsby Shire.

#### ***Comment***

As outlined in this report, agritourism is a key recommendation of the Hornsby RLS as it would allow commercial farms to diversify income streams, improving the viability of commercial farming operations in Hornsby Shire. Further, DPE has introduced State wide agritourism reforms that permit

agritourism as exempt or complying development in rural lands. As a consequence of the State wide planning reforms, agritourism is already permissible in the rural lands of Hornsby Shire and it is not possible to prohibit this land use. The progression of the draft DCP amendments would provide an appropriate planning framework for the evaluation of development applications submitted for agritourism activities in Hornsby Shire to ensure that potential amenity and environmental impacts are minimised.

### ***Recommendation***

That no change be made to the draft DCP amendments in response to submissions in opposition to agritourism.

## **2. Updated Model Agritourism DCP**

DPE released the initial draft Model DCP for Agritourism in December 2022. The Model DCP provided criteria that councils across the State could use as the basis for the preparation of local development controls.

The draft DCP amendments exhibited by Council were prepared based on the recommendations of the Hornsby RLS, the Codes SEPP development standards and the draft Model DCP released by DPE in December 2022.

On 18 August 2023, DPE released an updated version of the Model DCP for Agritourism. Council officers have reviewed the updated Model DCP and identified minor changes to plans of management suitable to be incorporated into the draft Hornsby DCP. These changes include requirements for:

- Managing water resources.
- Visitor safety, including emergency procedures, bushfire and flood safety, farm safety and emergency vehicle access.
- Receiving and managing complaints.

The Hornsby RLS recommends that agritourism land uses be designed and managed in a manner that protects landscape and rural character and avoids land use conflict. The updated Model DCP requirements for plans of management are in line with the recommendations of the Hornsby RLS and have been incorporated into the requirements for plans of management in the attached draft DCP amendments.

A summary of how the updated DPE Model DCP clauses have been integrated into the draft Hornsby DCP is attached to this report.

### **CONSULTATION**

The draft agritourism DCP amendments were publicly exhibited for six weeks from 23 June 2023 to 4 August 2023, through the following channels:

- Council's Your Say Hornsby website.
- E News.
- Rural publications including Living Heritage, Galston Glenorie News and Dooral Roundup.
- Letters to those who provided submissions on the RLS (approximately 330 letters).

During the exhibition period, the exhibition page on Council's your say website received 1,588 page visits with 367 visitors leaving comments on the draft DCP amendments. Council also received 129



written responses during the exhibition period and 294 form letters. Of the submitters who provided feedback, 18% were from Hornsby Shire and the majority were from the Greater Sydney region.

The post exhibition amendments recommended in this report are in response to submissions made during the exhibition period and State-wide agritourism changes made by DPE. As the changes outlined in this report are minor, consistent with the recommendations of the Hornsby RLS and the Codes SEPP, further exhibition is not required.

#### **BUDGET**

The matter has no direct financial impact upon Council's adopted budget or Long Term Financial Plan.

#### **POLICY**

The proposed agritourism DCP amendments seek to implement the recommendations of the RLS for the provision of development controls for new agritourism land uses. The amendments would satisfy the intent of item 15 of the endorsed Implementation Action Plan A – Short Term Recommendations of the RLS.

The draft DCP amendments introduce appropriate development controls in response to agritourism land uses becoming permissible with development consent in the RU1 Primary Production, RU2 Rural Landscape, RU4 Primary Production Small Lots and C3 Environmental Protection Zones.

Subject to Council's endorsement, the draft amendments would be incorporated into the Hornby DCP and come into force once published on Council's website.

#### **CONCLUSION**

The draft Agritourism DCP amendments were publicly exhibited from 23 June 2023 and 4 August 2023 and a total of 790 submissions were received.

The draft DCP amendments have been updated post exhibition to have regard to the updated Codes SEPP, the amended Model DCP clauses, as well as submissions received during the exhibition period. The minor updates to the draft Hornsby DCP are consistent with the recommendations of the Hornsby RLS.

It is recommended that Council approve the agritourism DCP amendments.



#### **RESPONSIBLE OFFICER**

The officer responsible for the preparation of this Report is the Manager, Strategic Land Use Planning – Katherine Vickery - who can be contacted on 9847 6744.

KATHERINE VICKERY  
Manager - Strategic Landuse Planning  
Planning and Compliance Division

JAMES FARRINGTON  
Director - Planning and Compliance  
Planning and Compliance Division

**Attachments:**

1.  Draft Hornsby Development Control Plan Amendments
2.  Model Agritourism DCP Implementation Tracking

File Reference: F2018/00162#04-002

Document Number: D08730478

**ITEM 8**

**9 ELECTRIC VEHICLE CHARGING - DRAFT DEVELOPMENT CONTROL PLAN AMENDMENTS**

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**EXECUTIVE SUMMARY**

- In 2019, Council adopted a 2050 Net Zero target, with a target to reduce emissions from 2018 levels by 53 per cent by 2030. Council's Climate Wise Action Plan identifies that transport is the second largest contributor to greenhouse gas emissions in Hornsby Shire.
- The Climate Wise Action Plan includes an action to support the uptake of electric vehicles including installation of public charging stations and investigating planning controls to require electric vehicle (EV) charging infrastructure in new developments.
- EV sales are expected to increase to 52 per cent by 2030/31 as people embrace emerging technologies and cleaner energy options, increasing the need for access to electric vehicle charging units.
- To support and encourage the anticipated increase in electric vehicle uptake and assist Council meet its emission reduction targets, it would be appropriate that development controls be introduced to ensure EV readiness in new developments and avoid the need for expensive retrofitting in the future.
- Draft amendments to the Hornsby Development Control Plan (DCP) have been prepared to identify and require minimum EV charging connection points for new residential and commercial developments.
- It is recommended the draft DCP amendments attached to this report be endorsed for public exhibition.

**RECOMMENDATION**

THAT:

1. The draft Electric Vehicle Charging Hornsby Development Control Plan amendments attached to Director's Report No. PC25/23 be placed on public exhibition for a period for 28 days in accordance with Council's Community Engagement Plan.
2. Following the exhibition, a report on submissions be presented to Council for consideration.

## PURPOSE

The purpose of this report is to present draft Electric Vehicle Charging amendments to the Hornsby DCP to Council for endorsement for exhibition.

## BACKGROUND

Several strategies and plans have been prepared and progressed by Council that incorporate measures to reduce greenhouse gas emissions in Hornsby Shire. In 2019, Council adopted a 2050 Net Zero target and the Sustainable Hornsby 2040 Strategy which aims to enhance environmental sustainability outcomes and increase ecological, economic and social resilience within the Shire.

Through the implementation of the Climate Wise Hornsby Plan 2020, Council aims to reduce corporate greenhouse gas emissions from 2018 levels by 53% by 2030. The Plan identifies that transport is the second largest contributor to greenhouse gas emissions in the Shire.

These goals have been included in planning strategies such as focussing development opportunities around public transport and more direct initiatives such as encouraging electric vehicle uptake. Electric vehicle plans and policies include:

- The Climate Wise Action Plan action (C2.2) to support the uptake of electric vehicles through the installation of public charging stations and investigating planning controls to require charging infrastructure in new developments.
- The Electric Vehicle Charging Stations on Public Land Policy 2022. Council has approved two leases in Council car parks (Beecroft and Dural Street) for the installation of public electric vehicle charging units. In addition, five EVC units are available on private land in commercial areas across the Shire.
- The Hornsby Sustainable Transport Fact Sheet - Electric Vehicle Charging which provides technical information about installing EVC units in private homes, apartments and on public land.

Demand for electric vehicles is increasing as people embrace emerging technologies and cleaner energy options. The NSW Electric Vehicle Strategy (2021) identifies that electric vehicle sales are expected to increase to 52 per cent by 2030/31, increasing the need for access to electric vehicle charging units.

## DISCUSSION

This report discusses draft amendments to the Hornsby DCP to ensure EV readiness in new developments, by requiring appropriate infrastructure to be incorporated and avoiding the need for expensive retrofitting in the future.

Electively installing electric vehicle charging units in existing or proposed development can be undertaken as exempt development via the Transport and Infrastructure SEPP. However, the SEPP does not mandate the installation of EVC units in new development. To support and encourage the anticipated increase in electric vehicle uptake and assist Council meet its emission reduction targets, it would be appropriate that DCP controls be introduced to identify and require minimum EV charging connection points for new residential and commercial developments.

Draft amendments to Hornsby DCP Part 1 – General Controls (Car Parking) for EV charging have been prepared and are attached as discussed below.

### Draft DCP Amendments

Hornsby DCP Part 1 – General provides planning controls that apply to all development in the Shire. Part 1C.2.1 - Transport and Parking sets out design and technical requirements for vehicle access and parking and minimum parking rates according to development type and distance from transport nodes. Specific sections address access and parking controls for service vehicles and parking rates for motorcycles.

Draft amendments to the Hornsby DCP have been prepared which would insert a new Electric Vehicle section in Part 1C.2.1, following the section on Motorcycle Parking.

The draft amendments include a desired outcome to encourage and support the use of electric vehicles.

Draft prescriptive controls include:

- A minimum of one EV ready connection for each dwelling allocated a car space in medium and high density residential, seniors independent living and boarding house developments.
- EV connection requirements for car share spaces and spaces allocated to visitors.
- One shared EV connection for every 10 car spaces in commercial developments.
- A dedicated space and charging point to be used for electric bikes and mobility scooters in all mixed use, commercial, medium, and high-density residential developments.
- A private EV connection in garages in low density residential developments.
- A requirement to comply with the National Construction Code minimum safety standards for EV connections. The standards will be mandatory from October 2023.

It is recommended that Council endorse the draft Electric Vehicle Charging amendments to the Hornsby DCP for public exhibition.

### **CONSULTATION**

It is recommended that the draft EV charging DCP amendments be placed on public exhibition for 28 days in accordance with Council's Community Engagement Plan.

The consultation should include advertisement on Council's website under 'Your Say Hornsby'.

Following exhibition, a report would be presented to Council summarising the feedback received.

### **BUDGET**

There are no budgetary implications related to the exhibition of the EV charging DCP amendments.

### **POLICY**

The proposed EV charging amendments to the HDCP aim to implement action C2.2 of Council's Climate Wise Action Plan. Following the exhibition of the draft amendments, a report would be presented to Council for consideration of submissions. Subject to Council's endorsement, the draft amendments would be incorporated into the HDCP and come into force when published on Council's website.

### **CONCLUSION**

Council's Climate Wise Action Plan includes an action to support the uptake of electric vehicles including planning controls to require Electric vehicle charging infrastructure in new developments. Electric vehicle sales are expected to continue to significantly increase in the future, increasing the need for access to electric vehicle charging units.

To support and encourage the anticipated increase in electric vehicle uptake and assist Council to meet its emission reduction targets, it is recommended that DCP controls be introduced to identify and require minimum EV charging connection points for new residential and commercial developments.

It is recommended that the draft DCP amendments be exhibited to seek community feedback.

#### **RESPONSIBLE OFFICER**

The officer responsible for the preparation of this Report is the Manager, Strategic Land Use Planning – Katherine Vickery - who can be contacted on 9847 6744.

**KATHERINE VICKERY**  
Manager - Strategic Landuse Planning  
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**JAMES FARRINGTON**  
Director - Planning and Compliance  
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#### **Attachments:**

1.  Attachment Electric Vehicle Charging DCP amendments

File Reference: F2021/00318

Document Number: D08730483

## **10 DRAFT SENIORS HOUSING DEVELOPMENT CONTROL PLAN AMENDMENTS**

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### **EXECUTIVE SUMMARY**

- State Environmental Planning Policy (SEPP) seniors housing provisions override Council's local planning controls and allow seniors housing in certain zones, including the R2 Low Density Residential zone.
- Seniors Housing in the R2 zone is permissible in the form of low rise apartments with building heights up to 11.5m or villas with a height of 8.5m. These land uses are not otherwise permissible in the zone under the Hornsby Local Environmental Plan.
- A moratorium on the application of SEPP seniors housing provisions in Heritage Conservation Areas (HCAs) has been in place since 2019. It will expire on 31 December 2023.
- Council has made numerous representations to the Department of Planning and Environment (DPE) seeking an extension of the moratorium or a permanent exemption from the State Policy. Council prepared a Seniors Housing Demand and Supply Review to support its request which indicated that, if Council was provided time to prepare its own local strategy for seniors housing it would not be detrimental to supply.
- Despite ongoing communication and submissions to the DPE, it has been indicated that a permanent exemption from the State Policy is unlikely to be supported.
- In anticipation of the end of the moratorium in December, draft amendments to the Hornsby Development Control Plan (HDCP) have been prepared to assist minimise the impact of development allowed under the Housing SEPP on HCAs within the Shire.
- The draft controls require that proposals for Seniors Housing contribute positively to the heritage significance and character of HCAs. It is recommended that the draft amendments to the HDCP for Seniors Housing in HCAs be exhibited for public comment.

### **RECOMMENDATION**

THAT:

1. The draft Development Control Plan amendments for Seniors Housing in Heritage Conservation Areas attached to Director's Report No. PC26/23 be exhibited for a period of 28 days and in accordance with Council's Community Engagement Plan.
2. Following the exhibition, a report on submissions be presented to Council for consideration.
3. Council write to the Minister for Planning and Public Spaces reiterating its request for a permanent exclusion from the application of the seniors housing provision of the Housing SEPP in Heritage Conservation Areas.

## PURPOSE

The purpose of this report is to present draft amendments to the Hornsby Development Control Plan for Seniors Housing in Heritage Conservation Areas for public exhibition.

## BACKGROUND

For more than a decade, Council has raised concerns that State Environmental Planning Policy provisions for Seniors Housing override Council's local planning controls and permit seniors housing developments in various locations, including heritage conservation areas and rural areas.

In response to the representations by Council concerning the impacts of seniors housing developments in rural areas, in 2018 the Greater Sydney Commission commenced an investigation into the planning challenges being experienced.

The resulting report titled, *Investigation into the cumulative impacts of Seniors Housing in the rural areas of The Hills and Hornsby local government areas*, was presented to Council at its meeting on 8 April 2020 (Directors Report No. PL7/20). Council resolved that:

*"a submission be sent to the Secretary of the Department of Planning, Industry and Environment and the Minister for Planning and Public Spaces, urging that State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004 be reviewed in light of the recommendations within the GSC report and that (at minimum) an immediate temporary suspension of the Seniors Housing SEPP from the rural areas of Hornsby and The Hills local government areas be granted. assisted Council with further advocacy seeking that Seniors Housing state policy provisions be reviewed and that (at minimum) a temporary suspension of the seniors housing from rural areas be granted".*

In July 2020, the State provisions for seniors housing were amended to prevent new proposals for seniors housing on land within the Metropolitan Rural Area of Greater Sydney, including the rural areas of Hornsby Shire.

In regard to seniors housing in heritage conservation areas, in February 2019, the State Government introduced a temporary moratorium on the application of State wide seniors housing provisions in Heritage Conservation Areas in Greater Sydney until 2020.

At its meeting on 8 July 2020, Council considered Director's Report PL 16/20, presenting a Seniors Housing Demand and Supply Review. The Review was prepared to support Council's request for an extension of the temporary moratorium and indicated that, if Council was provided time to prepare its own local strategy for seniors housing it would not be detrimental to supply.

Council resolved that:

1. *The draft Seniors Housing Demand and Supply Review attached to Director's Report PL16/20 be submitted to the Department of Planning, Industry and Environment to support Council's requests concerning the application of State Environmental Planning Policy (Housing for Seniors or People with Disability) 2004 to rural land and Heritage Conservation Areas within Hornsby Shire.*
2. *The draft Seniors Housing Demand and Supply Review be placed on public exhibition after being reformatted and designed in accordance with Council's style guide.*
3. *Consultation with seniors housing providers be undertaken on supply and demand generally as outlined in the Review and on demand for different levels of care in aged care facilities.*



4. *A further report be prepared for Council's consideration concerning the response from Department of Planning, Industry and Environment, the community, and seniors housing providers.*

In accordance with Council's resolution, the draft Review was publicly exhibited, a copy was forwarded to the Department of Planning and consultation with seniors housing providers was undertaken.

At its meeting on 12 May 2021, Council considered Director's Report No. PC9/21 concerning the exhibition of the Seniors Housing Demand and Supply Review. The submissions received were generally supportive of the review. The consultation with seniors housing providers identified two sites acquired by Twilight Aged Care and Link Wentworth Housing to provide seniors housing prior to the introduction of the temporary moratorium of the application Seniors SEPP in HCAs. In consideration of how far the concept proposals had been progressed by the not-for-profit community housing providers, Council resolved to allow the opportunity for seniors housing developments on these two sites only within the HCA.

It was resolved that:

1. *Council endorse the Seniors Demand and Supply Review.*
2. *Council request the Department of Planning, Industry and Environment continue the moratorium on the application of the Seniors SEPP on land within Heritage Conservation Areas in Hornby Shire, with the exception of two sites being Property Nos. 46-50 Hannah Street, Beecroft and No. 17 Killaloe Avenue, Pennant Hills.*
3. *A local Seniors Housing Strategy be prepared, subject to staff resources and funding.*
4. *Submitters be notified of Council's decision.*

In accordance with Council's resolution, a request for continuation of the moratorium was submitted, with the exemption of the two nominated sites. The State policy provisions were subsequently amended by the Department of Planning to exclude the sites and otherwise continue the temporary moratorium which is now due expire on 31 December 2023.

## **DISCUSSION**

This report seeks Council endorsement to exhibit draft amendments to the Hornsby DCP for seniors housing in HCAs to supplement the Department's draft Seniors Housing Design Guide.

### ***The Housing SEPP – permissibility and heritage conservation areas***

The State provisions for seniors housing are now contained in State Environmental Planning Policy (Housing) 2021 (the Housing SEPP). The Housing SEPP facilitates the development of a range of affordable and diverse housing including seniors housing. The SEPP overrides local planning controls and permits seniors housing defined as residential care facilities (nursing homes or aged care homes), seniors independent living units, and hostels for seniors or people with a disability in various land use zones, including the R2 Low Density Residential zone.

Most Heritage Conservation Areas (HCAs) in Hornsby Shire are zoned R2 Low Density Residential where seniors housing, residential flat buildings (apartments) and villas are not permitted in the *Hornsby Local Environmental Plan 2013* (Hornsby LEP), and the maximum building height is 8.5m.

Under the Housing SEPP, Seniors housing is permissible with consent in the R2 Low Density Residential zone on sites over 1,000sqm and development is permitted in the form of low rise apartments and villas with building heights of up to 11.5m.

Despite Council's numerous representations seeking a permanent exemption to the permissibility of seniors housing in HCAs, the DPE has indicated that an exemption is unlikely to be supported as State and local controls can deliver appropriate outcomes for seniors housing. In this regard, a draft Seniors Housing Design Guide has been released by the Department.

The recently released draft Seniors Housing Design Guide, when finalised, would replace the *Seniors Living Policy Urban design guidelines for infill development, 2004*. Review of the draft Guide indicates that it is informative rather than prescriptive and does not consider HCAs, landscape conservation, or contain prescriptive heritage development controls.

Stronger local provisions for seniors housing developments within and near heritage items and HCAs would be appropriate to supplement the Guide, assist minimise the impact of building form, height and setbacks allowed through the SEPP on HCAs within the Shire. Further additional controls would assist applicants design proposals to respond to heritage considerations and the determining authority in evaluating applications.

### ***Draft Hornsby DCP Amendments for Seniors Housing in Heritage Conservation Areas***

Council's planning policies aim to encourage high quality development, while respecting, managing and preserving our HCAs. This balanced approach seeks to ensure development is appropriate in its context and character and protects our valued heritage precincts.

The existing DCP controls for seniors housing (Part 7 – Community) and heritage (Part 9) do not include specific desired outcomes or controls for the housing forms and building heights to be enabled through the Housing SEPP that will soon apply to HCAs.

Accordingly, draft amendments to Part 7 and Part 9 have been prepared to require that the built forms allowed through the Housing SEPP contribute positively to the heritage significance and character of heritage conservation areas. Further, proposals should be consistent with key applicable desired outcomes and development controls in Part 9.3 – Heritage Conservation Areas. Specifically, draft amendments have been prepared as outlined below.

#### *Draft amendments in Part 7 – Community:*

- Requirements for Seniors Housing in Heritage Conservation Areas to contribute positively to the heritage significance and character of heritage conservation areas and be consistent with the applicable desired outcomes and development controls in Hornsby DCP Part 9 – Heritage.

#### *Draft amendments in Part 9 – Heritage:*

- Adding to HCA development application submission requirements that development applications for Seniors Housing should include a detailed Heritage Impact Assessment demonstrating how the proposal complements the heritage significance and character of the heritage conservation area and justifying any proposed demolition.
- Adding to the General Design Provisions and Prescriptive Measures for HCAs that:
  - Two or more storey Seniors Housing proposals should be located within streetscapes that are predominantly two or more storeys.
  - Garages, carports and resident car-parking spaces in Seniors Housing developments should not be visible from the public domain.
  - Basement garage openings may be visible from the public domain.

- The landscaped front setbacks of Seniors Housing developments and side setbacks visible from the public domain should not be divided into, or form part of, private open space.
- Communal open space in the landscaped front setbacks or side setbacks of Seniors Housing developments visible from the public domain should be open and not fenced, walled, or hard screened. Plantings may be used to establish boundaries and achieve privacy.

Although local controls cannot override State planning controls, the proposed combination of draft DCP amendments outlined above would require seniors housing development in HCAs to generally comply with the HCA provisions. This would mean dwelling forms and heights enabled through the Housing SEPP, would be required to demonstrate how they avoid design and landscape elements that may adversely affect the character and significance of an HCA.

It is recommended that Council endorse the draft DCP amendments for Seniors Housing in Heritage Conservation Areas attached to this report for public exhibition.

### ***Preparation of a local Seniors Housing Policy***

As discussed above, Council's Seniors Demand and Supply Review indicates that a permanent exemption from the application of the Housing SEPP for heritage conservation areas would not be detrimental to supply. It shows there is currently sufficient supply for projected demand for both seniors housing (independent living units) and residential aged care facilities.

At its meeting on 12 May 2021, Council endorsed the Seniors Housing Demand and Supply Review and resolved to prepare a Local Seniors Housing Strategy. Confirmation was subsequently sought from the Department that preparation of a Local Strategy would be appropriate to support consideration of a permanent exemption from the State Policy. However, a confirmed position has not been received from the DPE.

A Local Seniors Housing Strategy will look more closely at the size, type and levels of care that people are able to access and waiting times. The Strategy will also look at qualitative aspects of housing supply including the preferences of our residents for different housing types and housing options outside of age-segregated seniors living, and appropriate locations for the same.

In addition, Council's Local Housing Strategy and implementation plan demonstrate Council's commitment to identifying future locations for medium density dwellings such as townhouses and terraces, which would increase seniors housing capacity in more appropriate locations than HCAs

Therefore, notwithstanding the proposed DCP amendments, it is also recommended that Council continue its advocacy to seek a permanent exclusion from the application of the State planning controls for seniors housing in Heritage Conservation Areas.

### **CONSULTATION**

It is recommended that the draft DCP amendments for seniors housing be exhibited for public comment for 28 days in accordance with Council's Community Engagement Plan.

The consultation should include advertisement on Council's website under 'Your Say Hornsby' and letters to historical societies and civic trusts.

Following exhibition, a report would be presented to Council summarising the feedback received.

**BUDGET**

There are no budgetary implications associated with the exhibition of the draft DCP amendments for Seniors Housing in Heritage Conservation Areas.

**POLICY**

Local controls cannot override State planning controls. However, the proposed amendments to the HDCP aim to ensure that dwelling forms and heights enabled through the Housing SEPP are designed and landscaped to complement the character and significance of an HCA.

A more thorough review of the heritage elements of the Hornsby DCP is scheduled to commence in the coming months as part of the Comprehensive Heritage Review. The amendments attached to this report are being brought forward ahead of the wider review given the upcoming expiry of the seniors housing moratorium in HCAs.

Following the exhibition of the draft amendments, a report would be presented to Council for consideration of submissions. Subject to Council's endorsement, the draft amendments would be incorporated into the HDCP and come into force once published on Council's website.

**CONCLUSION**

It is recommended that draft amendments to the Hornsby DCP for draft Seniors Housing in Heritage Conservation Areas be placed on public exhibition for at least 28 days to seek community feedback. It is also recommended that Council write to the Minister for Planning and Public Spaces reiterating its request for a permanent exclusion from the application of the State planning controls for seniors housing in Heritage Conservation Areas.

**RESPONSIBLE OFFICER**

The officer responsible for the preparation of this Report is the Manager, Strategic Landuse Planning – Katherine Vickery - who can be contacted on 9847 6744.

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**Attachments:**

1.  Attachment - Seniors Housing in Heritage Conservation Areas - DCP amendments

File Reference: F2004/09011  
Document Number: D08732830

## 11 MAYOR'S NOTES 01 SEPTEMBER 2023 TO 30 SEPTEMBER 2023

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

Saturday 2<sup>nd</sup> September 2023 – The Mayor attended the KNA (Ku-ring-gai Netball Association) Netball Grand Finals, in South Turramurra.

Tuesday 5<sup>th</sup> September 2023 – The Mayor attended Pacific Hills Christian School in Dural in Dural.

Wednesday 6<sup>th</sup> September 2023 – The Mayor hosted four Citizenship Ceremonies in the Council Chambers at Hornsby Shire Council in Hornsby.

Friday 8<sup>th</sup> September 2023 – The Mayor attended the new Probus Club meeting, in Beecroft.

Saturday 9<sup>th</sup> September 2023 – The Mayor attended the 2023 Hills District Netball Association Grand Final, in Pennant Hills.

Saturday 9<sup>th</sup> September 2023 – The Mayor attended the Northholm Evening Fundraiser, at Northholm Grammar School, Fiddletown.

Monday 11<sup>th</sup> September 2023 – The Mayor attended the Catholic Schools of Broken Bay Public Speaking Competition, at St Patrick's Asquith School hall, Asquith.

Tuesday 12<sup>th</sup> September 2023 – The Mayor attended a Community Pitch evening, at Magpies, Waitara.

Wednesday 13<sup>th</sup> September 2023 – The Mayor attended a LinC Church Services Network morning tea, at St Johns Anglican Church, Asquith.

Thursday 14<sup>th</sup> September 2023 – The Mayor attended a RUOK stall run by Mens Shed, at Westleigh Village.

Thursday 14<sup>th</sup> September 2023 – The Mayor attended CASS Hornsby Activity Group Moon Festival Celebration at the Hornsby Youth and Family Community Centre, Hornsby.

Thursday 14<sup>th</sup> September 2023 – The Mayor attended Hornsby North Public School P and C event to Farewell Maree Sumpton, at Hornsby North Public School, Hornsby North.

Friday 15<sup>th</sup> September 2023 – The Mayor attended the Lions Club Charter 65<sup>th</sup> Anniversary, at Hornsby RSL, Hornsby.

Friday 15<sup>th</sup> September 2023 – The Mayor attended the general meeting of the Hornsby-Berowra YL Branch, at Blue Gum Hotel, Waitara.

Saturday 16<sup>th</sup> September 2023 – On behalf of the Mayor, Deputy Mayor, Councillor Waddell attended Go for Broke – Ride to beat depression, at Berowra Christian School.

Sunday 17<sup>th</sup> September 2023 – The Mayor attended Castle Hill RSL Dolphins Swimming Club Presentation, at the Hornsby RSL, Hornsby.

Monday 18<sup>th</sup> September 2023 – The Mayor attended Live Well and Learn Hornsby Region Dementia Community Forum, at Hornsby Central Library, Hornsby.

Tuesday 19<sup>th</sup> September 2023 – The Mayor attended a Dementia Week 2023 Riverboat Postman Cruise with Hello Hornsby, in Brooklyn.

Wednesday 20<sup>th</sup> September 2023 - The Mayor hosted four Citizenship Ceremonies in the Council Chambers at Hornsby Shire Council in Hornsby.

Thursday 21<sup>st</sup> September 2023 – The Mayor attended a photo opportunity to celebrate community connections in partnership with Lifeline, at Hornsby Library, Hornsby.

Thursday 21<sup>st</sup> September 2023 – The Mayor attended Asquith Girls High School year 12 Graduation 2023, at Asquith Girls High School, Asquith.

Friday 22<sup>nd</sup> September 2023 – The Mayor attended the 16<sup>th</sup> Annual HKCC (Hornsby Ku-ring-gai Community College) Art Exhibition, in Hornsby.

Saturday 23<sup>rd</sup> September 2023 – The Mayor attended Berowra Royal Fire Brigade's 80<sup>th</sup> Anniversary, at Club Berowra, Berowra.

Sunday 24<sup>th</sup> September 2023 – The Mayor attended the Mateship Fair, at Castle Hill Showground.

Tuesday 26<sup>th</sup> September 2023 – The Mayor attended Ku-Ring-Gai Police Area Command Awards Ceremony, at Asquith Rugby Leagues Club, Waitara.

Friday 29<sup>th</sup> September 2023 – The Mayor attended the CHSP (Commonwealth Home Support Programme) Thornleigh group at Thornleigh Hillcrest Uniting Church Hall, Thornleigh.

Saturday 30<sup>th</sup> September 2023 – The Mayor attended a Sustainable Futures Day at St Ives Village Green, St Ives.

Saturday 30<sup>th</sup> September 2023 – The Mayor attended HSC High Achievers Awards and Luncheon for Senior Citizens, located at Thornleigh Community Centre, Thornleigh.

File Reference: F2004/07053

Document Number: D08734560