



DETERMINATION BUSINESS PAPER

LOCAL PLANNING PANEL MEETING

**Wednesday 26 April 2023
at 3:00pm**



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4 DA/585/2022 - CONSTRUCTION OF A PUBLIC BOARDWALK AND SHARED PATHWAY BETWEEN KANGAROO POINT AND BROOKLYN ROAD - 1422 PACIFIC HIGHWAY, 1 BROOKLYN ROAD & LOT 100 DP 865249 PACIFIC HIGHWAY, BROOKLYN

DA No:	DA/585/2022 (Lodged on 8 June 2022)
Description:	Construction of a public boardwalk and shared pathway between Kangaroo Point and Brooklyn Road
Property:	1422 Pacific Highway, 1 Brooklyn Road, Lot 100 DP 865249 Pacific Highway, Brooklyn
Applicant:	Hornsby Shire Council
Owner:	The State of NSW (Crown Lands)
Estimated Value:	\$4,257,000.00
Ward:	A Ward
Submissions:	6 submissions
LPP Criteria:	Designated Development and Council is the landowner
Author:	Independent Report prepared by Landmark Planning Pty Ltd
COI Declaration:	No Council staff involved in the assessment of this application have declared a Conflict of Interest.

RECOMMENDATION

THAT Development Application No. DA/585/2022 for Construction of a public boardwalk and shared pathway between Kangaroo Point and Brooklyn Road at 1422 Pacific Highway, 1 Brooklyn Road, Lot 100 DP 865249 Pacific Highway, Brooklyn be approved subject to the conditions of consent detailed in Schedule 1 of LPP Report No. LPP14/23.

EXECUTIVE SUMMARY

- The application involves construction of a public boardwalk and shared pathway between Kangaroo Point and Brooklyn Road.
- The application involves land owned by Hornsby Shire Council and is required to be determined by the Hornsby Local Planning Panel. An independent assessment of the development application has been undertaken by Landmark Planning Pty Ltd.
- A total of 9 submissions have been received in respect of the application.
- The assessment report by Landmark Planning Pty Ltd is attached to this report for the Hornsby Planning Panel's consideration. The independent consultant's report recommends that the application be approved.

ASSESSMENT

In accordance with the referral criteria and procedural requirements for Local Planning Panels, the assessment of the development application has been referred to an independent town planning consultant as Hornsby Shire Council is the applicant for the proposed development. The report by Landmark Planning Pty Ltd is held at Attachment 1 of this report.

CONCLUSION AND REASONS FOR RECOMENDATION

The application proposes Construction of a public boardwalk and shared pathway between Kangaroo Point and Brooklyn Road.

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

Council received 6 submissions during the public notification period. The matters raised have been addressed in the independent report.

Council has referred the application to an independent town planner to carry out an assessment of the application. The assessment concludes that the application should be approved.

It is recommended that the Hornsby Local Planning Panel approve the application in accordance with the recommendations in the report prepared by Landmark Planning Pty Ltd and the conditions of consent in Schedule 1 of this report.

Note: At the time of the completion of this planning report, no persons have made a Political Donations Disclosure Statement pursuant to Section 10.4 of the Environmental Planning and Assessment Act 1979 in respect of the subject planning application.

CASSANDRA WILLIAMS
Major Development Manager - Development
Assessments
Planning and Compliance Division

ROD PICKLES
Manager - Development Assessments
Planning and Compliance Division

Attachments:

1. Locality Map
2. Consultant Report
3. Architectural Plans
4. General Terms of Approval – NSW RFS
5. General Terms of Approval Fisheries

File Reference: DA/585/2022

Document Number: D08618986

Schedule 1

CONDITIONS APPLICABLE TO ALL STAGES**GENERAL CONDITIONS**

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

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

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

1. Approved Plans and Supporting Documentation

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

Approved Plans

Plan No.	Plan Title	Drawn by	Dated	Council Reference
1 of 30 Issue 2	Drawing Schedule, Locality Plan & Legend	Hornsby Shire Council Design & Construction Branch	undated	
2 of 30 Issue 2	Project Notes	Hornsby Shire Council Design & Construction Branch	undated	
3 of 30 Issue 2	Boardwalk & Shared Pathway Typical Sections	Hornsby Shire Council Design & Construction Branch	undated	
4 of 30 Issue 2	Concrete Path Joint Details	Hornsby Shire Council Design & Construction Branch	undated	
5 of 30 Issue 2	Overall Layout Plan	Hornsby Shire Council Design & Construction Branch	undated	
6 of 30 Issue 2	Control Line 1 Setout Details Sheet 1 of 2	Hornsby Shire Council Design & Construction Branch	undated	
7 of 30 Issue 2	Control Line 1 Setout Details Sheet 2 of 2	Hornsby Shire Council Design & Construction Branch	undated	

ITEM 4

ITEM 4

<i>Plan No.</i>	<i>Plan Title</i>	<i>Drawn by</i>	<i>Dated</i>	<i>Council Reference</i>
8 of 30 Issue 2	General Works & Services Plan - Plan 1 of 8	Hornsby Shire Council Design & Construction Branch	undated	
9 of 30 Issue 2	General Works & Services Plan - Plan 2 of 8	Hornsby Shire Council Design & Construction Branch	undated	
10 of 30 Issue 2	General Works & Services Plan - Plan 3 of 8	Hornsby Shire Council Design & Construction Branch	undated	
11 of 30 Issue 2	General Works & Services Plan - Plan 4 of 8	Hornsby Shire Council Design & Construction Branch	undated	
12 of 30 Issue 2	General Works & Services Plan - Plan 5 of 8	Hornsby Shire Council Design & Construction Branch	undated	
13 of 30 Issue 2	General Works & Services Plan - Plan 6 of 8	Hornsby Shire Council Design & Construction Branch	undated	
14 of 30 Issue 2	General Works & Services Plan - Plan 7 of 8	Hornsby Shire Council Design & Construction Branch	undated	
15 of 30 Issue 2	General Works & Services Plan - Plan 8 of 8	Hornsby Shire Council Design & Construction Branch	undated	
16 of 30 Issue 2	CL1 Cross Sections - CH5.000 TO CH110.000	Hornsby Shire Council Design & Construction Branch	undated	
17 of 30 Issue 2	CL1 Cross Sections - CH120.000 TO CH230.000	Hornsby Shire Council Design & Construction Branch	undated	
18 of 30 Issue 2	CL1 Cross Sections - CH240.000 TO CH350.000	Hornsby Shire Council Design & Construction Branch	undated	
19 of 30 Issue 2	CL1 Cross Sections - CH360.000 TO CH423.484	Hornsby Shire Council Design & Construction Branch	undated	
20 of 30 Issue 2	CL1 Cross Sections - CH430.000 TO CH500.000	Hornsby Shire Council Design & Construction Branch	undated	
21 of 30 Issue 2	CL1 Cross Sections - CH508.356 TO CH575.976	Hornsby Shire Council Design & Construction Branch	undated	
22 of 30 Issue 2	CL1 Cross Sections - CH580.000 TO CH643.024	Hornsby Shire Council Design & Construction Branch	undated	

Plan No.	Plan Title	Drawn by	Dated	Council Reference
23 of 30 Issue 2	CL1 Cross Sections - CH650.000 TO CH740.000	Hornsby Shire Council Design & Construction Branch	undated	
24 of 30 Issue 2	CL1 Cross Sections - CH750.000 TO CH807.179	Hornsby Shire Council Design & Construction Branch	undated	
25 of 30 Issue 2	CL1 Cross Sections - CH810.000 TO CH900.000	Hornsby Shire Council Design & Construction Branch	undated	
26 of 30 Issue 2	CL1 Cross Sections - CH910.000 TO CH1000.000	Hornsby Shire Council Design & Construction Branch	undated	
27 of 30 Issue 2	Tree Schedule - Sheet 1 Of 4	Hornsby Shire Council Design & Construction Branch	undated	
28 of 30 Issue 2	Tree Schedule - Sheet 2 Of 4	Hornsby Shire Council Design & Construction Branch	undated	
29 of 30 Issue 2	Tree Schedule - Sheet 3 Of 4	Hornsby Shire Council Design & Construction Branch	undated	
30 of 30 Issue 2	Tree Schedule - Sheet 4 Of 4	Hornsby Shire Council Design & Construction Branch	undated	

Supporting Documentation

Document Title	Prepared by	Dated	Council Reference
Environmental Impact Statement Issue 2	Martens & Assoc Pty Ltd	11/05/2022	D08426235
Preliminary Site Investigation Issue 2	Martens & Assoc Pty Ltd	8/04/2022	D08426241
Construction Traffic Impact Assessment and Management Plan	Martens & Assoc Pty Ltd	26/05/2022	D08426217
Flooding and Coastal Processes Assessment	Martens & Assoc Pty Ltd	27/05/2022	D08426234
Preliminary Geotechnical Investigation and Acid Sulfate Soils Assessment Issue 1	Martens & Assoc Pty Ltd	6/04/2022	D08426226
Soil and Water Quality Assessment Report (including Acid Sulfate Soil Management Plan)	Martens & Assoc Pty Ltd	1/05/2022	D08426248
Detailed Site Investigation Issue 4	Martens & Assoc Pty Ltd	8/04/2022	D08426242

<i>Document Title</i>	<i>Prepared by</i>	<i>Dated</i>	<i>Council Reference</i>
Waste Management Plan Issue 1	Martens & Assoc Pty Ltd	3/05/2022	D08426216
Aboriginal Cultural Heritage Assessment Report	Coast History & Heritage	May 2022	D08426250
Statement of Heritage Impact	Coast History & Heritage	May 2022	D08426224
Construction Noise & Vibration Management Plan	Acoustic Dynamics	20/05/2022	D08426249
Bushfire Risk Assessment Issue 1.2	BlackAsh Bushfire Consulting	3/05/2022	D08426244
Human Health Risk Assessment	Environmental Risk Sciences	27/04/2022	D08426240
Watercourse and Riparian Lands Assessment Issue 1	Martens & Assoc Pty Ltd	9/05/2022	D08426223
Amended Biodiversity Development Assessment Report Issue 1.1	Eco Consulting	18/01/2023	D08573667
Amended Marine Ecological Impact Assessment Issue 1.1	Eco Consulting	18/12/2022	D08573665
Vegetation Management Plan Issue 1.0	Land Eco Consulting	10/05/2022	D08426246
Pre-development tree survey and assessment (TA-01) Issue B	Arterra Consulting Arboriculture	18/02/2022	D08624653
General Terms of Approval - Fisheries	Department of Primary Industries	29/03/2023	D08619926
General Terms of Approval - NSW RFS	NSW Rural Fire Service	31/07/2022	D08461096

Reason: To ensure all parties are aware of the approved plans and supporting documentation that apply to the development.

2. Construction Certificate

- a) A Construction Certificate is required to be approved by Council or a Private Certifying Authority prior to the commencement of any construction works under this consent.
- b) A separate approval under s138 of the *Roads Act 1993*, must be obtained from Council for all works within the public road reserve.
- c) The Construction Certificate/ Section 138 Roads Act application plans must be consistent with the Development Consent plans.

Reason: To ensure that detailed construction certificate plans are consistent with the approved plans and supporting documentation.

3. Staging

This consent allows for the construction of the shared pathway and boardwalk in three stages being:

- a) **Stage 1:** Kangaroo Point to the bushland track. Approximately 195m long, 3 m wide boardwalk with mesh decking and railings both sides, heading south from Kangaroo Point. It will meander through the mangroves and intertidal zone towards the existing track formation further inland and includes a platform providing views to Sandbrook Inlet close to the commencement point. This section will be raised to be above high highest tide levels.
- b) **Stage 2:** Bushland track to Dolphin Boatshed Marina - Approximately 450m, 3m wide on grade pathway commencing from the start of the existing access track formation. It is proposed to clear and grade the existing track and is to be constructed of concrete and hence this section is referred to as a 'shared pathway'. This section proceeds south towards the Dolphin Boatshed Marina and will include two platforms for viewing and seating opportunities. An area for additional recreational facilities has been surveyed and is identified on the plans.
- c) **Stage 3:** Dolphin Boatshed Marina to Old Dairy Site on Brooklyn Road - Approximately 360m, 3 m wide boardwalk with mesh decking and railings which will commence from the south of the marina and proceed through mangrove areas and wetlands in the intertidal zone to connect Kangaroo Point and Brooklyn Road. An 18m span bridge will cross Seymours Creek before connecting to the Brooklyn Road footpath and viewing platform.

All conditions of this consent must be satisfied at each stage, as relevant to that stage. Upon completion of the final stage, all conditions of this consent must be fully satisfied.

Reason: To ensure the staging of the consent.

4. Removal of Trees

- a) This development consent permits the removal of trees numbered T1, T6, T7, T8, T9, T10, T11, T12, T13, T28, T36, T57, T63, T69, T72, T73, T88, T89, T103, T110, T126, T127, T128, T129, T132, T133, T135, T141, T142, T146, T147, T148, T149, T185, T186, T190, T195, T196, T197, T198, T199, T202, T203, T206, T209, T210, T211, T213, T215, T233, T236, T237, T238, T239, T246, T284, T308, T310, T500, T501, T502, T503, T504 and T505 as identified in the approved plans Sheets 1-30 prepared by Hornsby Shire Council Design & Construction Branch.
- b) No consent is granted for the removal of any other trees as these trees contribute to the established landscape amenity of the area/streetscape.

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

Reason: To identify only those trees permitted to be removed.

5. Tree Pruning

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

Reason: To minimise the impact on trees to be retained.

REQUIREMENTS PRIOR TO THE ISSUE OF A CONSTRUCTION CERTIFICATE

6. Building Code of Australia

Detailed plans, specifications and supporting information is required to be submitted to the certifying authority detailing how the proposed building work achieves compliance with the *National Construction Code - Building Code of Australia*. All building work must be carried out in accordance with the requirements of the *National Construction Code - Building Code of Australia*.

Reason: Prescribed condition - EP&A Regulation section 69(1).

7. Flood Report

The development shall be designed in accordance with the recommendations outlined in the approved Flooding and Coastal Processes Assessment prepared by Martens & Assoc Pty Ltd, dated 27/05/2022, including the finalising and implementation of:

- a) Preliminary flood emergency response plan (FERP); and
- b) Flood risk action plan (FRAP)

Reason: To manage stormwater flows to minimise potential flooding.

8. Geotechnical

The development shall be designed in accordance with the recommendations outlined in the approved Preliminary Geotechnical Investigation and Acid Sulfate Soils Assessment Issue 1 prepared by Martens & Assoc Pty Ltd, dated 6/04/2022, including:

- a) Additional geotechnical testing prior to commencement of works (Section 5.1).
- b) Geotechnical recommendations (Section 4.3); and
- c) General Geotechnical Recommendations (Appendix F).

Reason: To ensure the stability of the site.

9. Public Road Works

A separate application under Section 138 of the *Roads Act 1993* must be submitted to Council for approval to carry out works within the public road reserve. All road works approved under this consent must be constructed in accordance with Council's AUS-SPEC Specifications and the following requirements:

- a) The shared footpath pathway and boardwalk structure shall be designed generally in accordance with the approved plans identified as Project No.100227 Drawing No.29.31 Issue 2 by Hornsby Shire Council Design and Construction Branch.

Reason: To ensure infrastructure works are designed and constructed to appropriate standards and requirements of the Roads Act 1993.

10. Construction Environmental Management Plan (CEMP)

To assist in the protection of the public, the environment and Council's assets, a separate Construction Environmental Management Plan must be prepared by a suitably qualified environmental consultant in consultation with a qualified traffic engineer and AQF 5 arborist and submitted to Council's Compliance Team via Council's Online Services Portal for review and written approval. The Plan must detail the actions that will be taken to protect the environment for the duration of works, and all responsible parties ensuring compliance with the document. The Plan is to be in accordance with the publication 'Managing Urban Stormwater - Landcom (March 2004)', the *Protection of the Environment Operations Act 1997* and relevant Council guidelines, and should include but not be limited to:

- a) Water quality and soil management, including but not limited to sediment and erosion control measures and stormwater management.
- b) Air quality management.
- c) Management strategies for the potential risks to on-site workers and visitors, off-site receptors, and the environment from the contamination identified.
- d) Measures implemented to address the conclusions and recommendations of the:
 - i) Detailed Site Investigation report.
 - ii) Acid Sulfate Soil Management Plan
 - iii) Asbestos Management Plan.
 - iv) Flooding and Coastal Processes Assessment Report.
 - v) Soil and Water Quality Assessment.
 - vi) Construction Noise & Vibration Management Plan.
 - vii) Preliminary Geotechnical Investigation Report.
 - viii) Human Health Risk Assessment.
 - ix) Biodiversity Development Assessment Report.
 - x) Watercourse and Riparian Lands Assessment.
- e) A Construction Traffic Management Plan (CTMP) including the following:
 - i) The order of construction works and arrangement of all construction machines and vehicles being used during all stages.
 - ii) The CTMP plans shall be in accordance with all other plans submitted to Council as part of this development proposal.
 - iii) A statement confirming that no building materials, work sheds, vehicles, machines or the like shall be allowed to remain in the road reserve area without the written consent of Hornsby Shire Council.
 - iv) The Plan shall be in compliance with the requirements of the Roads and Maritime Services *Traffic control at work sites Manual 2018* and detail:

- a. Public notification of proposed works.
- b. Long term signage requirements.
- c. Short term (during actual works) signage.
- d. Vehicle Movement Plans, where applicable.
- e. Traffic Management Plans.
- f. Pedestrian and Cyclist access and safety.
- v) Traffic controls including those used during non-working hours. Pedestrian access and two-way traffic in the public road must be able to be facilitated at all times.
- vi) Details of parking arrangements for all employees and contractors, including layover areas for large trucks during all stages of works. The parking or stopping of truck and dog vehicles associated with the development will not be permitted other than on the site and the plan must demonstrate this will be achieved. The Construction Traffic Impact Assessment and Management Plan should be updated to indicate the location of a minimum of 6 - 8 car parking for light vehicles and 1 heavy vehicle to accommodate construction traffic. An off-site parking area is to be nominated if this cannot be accommodated.
- vii) Confirmation that a street 'scrub and dry' service will be in operation during all stages of works.
- viii) Proposed truck routes to and from the site including details of the frequency of truck movements for all stages of the development.
- ix) Swept path analysis for ingress and egress of the site for all stages of works.
- x) Site plans for all stages of works including the location of site sheds, concrete pump and crane locations, unloading and loading areas, waste and storage areas, existing survey marks, vehicle entry, surrounding pedestrian footpaths and hoarding (fencing) locations.
- xi) Site plans showing the exact location(s) of the site offices for the duration of works.
- xii) The total quantity and size of trucks for all importation and exportation of fill on site throughout all stages of works, and a breakdown of total quantities of trucks for each stage of works.
- xiii) The number of weeks trucks will be accessing and leaving the site with excavated or imported fill material.
- xiv) The maximum number of trucks travelling to and from the site on any given day for each stage of works.
- xv) The maximum number of truck movements on any given day during peak commuting periods for all stages of works.
- xvi) The source site location of any proposed fill to be imported to the site, for all stages of works.

- xvii) The Plan must state that the applicant and all employees of contractors on the site must obey any direction or notice from the Prescribed Certifying Authority or Hornsby Shire Council in order to ensure the above.
- xviii) If there is a requirement to obtain a Work Zone, Out of Hours permit, partial Road Closure or Crane Permit, the Plan must detail these requirements and include a statement that an application to Hornsby Shire Council will be made to obtain such a permit.
- f) A Construction Waste Management Plan detailing the following:
 - i) Details of the importation or excavation of soil and fill, the classification of the fill, disposal methods and authorised disposal depots that will be used for the fill, in accordance with Preliminary Geotechnical Investigation Report.
 - ii) Asbestos management requirement and procedures for removal and disposal from the site in accordance with *AS 2601-2001 - 'The Demolition of Structures'*, and the *Protection of the Environment Operations (Waste) Regulation 2005*.
 - iii) General construction waste details including construction waste skip bin locations and litter management for workers.
- g) A Tree Protection Plan (TPP) prepared by an AQF 5 Arborist in accordance with any approved Arboricultural Impact Assessment and tree location plans, detailing the following:
 - i) A site plan showing tree protection zones (TPZ) and structural root zones (SRZ) of trees to be retained and specific details of tree protection measures inclusive of distances (in metres) measured from tree trunks.
 - ii) Construction methodology to avoid damage to trees proposed to be retained during construction works.
 - iii) Specifications on tree protection materials used and methods within the TPZ or SRZ.
 - iii) Location of dedicated material storage space on site outside of TPZ's and SRZ's for retained trees.
- h) Detail the sediment and erosion control measures on a site plan in accordance with the recommendations of the Soil and Water Quality Assessment Report (TRIM: D08426248).
- i) The CEMP must detail the contact information for developers, builder, private certifier and any emergency details during and outside work hours.
- j) The CEMP is to include the construction specifications from section 1.3.1 and 1.3.2 of the Biodiversity Development Assessment Report to ensure there is minimal impact on the marine and terrestrial environment. Machinery is not to be used for any vegetation clearing due to the sensitive nature of the marine environment. If machinery is to be used for earthworks, rubber tracks and rumble boards are to be utilised to minimise disturbance.

Note: The CEMP must be lodged via Council's Online Services Portal at: <https://hornsbyprd-pwy-epw.cloud.infor.com/ePathway/Production/Web/Default.aspx> and by selecting the

following menu options: Applications > New Applications > Under 'Application Types': Management Plans.

Reason: To document construction measures to protect the public and the surrounding environment.

11. Waste Management Details

The plans are to indicate the proposed location of any additional public place litter bins and details the proposed servicing arrangements of all bins for approval by Council's waste management branch prior to issue of the Construction Certificate. Bins located along the proposed boardwalk which are not accessible by the contractor will need to be brought to a suitable servicing location by Council staff and returned following service.

Reason: To ensure domestic waste bins are not used for demolition and construction waste.

12. Asbestos Management Plan

- a) An Asbestos Management Plan must be prepared by an appropriately qualified consultant in accordance with Safe Work (2020) How to Manage and Control Asbestos in the Workplace Code of Practice and Safe Work (2019) Code of Practice How to Safely Remove Asbestos and other relevant guidelines and be submitted to Council for approval.
- b) The Asbestos Management Plan must include a methodology for an asbestos survey (AS) post vegetation removal, prior to earthworks commencing) for the asbestos removal works identified within Stage 2 1 investigation area and to provide appropriate construction practices for works in Stage 1.
- c) The Asbestos Management Plan must include an unexpected finds protocol to manage unexpected finds risk (such as other areas of PACM, odours or soil staining).

Reason: To ensure the appropriate removal and disposal of contaminated materials.

13. Sydney Water – s73 Certificate

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

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

Reason: To ensure compliance with the requirements of Sydney Water.

14. Licence Agreement

An executed licence agreement from the relevant NSW government agency governing the use and occupation of Crown land is required to be obtained prior to the issue of a construction certificate. This is to ensure that lawful authority under the *Crown Land Management Act 2016* to use and occupy Crown land or waterway is obtained before construction commences.

Reason: To ensure the appropriate licenses have been obtained.

15. Accessibility

To ensure accessibility to the proposal, no steps or large gaps preventing disabled access are to be included within the proposed works and a shallow ramp should be provided at either end of the boardwalk, if required.

Reason: To ensure the appropriate accessibility to the proposal.

16. Bicycle Racks

Bicycle racks are to be provided at the entrances/exits along the boardwalk. Details of the locations are to be shown on the Construction Certificate plans.

Reason: To ensure rest areas for cyclists.

17. High Pedestrian Area

- a) Signage is to be provided on the boardwalk and pathways at the approach to, and alongside of, the Dolphin Boatshed Marina indicating it is a high pedestrian area and speed limited signage for the road approaches to the site.
- b) To deter vehicles parking on the shared path, delineation such as bollards or kerbing is desirable to address potential safety concerns for vehicular and pedestrian conflict.
- c) Details of the above requirements must be shown on the plans submitted with the Construction Certificate.

Reason: To ensure appropriate safety signage.

18. Appointment of a Project Arborist

- a) A project arborist with AQF Level 5 qualifications must be appointed.
- b) Details of the appointed project arborist must be submitted to Council and the PCA for registration with the application for the construction certificate.

Reason: To ensure appropriate monitoring of tree(s) to be retained.

19. Appointment of Project Bush Regenerator/Ecologist

- a) To ensure the implementation and monitoring of environmental protection measures during the construction of the approved development, a suitably qualified and experienced project bush regenerator/ ecologist must be appointed to assist in ensuring compliance with the conditions of consent and provide monitoring reports to Council at various stages of the Project as identified in the approved Vegetation Management Plan provided by Land Eco (D08426246) and as specified by the conditions of consent.
- b) An inspection schedule to assess tree and vegetation health and provide certification for the various stages of development such as site establishment (includes demolition and installation of tree protection measures), construction work, hard and soft landscaping practical completion and occupancy certification is to be included with the application for the construction certificate and approved by Natural Resources at naturalresourcesplanning@hornsby.nsw.gov.au.
- c) Details of the appointed project ecologist must be submitted to Council and the PCA with the application for the subdivision works certificate.

Reason: To ensure appropriate monitoring of environmental protection measures.

REQUIREMENTS PRIOR TO THE COMMENCEMENT OF ANY WORKS
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ITEM 4

20. Erection of Construction Sign

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

Reason: Prescribed condition EP&A Regulation, section 70(2) and (3).

21. Protection of Adjoining Areas

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

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

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

Reason: To ensure public safety and protection of adjoining land.

22. Erosion and Sediment Control

To protect the water quality of the downstream environment, erosion and sediment control measures must be provided and maintained throughout the construction period in accordance with the manual 'Urban Stormwater: Soils and Construction "The Blue Book" 2004 (4th edition)', the approved plans, Council specifications and to the satisfaction of the principal certifying authority. The erosion and sediment control devices must remain in place until the site has been stabilised and revegetated.

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

Reason: To minimise impacts on the water quality of the downstream environment.

23. Road Opening Permit

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

Reason: To ensure appropriate permits are applied for.

24. Protection of vegetation, habitat and environmental features during construction

Fencing must be placed in accordance with the specifications below to the satisfaction of the Council or the principal certifier:

- a) Prior to the clearing of vegetation, the project ecologist and construction contractor are to identify the maximum extent of clearing using flagging tape, fencing or similar.
- b) Install 1.2-metre-high exclusion fencing along the immediate work area to prevent accidental trampling of retained vegetation. Fencing must be of mesh or bar construction to protect wildlife and allow light and air to adjoining vegetation. The base of the fence must be raised to allow fauna movement.
- c) A sign must be erected along the fence to identify areas of protected vegetation.
- d) Any anthropomorphic waste or weed dispersal throughout the development footprint and adjoining vegetation is to be collected and disposed of offsite.
- e) Clean machinery of soil and debris before entering the site to prevent the spread of weeds and fungal pathogens.

Note: The Act prohibits the disturbance to threatened species, endangered populations and threatened ecological communities, or their habitat, without appropriate consent or license.

Reason: To ensure that adjoining land which contains vegetation of local and state significance is duly protected from impacts during works.

25. Vegetation removal and fauna management

Prior to the clearing of any vegetation or the demolition of any structures associated with the proposed subdivision, the following must be carried out as required by the Vegetation Management Plan Issue 1.0 prepared by Land Eco Consulting, dated 10/05/2022:

- a) A pre-clearing survey is to be completed by the project ecologist, including inspection of hollows and culverts.
- b) The engaged bush regeneration company must complete soil and saltmarsh species translocation to a licenced nursery to be replanted following construction. The company must have proven experience working in translocation.
- c) Suitably qualified and experienced fauna management personnel must be nominated to be present during vegetation clearing in the event fauna is observed.
- d) Prepare protocols for the capture and release of resident fauna, including the staging of any capture and release of resident or injured fauna throughout all stages of the project and notification protocols for unexpected finds.
- e) Any hollows or logs with habitat value must be relocated within the site as habitat.

Reason: To minimise damage to any vegetation or habitat to be retained during construction

26. Implementation of Vegetation Management Plan

- a) The approved Vegetation Management Plan Issue 1.0 prepared by Land Eco Consulting, dated 10/05/2022 must be commenced prior to any clearing or demolition works and is to be in place for a minimum period of 5 years, to be overseen by the project ecologist.
- b) Monitoring reports are to be provided annually to Council's Natural Resources Team (naturalresourcesplanning@hornsby.nsw.gov.au) for the duration of the Vegetation Management Plan.

Reason: To ensure pre-clearance works identified in the approved VMP are carried out to minimise disturbance to protected habitat and vegetation

27. Biodiversity Offset Scheme

- a) Ecosystem credit retirement conditions:
 - i) Prior to commencement of works, the class and number of ecosystem credits in Table 1 must be retired to offset the residual biodiversity impacts of the development.
 - ii) The requirement to retire credits in the above condition may be satisfied by payment to the Biodiversity Conservation Fund of an amount equivalent to the class and number of ecosystem credits, as calculated by the Biodiversity Offsets Payment Calculator.
 - iii) Evidence of the retirement of credits or payment to the Biodiversity Conservation Fund in satisfaction of Table 1 must be provided to the consent authority.

Impacted PCT	No. of ecosystem credits	IBRA sub-region	PCTs that can be used for offsetting
1234-Estuarine Swamp Oak Forest	1	Pittwater, Cumberland, Sydney Cataract, Wyong and Yengo or Any IBRA subregion that is within 100 kilometres of the outer edge of the impacted site	915, 916, 917, 918, 919, 1125, 1230, 1232, 1234, 1235, 1236, 1726, 1727, 1728, 1729, 1731, 1800, 1808
1557-Central Coast Escarpment dry forest	4	Pittwater, Cumberland, Sydney Cataract, Wyong and Yengo or Any IBRA subregion that is within 100 kilometres of the outer edge of the impacted site	690, 697, 698, 755, 1092, 1262, 1267, 1268, 1281, 1385, 1548, 1549, 1550, 1556, 1557, 1558, 1564, 1565, 1580, 1582, 1584, 1585, 1845, 1846, 1847, 1914

Table 1: Ecosystem credits - like for like

- b) Species credit retirement conditions

- i) Prior to commencement of works, the class and number of species credits in Table 2 must be retired to offset the residual biodiversity impacts of the development.
- ii) The requirement to retire credits in the above condition may be satisfied by payment to the Biodiversity Conservation Fund of an amount equivalent to the class and number of species credits, as calculated by the Biodiversity Offsets Payment Calculator.
- iii) Evidence of the retirement of credits or payment to the Biodiversity Conservation Fund in satisfaction of Table 2 must be provided to the consent authority.

Impacted species credit species	No. of species credits	IBRA sub-region
Myotis macropus / Southern Myotis	10	Anywhere in NSW

Table 2: Species credits - like for like

c) Variation: Ecosystem credit retirement conditions

- i) Prior to commencement of works, the class and number of species credits in Table 4 must be retired to offset the residual ecosystem impacts of development.
- ii) Evidence of the retirement of credits in satisfaction of Table 4 is to be provided to the consent authority.

Impacted PCT	No. of ecosystem credits	IBRA sub-region	Approved variation PCT(s) that can be used for offsetting
1234 - Estuarine Swamp Oak Forest	1	Pittwater, Cumberland, Sydney Cataract, Wyong and Yengo or Any IBRA subregion that is within 100 kilometres of the outer edge of the impacted site	

Table 4: Ecosystem credits - variation rules

d) Variation: Species credit retirement conditions

- i) Prior to commencement of works, the class and number of species credits in Table 5 must be retired to offset the impacts of development.
- ii) Evidence of the retirement of credits in satisfaction of Table 5 is to be provided to the consent authority.

Impacted species credit species	No. of species credits	IBRA sub-region	Approved variation species credit species that can be used for offsetting
Myotis Macropus - Southern Myotis	10	Pittwater, Cumberland, Sydney Cataract, Wyong and Yengo. or Any IBRA	Any species listed as Vulnerable or a higher category of listing under

		subregion that is within 100 kilometers of the outer edge of the impacted site.	Part 4 of the BC Act
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Table 5: Species credits - variation rules

Reason: To meet offset obligations as identified by the Biodiversity Conservation Act 2016.

28. Fisheries Offsets

In accordance with the *Fisheries Management Act 1994* and the Policy and Guidelines for Fish Habitat Conservation and Management (2013), when on-going restoration is not possible, a monetary offset may be accepted. As the site is constrained and an offset of Saltmarsh Estuarine Complex and Estuarine Mangrove Forest is not possible, 1,040m² of impacted marine vegetation is to be offset at a ratio of 2:1, at the rate of \$51/m². A total of \$106,080 is required to be offset as compensation for harm to marine habitat.

Reason: to meet offset obligations as identified by the Fisheries Management Act 1994.

REQUIREMENTS DURING DEMOLITION AND CONSTRUCTION

29. Construction Work Hours

- a) All works on site, including demolition and earth works, must only occur between 7am and 5pm Monday to Saturday.
- b) No work is to be undertaken on Sundays or public holidays.

Reason: To protect the amenity of neighbouring properties.

30. Environmental Management

To prevent sediment run-off, excessive dust, noise or odour emanating from the site during the construction, the site must be managed in accordance with the publication '*Managing Urban Stormwater - Landcom (March 2004)*' and the *Protection of the Environment Operations Act 1997*.

Reason: To minimise impacts to the natural environment and public health.

31. Street Sweeping

During works and until exposed ground surfaces across the site have been stabilised, street sweeping must be undertaken following sediment tracking from the site.

The street cleaning service must utilise a 'scrub and dry' method and be undertaken for the full extent of any sediment tracking.

Reason: To minimise impacts to the natural environment.

32. Compliance with Environmental Management Plan (EMP)

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

Reason: To ensure the required site management measures are implemented during construction.

33. Compliance with Asbestos Management Plan

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

Reason: To ensure the required asbestos management measures are implemented during construction.

34. Compliance with Construction Noise and Vibration Management Plan

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

Reason: To ensure the required noise and vibration measures are implemented during construction.

35. Compliance with Preliminary Geotechnical Investigation

The recommendations of the Preliminary Geotechnical Investigation and Acid Sulfate Soils Assessment Issue 1 prepared by Martens & Assoc Pty Ltd, dated 6/04/2022 must be complied with for the duration of works, unless otherwise approved by Council.

Reason: To ensure the required geotechnical measures are implemented during construction.

36. Council Property

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

Note: This consent does not give right of access to the site via Council's Park or reserve. Should such access be required, separate written approval is to be obtained from Council.

Reason: To protect public land.

37. Disturbance of Existing Site

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

Reason: To protect the natural features of the site.

38. Landfill

- a) Prior to fill material being imported to the site, a Waste Classification Certificate shall be obtained from a suitably qualified environmental consultant confirming the fill wholly consists of Virgin Excavated Natural Material (VENM) as defined in Schedule 1 of the *Protection of the Environment Operations Act 1997* or a material approved under the NSW Environment Protection Authority's Resource Recovery Orders and Exemptions.
- b) The required Waste Classification Certificate must be obtained by the Principal Contractor prior to fill being imported to the site and made available to Council at its request.

Reason: To ensure soil imported to the site is not contaminated.

39. Excavated Material

All excavated material removed from the site must be classified by a suitably qualified environmental consultant in accordance with the NSW Environment Protection Authority's *Waste Classification Guidelines* and *Protection of the Environment Operations (Waste) Regulation 2014* prior to disposal to a licensed waste management facility. Tipping dockets for the total volume of excavated material that are received from the licensed waste management facility must be provided to the principal certifying authority prior to the issue of an Occupation Certificate.

Reason: To ensure the appropriate disposal of excavated material.

40. Acid Sulfate Soils

- a) The Council approved Acid Sulfate Soil Management Plan Soil and Water Quality Assessment Report (including Acid Sulfate Soil Management Plan), prepared by Martens & Assoc Pty Ltd, 1/05/22 must be complied with for the duration of works, unless otherwise approved by Council.
- b) Should acid sulfate soils be encountered during construction works, cessation of works on site and notification to Council is to be undertaken immediately.
- c) Prior to any works recommencing on the site, written advice is to be provided to Council outlining the remediation strategies to manage identified acid sulfate soils for review and approval.

Reason: To protect the environment from the effects of acid sulfate soils.

41. Unexpected Finds

Should the presence of asbestos or soil contamination, not recognised during the application process be identified during any stage of works, the applicant must immediately notify the PCA and Council.

Reason: To ensure the appropriate removal and disposal of contaminated materials.

42. Waste Management Details

Requirements of the approved Waste Management Plan shall be complied with during all site preparation works, demolition and throughout all construction works. When implementing the Waste Management Plan, the developer is to ensure:

- a) The disposal of any demolition and construction waste must be undertaken in accordance with the requirements of the Protection of Environment Operations Act 1997
- b) All waste on site is to be stored, handled and disposed of in such a manner as to not create air pollution, offensive noise or pollution of land and water as defined by the *Protection of Environment Operations Act 1997*
- c) Generation, storage, treatment and disposal of hazardous waste is conducted in accordance with the relevant waste legislation administered by the EPA and relevant Occupational Health and Safety legislation administered by WorkCover NSW
- d) All waste generated (including excavated materials) which cannot be reused or recycled must be transported to a facility which can lawfully accept it

- e) All materials and resources that are to be stored on site during construction works are contained on the site. The provisions of the *Protection of Environment Operations Act 1997* must be complied with when placing/stock piling loose material, disposal of concrete waste or activities which have potential to pollute drains and water courses
- f) The storage of waste and recycling containers must be within the boundaries of the development site at all times. Public footways and roads must not be used for the storage of any waste and must be kept clear of obstructions during all construction works
- g) From the commencement of works on site, until such time as the final occupation certificate is issued, the applicant is required to monitor the construction area and the immediate vicinity regularly for litter and illegal dumping. The applicant is to arrange removal of said material where required to avoid contamination of waterways and bushland as well as mitigating any further instances or compounding of illegal dumping.
- h) Additionally, written records of the following items must be maintained during the removal of any waste from the site and such information submitted to the Principal Certifying Authority within fourteen days of the date of completion of the works:
 - i) The identity of the person removing the waste.
 - ii) The waste carrier vehicle registration.
 - iii) Date and time of waste collection.
 - iv) A description of the waste (type of waste and estimated quantity).
 - v) Details of the site to which the waste is to be taken.
 - vi) The corresponding weighbridge tip docket/receipt from the site to which the waste is transferred (noting date and time of delivery, description (type and quantity) of waste).
 - vii) Whether the waste is expected to be reused, recycled or go to landfill.

Note: In accordance with the Protection of the Environment Operations Act 1997, the definition of waste includes any unwanted substance, regardless of whether it is reused, recycled or disposed to landfill.

Reason: To ensure the management of waste to protect the environment and local amenity during construction.

43. Garbage receptacle

A garbage receptacle must be provided at the work site before works begin and must be maintained until all works are completed.

- a) The garbage receptacle must have a tight fitting lid and be suitable for the reception of food scraps and papers.
- b) The receptacle lid must be kept closed at all times, other than when garbage is being deposited.
- c) Food scraps must be placed in the garbage receptacle and not in demolition and construction waste bins.

Reason: To maintain the site in a clean condition and protect local amenity.

44. Prohibited actions within the tree protection zones

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

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

Reason: To protect trees during construction.

45. Approved Works within Tree Protection Zone incursions

- a) Where tree root pruning is required for the installation of piers, driveway or underground services, the pruning must be overseen by the AQF 5 project arborist and must be undertaken as follows:
 - i) Using sharp secateurs, pruners, handsaws or chainsaws with the final cut being clean.
 - ii) The maximum diameter of roots permitted to be cut is 40mm
- b) Approved excavations within the Tree Protection Zone of trees to be retained not associated with installation of services must be undertaken as follows:
 - i) Excavations for the construction and/or installation of the piers in the Tree Protection Zone of trees to be retained on the approved plans must be supervised by the project arborist for the first 1.000 meter undertaken manually to locate roots and allow for pruning in accordance with Condition No. 44 a).
- c) To minimise impacts within the Tree Protection Zone (TPZ) of trees retained on the approved plans, the installation of services must be undertaken as follows:
 - i) The AQF 5 project arborist must be present to oversee the installation of any underground services which enter or transect the tree protection.
 - ii) The installation of any underground services which either enter or transect the designated TPZ must be undertaken manually.
 - iii) For manually excavated trenches the AQF 5 project arborist must designate roots to be retained. Manual excavation may include the use of pneumatic and hydraulic tools.

Reason: To protect trees during construction.

46. Building Materials and Site Waste

The stockpiling of building materials, the parking of vehicles or plant, the disposal of cement slurry, waste water or other contaminants must be located outside the tree protection zones as prescribed in the conditions of this consent of any tree to be retained.

Reason: To protect trees during construction.

REQUIREMENTS PRIOR TO THE ISSUE OF AN OCCUPATION CERTIFICATE**47. Construction of engineering works**

All footpath and boardwalk construction identified in this consent are to be completed and a Compliance Certificate issued prior to the release of the Occupation Certificate.

Reason: To ensure engineering works are completed.

48. Damage to Council Assets

To protect public property and infrastructure, any damage caused to Council's assets as a result of the construction or demolition of the development must be rectified by the applicant in accordance with AUS-SPEC Specifications (www.hornsby.nsw.gov.au/property/build/aus-spec-terms-and-conditions). Rectification works must be undertaken prior to the issue of an Occupation Certificate, or sooner, as directed by Council.

Reason: To ensure public infrastructure and property is maintained.

49. Preservation of Survey Marks

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

Reason: To protect the State's survey infrastructure.

50. Works as Executed Plan

A works-as-executed plan(s) must be prepared by a registered surveyor and submitted to Council for completed footpath pathways and boardwalk structure.

Reason: To ensure infrastructure is constructed and positioned in the approved location.

51. Flood Emergency Response Plan

A flood emergency response plan must be prepared which is generally in accordance with the approved Flooding and Coastal Processes Assessment Report and must be implemented prior to the operation of the footpath pathway and boardwalk.

Reason: To ensure users of the walkway are aware of flood emergency procedures in the event of a flood.

52. Compliance with Acid Sulfate Soil Management Plan

A report is to be submitted to the PCA by a suitably qualified Environmental Consultant in consultation with a chartered Structural Engineer prior to the issue of an Occupation Certificate, confirming compliance with all recommendations as outlined in the Council approved Acid Sulfate Soil Management Plan contained in the Soil and Water Quality Assessment Report prepared by Martens & Assoc Pty Ltd, dated 1/05/2022.

Reason: To ensure the environment has been protected from the effects of acid sulfate soils.

53. Asbestos Clearance Certificate

Should any asbestos be encountered during demolition or construction works, a licenced asbestos assessor is required to provide a Clearance Certificate to the Certifier prior to the issue of an Occupation Certificate, certifying that the asbestos has been removed and appropriately disposed of, and the site is now suitable for its approved use.

Reason: To ensure the appropriate removal and disposal of contaminated materials and the site is suitable for its approved use.

54. Environmental Educational Signage

Signage informing boardwalk users of the following should be designed and erected at multiple points along the boardwalk including:

- a) Consequences of littering (legal and compassionate responsibility)
- b) Enforce the rules that pedestrians must stay on boardwalk and not leave the boardwalk to avoid trampling native vegetation and wildlife habitat.
- c) Informing the public of the presence of the Coastal Saltmarsh and Swamp Oak Floodplain Forest Endangered Ecological Communities.
- d) Detailing the negative impacts of pet defecation and urination on the saltmarsh, encouraging owners to keep pets on leash and clean up after them.
- e) Enforce no smoking rules on the boardwalk.
- f) Fishing information including fish bag limits, protected marine species to avoid, pest species to report, equipment cleaning protocols and NSW DPI Fisheries contact information and encouraging the use of environmentally friendly fishing equipment.

Reason: To ensure protection of the environment.

55. Nest Box Installation

In accordance with the approved Vegetation Management Plan, prepared by Land Eco Consulting, 10/5/22, nest boxes are to be installed throughout the development area to offset the loss of habitat. The next boxes to be installed must include:

- a) 5 microbat boxes
- b) 5 small parrot boxes
- c) 5 large parrot boxes

Reason: To offset loss of habitat.

56. Offset planting

In accordance with the approved Vegetation Management Plan, offset planting must be undertaken using the plant species list in section 7 of the approved VMP, provided by Land Eco Consulting. Initial planting must be undertaken prior to the issue of an occupation certificate, to be followed to supplementary planting as required.

Reason: To maintain biodiversity values on the site.

57. Final Certification - Ecology

The project Ecologist must provide to the Council certification of the implementation of the of the Vegetation Management Plan Issue 1.0 prepared by Land Eco Consulting, dated 10/05/2022. The certification must note:

- a) Certification that tasks within the VMP have commenced.
- b) Time and date of any site inspections.
- c) Key observations made during each site inspection.
- d) Compliance with key hold points in the approved plans.
- e) Variations from the approved plan and alternative solution or remedial works, including correspondence with Council or the certifier regarding variations.
- f) Compliance or non-compliance with the approved plan.
- g) Recommendations for future works.

Reason: To ensure that ecological works have been undertaken in accordance with the approved plan(s).

58. Litter and Illegal Dumping Management

A Litter and Illegal Dumping Management Plan must be submitted to the principal certifying authority and Council prior to the issue of the Occupation Certificate or the use commencing, whichever is earlier. The Litter and Illegal Dumping Management Plan must include mitigation (including but not limited to litter picking patrols and removal of illegally dumped material) and prevention strategies (for example signage, strategically located litter bins, security cameras) and must cover both the subject site and adjacent land.

Reason: To ensure appropriate mitigation and prevention strategies are implemented.

59. Cultural Information Signage

Consultation is to be undertaken with the Local Aboriginal groups and Hornsby Aboriginal and Torres Strait Islander Consultative Committee to inform cultural signage at locations spaced along the boardwalk. The signage is to be in place prior to the issue of an Occupation Certificate.

Reason: To ensure cultural information signage is installed.

60. Certification of Fisheries Requirements

Evidence is to be provided to the Principal Certifying Authority (PCA) of the satisfactory completion of all works required by the NSW Department of Primary Industries - Fisheries conditions of concurrence contained within their letter dated 29 March 2023 (replicated below), prior to the issue of the Occupation Certificate.

Reason: To ensure Certification of Fisheries Requirements.

GENERAL TERMS OF APPROVAL - NEW SOUTH WALES DEPARTMENT OF PRIMARY INDUSTRIES - FISHERIES

The following conditions of consent are General Terms of Approval from the nominated State Agency pursuant to Section 4.47 of the *Environmental Planning and Assessment Act 1979* and must be complied with to the satisfaction of that Agency.

61. Part 7 Permits

The proponent must apply for and obtain a Part 7 permit to for dredging, reclamation, and to harm marine vegetation under the FM Act from DPI Fisheries prior to any works on site. Permit application forms are available from the DPI Fisheries website at: <http://www.dpi.nsw.gov.au/fisheries/habitat/help/permit>.

62. Harm Offsets

Offsets for harm to marine vegetation will be negotiated between DPI Fisheries and Hornsby Shire Council as part of the Fisheries Permit process. Council must undertake a feasibility assessment for on-ground rehabilitation works within the Hawkesbury Estuary. The offset works do not need to occur within the project site or immediately adjacent, so long as they are within the same estuary as where the harm will occur. Monetary compensation will only be accepted if the feasibility assessment demonstrates that there is no potential for on ground rehabilitation works.

63. Environmental safeguards

Environmental safeguards (silt curtains, booms etc.) are to be used during construction to ensure that there is no escape of turbid plumes into the aquatic environment. Turbid plumes have the potential to smother aquatic vegetation and have a deleterious effect on benthic organisms.

- END OF CONDITIONS -

ADVISORY NOTES

The following information is provided for your assistance to ensure compliance with the *Environmental Planning and Assessment Act 1979*, Environmental Planning and Assessment Regulation 2000, other relevant legislation and Council's policies and specifications. This information does not form part of the conditions of development consent pursuant to Section 4.17 of the Act.

Environmental Planning and Assessment Act 1979 Requirements

The *Environmental Planning and Assessment Act 1979* requires:

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

- An occupation certificate to be issued before occupying any building or commencing the use of the land.

Tree and Vegetation Preservation

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

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

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

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

Disability Discrimination Act

The applicant's attention is drawn to the existence of the *Disability Discrimination Act 1992*. A construction certificate is required to be obtained for the proposed building/s, which will provide consideration under the *Building Code of Australia*, however, the development may not comply with the requirements of the *Disability Discrimination Act 1992*. This is the sole responsibility of the applicant.

Covenants

The land upon which the subject building is to be constructed may be affected by restrictive covenants. Council issues this approval without enquiry as to whether any restrictive covenant affecting the land would be breached by the construction of the building, the subject of this consent. Applicants must rely on their own enquiries as to whether or not the building breaches any such covenant.

Dial Before You Dig

Prior to commencing any works, the applicant is encouraged to contact Before You Dig Australia (BYDA) at www.byda.com.au for free information on potential underground pipes and cables within the vicinity of the development site.

Telecommunications Act 1997 (Commonwealth)

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

Asbestos Warning

Should asbestos or asbestos products be encountered during demolition or construction works, you are advised to seek advice and information prior to disturbing this material. It is recommended that a contractor holding an asbestos-handling permit (issued by *SafeWork NSW*) be engaged to manage the proper handling of this material. Further information regarding the safe handling and removal of asbestos can be found at:

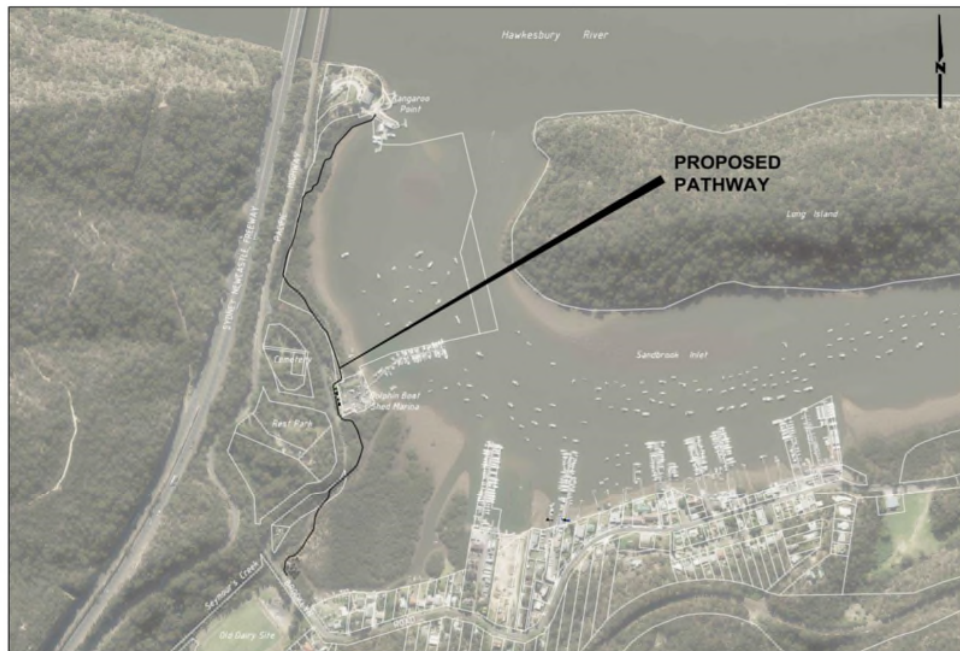
www.environment.nsw.gov.au

www.adfa.org.au

www.safework.nsw.gov.au

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

ITEM 4



LOCALITY PLAN

DA/585/2022

1422 Pacific Highway, 1 Brooklyn Road, Lot 100 DP 865249 Pacific Highway, Brooklyn

ATTACHMENT 1 - ITEM 4

CONSULTANT ASSESSMENT REPORT

DA No:	DA/585/2022 (Lodged on 8 June 2022)
Description:	Construction of a public boardwalk and shared pathway between Kangaroo Point and Brooklyn Road
Property:	Lot 100 DP 865249 & Lot 7 DP 740853, Pacific Highway, Brooklyn and Kangaroo Point Wharf Reserve (R1038969) Lot 101 DP 1223533, No. 1422 Pacific Highway, Brooklyn
Applicant:	Hornsby Shire Council
Owner:	Hornsby Shire Council and State of NSW (Crown Lands)
Estimated Value:	\$4,257,000
Ward:	A Ward

- The application involves the construction of a public boardwalk and shared pathway between Kangaroo Point and Brooklyn Road, Brooklyn.
 - The application is categorised as "Designated Development" due to works within mapped wetlands and includes an Environmental Impact Statement (EIS) prepared in accordance with the Secretary's Environmental Assessment Requirements (SEARS) dated 14 September 2020.
 - The application is also categorised as "Integrated Development" to NSW Department of Primary Industries (Fisheries) and NSW Rural Fire Service.
 - Additional information was submitted to support the proposed development on 21 September 2022 to address concerns raised within the notification period and an updated Biodiversity Assessment Report (BDAR) was submitted on 19 January 2023.
 - The proposal complies with the requirements of the relevant environmental planning instruments and the Hornsby Development Control Plan 2013.
 - A total of five (5) submissions have been received in respect of the original application and one (1) submission (comprising two letters) following discussions with the writer of the submission from Dolphin Boatshed Marina in response to issues raised.
 - As the proposal involves the Council owned land, an independent assessment of the application has been undertaken.
 - The application is required to be determined by the Hornsby Council Local Planning Panel as it is classified as "Designated Development" and the applicant is Council.
 - It is recommended that the application be approved.
-

Donna Clarke - Landmark Planning Pty Ltd

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BACKGROUND

Over the past two years, Council's Design Team have been preparing and consulting with the community regarding the proposed construction of a public boardwalk and shared pathway at Brooklyn, between Kangaroo Point (near Hawkesbury River road bridge) and Seymours Creek. Consultation occurred between 31 March 2022 and 2 May 2022, prior to lodgement of the development application.

The project is being funded by the NSW State Government under its Active Transport Program and Metropolitan Greenspace Program and will involve construction of an elevated boardwalk and a concrete pathway extending approximately one kilometre.

On 8 June 2022 the subject application was lodged.

On 28 July 2022, Council Officers met with the writer of the submission from Dolphin Boatshed Marina to discuss the issues raised its submission and additional time was granted for the writer to provide an additional submission if desired.

On 31 July 2022, NSW Rural Fire Service advised of no concerns with the proposal and issued General Terms of Approval.

On 21 September 2022, information was submitted in response to the discussions with Dolphin Boatshed Marina which addressed consideration of alternate alignments and included a plan which indicates five parallel car parking spaces along the frontage of the Dolphin Boatshed Marina in response to community concerns raised during the notification period. Specifically, investigations were undertaken into relocating the segment of the pathway, which is proposed within the road reserve of Brooklyn Road, for which the area is currently used by the Dolphin Boatshed Marina as an informal car parking area. No changes were made to the plans.

On 9 November 2022, a request for information was sent by Council with respect to finalising of the Biodiversity Assessment Report (BDAR) and calculations.

On 19 January 2023, an updated BDAR and Marine Ecological Assessment was submitted in response to comments from NSW Department of Primary Industries (Fisheries).

On 30 March 2023, NSW Department of Primary Industries (Fisheries) advised of no concerns with the proposal and issued General Terms of Approval.

SITE

The site comprises three lots, being Lot 100 DP 865249 & Lot 7 DP 740853, Pacific Highway, Brooklyn and Kangaroo Point Wharf Reserve (R1038969) Lot 101 DP 1223533, No. 1422 Pacific Highway, Brooklyn. The site runs in a north-south direction between Kangaroo Point (near Hawkesbury River road bridge) and Seymours Creek at Brooklyn.

The site is undulating and generally runs parallel to the Pacific Highway to the west and the Hawkesbury River Sandbrook Inlet to the east.

The site is located within Brooklyn, which comprises a strip of waterfront land along the southern bank of the Hawkesbury River and includes dwellings, marina, a small cluster of shops, pub, cafes and a local primary school and extends up to Kangaroo Point to the north.

The subject land is located approximately 4 km west of the Brooklyn township and traverses the coastal foreshore of the Hawkesbury River between Seymours Creek and Kangaroo Point. The accompanying BDAR identifies that it is dominated by remnant mangrove vegetation and saltmarsh located near roads, Dolphin Boatshed Marina and Kangaroo Point and that the subject land has also been historically disturbed from past activities including Oyster Farming as well as uses such as telecommunications

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easement access and management, boat hire and dry-dock storage, boat mooring, car parking and recreational fishing. The BDAR also identifies that much of the vegetation has been historically cleared and regrown, and weed infestation is dense and prolific.

The subject land is part Crown land owned by the NSW Land and Property Management Authority. Council is the landowner of Lot 101 DP 1223533, with the remaining areas falling within the footprint of the waterway and Lot 100 DP 865249, which are managed by the Minister.

The site is identified as bushfire prone land and flood prone. The site is not burdened by any easements or restrictions.

The site contains one heritage item and is within the vicinity of several heritage items and is not located within a heritage conservation area. Two mapped watercourses are shown traversing the site adjacent to Old Pacific Highway and Brooklyn Road. These have been highly modified by the construction of the M1 Motorway and Pacific Highway and do not traverse the site as shown on the mapping. The southern section of the site crosses Seymours Creek.

PROPOSAL

The application is categorised as "*Designated Development*" and includes an Environmental Impact Statement (EIS) prepared in accordance with the Secretary's Environmental Assessment Requirements (SEARS) dated 14 September 2020.

The application is also categorised as "*Integrated Development*" to NSW Department of Primary Industries (Fisheries) and NSW Rural Fire Service.

The application proposes:

- Construction of shared pathway and boardwalk that connects Brooklyn Road at the south eastern point of Seymours Creek with Kangaroo Point. The boardwalk will not pass over private owned land at the Dolphin Boatshed Marina and consequently there is a gap in the pathway. The pathway / boardwalk is located on the eastern side of Seymours Creek until the proposed bridge crossing over Seymours Creek is constructed to the south of the Dolphin Boatshed Marina.
- Construction of an at-grade concrete pathway of 3m in width within the road reserve and at the base of the embankment which supports Brooklyn Road. The pathway will be located on land located outside the lease area that is currently being used by the Dolphin Boatshed Marina as informal car parking.
- Removal of 65 trees.

It is proposed to construct the shared pathway and boardwalk in 3 specific stages these being:

- **Stage 1:** Kangaroo Point to the bushland track. Approximately 195m long, 3m wide boardwalk with mesh decking and railings both sides, heading south from Kangaroo Point. It will meander through the mangroves and intertidal zone towards the existing track formation further inland and includes a platform providing views to Sandbrook Inlet close to the commencement point. The section will be raised to be above the highest tide levels.
- **Stage 2:** Bushland track to Dolphin Boatshed Marina - Approximately 450m, 3m wide on grade pathway commencing from the start of the existing access track formation. It is proposed to clear and grade the existing track with construction materials to comprise of concrete and hence this section is referred to as a 'shared pathway'. This section proceeds south towards the Dolphin Boatshed Marina and will include two platforms for viewing and seating opportunities. An area for additional recreational facilities has been surveyed and is identified on the plans.

- **Stage 3:** Dolphin Boatshed Marina to Old Dairy Site on Brooklyn Road - Approximately 360m, 3m wide boardwalk with mesh decking and railings which will commence from the south of the marina and proceed through mangrove areas and wetlands in the intertidal zone to connect Kangaroo Point and Brooklyn Road. An 18m span bridge will cross Seymours Creek before connecting to the Brooklyn Road footpath and viewing platform.

Vegetation clearing and machinery operation will be limited to the three metre wide corridor proposed for the boardwalk and designated locations for stockpiling and storage of materials and equipment have been identified on the plans.

The application indicates that the boardwalk has been sensitively designed to minimise the impact to the intertidal zone, saltmarsh and mangrove areas while providing an opportunity to walk along the foreshore, to sit and enjoy the views and to engage with this unique natural setting.

A footpath line marked for shared use between pedestrians and cyclists is proposed along Brooklyn Road. Stage 3 of the proposal connects with the existing footpath along Brooklyn Road, providing a continuous footpath from Brooklyn town and further extends it to Kangaroo Point.

Alternate designs

During the preparation of the application, and again during the assessment of the application, in response to concerns raised in one of the submissions, the Applicant considered alternative designs with respect to the location of the pathway. Specifically, investigations were undertaken into relocating the segment of the pathway proposed within the road reserve of Brooklyn Road, for which the area is currently used by the Dolphin Boatshed Marina as an informal car parking area. The alternatives were outlined in the Applicant's response as follows:

- Alternative 1: Cantilevered / piered boardwalk. This alternative would involve relocation of the pathway to the top of the embankment adjoining Brooklyn Road and construction of a cantilevered / piered boardwalk approximately 90m in length.
- Alternative 2: Use of Ausgrid maintenance access track. This alternative would involve relocation to an existing Ausgrid maintenance track located approximately 100m north of the Marina and provision of a crossing point at the top of the Marina vehicle access road.
- Alternative 3: Relocation adjacent to Marina driveway. This alternative would involve re-routing the alignment adjacent to the Marina driveway.

The letter dated 21 September 2022 from the Applicant provides an assessment of the alternate alignments and the reasons for the proposed alignment being most appropriate. Further, the applicant has indicated that the proposal would still allow for future provision of parallel car parking for five (5) vehicles with blister islands at either end within the current informal parking within the road reserve, along the frontage of the Dolphin Boatshed Marina.

ASSESSMENT

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

1. STRATEGIC CONTEXT

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

The Greater Sydney Region Plan - A Metropolis of Three Cities has been prepared by the NSW State Government to guide land use planning decisions for the next 40 years (to 2056). The Plan sets a strategy and actions for accommodating Sydney's future population growth and identifies dwelling targets to ensure supply meets demand. The Plan also identifies that the most suitable areas for new housing are in locations close to jobs, public transport, community facilities and services.

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

The proposed development would be consistent with the Greater Sydney Region Plan - A Metropolis of Three Cities and the North District Plan, by contributing to improved liveability and prioritising opportunities for people to walk and cycle, whilst protecting environmentally sensitive areas of waterways, cultural and scenic landscapes and the coastal environment area.

2. STATUTORY CONTROLS

Section 4.15(1)(a) requires Council to consider *"any relevant environmental planning instruments, draft environmental planning instruments, development control plans, planning agreements and regulations"*.

2.1 Hornsby Local Environmental Plan 2013

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

2.1.1 Zoning of Land and Permissibility

The subject land is zoned:

- RE1 Public Recreation;
- W2 Recreational Waterways;
- C2 Environmental Conservation;
- C3 Environmental Management;
- IN4 Working Waterfront; and
- SP2 Infrastructure.

The proposal is an *'environmental facility'* which is defined under HLEP as:

"environmental facility means a building or place that provides for the recreational use or scientific study of natural systems, and includes walking tracks, seating, shelters, board walks, observation decks, bird hides or the like, and associated display structures."

An *'environmental facility'* is permissible within all of the above zones, with the exception of SP2 Infrastructure. Notwithstanding this, the SP2 zone allows for uses ancillary to development for the

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purposes of a 'road' which is permissible within the zone. The applicant has also identified that other segments of the proposal in SP2 zoned land are for the purposes of a 'pedestrian and cyclist facility' which are able to be undertaken as exempt development pursuant to s 2.113 of State Environmental Planning Policy (Transport and Infrastructure) 2021.

The objectives of the RE1 Public Recreation zone are:

- *"To enable land to be used for public open space or recreational purposes.*
- *To provide a range of recreational settings and activities and compatible land uses.*
- *To protect and enhance the natural environment for recreational purposes.*
- *To protect and maintain areas of bushland that have ecological value."*

The proposal would connect Kangaroo Point to Brooklyn Road for pedestrians and cyclists, providing opportunities for public recreation and physical activity. The proposal has been designed to be sensitive to the natural environment and has avoided bushland areas of ecological value, as well as providing viewing platforms and seating.

The objectives of the W2 Recreational Waterways zone are:

- *"To protect the ecological, scenic and recreation values of recreational waterways.*
- *To allow for water-based recreation and related uses.*
- *To provide for sustainable fishing industries and recreational fishing.*
- *To provide for a range of development that facilitates access to the waterways."*

The proposal would facilitate safe access for pedestrians and cyclists along the edge of the waterway, seating, viewing platform and a larger viewing platform at Kangaroo Point. The design of the boardwalk is sensitive to the ecological, scenic and recreation values of waterway.

The objectives of the C2 Environmental Conservation zone are:

- *"To protect, manage and restore areas of high ecological, scientific, cultural or aesthetic values.*
- *To prevent development that could destroy, damage or otherwise have an adverse effect on those values.*
- *To maintain and improve water quality in the Hawkesbury River."*

The proposal would protect, manage and restore areas of high ecological, scientific, cultural or aesthetic values. The proposed various technical reports and recommendations and the Vegetation Management Plan will also assist with ongoing improvements to the water quality in the river.

The objectives of the C3 Environmental Management zone are:

- *"To protect, manage and restore areas with special ecological, scientific, cultural or aesthetic values.*
- *To provide for a limited range of development that does not have an adverse effect on those values.*
- *To protect the natural environment of steep lands and floodplains within the catchment of the Hawkesbury River."*

The proposal would provide a sensitive form of development which does not adversely impact upon areas with special ecological, scientific, cultural or aesthetic values.

The objectives of the IN4 Working Waterfront zone are:

- *"To retain and encourage waterfront industrial and maritime activities.*
- *To identify sites for maritime purposes and for activities that require direct waterfront access.*
- *To ensure that development does not have an adverse impact on the environmental and visual qualities of the foreshore.*
- *To encourage employment opportunities.*
- *To minimise any adverse effect of development on land uses in other zones.*
- *To accommodate the retail, commercial, service and social needs of the community that uses the Hawkesbury River and its tributaries."*

The proposal would not affect existing waterfront industrial and maritime activities. The needs of the community have been considered in the proposal, which provides for greater access for the community to the waterfront via a safe public boardwalk and shared pathway between Kangaroo Point and Brooklyn Road. The proposal would contribute to the health and wellbeing of the community, addressing their social needs.

The objectives of the SP2 Infrastructure zone are:

- *"To provide for infrastructure and related uses.*
- *To prevent development that is not compatible with or that may detract from the provision of infrastructure."*

The proposal would not impact upon the existing roads and will provide a safe off-road route for pedestrians and cyclists.

It is considered that the proposal satisfies the zone objectives.

2.1.2 Development below mean high water mark

The Proposal includes works below the mean high-water mark of Hawkesbury River.

Clause 5.7 of the HLEP states:

"5.7 Development below mean high water mark

- (1) *The objective of this clause is to ensure appropriate environmental assessment for development carried out on land covered by tidal waters.*
- (2) *Development consent is required to carry out development on any land below the mean high water mark of any body of water subject to tidal influence (including the bed of any such water)."*

The proposal included appropriate environmental assessment, which has been reviewed and considered to be satisfactory by Department of Primary Industries - Fisheries (Fisheries) and Council's Natural Resource Team. Refer to discussion under Sections 2.6 and 2.7 of this report. Appropriate conditions of consent have been recommended regarding environmental matters, including compliance with the General Terms of Approval issued by Fisheries.

Accordingly, Clause 5.7 of the HLEP has been satisfied.

2.1.3 Heritage

Clause 5.10 of the HLEP requires the consent authority to have regard to the heritage significance of a heritage item or conservation area and aims to:

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

The site is located in proximity to a number of local heritage items listed under HLEP. There are no listed Aboriginal heritage sites within or in vicinity of the site.

The desired outcome of Part 9.4.1 Development in the Vicinity of Heritage Items and Heritage Conservation Areas is to encourage *“new work that is sympathetic to the heritage significance of nearby heritage items, or adjoining heritage conservation areas, and their settings.”*

The application was accompanied by a Statement of Heritage Impact (SOHI) and Aboriginal Cultural Heritage Assessment (ACHAR).

The proposal was reviewed by Council's Heritage Team who indicated that no concerns are raised to the proposal on heritage grounds and recommended conditions of consent to ensure implementation of the recommendations detailed within the supporting SOHI and ACHAR. Refer to detailed discussion under Section 2.10.9 of this report.

Accordingly, Clause 5.10 of the HLEP has been satisfied.

2.1.4 Flood Planning

Clause 5.21 of the HLEP states, in part:

- “(2) Development consent must not be granted to development on land the consent authority considers to be within the flood planning area unless the consent authority is satisfied the development—*
 - (a) is compatible with the flood function and behaviour on the land, and*
 - (b) will not adversely affect flood behaviour in a way that results in detrimental increases in the potential flood affectation of other development or properties, and*
 - (c) will not adversely affect the safe occupation and efficient evacuation of people or exceed the capacity of existing evacuation routes for the surrounding area in the event of a flood, and*
 - (d) incorporates appropriate measures to manage risk to life in the event of a flood, and*
 - (e) will not adversely affect the environment or cause avoidable erosion, siltation, destruction of riparian vegetation or a reduction in the stability of river banks or watercourses.*
- (3) In deciding whether to grant development consent on land to which this clause applies, the consent authority must consider the following matters—*
 - (a) the impact of the development on projected changes to flood behaviour as a result of climate change,*
 - (b) the intended design and scale of buildings resulting from the development,*

- (c) *whether the development incorporates measures to minimise the risk to life and ensure the safe evacuation of people in the event of a flood,*
- (d) *the potential to modify, relocate or remove buildings resulting from development if the surrounding area is impacted by flooding or coastal erosion."*

The application was accompanied by a Flooding and Coastal Processes Assessment Report and Preliminary Geotechnical Investigation Report, prepared by Martens & Associates, which was reviewed by Council's Engineers and no objections were raised.

The reports include a number of recommendations to ensure that the pathway and boardwalk can operate safely in terms of flooding and groundwater and appropriate conditions recommended for implementation of the recommendations.

Accordingly, Clause 5.21 of HLEP has been satisfied.

2.1.5 Acid Sulfate Soils

Clause 6.1 of the HLEP requires consideration of acid sulphate soils *"to ensure that development does not disturb, expose or drain acid sulfate soils and cause environmental damage"*, including the preparation of an acid sulfate soils management plan.

The application was accompanied by a Soil and Water Quality Assessment (SWQA), which includes an Acid Sulfate Soils Management Plan (ASSMP), that can be implemented during development works.

Preliminary Geotechnical Investigation and Acid Sulfate Soils Assessment did not identify actual acid sulfate soils; however Potential Acid Sulfate Soil risks were identified for Stages 1 and 3. No Acid Sulfate Soil risk was identified for project area within Stage 2. Consequently, the Acid Sulfate Soil Management Plan recommends treatment strategies should acid sulfate soils be encountered during works.

Council's Engineers and Environmental Protection Team reviewed the submitted SWQA and ASSMP and raise no objection, subject to recommended conditions of consent.

Accordingly, Clause 6.1 of HLEP has been satisfied.

2.1.6 Earthworks

Clause 6.2 of the HLEP states that consent is required for proposed earthworks on site. Before granting consent for earthworks, Council is required to assess the impacts of the works on adjoining properties, drainage patterns and soil stability of the locality. The Preliminary Geotechnical Investigation considered earthworks and includes a recommendation for footings and installation of screw piles to be inspected by a geotechnical engineer.

The objectives of this clause are to ensure that required earthworks will not have a detrimental impact on environmental functions and processes. The plans detail minor earthworks only, with Stage 2 of the proposed development containing fill, and it is considered that the proposed excavation would not adversely impact on environmental functions and processes, subject to standard conditions of consent being applied in regard to sediment control.

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

Accordingly, Clause 6.2 of HLEP has been satisfied.

2.1.7 Terrestrial Biodiversity

Clause 6.4 of the HLEP states, in part:

- (3) *Before determining a development application for development on land to which this clause applies, the consent authority must consider—*
- (a) *whether the development is likely to have—*
 - (i) *any adverse impact on the condition, ecological value and significance of the fauna and flora on the land, and*
 - (ii) *any adverse impact on the importance of the vegetation on the land to the habitat and survival of native fauna, and*
 - (iii) *any potential to fragment, disturb or diminish the biodiversity structure, function and composition of the land, and*
 - (iv) *any adverse impact on the habitat elements providing connectivity on the land, and*
 - (b) *any appropriate measures proposed to avoid, minimise or mitigate the impacts of the development.*
- (4) *Development consent must not be granted to development on land to which this clause applies unless the consent authority is satisfied that—*
- (a) *the development is designed, sited and will be managed to avoid any significant adverse environmental impact, or*
 - (b) *if that impact cannot be reasonably avoided by adopting feasible alternatives—the development is designed, sited and will be managed to minimise that impact, or*
 - (c) *if that impact cannot be minimised—the development will be managed to mitigate that impact."*

The site is partially mapped as Terrestrial Biodiversity under the HLEP, being the southern portion.

Refer to a detailed discussion regarding biodiversity under Section 2.7 of this report. Based on the information provided and assessment undertaken, the proposal complies with Clause 6.4 of the HLEP.

2.2 State Environmental Planning Policy (Resilience and Hazards) 2021

The application has been assessed against the requirements of Chapter 2 and 4 of State Environmental Planning Policy (Resilience and Hazards) 2021.

2.2.1 Chapter 2 Coastal Management

Development within mapped coastal wetlands. The proposal is classified as '*Designated Development*' pursuant to of State Environmental Planning Policy (Resilience and Hazards) 2021 as it includes development within mapped coastal wetlands.

The Development Site is located within 'coastal wetlands and proximity area', 'coastal environment' and part 'coastal use' mapped under Resilience and Hazards SEPP.

The environmental assessments undertaken were comprehensive and demonstrate that the proposal has been designed to protect the environmental assets of the coast and the works can be appropriately managed during construction. It is concluded from the review of the technical reports and plans that

measures have been taken to protect and enhance the biophysical, hydrological and ecological integrity of the coastal wetland during and after construction.

2.2.2 Chapter 4 Remediation of Land

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

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

The application as accompanied by a Preliminary Site Investigation (PSI), Detailed Site Investigation (DSI) and Human Health Risk Assessment (HHRA).

The DSI surmised that potential risk to receptors from soil contamination is considered to be low and no further soil contamination investigations or remediation is considered necessary. Council's Environmental Protection assessment concurs with this recommendation as it is acknowledged that the area where minor exceedances were detected are located within Stage 1, an intertidal zone where remediation would be challenging and where no access to the soil from the public is possible.

The DSI confirmed the presence of asbestos containing material (ACM) within Stage 1 investigation area and Stage 2 investigation area. Fibre reinforced cement pipes and ACM fragments located in the Stage 2 investigation area are described as being in good condition and to be bonded asbestos. This ACM will be required to be removed by way of offsite disposal to a licenced facility.

Stage 1A is impacted by ACM as a former oyster farm area. Given the extent and proximity of the material to the proposed development, a Human Health Risk Assessment report was developed. The HHRA concluded that the potential for workers and the public to be exposed to asbestos fibres in air derived from ACM in the area of concern, is negligible.

Exceedances soil samples in Stage 2 were below the health investigation level. Given this stage of the development will include an on grade concrete pathway, there will be negligible opportunity for complete ecological receptor pathways and the findings are satisfactory.

Further, Preliminary Geotechnical Investigation and Acid Sulfate Soils Assessment did not identify actual acid sulfate soils; however Potential Acid Sulfate Soil risks were identified for Stages 1 and 3. No Acid Sulfate Soil risk was identified for project area within Stage 2. Consequently, the Acid Sulfate Soil Management Plan recommends treatment strategies should acid sulfate soils be encountered during works.

Council's Environmental Protection assessment raises no objection to the proposal in terms of contamination, subject to recommended conditions of consent.

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

2.3 State Environmental Planning Policy (Biodiversity and Conservation) 2021

The application has been assessed against the requirements of Chapters 2, 4 and 6 of State Environmental Planning Policy (Biodiversity and Conservation) 2021.

2.3.1 Chapter 2 - Vegetation in non-rural areas

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

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

Section 2.10.8 of this report provides an assessment in accordance with Part 1B.6.1 of the HDCP.

2.3.2 Chapter 4 - Koala habitat protection 2021

Chapter 4 Koala habitat protection 2021, as the Hornsby LGA is a local government area listed in Schedule 2. The BDAR includes an assessment against Chapter 4 and concludes that the subject land is not core koala habitat.

2.3.3 Chapter 6 - Water Catchments

The aim of this chapter is to ensure that the catchment, foreshores and waterways are recognised, protected, enhanced and maintained.

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

Clause 6.9 of the Policy requires consideration of the impact of the proposal on recreational land uses in the catchment. The proposal improves public access along the foreshore without impacting upon natural watercourses, wetlands or riparian vegetation. Further, there is no conflict between land uses identified and the existing recreational land uses in the area can continue.

The view of the waterfront will not be adversely altered, with the natural timber materials and the extent of the works being sympathetic to the location and the environment and no buildings are proposed.

Subject to the implementation of sediment and erosion control measures and implementation of the recommendations of the technical reports to protect water quality, the proposal would have minimal potential to impact on the water catchments.

2.4 State Environmental Planning Policy (Transport and Infrastructure) 2021

The applicant has identified that other segments of the proposal in SP2 zoned land are for the purposes of a '*pedestrian and cyclist facility*' which are able to be undertaken as exempt development pursuant to Section 2.113 of State Environmental Planning Policy (Transport and Infrastructure) 2021.

2.5 Section 4.46 Environmental Planning and Assessment Act 1979 - Designated Development

The application is categorised as "*Designated Development*" and includes an Environmental Impact Statement (EIS) prepared in accordance with the Secretary's Environmental Assessment Requirements (SEARS) dated 14 September 2020.

Section 4.10 of the EP&A Act states that development may be 'designated development' if declared so by an environmental planning instrument or the regulations.

The Proposal is declared as 'designated development' by *State Environmental Planning Policy (Resilience and Hazards) 2021*, Chapter 2, as it involves development within the identified 'coastal wetland'.

2.6 Section 4.46 Environmental Planning and Assessment Act 1979 - Integrated Development

The application is also categorised as "*Integrated Development*" to NSW Department of Primary Industries (Fisheries) and NSW Rural Fire Service.

2.6.1 NSW Department of Primary Industries (Fisheries)

The Proposal involves minor excavations on 'water land' to facilitate the boardwalk foundations and will therefore require a permit under section 201 of the *Fisheries Management Act 1994* from Department of Primary Industries - Fisheries (Fisheries).

The Proposal involves removal of marine vegetation on public water land and will therefore require a permit under section 205 of the *Fisheries Management Act 1994* from Fisheries.

The application was referred to Fisheries and on 29 March 2023, Fisheries advised of no objections to the proposal, subject to General Terms of Approval, and stated:

"DPI Fisheries is responsible for ensuring that fish stocks are conserved and that there is no net loss of key fish habitats upon which they depend. To achieve this, DPI Fisheries ensures that developments comply with the requirements of the Fisheries Management Act 1994 (FM Act) (namely the aquatic habitat protection and threatened species conservation provisions in Parts 7 and 7A of the Act, respectively), and the associated Policy and Guidelines for Fish Habitat Conservation and Management (2013). In addition, DPI Fisheries is responsible for ensuring the sustainable management of commercial, recreational and Aboriginal cultural fishing, aquaculture, marine parks and aquatic reserves within NSW.

DPI Fisheries has reviewed the proposal in light of these provisions and has no objections, subject to the proponent meeting the General Terms of Approval that follow. As per s.4.47(3) of the Environmental Planning and Assessment Act 1979, any consent issued by Council must be consistent with these GTAs."

Appropriate conditions of consent have been recommended regarding compliance with the General Terms of Approval.

2.6.2 NSW Rural Fire Service

The subject site is mapped as bushfire prone land - vegetation buffer.

The application was referred to NSW Rural Fire Service (RFS) and on 31 July 2022, RFS advised of no concerns with the proposal. No conditions were recommended.

2.6.3 Water Management Act 2000

The Proposal involves works within 'waterfront land' and would be categorised as "*Integrated Development*". However, integrated approval is not required under s 91 of the *Water Management Act 2000* as pursuant to section 41 of the *Water Management (General) Regulation 2018*, a Controlled

Activity Approval (CAA) is not required as the works are to be carried out on waterfront land by a public authority.

2.7 Biodiversity Conservation Act 2016

The site is partially mapped as having 'biodiversity values' under *Biodiversity Conservation Act 2016*.

A Biodiversity Assessment Report (BDAR) and Marine Ecological Assessment has been prepared, and updated, during the assessment. The assessment has been completed in accordance with the Biodiversity Assessment Method 2020 and includes the following summary:

"The Subject Land has been historically managed for various reasons, including powerline easement, boatshed/marina, carpark, oyster farm and other uses, therefore all native vegetation in situ has been altered through years of historical usage.

The proposed development has been designed to minimise impacts on biodiversity values by retaining the most important biodiversity values on the Subject Property intact.

The development will involve the clearing of a maximum area of approximately 0.23 hectares of native vegetation. However only 0.13 ha is assessable under the BAM, the other 0.1 hectares is not assessable because it consists of marine vegetation that is assessed and offset under the Fisheries Management Act 1995. Impacts marine vegetation and marine fauna have been assessed in a separate report submitted for the project (Land Eco 2023b).

The proposed clearing of 0.008 hectares of Swamp Oak Floodplain Forest of the New South Wales North Coast, Sydney Basin and South East Corner Bioregions Endangered Ecological Community (as listed under Schedule 2 of the Biodiversity Conservation Act 2016) in the Subject Land requires offset through retiring of Ecosystem Credit biodiversity offset credits. Under the BAM the total area cleared rounds up to 0.01 hectares. The proposed clearing of approximately 0.12 hectares of non-threatened 'Central Coast Escarpment dry forest' also requires offset through retiring of Ecosystem Credit biodiversity offset credits.

The following Ecosystem Credits are required to be retired to offset the residual biodiversity impacts of the proposal:

- 1 credits of PCT 1234 - Estuarine Swamp Oak forest (Swamp Oak Floodplain Forest of the New South Wales North Coast, Sydney Basin and South East Corner Bioregions EEC).
- 4 credits of PCT 1557- Central Coast Escarpment dry forest (This is not a TEC).

The following Species Credit Species were confirmed present on the Subject Land:

- 6 Species Credits of Southern Myotis (*Myotis macropus*)

The proponent is required to retire biodiversity offset credits to meet their obligations to offset the residual impacts of the proposed DA. The proponent may purchase and retire the appropriate offset credits (generated on Biodiversity Stewardship Sites) that comply with the trading rules of the Biodiversity Assessment Method 2020 in accordance with the 'like for like' report generated by the Biodiversity Assessment Method Calculator (Section 9 - Biodiversity Credit Report). Alternatively, the proponent can meet their offset obligations by making a payment directly into the NSW Biodiversity Offsets Payment Fund.

In addition to offsetting, the Biodiversity Conservation Act 2016 requires that an applicant takes all reasonable effort to avoid and minimise potential impacts of the proposal on local biodiversity values. A series of mitigation and management measures have been identified, which are to be

implemented as part of any construction environmental management plan produced for the site. These include measures to:

- *Implement a Vegetation Management Plan (Land Eco 2022a) for the construction and usage of the boardwalk and immediate surrounding vegetation;*
- *Implement ongoing management of priority weeds according to statutory requirements; and*
- *Ensure all contractors employed to work within the Subject Land are suitably qualified, experienced and informed of the sensitive ecological features and potentially occurring threatened species;*
- *Assign a Project Ecologist to conduct and oversee all ecological compliance requirements associated with conducting a proposed development in line with all relevant state and commonwealth legislation and guidelines;*
- *Ensure an Ecologist is present during the dewatering of dams and clearing of all vegetation to be cleared for the proposed activity;*
- *Incorporate locally indigenous flora species representative of Coastal Saltmarsh in any revegetation or soft landscaping associated with the boardwalk (Land Eco 2022a)*
- *Implement all relevant biological hygiene protocols and requirements as per NSW Government guidelines;*
- *Implement appropriate visual and sound barriers, vegetation protection fencing, stockpiling placement, erosion and sediment control during construction."*

The proposal involves the construction of a boardwalk amongst mangrove and saltmarsh vegetation between Kangaroo Point and Seymours Creek, Brooklyn. The proposal includes vegetation removal for both raised and on-grade sections of boardwalk and is separated into three sections.

The NSW Biodiversity Conservation Regulation 2017 sets out thresholds for when the Biodiversity Offsets Scheme (BOS) would be triggered. The application triggers entry into the scheme.

Measures to 'avoid and minimise' impacts to biodiversity are detailed in the BDAR, as required by the *Biodiversity Conservation Act 2016*.

The proposal was reviewed by Council's Natural Resources Officer who indicated that no concerns are raised to the proposal on biodiversity grounds and provided the following comments below.

The impacts of the proposal have been considered in indirect (section 5.3.1) and prescribed (section 5.3.2) impacts.

The principle of avoid, minimise and mitigate has been considered in section 6. The boardwalk has been placed to avoid as many trees as possible, prioritising trees in poor condition for removal above those in good condition. Section 2 of the track passes through a weedy portion of the site, therefore prioritising weed removal above loss of native species. Where possible, cleared areas of mangroves have been selected to minimise mangrove removal and artificial lighting has not been proposed to reduce disturbance to wildlife. Construction materials have been selected to reduce chemical leaching into the estuarine environment. Some hollow bearing trees may be removed to be replaced with nest boxes.

Management measures to mitigate impacts include a Vegetation Management Plan (VMP), and nomination of a Project Ecologist throughout the construction period to monitor the construction process. Construction methods have been listed in section 1.3.1 and 1.3.2 to protect the Mangrove and

Saltmarsh vegetation communities. Section 3.8.1 notes the intended replacement planting ratio of 2:1 in alignment with the *Fisheries Management Act 2014*.

A Marine Ecological Assessment (MEA) has also been provided. Three marine communities were identified within or adjoining the development, those being Estuarine Mangrove Forest, Coastal Saltmarsh and Seagrass. All three communities are found to be key fish habitat as described by the Fisheries Management Act 1994. Central Coast Escarpment Moist Forest was the only terrestrial community identified. No threatened species habitat is present within the proposed development footprint, though threatened species may occur in the Hawkesbury River.

The primary concern raised in the report is the potential for fish movement to be impeded by the boardwalk. By ensuring the boardwalk does not contain long sections of structural supports, the risk of habitat isolation will be minimised. Table 1 of the document notes that the development will not result in significant changes to hydrology that would impact wetland drainage.

The Bushfire Risk Assessment provided identifies the proposal as compliant with AS3959 and Planning for Bushfire Protection requirements and the RFS has not raised any bushfire concerns.

A Vegetation Management Plan (VMP) has been provided which is divided into three management zones which align with the vegetation classification. Zone 1, terrestrial forest vegetation identified as Central Coast Escarpment dry forest contains a variety of woody and secondary weeds and will benefit from the proposed management works. Zone 2, estuarine vegetation community identified as Estuarine Mangrove Forest is in good condition with moderate weed infestation. This zone is to be offset under the Fisheries Management Act. Zone 3, estuarine vegetation communities identified as Saltmarsh & Swamp Oak Forest contains some weed species. These communities will be offset under the *Fisheries Management Act 2014*.

The management actions involve transplanting, replacement of habitat with nesting boxes and weed management. The methods are best practice and will be effective in making habitat available following the removal of any hollow bearing trees. All works should be carried out in accordance with the CEMP and Section 4 of the VMP to ensure there is no net loss of biodiversity.

An Arborist Report has not been provided however comments have been made in support of the proposal by Councils Tree Management Team.

Discussion of impacts

As the *Fisheries Management Act 2014* and the Biodiversity Offset Scheme both require offsetting, the marine communities will be offset through the *Fisheries Management Act 2014* and the terrestrial communities and species credits will be offset through the Biodiversity Offset Scheme.

The Hornsby Development Control Plan 2013 identifies the principles of avoid, minimise and mitigate to ensure development does not result in a net loss of biodiversity. While the proposal is placed amongst significant estuarine vegetation, the pathway has been placed to minimise impact and reduce tree loss. The pathway will contribute to fragmentation of vegetation however the path will not result in a vehicle strike hazard for fauna passage. Once construction has ended and the surrounding vegetation restored, the final pathway is anticipated to have minimal impact on the surrounding flora and fauna communities.

The *Fisheries Management Act 2014* requires that vegetation is offset at a ratio of 2:1 in accordance with 'Policies and Guidelines for Fish Habitat Conservation and Management' (DPI 2013). The marine offset proposed within the VMP (section 3, zone 3) has identified a 765m² area available for weed management and replacement planting to satisfy the 2:1 ratio requirement to offset the 305m² area to be cleared for the development. In the event that the offset area is unable to be replanted, an offset calculation has been provided.

The proposal does not require the removal or modification of a significant area of vegetation or habitat, is generally consistent with the Biodiversity element of HDCP 2013 and will not have a significant impact on matters listed under the NSW BC Act 2016.

Amended

The amended BDAR, VMP and amended MEA have been reviewed to confirm the appropriate offset requirements for the impacted terrestrial and marine ecological communities. The two terrestrial communities will be offset under the Biodiversity Offset Scheme, with 0.008ha of Estuarine Swamp Oak Forest to be offset with 1 ecosystem credit, and 0.12ha of Central Coast Escarpment Dry Forest to be offset with 4 ecosystem credits as identified by the BAM-Calculator (BAM-C).

The two marine communities are not included in the BOS credit market; therefore, they will not be offset under the BOS as ecosystem credits. They do however need to be offset under the *Fisheries Management Act 1994*. As saltmarsh cannot be offset on this site due to site constraints, a monetary offset must be made instead. In conversations with DPI Fisheries, offsets are outlined in a document titled Policy and Guidelines for fish habitat, conservation and management (2013). This policy identifies an offset ratio of 2:1 for removed or damaged marine habitat. Section 3.3.3.2, part 2 identifies the monetary offset amount to be \$51/m². At a ratio of 2:1 this comes to \$102/m². An area of 740m² (0.07ha) of Estuarine Mangrove Forest and 300m² (0.03ha) of Saltmarsh Estuarine Complex is to be impacted, estimating a total offset area of 1,040m² and an offset payment of \$106,080. In addition to this offset, these two communities will be managed by the approved VMP.

One threatened species was identified in the BDAR as requiring offset credits. The Southern Myotis polygon contains all 4 identified vegetation communities as suitable habitat for this species, as such species credits must consider the full extent of the polygon including marine vegetation. The amended BDAR has removed the marine communities from the BAM-C calculation for ecosystem credits as this offsetting will be provided under the FM Act. In the first version of the BDAR, marine vegetation was included in the calculation for species credit species, influencing the offset requirements for Southern Myotis, creating a requirement for 10 species credits. As the 2nd version of the BDAR does not include marine vegetation in the calculations, the species credit calculation was reduced to 6. In communications with BOS support, the marine communities which are habitat for the species credit species must be included in the calculation. As a result, the original calculation is seen to be correct, and 10 species credits are to be retired for the Southern Myotis.

Council's Natural Resources assessment concluded that no biodiversity concerns are raised with respect to the proposed development, subject to recommended conditions of consent to ensure implementation of the amended BDAR, VMP and amended Marine Ecological Assessment.

Accordingly, the requirements of the *Biodiversity Conservation Act 2016* have been satisfied.

2.8 Crown Land Management Act 2016

The subject land is Crown land owned by the NSW Land and Property Management Authority and therefore will require a licence issued from NSW Crown Lands for occupation and use of Crown Land pursuant to Section 5.21 of *Crown Land Management Act 2016*.

On 20 September 2022, an email was received from Department of Planning and Environment - Crown Lands which confirms Lot 101 DP 1223533 is the subject of their letter to the landowner advising of the proposal and is the only section that requires concurrence as the remainder of the licence area falls within the footprint of the waterway and Lot 100 DP 865249 which is managed by the Minister. As part of those discussions, Council advised as the landowner of Lot 101 DP 1223533 that they have no objection to the application for a licence.

Whilst the application for a licence has been made, it has not yet been issued. An appropriate condition of consent has been recommended in this regard.

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

Section 3.42 of the *Environmental Planning and Assessment Act 1979* states that a DCP provision will have no effect if it prevents or unreasonably restricts development that is otherwise permitted and complies with the development standards in relevant Local Environmental Plans and State Environmental Planning Policies.

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

2.10 Hornsby Development Control Plan 2013

The proposed development has been assessed having regard to the relevant desired outcomes and prescriptive requirements within the Hornsby Development Control Plan 2013 (HDCP). The proposed development complies with the prescriptive measures within the HDCP. A brief discussion on compliance with relevant performance requirements is provided below.

2.10.1 Desired Future Character

Part 8.1.1 Desired Future Character of the HDCP contains the following summary for Brooklyn:

"Brooklyn continues to play a vital role in the maritime operations of the river, providing a transport interchange, maritime services facilities, commercial fishing, and a gateway for tourists, visitors and residents of the Hawkesbury River. Redevelopment of the foreshore area prioritises the retention of vegetation such as mangroves.

Dwellings are a mix of 1 and 2 storey dwellings, with pole design homes stepping up the hillside on the southern side of Brooklyn Road."

The proposed boardwalk is an important feature for tourists, visitors and residents of the Hawkesbury River and provides a connection for users to walk or cycle which is not currently available along the waterfront. The proposal does not impact adversely upon the maritime or commercial finishing activities, nor any dwellings in the area and ensures minimal impact upon vegetation.

No desired future character summary is provided for Kangaroo Point.

The proposed development is in keeping with the desired future character of Brooklyn.

2.10.2 Scale

Part 8.1.2 Scale of the HDCP has the following relevant desired outcome:

"a. Development with a height, bulk and scale that protects and maintains the environmental and scenic qualities of the area."

The height, floor area and site coverage controls are not applicable to the proposal due to the nature of the proposal. The proposed boardwalk is low scale and has been designed to be sensitive to the waterfront location and marine environment.

2.10.3 Setbacks

Part 8.1.3 Setbacks of the HDCP contains controls for setbacks, which are not applicable for this proposed development. However, the boardwalk is compatible with adjacent development and complement the riverine scenic quality and allows for canopy trees to be retained, consistent with the desired outcomes of the part.

Development is permitted by the HDCP between the Foreshore Building Line and the Mean High Water Mark (MHW), where it complies with Clause 6.1 of the HLEP 2013 relating to Acid Sulfate Soils and the HLEP Foreshore Building Line Map. The subject area of the proposed works does not have a Foreshore Building Line and Acid Sulfate Soils has been appropriately addressed by way of a Soil and Water Quality Assessment (SWQA), which includes an Acid Sulfate Soils Management Plan (ASSMP), that can be implemented during development works. Therefore, the proposed development is appropriately located along the waterfront.

2.10.4 Landscaping

Part 8.1.4 Landscaping of the HDCP requires landscaping that retains the natural landscape features of the riverine scenic areas. The boardwalk has been placed to avoid as many trees as possible and prioritises removal of trees in poor health and weeds. The proposal includes details of landscaping either side of the pathway/boardwalk where possible and a Vegetation Management Plan has been prepared and reviewed by Council's Natural Resources Team who raised no objections. Refer to discussion under Section 2.7 above.

2.10.5 Privacy & Views

The proposal satisfies Part 8.1.7 Privacy and Views of the HDCP in that it is designed to ensure that views of the waterways are shared. The works are not envisaged to reduce views or impact upon privacy for any nearby properties.

2.10.6 Design

Part 8.1.8 Design Details has the desired outcome for development to incorporate environmentally sustainable design and construction and includes prescriptive measures to achieve this outcome.

The proposed boardwalk is consistent with the desired character of the area, addresses the river and road where applicable, minimises cut and fill and retains public access to the foreshore, with minimum impact on the waterways water quality and downstream users.

Lightweight timber construction is appropriate with regard to the scenic qualities of the waterfront.

Parts 8.2.2 Water Recreation Structures and 8.2.3 Seawalls of PDCP do not strictly apply to the proposal, however the desired outcomes and principles have been considered to ensure the proposal boardwalk complements the landscape features of the natural riverine scenic area and is located to provide safe, convenient, and equitable access to the waterway.

2.10.7 Kangaroo Point Masterplan

Part 8.3.1 River Settlement Masterplans contains a masterplan for Kangaroo Point, which includes details of a proposed heritage walk pathway linking to the existing southern portion of Kangaroo Point and car park. It is considered that the viewing platform could be used also as the beginning of a heritage walk in the future which is depicted as a circuit.

It is considered that the proposal does not prevent any works at Kangaroo Point as envisaged under the Masterplan.

Further, a condition is recommended regarding cultural heritage signage along the boardwalk, which is also identified within the Masterplan and would complement that provided at Kangaroo Point once the Masterplan is fully realised.

2.10.8 Tree Preservation

Council's Tree Management Team reviewed the proposal and identified that the proposal includes the removal of 65 trees and that none of the trees are identified as being significant. Further, the boardwalk has been placed to avoid as many trees as possible and prioritises removal of trees in poor health and weeds.

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

2.10.9 Heritage

The proposal was reviewed by Council's Heritage Team who indicated that no concerns are raised to the proposal on heritage grounds and provided the following comments below.

Heritage Listings

The proposed development is located within the site area of one heritage item and the vicinity of several heritage items listed under the Schedule 5 of the *Hornsby Local Environmental Plan 2013* (HLEP) as follows:

Heritage Item	Item name	Property Address	Location of Proposed Works
205	Seymours Creek - Mangrove Wetland	Brooklyn Road, Brooklyn	Within site area
99 & A21	Kangaroo Point	Pacific Highway, Brooklyn	Within the vicinity
204 & A13	Brooklyn Cemetery	Brooklyn Road, Brooklyn	Within the vicinity
245	Nature Reserve - bushland	Long Island, Brooklyn	Within the vicinity
248	Rest Park	Pacific Highway, Brooklyn	Within the vicinity
A22	Peats Ferry Road bridge	Pacific Highway, Brooklyn	Within the vicinity

There are no previously recorded Aboriginal archaeological sites located within the site area.

Context

The development site is located on the southern bank of the Hawkesbury River, between Kangaroo Point and Brooklyn Road. The site area covers:

- intertidal zones characterised by mangroves, oyster covered rocks and mud flats;
- an existing unmaintained access track between Old Pacific Highway and Brooklyn Road;

- an intersection with the Dolphin Boatshed Marina;
- a mangrove covered wetland characterised by mudflats, mangroves, saltmarsh areas;
- and a crossing over Seymours Creek.

The following general context notes have been extracted from the SOHI:

"The [study] area runs alongside three parcels of land which were occupied from an early period in the non-Indigenous history of the locality, initially in association with the construction of Peats Ferry Road and the establishment of a river crossing. The immediate area became a centre of settlement in the district, focussed on road and river transport, and the natural resources of the river and the bush. Following the opening of the railway, the focus of settlement shifted east to Brooklyn, and the nature of occupation and development in the Kangaroo Point and Peats Ferry locality has since been closely tied to the changing use of Peats Ferry Road (and its subsequent incarnations). The proposed boardwalk will be located on riverbank land that was originally entirely within the intertidal zone. The historical development of this specific area has been limited. Between Kangaroo Point and the Dolphin Boatshed Marina, the proposed boardwalk runs along land that was reclaimed in c.1970, when the Pacific Highway and Brooklyn Road were realigned. These substantial earthworks are likely to have involved significant impact, if not complete removal, of any former features. To the south of the Marina, the proposed boardwalk follows Seymours Creek. This area, at the mouth of the creek, was originally swampy, and no former structures are known, with the exception of the Brooklyn Road crossing of Seymours Creek. Fill appears to have been deposited in this area, possibly in the 1980s. This section of the proposed boardwalk, to the south of the Marina, is within a listed heritage item: the Seymours Creek Mangrove Wetland."

The following general context notes have been extracted from the ACHAR:

"There are no previously recorded Aboriginal archaeological sites within the study area. No Aboriginal objects were found during the survey. The potential for the presence of Aboriginal archaeological sites is low. The study area extends across locations that were (or still are) swamp and tidal flat, and would have been submerged at high tide; these landforms would not have been suited to long-term or repeated occupation. In addition, much of the study area has been affected by large-scale earthworks that were undertaken in about 1970 to reclaim land along this section of the Hawkesbury River shore."

Assessment

The proposal has been assessed with regards to the material submitted with the application including the SOHI and ACHAR and the relevant heritage provisions of Hornsby Development Control Plan 2013 (HDCP).

Heritage Impact Assessment

The SOHI provides an accurate heritage assessment of the heritage values of the development area, the locality and nearby heritage items. It also provides an accurate heritage assessment of the historical heritage impacts of the proposed development, identifying that:

1. It is unlikely to result in cultural heritage impact to the heritage values of the study area or nearby places; and
2. The following considerations should be given in undertaking the detailed design to ensure that the development is consistent in scale with the landscape setting and does not obscure views through the Seymours Creek Mangrove Wetland or the existing views to and from Kangaroo Point and Long Island:

- The colour palette and boardwalk fabric should be chosen to ensure that the new structure blends into the surrounding landscape and is not visually intrusive.
- The design of additional elements, including the viewing platforms, shelters, seating and barbecues should ensure that the bulk and scale of each element is compatible with the item 53 Statement of Heritage Impact Brooklyn Boardwalk, Brooklyn NSW setting, and does not obscure views: either within the Seymours Creek Mangrove Wetland, or to and from Kangaroo Point or Long Island Nature Reserve.

The conclusion of the SOHI is agreed with, and the recommendations of the report supported.

The proposed development is considered to satisfy Clause 5.10 of the HLEP and be consistent with the heritage controls under Part 9 of the HDCP.

Aboriginal Heritage

The ACHAR provides an accurate heritage assessment of the Aboriginal heritage values within the development area and the locality. It also provides an accurate heritage assessment of the potential Aboriginal heritage impacts of the proposed development, identifying that it is unlikely to result in harm to tangible Aboriginal heritage sites.

The conclusion of the ACHAR is agreed with, and the following recommendations of the report are supported.

The proposed development is considered to satisfy Clause 5.10 of the HLEP and be consistent with the heritage controls under Part 9.5.1 of the HDCP.

Recommendation

Council's Heritage assessment concluded that there are no heritage concerns raised with respect to the proposed development, subject to recommended conditions of consent to ensure implementation of the recommendations detailed within the supporting SOHI and ACHAR.

2.10.10 Traffic, Vehicle Access & Parking

Council's Traffic Engineering Team has reviewed the proposal, including the Construction Traffic Impact Assessment and Management Plan (CTIAM), and indicated that no concerns are raised to the proposal on traffic grounds and provided the following comments below.

Operational parking

Operational parking for boardwalks shared paths and footway connections is not required. These facilities are intended to encourage active transport and recreation, in general reducing the car demand on the road network.

Construction activity parking

During construction, parking for construction related vehicles will need to be accommodated at a safe location. The EIS states:

"The traffic assessment recommends an area within the Development Site or site office compound area be allocated to provide a minimum of 6 - 8 car parking for light vehicles and 1 heavy vehicle to accommodate construction traffic. If this cannot be accommodated within the Development Site, an off-site parking area is to be nominated."

Parking provision for construction vehicles is to be included in the recommended conditions of consent.

Operational traffic generation

Operational traffic generation for boardwalks shared paths and footway connections is not covered by Traffic Generating guidelines. These facilities are intended to encourage active transport and recreation, in general reducing the car demand on the road network.

Construction activity traffic generation

The proposal results in up to a maximum of 34 total daily vehicle movements (weekday) and 24 total daily vehicle movements (Saturday) during construction. Based on the estimated traffic generation during construction, the proposal will result in negligible impacts on the safety and function of the road network.

Access

Three likely construction compound areas have been identified. Two areas at the Kangaroo Point and one area off Brooklyn Road. Details of the compound areas are to be provided to Council prior to construction activity commencing. All vehicles shall enter and exit the sites in a forward direction.

Other matters

Provision of bicycle racks at key locations is to be considered and an appropriate condition of consent is recommended.

Recommendation

Council's Traffic Engineer has assessed the CTIAM and raises no objection to the proposal in terms of traffic and parking management, subject to recommended conditions of consent.

Further, in regard to road safety and the future potential expansion of the Dolphin Boatshed Marina, it be appropriate to provide signage as a condition of consent indicating it is a high pedestrian area and speed limited signage for the road approaches to the site. Additionally, to deter vehicles parking on the shared path, delineation such as bollards or kerbing is desirable to address potential safety concerns for vehicular and pedestrian conflict.

The letter dated 21 September 2022 from the Applicant indicates that the proposal could be amended to provide parallel car parking for five (5) vehicles with blister islands at either end, along the frontage of the Dolphin Boatshed Marina. This formal parking is not considered to be necessary as a result of the assessment and the future redevelopment plans for the Dolphin Boatshed Marina could consider formalising of the informal spaces in this area.

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

Further, the proposal connects with the existing footpath along Brooklyn Road, providing a continuous footpath from Brooklyn town and further extends it to Kangaroo Point. This will link two currently disconnected areas of Brooklyn and increase walking and cycling opportunities. Accordingly, the proposal will integrate into the existing pedestrian and cycling network.

2.11 Section 7.12 Contributions Plan

Hornsby Shire Council Section 7.11 Contributions Plan 2020-2030 does not apply in accordance with Section 2.7(2) of the plan, which states:

- "2. In respect of development applications (or modifications thereto) made by or on behalf of the Council for community infrastructure including, but not limited to, libraries, community facilities, child care facilities, recreational areas, recreation facilities, car parks and the like."

3. ENVIRONMENTAL IMPACTS

Section 4.15(1)(b) of the Act requires Council to consider *"the likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality"*.

3.1 Natural Environment

3.1.1 Tree and Vegetation Preservation

Council's assessment regarding the impacts to trees arising from the proposal is provided in Section 2.10.8 of this report.

3.1.2 Waste Management

The Construction Traffic Management Plan (CTMP) provides potential areas for site office, storage of materials and waste. It was recommended that an alternative site office location should be considered at Brooklyn Road Reserve Rest at Lot 7025 DP 93862, Lot 238 DP 752026, Lot 250 DP 752026, subject to obtaining appropriate consents. The CTMP does not indicate the exact site location(s) for the proposed works, however, this can be provided as part of the Detailed Construction Management Plan prior to commencement of works. There are specific elements not included as part of the CTMP required to be addressed and these are included-within the recommended conditions of consent prior to the commencement of works.

With respect to on-going operational waste and facilities for the users of the pathways, Council's Waste Management Team has reviewed the application and provided the following comments:

- *Litter bins need to be positioned at serviceable locations, which is only possible at each end of the boardwalk (Kangaroo Point (already has litter bins) and opposite Tom Richmond Oval, and at the Dolphin Boatshed Marina (already have 6 litter bins at the Marina). It is noted that these areas are flood prone. Bins could be moved to higher ground when the boardwalk is closed due to imminent flooding. Bin stands set in concrete are more readily restored after flooding.*
- *The Architectural Plans shows an "opportunity for shelters, BBQ, seating". Such facilities require litter bins; however, the location is too far from any point at which the bins could be serviced. From a servicing perspective, the location of the BBQ/picnic shelters is not supported.*
- *Viewing areas/seating are not likely to need litter bins.*
- *Signage encouraging people to take their rubbish with them is recommended.*
- *The boardwalk planks and the park furniture (seating etc) should be made from recycled plastic (RePlas or similar) in demonstration of Council's commitment to the use of recycled materials.*
- *The standard metal bin shrouds or bin stands in use across existing public areas in the LGA should be used.*

Council's Waste Management assessment raises no objection to the proposal in terms of waste management, subject to recommended conditions of consent, including details of the location of bins to reflect the above comments.

3.1.3 Stormwater Management

The submitted Soil and Water Quality Assessment considers and recommends erosion, sediment and stormwater controls during the construction phase to mitigate negative impacts on riparian areas.

The plans propose satisfactory stormwater arrangements for the proposed boardwalk and have been reviewed by Council's Engineer and deemed satisfactory.

3.2 Built Environment

3.2.1 Built Form

The proposed boardwalk is low scale and has been designed to be sensitive to the waterfront location and marine environment. Lightweight timber construction is appropriate with regard to the scenic qualities of the waterfront and no buildings are proposed.

3.2.2 Traffic

Council's assessment regarding the impacts to traffic arising from the proposal is provided in Section 2.10.10 of this report.

3.3 Social Impacts

The proposal is expected to have a positive social impact due to the increased availability of an off-road pathway along the waterfront with seating and viewing platforms, which encourages less car usage, exercise, social interaction and access to a part of the nature in the area which is not currently accessible. The wellbeing and community benefits will be far reaching, for both locals and the wider community. The ability to walk or cycle safely from Brooklyn to Kangaroo Point is a significant improvement and encourages connectivity between the areas.

3.4 Economic Impacts

The proposal would have a positive impact on the local economy by providing a link between Brooklyn and Kangaroo Point for pedestrians and cyclists, bringing more recreational users to the locality and an increase in demand for local services. Local businesses will likely experience an increase in customers.

4. SITE SUITABILITY

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

The site is considered to be capable of accommodating the proposed development. The scale of the proposed development is consistent with the capability of the site and the environmental impacts minimised and is considered acceptable.

5. PUBLIC PARTICIPATION

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

5.1 Community Consultation

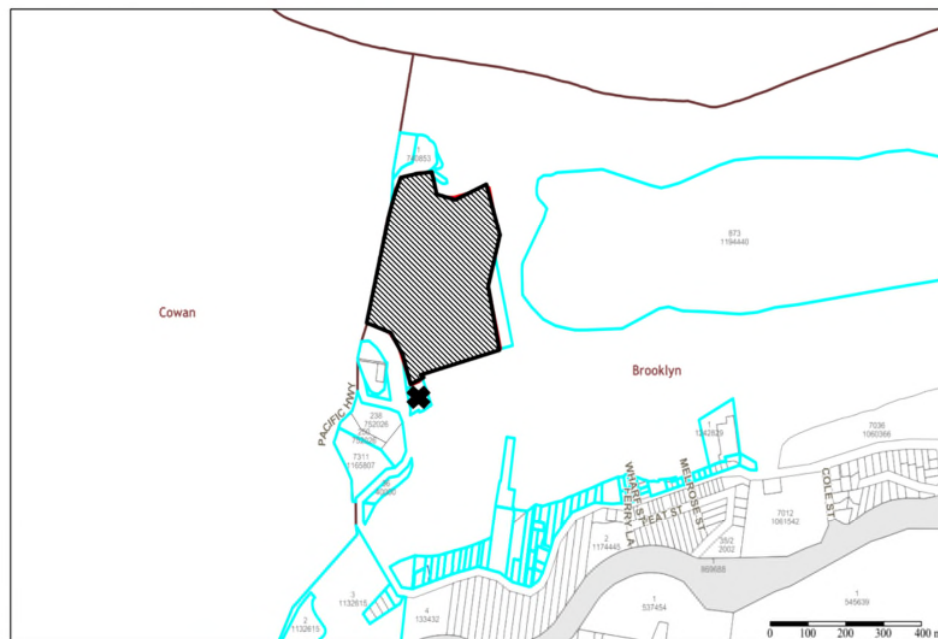
The proposed development was placed on public exhibition and was notified to adjoining and nearby landowners between 17 June 2022 to 15 July 2022 in accordance with Community Engagement Plan. During this period, Council received a total of five (5) submissions (including one (1) from the Dolphin Boatshed Marina) in respect of the original application.

On 28 July 2022, Council Officers met with the applicant and the writer of the submission from Dolphin Boatshed Marina to discuss the issues raised in the submission including potential rerouting of the pathway along the road outside Dolphin Boatshed Marina and down the service trail and parallel parking arrangement next to the proposed path in its preferred location outside Dolphin Boatshed Marina.



Additional time was granted for the writer of the submission to provide an additional submission if desired.

Following this meeting, the applicant provided additional information which provided three different scenarios and why the subject route was chosen instead of the others. The additional information was not re-notified as the plans did not change and the additional information was in direct response to a concern raised by the Dolphin Boatshed Marina. However, the Marina was notified between 30 September 2022 to 21 October 2022 as the information was in direct response to their concerns. During this period, Council received an additional submission comprising two (2) letters from the Dolphin Boatshed Marina.

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



NOTIFICATION PLAN

PROPERTIES NOTIFIED HIGHLIGHTED BLUE	X SUBMISSIONS RECEIVED AGAINST		PROPERTY SUBJECT OF DEVELOPMENT	
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Four (4) submissions were in support of the development, generally on the grounds that:

- Strongly supported, want it provided as soon as possible.
- Provides exercise option not currently available due to terrain.

- Provides public access to everyone (not just residents) to a beautiful and significantly historic area of NSW.
- Will bring people to the small businesses in Brooklyn.
- Fishermen would no longer be reduced to fishing from the break wall, or off the small bit of sand the boat ramp offers.
- The proposed development will be sympathetic to the environment and will be well built.

The submissions of support also included the following suggestions or comments:

5.1.1 Cultural History

The submission indicated that the proposal should incorporate education on the cultural history of the Deerubbin, in consultation with traditional custodians, and education on the bidirectional relationship we have with it and how it supports us today as well as accessible and pragmatic messaging/promotion regarding caring for the site today.

The Aboriginal Cultural Heritage Assessment Report which accompanied this application included the following comment:

"Hornsby Shire Council should consult with the Hornsby Aboriginal and Torres Strait Islander Consultative Committee regarding the possibility of incorporating Aboriginal heritage interpretation into the proposed works".

A condition of consent has been recommended which requires consultation with the Local Aboriginal groups and Hornsby Aboriginal and Torres Strait Islander Consultative Committee and incorporation of information signage along the boardwalk.

5.1.2 Accessibility

The submission indicated that the proposal should not include steps to access the boardwalk or at either end and large gaps make it impossible for wheelchair and pram and mobility scooter users to access and egress the boardwalk. A shallow ramp would allow access. The route should be checked for these unnoticed difficulties which can make these beautiful sites impenetrable for large numbers of our community.

The application indicates that the proposal will provide compliant grades with the accessibility requirements of the BCA and AS 1428, with demonstration of compliance with accessibility related requirements and standards will be provided at Construction Certificate stage.

A review of the plans does not indicate steps and to ensure accessibility for all and that there are no large gaps, a condition of consent is recommended.

5.1.3 Kangaroo Point

The submission indicated that for the proposal to be successful, that Kangaroo Point would need major work done and provided the following comments:

- The boat ramp that currently exists there is small and ill equipped for launching anything more than a small tinny.
- There is no room for somebody with a trailer to turn around, the small amount of room that does exist often has pedestrians walking, and sometimes cars in no parking areas. Pedestrians are liable to be struck by a vehicle reversing or turning in this area.

- The boat ramp needs to be lengthened, at low tide, non 4x4 vehicles will often get bogged in the sand at the bottom of the ramp.
- The pontoon that is currently closed on the northern side of Kangaroo Point desperately needs to be fixed and reopened, boat owners with larger vessels will often use it to pick people up, NSW water police use it often, as does NSW Maritime and Marine Rescue NSW.
- The last remaining pontoon that is open is excellent, however could do with some lighting at night.
- The middle wharf is dangerous and is falling apart and needs to be repaired. Not removed, repaired. It is still a vital asset there.
- If the boardwalk was to go ahead some considerations need to be made for parking, both for cars, and boat trailers. The boat ramp across the river while excellent, often has issues with people without trailers parking in trailer spots, and issues with caravans setting up for the day or night using two parking spots. If the boardwalk was to go ahead, this cannot be allowed to happen at Kangaroo Point being parking is already lacking. Many home owners of Bar Point and Dangar Island use Kangaroo Point ramp to leave their cars for sometimes days at a time. Parking needs to be organized so they have somewhere safe to leave their vehicles for an extended period, an area to tie up dinghies and tenders would also be appreciated for those who use Kangaroo Point to get to their moored vessels.
- Careful planning and a wise use of public funds would ensure this asset is brought back to life and begins a safe, enjoyable, functional area for all.

This application will provide a connection for pedestrians and cyclists between Kangaroo Point (near Hawkesbury River road bridge) and Seymours Creek and is funded by the NSW State Government under its Active Transport Program and Metropolitan Greenspace Program. Council may in the future consider the above comments undertake further major works at Kangaroo Point. The primary purpose of the boardwalk is to encourage walking and cycling, reducing car usage, therefore additional parking or upgrade of Kangaroo Point is not warranted as part of this application.

One (1) submission was received from the Dolphin Boatshed Marina as part of the original notification, objected to the development, generally on the grounds that:

- No consultation with Dolphin Boatshed Marina during preparation of EIS despite indicating it occurred.
- Dolphin Marina Boatshed is the only business and concern affected by the proposed route of the boardwalk and pathway.
- The area proposed to be subject to the pathway has been used as a carpark for approximately 50 years. The carpark is a necessary part of the marina for staff, customers and visitors, and is integral to the operation of the marina operated by Dolphin Boatshed Marina. No regard for this in EIS or consultation.
- Dolphin Boatshed Marina is about to submit a Development Application for the development of the marina, which is a condition of Dolphin Boatshed's Crown leasehold.
- A pathway, as part of the proposal which would traverse the land used by Dolphin Boatshed Marina and its customers, presents an obvious danger to the safety of persons using the pathway. The carpark area and the driveways in and out of the area is used regularly by cars, boat trailers and trucks, large and small.

On 28 July 2022, Council Officers met with the applicant and the author of the submission from Dolphin Boatshed Marina to discuss the issues raised in the submission and potential re-routing of the pathway along the road outside Dolphin Boatshed Marina and down the service trail and parallel parking arrangement next to the proposed path in its preferred location outside Dolphin Boatshed Marina. Below is a summary of the key points discussed at the meeting:

- Car parking spaces currently outside of the Dolphin Boatshed Marina allotment would be impacted by the proposed shared pathway. These carparking spaces were discussed to have been in use since at least 1951 when a lease was acquired from the then equivalent of the Department of Crown Lands. This lease was identified to have lapsed or revoked in 1971. Since 1971 vehicles have been parking in the road reserve under an informal arrangement.
- The Dolphin Boatshed Marina is currently finalising expansion plans that would increase the number of berths to 89. This would require approximately 53 car parking spaces as per the parking rate required by the Hornsby Development Control Plan 2013.
- The route of the shared pathway was discussed, with the preference from Dolphin Boatshed Marina being that the pathway be routed along Brooklyn Road so that car parking is not impacted. Alternatives were discussed including co-locating the shared pathway and vehicle access road for the Marina, and the potential use of an existing service track that is located adjacent to the northern entry to the Marina.
- Safety requirements were discussed, including pedestrian safety and potential conflict between vehicles and pedestrians. A number of proposed safety measures were discussed, including signage for both pedestrians and vehicles.
- Whether the EIS adequately discussed the impacts of the proposal on the Dolphin Boatshed Marina.
- The Marina currently requires access for passenger vehicles and delivery vehicles, with the largest vehicle utilising the site being a semi-trailer that would access the site on an occasional basis for deliveries and / or to drop off boats to the dry dock.
- Notification of the development was discussed including notification during preparation of the EIS as well as notification during the development application.

Outcomes arising from the meeting included:

- Council would review the options proposed for re-routing the pathway if insufficient detail regarding this point had not been previously provided in the EIS.
- Council would review the submitted documentation to expand on the proposals impact on the Brooklyn Marina if insufficient detail regarding this point had not been previously provided in the EIS.
- Council would review road safety aspects of the design, to ensure that road safety requirements are sufficient for any proposed design.
- Dolphin Boatshed Marina would retrieve plans regarding the proposed marina extension and provide these documents for review as part of any future further submission on the project.
- Dolphin Boatshed Marina may lodge a pre-lodgement application for the future marina expansion (this would be a process separate to the assessment of this DA).

A further two (2) submissions were received from the Dolphin Boatshed Marina after the meeting with Council Officers on 28 July 2022, generally on the grounds that:

- The proposed pathway should be constructed well clear of the area used by Dolphin Boatshed Marina, with the route of the pathway following the gravel track which is adjacent to the existing Telstra pillars to the commencement of the driveway to the marina and then to continue parallel with Brooklyn Rd.
- Width of pathway along Brooklyn Rd could be 2m (not 3m), consistent with other parts of the pathway.
- Reconfirmed Dolphin Boatshed Marina is about to submit a Development Application for the development of the marina, with 15 spaces at the foot of the embankment below Brooklyn Rd.
- Indicates that the land used for informal parking was part of a special lease granted to the marina in 1951 until 1972 when terminated and reallocated for road construction purposes under the control of Council. The letter also indicates that the former Chief Executive of the Land and Property Management Authority informed Council some years ago that the land should continue to be used for this purpose and the Dolphin Boatshed Marina intends to rely upon this part of the road reserve for car parking.

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

5.1.4 Parking & Pedestrians

The Dolphin Boatshed Marina is concerned the loss of available informal car parking spaces within the road reserve and that it will impact their plans for future expansion.

The issues were discussed on site with the Dolphin Boatshed Marina as outlined above and a further letter dated 21 September 2022 from the Applicant indicates the alternate routes considered during the initial design and also that the proposal could be amended to provide parallel car parking for five (5) vehicles with blister islands at either end, along the frontage of the Dolphin Boatshed Marina. This is not considered to be necessary as a result of the assessment of the current proposal. Given the future redevelopment plans for the Marina, the formalisation of parking should occur as part of that separate application.

The further submission also requests that the pathway be relocated and reduced in width. Consideration has been given to the various alternative routes and it is considered that the pathway as proposed, in the location shown and with a width of 3m is more desirable for users of the pathway, and there is still ample room for the formalisation of five (5) car parking spaces adjacent to the pathway by Dolphin Boatshed Marina in the future as part of their redevelopment. It is important to acknowledge that this road is currently under the care and control of Hornsby Shire Council and there is no active lease for this informal parking area currently in place. As such, these spaces are not allocated to the Dolphin Boatshed Marina and would not be considered as existing formal parking in the assessment of a redevelopment of the Marina. Further, the wider public benefit is required to be considered and the consideration of alternate routes identified various issues with the other options and identifies the safety for the users of the pathway to be superior with the current proposal.

5.2 Public Agencies

The development application triggered referral to the following external agencies:

5.2.1 RFS

On 31 July 2022, Rural Fire Service advised of no concerns with the proposal. No conditions were recommended.

5.2.2 Fisheries

On 29 March 2023, Department of Primary Industries - Fisheries advised of no objections to the proposal, subject to General Terms of Approval. Appropriate conditions of consent have been recommended regarding compliance with the General Terms of Approval.

6. THE PUBLIC INTEREST

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

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

The application is considered to have satisfactorily addressed Council's and relevant agencies' criteria and would provide a development outcome that, on balance, would result in a positive impact for the community. Accordingly, it is considered that the approval of the proposed development would be in the public interest.

CONCLUSION

The application proposes construction of a public boardwalk and shared pathway between Kangaroo Point and Brooklyn Road.

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

Council received a total of five (5) submissions has been received in respect of the original application and one (1) submission (comprising two letters) following discussions with the writer of a submission from Dolphin Boatshed Marina in response issues raised. The matters raised have been addressed in the body of the report and the issues do not warrant amendments to the proposal.

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

The reasons for this decision are:

- The proposed development generally complies with the requirements of the relevant environmental planning instruments and the Hornsby Development Control Plan 2013.
- The proposed development does not create unreasonable environmental impacts to adjoining development nor significant environmental impacts.

Note: At the time of the completion of this planning report, no persons have made a Political Donations Disclosure Statement pursuant to Section 10.4 of the Environmental Planning and Assessment Act 1979 in respect of the subject planning application.

Donna Clarke - Landmark Planning Pty Ltd

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RESPONSIBLE OFFICER

The officer responsible for the preparation of this report is Donna Clarke from Landmark Planning Pty Ltd.

RECOMMENDATION

THAT the Hornsby Shire Local Planning Panel approve Development Application No. DA/585/2022 for construction of a public boardwalk and shared pathway between Kangaroo Point and Brooklyn Road at Lot 100 DP 865249 & Lot 7 DP 740853, Pacific Highway, Brooklyn and Kangaroo Point Wharf Reserve (R1038969) Lot 101 DP 1223533, No. 1422 Pacific Highway, Brooklyn be approved subject to the conditions of consent detailed in Schedule 1 of this report.

The reasons for this decision are:

- The proposed development complies with the requirements of the relevant environmental planning instruments and the Hornsby Development Control Plan 2013.
- The proposed development does not create unreasonable environmental impacts to adjoining development with regard to visual bulk, solar access, amenity or privacy.
- The proposed development would contribute to improved liveability and prioritise opportunities for people to walk and cycle, whilst protecting environmentally sensitive areas of waterways, cultural and scenic landscapes and the coastal environment area.

Schedule 1

CONDITIONS APPLICABLE TO ALL STAGES**GENERAL CONDITIONS**

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

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

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

1. Approved Plans and Supporting Documentation

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

Approved Plans

Plan No.	Plan Title	Drawn by	Dated	Council Reference
1 of 30 Issue 2	Drawing Schedule, Locality Plan & Legend	Hornsby Shire Council Design & Construction Branch	undated	
2 of 30 Issue 2	Project Notes	Hornsby Shire Council Design & Construction Branch	undated	
3 of 30 Issue 2	Boardwalk & Shared Pathway Typical Sections	Hornsby Shire Council Design & Construction Branch	undated	
4 of 30 Issue 2	Concrete Path Joint Details	Hornsby Shire Council Design & Construction Branch	undated	
5 of 30 Issue 2	Overall Layout Plan	Hornsby Shire Council Design & Construction Branch	undated	
6 of 30 Issue 2	Control Line 1 Setout Details Sheet 1 of 2	Hornsby Shire Council Design & Construction Branch	undated	
7 of 30 Issue 2	Control Line 1 Setout Details Sheet 2 of 2	Hornsby Shire Council Design & Construction Branch	undated	

Plan No.	Plan Title	Drawn by	Dated	Council Reference
8 of 30 Issue 2	General Works & Services Plan - Plan 1 of 8	Hornsby Shire Council Design & Construction Branch	undated	
9 of 30 Issue 2	General Works & Services Plan - Plan 2 of 8	Hornsby Shire Council Design & Construction Branch	undated	
10 of 30 Issue 2	General Works & Services Plan - Plan 3 of 8	Hornsby Shire Council Design & Construction Branch	undated	
11 of 30 Issue 2	General Works & Services Plan - Plan 4 of 8	Hornsby Shire Council Design & Construction Branch	undated	
12 of 30 Issue 2	General Works & Services Plan - Plan 5 of 8	Hornsby Shire Council Design & Construction Branch	undated	
13 of 30 Issue 2	General Works & Services Plan - Plan 6 of 8	Hornsby Shire Council Design & Construction Branch	undated	
14 of 30 Issue 2	General Works & Services Plan - Plan 7 of 8	Hornsby Shire Council Design & Construction Branch	undated	
15 of 30 Issue 2	General Works & Services Plan - Plan 8 of 8	Hornsby Shire Council Design & Construction Branch	undated	
16 of 30 Issue 2	CL1 Cross Sections - CH5.000 TO CH110.000	Hornsby Shire Council Design & Construction Branch	undated	
17 of 30 Issue 2	CL1 Cross Sections - CH120.000 TO CH230.000	Hornsby Shire Council Design & Construction Branch	undated	
18 of 30 Issue 2	CL1 Cross Sections - CH240.000 TO CH350.000	Hornsby Shire Council Design & Construction Branch	undated	
19 of 30 Issue 2	CL1 Cross Sections - CH360.000 TO CH423.484	Hornsby Shire Council Design & Construction Branch	undated	
20 of 30 Issue 2	CL1 Cross Sections - CH430.000 TO CH500.000	Hornsby Shire Council Design & Construction Branch	undated	
21 of 30 Issue 2	CL1 Cross Sections - CH508.356 TO CH575.976	Hornsby Shire Council Design & Construction Branch	undated	
22 of 30 Issue 2	CL1 Cross Sections - CH580.000 TO CH643.024	Hornsby Shire Council Design & Construction Branch	undated	

Plan No.	Plan Title	Drawn by	Dated	Council Reference
23 of 30 Issue 2	CL1 Cross Sections - CH650.000 TO CH740.000	Hornsby Shire Council Design & Construction Branch	undated	
24 of 30 Issue 2	CL1 Cross Sections - CH750.000 TO CH807.179	Hornsby Shire Council Design & Construction Branch	undated	
25 of 30 Issue 2	CL1 Cross Sections - CH810.000 TO CH900.000	Hornsby Shire Council Design & Construction Branch	undated	
26 of 30 Issue 2	CL1 Cross Sections - CH910.000 TO CH1000.000	Hornsby Shire Council Design & Construction Branch	undated	
27 of 30 Issue 2	Tree Schedule - Sheet 1 Of 4	Hornsby Shire Council Design & Construction Branch	undated	
28 of 30 Issue 2	Tree Schedule - Sheet 2 Of 4	Hornsby Shire Council Design & Construction Branch	undated	
29 of 30 Issue 2	Tree Schedule - Sheet 3 Of 4	Hornsby Shire Council Design & Construction Branch	undated	
30 of 30 Issue 2	Tree Schedule - Sheet 4 Of 4	Hornsby Shire Council Design & Construction Branch	undated	

Supporting Documentation

Document Title	Prepared by	Dated	Council Reference
Environmental Impact Statement Issue 2	Martens & Assoc Pty Ltd	11/05/2022	D08426235
Preliminary Site Investigation Issue 2	Martens & Assoc Pty Ltd	8/04/2022	D08426241
Construction Traffic Impact Assessment and Management Plan	Martens & Assoc Pty Ltd	26/05/2022	D08426217
Flooding and Coastal Processes Assessment	Martens & Assoc Pty Ltd	27/05/2022	D08426234
Preliminary Geotechnical Investigation and Acid Sulfate Soils Assessment Issue 1	Martens & Assoc Pty Ltd	6/04/2022	D08426226
Soil and Water Quality Assessment Report (including Acid Sulfate Soil Management Plan)	Martens & Assoc Pty Ltd	1/05/2022	D08426248
Detailed Site Investigation Issue 4	Martens & Assoc Pty Ltd	8/04/2022	D08426242
Waste Management Plan Issue 1	Martens & Assoc Pty Ltd	3/05/2022	D08426216

Document Title	Prepared by	Dated	Council Reference
Aboriginal Cultural Heritage Assessment Report	Coast History & Heritage	May 2022	D08426250
Statement of Heritage Impact	Coast History & Heritage	May 2022	D08426224
Construction Noise & Vibration Management Plan	Acoustic Dynamics	20/05/2022	D08426249
Bushfire Risk Assessment Issue 1.2	BlackAsh Bushfire Consulting	3/05/2022	D08426244
Human Health Risk Assessment	Environmental Risk Sciences	27/04/2022	D08426240
Watercourse and Riparian Lands Assessment Issue 1	Martens & Assoc Pty Ltd	9/05/2022	D08426223
Amended Biodiversity Development Assessment Report Issue 1.1	Eco Consulting	18/01/2023	D08573667
Amended Marine Ecological Impact Assessment Issue 1.1	Eco Consulting	18/12/2022	D08573665
Vegetation Management Plan Issue 1.0	Land Eco Consulting	10/05/2022	D08426246
Pre-development tree survey and assessment (TA-01) Issue B	Arterra Consulting Arboriculture	18/02/2022	D08624653
General Terms of Approval - Fisheries	Department of Primary Industries	29/03/2023	D08619926
General Terms of Approval - NSW RFS	NSW Rural Fire Service	31/07/2022	D08461096

Reason: To ensure all parties are aware of the approved plans and supporting documentation that apply to the development.

2. Construction Certificate

- a) A Construction Certificate is required to be approved by Council or a Private Certifying Authority prior to the commencement of any construction works under this consent.
- b) A separate approval under s138 of the *Roads Act*, must be obtained from Council for all works within the public road reserve.
- c) The Construction Certificate/ Section 138 Roads Act application plans must be consistent with the Development Consent plans.

Reason: To ensure that detailed construction certificate plans are consistent with the approved plans and supporting documentation.

3. Staging

This consent allows for the construction of the shared pathway and boardwalk in three stages being:

- a) **Stage 1:** Kangaroo Point to the bushland track. Approximately 195m long, 3 m wide boardwalk with mesh decking and railings both sides, heading south from Kangaroo Point. It will meander through the mangroves and intertidal zone towards the existing

track formation further inland and includes a platform providing views to Sandbrook Inlet close to the commencement point. This section will be raised to be above high highest tide levels.

- b) **Stage 2:** Bushland track to Dolphin Boatshed Marina - Approximately 450m, 3m wide on grade pathway commencing from the start of the existing access track formation. It is proposed to clear and grade the existing track and is to be constructed of concrete and hence this section is referred to as a 'shared pathway'. This section proceeds south towards the Dolphin Boatshed Marina and will include two platforms for viewing and seating opportunities. An area for additional recreational facilities has been surveyed and is identified on the plans.
- c) **Stage 3:** Dolphin Boatshed Marina to Old Dairy Site on Brooklyn Road - Approximately 360m, 3 m wide boardwalk with mesh decking and railings which will commence from the south of the marina and proceed through mangrove areas and wetlands in the intertidal zone to connect Kangaroo Point and Brooklyn Road. An 18m span bridge will cross Seymours Creek before connecting to the Brooklyn Road footpath and viewing platform.

All conditions of this consent must be satisfied at each stage, as relevant to that stage. Upon completion of the final stage, all conditions of this consent must be fully satisfied.

Reason: To ensure the staging of the consent.

4. Removal of Trees

- a) This development consent permits the removal of trees numbered T1,T6,T7,T8,T9,T10,T11,T12,T13,T28,T36,T57,T63,T69,T72,T73,T88,T89,T103,T110,T126,T127,T128,T129,T132,T133,T135,T141,T142,T146,T147,T148,T149,T185,T186,T190,T195,T196,T197,T198,T199,T202,T203,T206,T209,T210,T211,T213,T215,T233,T236,T237,T238,T239,T246,T284,T308,T310,T500,T501, T502,T503,T504 and T505 as identified in the approved plans Sheets 1-30 prepared by Hornsby Shire Council Design & Construction Branch.
- b) No consent is granted for the removal of any other trees as these trees contribute to the established landscape amenity of the area/streetscape.

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

Reason: To identify only those trees permitted to be removed.

5. Tree Pruning

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

Reason: To minimise the impact on trees to be retained.

REQUIREMENTS PRIOR TO THE ISSUE OF A CONSTRUCTION CERTIFICATE
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6. Building Code of Australia

Detailed plans, specifications and supporting information is required to be submitted to the certifying authority detailing how the proposed building work achieves compliance with the *National Construction Code - Building Code of Australia*. All building work must be carried out in accordance with the requirements of the *National Construction Code - Building Code of Australia*.

Reason: Prescribed condition - EP&A Regulation section 69(1).

7. Flood Report

The development shall be designed in accordance with the recommendations outlined in the approved Flooding and Coastal Processes Assessment prepared by Martens & Assoc Pty Ltd, dated 27/05/2022, including the finalising and implementation of:

- a) Preliminary flood emergency response plan (FERP); and
- b) Flood risk action plan (FRAP)

Reason: To manage stormwater flows to minimise potential flooding.

8. Geotechnical

The development shall be designed in accordance with the recommendations outlined in the approved Preliminary Geotechnical Investigation and Acid Sulfate Soils Assessment Issue 1 prepared by Martens & Assoc Pty Ltd, dated 6/04/2022, including:

- a) Additional geotechnical testing prior to commencement of works (Section 5.1);
- b) Geotechnical recommendations (Section 4.3); and
- c) General Geotechnical Recommendations (Appendix F).

Reason: To ensure the stability of the site.

9. Public Road Works

A separate application under Section 138 of the *Roads Act, 1993* must be submitted to Council for approval to carry out works within the public road reserve. All road works approved under this consent must be constructed in accordance with Council's AUS-SPEC Specifications and the following requirements:

- a) The shared footpath pathway and boardwalk structure shall be designed generally in accordance with the approved plans identified as Project No.100227 Drawing No.29.31 Issue 2 by Hornsby Shire Council Design and Construction Branch.

Reason: To ensure infrastructure works are designed and constructed to appropriate standards and requirements of the Roads Act 1993.

10. Construction Environmental Management Plan (CEMP)

To assist in the protection of the public, the environment and Council's assets, a separate Construction Environmental Management Plan must be prepared by a suitably qualified environmental consultant in consultation with a qualified traffic engineer and AQF 5 arborist

and submitted to Council's Compliance Team via Council's Online Services Portal for review and written approval. The Plan must detail the actions that will be taken to protect the environment for the duration of works, and all responsible parties ensuring compliance with the document. The Plan is to be in accordance with the publication 'Managing Urban Stormwater - Landcom (March 2004)', the *Protection of the Environment Operations Act 1997* and relevant Council guidelines, and should include but not be limited to:

- a) Water quality and soil management, including but not limited to sediment and erosion control measures and stormwater management;
- b) Air quality management;
- c) Management strategies for the potential risks to on-site workers and visitors, off-site receptors, and the environment from the contamination identified;
- d) Measures implemented to address the conclusions and recommendations of the:
 - i) Detailed Site Investigation report,
 - ii) Acid Sulfate Soil Management Plan,
 - iii) Asbestos Management Plan,
 - iv) Flooding and Coastal Processes Assessment Report,
 - v) Soil and Water Quality Assessment,
 - vi) Construction Noise & Vibration Management Plan,
 - vii) Preliminary Geotechnical Investigation Report,
 - viii) Human Health Risk Assessment,
 - ix) Biodiversity Development Assessment Report,
 - x) Watercourse and Riparian Lands Assessment.
- e) A Construction Traffic Management Plan (CTMP) including the following:
 - i) The order of construction works and arrangement of all construction machines and vehicles being used during all stages.
 - ii) The CTMP plans shall be in accordance with all other plans submitted to Council as part of this development proposal.
 - iii) A statement confirming that no building materials, work sheds, vehicles, machines or the like shall be allowed to remain in the road reserve area without the written consent of Hornsby Shire Council.
 - iv) The Plan shall be in compliance with the requirements of the Roads and Maritime Services *Traffic control at work sites Manual 2018* and detail:
 - a. Public notification of proposed works;
 - b. Long term signage requirements;
 - c. Short term (during actual works) signage;
 - d. Vehicle Movement Plans, where applicable;
 - e. Traffic Management Plans;
 - f. Pedestrian and Cyclist access and safety.

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- v) Traffic controls including those used during non-working hours. Pedestrian access and two-way traffic in the public road must be able to be facilitated at all times.
 - vi) Details of parking arrangements for all employees and contractors, including layover areas for large trucks during all stages of works. The parking or stopping of truck and dog vehicles associated with the development will not be permitted other than on the site and the plan must demonstrate this will be achieved. The Construction Traffic Impact Assessment and Management Plan should be updated to indicate the location of a minimum of 6 - 8 car parking for light vehicles and 1 heavy vehicle to accommodate construction traffic. An off-site parking area is to be nominated if this cannot be accommodated.
 - vii) Confirmation that a street 'scrub and dry' service will be in operation during all stages of works.
 - viii) Proposed truck routes to and from the site including details of the frequency of truck movements for all stages of the development.
 - ix) Swept path analysis for ingress and egress of the site for all stages of works.
 - x) Site plans for all stages of works including the location of site sheds, concrete pump and crane locations, unloading and loading areas, waste and storage areas, existing survey marks, vehicle entry, surrounding pedestrian footpaths and hoarding (fencing) locations.
 - xi) Site plans showing the exact location(s) of the site offices for the duration of works.
 - xii) The total quantity and size of trucks for all importation and exportation of fill on site throughout all stages of works, and a breakdown of total quantities of trucks for each stage of works.
 - xiii) The number of weeks trucks will be accessing and leaving the site with excavated or imported fill material.
 - xiv) The maximum number of trucks travelling to and from the site on any given day for each stage of works.
 - xv) The maximum number of truck movements on any given day during peak commuting periods for all stages of works.
 - xvi) The source site location of any proposed fill to be imported to the site, for all stages of works.
 - xvii) The Plan must state that the applicant and all employees of contractors on the site must obey any direction or notice from the Prescribed Certifying Authority or Hornsby Shire Council in order to ensure the above.
 - xviii) If there is a requirement to obtain a Work Zone, Out of Hours permit, partial Road Closure or Crane Permit, the Plan must detail these requirements and include a statement that an application to Hornsby Shire Council will be made to obtain such a permit.
- f) A Construction Waste Management Plan detailing the following:

- i) Details of the importation or excavation of soil and fill, the classification of the fill, disposal methods and authorised disposal depots that will be used for the fill, in accordance with Preliminary Geotechnical Investigation Report.
 - ii) Asbestos management requirement and procedures for removal and disposal from the site in accordance with AS 2601-2001 - 'The Demolition of Structures', and the *Protection of the Environment Operations (Waste) Regulation 2005*.
 - iii) General construction waste details including construction waste skip bin locations and litter management for workers.
- g) A Tree Protection Plan (TPP) prepared by an AQF 5 Arborist in accordance with any approved Arboricultural Impact Assessment and tree location plans, detailing the following:
 - i) A site plan showing tree protection zones (TPZ) and structural root zones (SRZ) of trees to be retained and specific details of tree protection measures inclusive of distances (in metres) measured from tree trunks.
 - ii) Construction methodology to avoid damage to trees proposed to be retained during construction works.
 - iii) Specifications on tree protection materials used and methods within the TPZ or SRZ.
 - iii) Location of dedicated material storage space on site outside of TPZ's and SRZ's for retained trees.
- h) Detail the sediment and erosion control measures on a site plan in accordance with the recommendations of the Soil and Water Quality Assessment Report (TRIM: D08426248).
- i) The CEMP must detail the contact information for developers, builder, private certifier and any emergency details during and outside work hours.
- j) The CEMP is to include the construction specifications from section 1.3.1 and 1.3.2 of the Biodiversity Development Assessment Report to ensure there is minimal impact on the marine and terrestrial environment. Machinery is not to be used for any vegetation clearing due to the sensitive nature of the marine environment. If machinery is to be used for earthworks, rubber tracks and rumble boards are to be utilised to minimise disturbance.

Note: The CEMP must be lodged via Council's Online Services Portal at: <https://hornsbyprd-pwy-epw.cloud.infor.com/ePathway/Production/Web/Default.aspx> and by selecting the following menu options: Applications > New Applications > Under 'Application Types': Management Plans.

Reason: To document construction measures to protect the public and the surrounding environment.

11. Waste Management Details

The plans are to indicate the proposed location of any additional public place litter bins and details the proposed servicing arrangements of all bins for approval by Council's waste management branch prior to issue of the Construction Certificate. Bins located along the proposed boardwalk which are not accessible by the contractor will need to be brought to a suitable servicing location by Council staff and returned following service.

Reason: To ensure domestic waste bins are not used for demolition and construction waste.

12. Asbestos Management Plan

- a) An Asbestos Management Plan must be prepared by an appropriately qualified consultant in accordance with Safe Work (2020) How to Manage and Control Asbestos in the Workplace Code of Practice and Safe Work (2019) Code of Practice How to Safely Remove Asbestos and other relevant guidelines and be submitted to Council for approval.
- b) The Asbestos Management Plan must include a methodology for an asbestos survey (AS) post vegetation removal, prior to earthworks commencing) for the asbestos removal works identified within Stage 2 1 investigation area and to provide appropriate construction practices for works in Stage 1.
- c) The Asbestos Management Plan must include an unexpected finds protocol to manage unexpected finds risk (such as other areas of PACM, odours or soil staining).

Reason: To ensure the appropriate removal and disposal of contaminated materials.

13. Sydney Water – s73 Certificate

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

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

Reason: To ensure compliance with the requirements of Sydney Water.

14. Licence Agreement

An executed licence agreement from the relevant NSW government agency governing the use and occupation of Crown land is required to be obtained prior to the issue of a construction certificate. This is to ensure that lawful authority under the *Crown Land Management Act 2016* to use and occupy Crown land or waterway is obtained before construction commences.

Reason: To ensure the appropriate licenses have been obtained.

15. Accessibility

To ensure accessibility to the proposal, no steps or large gaps preventing disabled access are to be included within the proposed works and a shallow ramp should be provided at either end of the boardwalk, if required.

Reason: To ensure the appropriate accessibility to the proposal.

16. Bicycle Racks

Bicycle racks are to be provided at the entrances/exits along the boardwalk. Details of the locations are to be shown on the Construction Certificate plans.

Reason: To ensure rest areas for cyclists.

17. High Pedestrian Area

- a) Signage is to be provided on the boardwalk and pathways at the approach to, and alongside of, the Dolphin Boatshed Marina indicating it is a high pedestrian area and speed limited signage for the road approaches to the site.
- b) To deter vehicles parking on the shared path, delineation such as bollards or kerbing is desirable to address potential safety concerns for vehicular and pedestrian conflict.
- c) Details of the above requirements must be shown on the plans submitted with the Construction Certificate.

Reason: To ensure appropriate safety signage.

18. Appointment of a Project Arborist

- a) A project arborist with AQF Level 5 qualifications must be appointed.
- b) Details of the appointed project arborist must be submitted to Council and the PCA for registration with the application for the construction certificate.

Reason: To ensure appropriate monitoring of tree(s) to be retained.

19. Appointment of Project Bush Regenerator/Ecologist

- a) To ensure the implementation and monitoring of environmental protection measures during the construction of the approved development, a suitably qualified and experienced project bush regenerator/ ecologist must be appointed to assist in ensuring compliance with the conditions of consent and provide monitoring reports to Council at various stages of the Project as identified in the approved Vegetation Management Plan provided by Land Eco (D08426246) and as specified by the conditions of consent.
- b) An inspection schedule to assess tree and vegetation health and provide certification for the various stages of development such as site establishment (includes demolition and installation of tree protection measures), construction work, hard and soft landscaping practical completion and occupancy certification is to be included with the application for the construction certificate and approved by Natural Resources at naturalresourcesplanning@hornsby.nsw.gov.au.
- c) Details of the appointed project ecologist must be submitted to Council and the PCA with the application for the subdivision works certificate.

Reason: To ensure appropriate monitoring of environmental protection measures.

REQUIREMENTS PRIOR TO THE COMMENCEMENT OF ANY WORKS**20. Erection of Construction Sign**

- a) A sign must be erected in a prominent position on any site on which any approved work is being carried out:
 - i) Showing the name, address and telephone number of the principal certifying authority for the work;

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

Reason: Prescribed condition EP&A Regulation, section 70(2) and (3).

21. Protection of Adjoining Areas

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

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

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

Reason: To ensure public safety and protection of adjoining land.

22. Erosion and Sediment Control

To protect the water quality of the downstream environment, erosion and sediment control measures must be provided and maintained throughout the construction period in accordance with the manual 'Urban Stormwater: Soils and Construction "The Blue Book" 2004 (4th edition), the approved plans, Council specifications and to the satisfaction of the principal certifying authority. The erosion and sediment control devices must remain in place until the site has been stabilised and revegetated.

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

Reason: To minimise impacts on the water quality of the downstream environment.

23. Road Opening Permit

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

Reason: To ensure appropriate permits are applied for.

24. Protection of vegetation, habitat and environmental features during construction

Fencing must be placed in accordance with the specifications below to the satisfaction of the Council or the principal certifier:

- a) Prior to the clearing of vegetation, the project ecologist and construction contractor are to identify the maximum extent of clearing using flagging tape, fencing or similar.
- b) Install 1.2-metre-high exclusion fencing along the immediate work area to prevent accidental trampling of retained vegetation. Fencing must be of mesh or bar construction to protect wildlife and allow light and air to adjoining vegetation. The base of the fence must be raised to allow fauna movement.
- c) A sign must be erected along the fence to identify areas of protected vegetation.
- d) Any anthropomorphic waste or weed dispersal throughout the development footprint and adjoining vegetation is to be collected and disposed of offsite.
- e) Clean machinery of soil and debris before entering the site to prevent the spread of weeds and fungal pathogens.

Note: The Act prohibits the disturbance to threatened species, endangered populations and threatened ecological communities, or their habitat, without appropriate consent or license.

Reason: To ensure that adjoining land which contains vegetation of local and state significance is duly protected from impacts during works.

25. Vegetation removal and fauna management

Prior to the clearing of any vegetation or the demolition of any structures associated with the proposed subdivision, the following must be carried out as required by the Vegetation Management Plan Issue 1.0 prepared by Land Eco Consulting, dated 10/05/2022:

- a) A pre-clearing survey is to be completed by the project ecologist, including inspection of hollows and culverts.
- b) The engaged bush regeneration company must complete soil and saltmarsh species translocation to a licenced nursery to be replanted following construction. The company must have proven experience working in translocation.
- c) Suitably qualified and experienced fauna management personnel must be nominated to be present during vegetation clearing in the event fauna is observed.
- d) Prepare protocols for the capture and release of resident fauna, including the staging of any capture and release of resident or injured fauna throughout all stages of the project and notification protocols for unexpected finds.
- e) Any hollows or logs with habitat value must be relocated within the site as habitat.

Reason: To minimise damage to any vegetation or habitat to be retained during construction

26. Implementation of Vegetation Management Plan

- a) The approved Vegetation Management Plan Issue 1.0 prepared by Land Eco Consulting, dated 10/05/2022 must be commenced prior to any clearing or demolition works and is to be in place for a minimum period of 5 years, to be overseen by the project ecologist.
- b) Monitoring reports are to be provided annually to Council's Natural Resources Team (naturalresourcesplanning@hornsby.nsw.gov.au) for the duration of the Vegetation Management Plan.

Reason: To ensure pre-clearance works identified in the approved VMP are carried out to minimise disturbance to protected habitat and vegetation.

27. Biodiversity Offset Scheme

- a) Ecosystem credit retirement conditions:
- i) Prior to commencement of works, the class and number of ecosystem credits in Table 1 must be retired to offset the residual biodiversity impacts of the development.
 - ii) The requirement to retire credits in the above condition may be satisfied by payment to the Biodiversity Conservation Fund of an amount equivalent to the class and number of ecosystem credits, as calculated by the Biodiversity Offsets Payment Calculator.
 - iii) Evidence of the retirement of credits or payment to the Biodiversity Conservation Fund in satisfaction of Table 1 must be provided to the consent authority.

Impacted PCT	No. of ecosystem credits	IBRA sub-region	PCTs that can be used for offsetting
1234-Estuarine Swamp Oak forest	1	Pittwater, Cumberland, Sydney Cataract, Wyong and Yengo or Any IBRA subregion that is within 100 kilometres of the outer edge of the impacted site	915, 916, 917, 918, 919, 1125, 1230, 1232, 1234, 1235, 1236, 1726, 1727, 1728, 1729, 1731, 1800, 1808
1557-Central Coast Escarpment dry forest	4	Pittwater, Cumberland, Sydney Cataract, Wyong and Yengo or Any IBRA subregion that is within 100 kilometres of the outer edge of the impacted site	690, 697, 698, 755, 1092, 1262, 1267, 1268, 1281, 1385, 1548, 1549, 1550, 1556, 1557, 1558, 1564, 1565, 1580, 1582, 1584, 1585, 1845, 1846, 1847, 1914

Table 1: Ecosystem credits - like for like

- b) Species credit retirement conditions
- i) Prior to commencement of works, the class and number of species credits in Table 2 must be retired to offset the residual biodiversity impacts of the development.
 - ii) The requirement to retire credits in the above condition may be satisfied by payment to the Biodiversity Conservation Fund of an amount equivalent to the class and number of species credits, as calculated by the Biodiversity Offsets Payment Calculator.
 - iii) Evidence of the retirement of credits or payment to the Biodiversity Conservation Fund in satisfaction of Table 2 must be provided to the consent authority.

Impacted species credit species	No. of species credits	IBRA sub-region
Myotis macropus / Southern Myotis	10	Anywhere in NSW

Table 2: Species credits - like for like

c) Variation: Ecosystem credit retirement conditions

- i) Prior to commencement of works, the class and number of species credits in Table 4 must be retired to offset the residual ecosystem impacts of development.
- ii) Evidence of the retirement of credits in satisfaction of Table 4 is to be provided to the consent authority.

Impacted PCT	No. of ecosystem credits	IBRA sub-region	Approved variation PCT(s) that can be used for offsetting
1234 - Estuarine Swamp Oak Forest	1	Pittwater, Cumberland, Sydney Cataract, Wyong and Yengo or Any IBRA subregion that is within 100 kilometres of the outer edge of the impacted site	

Table 4: Ecosystem credits - variation rules

d) Variation: Species credit retirement conditions

- i) Prior to commencement of works, the class and number of species credits in Table 5 must be retired to offset the impacts of development.
- ii) Evidence of the retirement of credits in satisfaction of Table 5 is to be provided to the consent authority.

Impacted species credit species	No. of species credits	IBRA sub-region	Approved variation species credit species that can be used for offsetting
Myotis Macropus - Southern Myotis	10	Pittwater, Cumberland, Sydney Cataract, Wyong and Yengo. or Any IBRA subregion that is within 100 kilometers of the outer edge of the impacted site.	Any species listed as Vulnerable or a higher category of listing under Part 4 of the BC Act

Table 5: Species credits - variation rules

Reason: To meet offset obligations as identified by the Biodiversity Conservation Act 2016.

28. Fisheries Offsets

In accordance with the *Fisheries Management Act 1994* and the Policy and Guidelines for Fish Habitat Conservation and Management (2013), when on-going restoration is not possible, a monetary offset may be accepted. As the site is constrained and an offset of Saltmarsh Estuarine Complex and Estuarine Mangrove Forest is not possible, 1,040m² of impacted

marine vegetation is to be offset at a ratio of 2:1, at the rate of \$51/m². A total of \$106,080 is required to be offset as compensation for harm to marine habitat.

Reason: to meet offset obligations as identified by the Fisheries Management Act 1994.

REQUIREMENTS DURING DEMOLITION AND CONSTRUCTION

29. Construction Work Hours

- a) All works on site, including demolition and earth works, must only occur between 7am and 5pm Monday to Saturday.
- b) No work is to be undertaken on Sundays or public holidays.

Reason: To protect the amenity of neighbouring properties.

30. Environmental Management

To prevent sediment run-off, excessive dust, noise or odour emanating from the site during the construction, the site must be managed in accordance with the publication 'Managing Urban Stormwater - Landcom (March 2004)' and the Protection of the Environment Operations Act 1997.

Reason: To minimise impacts to the natural environment and public health.

31. Street Sweeping

During works and until exposed ground surfaces across the site have been stabilised, street sweeping must be undertaken following sediment tracking from the site.

The street cleaning service must utilise a 'scrub and dry' method and be undertaken for the full extent of any sediment tracking.

Reason: To minimise impacts to the natural environment.

32. Compliance with Environmental Management Plan (EMP)

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

Reason: To ensure the required site management measures are implemented during construction.

33. Compliance with Asbestos Management Plan

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

Reason: To ensure the required asbestos management measures are implemented during construction.

34. Compliance with Construction Noise and Vibration Management Plan

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

Reason: To ensure the required noise and vibration measures are implemented during construction.

35. Compliance with Preliminary Geotechnical Investigation

The recommendations of the Preliminary Geotechnical Investigation and Acid Sulfate Soils Assessment Issue 1 prepared by Martens & Assoc Pty Ltd, dated 6/04/2022 must be complied with for the duration of works, unless otherwise approved by Council.

Reason: To ensure the required geotechnical measures are implemented during construction.

36. Council Property

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

Note: This consent does not give right of access to the site via Council's park or reserve. Should such access be required, separate written approval is to be obtained from Council.

Reason: To protect public land.

37. Disturbance of Existing Site

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

Reason: To protect the natural features of the site.

38. Landfill

- a) Prior to fill material being imported to the site, a Waste Classification Certificate shall be obtained from a suitably qualified environmental consultant confirming the fill wholly consists of Virgin Excavated Natural Material (VENM) as defined in Schedule 1 of the *Protection of the Environment Operations Act 1997* or a material approved under the NSW Environment Protection Authority's Resource Recovery Orders and Exemptions.
- b) The required Waste Classification Certificate must be obtained by the Principal Contractor prior to fill being imported to the site and made available to Council at its request.

Reason: To ensure soil imported to the site is not contaminated.

39. Excavated Material

All excavated material removed from the site must be classified by a suitably qualified environmental consultant in accordance with the NSW Environment Protection Authority's *Waste Classification Guidelines* and *Protection of the Environment Operations (Waste) Regulation 2014* prior to disposal to a licensed waste management facility. Tipping dockets for the total volume of excavated material that are received from the licensed waste management facility must be provided to the principal certifying authority prior to the issue of an Occupation Certificate.

Reason: To ensure the appropriate disposal of excavated material.

40. Acid Sulfate Soils

- a) The Council approved Acid Sulfate Soil Management Plan Soil and Water Quality Assessment Report (including Acid Sulfate Soil Management Plan), prepared by Martens & Assoc Pty Ltd, 1/5/22 must be complied with for the duration of works, unless otherwise approved by Council.
- b) Should acid sulfate soils be encountered during construction works, cessation of works on site and notification to Council is to be undertaken immediately.
- c) Prior to any works recommencing on the site, written advice is to be provided to Council outlining the remediation strategies to manage identified acid sulfate soils for review and approval.

Reason: To protect the environment from the effects of acid sulfate soils.

41. Unexpected Finds

Should the presence of asbestos or soil contamination, not recognised during the application process be identified during any stage of works, the applicant must immediately notify the PCA and Council.

Reason: To ensure the appropriate removal and disposal of contaminated materials.

42. Waste Management Details

Requirements of the approved Waste Management Plan shall be complied with during all site preparation works, demolition and throughout all construction works. When implementing the Waste Management Plan, the developer is to ensure:

- a) The disposal of any demolition and construction waste must be undertaken in accordance with the requirements of the Protection of Environment Operations Act 1997
- b) All waste on site is to be stored, handled and disposed of in such a manner as to not create air pollution, offensive noise or pollution of land and water as defined by the *Protection of Environment Operations Act 1997*
- c) Generation, storage, treatment and disposal of hazardous waste is conducted in accordance with the relevant waste legislation administered by the EPA and relevant Occupational Health and Safety legislation administered by WorkCover NSW
- d) All waste generated (including excavated materials) which cannot be reused or recycled must be transported to a facility which can lawfully accept it
- e) All materials and resources that are to be stored on site during construction works are contained on the site. The provisions of the *Protection of Environment Operations Act 1997* must be complied with when placing/stock piling loose material, disposal of concrete waste or activities which have potential to pollute drains and water courses
- f) The storage of waste and recycling containers must be within the boundaries of the development site at all times. Public footways and roads must not be used for the storage of any waste and must be kept clear of obstructions during all construction works

- g) From the commencement of works on site, until such time as the final occupation certificate is issued, the applicant is required to monitor the construction area and the immediate vicinity regularly for litter and illegal dumping. The applicant is to arrange removal of said material where required to avoid contamination of waterways and bushland as well as mitigating any further instances or compounding of illegal dumping.
- h) Additionally, written records of the following items must be maintained during the removal of any waste from the site and such information submitted to the Principal Certifying Authority within fourteen days of the date of completion of the works:
 - i) The identity of the person removing the waste.
 - ii) The waste carrier vehicle registration.
 - iii) Date and time of waste collection.
 - iv) A description of the waste (type of waste and estimated quantity).
 - v) Details of the site to which the waste is to be taken.
 - vi) The corresponding weighbridge tip docket/receipt from the site to which the waste is transferred (noting date and time of delivery, description (type and quantity) of waste).
 - vii) Whether the waste is expected to be reused, recycled or go to landfill.

Note: In accordance with the Protection of the Environment Operations Act 1997, the definition of waste includes any unwanted substance, regardless of whether it is reused, recycled or disposed to landfill.

Reason: To ensure the management of waste to protect the environment and local amenity during construction.

43. Garbage receptacle

A garbage receptacle must be provided at the work site before works begin and must be maintained until all works are completed.

- a) The garbage receptacle must have a tight fitting lid and be suitable for the reception of food scraps and papers.
- b) The receptacle lid must be kept closed at all times, other than when garbage is being deposited.
- c) Food scraps must be placed in the garbage receptacle and not in demolition and construction waste bins.

Reason: To maintain the site in a clean condition and protect local amenity.

44. Prohibited actions within the tree protection zones

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

- a) Soil cutting or filling, including excavation and trenching
- b) Soil cultivation, disturbance or compaction
- c) Stockpiling storage or mixing of materials

- d) The parking, storing, washing and repairing of tools, equipment and machinery
- e) The disposal of liquids and refuelling
- f) The disposal of building materials
- g) The siting of offices or sheds
- h) Any action leading to the impact on tree health or structure

Reason: To protect trees during construction.

45. Approved Works within Tree Protection Zone incursions

- a) Where tree root pruning is required for the installation of piers, driveway or underground services, the pruning must be overseen by the AQF 5 project arborist and must be undertaken as follows:
 - i) Using sharp secateurs, pruners, handsaws or chainsaws with the final cut being clean.
 - ii) The maximum diameter of roots permitted to be cut is 40mm
- b) Approved excavations within the Tree Protection Zone of trees to be retained not associated with installation of services must be undertaken as follows:
 - i) Excavations for the construction and/or installation of the piers in the Tree Protection Zone of trees to be retained on the approved plans must be supervised by the project arborist for the first 1.000 meter undertaken manually to locate roots and allow for pruning in accordance with Condition No. 44 a).
- c) To minimise impacts within the Tree Protection Zone (TPZ) of trees retained on the approved plans, the installation of services must be undertaken as follows:
 - i) The AQF 5 project arborist must be present to oversee the installation of any underground services which enter or transect the tree protection.
 - ii) The installation of any underground services which either enter or transect the designated TPZ must be undertaken manually.
 - iii) For manually excavated trenches the AQF 5 project arborist must designate roots to be retained. Manual excavation may include the use of pneumatic and hydraulic tools.

Reason: To protect trees during construction.

46. Building Materials and Site Waste

The stockpiling of building materials, the parking of vehicles or plant, the disposal of cement slurry, waste water or other contaminants must be located outside the tree protection zones as prescribed in the conditions of this consent of any tree to be retained.

Reason: To protect trees during construction.

REQUIREMENTS PRIOR TO THE ISSUE OF AN OCCUPATION CERTIFICATE**47. Construction of engineering works**

All footpath and boardwalk construction identified in this consent are to be completed and a Compliance Certificate issued prior to the release of the Occupation Certificate.

Reason: To ensure engineering works are completed.

48. Damage to Council Assets

To protect public property and infrastructure, any damage caused to Council's assets as a result of the construction or demolition of the development must be rectified by the applicant in accordance with AUS-SPEC Specifications (www.hornsby.nsw.gov.au/property/build/aus-spec-terms-and-conditions). Rectification works must be undertaken prior to the issue of an Occupation Certificate, or sooner, as directed by Council.

Reason: To ensure public infrastructure and property is maintained.

49. Preservation of Survey Marks

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

Reason: To protect the State's survey infrastructure.

50. Works as Executed Plan

A works-as-executed plan(s) must be prepared by a registered surveyor and submitted to Council for completed footpath pathways and boardwalk structure.

Reason: To ensure infrastructure is constructed and positioned in the approved location.

51. Flood Emergency Response Plan

A flood emergency response plan must be prepared which is generally in accordance with the approved Flooding and Coastal Processes Assessment Report and must be implemented prior to the operation of the footpath pathway and boardwalk.

Reason: To ensure users of the walkway are aware of flood emergency procedures in the event of a flood.

52. Compliance with Acid Sulfate Soil Management Plan

A report is to be submitted to the PCA by a suitably qualified Environmental Consultant in consultation with a chartered Structural Engineer prior to the issue of an Occupation Certificate, confirming compliance with all recommendations as outlined in the Acid Sulfate Soil Management Plan contained in the Soil and Water Quality Assessment Report prepared by Martens & Assoc Pty Ltd, dated 1/05/2022.

Reason: To ensure the environment has been protected from the effects of acid sulfate soils.

53. Asbestos Clearance Certificate

Should any asbestos be encountered during demolition or construction works, a licenced asbestos assessor is required to provide a Clearance Certificate to the Certifier prior to the issue of an Occupation Certificate, certifying that the asbestos has been removed and appropriately disposed of, and the site is now suitable for its approved use.

Reason: To ensure the appropriate removal and disposal of contaminated materials and the site is suitable for its approved use.

54. Environmental Educational Signage

Signage informing boardwalk users of the following should be designed and erected at multiple points along the boardwalk including:

- a) Consequences of littering (legal and compassionate responsibility)
- b) Enforce the rules that pedestrians must stay on boardwalk and not leave the boardwalk to avoid trampling native vegetation and wildlife habitat.
- c) Informing the public of the presence of the Coastal Saltmarsh and Swamp Oak Floodplain Forest Endangered Ecological Communities.
- d) Detailing the negative impacts of pet defecation and urination on the saltmarsh, encouraging owners to keep pets on leash and clean up after them.
- e) Enforce no smoking rules on the boardwalk.
- f) Fishing information including fish bag limits, protected marine species to avoid, pest species to report, equipment cleaning protocols and NSW DPI Fisheries contact information and encouraging the use of environmentally friendly fishing equipment.

Reason: To ensure protection of the environment.

55. Nest Box Installation

In accordance with the approved Vegetation Management Plan, prepared by Land Eco Consulting, 10/5/22, nest boxes are to be installed throughout the development area to offset the loss of habitat. The nest boxes to be installed must include:

- a) 5 microbat boxes
- b) 5 small parrot boxes
- c) 5 large parrot boxes

Reason: To offset loss of habitat.

56. Offset planting

In accordance with the approved Vegetation Management Plan, offset planting must be undertaken using the plant species list in section 7 of the approved VMP, provided by Land Eco Consulting. Initial planting must be undertaken prior to the issue of an occupation certificate, to be followed to supplementary planting as required.

Reason: To maintain biodiversity values on the site.

57. Final Certification - Ecology

The project Ecologist must provide to the Council certification of the implementation of the of the Vegetation Management Plan Issue 1.0 prepared by Land Eco Consulting, dated 10/05/2022. The certification must note:

- a) Certification that tasks within the VMP have commenced.
- b) Time and date of any site inspections.
- c) Key observations made during each site inspection.
- d) Compliance with key hold points in the approved plans.
- e) Variations from the approved plan and alternative solution or remedial works, including correspondence with Council or the certifier regarding variations.
- f) Compliance or non-compliance with the approved plan.
- g) Recommendations for future works.

Reason: To ensure that ecological works have been undertaken in accordance with the approved plan(s).

58. Litter and Illegal Dumping Management

A Litter and Illegal Dumping Management Plan must be submitted to the principal certifying authority and Council prior to the issue of the Occupation Certificate or the use commencing, whichever is earlier. The Litter and Illegal Dumping Management Plan must include mitigation (including but not limited to litter picking patrols and removal of illegally dumped material) and prevention strategies (for example signage, strategically located litter bins, security cameras) and must cover both the subject site and adjacent land.

Reason: To ensure appropriate mitigation and prevention strategies are implemented.

59. Cultural Information Signage

Consultation is to be undertaken with the Local Aboriginal groups and Hornsby Aboriginal and Torres Strait Islander Consultative Committee to inform cultural signage at locations spaced along the boardwalk. The signage is to be in place prior to the issue of an Occupation Certificate.

Reason: To ensure cultural information signage is installed.

60. Certification of Fisheries Requirements

Evidence is to be provided to the Principal Certifying Authority (PCA) of the satisfactory completion of all works required by the NSW Department of Primary Industries - Fisheries conditions of concurrence contained within their letter dated 29 March 2023 (replicated below), prior to the issue of the Occupation Certificate.

Reason: To ensure Certification of Fisheries Requirements.

GENERAL TERMS OF APPROVAL - NEW SOUTH WALES DEPARTMENT OF PRIMARY INDUSTRIES - FISHERIES

The following conditions of consent are General Terms of Approval from the nominated State Agency pursuant to Section 4.47 of the *Environmental Planning and Assessment Act 1979* and must be complied with to the satisfaction of that Agency.

61. Part 7 Permits

The proponent must apply for and obtain a Part 7 permit to for dredging, reclamation, and to harm marine vegetation under the FM Act from DPI Fisheries prior to any works on site. Permit application forms are available from the DPI Fisheries website at: <http://www.dpi.nsw.gov.au/fisheries/habitat/help/permit>.

62. Harm Offsets

Offsets for harm to marine vegetation will be negotiated between DPI Fisheries and Hornsby Shire Council as part of the Fisheries Permit process. Council must undertake a feasibility assessment for on-ground rehabilitation works within the Hawkesbury Estuary. The offset works do not need to occur within the project site or immediately adjacent, so long as they are within the same estuary as where the harm will occur. Monetary compensation will only be accepted if the feasibility assessment demonstrates that there is no potential for onground rehabilitation works.

63. Environmental safeguards

Environmental safeguards (silt curtains, booms etc.) are to be used during construction to ensure that there is no escape of turbid plumes into the aquatic environment. Turbid plumes have the potential to smother aquatic vegetation and have a deleterious effect on benthic organisms.

- END OF CONDITIONS -

ADVISORY NOTES

The following information is provided for your assistance to ensure compliance with the *Environmental Planning and Assessment Act 1979*, *Environmental Planning and Assessment Regulation 2000*, other relevant legislation and Council's policies and specifications. This information does not form part of the conditions of development consent pursuant to Section 4.17 of the Act.

Environmental Planning and Assessment Act 1979 Requirements

The *Environmental Planning and Assessment Act 1979* requires:

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

- An occupation certificate to be issued before occupying any building or commencing the use of the land.

Tree and Vegetation Preservation

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

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

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

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

Disability Discrimination Act

The applicant's attention is drawn to the existence of the *Disability Discrimination Act 1992*. A construction certificate is required to be obtained for the proposed building/s, which will provide consideration under the *Building Code of Australia*, however, the development may not comply with the requirements of the *Disability Discrimination Act 1992*. This is the sole responsibility of the applicant.

Covenants

The land upon which the subject building is to be constructed may be affected by restrictive covenants. Council issues this approval without enquiry as to whether any restrictive covenant affecting the land would be breached by the construction of the building, the subject of this consent. Applicants must rely on their own enquiries as to whether or not the building breaches any such covenant.

Dial Before You Dig

Prior to commencing any works, the applicant is encouraged to contact Before You Dig Australia (BYDA) at www.byda.com.au for free information on potential underground pipes and cables within the vicinity of the development site.

Telecommunications Act 1997 (Commonwealth)

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

Asbestos Warning

Should asbestos or asbestos products be encountered during demolition or construction works, you are advised to seek advice and information prior to disturbing this material. It is recommended that a contractor holding an asbestos-handling permit (issued by *SafeWork NSW*) be engaged to manage the proper handling of this material. Further information regarding the safe handling and removal of asbestos can be found at:

www.environment.nsw.gov.au

www.adfa.org.au

www.safework.nsw.gov.au

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

BROOKLYN SHARED PATH & BOARDWALK SEYMOURS CREEK TO KANGAROO POINT

LEGEND	
	EXISTING KERB & GUTTER
	EXISTING EDGE OF BITUMEN
	EXISTING FENCE
	EXISTING CONCRETE PATH EDGE
	EXISTING STORMWATER PIPE
	EXISTING POWER POLE
	EXISTING / PROPOSED SIGN
	EXISTING TREE
	EXISTING TREE TO BE REMOVED
	SURVEY TRAVERSE STATION
	PERMANENT SURVEY MARK
	SURVEY REFERENCE MARKS - DRILL HOLE & WHARF NAIL MARKED IRON PIPE
	EXISTING OPTICAL PIT
	EXISTING WATER STOP VALVE
	EXISTING FIRE HYDRANT
	EXISTING TELSTRA PIT / CABLE MARKER
	EXISTING J/G TELSTRA CABLES
	EXISTING J/G OPTICAL CABLES
	EXISTING J/G SEWER MAIN
	EXISTING OVERHEAD ELECTRICAL CABLES
	EXISTING WATER MAIN
	EXISTING LINE MARKING
	PROPOSED LINE MARKING
	DESIGN SETOUT POINT & NUMBER
	TREE LABEL (REFER TO SHEETS Nos 28 TO 31 FOR DETAILS)
	EXTENT OF RAISED BOARDWALK (FIBRE REINFORCED PLASTIC - COLOUR TO MATCH CONCRETE PATH)
	EXTENT OF NEW FOOTPATH CONSTRUCTION (ALL PATHS NOS CONCRETE REFER TO SHEET No 3 FOR DETAILS)

DRAWING SCHEDULE		
SHEET No.	TITLE	ISSUE
1	DRAWING SCHEDULE, LOCALITY PLAN & LEGEND	2
2	PROJECT NOTES	2
3	BOARDWALK & SHARED PATHWAY TYPICAL SECTIONS	2
4	CONCRETE PATH JOINT DETAILS	2
5	OVERALL LAYOUT PLAN	2
6	CONTROL LINE 1 SETOUT DETAILS - SHEET 1 OF 2	2
7	CONTROL LINE 1 SETOUT DETAILS - SHEET 2 OF 2	2
8	GENERAL WORKS & SERVICES PLAN - SHEET 1 OF 8	2
9	GENERAL WORKS & SERVICES PLAN - SHEET 2 OF 8	2
10	GENERAL WORKS & SERVICES PLAN - SHEET 3 OF 8	2
11	GENERAL WORKS & SERVICES PLAN - SHEET 4 OF 8	2
12	GENERAL WORKS & SERVICES PLAN - SHEET 5 OF 8	2
13	GENERAL WORKS & SERVICES PLAN - SHEET 6 OF 8	2
14	GENERAL WORKS & SERVICES PLAN - SHEET 7 OF 8	2
15	GENERAL WORKS & SERVICES PLAN - SHEET 8 OF 8	2
16	CL1 CROSS SECTIONS - CH000 000 TO CH200 000	2
17	CL1 CROSS SECTIONS - CH200 000 TO CH300 000	2
18	CL1 CROSS SECTIONS - CH300 000 TO CH400 000	2
19	CL1 CROSS SECTIONS - CH400 000 TO CH423 484	2
20	CL1 CROSS SECTIONS - CH423 484 TO CH430 000	2
21	CL1 CROSS SECTIONS - CH430 000 TO CH4575 916	2
22	CL1 CROSS SECTIONS - CH4575 916 TO CH468 356	2
23	CL1 CROSS SECTIONS - CH468 356 TO CH482 024	2
24	CL1 CROSS SECTIONS - CH482 024 TO CH490 000	2
25	CL1 CROSS SECTIONS - CH490 000 TO CH497 079	2
26	CL1 CROSS SECTIONS - CH497 079 TO CH500 000	2
27	TREE SCHEDULE - SHEET 1 OF 4	2
28	TREE SCHEDULE - SHEET 2 OF 4	2
29	TREE SCHEDULE - SHEET 3 OF 4	2
30	TREE SCHEDULE - SHEET 4 OF 4	2



NATURAL RESOURCES BRANCH Project Manager: Ms. M. JONES Prepared in accordance with the project plan of the project		TRAFFIC & ROAD SAFETY BRANCH Project Manager: Ms. B. JARVIS Prepared in accordance with the project plan of the project		ASSET MANAGEMENT & MAINTENANCE BRANCH Project Manager: Ms. A. BOTT Prepared in accordance with the project plan of the project	
LOCALITY PLAN NOT TO SCALE		PRELIMINARY NOT FOR CONSTRUCTION ISSUED FOR INFORMATION ONLY		BROOKLYN SHARED PATH & BOARDWALK SEYMOURS CREEK TO KANGAROO POINT	
Drawing Number: 100277		Issue: 1 of 30		Date: 2	
Drawing Title: BROOKLYN SHARED PATH & BOARDWALK SEYMOURS CREEK TO KANGAROO POINT		Drawing Schedule: 29.31		Drawing Schedule: 29.31	

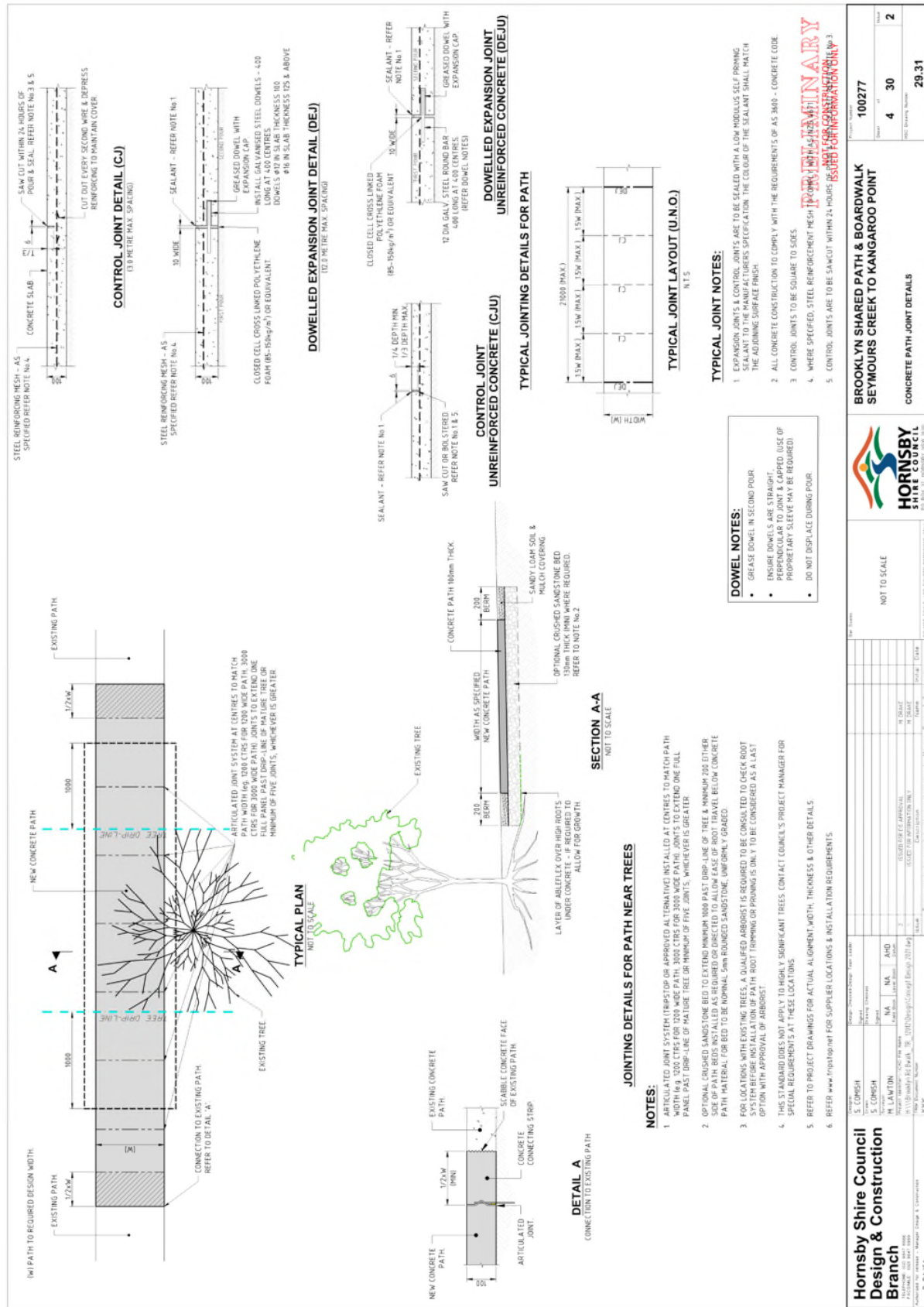


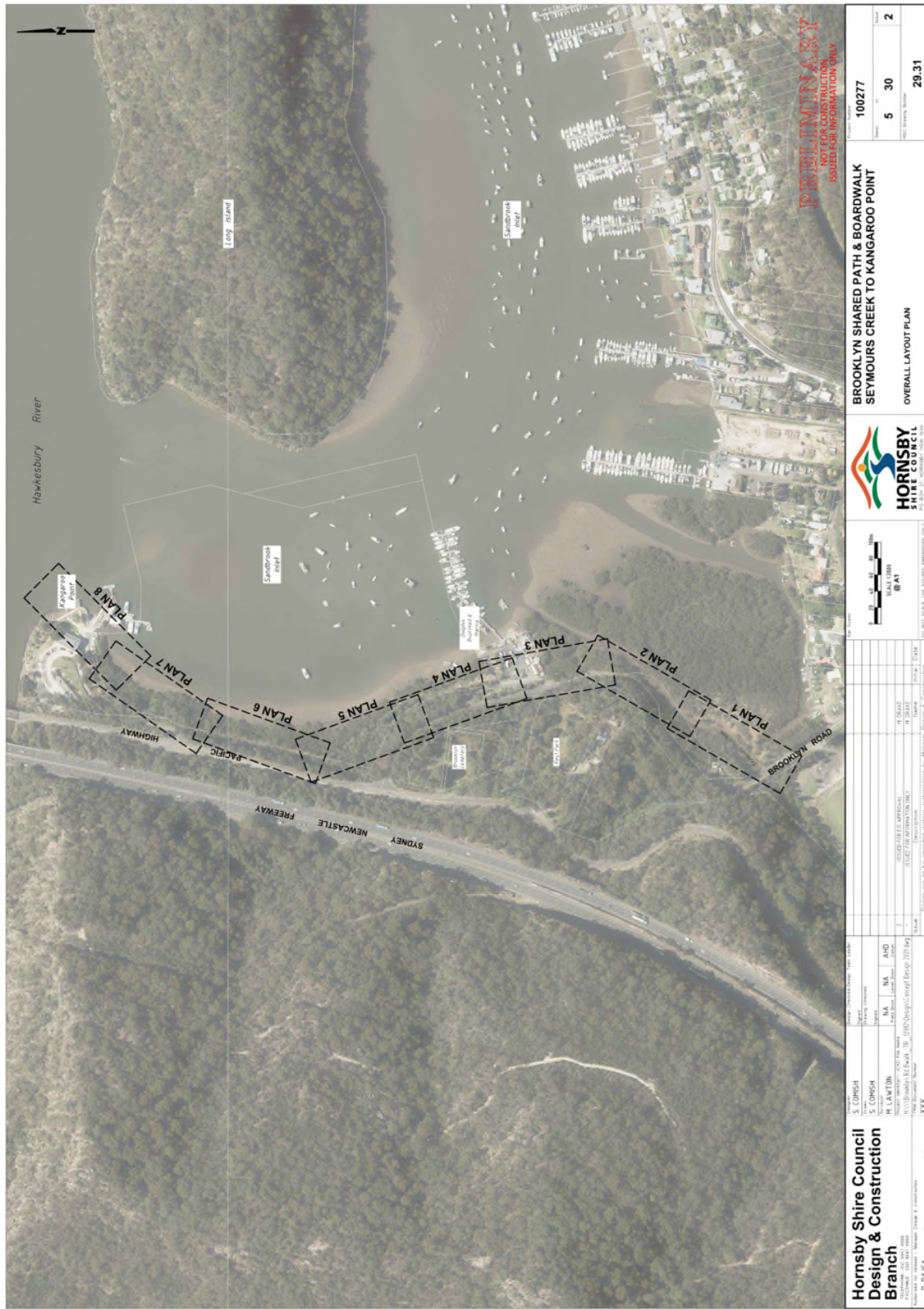
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ATTACHMENT 3 - ITEM 4

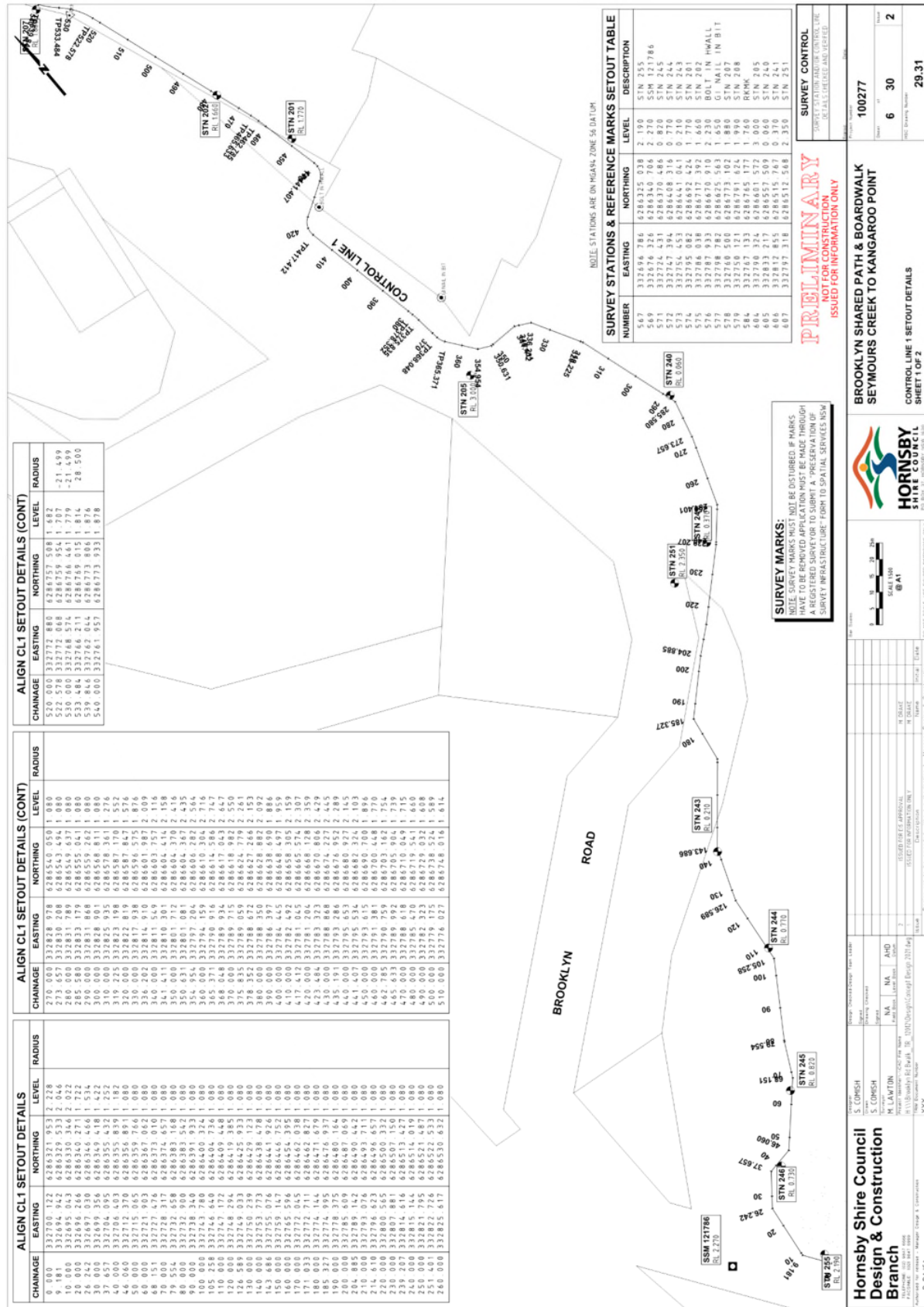
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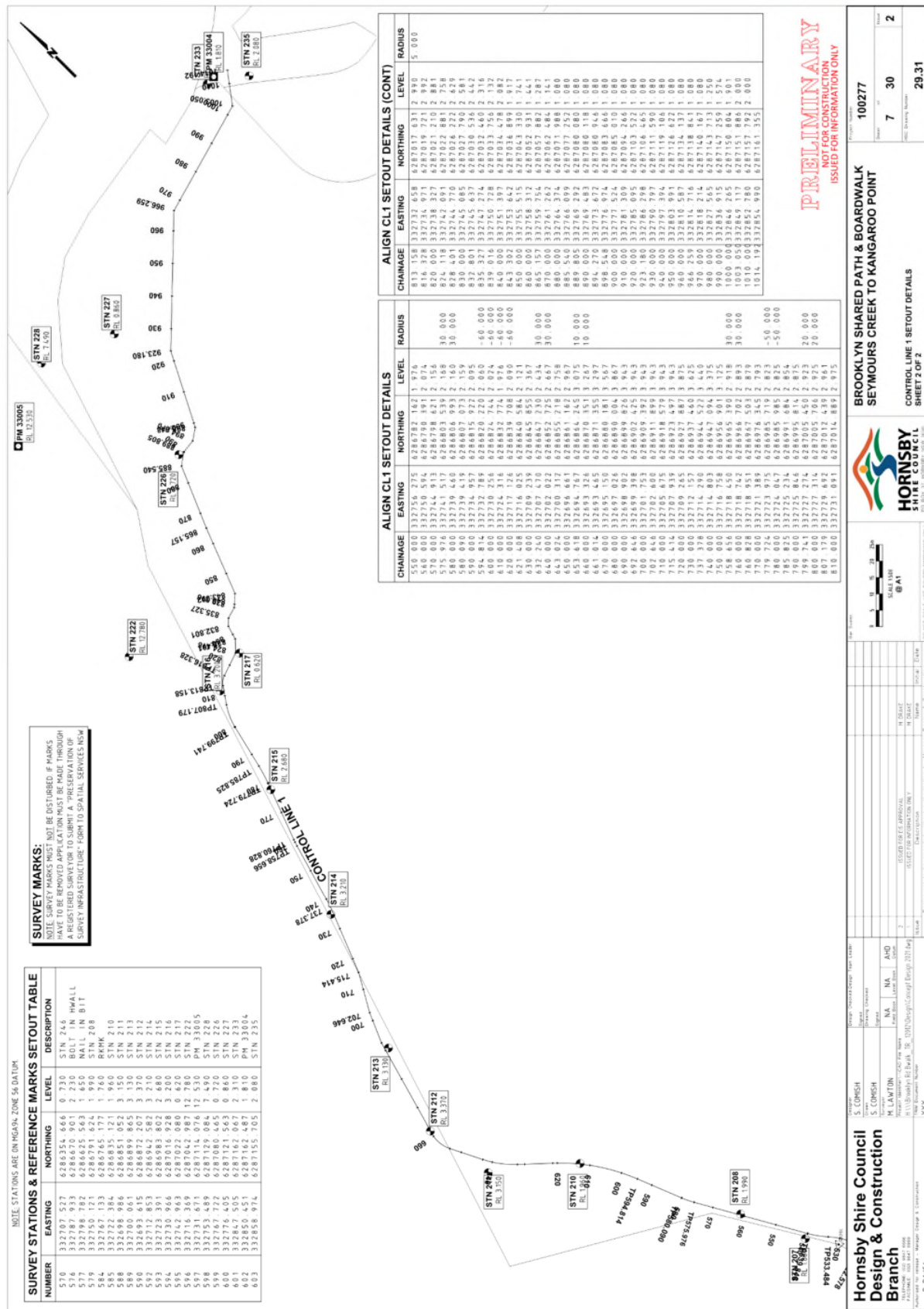
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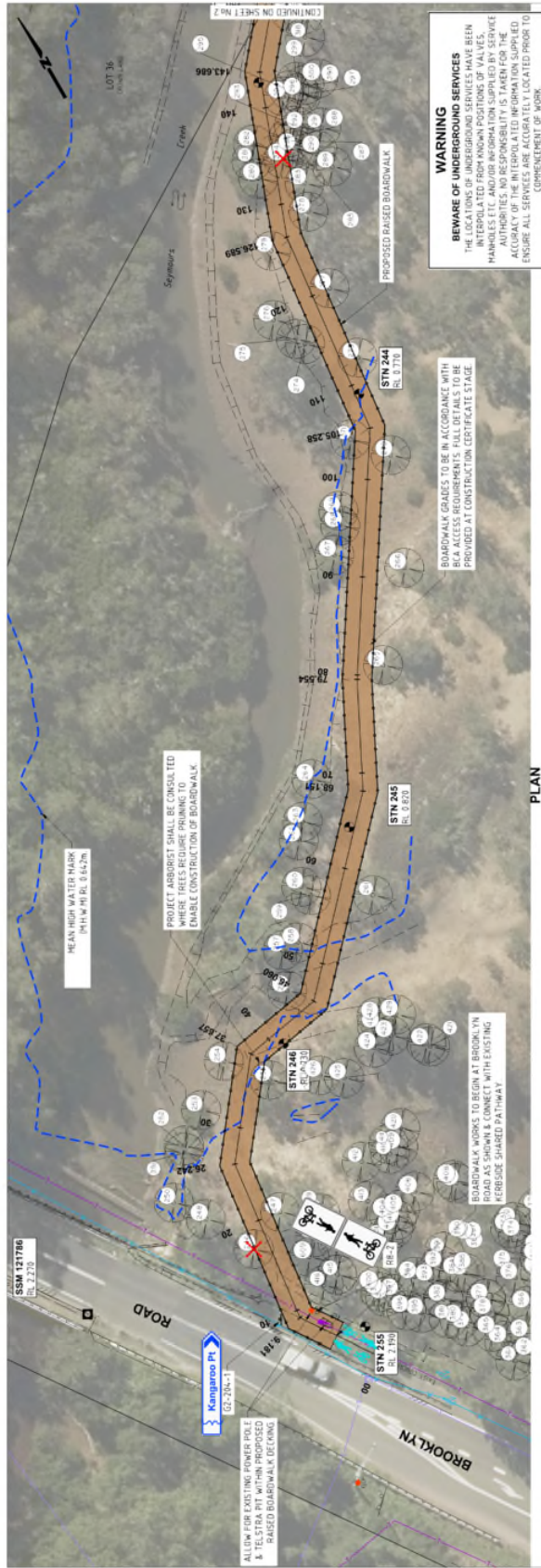




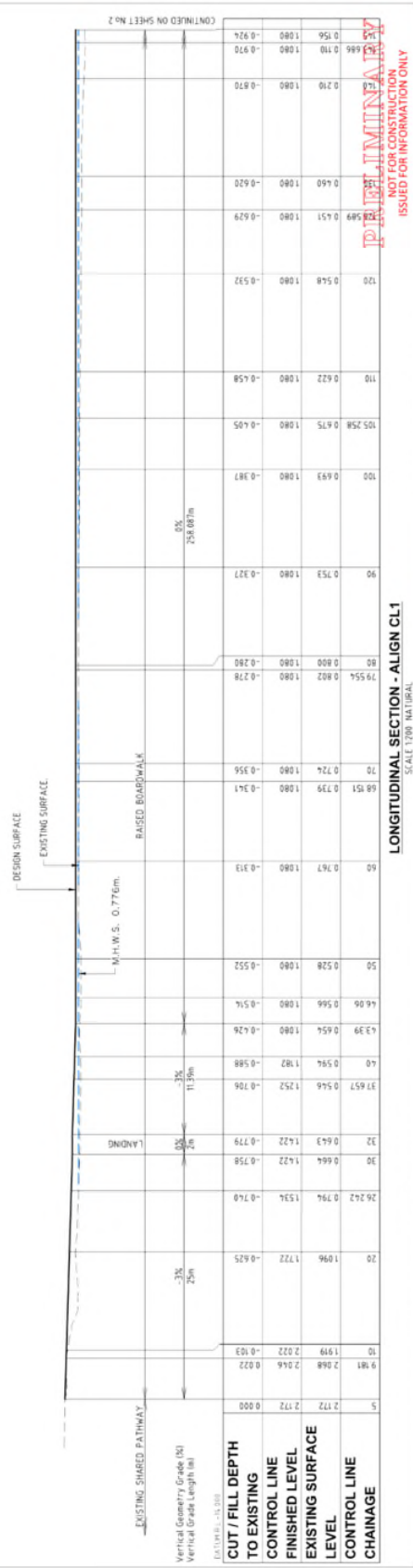
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PLAN
SCALE 1:200



LONGITUDINAL SECTION - ALIGN CL1
SCALE 1:200 NATURAL



Hornsby Shire Council
Design & Construction Branch

Project Name: **BROOKLYN SHARED PATH & BOARDWALK SEYMOURS CREEK TO KANGAROO POINT**

Project Number: **100277**

Scale: **8 30**

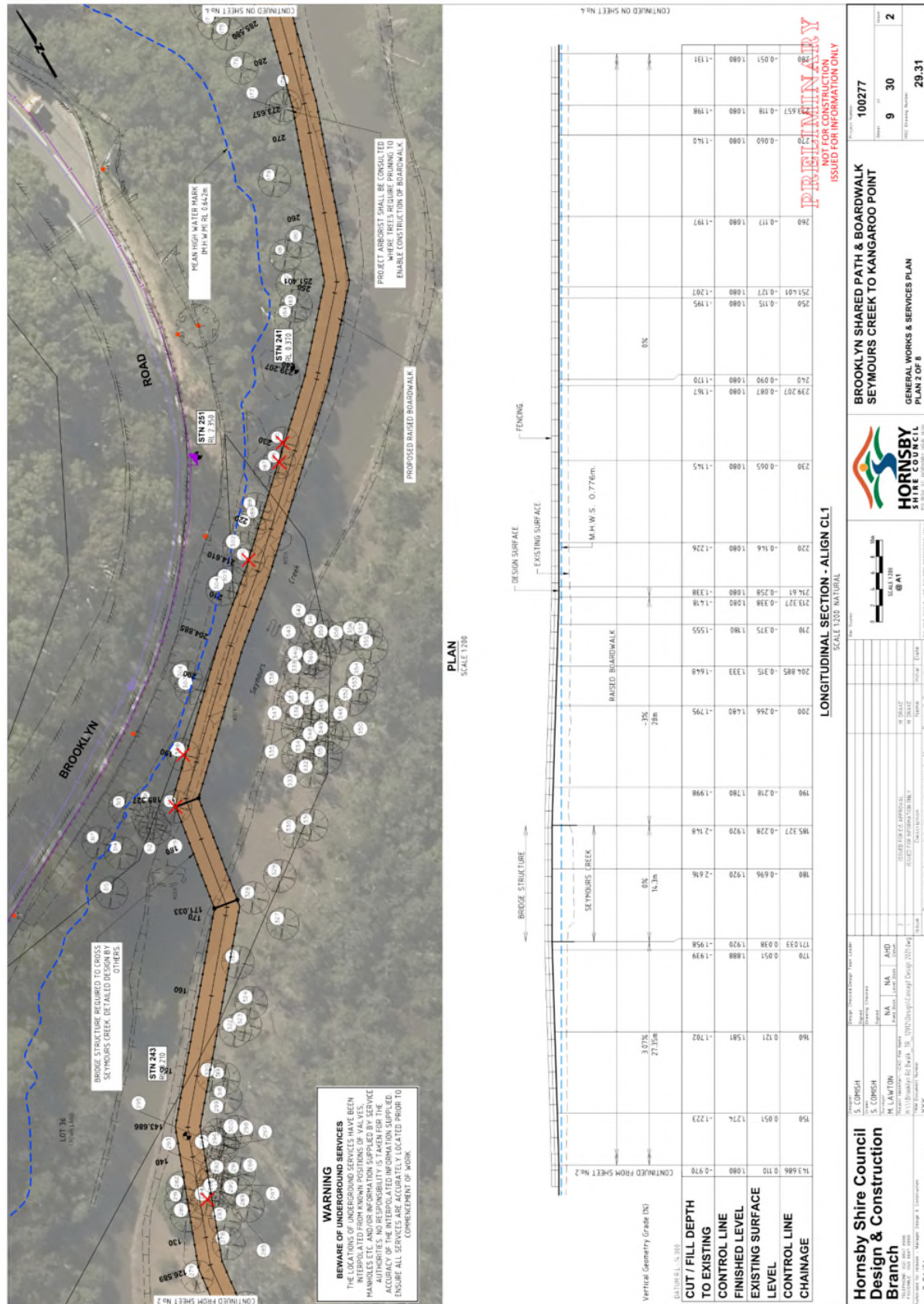
Sheet: **2**

Plan 1 of 8

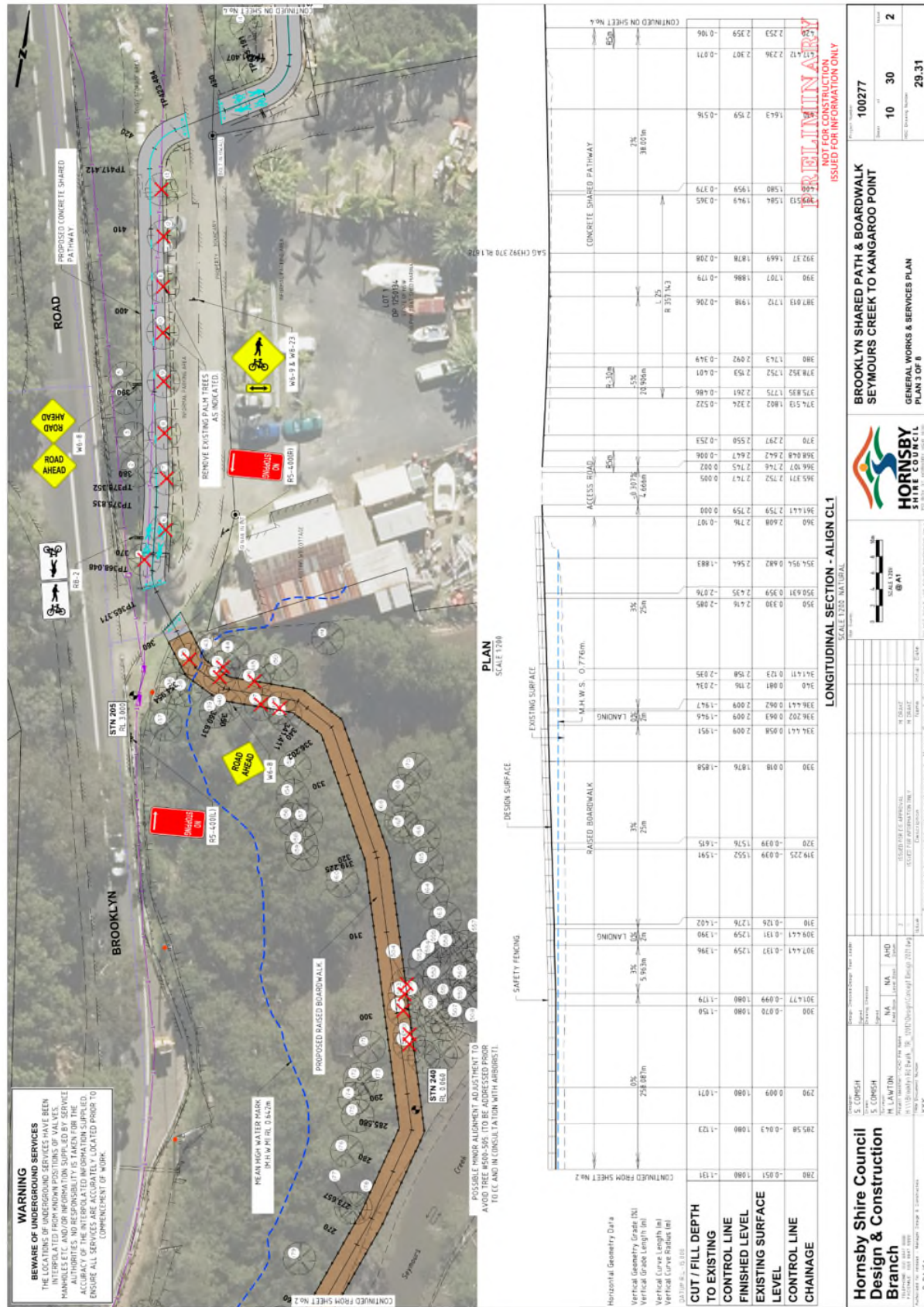
General Works & Services Plan

29.31

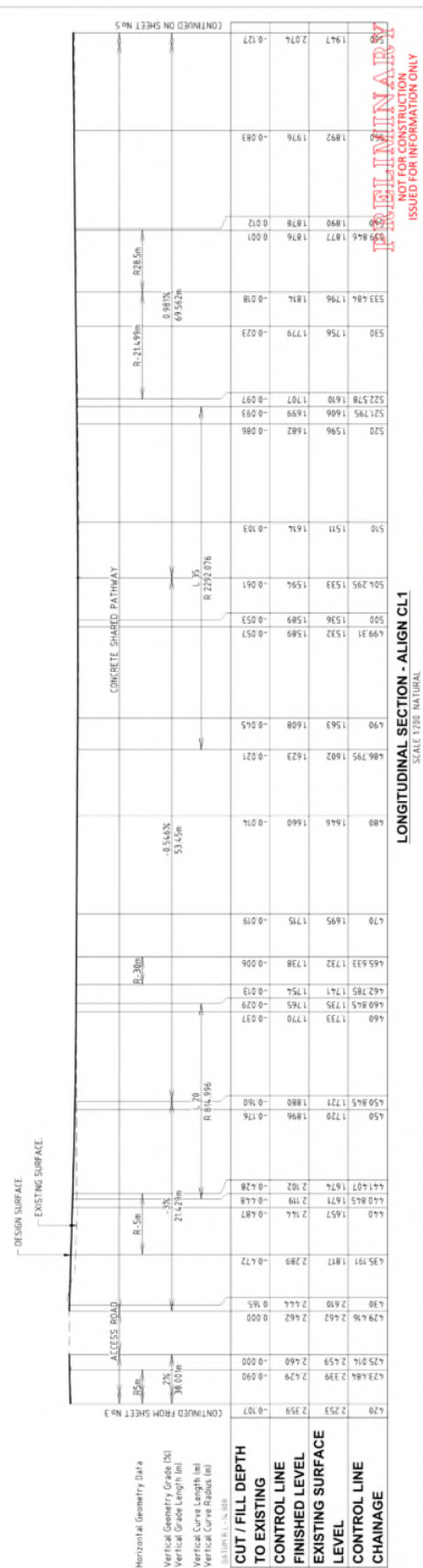
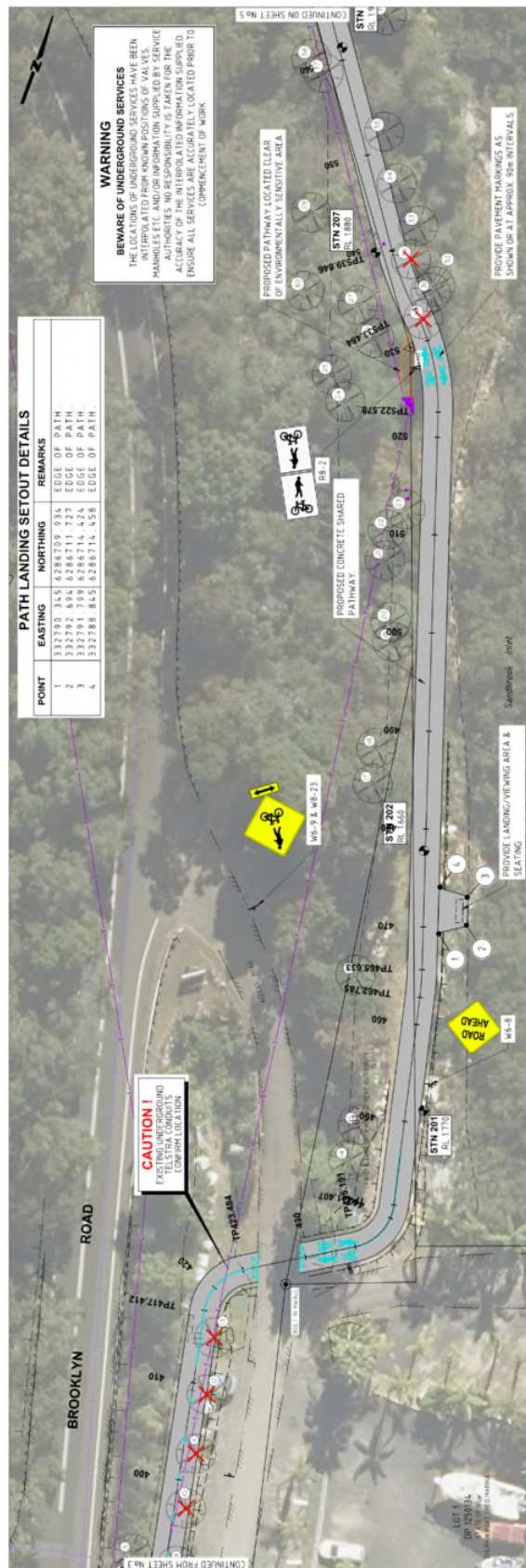
ATTACHMENT 3 - ITEM 4



ATTACHMENT 3 - ITEM 4



ATTACHMENT 3 - ITEM 4



Hornsby Shire Council Design & Construction Branch

Project Number: 100277

Date: 11/30/2023

ARC Drawing Number: 29.31

BROOKLYN SHARED PATH & BOARDWALK
SEYMOURS CREEK TO KANGAROO POINT

GENERAL WORKS & SERVICES PLAN
PLAN 4 OF 8

Scale: 1:200 NATURAL

Project Name: BROOKLYN SHARED PATH & BOARDWALK

Project Location: SEYMOURS CREEK TO KANGAROO POINT

Project Description: GENERAL WORKS & SERVICES PLAN

Project Number: 100277

Date: 11/30/2023

ARC Drawing Number: 29.31

Project Name: BROOKLYN SHARED PATH & BOARDWALK

Project Location: SEYMOURS CREEK TO KANGAROO POINT

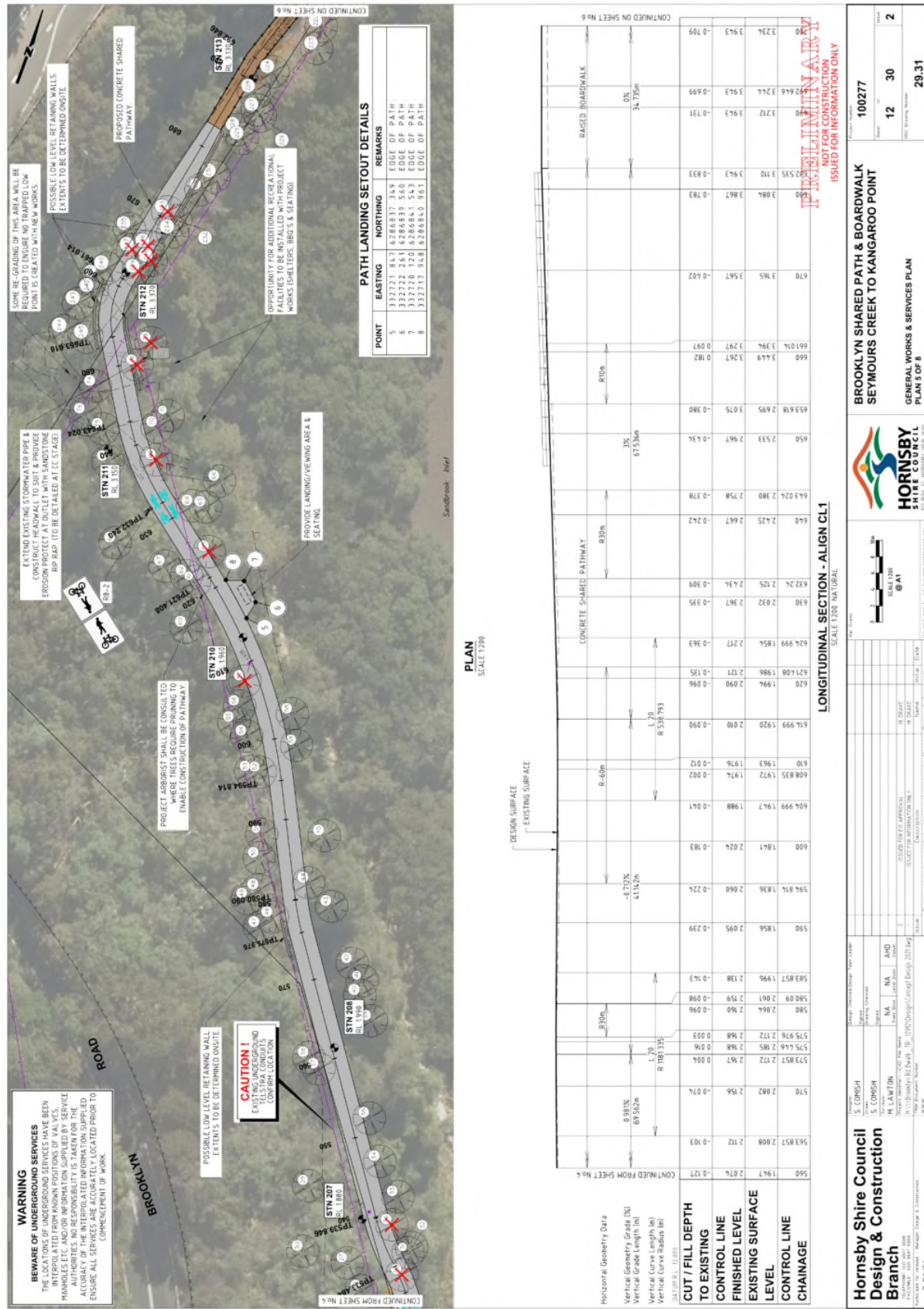
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Project Number: 100277

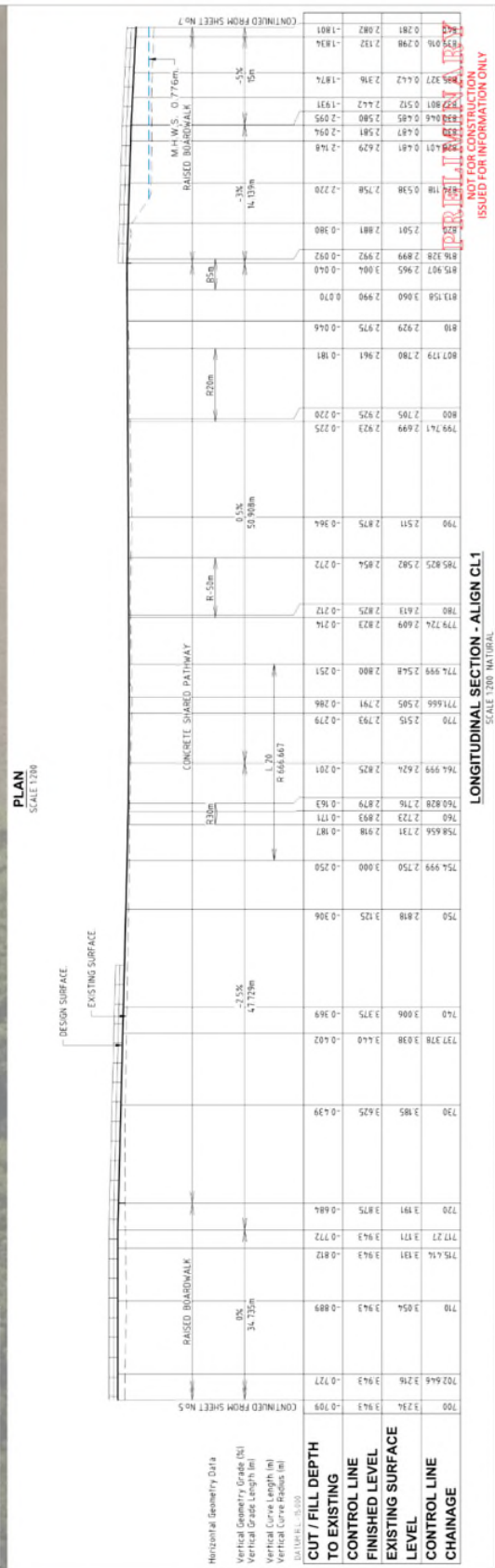
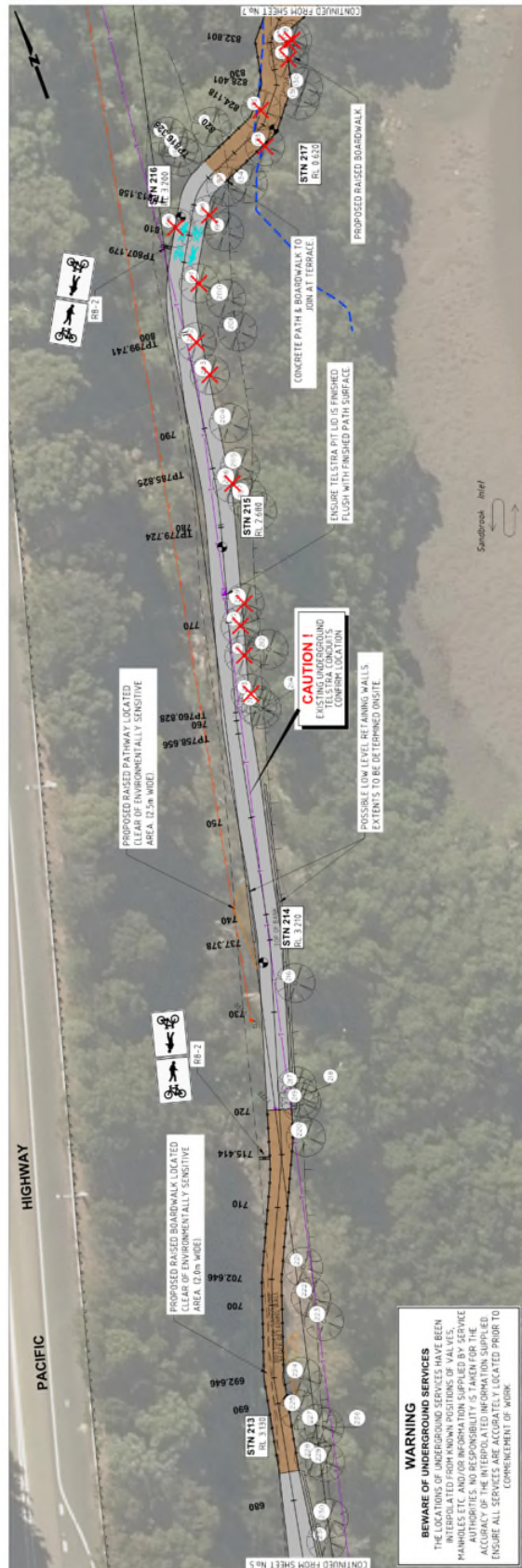
Date: 11/30/2023

ARC Drawing Number: 29.31

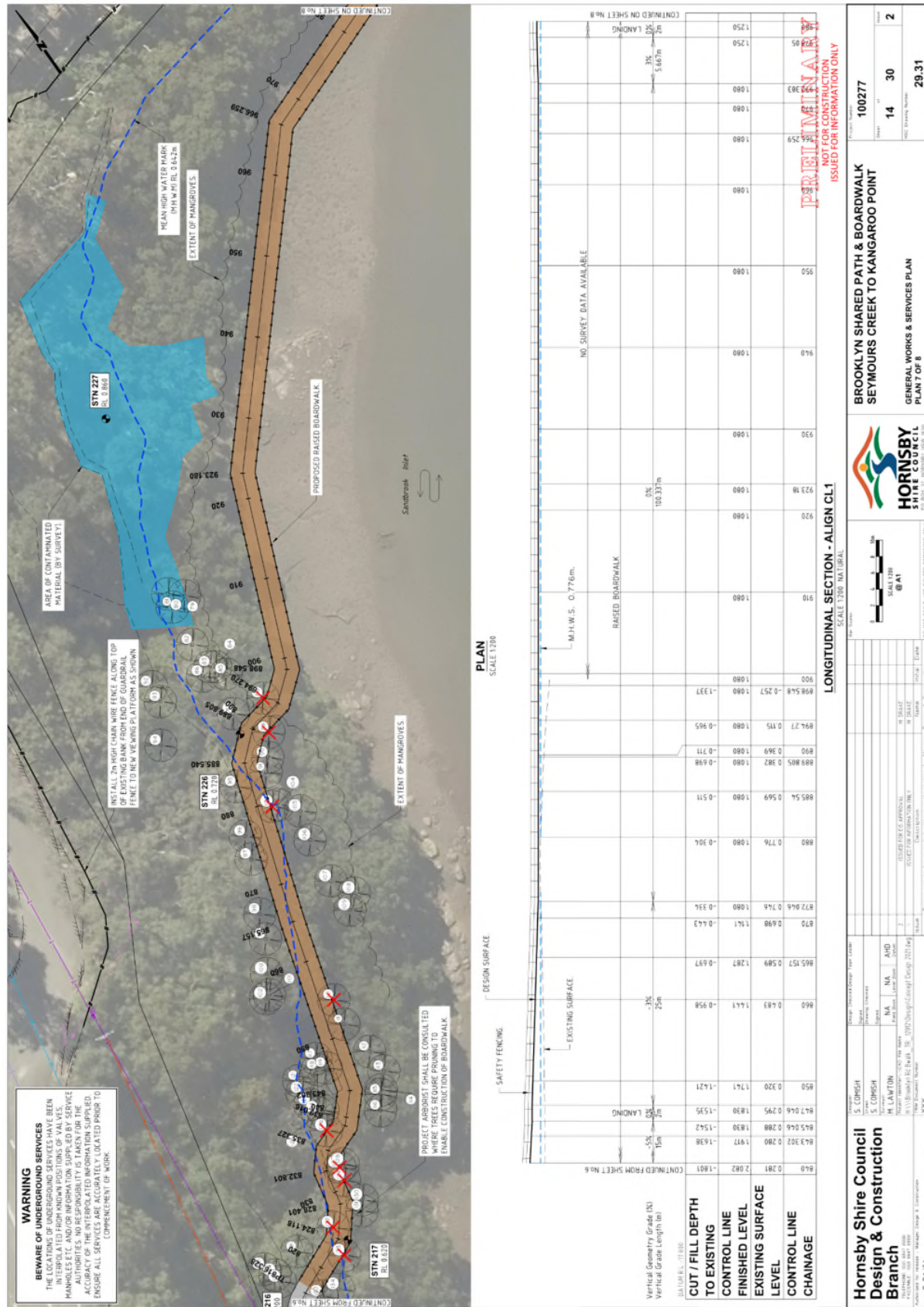
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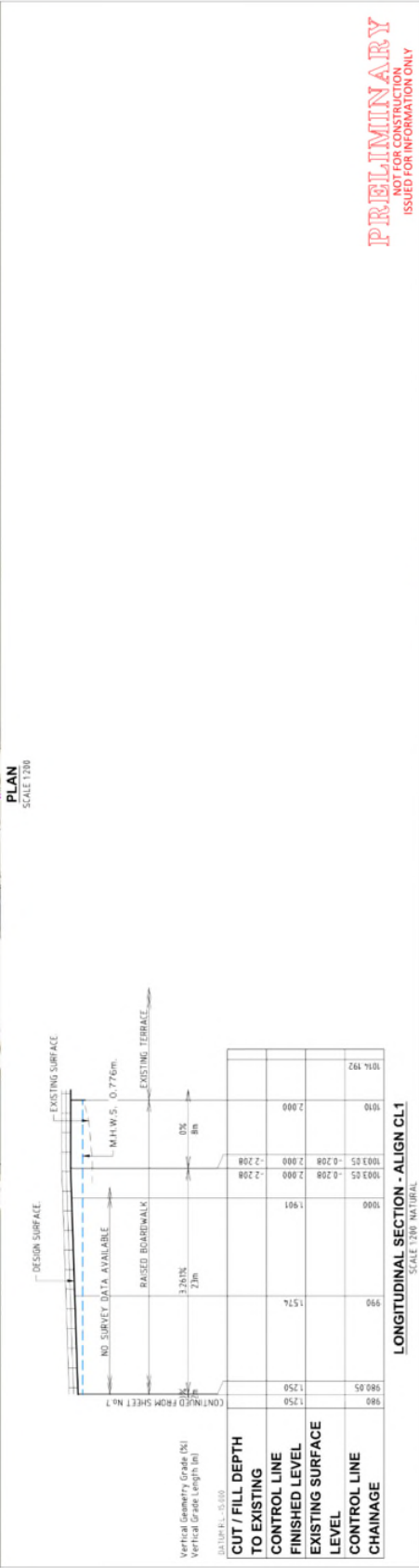
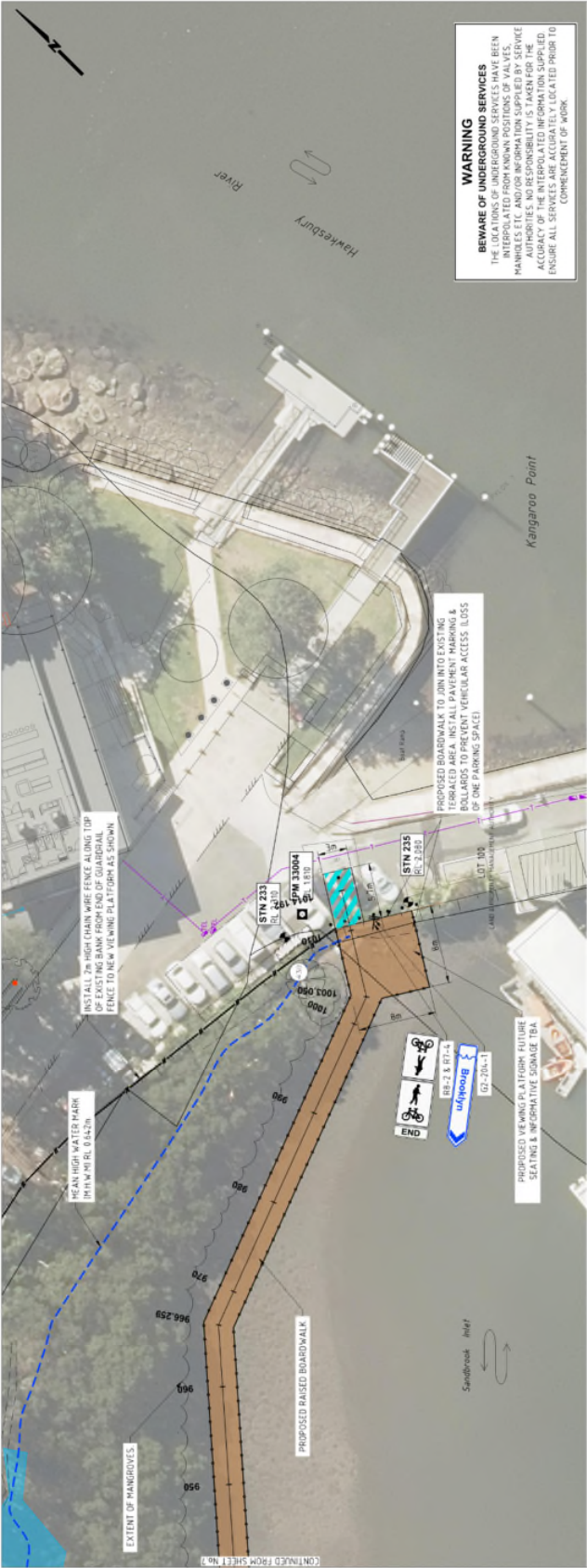
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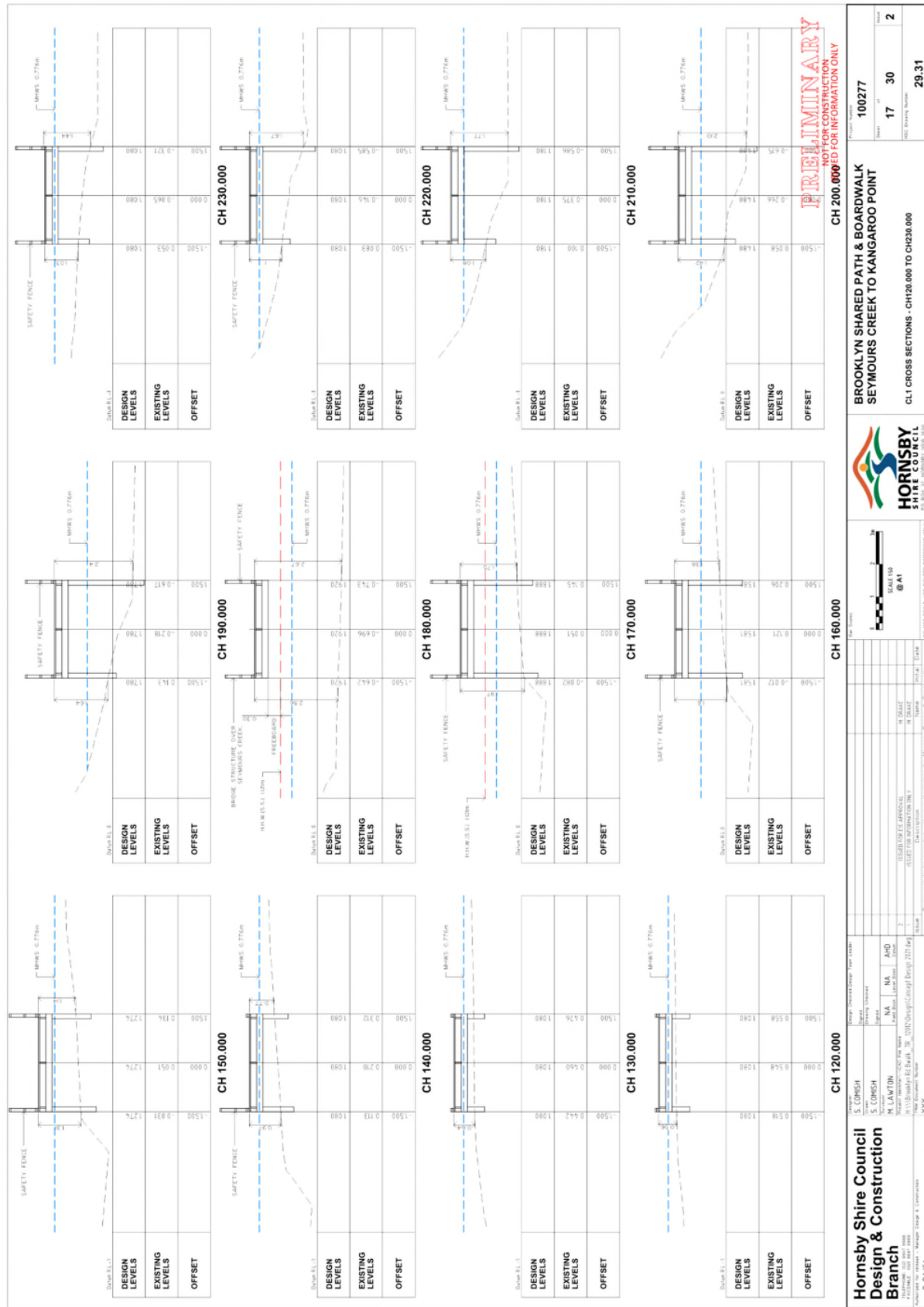


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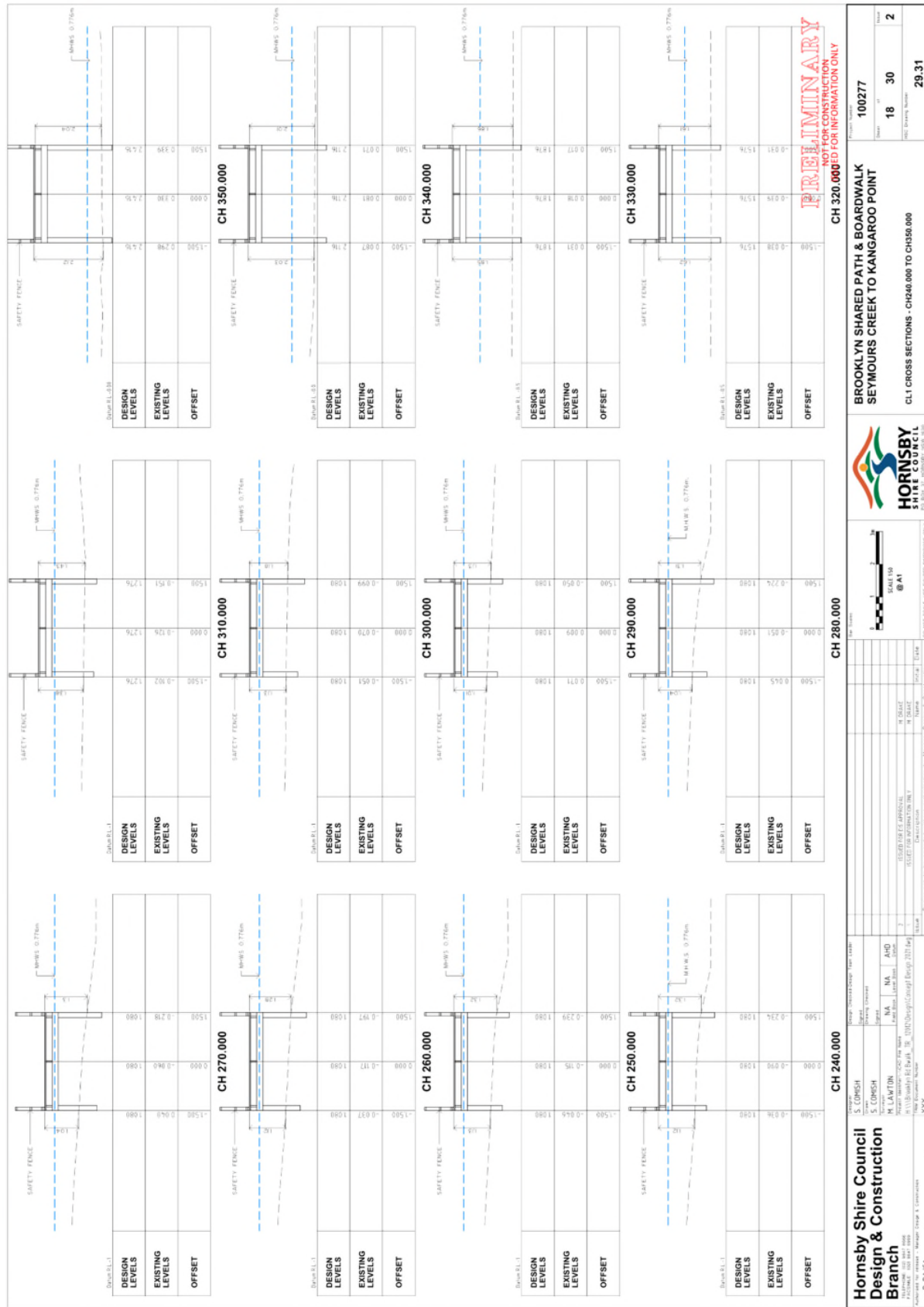




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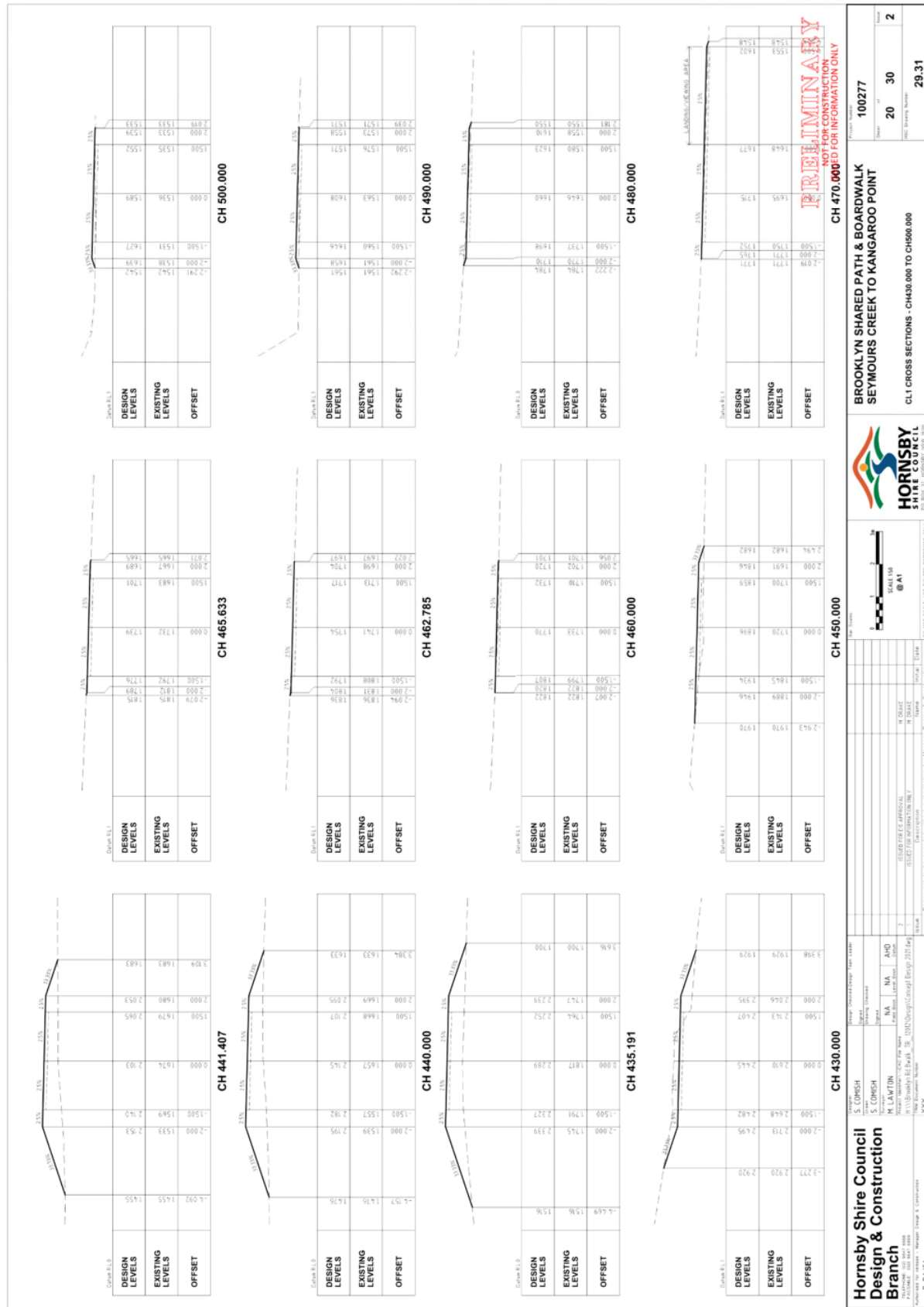


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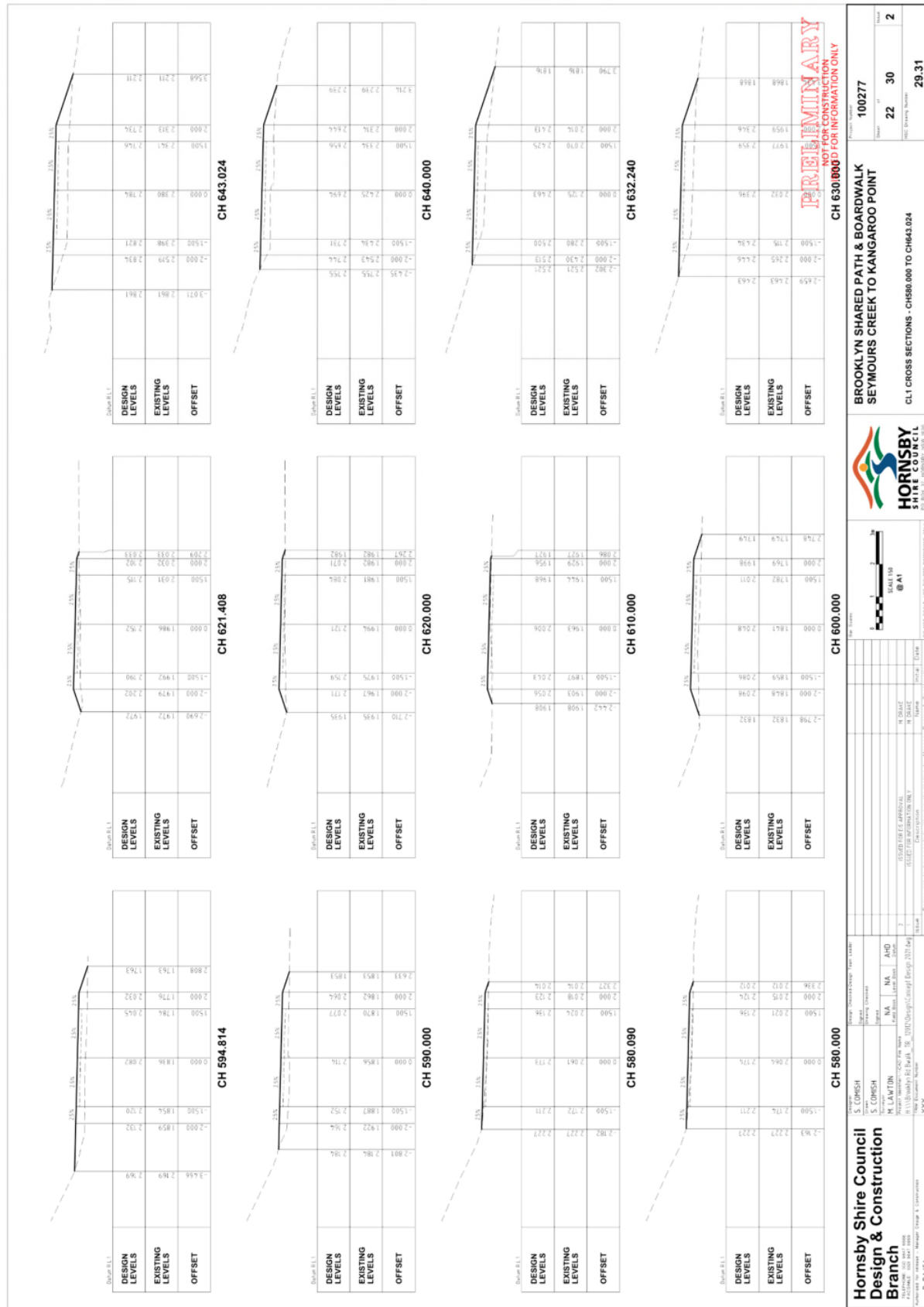
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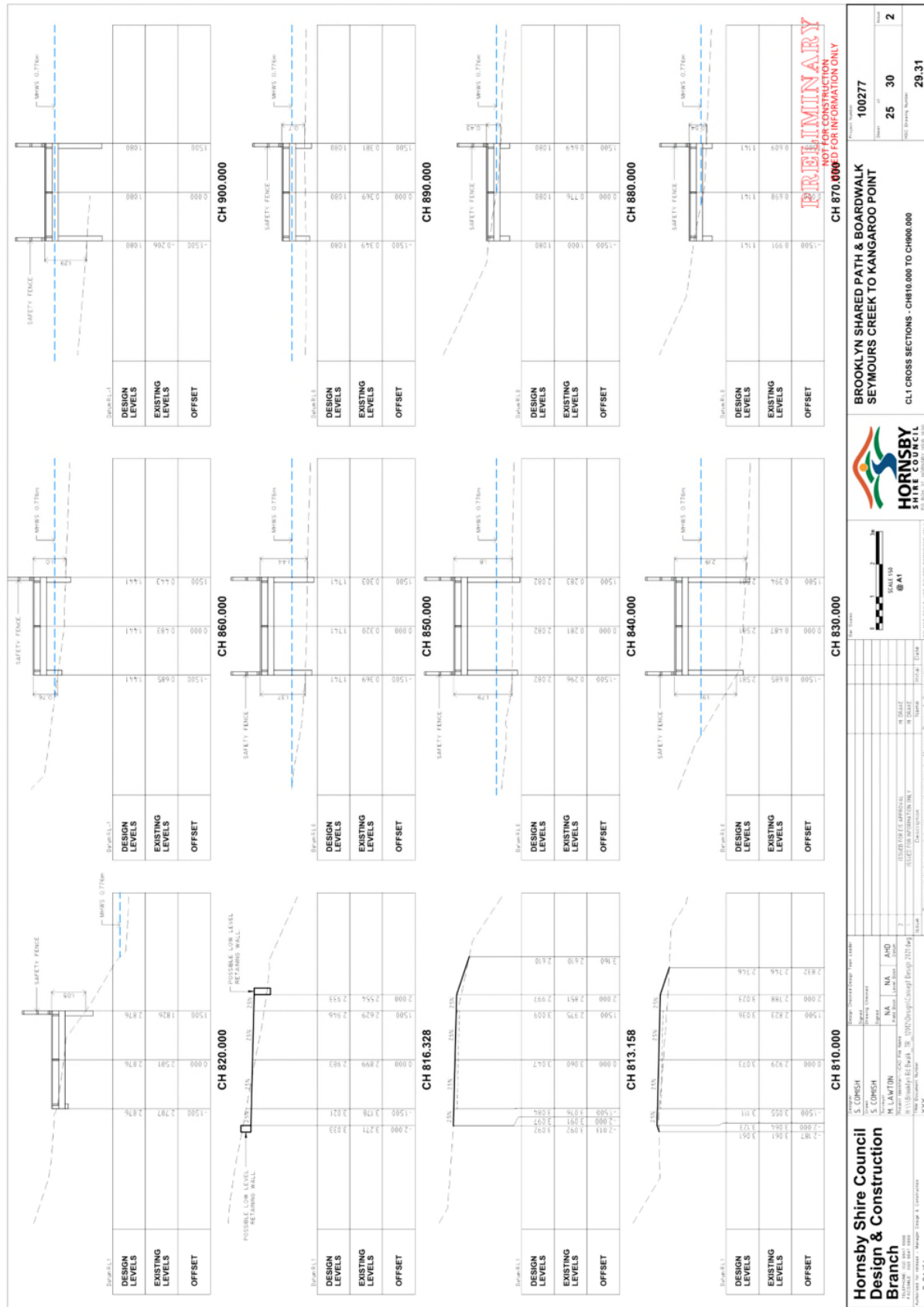
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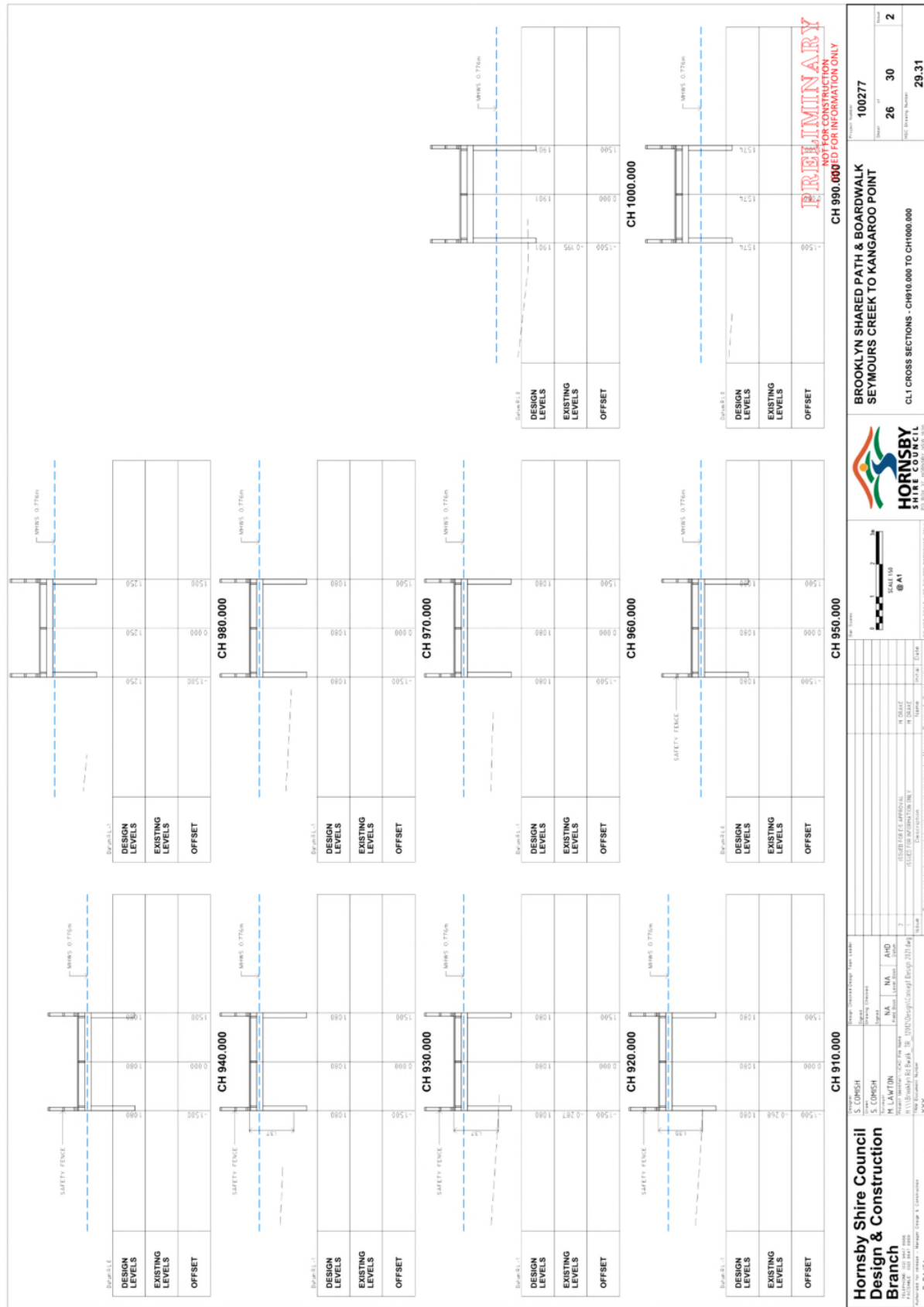








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ATTACHMENT 3 - ITEM 4

SCHEDULE OF SURVEYED TREES (CONT)															PRELIMINARY NOT FOR CONSTRUCTION ISSUED FOR INFORMATION ONLY									
Tree No.	Species	Common Name	Height (m)	Spread (m)	Base Dia (mm)	TPZ (m)	SRZ (m)	Age Class	Current Vigour	Tree Form	Trunk Hoofing	Noted Defects	SULE Rating	Retention	General comments, notes and recommendations									
220	Argemone coccinea	Black Chalk Apple	11.0	6.0	0.27	0.26	1.31	Medium	Fair	Average	No	Deciduous-Major	Long (1-40 years)	Medium	Close to pathway. Minor sap excretion. Appropriate to site.									
221	Allocasuarina littoralis	Black She-Oak	11.0	6.0	0.27	0.26	1.31	Medium	Fair	Average	No	Deciduous-Major	Long (1-40 years)	Medium	Close to pathway. Minor sap excretion. Appropriate to site.									
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**NSW RURAL FIRE SERVICE**

The Council of the Shire of Hornsby
PO Box 37
HORNSBY NSW 1630

Your reference: A-48379
Our reference: DA20220616008556-Original-1

ATTENTION: Ben Jones

Date: Sunday 31 July 2022

Dear Sir/Madam,

Development Application

s4.14 – Other – Community Facility

Brooklyn Shared Path and Boardwalk Pacific Highway Brooklyn NSW 2083, 100//DP865249, 101//DP1223533, 7//DP740853

I refer to your correspondence dated 14/06/2022 seeking advice regarding bush fire protection for the above Development Application in accordance with section 4.14 of the *Environmental Planning and Assessment Act 1979*.

The New South Wales Rural Fire Service (NSW RFS) has reviewed the plans and documents received for the proposal and subsequently raise no concerns or issues in relation to bush fire.

For any queries regarding this correspondence, please contact Marc Ellwood on 1300 NSW RFS.

Yours sincerely,

Nika Fomin
Manager Planning & Environment Services
Built & Natural Environment

ATTACHMENT 4 - ITEM 4

1

Postal address

NSW Rural Fire Service
Locked Bag 17
GRANVILLE NSW 2142

Street address

NSW Rural Fire Service
4 Murray Rose Ave
SYDNEY OLYMPIC PARK NSW 2127

T (02) 8741 5555
F (02) 8741 5550
www.rfs.nsw.gov.au



Our Ref: IDA22/61

29 March 2023

Your Ref: CNR-40904

Hornsby Shire Council
c/o: ePlanning Portal

Dear Hornsby Shire Council,

Proposal: IDA referral for a public boardwalk and shared path
Property: Kangaroo Point to Brooklyn Road, Brooklyn (Lot 100, DP 865249; Lot 101, DP 1223533; Lot 7, DP 740853) – Hawkesbury River

Thank you for your referral of 9/6/2022 and additional information supplied on 28/3/2023.

DPI Fisheries is responsible for ensuring that fish stocks are conserved and that there is no net loss of key fish habitats upon which they depend. To achieve this, DPI Fisheries ensures that developments comply with the requirements of the *Fisheries Management Act 1994* (FM Act) (namely the aquatic habitat protection and threatened species conservation provisions in Parts 7 and 7A of the Act, respectively), and the associated *Policy and Guidelines for Fish Habitat Conservation and Management (2013)*. In addition, DPI Fisheries is responsible for ensuring the sustainable management of commercial, recreational and Aboriginal cultural fishing, aquaculture, marine parks and aquatic reserves within NSW.

DPI Fisheries has reviewed the proposal in light of these provisions and has no objections, subject to the proponent meeting the General Terms of Approval that follow. As per s.4.47(3) of the *Environmental Planning and Assessment Act 1979*, any consent issued by Council must be consistent with these GTAs.

1. The proponent must apply for and obtain a Part 7 permit to for dredging, reclamation, and to harm marine vegetation under the FM Act from DPI Fisheries **prior to any works on site**. Permit application forms are available from the DPI Fisheries website at: <http://www.dpi.nsw.gov.au/fisheries/habitat/help/permit>; and
2. Offsets for harm to marine vegetation will be negotiated between DPI Fisheries and Hornsby Shire Council as part of the Fisheries Permit process. Council must undertake a feasibility assessment for on-ground rehabilitation works within the Hawkesbury Estuary. The offset works do not need to occur within the project site or immediately adjacent, so long as they are within the same estuary as where the harm will occur. Monetary compensation will only be accepted if the feasibility assessment demonstrates that there is no potential for on-ground rehabilitation works; and
3. Environmental safeguards (silt curtains, booms etc.) are to be used during construction to ensure that there is no escape of turbid plumes into the aquatic environment. Turbid plumes have the potential to smother aquatic vegetation and have a deleterious effect on benthic organisms.

If Council or the proponent require any further information, please do not hesitate to contact me on (02) 8437 4981.

IDA22/61

DPI Fisheries
 Mail to: R. Philips, 1243 Bruxner Hwy, Wollongbar NSW 2477
 Email: ahp.central@dpi.nsw.gov.au
 ABN 20770707468

Page 1 of 2

ATTACHMENT 5 - ITEM 4



Department of
Primary Industries

Yours sincerely,



Sarah Conacher
Senior Fisheries Manager, Coastal Systems

ATTACHMENT 5 - ITEM 4

5 DA/1221/2022 - ALTERATIONS AND ADDITIONS TO A DWELLING - 24 BERKELEY CLOSE, BEROWRA HEIGHTS

DA No:	DA/1221/2022 (Lodged on 23 November 2022)
Description:	Alterations and additions to a dwelling
Property:	Lot 15 DP 219738, No. 24 Berkeley Close, Berowra Heights
Applicant:	Cape Cod Australia Pty Ltd
Owner:	Ms Nicole Ilene Minns
Estimated Value:	\$431,871
Ward:	A Ward
Clause 4.6 Request:	Clause 4.3 Height of Buildings under HELP in R2 zoning
Submissions:	One
LPP Criteria:	Proposal contravenes a development standard by more than 10%
Author:	Amelia Xu, Town Planner
COI Declaration:	No Council staff involved in the assessment of this application have declared a Conflict of Interest.

RECOMMENDATION

THAT Council assume the concurrence of the Secretary of the Department of Planning and Environment pursuant to Clause 4.6 of the Hornsby Local Environmental Plan 2013 and approve Development Application No. DA/1221/2022 for alterations and additions to a dwelling at Lot 15 DP 219738, No. 24 Berkeley Close, Berowra Heights subject to the conditions of consent detailed in Schedule 1 of LPP Report No. LPP13/23

EXECUTIVE SUMMARY

- The application involves alterations and first floor addition to the existing dwelling house.
- The proposal does not comply with the Hornsby Local Environmental Plan 2013 with regard to Clause 4.3 'Height of buildings'. The applicant has made a submission in accordance with Clause 4.6 'Exceptions to development standards' of the Hornsby Local Environmental Plan 2013 to contravene the height of buildings development standard. The submission is considered well founded and is supported.
- One submission has been received in respect of the application.
- The application is required to be determined by the Hornsby Council Local Planning Panel as the proposal would contravene the Hornsby Local Environmental Plan 2013 development standard for maximum height of buildings by more than 10 percent.
- The LPP considered the application at its meeting on 26 April 2023 and resolved to defer determination of the application subject to an amended Clause 4.6.
- Subject to the submission of the amended Clause 4.6, the Panel delegated its functions under Section 2.20(8) of the EP & A Act, 1979 to the Manager Development Assessments, Hornsby Shire Council to determine the application.
- It is recommended that the application be approved.

BACKGROUND

On 16 October 2012, a Complying Development Certificate (CDP/1085/2012) was approved for residential alterations and additions (SEPP Controls) comprising construction of a rear deck and pergola.

On 30 October 2018, a Complying Development Certificate (CDP/1124/2018) was approved for residential alterations and additions (SEPP Controls) comprising construction of an inground swimming pool.

The Hornsby LPP considered the application at its meeting on 26 April 2023 and resolved to defer determination of the application subject to an amended Clause 4.6 to correctly address the height variation as measured from existing ground level.

On 26 April 2023, the applicant submitted an amended Clause 4.6 variation. The variation request confirms that the extent of height variation is 1.26m.

SITE

The 935.1m² site is located on the northern side of Berkeley Close and contains a dwelling house, swimming pool and metal shed.

The site experiences 3m of fall towards the north-western side of the site.

The site is not bushfire prone nor flood prone.

The site is burdened by an easement for support of Berkeley Close at the front of the site.

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

PROPOSAL

The proposal seeks consent for the following works:

- First floor addition with three bedrooms, ensuite, rumpus area (nook) and associated stairwell.
- Remove the existing bathroom to make way for the proposed stairs, convert Bedroom 2 into a bathroom on the ground floor.
- Remove the existing metal spiral stairs and repair ceiling on the lower ground floor.
- Construction of a new staircase from the lower ground level to the first floor.

All proposed works would be located within the building footprint of the existing dwelling house.

ASSESSMENT

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

1. STRATEGIC CONTEXT

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

The Greater Sydney Region Plan - A Metropolis of Three Cities has been prepared by the NSW State Government to guide land use planning decisions over the next 40 years (to 2056). The Plan sets a strategy and actions for accommodating Sydney's future population growth and identifies dwelling targets to ensure supply meets demand. The Plan also identifies that the most suitable areas for new housing are in locations close to jobs, public transport, community facilities and services.

The NSW Government will use the subregional planning process to define objectives and set goals for job creation, housing supply and choice in each subregion. Hornsby Shire has been grouped with Hunters Hill, Ku-ring-gai, Lane Cove, Mosman, North Sydney, Ryde, Northern Beaches and Willoughby to form the North District. The Greater Sydney Commission has released the North District Plan which includes priorities and actions for Northern District over the next 20 years.

The identified challenge for Hornsby Shire will be to provide an additional 4,350 dwellings by 2021 with further strategic supply targets to be identified to deliver 97,000 additional dwellings in the North District by 2036.

The proposed development would be consistent with the Greater Sydney Region Plan - A Metropolis of Three Cities and the North District Plan, by contributing to achieving the dwelling targets for the region.

2. STATUTORY CONTROLS

Section 4.15(1)(a) requires Council to consider “any relevant environmental planning instruments, draft environmental planning instruments, development control plans, planning agreements and regulations”.

2.1 Hornsby Local Environmental Plan 2013

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

2.1.1 Zoning of Land and Permissibility

The subject land is zoned R2 Low density residential under the HLEP. The objectives of the R2 zone are:

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

The proposed development is defined as 'dwelling house' and is permissible in the R2 zone with Council's consent.

2.1.2 Height of Buildings

Clause 4.3 of the HLEP provides that the height of a building on any land should not exceed the maximum height shown for the land on the Height of Buildings Map. The maximum permissible height for the subject site is 8.5m. The proposal has a maximum height of 9.76m and does not comply with this provision.

The application is supported by a written request pursuant to Clause 4.6 of the HLEP to contravene the maximum height of building development standard, which is discussed in Section 2.1.3 of this report.

2.1.3 Exceptions to Development Standards

The application has been assessed against the requirements of Clause 4.6 of the HLEP. This clause provides flexibility in the application of the development standards in circumstances where strict compliance with those standards would, in any particular case, be unreasonable or unnecessary or tender to hinder the attainment of the objectives of the zone.

The proposal exceeds the maximum height shown for the land on the Height of Buildings Map.

The applicant has made a submission in support of the contravention to the development standard in accordance with Clause 4.6 of the HLEP. Clause 4.6 provides that development consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating:

- (a) *That compliance with the development standard is unreasonable or unnecessary in the circumstances of the case.*
- (b) *That there are sufficient environmental planning grounds to justify contravening the development standard.*

Council must be satisfied that the written request provided by the applicant under Clause 4.6 addresses both the unreasonable and unnecessary test and demonstrates sufficient environmental planning grounds to justify contravening the development standard. These matters are discussed below.

2.1.3.1 Unreasonable or Unnecessary Clause 4.6(3)(a)

There are five common methods by which an applicant can demonstrate that compliance with a development standard is unreasonable or unnecessary in the circumstances of the development. Initially proposed for objections under clause 6 of SEPP 1 in the decision of *Wehbe v Pittwater Council* [2007] NSWLEC 827 Pearson C summarised and applied these methods to written requests

made under Clause 4.6 in *Four2Five Pty Ltd v Ashfield Council* [2015] NSWLEC 1009 [61-62]. These five methods are generally as follows:

- The objectives of the development standard are achieved notwithstanding non-compliance with the standard.
- The underlying objective or purpose is not relevant to the development.
- That the objective would be defeated or thwarted if compliance was required.
- That the development standard has been virtually abandoned or destroyed by the Council's own actions in departing from the standard.
- The zoning of the land is unreasonable or inappropriate.

It is not required to demonstrate that a development meets multiple methods as listed above, and the satisfaction of one can be adequate to demonstrate that the development standard is unreasonable or unnecessary.

The written request prepared by House Design & Planning Studio, undated provides a detailed assessment of the proposal with respect to the development standard sought to be contravened. The request argues that:

The departure from the height control is in the order of 1.26m and is isolated to a very minor portion of the new roof form proposed above the first-floor addition, where the existing topography in relation to the host structure is at its lowest point. This portion of the building does not contain any windows or openings that would provide for overlooking of adjoining private open space areas or direct view into habitable rooms. This area is shown in the Height Plane Diagram as below.



Figure 1: Height Plane Diagram showing the area over the height limit

It is also noted that the proposed development has been amended from the initial design to reduce the floor area, which is now predominately situated on the sub-floor and maintains the two-storey appearance of the dwelling. The reduction in floor area ensures that the final development achieves compliance with the solar access provisions of the HDCP 2013.

COUNCIL DIAGRAMS - SECTION DEMONSTRATING HEIGHT FROM THE EXISTING GROUND LEVEL

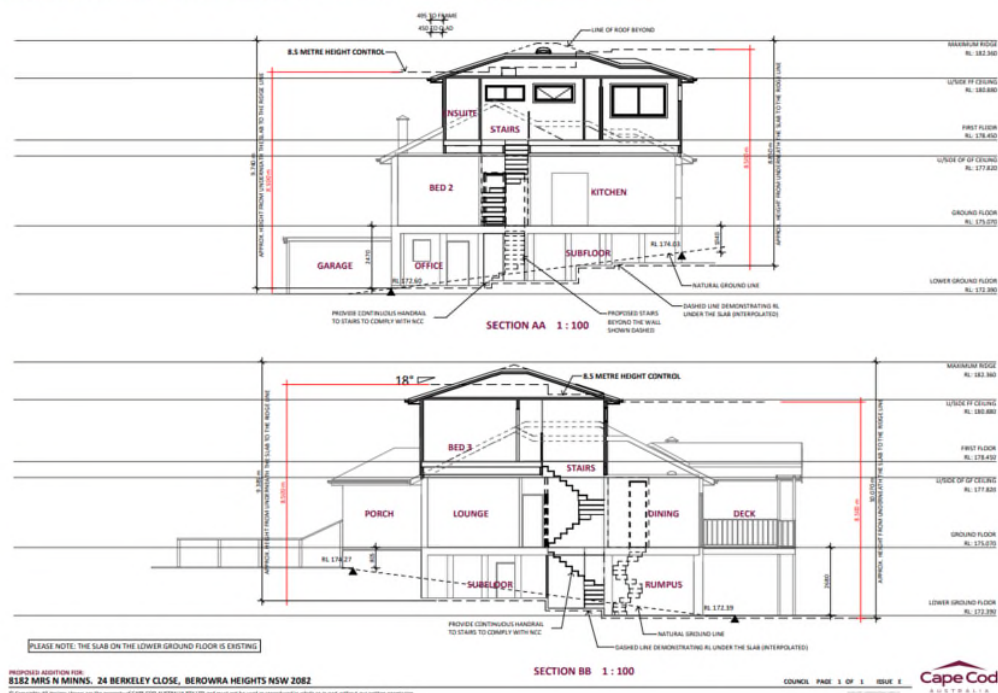


Figure 2: Section showing building height notations (maximum 9.76m when measured from existing ground level)

The proposed development has been designed in harmony with the streetscape, proposing an upper floor addition that is recessed behind the front building line of the dwelling house below to maintain a consistent street rhythm with adjoining properties. The surrounding streetscape comprises of an eclectic mix of architectural styles and forms, ranging from single and two storey dwellings that likewise accommodate an upper floor component.

To the immediate east of the subject site at 22 Berkeley Close, Berowra Heights is a two-storey dwelling house that follows the sloping gradient of the land. At the completion of works, the height of the subject building will generally appear consistent with the adjoining building despite the non-compliance with the maximum building height provision, due to the consistent slope of the street downwards from east to west.



Figure 3: Streetscape View of 22 & 24 Berkeley Close, Berowra Heights

To the immediate west of the subject site at 26 Berkeley Close, Berowra Heights is a single storey dwelling house with a lower ground floor level garage, similar to the existing built form on the subject site. The dwelling is almost entirely screened by dense vegetation within the front setback of the site and so the building provides little to no contribution to the inherent value or built form characteristics

of the streetscape. The proposed upper floor addition is recessed behind the existing ground floor building elevations and maintains a considerable setback distance to the adjoining dwelling, thereby alleviating any potential overshadowing or overlooking impacts. The final development reflects the roof form characteristics of the adjoining dwelling to create a respectful dialogue between the two buildings, despite limited views of this dwelling from the public domain.



Figure 4: Streetscape View of 26 & 24 Berkeley Close, Berowra Heights

The proposed departure from the maximum building height control is not considered likely to result in adverse impacts to adjoining buildings, or buildings in the vicinity of the site, in terms of views, loss of privacy, overshadowing or visual intrusion. The Shadow Diagrams submitted with the application clearly demonstrate that the final development achieves the solar access requirements stipulated under the HDCP 2013 both on the site and for adjoining properties.

The written request also considered the view impact in accordance with the four-step assessment process set out under *Tenacity Consulting v Warringah Council* to guide whether or not view sharing is reasonable. It is identified that *there are no significant public views from the site or adjoining properties. It is surmised that adjoining developments would also have similar views from the front rooms or rear balconies as the subject dwelling.*

Alternative design options have been explored in the written request and were not considered feasible when taking into account the established residential characteristics of the streetscape, the constraints of the site and the built form provisions of the HDCP 2013. The details are discussed as below:

Landscaping

A lower ground or ground floor extension was avoided in order to preserve the existing landscaped areas on the site and achieve compliance with the landscape requirement under the HDCP 2013. Presently there is 541.11m² or 57.9% landscaped area on the site and a lower ground or ground floor extension presenting three bedrooms, an ensuite and living space would have potentially decreased this amount to less than the required 30%.

Cut and Fill

A lower ground or ground floor extension would have also required a significant level of excavation or fill due to the sloping topography of the site. Figure 3.1(a) of the HDCP 2013 demonstrates that the maximum permissible level of cut or fill on a site is 1m. In order to achieve a functional floor plan, greater than 1m of excavation or fill would be required at the rear of the building to enable a flat building envelope that integrates with the existing lower ground or ground floor level.

The environmental impacts of the earthworks would far outweigh the negligible impact that would result from exceeding the maximum building height provision.

Setbacks

An extension of the ground or lower ground floor level would also potentially result in a non-compliance with the prescribed front and rear setback distances and would not respect the established building lines of the streetscape.

An extension above the existing garage is not feasible in achieving a functional internal layout, with suitable bedroom sizes and a desirable configuration that achieves optimal solar access. Locating the first-floor addition above garage may have resulted in unreasonable overshadowing impacts to the adjoining single storey dwelling at 26 Berkeley Close, Berowra Heights that is set below the subject building due to the slope of the streetscape from east to west.

Furthermore, due to the existing internal configuration of the development, a rear extension to the lower ground floor level comprising three bedrooms, ensuite and living space would not be desirable as it would require access through the rumpus room. The owner wishes to preserve their private open space area at the rear of the site and retain as much soft landscaping as possible to soften the appearance of the building and achieve a continuous landscape corridor with adjoining properties.

Roof Form

The proposed roof form has been sensitively designed to ensure consistency with the prevailing pitched roof forms of buildings throughout the streetscape. The non-compliance with the building height provision is experienced within the pitch of the roof form, however, if a flat roof form was proposed the development would appear out of character with the existing dwelling house as well as the surrounding streetscape.

Further, it is understood that the minimum first floor level ceiling height provision for a dwelling house is 2.4m. The proposed addition features a ceiling height 2.43m and so any reduction in the building height would result in a non-compliance with the ceiling height control and would significantly impact on the functionality and amenity of the first-floor addition for the residents.

Council notes that the objectives of Clause 4.3 of the HLEP are as follows:

“(a) to permit a height of buildings that is appropriate for the site constraints, development potential and infrastructure capacity of the locality.”

With reference to the reasoning provided by the applicant above, Council does not object to the conclusion that the proposed additions meet the objectives of Clause 4.3. In reaching this conclusion the following points are noted:

- The height of a building is defined under HLEP as *“the vertical distance from ground level (existing) to the highest point of the building.”* The site has been subject to previous earthworks to construct existing lower ground level.
- The proposed non-compliance would only be limited to a small portion of the roof form due to the existing lower ground level.
- Furthermore, the application generally complies with privacy requirements, sunlight access, setbacks, floor area, site coverage and landscaping. The application proposes a 2.43m floor to ceiling height for the proposed first floor level and a low pitch roof to minimise the height of the proposed development.
- Alternative extensions to the lower ground floor or ground floor may result in a reduction and possible non-compliance with prescribed setbacks, earthworks, and landscaping measures.

Further, functional internal layout would not be achievable due to the existing layout of the dwelling house resulting in adverse impacts to residential amenity.

- The non-compliance would not result in any adverse amenity impacts to adjoining properties.
- The objectives of the standard are achieved notwithstanding non-compliance with the standard.

For the reasons outlined above, it is considered that the written request to contravene the height of buildings development standard adequately demonstrates that the objectives of the development standard contained within Clause 4.3 of the HLEP are achieved, notwithstanding contravention of the development standard.

2.1.3.2 Environmental Planning Grounds - Clause 4.6(3)(b)

In addition to demonstrating that compliance is unreasonable or unnecessary, Clause 4.6(3)(b) requires that there are sufficient environmental planning grounds to justify contravening the development standard. In demonstrating that sufficient environmental planning grounds exist it must be demonstrated that the planning grounds are particular to the circumstances of the development on the subject site (summarised from *Four2Five Pty Ltd v Ashfield Council* [2015] NSWLEC 1009 [60].

The applicant provided the following planning grounds for the contravention of the development standard:

- *The proposed variation is minor in nature, in the order of 1.26m, and is isolated to the roof section of the proposed addition where the existing topography in relation to the host structure is at its lowest point. As detailed on the Architectural Plans submitted with this application, the remaining areas of the built form are fully compliant with the maximum building height control under Clause 4.3 of the HLEP 2013.*
- *The proposed variation only covers a small proportion of the site and has been centrally within the building footprint to maintain a considerable setback to adjoining building and to avoid obstruction of views from the surrounding streetscape, noting that views are limited to neighbourhood views.*
- *The proposed height variation will not generate any unacceptable adverse environmental impacts in respect of overshadowing or wind impacts. This is clearly demonstrated by the Shadow Diagrams submitted with this application, with the development maintaining an appropriate level of solar access to adjoining living and private open space areas through the incorporation of suitable setback distances to the side and rear property boundaries. The location of the proposed first floor level behind the front building line and side elevations of the host structure ensures overshadowing of properties to the east and west is avoided.*
- *Notwithstanding the proposed height variation, the final development continues to satisfy the objectives of the maximum building height control as demonstrated above.*
- *The complying building envelope is significantly compromised by the sloping topography of the land. It is therefore considered necessary to contravene the maximum building height control in order to provide a functional and aesthetic first floor level with a roof profile that reflects the existing dwelling house to ensure that the final development does not present as a piecemeal building when viewed from adjoining properties and the public domain.*
- *The breach of building height relates only to a small portion of the roof form and is not in relation to any usable or habitable floor area. Therefore, the portion of the development*

located above the maximum building height will not contain any windows or openings that will provide for direct view into adjoining properties or result in privacy concerns.

- *The proposed variation will not result in a development that is out of character with that envisioned by Hornsby Shire Council. The final development will present to the public domain as a traditional split-level dwelling house that is sympathetic of adjoining buildings and achieves an appropriate balance between the built form, landscaped areas and private open space.*

The proposed contravention to the HOB development standard is acceptable in this case for the following reasons:

- The design of the existing dwelling having a lower ground level with existing ground level at RL 172.60 results in the roof ridge being over the maximum allowable HOB above this point.
- The proposed addition to the dwelling is commensurate with other development in the locality.
- The contravention of the building height standard is supported noting that:
 - The floor to ceiling height of the first-floor addition is compliant with the minimum 2.4m ceiling height, having a floor to ceiling height of 2.43m.
 - The roof pitch of the proposed addition is 18-degree low pitch roof to minimise the height of the proposed development.
 - The encroachment relates to only a minor portion of the roof.
 - The encroachment does not result in a development which is excessive in terms of bulk or scale.
 - The encroachment does not result in excessive overshadowing to neighbouring allotments.

Council considers that the environmental planning grounds stated within the written request are sufficient with respect to Clause 4.6(3)(b) and that the stated grounds are specific to the proposed development and the circumstances of the development site. It is therefore considered that the written request adequately demonstrates compliance with the clause and is acceptable in this regard.

In demonstrating the unreasonable and unnecessary test, the applicant further established satisfactory environmental planning grounds with respect to the site and the surrounding constraints.

Council is therefore satisfied that Clause 4.6(3)(b) of the HLEP is adequately addressed.

2.1.3.3 Public Interest and Clause 4.6(4)

Clause 4.6(4) states that development consent must not be granted for development that contravenes a development standard unless:

- (a) *The consent authority is satisfied that:*
 - (i) *The applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and*
 - (ii) *The proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out, and*
- (b) *The concurrence of the Planning Secretary has been obtained.*

With regard to part (a)(i), the written request is considered to adequately address the matters required to be demonstrated as outlined above.

With regard to part (a)(ii), the proposed development is considered to be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out.

With regard to (b), on 21 February 2018, the Secretary of the Department of Planning and Environment issued a Notice under clause 64 of the Environmental Planning and Assessment Regulation 2000. The Secretary's concurrence may not be assumed by a delegate of council if:

- The development contravenes a numerical standard by greater than 10%.
- The variation is to a non-numerical standard.

Local Planning Panels constituted under the *Environmental Planning and Assessment Act 1979* exercise consent authority functions on behalf of a Council and are not delegates of Council. Therefore, Local Planning Panels may determine a development application notwithstanding, a numerical non-compliance in excess of 10%.

Therefore, the exceedance of the height of buildings development standard is supported in this instance.

2.1.4 Heritage Conservation

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

2.1.5 Earthworks

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

Council's assessment of the proposed works and excavation concludes that the impacts would be minimal. The existing bearers and joists of the dwelling house will be utilised as footings for the proposed first floor addition. No cut or fill is required to construct the development. The proposal is assessed as satisfactory with regards to Clause 6.2 of the HLEP.

2.1 State Environmental Planning Policy (Biodiversity and Conservation) 2021

The application has been assessed against the requirements of Chapter 2 and 6 of State Environmental Planning Policy (Biodiversity and Conservation) 2021.

2.1.1 Chapter 2 Vegetation in Non-Rural Areas

Chapter 2 of this policy aims to protect the biodiversity and amenity values of trees within non-rural areas of the state.

Part 2.3 of the policy states that a development control plan may make a declaration in any manner relating to species, size, location, and presence of vegetation. Accordingly, Part 1B.6.1 of the HDCP prescribes works that can be undertaken with or without consent to trees and objectives for tree preservation.

No trees are proposed to be removed or impacted under the current proposal.

2.1.2 Chapter 6 Water Catchments

The site is located within the catchment of the Hawkesbury Nepean River. Chapter 6 contains general planning considerations and strategies requiring Council to consider the impacts of development on water quality and quantity, aquatic ecology, flooding, recreation and public access and total catchment management.

Subject to the implementation of sediment and erosion control measures and stormwater management to protect water quality, the proposal would meet the aims of the Policy.

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

The application has been assessed against the requirements of State Environmental Planning Policy (BASIX) 2004 which seeks to encourage sustainable residential development.

The proposal includes a BASIX certificate in accordance with the requirements of the SEPP including the list of commitments to be complied with at the construction stage and during the use of the premises. The BASIX certificate achieves the minimum scores for thermal comfort, water, and energy.

The proposal is acceptable in this regard.

2.3 State Environmental Planning Policy (Resilience and Hazards) 2021

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

2.3.1 Chapter 4 Remediation of Land

Section 4.6 of the Resilience and Hazard SEPP states that consent must not be granted to the carrying out of any development on land unless the consent authority has considered whether the land is contaminated or requires remediation for the proposed use.

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

An examination of Council's records and aerial photography has determined that the site has been historically used for residential purposes. It is not likely that the site has experienced any significant contamination, and further assessment under chapter 4 of the Resilience and Hazards SEPP is not required.

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

Section 3.42 of the *Environmental Planning and Assessment Act 1979* states that a DCP provision will have no effect if it prevents or unreasonably restricts development that is otherwise permitted and complies with the development standards in relevant Local Environmental Plans and State Environmental Planning Policies.

The principal purpose of a development control plan is to provide guidance on the aims of any environmental planning instrument that applies to the development; facilitate development that is permissible under any such instrument; and achieve the objectives of land zones. The provisions contained in a DCP are not statutory requirements and are for guidance purposes only. Consent

authorities have flexibility to consider innovative solutions when assessing development proposals, to assist achieve good planning outcomes.

2.5 Hornsby Development Control Plan 2013

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

HDCP - Part 3.1 Dwelling Houses			
Control	Proposal	Requirement	Complies
Site Area	935.1m ²	N/A	N/A
Building Height	9.76m	8.5m	No
No. storeys	3	max. 2 + attic	No
Site Coverage	unchanged	40%	Yes
Floor Area	286.7m ²	430m ²	Yes
Setbacks			
- <i>Front</i>	unchanged	6m	Yes
- <i>Side(west)</i>			
<i>Ground floor</i>	unchanged	900mm	Yes
<i>First floor</i>	7.2m	1.5m	Yes
- <i>Side(east)</i>			
<i>Ground floor</i>	unchanged	900mm	Yes
<i>First floor</i>	2m	1.5m	Yes
- <i>Rear</i>			
<i>Ground floor</i>	unchanged	3m	Yes
<i>First floor</i>	32.1m	8m	Yes
Landscaped Area (40% of lot size)	unchanged	374.04m ²	Yes
Private Open Space			
- <i>minimum area</i>	24m ²	24m ²	Yes
- <i>minimum dimension</i>	3m	3m	Yes
Car Parking	2 spaces	2 spaces	Yes

As detailed in the above table, the proposed development generally complies with the prescriptive measures within the HDCP. A brief discussion on compliance with relevant performance requirements and Part 1C General Controls is provided below.

2.5.1 Height of Building

The development does not comply with the 8.5m height of buildings prescriptive measure. This aspect of the development is discussed in detail in Section 2.1.3 of this report.

2.5.2 Scale (No. of Storeys)

The desired outcome of Part 3.1.1 Scale of the HDCP is to encourage *“development with a height, bulk and scale that is compatible with a low-density residential environment.”*

This outcome is supported by the prescriptive measures set out in Table 3.1.1(a): Translation of Height to Storeys which prescribes a maximum two storeys plus an attic.

The proposed first floor addition would create a three-storey structure when viewed from the rear of the site. The property would be viewed as a two-storey structure from Berkeley Close.

In support of this non-compliance, it is noted that the existing lower ground floor level is a result of previous development and the proposed first floor addition would have a similar RL (RL 182.36) to the adjoining property No. 22 Berkeley Close (RL 182.67) and therefore would be of similar scale to adjoining properties.

Furthermore, when viewed from Berkeley Close the proposed development would present as a 2-storey structure and the application complies with the prescriptive measures for privacy and sunlight access as discussed in the body of this report.

Therefore, it is generally considered that the proposed development would have negligible amenity impacts to adjoining properties in regard to scale and the proposed design meets the constraints of the site.

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

2.5.3 Privacy

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

This is supported by the prescriptive measures that state that:

- a) *“Living and entertaining areas of dwelling houses should be located on the ground floor and oriented towards the private open space of the dwelling house and not side boundaries.”*
- b) *A proposed window in a dwelling house should have a privacy screen if:*
 - *it is a window to a habitable room, other than a bedroom, that has a floor level of more than 1 metre above existing ground level,*
 - *the window is setback less than 3 metres from a side or rear boundary, and*
 - *the window has a sill height of less than 1.5 metres.*
- c) *A deck, balcony, terrace, or the like should be located within 600mm of existing ground level where possible to minimise potential visual and acoustic privacy conflicts.*

- d) *Decks and the like that need to be located more than 600mm above existing ground should not face a window of another habitable room, balcony or private open space of another dwelling located within 9 metres of the proposed deck unless appropriately screened."*

A submission has been received raising concerns regarding the overlooking impact from the first-floor windows. It is noted that an upper rumpus room (nook) is proposed. The upper rumpus room window is oriented towards the rear boundary with a sill height of 1.51m and is unlikely to result in any overlooking. All other first floor level windows would provide natural light and ventilation to 'non-habitable' use rooms (bathroom and bedrooms) in compliance with Council's planning guidelines.

A submission has been received raising concerns regarding the overlooking impact from the existing ground floor deck. It is noted that the ground floor deck was approved under a Complying Development Certificate (CDP/1085/2012), in accordance with *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008*, a privacy screen is required if the deck has a setback of less than 3m from a side or rear boundary, and has a floor area more than 3m², and has a floor level more than 1 metre above ground level (existing). The ground floor deck is located over 3m from the side boundaries. Therefore, a privacy screen is not required. No alteration has been proposed for the ground floor deck under the current proposal.

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

2.5.4 Sunlight Access

The desired outcome of Part 3.1.5 Sunlight Access under the HDCP is for dwelling houses to "provide solar access to open spaces." In addition, dwellings are to be "designed to provide reasonable sunlight to adjacent properties."

Within this context, Part 3.1.5 outlines the following prescriptive measures:

- (a) *On 22 June, 50% of the required principle private open space should receive 3 hours of unobstructed sunlight access between 9am and 3pm.*
- (b) *On 22 June, 50% of the required principle private open space on any adjoining property should receive 3 hours of unobstructed sunlight access between 9am and 3pm.*

The proposal is supported by shadow diagrams from 9am to 3pm midwinter. The diagrams demonstrate that the private open space to the rear of the subject site will maintain a minimum of 50% sunlight access between 9am and 3pm.

The proposal will result in minor additional overshadowing to the front yard and western building façade of the property adjoining the site to the east (No. 22 Berkeley Close) and eastern building façade of the property adjoining the site to the west (No. 26 Berkeley Close). Notwithstanding, over 50% of the private open space of this property will receive at least 3 hours of unobstructed sunlight access.

Accordingly, the proposal satisfies Part 3.1.5 of the HDCP and is considered acceptable.

2.6 Contributions Plans

Hornsby Shire Council Section 7.12 Contributions Plan 2019-2029 applies to the development as the estimated costs of works is greater than \$100,000. Should the application be approved, an appropriate condition of consent is recommended requiring the payment of a contribution in accordance with the Plan.

3. ENVIRONMENTAL IMPACTS

Section 4.15(1)(b) of the Act requires Council to consider *“the likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality”*.

3.1 Natural Environment

3.1.1 Tree and Vegetation Preservation

No trees would be adversely impacted to facilitate development works. The proposed development is located solely within the existing building footprint and does not impact the existing trees.

3.1.2 Stormwater Management

The application proposes to dispose of stormwater generated by the first-floor addition by connecting to the existing stormwater system of the dwelling house that drains stormwater to an existing absorption trench at the rear of the site.

3.2 Built Environment

3.2.1 Built Form

As discussed in Section 2.1 of this report, the proposed built form on the subject site is appropriate with regard to the existing dwelling house and the residential development in the surrounding locality. No objections are raised to the built form of the proposed first floor addition

3.3 Social Impacts

The residential development would improve housing choice in the locality by providing a range of household types. This is consistent with Council's Housing Strategy which identifies the need to provide a mix of housing options to meet future demographic needs in Hornsby Shire.

3.4 Economic Impacts

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

4. SITE SUITABILITY

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

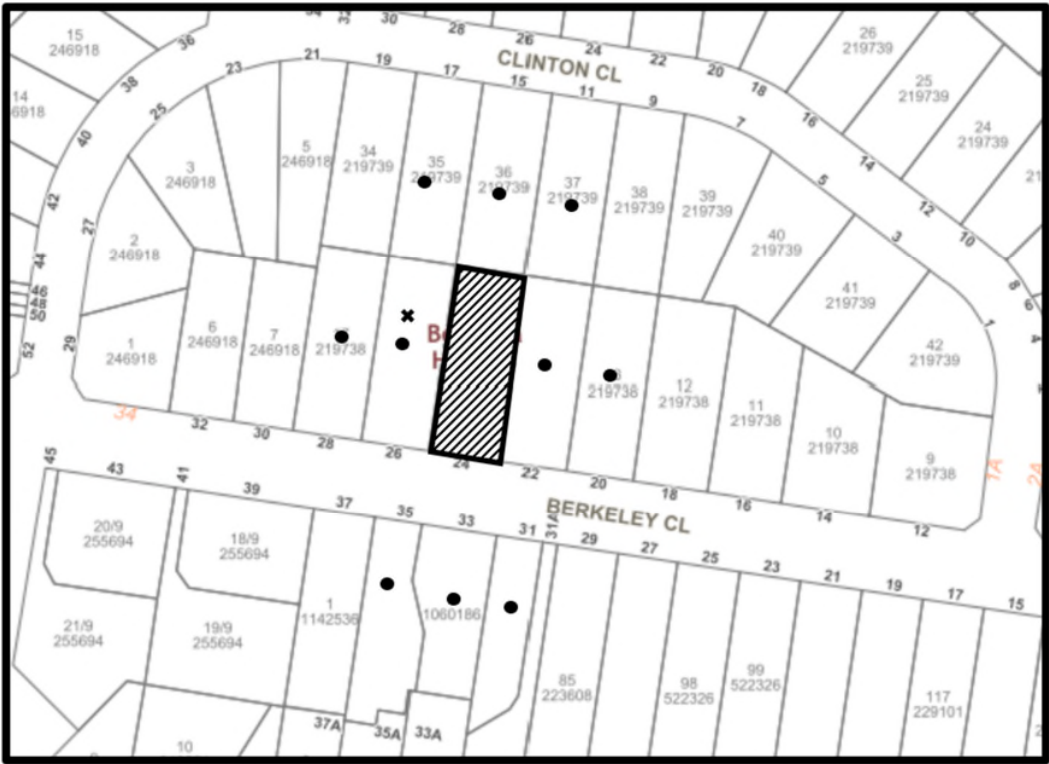
The subject site has not been identified as bushfire prone or flood prone land. The site is considered to be capable of accommodating the proposed development. The scale of the proposed development is consistent with the capability of the site and is considered acceptable.

5. PUBLIC PARTICIPATION



Section 4.15(1)(d) of the Act requires Council to consider *“any submissions made in accordance with this Act”*.

5.1 Community Consultation

The proposed development was placed on public exhibition and was notified to adjoining and nearby landowners between 24 November 2022 and 11 December 2022 in accordance with the Hornsby Community Engagement Plan. During this period, Council received one submission. The map below illustrates the location of those nearby landowners who made a submission that are in close proximity to the development site.



NOTIFICATION PLAN

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

- Privacy impact to adjoining properties.
- Ongoing issue with stormwater runoff.
- Concerns regarding construction impact.

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

5.1.1 Privacy

The submission raised concerns regarding privacy impacts to the adjoining properties, has been addressed in Section 2.5.3 Privacy of this report.

5.1.2 Stormwater

The submission raised concerns regarding an ongoing issue that the existing storm water system is not coping during heavy rain. To address this concern, it is noted that the proposed first floor addition does not increase the roof area. The first-floor addition is proposed to connect to the existing drainage system which contains an existing absorption trench at the rear of the site. It is considered that the proposed development would have negligible stormwater impact to adjoining properties.

5.1.3 Construction Impact

The submission raised concerns regarding potential construction impacts and requested that measures be imposed to prevent any building debris, soil, sand, waste, general rubbish to adjoining properties. To address this concern, it is noted that appropriate conditions have been recommended in Schedule 1 of this report requiring that the site be managed in accordance with the publication 'Managing Urban Stormwater - Landcom (March 2004) and *Protection of the Environment Operations Act 1997* to prevent sediment run-off, excessive dust, noise or odour emanating from the site during the construction.

5.2 Public Agencies

The development application was not referred to any Public Agencies for comment.

6. THE PUBLIC INTEREST

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

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

The application is considered to have satisfactorily addressed Council's and relevant agencies' criteria and would provide a development outcome that, on balance, would result in a positive impact for the community. Accordingly, it is considered that the approval of the proposed development would be in the public interest.

CONCLUSION

The application proposes alterations and first floor addition to the existing dwelling house.

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

Council received one submission during the public notification period. The matters raised have been addressed in the body of the report.

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

The reasons for this decision are:

- The request under Clause 4.6 of Hornsby Local Environmental Plan 2013 to contravene the Clause 4.3 Height of Buildings development standard is well founded. Strict compliance with the development standard is considered unreasonable and unnecessary in the circumstances of the case and sufficient environmental planning grounds have been submitted to justify the contravention to the development standard.

- The proposed development complies with the requirements of the relevant environmental planning instruments and the Hornsby Development Control Plan 2013.
- The proposed development does not create unreasonable environmental impacts to adjoining development with regard to visual bulk, solar access, amenity or privacy.

Note: At the time of the completion of this planning report, no persons have made a Political Donations Disclosure Statement pursuant to Section 10.4 of the Environmental Planning and Assessment Act 1979 in respect of the subject planning application.

CASSANDRA WILLIAMS
Major Development Manager - Development
Assessments
Planning and Compliance Division

ROD PICKLES
Manager - Development Assessments
Planning and Compliance Division

Attachments:

1. Locality Plan
2. Clause 4.6
3. Architectural Plans
4. Height Plane Diagram
5. Sectional Diagram
6. Shadow Diagram
7. Stormwater Concept Plan

File Reference: DA/1221/2022
Document Number: D08617951

SCHEDULE 1**ITEM 5****GENERAL CONDITIONS**

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

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

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

1. Approved Plans and Supporting Documentation

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

Approved Plans

Plan No.	Plan Title	Drawn by	Dated	Council Reference
Page 1 Issue E	Title	Cape Cod Australia	31.01.2023	
Page 2 Issue E	Site Plan	Cape Cod Australia	31.01.2023	
Page 3 Issue E	Proposed Lower Ground Floor Plan	Cape Cod Australia	31.01.2023	
Page 4 Issue E	Proposed Ground Floor Plan	Cape Cod Australia	31.01.2023	
Page 5 Issue E	Proposed First Floor	Cape Cod Australia	31.01.2023	
Page 6 Issue E	South Elevation & West Elevation	Cape Cod Australia	31.01.2023	
Page 7 Issue E	North Elevation & East Elevation	Cape Cod Australia	31.01.2023	
Page 8 Issue E	Section AA & Section BB	Cape Cod Australia	31.01.2023	

Supporting Documentation

Document Title	Prepared by	Dated	Council Reference
Stormwater Drainage Plan	Cape Cod Australia	-	D08585066
BASIX Certificate No. A460403_03	Cape Cod Australia	07/02/2023	D08585059
Waste Management Report	Cape Cod Australia	-	D08540869

2. Construction Certificate

- a) A Construction Certificate is required to be approved by Council or a Private Certifying Authority prior to the commencement of any construction works under this consent.
- b) A Subdivision Works Certificate is required to be approved by Council or a Private
- c) The Construction Certificate plans must be consistent with the Development Consent plans.

Reason: To ensure that detailed construction certificate plans are consistent with the approved plans and supporting documentation.

3. Section 7.12 Development Contributions

- a) In accordance with Section 4.17(1) of the *Environmental Planning and Assessment Act 1979* and the *Hornsby Shire Council Section 7.12 Development Contributions Plan 2019 - 2029*, **\$4,318.70** must be paid towards the provision, extension or augmentation of public amenities or public services, based on development costs of **\$431,871.00**.
- b) The value of this contribution is current as of **3 April 2023**. If the contributions are not paid within the financial quarter that this consent is granted, the contributions payable will be adjusted in accordance with the provisions of the Hornsby Shire Council Section 7.12 Development Contributions Plan and the amount payable will be calculated at the time of payment in the following manner:

$$\text{\$C}_{PY} = \frac{\text{\$C}_{DC} \times \text{CPI}_{PY}}{\text{CPI}_{DC}}$$

Where:

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

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

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

CPI_{DC} is the Consumer Price Index (Sydney - All Groups) for the financial quarter at the date of this Development Consent.

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

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

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

Note: The Hornsby Shire Council Section 7.12 Development Contributions Plan may be viewed at www.hornsby.nsw.gov.au or a copy may be inspected at Council's Administration Centre during normal business hours.

Reason: To address the increased demand for community infrastructure resulting from the approved development.

REQUIREMENTS PRIOR TO THE ISSUE OF A CONSTRUCTION CERTIFICATE

4. Building Code of Australia

Detailed plans, specifications and supporting information is required to be submitted to the certifying authority detailing how the proposed building work achieves compliance with the *National Construction Code - Building Code of Australia*. All building work must be carried out in accordance with the requirements of the *National Construction Code - Building Code of Australia*.

Reason: Prescribed condition - EP&A Regulation section 69(1)

5. Contract of Insurance (Residential Building Work)

Where residential building work for which the *Home Building Act 1989* requires there to be a contract of insurance in force in accordance with Part 6 of that Act, this contract of insurance must be in force before any building work authorised to be carried out by the consent commences.

Reason: Prescribed condition EP&A Regulation section 69(2)

6. Notification of Home Building Act 1989 Requirements

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

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

Note: If arrangements for doing the residential building work are changed while the work is in progress so that the information notified becomes out of date, further work must not be

carried out unless the principal certifying authority for the development to which the work relates (not being Council) has given Council written notification of the updated information.

Reason: Prescribed condition EP&A Regulation section 71(2) and (3)

7. Sydney Water – Approval

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

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

Reason: To ensure the development is provided with the relevant utility services.

8. Stormwater Drainage - Dwellings

The stormwater drainage system for the development must be designed for an average recurrence interval (ARI) of 20 years and be gravity drained to the existing internal drainage system.

Reason: To ensure appropriate provision for management and disposal of stormwater.

REQUIREMENTS PRIOR TO THE COMMENCEMENT OF ANY WORKS

9. Erection of Construction Sign

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

Reason: Prescribed condition EP&A Regulation, section 70(2) and (3).

10. Protection of Adjoining Areas

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

- a) Could cause a danger, obstruction or inconvenience to pedestrian or vehicular traffic.
- b) Could cause damage to adjoining lands by falling objects.
- c) Involve the enclosure of a public place or part of a public place.

- d) Have been identified as requiring a temporary hoarding, fence or awning within the Council approved Construction Management Plan (CMP).

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

Reason: To ensure public safety and protection of adjoining land.

11. Toilet Facilities

- a) To provide a safe and hygienic workplace, toilet facilities must be available or be installed at the works site before works begin and must be maintained until the works are completed at a ratio of one toilet for every 20 persons employed at the site.
- b) Each toilet must:
 - i) Be a standard flushing toilet connected to a public sewer.
 - ii) Be a temporary chemical closet approved under the *Local Government Act 1993*.
 - iii) Have an on-site effluent disposal system approved under the *Local Government Act 1993*.

Reason: To ensure adequate toilet facilities are provided.

12. Erosion and Sediment Control

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

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

Reason: To minimise impacts on the water quality of the downstream environment.

REQUIREMENTS DURING DEMOLITION AND CONSTRUCTION

13. Construction Work Hours

- a) All works on site, including demolition and earth works, must only occur between 7am and 5pm Monday to Saturday.
- b) No work is to be undertaken on Sundays or public holidays.

Reason: To protect the amenity of neighbouring properties.

14. Demolition

To protect the surrounding environment, all demolition work must be carried out in accordance with Australian Standard AS2601-2001 Demolition of structures and the following requirements:

- a) Demolition material must be disposed of to an authorised recycling and/or waste disposal site and/or in accordance with an approved waste management plan; and
- b) Demolition works, where asbestos material is being removed, must be undertaken by a contractor that holds an appropriate licence issued by *SafeWork NSW* in accordance with the *Work Health and Safety Regulation 2017* and be appropriately transported and disposed of in accordance with the *Protection of the Environment Operations (Waste) Regulation 2014*; and
- c) On construction sites where any building contains asbestos material, a standard commercially manufactured sign containing the words 'DANGER ASBESTOS REMOVAL IN PROGRESS' and measuring not less than 400mm x 300mm must be displayed in a prominent position visible from the street.

Reason: To ensure the appropriate removal and disposal of demolition materials.

15. Environmental Management

To prevent sediment run-off, excessive dust, noise or odour emanating from the site during the construction, the site must be managed in accordance with the publication '*Managing Urban Stormwater - Landcom (March 2004)*' and the *Protection of the Environment Operations Act 1997*.

Reason: To minimise impacts to the natural environment and public health.

16. Council Property

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

Reason: To protect public land.

17. Disturbance of Existing Site

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

Reason: To protect the natural features of the site.

18. Survey Report

A report(s) must be prepared by a registered surveyor and submitted to the principal certifying authority:

- a) Prior to the pouring of concrete at each level of the building certifying that:
 - i) The building, retaining walls and the like have been correctly positioned on the site.
 - ii) The finished floor level(s) are in accordance with the approved plans.

Reason: To ensure buildings are positioned in the approved location and at the correct height.

19. Waste Management

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

Reason: To ensure the management of waste to protect the environment and local amenity during construction.

REQUIREMENTS PRIOR TO THE ISSUE OF AN OCCUPATION CERTIFICATE

20. Fulfilment of BASIX Commitments

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

Reason: Prescribed condition under section 75) EP&A Regulation)

21. Damage to Council Assets

To protect public property and infrastructure, any damage caused to Council's assets as a result of the construction or demolition of the development must be rectified by the applicant in accordance with AUS-SPEC

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

Reason: To ensure public infrastructure and property is maintained.

- END OF CONDITIONS -

ADVISORY NOTES

The following information is provided for your assistance to ensure compliance with the Environmental Planning and Assessment Act, 1979, Environmental Planning and Assessment Regulation 2021, other relevant legislation and Council's policies and specifications. This information does not form part of the conditions of development consent pursuant to Section 4.17 of the Act.

Environmental Planning and Assessment Act 1979 Requirements

The Environmental Planning and Assessment Act 1979 requires:

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

Long Service Levy

In accordance with Section 34 of the *Building and Construction Industry Long Service Payments Act 1986*, a 'Long Service Levy' must be paid to the Long Service Payments Corporation (LSC) at www.longservice.nsw.gov.au.

Note: The rate of the Long Service Levy is 0.25% of the total cost of the work (including GST).

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

Tree and Vegetation Preservation

Hornsby Development Control Plan 2013 Tree and Vegetation Preservation provisions have been developed under Council's authorities contained in *State Environmental Planning Policy (Biodiversity and Conservation) 2021* and the *Environmental Planning and Assessment Act 1979*.

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

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

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

Covenants

The land upon which the subject building is to be constructed may be affected by restrictive covenants. Council issues this approval without enquiry as to whether any restrictive covenant affecting the land would be breached by the construction of the building, the subject of this consent. Applicants must rely on their own enquiries as to whether or not the building breaches any such covenant.

Before You Dig

Prior to commencing any works, the applicant is encouraged to contact Before You Dig Australia (BYDA) at www.byda.com.au for free information on potential underground pipes and cables within the vicinity of the development site.

Asbestos Warning

Should asbestos or asbestos products be encountered during demolition or construction works, you are advised to seek advice and information prior to disturbing this material. It is recommended that a contractor holding an asbestos-handling permit (issued by *SafeWork NSW*) be engaged to manage the proper handling of this material. Further information regarding the safe handling and removal of asbestos can be found at:

www.environment.nsw.gov.au

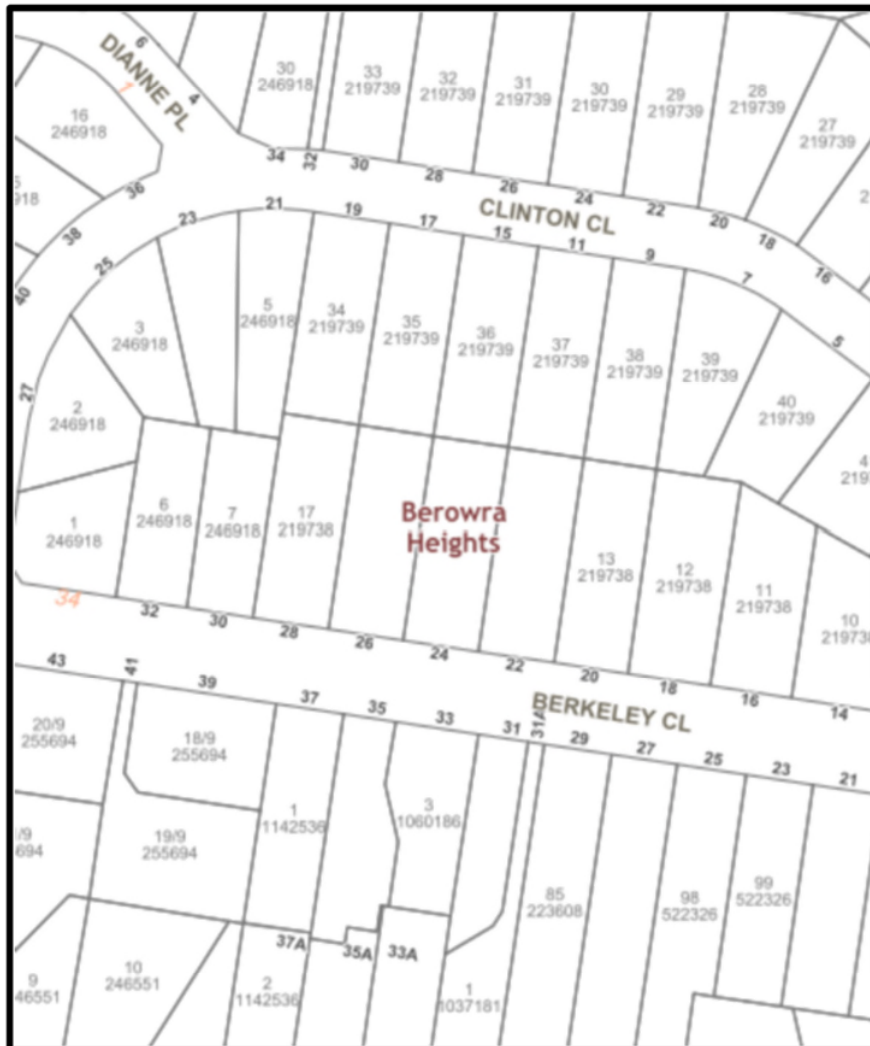
www.adfa.org.au

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

Rainwater Tank

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

ATTACHMENT 1 - ITEM 5



LOCALITY PLAN

DA/1221/2022

No. 24 Berkeley Close, Berowra Heights



CLAUSE 4.6 VARIATION STATEMENT

ALTERATIONS AND ADDITIONS TO EXISTING DWELLING HOUSE

24 BERKELEY CLOSE
BEROWRA HEIGHTS NSW 2082
LOT 15 DP 219738

ATTACHMENT 2 - ITEM 5

1 INTRODUCTION

This Clause 4.6 Variation Statement has been prepared by In House Town Planning. It is submitted to Hornsby Shire Council in support of a Development Application (DA) for alterations and additions to an existing dwelling house located at 24 Berkeley Close, Berowra Heights proposing a variation to the maximum building height limit.

Clauses 4.6 of the Hornsby Local Environmental Plan 2013 (HLEP 2013) enables Hornsby Shire Council to grant consent for development even though the development contravenes the height development standard. The Clause aims to provide an appropriate degree of flexibility in applying certain development standards to achieve better outcomes for and from development.

Clauses 4.6(3) requires the consent authority to consider a written request from the applicant that seeks to justify the contravention of the development standard. Clause 4.6(4)(a) states that development consent must not be granted for development that contravenes a development standard unless the consent authority is satisfied:

- That the applicant's written request has adequately demonstrated that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case;
- That the applicant's written request has adequately demonstrated that there are sufficient environmental planning grounds to justify contravening the development standard; and
- That the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out.

The consent authority's satisfaction in respect of those matters must be informed by the objectives of Clause 4.6, which are to provide an appropriate degree of flexibility in the application of the relevant controls and to achieve better outcomes for and from the development in question by allowing flexibility in particular circumstances.

The Land and Environment Court has established a set of factors to guide assessment of whether a variation to development standards should be approved. The original approach was set out in the judgment of Justice Lloyd in *Winten Property Group Ltd v North Sydney Council* [2001] 130 LGERA 79 at 89 in relation to variations lodged under State Environmental Planning Policy 1 – Development Standards (SEPP 1). This approach was later rephrased by Chief Justice Preston, in the decision of *Wehbe v Pittwater Council* [2007] NSWLEC 827 (Wehbe). While these cases referred to the former SEPP 1, the analysis remains relevant to the application of Clause 4.6(3)(a).

In accordance with the HLEP 2013 requirements, this Clause 4.6 Variation Statement identifies the following:

- The development standard to be varied.
- The variation sought.
- Establishes that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case.
- Demonstrates there are sufficient environmental planning grounds to justify the contravention.
- Demonstrates that the proposed variation is in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out.
- Provides an assessment of the matters the Secretary is required to consider before providing concurrence.

This Clause 4.6 Variation Statement relates to the development standard for maximum building height under Clause 4.3 of the HLEP 2013 and should be read in conjunction with the Statement of Environmental Effects (SEE) prepared by Cape Cod Australia. This document demonstrates that compliance with the maximum height development standard is unreasonable and unnecessary in the circumstances of the case and that there are sufficient environmental planning grounds to justify contravention of the standard.

This Clause 4.6 Variation Statement sufficiently demonstrates that:

- There are sufficient environmental grounds to justify the contravention. The proposed height variation does not generate any unacceptable environmental impacts in respect of overshadowing or wind and will not significantly impact on view lines and vistas from the public domain.
- There are site specific environmental grounds which justify the minor breach, due mainly to the existing site topography that falls not only from the front to the rear of the site in the order of 58cms, but also from the western to the eastern boundary. The height of building control of 8.5m is therefore unavoidably breached in achieving a suitable and cohesive design outcome, and the breach is exacerbated by the existing topography in the immediate area.
- Notwithstanding the proposed height variation, the proposed development remains consistent with the objectives of the height standard and the R2 – Low Density Residential zone.
- The proposed height variation will not be highly perceivable from the public domain and as such the proposed development will have an appropriate impact, in terms of its scale, form and massing.
- The proposed development is in the public interest as the variation to the height control will enable the orderly and efficient use of the land, in accordance with the objectives of the Environmental Planning and Assessment Act 1979 (EP&A Act).

2 PROPOSED VARIATION

2.1 DEVELOPMENT STANDARD TO BE VARIED

This Clause 4.6 Variation Statement seeks to justify contravention of the development standard set out in Clause 4.3 of the HLEP 2013. Clause 4.3(2) requires that the height of a building on any land is not to exceed the maximum height shown for the land on the Height of Buildings Map. The site is subject to a maximum building height of 8.5m as shown on the Height of Buildings Map below.



Figure 1: Height of Buildings Map (Hornsby Local Environmental Plan 2013)

2.2 NATURE OF VARIATION SOUGHT

Due to the steeply sloping nature of the land, the maximum building height for the development is determined in accordance with Figure 3.1(a) of the HDCP 2013 shown below. While the height control is placed to ensure that the character of the locality is maintained, applying the control to a site with dramatic changes from both the front boundary to the rear and between the side boundaries can inevitably result in departures from the control in order to achieve a uniform and functional building envelope and maintain compliance across all other development standards.

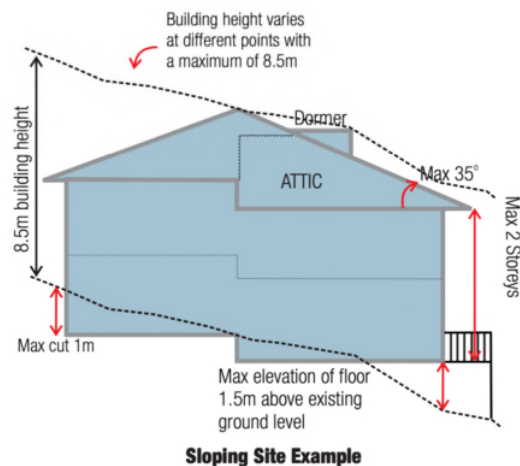


Figure 2: Maximum Building Height Calculation (HDCP 2013)

The departure from the height control is in the order of 58cms and is isolated to a very minor portion of the new roof form proposed above the first floor addition, where the existing topography in relation to the host structure

is at its lowest point. This portion of the building does not contain any windows or openings that would provide for overlooking of adjoining private open space areas or direct view into habitable rooms. This area is shown in the Height Plane Diagram at Figure 3 below.

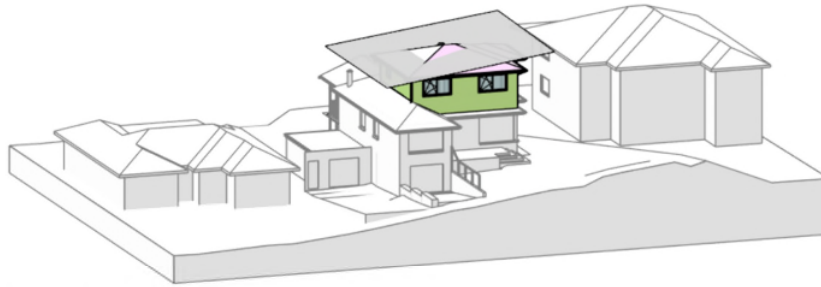


Figure 3: Location of Proposed Variation

As demonstrated by the Architectural Plans submitted with this application and the Section Plans shown below, the remaining areas of the proposed development are fully compliant with the prescribed maximum building height control. It is also noted that the proposed development has been amended from the initial design to reduce the floor area, which is now predominately situated on the sub-floor and maintains the two storey appearance of the dwelling. The reduction in floor area ensures that the final development achieves compliance with the solar access provisions of the HDCP 2013, particularly in relation to the adjoining property at Number 22 Berkeley Close, Berowra Heights when viewing the 3pm Elevation Shadows.

In this instance, the variation to the height of buildings control relies on Clause 4.6 - *Exception to Development Standards* of the HLEP 2013.

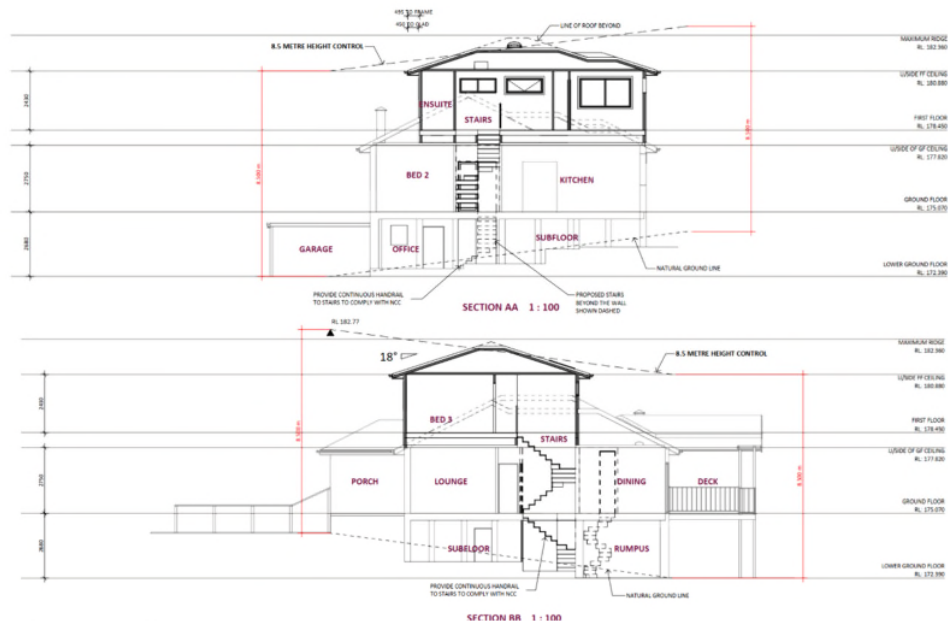


Figure 4: Section Plans

3 JUSTIFICATION FOR CONTRAVENTION OF THE STANDARD

Clause 4.6(3) of the HLEP 2013 provides that:

3. *Development consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating:*
 - a) *that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and*
 - b) *that there are sufficient environmental planning grounds to justify contravening the development standard.*

Further, Clause 4.6(4)(a) of the HLEP 2013 provides that:

4. *Development consent must not be granted for development that contravenes a development standard unless:*
 - a) *the consent authority is satisfied that:*
 - i. *the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and*
 - ii. *the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out, and*
 - b) *the concurrence of the Secretary has been obtained.*

Assistance in the approach to justifying a contravention to a development standard is also to be taken from the applicable decisions of the NSW Land and Environment Court and the NSW Court of Appeal in:

- *Wehbe v Pittwater Council [2007] NSW LEC 827; and*
- *Four2Five Pty Ltd v Ashfield Council [2015] NSWLEC 1009.*

The relevant matters contained in Clause 4.6 of the HLEP 2013, with respect to the maximum building height development standard, are each addressed below, including with regard to these decisions.

3.1 CLAUSE 4.6(3)(a): COMPLIANCE WITH THE DEVELOPMENT STANDARD IS UNREASONABLE AND UNECESSARY IN THE CIRCUMSTANCES OF THE CASE

In *Wehbe*, Preston CJ of the Land and Environment Court provided relevant assistance by identifying five traditional ways in which a variation to a development standard had been shown as unreasonable or unnecessary. The five methods outlined in *Wehbe* include:

1. *The objectives of the standard are achieved notwithstanding non-compliance with the standard.*
2. *The underlying objective or purpose of the standard is not relevant to the development and therefore compliance is unnecessary.*
3. *The underlying object or purpose would be defeated or thwarted if compliance was required and therefore compliance is unreasonable.*
4. *The development standard has been virtually abandoned or destroyed by the Council's own actions in granting consents departing from the standard and hence compliance with the standard is unnecessary and unreasonable.*
5. *The zoning of the particular land is unreasonable or inappropriate so that a development standard appropriate for that zoning is also unreasonable and unnecessary as it applies to the land and compliance with the standard would be unreasonable or unnecessary. That is, the particular parcel of land should not have been included in the particular zone.*

Of particular assistance in this matter, in establishing that compliance with a development standard is unreasonable or unnecessary, is the first method listed above. It is argued that the proposed development satisfies each of the relevant objective of Clause 4.3(1) of HLEP 2013 as demonstrated below.

- a) to permit a height of buildings that is appropriate for the site constraints, development potential and infrastructure capacity of the locality.*

The proposed development has been designed in harmony with the streetscape, proposing alterations and additions to the existing dwelling house that are contained entirely within the established building envelope on the site. The predominant built form of dwellings along the Berkeley Close streetscape is split-level dwellings up to two storeys in height that follow the sloping gradient of the land. There are numerous examples of dwellings in the immediate vicinity of the site that have been approved for alterations and additions similar to the development proposed, as detailed below.

- 10 Berkeley Close, Berowra Heights – Alterations and first floor addition
- 16 Berkeley Close, Berowra Heights – Alterations and first floor addition
- 17 Berkeley Close, Berowra Heights – Alterations and first floor addition
- 26 Berkeley Close, Berowra Heights – Alterations and first floor addition
- 37 Berkeley Close, Berowra Heights – Alterations and first floor addition

The proposed development has been designed in harmony with the streetscape, proposing an upper floor addition that is recessed behind the front building line of the dwelling house below to maintain a consistent street rhythm with adjoining properties. The surrounding streetscape comprises of an eclectic mix of architectural styles and forms, ranging from single and two storey dwellings that likewise accommodate an upper floor component.

To the immediate east of the subject site at 22 Berkeley Close, Berowra Heights is a two storey dwelling house that follows the sloping gradient of the land. The ridgeline of the adjoining building when viewed from the streetscape sits well above the existing maximum ridgeline of the subject dwelling as shown in **Figure 3** below. At the completion of works, the height of the subject building will generally appear consistent with the adjoining building despite the non-compliance with the maximum building height provision, due to the consistent slope of the street downwards from east to west.



Figure 3: Streetscape View of 22 & 24 Berkeley Close, Berowra Heights

To the immediate west of the subject site at 26 Berkeley Close, Berowra Heights is a single storey dwelling house with a lower ground floor level garage, similar to the existing built form on the subject site. The dwelling is almost entirely screened by dense vegetation within the front setback of the site and so the building provides little to no contribution to the inherent value or built form characteristics of the streetscape. The proposed upper floor addition is recessed behind the existing ground floor building elevations and maintains a considerable setback distance to the adjoining dwelling, thereby alleviating any potential overshadowing or overlooking impacts. The final development reflects the roof form characteristics of the adjoining dwelling to create a respectful dialogue between the two buildings, despite limited views of this dwelling from the public domain.



Figure 4: Streetscape View of 26 & 24 Berkeley Close, Berowra Heights

The proposed development achieves a highly sympathetic design outcome, with the first floor addition integrating seamlessly with the host structure below and reflecting the general characteristics of the adjoining buildings. The recessed nature of the addition will ensure that it appears as sub-ordinate to the original dwelling and does not dominate that site or the streetscape.

The proposed departure from the maximum building height control is not considered likely to result in adverse impacts to adjoining buildings, or buildings in the vicinity of the site, in terms of views, loss of privacy, overshadowing or visual intrusion. The Shadow Diagrams submitted with the application clearly demonstrate that the final development achieves the solar access requirements stipulated under the HDCP 2013 both on the site and for adjoining properties. The steeply sloping nature of the land and the location of adjoining dwellings ensures that the encroaching roof form does not significantly overshadow the living or private open space areas of these properties or compromise their ability to attain a suitable level of solar access to the internal areas.

In *Tenacity Consulting v Warringah Council* (Tenacity Consulting) the Court provided a four-step assessment process to guide whether or not view sharing is reasonable. In doing so, the Court also gave some helpful guidance as to what should be considered as part of each step of an assessment. The four steps provided by the Court in *Tenacity Consulting* is as follows:

Step One - Assessment of the views to be affected.

The proposed development was designed with consideration of the value of existing views and given the locality, existing views are generally limited to neighbourhood views. Given the local street topography being a consistent east to west fall of land, modest lot widths and the presence of numerous two storey dwellings in the immediate area, the streetscape is an environment where a degree of obstruction to views is inevitable. Analysis of the streetscape identifies that there are no significant public views from the site or adjoining properties. It is surmised that adjoining developments would also have similar views from the front rooms or rear balconies as the subject dwelling. As the land slopes significantly from east to west, it is expected that any sites to the east of the subject site will be located at a higher level than the final building. As a result, development to the east will generally maintain their neighbourhood views.

Step Two – Consideration from what part of the property the views are obtained.

As discussed above, the surrounding streetscape does not benefit from significant views and potential impacts to neighbourhood views are limited to first floor windows and projecting balconies of surrounding properties. Due to the orientation of these buildings, the steeply sloping nature of the streetscape and the location of the subject building envelope, the proposed impacts are considered to be negligible.

Step Three – Assessment of the extent of the impact.

The proposed development has been designed to minimise view loss from the public domain and to adjoining and adjacent properties as much as possible whilst still providing opportunities for improved views from the development site. Given the local street topography being a consistent fall from east to west and to the rear, buildings are predominately stepped down the land and therefore maintain visual corridors to the neighbourhood. The proposed development will not significantly impact on existing views from surrounding buildings.

Step Four – Assessment of the reasonableness of the proposal that is causing the impact.

The proposed development is entirely reasonable as it is in keeping with the built form characteristics of the surrounding streetscape and the value of the locality. The encroaching building height is a direct result of the dramatic topography of the land and will not generate any adverse environmental impacts beyond what is currently experienced on the site.

It is therefore considered that the proposed development is appropriate for the site in consideration of the judgement of *Tenacity Consulting v Warringah Council*.

Alternative Options

It is important to note that other design options for the upper floor addition were explored as part of the design process, however these were not considered feasible when taking into account the established residential characteristics of the streetscape, the constraints of the site and the built form provisions of the HDCP 2013.

Landscaping

A lower ground or ground floor extension was avoided in order to preserve the existing landscaped areas on the site and achieve compliance with the landscape requirement under the HDCP 2013. Presently there is 541.11m² or 57.9% landscaped area on the site and a lower ground or ground floor extension presenting three bedrooms, an ensuite and living space would have potentially decreased this amount to less than the required 30%. By diminishing the existing landscaped areas on the site, the development would not be in keeping with the desired outcomes under Part 3.1.3 of the HDCP 2013:

- a) *Landscaping that integrates the built form with soft landscaping and retains and enhances the tree canopy.*
- b) *Development that retains existing landscape features.*

Cut and Fill

A lower ground or ground floor extension would have also required a significant level of excavation or fill due to the sloping topography of the site. Figure 3.1(a) of the HDCP 2013 shown above demonstrates that the maximum permissible level of cut or fill on a site is 1m. In order to achieve a functional floor plan, greater than 1m of excavation or fill would be required at the rear of the building to enable a flat building envelope that integrates with the existing lower ground or ground floor level. Excavation of this nature on the site would be at odds with prescriptive measures under Part 3.1.1(b) of the HDCP 2013:

- b) *Buildings should respond to the topography of the site by:*
 - *minimising earthworks (cut and fill), and*
 - *siting the floor level of the lowest residential storey a maximum of 1.5 metres above natural ground level.*

The environmental impacts of the earthworks would far outweigh the negligible impact that would result from exceeding the maximum building height provision.

Setbacks

An extension of the ground or lower ground floor level would also potentially result in a non-compliance with the prescribed front and rear setback distances and would not respect the established building lines of the streetscape. There is a clear pattern of development throughout the streetscape, with buildings contained to the front portion of the site and the rear portion occupied by extensive landscaping and open space. The development as proposed achieves a front and rear setback that is compatible with adjoining properties and therefore achieves the desired outcome of Part 3.1.2 of the HDCP 2013:

- a) Setbacks that are compatible with adjacent development and complement the streetscape.*

An extension above the existing garage is not feasible in achieving a functional internal layout, with suitable bedroom sizes and a desirable configuration that achieves optimal solar access. Locating the first floor addition above garage may have resulted in unreasonable overshadowing impacts to the adjoining single storey dwelling at 26 Berkeley Close, Berowra Heights that is set below the subject building due to the slope of the streetscape from east to west. The development has been designed in accordance with the desired outcomes and prescriptive measures of Part 3.1.5 of the HDCP 2013 set out below, by achieving an appropriate level of solar access on the site and maintaining the required level of solar access to adjoining properties. 3D Shadow Diagrams are submitted with this application and shown below.

Desired Outcome

- a) Dwelling houses designed to provide solar access to open space areas.
b) Development designed to provide reasonable sunlight to adjacent properties.*

Prescriptive Measures

- a) On 22 June, 50 percent of the required principal private open space area should receive 3 hours of unobstructed sunlight access between 9am and 3pm.
b) On 22 June, 50 percent of the required principal private open space on any adjoining property should receive 3 hours of unobstructed sunlight access between 9am and 3pm.*

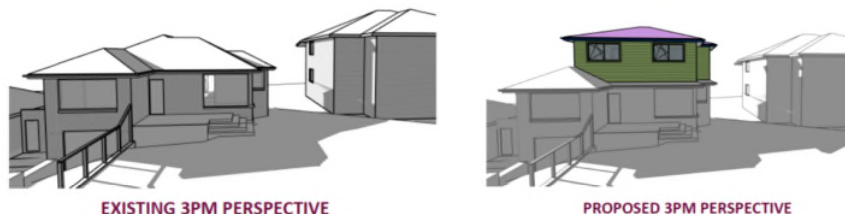


Figure 4: 3D Shadow Diagrams

Furthermore, due to the existing internal configuration of the development, a rear extension to the lower ground floor level comprising three bedrooms, ensuite an living space would not be desirable as it would require access through the rumpus room. The owner wishes to preserve their private open space area at the rear of the site and retain as much soft landscaping as possible to soften the appearance of the building and achieve a continuous landscape corridor with adjoining properties.

Roof Form

The development design was established on the basis of the prescriptive measures for roof forms under Section 3.11 of the HDCP 2013, which states the following:

- d) Low pitched roofs with wide eaves are encouraged for compatibility with streetscape character and sun control.*

- e) *The roof should have a maximum pitch of 35 degrees, except if a steeper roof pitch is more consistent with the existing character of the locality.*

The proposed roof form has been sensitively designed to ensure consistency with the prevailing pitched roof forms of buildings throughout the streetscape. The non-compliance with the building height provision is experienced within the pitch of the roof form, however, if a flat roof form was proposed the development would appear out of character with the existing dwelling house as well as the surrounding streetscape and would be inconsistent with the above provisions of the HDCP 2013.

Further, it is understood that the minimum first floor level ceiling height provision for a dwelling house is 2.4m. The proposed addition features a ceiling height 2.43m and so any reduction in the building height would result in a non-compliance with the ceiling height control and would significantly impact on the functionality and amenity of the first floor addition for the residents.

Building Character and Form

In accordance with the provisions of Part 4.8 of the HDCP 2013, the design, height and siting of the proposed development effectively responds to its site context taking into account both natural and built form features. The design has particular regard to the topography of the land in order to avoid cut and fill associated with dwelling construction. The development achieves the objectives for building character and form in the following ways:

- b) The final development responds to both its natural and built context, by achieving a first floor addition that is contained wholly within the existing building envelope, does not require excavation and does not involve the removal of any trees or vegetation.
- c) The final development reflects the built form characteristics of the existing dwelling and the surrounding streetscape, particularly in relation to the pitched roof form, façade materials and window design.
- d) The overall scale, form and articulation of the development will not appear out of character in the context of the streetscape. All existing areas of landscaping on the site are retained as they contribute to the visual quality of the locality.
- e) The proposal maintains the orientation of the dwelling to the streetscape and enables overlooking and casual surveillance of the public domain through the first floor façade windows.

The immediate area has numerous examples of dwelling houses with two or three storey components of similar or greater scale. While the height control is placed to ensure that the future character of the locality is maintained, the departure of the height control in this instance is a direct result of the inherent nature of adding to an existing dwelling on a site with significant changes in elevation. The control is therefore considered only a guide directed towards relatively level sites however applying the control to a site with dramatic changes will inevitably create a departure from the control. While the proposed addition seeks to build higher than the numerical control, the residential surroundings will not allow extreme departures for future developments where residential dwellings will continue to dominate the streetscape.

It is therefore considered necessary to contravene the maximum building height control in order to provide a functional and aesthetic first floor addition, with suitable ceiling heights and roof undulations that break up the visual bulk of the development when viewed from the public domain. The breach of building height relates only to the roof form and is not in relation to any usable or habitable floor area, therefore the portion of the development located above the maximum building height will not contain any windows or openings that will provide for direct view into adjoining properties or result in privacy concerns. The final development will present to the public domain as a traditional two storey dwelling house that is sympathetic of adjoining buildings and achieves an appropriate balance between the built form, landscaped areas and private open space.

3.2 CLAUSE 4.6(3)(b): ENVIRONMENTAL PLANNING GROUNDS TO JUSTIFY CONTRAVENING THE DEVELOPMENT STANDARD

The following site-specific environmental grounds further justify the proposed variation to the maximum height control:

- The proposed variation is minor in nature, in the order of 58cms, and is isolated to the roof section of the proposed addition where the existing topography in relation to the host structure is at its lowest point. As detailed on the Architectural Plans submitted with this application, the remaining areas of the built form are fully compliant with the maximum building height control under Clause 4.3 of the HLEP 2013.
- The proposed variation only covers a small proportion of the site and has been centrally within the building footprint to maintain a considerable setback to adjoining building and to avoid obstruction of views from the surrounding streetscape, noting that views are limited to neighbourhood views.
- The proposed height variation will not generate any unacceptable adverse environmental impacts in respect of overshadowing or wind impacts. This is clearly demonstrated by the Shadow Diagrams submitted with this application, with the development maintaining an appropriate level of solar access to adjoining living and private open space areas through the incorporation of suitable setback distances to the side and rear property boundaries. The location of the proposed first floor level behind the front building line and side elevations of the host structure ensures overshadowing of properties to the east and west is avoided.
- Notwithstanding the proposed height variation, the final development continues to satisfy the objectives of the maximum building height control as demonstrated above.
- The complying building envelope is significantly compromised by the sloping topography of the land. It is therefore considered necessary to contravene the maximum building height control in order to provide a functional and aesthetic first floor level with a roof profile that reflects the existing dwelling house to ensure that the final development does not present as a piecemeal building when viewed from adjoining properties and the public domain.
- The breach of building height relates only to a small portion of the roof form and is not in relation to any usable or habitable floor area. Therefore, the portion of the development located above the maximum building height will not contain any windows or openings that will provide for direct view into adjoining properties or result in privacy concerns.
- The proposed variation will not result in a development that is out of character with that envisioned by Hornsby Shire Council. The final development will present to the public domain as a traditional split-level dwelling house that is sympathetic of adjoining buildings and achieves an appropriate balance between the built form, landscaped areas and private open space.

3.3 CLAUSE 4.6(3)(a)(ii): IN THE PUBLIC INTEREST BECAUSE IT IS CONSISTENT WITH THE OBJECTIVES OF THE ZONE AND DEVELOPMENT STANDARD

The proposed development is in the public interest as it achieves the below objectives of the R2 – Low Density Residential zone by contributing to a form of low impact residential development that is in keeping with adjoining land uses and will not adversely affect the aesthetic value of the land and the surrounding locality. The proposed development is located within the established building envelope on the site to respect the building lines of the streetscape and retain a significant amount of vegetation within the rear portion of the site for the amenity of the residents and the scenic quality of the streetscape. The proposed first floor addition is appropriately stepped in from the ground floor building envelope below to limit potential impacts in terms of views to and from the public domain. The design of the development is in keeping with the established residential characteristics of the streetscape and will improve the sites presentation to the surrounding streetscape and when viewed from the water as a result of sympathetic architectural styling combined with appropriate landscaping works.

The proposed height variation is in the overall public interest as it provides a significant improvement to the existing dwelling house, is in keeping with the predominant built form characteristics of the streetscape, maintains the existing architectural styling of the host structure and will promote the orderly and efficient use of land in accordance with the objects of the EP&A Act.

4 OTHER MATTERS FOR CONSIDERATION

Under clause 4.6(5) of the HLEP 2013, in deciding whether to grant concurrence, the Director-General must consider the following matters:

5. *In deciding whether to grant concurrence, the Secretary must consider:*
- a) *whether contravention of the development standard raises any matter of significance for State or regional environmental planning, and*
 - b) *the public benefit of maintaining the development standard, and*
 - c) *any other matters required to be taken into consideration by the Secretary before granting concurrence.*

These matters are addressed in detail below.

4.1 CLAUSE 4.6(5)(a): WHETHER CONTRAVENTION OF THE DEVELOPMENT STANDARD RAISES ANY MATTER OF SIGNIFICANCE FOR STATE OR REGIONAL ENVIRONMENTAL PLANNING

The variation of the maximum height development standard does not raise any matter of significance for State or Regional planning.

4.2 CLAUSE 4.6(5)(b): THE PUBLIC BENEFIT OF MAINTAINING THE DEVELOPMENT STANDARD

There is no public benefit in maintaining the development standard in terms of State and Regional planning objectives. As noted in the preceding sections, the additional height proposed generally reflects the height of development throughout the locality and the non-compliance is due to the sloping nature of the site. The development will not appear out of character when viewed from the public domain and does not give rise to any significant adverse environmental impacts.

4.3 CLAUSE 4.6(5)(c): ANY OTHER MATTERS REQUIRED TO BE TAKEN INTO CONSIDERATION BY THE DIRECTOR-GENERAL BEFORE GRANTING CONCURRENCE.

There are no other relevant matters requiring consideration.

6 CONCLUSION

The assessment above sufficiently demonstrates that compliance with the maximum building height development standard contained in Clause 4.3 of the HLEP 2013 is unreasonable and unnecessary in the circumstances of the case and that the justification is well founded. It is considered that the variation allows for the orderly and economic use of the land in an appropriate manner. The development, including height variation, has been designed in harmony with adjoining buildings to ensure that the proposed works do not compete with the integrity of the streetscape.

This Clause 4.6 Variation Statement demonstrates that, notwithstanding the non-compliance with the maximum height development standard, the proposed height variation:

- Is consistent with the objectives of Clause 4.3 of the HLEP 2013.
- Is consistent with the guiding principles of *Tenacity Consulting v Warringah Council* in terms of view loss.
- Is minor in nature and relates only to the proposed roof form of the first floor addition.
- Will enhance the streetscape in relation to scale, materials and external treatments.
- Will promote the orderly and efficient use of land, in accordance with the objectives of the Act.

It is therefore demonstrated that the DA may be approved with the variation as proposed in accordance with the flexibility allowed under Clause 4.6 of the HLEP 2013.

WORKING PLANS SHEET TITLE					
#	SHEET TITLE				
1	TITLE				
2	SITE PLAN				
3	PROPOSED LOWER GROUND FLOOR PLAN				
4	PROPOSED GROUND FLOOR PLAN				
5	PROPOSED FIRST FLOOR PLAN				
6	ELEVATIONS				
7	ELEVATIONS				
8	SECTIONS				
9	BASIC COMMITMENTS				
10	GENERAL SPECIFICATIONS				
11	GLAZING SPECIFICATIONS				

VERSION			
#	DESCRIPTION		DATE
A	TECHNICAL	SF	05.05.22
B	TO CLIENT	SF	10.05.22
C	POV 10296S 10297L	SF	05.09.22
D	TO COUNCIL & BAUK ADDED	SF	02.11.22
E	COUNCIL REDESIGN	AT	31.01.23

SPECIAL NOTES

GENERAL SPECIAL NOTES

THIS PLAN IS TO BE READ IN CONJUNCTION WITH THE WRITTEN PROPOSAL:
 THIS PROJECT IS A TWO-STOREY RESIDENTIAL DEVELOPMENT CONSISTING OF TWO (2) 3 IN 1 FAULIGHT HEATER UNIT AS SUPPLIED BY OWNER.

SHORE DETECTORS:

- PROVIDE 300MM BUILD UP TO "FLOOR ZONE" FOR AIR CONDITIONING DUCTWORK SUPPLIED & INSTALLED BY CAPE COD TO COMPLY WITH NCC STANDARD
- LOWER GROUND FLOOR
- FIRST FLOOR
- SUPPLIED & INSTALLED BY CAPE COD TO COMPLY WITH NCC STANDARD
- 1
- 1

WORKS BY OWNER

- RELOCATE EXISTING ELECTRICAL HOT WATER UNIT POSITION TO BE DISCUSSED ON
- REMOVAL & DISPOSAL OF EXISTING HOT WATER UNIT IN THE ROOF SPACE.
- SUPPLY OF TEN (10) DOWNLIGHTS, FIVE (5) LIGHT POINTS & TWO (2) 3-IN-1 FAULIGHT HEATER UNIT.
- INSTALLATION OF NEW UNIT OF EXISTING AIR CONDITIONING SYSTEM.
- EXTENDING EXISTING LIME
- SUPPLY & INSTALLATION OF SOLAR PANELS, IF REQUIRED.
- ALL WORKS ASSOCIATED WITH THE CONSTRUCTION OF THE ON SITE RETENTION (DOO) SYSTEM AS REQUIRED BY COUNCIL TO BE COMPLETED.
- CONCRETE SLAB AND WALLS TO BE CONSTRUCTED TO PROVIDE AROUND FLOOR AREAS EXTERNALLY OR INTERNALLY AS THE INFORMATION OF THESE AREAS WILL VARY IN EXTENT OF THE WORK REQUIRED. AT YOUR REQUEST, CAPE COD WILL PROVIDE A QUOTE DURING THE COURSE OF CONSTRUCTION TO ALLOW US TO PROVIDE YOU THE BEST AND MOST COMPETITIVE PRICE OUTCOME.

PROPOSED ADDITION FOR:

MRS N MINNS
 24 BERKELEY CLOSE
 BEROOWRA HEIGHTS NSW 2082

JOB NUMBER: 8182

COUNCIL: HORNSBY SHIRE

PROJECT DESIGNER: ROSS ALLEN

A.B.N. 54 000 665 407
 SUITE 41, 410 CHURCH STREET,
 NORTH PARAMATTA 2151
 PHONE: (02) 9649 4444
 BUILDERS LICENCE NO. 119



3D PERSPECTIVE

PROPOSED LOWER GROUND FLOOR PLAN

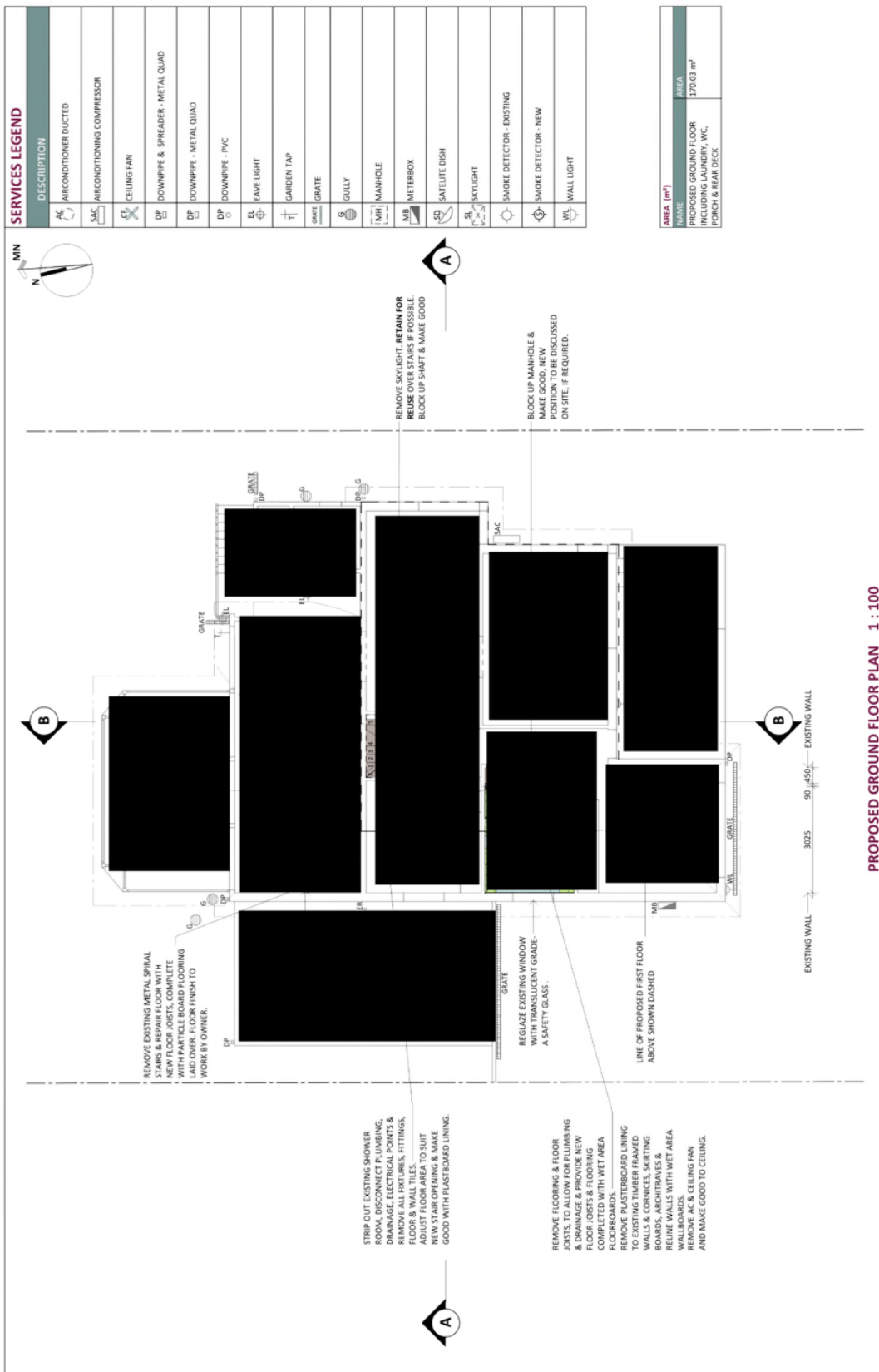


PROPOSED LOWER GROUND FLOOR PLAN 1 : 100

PROPOSED ADDITION COB:
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ATTACHMENT 3 - ITEM 5

PROPOSED GROUND FLOOR



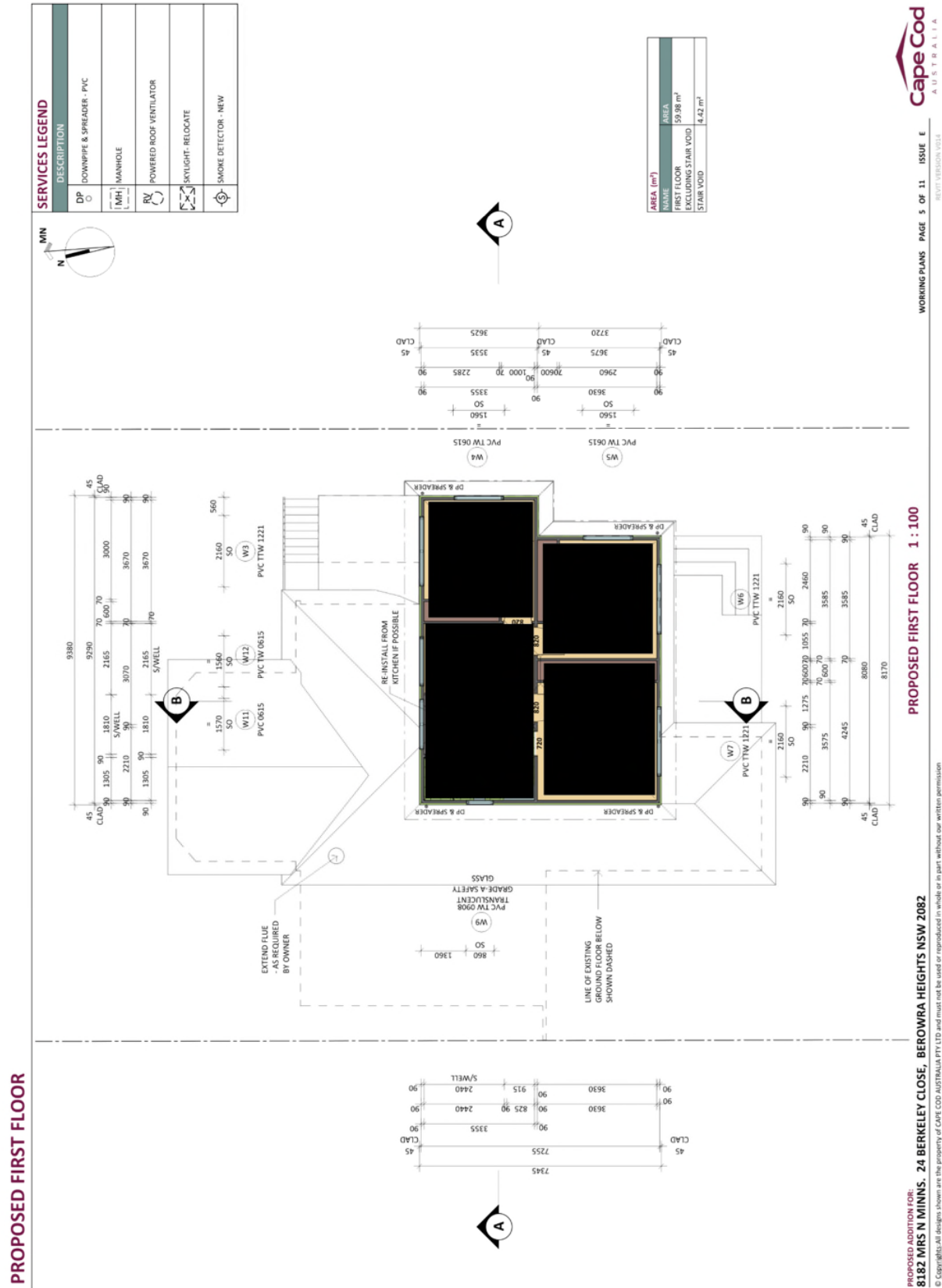
AREA (m ²)	NAME	AREA
	PROPOSED GROUND FLOOR INCLUDING LAUNDRY, WC, PORCH & REAR DECK	170.03 m ²

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8182 MRS N MINNS. 24 BERKELEY CLOSE, BEROWRA HEIGHTS NSW 2082

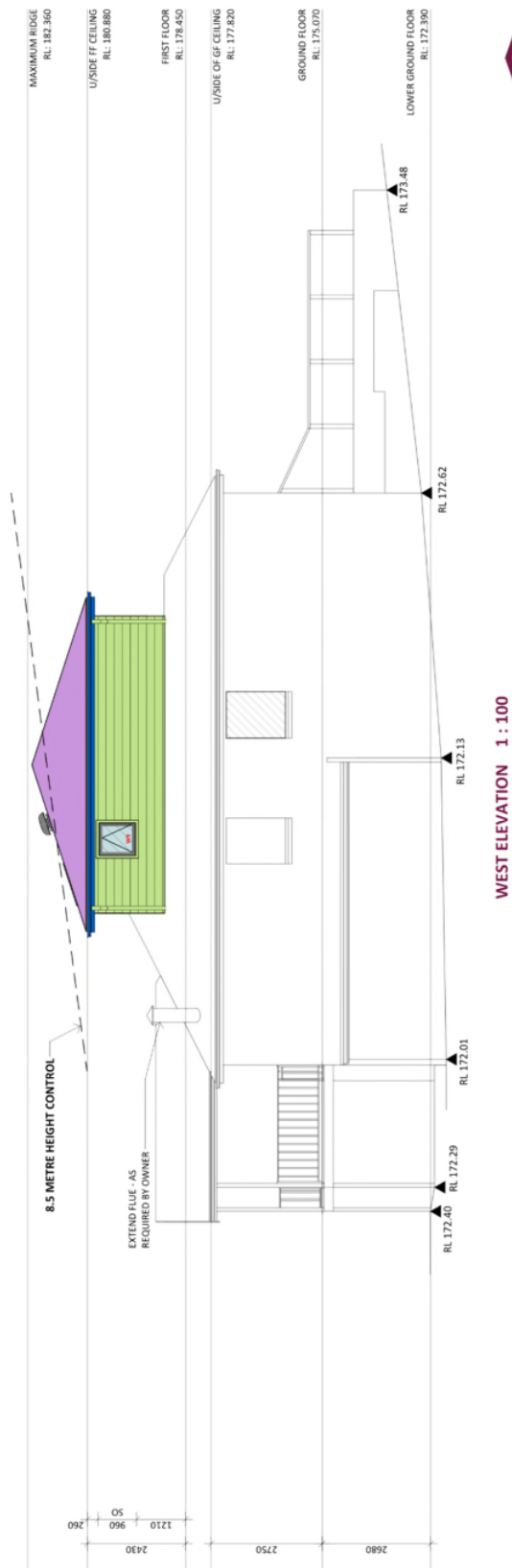
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REVISED SUBMITTABLE

WORKING PLANS PAGE 4 OF 11 ISSUE E

ATTACHMENT 3 - ITEM 5



ATTACHMENT 3 - ITEM 5

ELEVATIONS

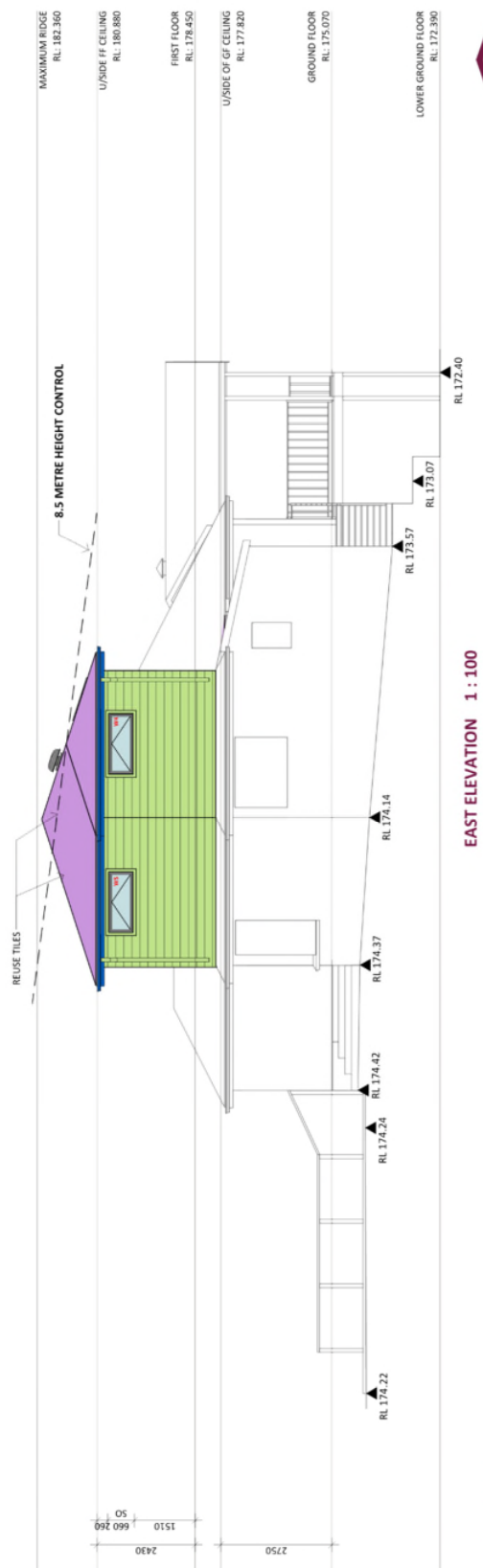
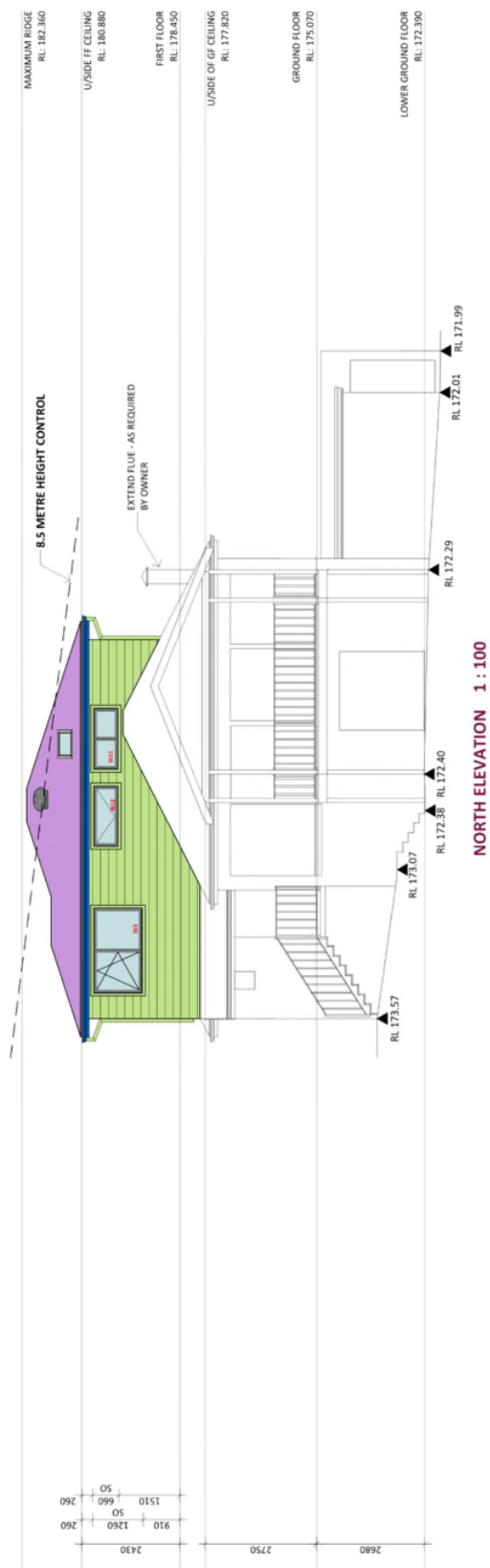
Cape Cod
AUSTRALIA

WORKING PLANS PAGE 6 OF 11 ISSUE E
REVIT VERSION V01A

PROPOSED ADDITION COB
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ATTACHMENT 3 - ITEM 5

ELEVATIONS

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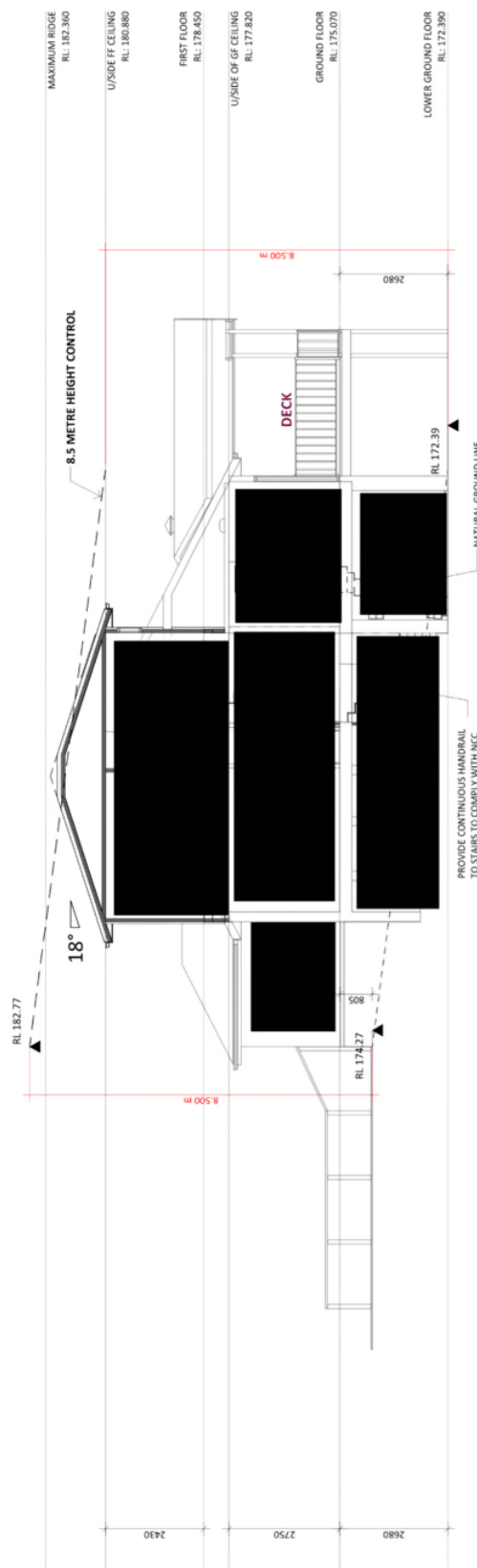
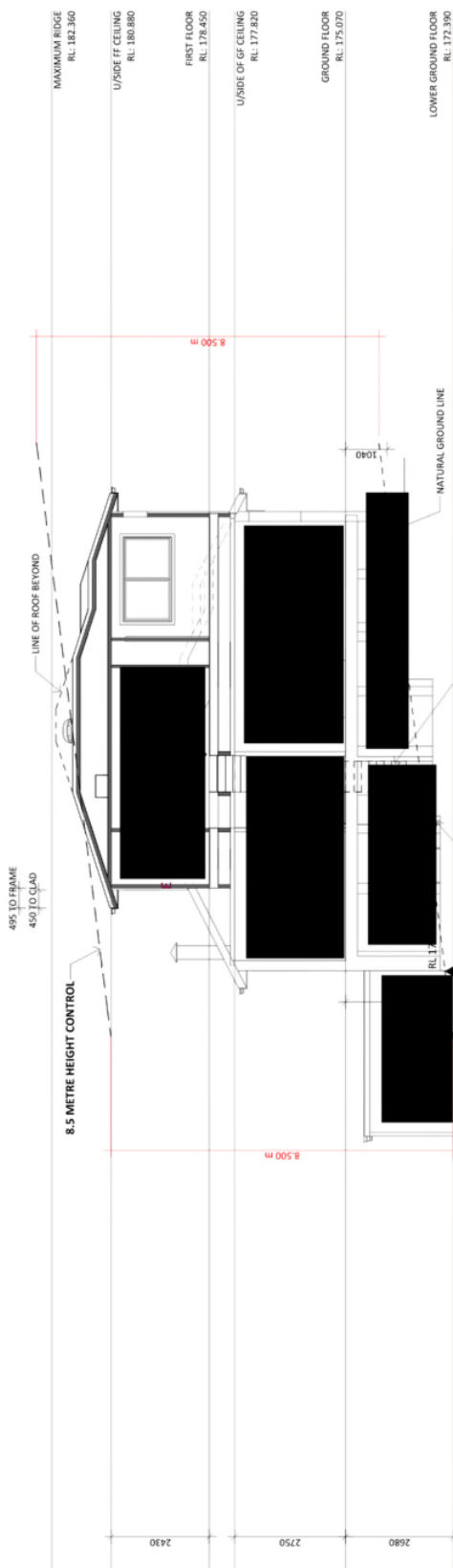
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WORKING PLANS PAGE 7 OF 11 ISSUE E
REVIT VERSION V01A

Cape Cod
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ATTACHMENT 3 - ITEM 5

SECTIONS



PROPOSED ADDITION COB
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WORKING PLANS PAGE 8 OF 11 ISSUE E
REVIT VERSION V04.0
Cape Cod AUSTRALIA

ATTACHMENT 3 - ITEM 5

BASIX COMMITMENTS

COUNCIL		BASIX NUMBER	
HORNSBY SHIRE		AM00003_03	

LIGHTING AND SYSTEMS		
FIXTURES AND SYSTEMS		
LIGHTING	MIN 40% OF NEW OR ALTERED LIGHT FIXTURES TO BE FITTED WITH FLUORESCENT, COMPACT FLUORESCENT OR LIGHT-EMITTING-DIODE (LED) LAMPS	
WET AREAS (NEW OR ALTERED)	SHOWER HEADS: 3 STAR RATED TOILETS: 3 STAR RATED TAPS: 3 STAR RATED	

INSULATION		
Construction	Additional insulation required (R-value)	Other specifications
floor above existing dwelling or building,	nil	
external wall: framed (weatherboard, fibro, metal clad)	R1.30 (or R1.70 including construction)	
flat ceiling, pitched roof	ceiling: R2.50 (up); roof: full/sarking	dark (solar absorptance > 0.70)

GLAZING AND SHADING DEVICES						
Window / door no.	Orientation	Area of glass inc. frame (m2)	Overshadowing		Shading device	Frame and glass type
			Height (m)	Distance (m)		
W3	N	2.52	0	0	eave/verandah/pergola/balcony >=600 mm	timber or uPVC, single clear, (or U-value: 5.71, SHGC: 0.66)
W4	E	0.9	0	0	eave/verandah/pergola/balcony >=600 mm	timber or uPVC, single clear, (or U-value: 5.71, SHGC: 0.66)
W5	E	0.9	0	0	eave/verandah/pergola/balcony >=600 mm	timber or uPVC, single clear, (or U-value: 5.71, SHGC: 0.66)
W6	S	2.52	0	0	eave/verandah/pergola/balcony >=600 mm	timber or uPVC, single clear, (or U-value: 5.71, SHGC: 0.66)
W7	S	2.52	0	0	eave/verandah/pergola/balcony >=600 mm	timber or uPVC, single clear, (or U-value: 5.71, SHGC: 0.66)
W9	W	0.72	0	0	eave/verandah/pergola/balcony >=600 mm	timber or uPVC, single clear, (or U-value: 5.71, SHGC: 0.66)
W11	N	0.91	0	0	eave/verandah/pergola/balcony >=600 mm	timber or uPVC, single clear, (or U-value: 5.71, SHGC: 0.66)
W12	N	0.9	0	0	eave/verandah/pergola/balcony >=600 mm	timber or uPVC, single clear, (or U-value: 5.71, SHGC: 0.66)

Skylight number	Area of glazing inc. frame (m2)	Shading device	Frame and glass type
S1	0.54	no shading	timber, low-E internal/argon fill/clear external, (or U-value: 2.5, SHGC: 0.456)

PROPOSED ADDITION CODE:
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GENERAL SPECIFICATIONS

ROOF SYSTEMS						
ROOF COVERING MATERIAL	ROOF SARKING	ROOF INSULATION	FASCIA MATERIAL	GUTTER & DP MATERIAL	GUTTER PROFILE	CEILING LINING
CONCRETE ROOF TILES TO MATCH EXISTING AS CLOSE AS POSSIBLE. REUSE EXISTING TILES WHERE SHOWN.	NON PERMEABLE FOIL SARKING	R1.0 FIBREGLASS INSULATION BATTES TO FIRST FLOOR ADDITION CEILING AREA (165mm)	PREFINISHED ZINCALUME	PREFINISHED ZINCALUME GUTTER, PVC DOWNPIPE	QUAD	10mm PLASTERBOARD, 6.0mm FIBRE CEMENT SHEET TO WET AREAS.

FLOOR SYSTEMS		
FLOOR STRUCTURE	FLOORING OVER	FLOOR FINISH
FLOOR JOISTS TO STRUCTURAL DETAILS	15MM STRUCTURAL PARTICLEBOARD	BY OWNER
FLOOR JOISTS TO STRUCTURAL DETAILS	WATERPROOF STRUCTURAL PARTICLEBOARD	SELECTED TILES

HOT WATER UNIT	
DESCRIPTION	CONNECTION
HWU HOT WATER UNIT - ROUND	CONNECT TO EXISTING

EXTERNAL WALL SYSTEMS	
WALL STRUCTURE	INTERNAL LINING
170mm PRIMELINE "NEWPORT" CLADDING OVER POLYSTYRENE CORE WALL INSULATION	10mm GYPSUM PLASTERBOARD, 6mm WET AREA BOARD TO WET AREAS

INTERIOR WALLS	
WALLS STRUCTURE	WALL INTERNAL LINING
90 x 35 STUDS @ 450 CENTRES 90 x 35 STUDS @ 450 CENTRES	10mm GYPSUM PLASTERBOARD, 6mm WET AREA BOARD TO WET AREAS 10mm GYPSUM PLASTERBOARD

STAIRS			
STAIR TYPE	DESCRIPTION	WIDTH	TREAD DEPTH
CLOSED TIMBER - GROUND FLOOR	MAPLE TREADS & RISERS	705 mm	240 mm
CLOSED TIMBER - FIRST FLOOR	MAPLE TREADS & RISERS	905 mm	240 mm

INTERNAL DOORS		
DOOR DESCRIPTION	DOOR TYPE	FINISH TYPE/MODEL
INTERNAL DOOR - SINGLE HINGED: 720	HOLLOW CORE	CORINTHIAN "FLUSH"
INTERNAL DOOR - SINGLE HINGED: 820	HOLLOW CORE	CORINTHIAN "FLUSH"
INTERNAL DOOR - DOUBLE HINGED: 2x670	HOLLOW CORE	CORINTHIAN "FLUSH"
INTERNAL DOOR - SLIDING ROBE 2 DOOR: 2x770	HOLLOW CORE	CORINTHIAN "FLUSH"
INTERNAL DOOR - SLIDING ROBE 2 DOOR: 2x970	HOLLOW CORE	CORINTHIAN "FLUSH"
INTERNAL DOOR - SLIDING ROBE 3 DOOR: 3x720	HOLLOW CORE	CORINTHIAN "FLUSH"

FIXINGS	
CORNICES	SKIRTINGS
90mm COVE	EX 75mm x 25mm FINGER-JOINTED PINE "PENCIL ROUND"
	EX 75mm x 25mm FINGER-JOINTED PINE "PENCIL ROUND"
	EX 89mm x 38mm FIBRE CEMENT

ATTACHMENT 3 - ITEM 5

WINDOW, DOOR & SKYLIGHT SCHEDULE

BASIC CERTIFICATE NUMBER: 4460403_03 WIND LOAD: W33N TERRAIN: 3																
STANDARD NOTES:																
• WINDOWS & DOORS ARE DRAWN AS VIEWED FROM OUTSIDE. IMAGE IS NOT TO SCALE.																
• ALL WINDOWS COME WITH "KEYED ALIKE" LOCKS																
• SOME WINDOW OPENINGS MAY BE RESTRICTED TO COMPLY WITH THE NCC 3.9.2.6 (REFER WINDOW SCHEDULE SPECIAL NOTES)																
DELETED		DELETED						DELETED				DELETED				
GLAZED WINDOW & DOOR: FIRST FLOOR																
ROOM	#	ELEVATION	WINDOW INFORMATION			FRAME MATERIAL	FRAME COLOUR	REVEAL SIZE	TYPE	CONFIG	WINDOW GLAZING UPVC	RESTRICTOR (NCC REQUIRED)	INSECT SCREEN INFORMATION		SPECIAL NOTES	
			MANUFACT.										FRAME MATERIAL	FRAME COLOUR	MESH MATERIAL	
BED 5	W3	NORTH	EASY WINDOWS	PVC TTW 1221	UPVC	WHITE	130mm	TILT BEFORE TURN	XF	XF	4 CLEAR TOUGH - 20 ARGON - 4 LIGHTBRIDGE TOUGH (28mm)	RESTRICT OPENING TO 125mm TO COMPLY WITH NCC	ALUMINIUM	WHITE	FIBREGLASS	INTERNAL REVEAL SIZE TO BE 1200x2100
BED 5	W4	EAST	EASY WINDOWS	PVC TW 0615	UPVC	WHITE	130mm	TILT ONLY	XF	XF	4 CLEAR TOUGH - 20 ARGON - 4 LIGHTBRIDGE TOUGH (28mm)	RESTRICT OPENING TO 125mm TO COMPLY WITH NCC	ALUMINIUM	WHITE	FIBREGLASS	INTERNAL REVEAL SIZE TO BE 600x1500
BED 4	W5	EAST	EASY WINDOWS	PVC TW 0615	UPVC	WHITE	130mm	TILT ONLY	XF	XF	4 CLEAR TOUGH - 20 ARGON - 4 LIGHTBRIDGE TOUGH (28mm)	RESTRICT OPENING TO 125mm TO COMPLY WITH NCC	ALUMINIUM	WHITE	FIBREGLASS	INTERNAL REVEAL SIZE TO BE 600x1500
BED 4	W6	SOUTH	EASY WINDOWS	PVC TTW 1221	UPVC	WHITE	130mm	TILT BEFORE TURN	XF	XF	4 CLEAR TOUGH - 20 ARGON - 4 LIGHTBRIDGE TOUGH (28mm)	RESTRICT OPENING TO 125mm TO COMPLY WITH NCC	ALUMINIUM	WHITE	FIBREGLASS	INTERNAL REVEAL SIZE TO BE 1200x2100
BED 3	W7	SOUTH	EASY WINDOWS	PVC TTW 1221	UPVC	WHITE	130mm	TILT BEFORE TURN	XF	XF	4 CLEAR TOUGH - 20 ARGON - 4 LIGHTBRIDGE TOUGH (28mm)	RESTRICT OPENING TO 125mm TO COMPLY WITH NCC	ALUMINIUM	WHITE	FIBREGLASS	INTERNAL REVEAL SIZE TO BE 1200x2100
ENSUITE	W9	WEST	EASY WINDOWS	PVC TW 0908	UPVC	WHITE	130mm	TILT ONLY	XF	XF	4 CLEAR TOUGH - 20 ARGON - 4 LIGHTBRIDGE TOUGH (28mm)	COMPLY WITH NCC	ALUMINIUM	WHITE	FIBREGLASS	TRANSLUCENT GRADE-A SAFETY GLASS
STAIRS	W11	NORTH	EASY WINDOW	PVC 0615	UPVC	WHITE	130mm	FIXED	FF	FF	4 CLEAR TOUGH - 20 ARGON - 4 LIGHTBRIDGE TOUGH (28mm)		N/A	N/A	NA	INTERNAL REVEAL SIZE TO BE 600x1500
NOOK	W12	NORTH	EASY WINDOWS	PVC TW 0615	UPVC	WHITE	130mm	TILT ONLY	XF	XF	4 CLEAR TOUGH - 20 ARGON - 4 LIGHTBRIDGE TOUGH (28mm)		ALUMINIUM	WHITE	FIBREGLASS	INTERNAL REVEAL SIZE TO BE 600x1500

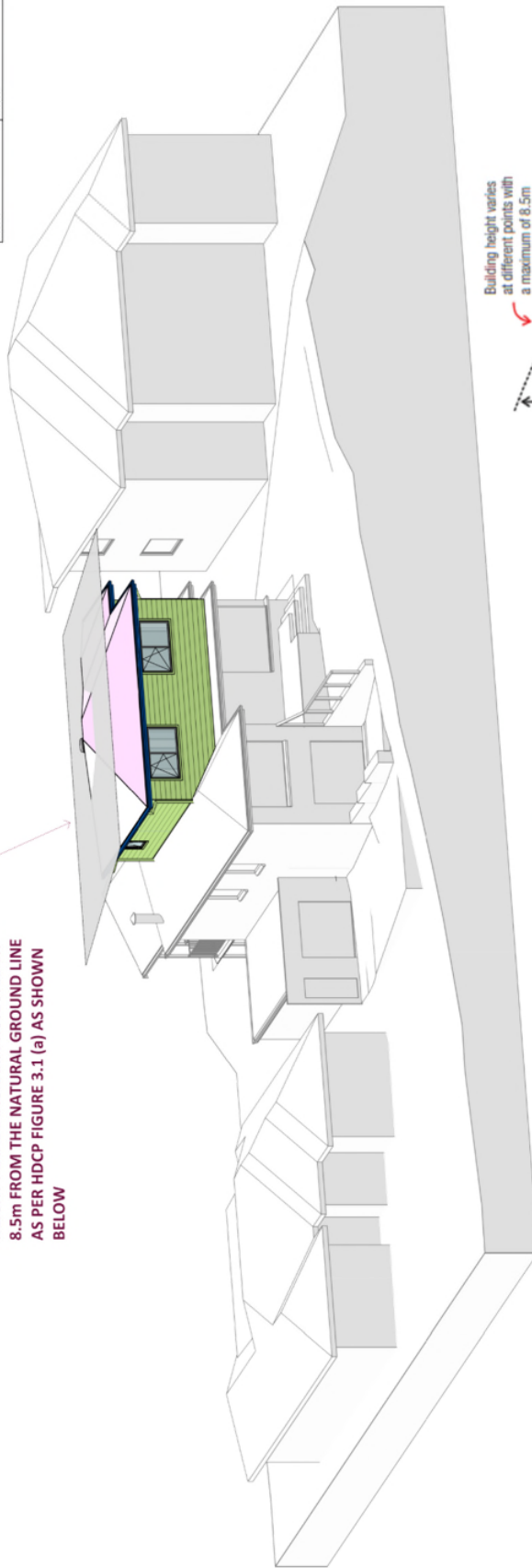
SKYLIGHTS				
CODE	TYPE	MANUFACT. CODE	HEIGHT	GLAZING
SL1	COA 550 x 980	PS FIXED	980	SKYLIGHT TIMBER, INTERNAL/ ARGON FILL/ CLEAR EXTERNAL, (U-VALUE 2.5, SHGC 0.65)

ATTACHMENT 3 - ITEM 5

HEIGHT PLANE DIAGRAM

PROPERTY INFORMATION	
PROPERTY NO.	LOT NO.
24	15
SITE AREA INFORMATION	
BY SURVEY (m ²)	BY TITLE (m ²)
935.10	925.50

HEIGHT PLANE DIAGRAM PROJECTED AT
8.5m FROM THE NATURAL GROUND LINE
AS PER HDCP FIGURE 3.1 (a) AS SHOWN
BELOW



3D HEIGHT PLANE DIAGRAM

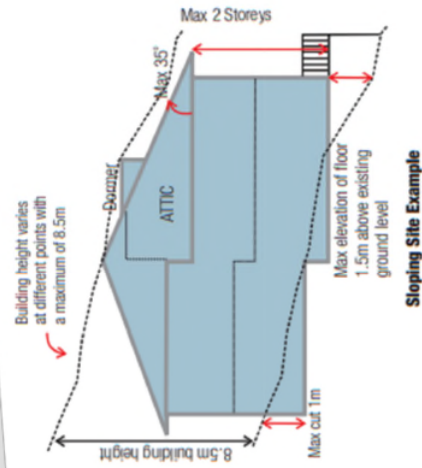


Figure 3.1(a) Explanation of building height controls (i)

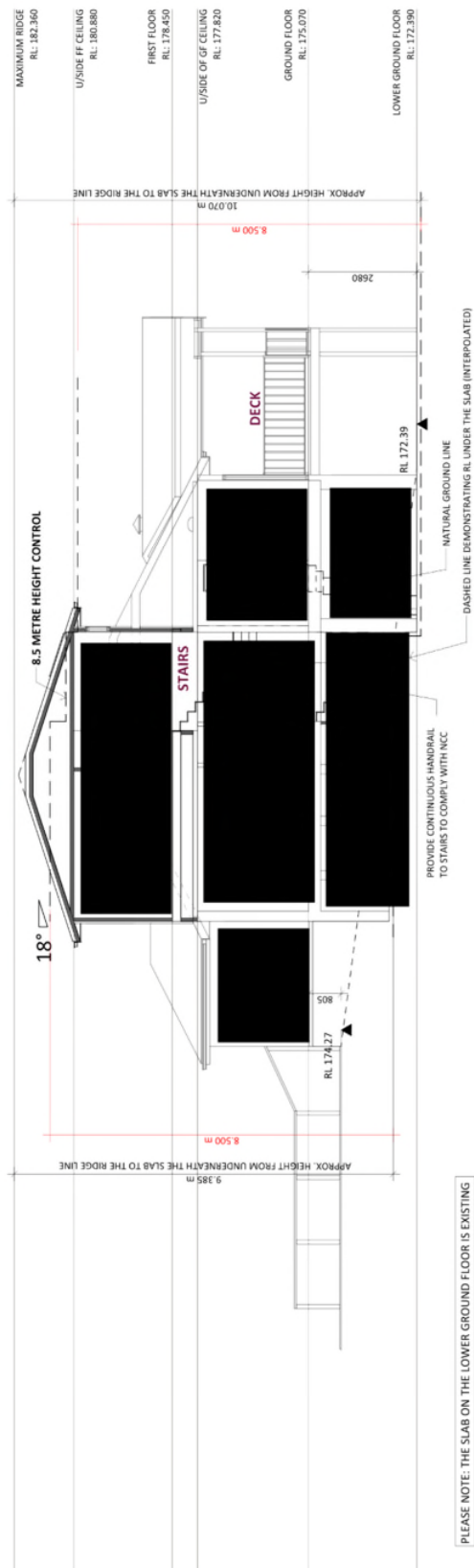
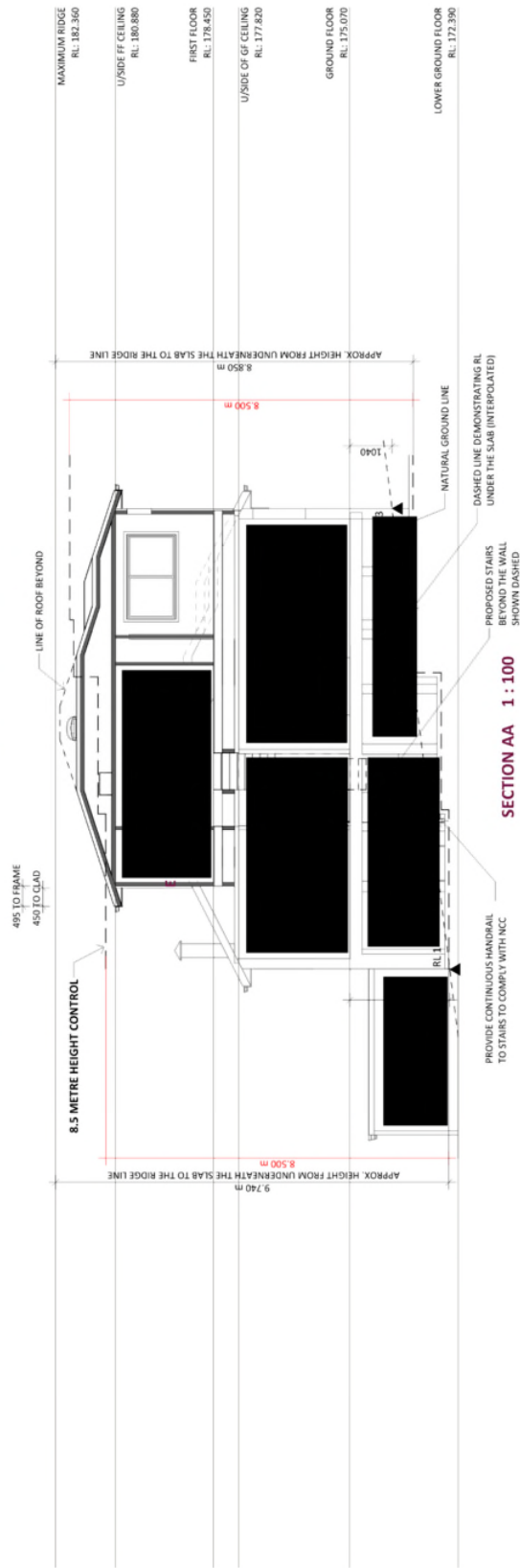
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COUNCIL PAGE 1 OF 1 ISSUE E
CAPE COD AUSTRALIA

ATTACHMENT 4 - ITEM 5

COUNCIL DIAGRAMS - SECTION DEMONSTRATING HEIGHT FROM THE EXISTING GROUND LEVEL



PLEASE NOTE: THE SLAB ON THE LOWER GROUND FLOOR IS EXISTING

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SECTION BB 1 : 100

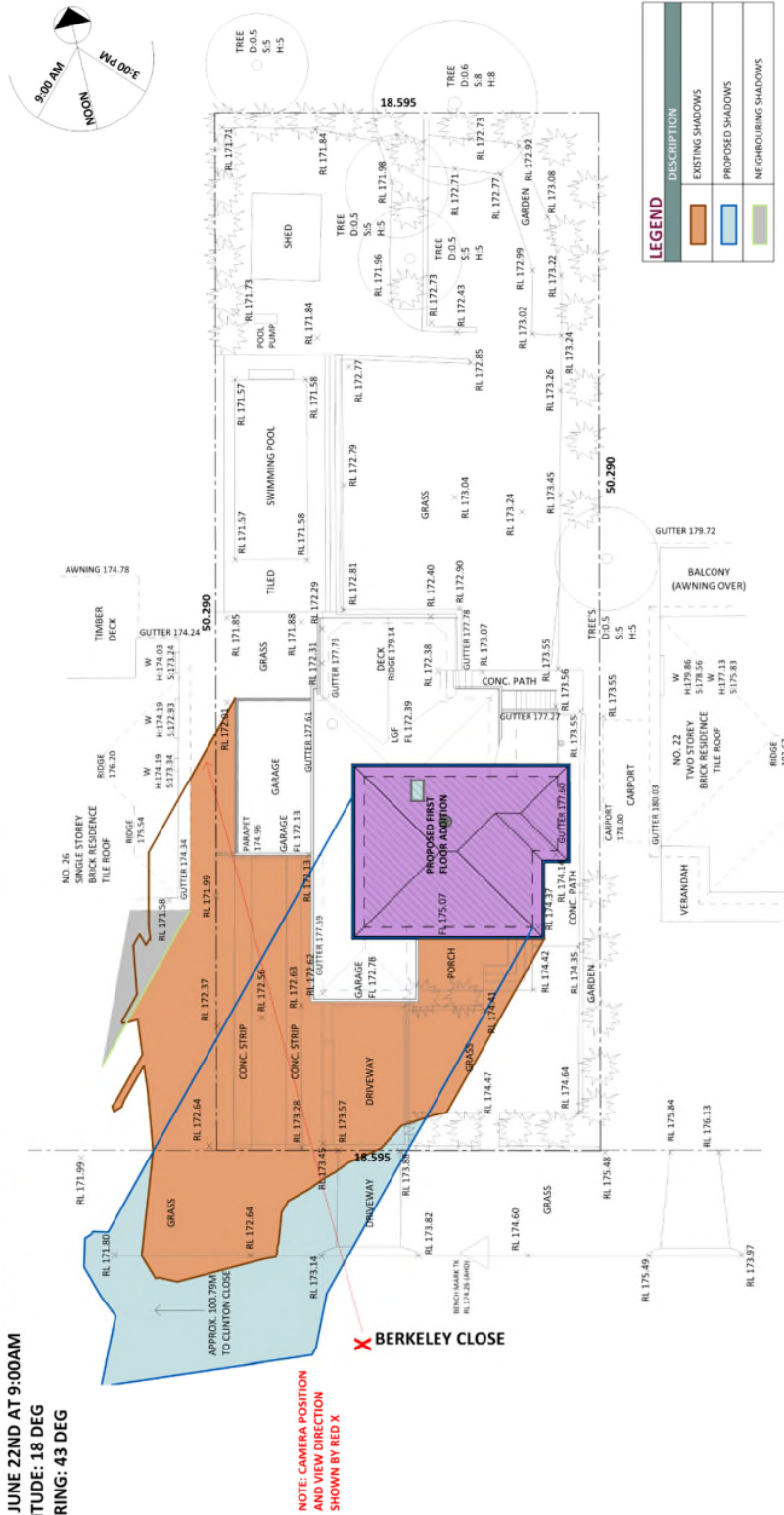
COUNCIL PAGE 1 OF 1 ISSUE E
REVIT VERSION V01A



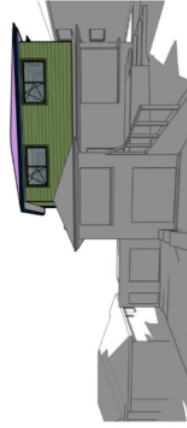
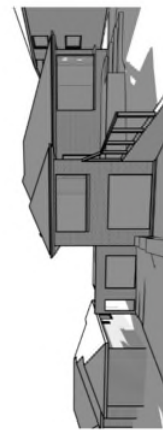
ATTACHMENT 5 - ITEM 5

MID WINTER SHADOW DIAGRAM

ON: JUNE 22ND AT 9:00AM
 ALTITUDE: 18 DEG
 BEARING: 43 DEG

**9AM SHADOWS**

NOTE:
 DEVELOPMENT HAS NO IMPACT ON
 NEIGHBOURING PROPERTIES

**PROPOSED 9AM PERSPECTIVE****EXISTING 9AM PERSPECTIVE**

LEGEND	DESCRIPTION
	EXISTING SHADOWS
	PROPOSED SHADOWS
	NEIGHBOURING SHADOWS

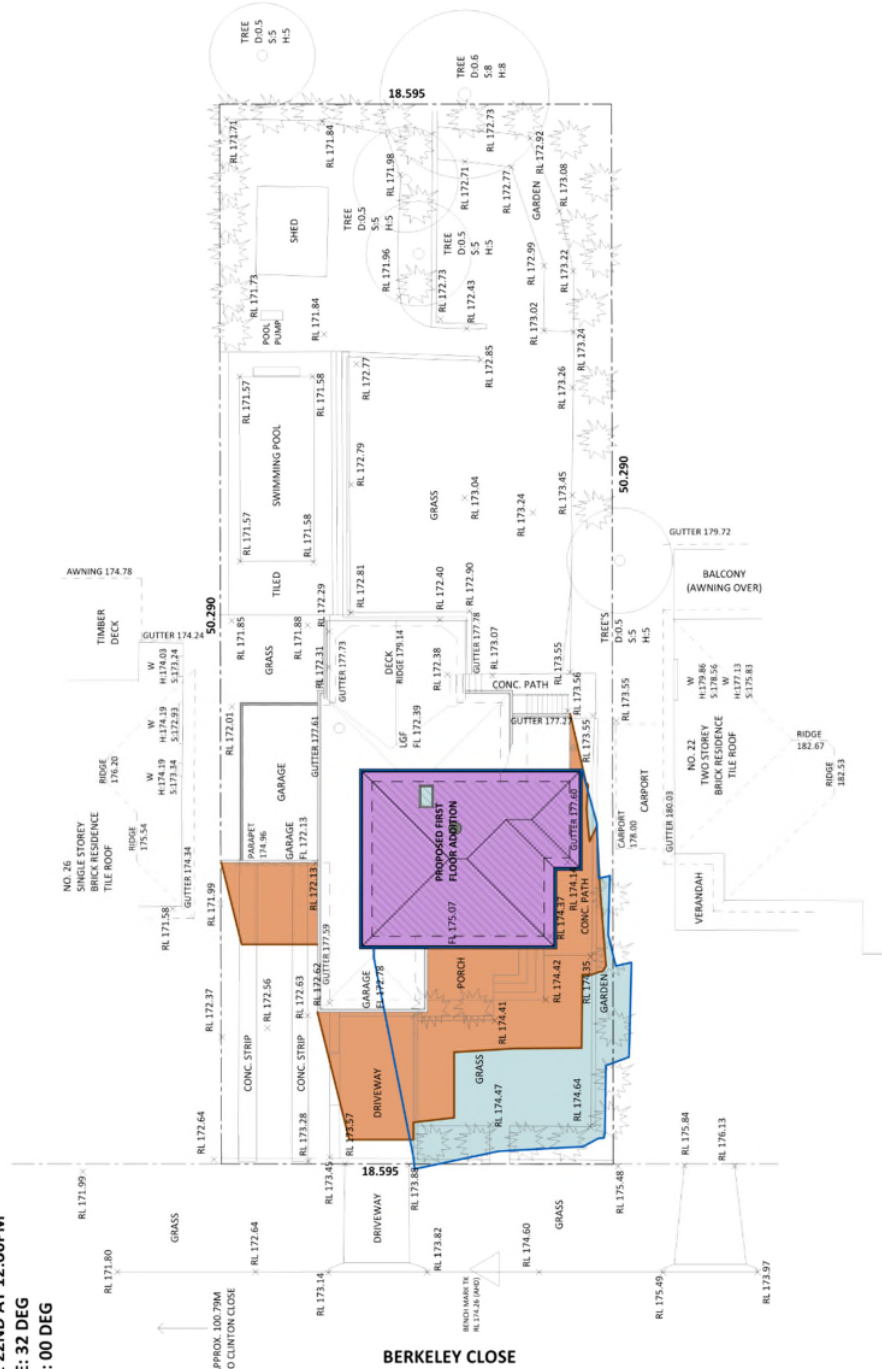
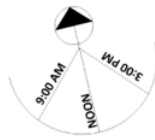
ATTACHMENT 6 - ITEM 5

MID WINTER SHADOW DIAGRAM

ON: JUNE 22ND AT 12:00PM

ALTITUDE: 32 DEG

BEARING: 00 DEG

**12PM SHADOWS**

NOTE:
ELEVATIONS NOT REQUIRED. DEVELOPMENT HAS
NO IMPACT ON NEIGHBOURING PROPERTIES

LEGEND	DESCRIPTION
	EXISTING SHADOWS
	PROPOSED SHADOWS
	NEIGHBOURING SHADOWS

PROPOSED ADDITION COB:
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SHADOW DIAGRAMS PAGE 2 OF 3 ISSUE E
REVIT VERSION V01A

Cape Cod
AUSTRALIA

ATTACHMENT 6 - ITEM 5

MID WINTER SHADOW DIAGRAM**ON: JUNE 22ND AT 3:00PM****ALTITUDE: 18 DEG
BEARING: 43 DEG****EXISTING 3PM PERSPECTIVE****PROPOSED 3PM PERSPECTIVE**

PROPOSED ADDITION COB:

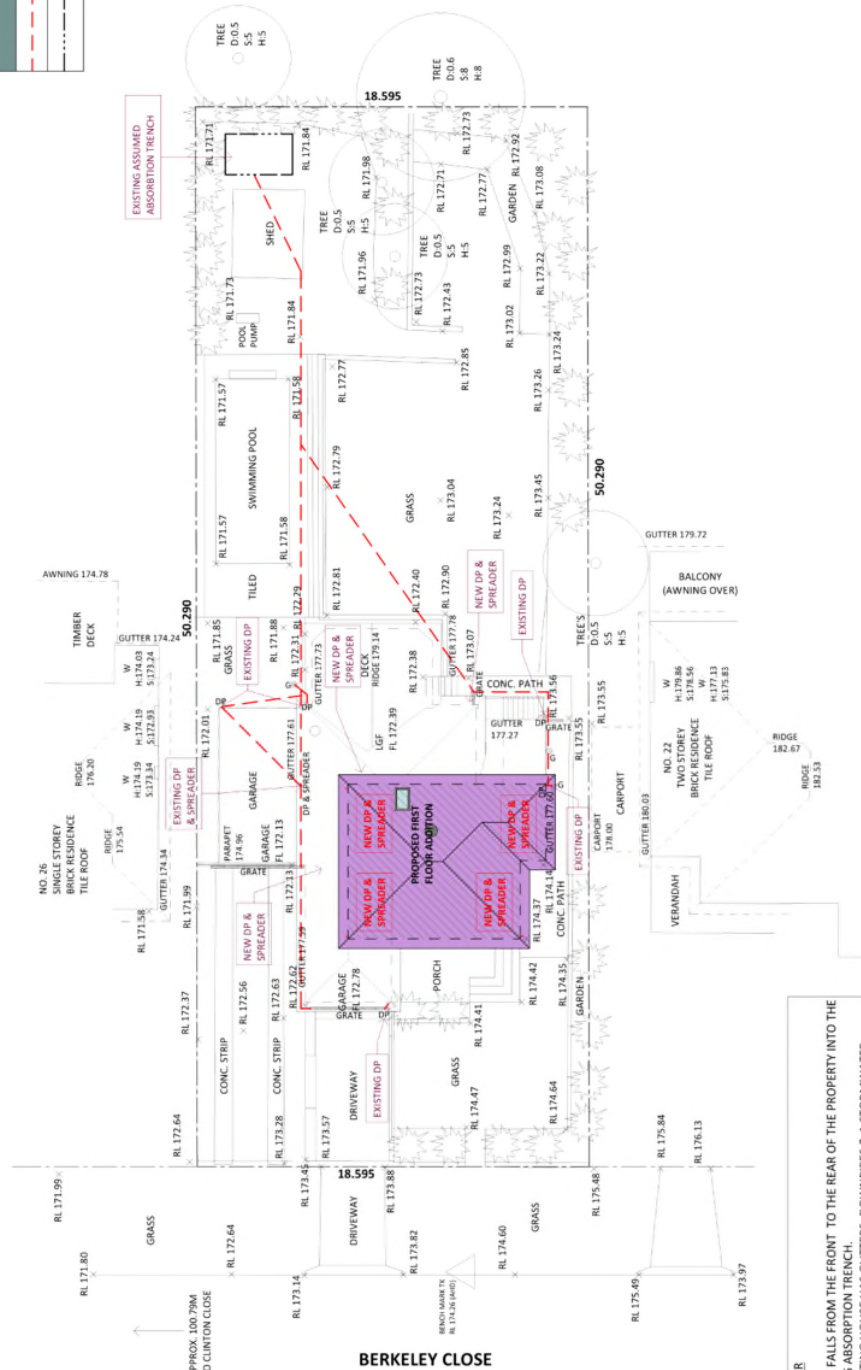
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SHADOW DIAGRAMS PAGE 3 OF 3 ISSUE E
REVIT VERSION V04**Cape Cod**
AUSTRALIA**ATTACHMENT 6 - ITEM 5**

STORMWATER DRAINAGE PLAN

PROPERTY INFORMATION		
PROPERTY NO.	LOT NO.	DP NO.
24	15	219738
SITE AREA INFORMATION		
BY SURVEY (m ²)	BY TITLE (m ²)	
935.10	929.50	
LEGEND		
DESCRIPTION		
---	---	EXISTING STORMWATER DRAINAGE
---	---	EXISTING ASSUMED ABSORPTION
---	---	TRENCH



PROPOSED STORMWATER PLAN 1:200

STORMWATER

1. THE SITE FALLS FROM THE FRONT TO THE REAR OF THE PROPERTY INTO THE EXISTING ABSORPTION TRENCH.
2. THE EXISTING HOUSE HAS GUTTERS, DOWNPIPES & A STORMWATER SYSTEM WHICH DISCHARGES INTO THE EXISTING ABSORPTION TRENCH AT THE REAR OF THE PROPERTY.
3. THE NEW ADDITIONS WILL BE PROVIDED WITH GUTTERS, DOWNPIPES & NEW UPTURNS WHICH WILL BE CONNECTED INTO THE EXISTING STORMWATER DISPOSAL SYSTEM.

PROPOSED ABSORPTION COB

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COUNCIL PAGE 1 OF 1 ISSUE E
REVIT VERSION V05ACape Cod
AUSTRALIA

ATTACHMENT 7 - ITEM 5

6 DA/39/2023 - TORRENS TITLE SUBDIVISION OF 1 LOT INTO 3 AND CONSTRUCTION OF AN ACCESS DRIVEWAY - 2-4 HILLCREST ROAD, BEROWRA

DA No:	DA/39/2023 (Lodged on 12 January 2023)
Description:	Torrens title subdivision of 1 lot into 3 and construction of an access driveway
Property:	Lot B DP 373120, No. 2-4 Hillcrest Road, Berowra
Applicant:	Mr James Shaw
Owner:	Kim Maree Burke
Estimated Value:	\$20,000
Ward:	A Ward
Clause 4.6 Request:	N/A
Submissions:	2
LPP Criteria:	Demolition of heritage item
Author:	Stuart Ratcliff, Senior Town Planner
COI Declaration:	No Council staff involved in the assessment of this application have declared a Conflict of Interest.

RECOMMENDATION

THAT Development Application No. DA/39/2023 for Torrens title subdivision of 1 lot into 3 and construction of an access driveway at Lot B DP 373120, No. 2-4 Hillcrest Road, Berowra be approved subject to the conditions of consent detailed in Schedule 1 of LPP Report No. LPP12/23.

EXECUTIVE SUMMARY

- The application involves the Torrens title subdivision of one lot into three lots and construction of an access driveway.
- The proposal complies with the minimum lot size development standard within the Hornsby Local Environmental Plan 2013 and complies with the desired outcomes and prescriptive measures of the Hornsby Development Control Plan 2013.
- A total of two submissions have been received in respect of the application.
- The application is required to be determined by the Hornsby Council Local Planning Panel as the proposal constitutes 'Sensitive development' being development involving the demolition of a heritage item. In this regard, it is noted that the heritage listing of the subject site relates to the landscaping areas of the site and these areas will be removed as a result of the proposed subdivision.
- It is recommended that the application be approved.

BACKGROUND

On 22 January 2022, a pre-lodgement application seeking advice in relation to the proposed subdivision of the site was lodged with Council. This application was subsequently withdrawn.

On 12 January 2023, the subject application was lodged.

On 14 March 2023, Council requested additional information in relation to the proposed location of private open space and parking areas of the building envelopes on the new lots to be created and construction details relating to the new driveway and parking area to be associated with the lot that will contain the existing dwelling. The applicant was also requested to provide a Tree Protection Plan in relation to the existing trees to be retained on the site.

On 20 March, the applicant submitted an amended plan clarifying the above requested details.

SITE

The 1,910.1m² site is located at the corner of Hillcrest Road and Balaclava Road, Berowra. The site has a 39.167m wide primary frontage to Hillcrest Road and a 48.768m wide secondary frontage to Balaclava Road. The site contains a single storey dwelling house and a detached garage.

The site is predominantly surrounded by low density residential development with the exception of the adjoining site to the south that contains a primary school (Berowra Public School).

The site falls 3.9m from the south-eastern corner to the north-western corner.

The site is a heritage listed item under Schedule 5 of the Hornsby Local Environmental Plan 2013 but is not contained within a Heritage Conservation Area (HCA).

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

The site is not bushfire prone land or flood prone.

PROPOSAL

The application proposes the Torrens title subdivision of one lot into three and the construction of an access driveway, as outlined below:

- Proposed Lot 1 would have an area of 903.8m² and would contain the existing dwelling and detached garage. The access driveway from Balaclava Road and a parking area for two vehicles would be constructed on this allotment.
- Proposed Lot 2 would have an area of 506.2m². Vehicle access to this lot would be from Hillcrest Road.
- Proposed Lot 3 would have an area of 500m². Vehicle access to this lot would be from either Hillcrest Road or Balaclava Road (subject to the future development of the site). The proposal indicates that this access will likely be from Hillcrest Road. This lot will also be burdened by a 2m wide easement for sewerage.

The physical works of the proposal are limited to the construction of the access driveway and parking area to service Proposed Lot 1 and the installation of stormwater drainage lines connecting the existing dwelling to be retained to Council's system in Balaclava Road. The proposal would also result in the removal of seven trees from the site.

The construction of access driveways and stormwater management infrastructure in relation to Proposed Lots 2 and 3 would be undertaken separately to this application.

ASSESSMENT

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

1. STRATEGIC CONTEXT

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

The Greater Sydney Region Plan - A Metropolis of Three Cities has been prepared by the NSW State Government to guide land use planning decisions over the next 40 years (to 2056). The Plan sets a strategy and actions for accommodating Sydney's future population growth and identifies dwelling targets to ensure supply meets demand. The Plan also identifies that the most suitable areas for new housing are in locations close to jobs, public transport, community facilities and services.

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

The proposed development would be consistent with the Greater Sydney Region Plan - A Metropolis of Three Cities and the North District Plan, by contributing to achieving the dwelling targets for the region.

2. STATUTORY CONTROLS

Section 4.15(1)(a) requires Council to consider “any relevant environmental planning instruments, draft environmental planning instruments, development control plans, planning agreements and regulations”.

2.1 Hornsby Local Environmental Plan 2013

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

2.1.1 Zoning of Land and Permissibility

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

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

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

The proposed subdivision would facilitate the provision of housing to meet the needs of the community. It is considered that the proposal satisfies the zone objectives.

2.1.2 Minimum Subdivision Lot Size

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

Proposed Lot 1 would have an area of 903.8m², Proposed Lot 2 would have an area of 506.2m² and Proposed Lot 3 would have an area of 500m². All three lots would comply with the minimum lot size requirement.

2.1.3 Height of Buildings

Clause 4.3 of the HELP provides that the maximum height of any buildings to be constructed on the site is not to exceed 8.5m. The only physical structures proposed are the access driveway to service Proposed Lot 1 and stormwater drainage lines. Both structures would be provided at or below the existing ground level. As such, the proposal is consistent with this Clause.

2.1.4 Heritage Conservation

Clause 5.10 of the HLEP sets of heritage conservation provisions for Hornsby Shire. The property is listed as a landscape Heritage Item *Garden* (No. 170) under Schedule 5 of the HELP. The site is not contained in any statutory Heritage Conservation Area and is not within the immediate vicinity of any listed heritage items.

The existing dwelling at No. 2-4 Hillcrest Road was constructed in c1949 and is a typical example of a single storey brick and tile Post-War house that retains most of its original form. The house is set within a large garden bounded by a boundary timber post and rail fence. The garden includes original landscape features such as a timber arbour over the vehicular entry, a pergola at the southeast

corner, a sandstone seat, bird bath and a rotary clothesline. Trees and shrubs are planted along all four boundaries as well as within the site with an expanse of well-kept lawn.

In 2018, Council commenced a Shire wide Comprehensive Heritage Study. This study will review existing and potential heritage items as to their value from a heritage significance perspective. This study is currently on-going. However, preliminary considerations of the significance of the subject site have indicated that it is likely a future recommendation will be provided that the site be de-listed as a heritage item. The basis of this recommendation would be:

- Individual trees are not exceptional and are otherwise conserved through standard Tree Protection legislation.
- The garden is unplanned and does not have a discernible layout, most planting is to the boundaries, and does not bear a relationship with the house.
- The garden is not an exceptional representative example of a 1950's garden.
- Timber fencing to the street frontage is unremarkable, in disrepair and typical of the 1970's.
- Concrete bird bath is unremarkable and typical of the 1960's and is seen in a range of gardens.
- Little underplanting from the historic period remains.
- The rotary clothes hoist may have representative value and be of interest to some collectors groups, but its significance is not tied specifically to this site. A photographic record of the rotary hoist within its existing residential context should be taken prior to its delisting and removal.

Noting the limited heritage significance of the site, the statutory listing of the site as a landscape heritage item is not considered to be restrictive to the subdivision of the property, subject to the proposal being of sufficient planning merit. Notwithstanding this, due consideration must be given to the consistency of the proposed subdivision with the matters for consideration set out under Clause 5.10.

The applicant has submitted a Heritage Impact Statement (HIS) as part of this proposal. The HIS has provided an accurate and recent significant assessment of the heritage values of the site. The HIS findings concluded that the heritage values of the garden which supported the heritage listing of the site in 1994 (gazetted with the making of the superseded *Hornsby Shire Local Environmental Study 1994*) and retention of the heritage listing within Schedule 5 of the HLEP with a review of the heritage values in 2012 (*Heritage Review 5, prepared by Godden Mackay Logan*), are no longer apparent.

Accordingly, the proposal to subdivide the property to allow future development would have no adverse impact on significant cultural heritage landscape values of Hornsby Shire. The subject garden is acknowledged to be unplanned, with no discernible layout, to contain no exceptional trees of heritage value and to have no planned relationship to the house or retain a horticultural style of the era it is attributed too.

The rotary clothesline has been identified to retain significant research value and should be photographed to record the historic association within the garden context. Prior to any future removal, the property owner should also be obligated to investigate if any community group or museum would like to obtain the clothes line as an item of moveable heritage.

The retention of the existing clothesline will be required by the recommended consent conditions. Subject to adherence with this requirement, the proposal is consistent with this Clause.

2.1.5 Earthworks

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

Council's assessment of the proposed works and excavation concludes that the extent of earthworks to take place as a result of the development is minimal. This is limited to introduction of the access driveway for Proposed Lot 1 and the implementation of stormwater drainage works. The maximum cut associated with the driveway access would be approximately 900mm and the proposed stormwater drainage infrastructure relates to drainage lines and pits that would be just below the existing natural ground level. These works will not be of any material impact on adjoining properties, will not significantly alter the natural topography of the site and will not compromise the soil stability of the locality. As such, the proposal is consistent with the matters for consideration set out under this Clause.

2.2 State Environmental Planning Policy (Biodiversity and Conservation) 2021

The application has been assessed against the requirements of Chapter 2 and 6 of State Environmental Planning Policy (Biodiversity and Conservation) 2021.

2.2.1 Chapter 2 Vegetation in non-rural areas

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

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

Section 3.1.1 of this report provides an assessment in accordance with Part 1B.6.1 of the HDCP.

2.2.2 Chapter 6 Water Catchments

The site is located within the Hawkesbury-Nepean catchment area. The aim of this chapter is to ensure the proposed development will not adversely impact on the quality of water entering the Hawkesbury Nepean River, Sydney Harbour and other nominated waterways, the effective functionality of the water catchment itself, the welfare of marine ecology, development within the catchment areas resulting from occurrences such as flooding, the scenic quality of waterways and the recreational use of the catchment areas.

The proposal primarily relates to subdivision with minor works associated with the construction of an access driveway and drainage lines. Subject to the implementation of sediment and erosion control measures in association with these works and stormwater management to protect water quality (required as per the recommended consent conditions), the proposal would comply with the requirement of the Policy.

2.3 State Environmental Planning Policy (Resilience and Hazards) 2021

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

2.3.1 Chapter 4 Remediation of land

Clause 4.6 of the Resilience and Hazard SEPP states that consent must not be granted to the carrying out of any development on land unless the consent authority has considered whether the land is contaminated or requires remediation for the proposed use.

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

An examination of Council's records and aerial photography has determined that the site has been historically used for residential purposes. It is not likely that the site has experienced any significant contamination, and further assessment under chapter 4 of the Resilience and Hazards SEPP is not required.

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

Section 3.42 of the *Environmental Planning and Assessment Act 1979* states that a DCP provision will have no effect if it prevents or unreasonably restricts development that is otherwise permitted and complies with the development standards in relevant Local Environmental Plans and State Environmental Planning Policies.

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

2.5 Hornsby Development Control Plan 2013

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

HDCP - Part 3.1 Dwelling Houses (Existing dwelling on Proposed Lot 1)			
Control	Proposal	Requirement	Complies
Site Area	903.8m ²	N/A	N/A
Building Height	Existing	N/A	N/A
No. storeys	Existing	N/A	N/A
Site Coverage	19%	40%	Yes
Floor Area			
- Dwelling	127m ²	430m ²	Yes

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- <i>Outbuilding (detached garage)</i>	40m ²	100m ²	Yes
Setbacks			
- <i>Front</i>	15.1m	6m	Yes
- <i>Side (east)</i>	2.768m	0.9m	Yes
- <i>Side (west to new boundary)</i>	3.862m	0.9m	Yes
- <i>Rear</i>	12.35m	3m	Yes
Landscaped Area (% of lot size)	59%	40%	Yes
Private Open Space			
- <i>minimum area</i>	>24m	24m ²	Yes
- <i>minimum dimension</i>	3.42m	3m	Yes
Car Parking	2	2	Yes
HDCCP - Part 6 Subdivision			
Control	Proposal	Requirement	Complies
Site Area	1,910.1m ²	N/A	N/A
Lot Sizes			
- <i>Lot 1</i>	903.8m ²	500m ²	Yes
- <i>Lot 2</i>	506.2m ²	500m ²	Yes
- <i>Lot 3</i>	500m ²	500m ²	Yes
Lot Widths			
- <i>Lot 1</i>	23.076m	12m	Yes
- <i>Lot 2</i>	19.705m	12m	Yes
- <i>Lot 3</i>	19.462m	12m	Yes
Lot 2			
Building Envelope	201m ²	200m ²	Yes
Setbacks			
- <i>Front setback (Hillcrest Road)</i>	8.3m	6m	Yes

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- Side (north)	2.3m	0.9m	Yes
- Side (south)	3.4m	0.9m	Yes
- Rear	3m	5m	No
Landscaped Area (% of lot size)	51%	20%	Yes
Private Open Space			
- minimum area	>24m ²	24m ²	Yes
- minimum dimension	3m	3m	Yes
Car Parking	2 spaces	2 spaces	Yes
Lot 3			
Building Envelope	201m ²	200m ²	Yes
Setbacks			
- Primary frontage (Hillcrest Road)	7.97m	6m	Yes
- Secondary frontage (Balaclava Road)	4.65m	3m	Yes
- Side (south)	2.4m	0.9m	Yes
- Rear	3m	5m	No
Landscaped Area (% of lot size)	50%	20%	Yes
Private Open Space			
- minimum area	>24m ²	24m ²	Yes
- minimum dimension	3m	3m	Yes
Car Parking	2 spaces	2 spaces	Yes

As detailed in the above table, there are non-compliances with the rear setback control in the HDCP which are discussed below including a brief discussion on compliance with relevant performance requirements.

2.5.1 Scale

The proposal does not include any physical building works that will be of a discernible scale as viewed from adjacent properties or the streetscape. The existing dwelling to be retained on proposed Lot 1 will be of an acceptable built form relationship with the reduced size of the allotment on which it will stand, satisfying the desired outcome of Part 3.1.1 Scale of the HDCP, being “*Development with a height, bulk and scale that is compatible with a low density residential environment*”.

2.5.2 Setbacks

The desired outcomes of Part 3.1.2 Setbacks of the HDCP are to encourage *“setbacks that are compatible with adjacent development and complement the streetscape”*. This desired outcome is composite with those relating to indicative building envelopes outlined within Part 6.2 Urban Subdivision of the HDCP.

As outlined in the above compliance table, the proposal is consistent with the specified setbacks as they relate to the existing dwelling to be retained on proposed Lot 1. However, the indicative building footprints on proposed Lots 2 and 3 do not comply with the required 5m building setback, with a 3m building setback proposed.

In terms of merit, this non-compliance is not considered to be unreasonable. This conclusion notes that the rear setback of these sites provides sufficient area for private open space with access to a compliant level of solar amenity. Additionally, given the generous setback of the existing dwelling on proposed Lot 1 to the new western boundary, a large separation of more than 6m may be provided to the future dwellings of the new allotments.

Moreover, the 5m rear setback numerical requirement of Part 6.2 of the HDCP has been identified as an anomaly with the 3m rear building setback requirement of Part 3.1.2 of the HDCP. Council is currently looking to address this inconsistency as part of an amendment to the HDCP. The amendment has been exhibited and seeks to reduce the minimum rear building envelope setback from 5m to 3m to provide consistency with the minimum rear building setback anticipated for single storey dwellings under Part 3.1.2 of the HDCP.

Therefore, noting the above, the Desired Outcomes of both Part 3.1.2 and 6.2 of the HDCP are satisfied in this instance.

2.5.3 Landscaping

The Desired Outcomes of Part 3.1.3 Landscaping of the HDCP are *“Landscaping that integrates the built form with soft landscaping and retains and enhances the tree canopy”* and *“Development that retains existing landscape features”*. This desired outcome is composite with those relating to landscaping outlined within Part 6.2 Urban Subdivision of the HDCP.

All three allotments will provide compliant landscaping area that will ensure a positive contribution is retained by the site to the low-density residential character of the surrounding area. As such, the proposal is satisfactory with regard to the above desired outcomes.

2.5.4 Open Space

The Desired Outcome of Part 3.1.4 Open Space of the HDCP is *“Private open space that functions as an extension to the dwelling house”*. Part 6.2 Urban Subdivision does not state an objective relating to the provision of private open space as this is inherent to the Desired Outcomes that seek adequate landscaping and separation between buildings.

The proposal provides compliant private open space area to all three allotments and the application is therefore satisfactory in this regard.

2.5.5 Sunlight Access

The Desired Outcomes of Part 3.1.5 Sunlight Access of the HDCP are *“Dwelling houses designed to provide solar access to open space areas”* and *“Development designed to provide reasonable sunlight to adjacent properties”*. Part 6.2 Urban Subdivision does not state an objective relating to the

provision of private open space as this is inherent to the Desired Outcomes that seek an adequate separation between buildings.

The proposal provides compliant solar access to the private open space areas of all three allotments and the application is therefore satisfactory in this regard.

2.5.6 Privacy

The Desired Outcome of Part 3.1.6 Privacy of the HDCP is “*Development that is designed to provide reasonable privacy to adjacent properties*”. Part 6.2 Urban Subdivision does not state an objective relating to the provision of privacy as this is inherent to the Desired Outcomes that seek to provide development that is compatible with a low density residential environment and an adequate separation between buildings.

The proposal will ensure adequate privacy is available to the future dwellings on proposed Lots 2 and 3. This conclusion notes the generous side setback of the existing dwelling from the western boundary of proposed Lot 1 and that the existing dwelling on proposed Lot 1 is single storey in height. This dwelling is unlikely to unduly overlook the private open spaces or future dwellings on proposed Lots 1 and 2 and any such overlooking may be addressed by way of future dwelling design and/ or boundary fencing and screen plantings. The application is therefore satisfactory in this regard.

2.5.7 Vehicular Access and Parking

The Desired Outcome of Part 3.1.7 Vehicle Access and Parking of the HDCP is “*Development that provides sufficient and convenient parking for residents with vehicular access that is simple, safe and direct.*” Part 6.2 Urban Subdivision does not state an objective relating to the provision as this is an inherent requirement of the controls relating to the demonstration of an acceptable building envelope of a subdivided allotment that may accommodate both the dwelling and two requisite parking spaces (behind the building line of the dwelling). Both proposed Lots 2 and 3 satisfactorily provide two such spaces.

While proposed Lot 1 would provide two spaces for the existing dwelling, these spaces are to be located forward of the existing dwelling, within the front setback of the building to the new primary frontage of Balaclava Road. The positioning of these parking spaces in this location does not comply with Prescriptive Measure ‘a’ of Part 3.1.7 of the HDCP.

In terms of the merit of this proposed non-compliance, the departure from the numerical control is not considered contrary to the above stated Desired Outcome. Although forward of the dwelling of the subject site, the parking area is behind the front setback stated by the controls set out under Part 3.1.2 of the HDCP and is generally consistent with the predominant front building alignment along the southern side of Balaclava Road (being properties to the east of the subject site). The setback of dwellings and parking areas of these properties generally range from approximately 6-7m and as such, the location of the proposed parking area (which is of an open, hard stand configuration), will not unreasonably disrupt the character of the streetscape or the general amenity of the area. The proposed parking area would be easily accessible for the occupants of the existing dwelling and provides safe and convenient access to Balaclava Road that would not unduly impact vehicles movements within this street.

Therefore, noting the above, the proposal is assessed as consistent with the Desired Outcome of Part 3.1.7 of the HDCP.

2.6 Contributions Plans

Hornsby Shire Council Section 7.11 Contributions Plan 2020-2030 applies to the development as it would result in an additional two allotments with the ability to be used for future residencies. Accordingly, the requirement for a monetary Section 7.11 contribution is recommended as a condition of consent.

3. ENVIRONMENTAL IMPACTS

Section 4.15(1)(b) of the Act requires Council to consider “*the likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality*”.

3.1 Natural Environment

3.1.1 Tree and Vegetation Preservation

The proposed development would ultimately result in the removal of seven trees from the site, being trees numbered T5, T8, T9, T24, T26, T35 and T36 as identified within the submitted arborist report.

Trees 5, 8 and 9 are proposed for removal as the likely driveway entrance locations/ stormwater drainage pits to facilitate the future development of Proposed Lots 2 and 3 will significantly impact on the root structure of these trees, ultimately resulting in tree failure.

Tree 24 is identified as a weed species (Broad Leaf Privet) that should be removed from the site.

The current location of Tree 26 conflicts with the position of the proposed parking area for proposed Lot 1.

Trees 35 and 36 are at an advanced stage of life and are recommended for removal due to likely failure in the short term.

It is considered that sufficient area will remain on the site to enable the replacement planting of these trees and conditions to this effect are recommended within Schedule 1 of this report. The trees to be removed are not critical to the tree canopy of the area or of species of ecological importance and offsetting their removal through replacement plantings is consistent with the Desired Outcomes of Part 1B.6.1 Tree Preservation of the HDCP.

Additionally, trees to be retained on the site will be subject to tree protection measures as outlined within the submitted arborist report and the recommended conditions set out in Schedule 1 of this report. In this regard, it is noted that the future development of proposed Lots 2 and 3 will require due consideration be given to the trees retained on the property and this will be reflected within the layout of any future buildings accordingly. The indicative building footprints provided as part of the subject application have sufficiently demonstrated that the new allotments can be developed in a manner that can suitably accommodate these trees and/ or are positioned in the proximity of trees that may be reasonably be removed in the future (such as Tree 37, identified to be a mature Pine Tree of a short Safe Useful Life Expectancy). The removal of such trees would be subject to a separate application process to the subject development application.

3.1.2 Stormwater Management

The proposal seeks to drain the stormwater run-off of the existing dwelling to be sited on proposed Lot 1 by gravity to Council's system within Balaclava Road. This is acceptable and consistent with the Desired Outcomes of Part 1C.1.12 Stormwater Management of the HDCP.

The formal stormwater management provisions of proposed Lots 2 and 3 will be a matter for the future development of the subject allotments. However, both sites may be drained by gravity to Council's system located within Hillcrest Road and/ or Balaclava Road. The applicant has also demonstrated that the necessary stormwater pits can be installed on the site without unduly compromising any trees deemed to be of key significance to the area. These measures are also satisfactory with regard to the stormwater management requirements of the HDCP.

3.2 Built Environment

3.2.1 Built Form

The new built form elements of the proposal are negligible in terms of their likely impact upon the character of the surrounding area. The visible elements will be essentially limited to a new driveway access and parking area within the front setback of Proposed Lot 1. The driveway and parking area will not significantly alter the visual presentation of the site as it would be viewed from the public realm and is therefore acceptable.

3.2.2 Traffic

The proposal will result in minimal additional vehicle movements within the surrounding road network. These additional movements would not notably alter the existing operation of the road network and is assessed as acceptable having regard to the Desired Outcomes of Part 1C.2.1 Transport and Parking of the HDCP.

3.3 Social Impacts

The proposed subdivision of the site to provide an additional two new allotments would positively contribute to the availability of future housing options in the locality. This is consistent with Council's Housing Strategy which identifies the need to provide a mix of housing options to meet future demographic needs in the Hornsby Shire.

As discussed in this report, the subject site is not considered to retain any key heritage significance and the subdivision of the property will not unduly impact opportunities for cultural understanding of the locality within the community.

3.4 Economic Impacts

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

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

4. SITE SUITABILITY

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

The subject site has not been identified as bushfire prone or flood prone land. While the site is a statutory listed Heritage Item, as established in Section 2.1.4 of this report, this listing is not restrictive to the subdivision of the site.

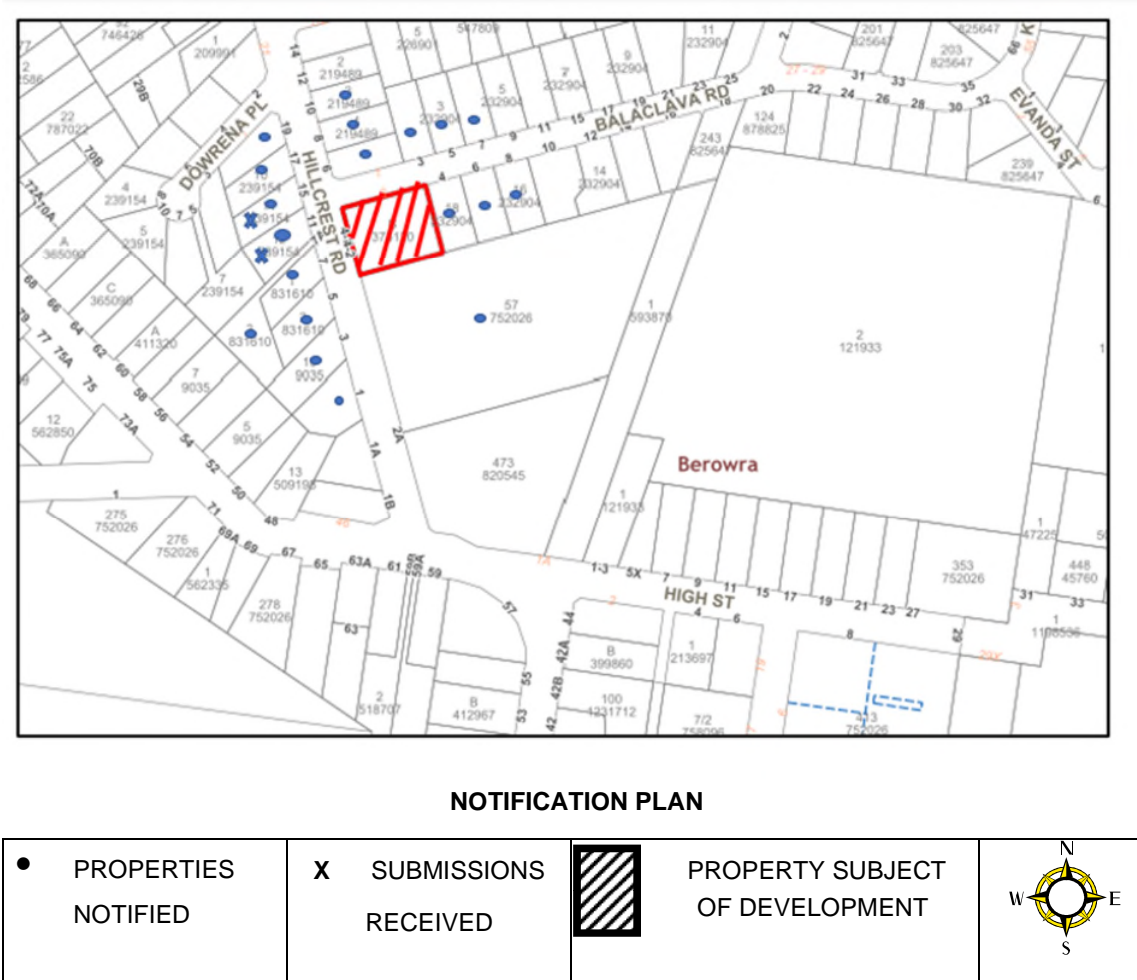
The scale of the works proposed as part of this application are negligible and are therefore acceptable.

5. PUBLIC PARTICIPATION

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

5.1 Community Consultation

The proposed development was placed on public exhibition and was notified to adjoining and nearby landowners between 17 February 2023 and 2 March 2023 in accordance with the Hornsby Community Engagement Plan. During this period, Council received two submissions. The map below illustrates the location of those nearby landowners who made a submission that are in close proximity to the development site.



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

- Detrimental impacts upon the heritage significance of the site
- Insufficient detail in relation to the indicative building footprints of the proposed new allotments (such as indicative parking locations and private open space dimensions)
- Likely undue impacts on Tree 37 resulting from the future development of proposed Lots 2 and 3
- Insufficient separation between buildings

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

5.1.1 Indicative building footprint detail

The applicant has submitted additional plans that provide additional details in relation to the indicative building footprints on proposed Lots 2 and 3. These include clarification of the possible parking locations behind the existing building line and the location of private open space, adequately addressing the issue raised within the submissions received.

5.2 Public Agencies

The development application was not referred to any Public Agencies for comment.

6. THE PUBLIC INTEREST

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

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

The application is considered to have satisfactorily addressed Council's and relevant agencies' criteria and would provide a development outcome that, on balance, would result in a positive impact for the community. Accordingly, it is considered that the approval of the proposed development would be in the public interest.

CONCLUSION

The application proposes Torrens title subdivision of one lot into three lots and construction of an access driveway.

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

Council received two submissions during the public notification period. The matters raised have been addressed in the body of the report.

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

The reasons for this decision are:

- The proposed development generally complies with the requirements of the relevant environmental planning instruments and the Hornsby Development Control Plan 2013.
- The proposed development does not create unreasonable environmental impacts to adjoining development.

Note: At the time of the completion of this planning report, no persons have made a Political Donations Disclosure Statement pursuant to Section 10.4 of the Environmental Planning and Assessment Act 1979 in respect of the subject planning application.

CASSANDRA WILLIAMS
Major Development Manager - Development
Assessments
Planning and Compliance Division

ROD PICKLES
Manager - Development Assessments
Planning and Compliance Division

Attachments:

1. Locality Plan
2. Subdivision Plan
3. Building Envelope Plan
4. Heritage Impact Statement

File Reference: DA/39/2023
Document Number: D08616200

SCHEDULE 1**ITEM 6****GENERAL CONDITIONS**

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

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

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

1. Approved Plans and Supporting Documentation

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

Approved Plans

Plan No.	Plan Title	Drawn by	Dated	Council Reference
Sheet 1 of 1	Plan of subdivision Lot B DP373120	Geoffery Allan Golledge	11/11/2021	
Sheet 1 of 1	Contour and Detail Plan	Rennie Golledge Pty Ltd	15/10/2021	

Supporting Documentation

Document Title	Prepared by	Dated	Council Reference
Arboricultural Impact Report: 2-4 Hillcrest Road, Berowra	Bolan's Tree Service	Undated	D08568269

Reason: To ensure all parties are aware of the approved plans and supporting documentation that apply to the development.

2. Construction and Subdivision Certificates

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

- d) The Subdivision Works Certificate plans must be consistent with the Development Consent plans.

Reason: To ensure that detailed construction certificate plans are consistent with the approved plans and supporting documentation.

3. Section 7.11 Development Contributions

- a) In accordance with Section 4.17(1) of the *Environmental Planning and Assessment Act 1979* and the *Hornsby Shire Council Section 7.11 Development Contributions Plan 2020-2030*, the following monetary contributions must be paid to Council to cater for the increased demand for community infrastructure resulting from the development:

Description	Contribution (4)
Roads	\$3,358.82
Open Space and Recreation	\$22,552.10
Community Facilities	\$13,890.05
Plan Preparation and Administration	\$199.00
TOTAL	\$40,000.00

being for the creation of two new residential allotments.

- b) The value of this contribution is current as at 30 March 2023. If the contribution is not paid within the financial quarter that this condition was generated, the contribution payable will be adjusted in accordance with the provisions of the Hornsby Shire Council Section 7.11 Development Contributions Plan and the amount payable will be calculated at the time of payment in the following manner:

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

Where:

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

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

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

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

- c) The monetary contribution must be paid to Council:
- Prior to the issue of the Subdivision Certificate where the development is for subdivision.
 - Prior to the issue of the first Construction Certificate where the development is for building work.
 - Prior to issue of the Subdivision Certificate or first Construction Certificate, whichever occurs first, where the development involves both subdivision and building work.

- iv) Prior to the works commencing where the development does not require a Construction Certificate or Subdivision Certificate.

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

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

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

Reason: To ensure development contributions are paid to address the increased demand for community infrastructure resulting from the approved development.

4. Removal of Trees

- a) This development consent permits the removal of trees numbered T5, T8, T9, T24, T26, T35 and T36 as identified in the Arboricultural Impact Assessment prepared by Bolans Tree Service, undated.
- b) No consent is granted for the removal of trees numbered T1, T2, T3, T4, T6, T7, T10, T11, T12, T13, T14, T15, T16, T17, T18, T19, T20, T21, T22, T23, T25, T27, T28, T29, T30, T31, T32, T33, T34, T37, T38, T39, T40 and T41 as these trees contribute to the established landscape amenity of the area/streetscape.

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

Reason: To identify only those trees permitted to be removed.

5. Retaining Walls

To ensure the stability of the site, structural details of all required retaining walls must be submitted with the application of the Construction Certificate.

Reason: To ensure the stability of the site and adjoining properties.

REQUIREMENTS PRIOR TO THE ISSUE OF A CONSTRUCTION/ SUBDIVISION WORKS CERTIFICATE

6. Appointment of a Project Arborist

- a) A project arborist with AQF Level 5 qualifications must be appointed.
- b) Details of the appointed project arborist must be submitted to Council and the PCA for registration with the application for the construction certificate.

Reason: To ensure appropriate monitoring of tree(s) to be retained.

7. Contract of Insurance (Residential Building Work)

Where residential building work for which the *Home Building Act 1989* requires there to be a contract of insurance in force in accordance with Part 6 of that Act, this contract of insurance must be in force before any building work authorised to be carried out by the consent commences.

Reason: Prescribed condition EP&A Regulation section 69(2).

8. Notification of Home Building Act 1989 Requirements

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

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

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

Reason: Prescribed condition EP&A Regulation section 71(2) and (3)

9. Utility Services

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

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

Reason: To ensure the development is provided with the relevant utility services.

10. Sydney Water - Approval

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

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

Reason: To ensure the development is provided with the relevant utility services.

11. Identification of Survey Marks

A registered surveyor must identify all survey marks in the vicinity of the proposed development. Any survey marks required to be removed or displaced as a result of the proposed development shall be undertaken by a registered surveyor in accordance with Section 24 (1) of the *Surveying and Spatial Information Act 2002* and following the Surveyor General's Directions No.11 "Preservation of Survey Infrastructure".

Reason: To identify and protect the State's survey infrastructure.

12. Stormwater Drainage - Dwelling

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

- a) Roof water from the existing dwelling must be connected directly to Council's Street drainage system at Balaclava Road.

Reason: To ensure appropriate provision for management and disposal of stormwater.

13. Internal Driveway/Vehicular Areas for the existing dwelling

The driveway and parking areas on site must be designed and a Construction Certificate issued in accordance with Australian Standards AS2890.1, AS3727 and the following requirements:

- a) Design levels at the front boundary be obtained from Council.
- b) The driveway be a rigid pavement.
- c) The driveway grade must not exceed 25 percent and changes in grade must not exceed 8 percent.
- d) The driveway pavement be a minimum 3 metres wide, 0.125 metres thick reinforced concrete with SL72 steel reinforcing fabric and a 0.15 metre sub-base.

Reason: To provide safe vehicle and pedestrian access.

14. Vehicular Crossing

A separate application under the *Local Government Act 1993* and the *Roads Act 1993* must be submitted to Council for the installation of a new vehicular crossing and the removal of the redundant crossing. The vehicular crossing must be constructed in accordance with AUS-SPEC Specifications (www.hornsby.nsw.gov.au/property/build/aus-spec-terms-and-conditions) and the following requirements:

- a) Design levels at the front boundary must be obtained from Council for the design on the internal driveway.
- b) The footway area must be restored by turfing.
- c) The existing road pavement to be saw cut a minimum of 600 mm from the existing edge of the bitumen and reconstructed.
- d) The submission of a compaction certificate from a geotechnical engineer for any fill within road reserves, and all road sub-grade and road pavement materials.

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

Reason: To provide safe vehicle and pedestrian access.

15. Road Works

All road works approved under this consent must be designed in accordance with AUS-SPEC Specifications (www.hornsby.nsw.gov.au/property/build/aus-spec-terms-and-conditions) and

16. Photographic Archival Recording

- a) A Photographic Archival Record (PAR) of the rotary hoist clothesline identified to have research value should be taken within its existing residential context at Lot B DP 373120, No. 2-4 Hillcrest Road, Berowra is to be undertaken by a suitably qualified heritage professional.
- b) The photographic record is to be undertaken in accordance with the NSW Heritage Office *Guidelines for Photographic Recording of Heritage Items using Film or Digital Capture* and 1 complete 'hard' paper and an electronic copy submitted to Hornsby Council for written endorsement.
- c) Satisfaction of this condition must be confirmed in writing by Council to the certifier prior to issue of the Construction Certificate or Subdivision Works Certificate, whichever occurs first.

Note: The electronic copy of the PAR must be sent to devmail@hornsby.nsw.gov.au and marked to the attention of Council's Strategic Land Use Planning Team and reference the DA number.

Reason: To provide a record of the historical significance of the site and contribute to the cultural understanding of the Hornsby Local Government Area.

REQUIREMENTS PRIOR TO THE COMMENCEMENT OF ANY WORKS

17. Removal or relocation of clothesline

Prior to the future relocation or removal of the clothesline, the property owner is to contact local community groups and museums for potential relocation into a more community orientated location within the Hornsby Local Government Area. A record of attempts made in this regard and any associated interest must be sent to devmail@hornsby.nsw.gov.au and marked to the attention of Council's Strategic Land Use Planning Team and reference the DA number prior to works commencing.

Reason: To contribute to the cultural understanding of the Hornsby Local Government Area.

18. Installation of Tree Protection Measures

- a) Trees to be retained and numbered as identified on the Tree Location Plan contained within the Arboricultural Impact Report prepared by Bolan's Tree Service, undated must have tree protection measures for the ground, trunk and canopy installed by the project arborist as follows:

- i) For the duration of demolition works, in accordance with the Tree Location Plan contained within the Arboricultural Impact Report prepared by Bolan's Tree Service, undated (as listed in Condition 1 of this Schedule).
 - ii) For the duration of construction works, in accordance with Tree Location Plan contained within the Arboricultural Impact Report prepared by Bolan's Tree Service, undated (as listed in Condition 1 of this Schedule).
- b) Tree protection fencing for the trees to be retained must be installed by the engaged AQF 5 project arborist and consist of 1.8m high temporary fencing panels installed in accordance with Australian Standard AS4687-2007 Temporary fencing and hoardings.
- c) The installation of all required tree protection fencing must include shade cloth attached to the fencing to reduce transport of dust, particulates and liquids from entering the tree protection zone.
- d) All tree protection zones must have a layer of wood-chip mulch at a depth of between 150mm and 300mm.
- e) Where wood-chip mulch is permitted by Council instead of tree protection fencing within the tree protection zones, the wood-chip must be covered with a layer of geotextile fabric and rumble boards.

Reason: To minimise impacts on the water quality of the downstream environment.

19. Erection of Construction Sign

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

Reason: Prescribed condition EP&A Regulation, section 70(2) and (3).

20. Protection of Adjoining Areas

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

- a) Could cause a danger, obstruction or inconvenience to pedestrian or vehicular traffic.
- b) Could cause damage to adjoining lands by falling objects; and/or.
- c) Involve the enclosure of a public place or part of a public place; and/or.

- d) Have been identified as requiring a temporary hoarding, fence or awning within the Council approved Construction Management Plan (CMP).

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

Reason: To ensure public safety and protection of adjoining land.

21. Toilet Facilities

- a) To provide a safe and hygienic workplace, toilet facilities must be available or be installed at the works site before works begin and must be maintained until the works are completed at a ratio of one toilet for every 20 persons employed at the site.
- b) Each toilet must:
 - i) Be a standard flushing toilet connected to a public sewer; or
 - ii) Be a temporary chemical closet approved under the *Local Government Act 1993*; or
 - iii) Have an on-site effluent disposal system approved under the *Local Government Act 1993*.

Reason: To ensure adequate toilet facilities are provided.

22. Erosion and Sediment Control

To protect the water quality of the downstream environment, erosion and sediment control measures must be provided and maintained throughout the construction period in accordance with the manual '*Urban Stormwater: Soils and Construction "The Blue Book" 2004 (4th edition)*', the approved plans, Council specifications and to the satisfaction of the principal certifying authority. The erosion and sediment control devices must remain in place until the site has been stabilised and revegetated.

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

Reason: To minimise impacts on the water quality of the downstream environment.

23. Garbage receptacle

A garbage receptacle must be provided at the work site before works begin and must be maintained until all works are completed.

- a) The garbage receptacle must have a tight fitting lid and be suitable for the reception of food scraps and papers.
- b) The receptacle lid must be kept closed at all times, other than when garbage is being deposited.
- c) Food scraps must be placed in the garbage receptacle and not in demolition and construction waste bins.

Reason: To maintain the site in a clean condition and protect local amenity.

REQUIREMENTS DURING CONSTRUCTION

24. Prohibited actions within the fenced tree protection zone

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

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

Reason: To protect trees during construction.

25. Maintaining the Health of Trees Approved for Retention

The appointed project arborist must monitor and record any and all necessary actions required to maintain tree health and condition for trees numbered <insert number(s)> on the approved plans.

Reason: To ensure appropriate monitoring of tree(s) to be retained.

26. Maintaining Tree Protection Measures

Tree Protection Measures must be maintained by the project arborist in accordance with Condition Nos. 15, 21 and 24 of this consent for the duration of works.

Reason: To protect trees during construction.

27. Approved Works within Tree Protection Zone incursions

- a) Where tree root pruning is required for the installation of piers, driveway or underground services, the pruning must be overseen by the AQF 5 project arborist and must be undertaken as follows:
 - i) Using sharp secateurs, pruners, handsaws or chainsaws with the final cut being clean.
 - ii) The maximum diameter of roots permitted to be cut is 30mm.
- b) Where the building footprint enters or transects the Tree Protection Zones of trees to be retained, sensitive construction techniques in the form of screw pilings or piers, cantilevered or suspended slab design must be employed to create a 100mm clearance above existing soil grade.
- c) Approved excavations within the Tree Protection Zone of trees to be retained not associated with installation of services must be undertaken as follows:
 - i) Excavations for the construction and/or installation of the house/deck/driveway/piers in the Tree Protection Zone of trees to be retained on the approved plans must be supervised by the project arborist for the first

1.000 meter undertaken manually to locate roots and allow for pruning in accordance with condition 8a.

- d) No changes of grade within the Tree Protection Zone of trees to be retained on the approved plans, are permitted.
- e) To minimise impacts within the Tree Protection Zone (TPZ) of trees retained on the approved plans, the installation of services must be undertaken as follows:
 - i) The AQF 5 project arborist must be present to oversee the installation of any underground services which enter or transect the tree protection.
 - ii) The installation of any underground services which either enter or transect the designated TPZ must utilise directional drilling only
OR
 - iii) The installation of any underground services which either enter or transect the designated TPZ must be undertaken manually.
 - iv) For manually excavated trenches the AQF 5 project arborist must designate roots to be retained. Manual excavation may include the use of pneumatic and hydraulic tools.
- f) Where scaffolding is required, ground protection must be installed beneath the scaffolding in the following order:
 - i) Installation of a 100mm deep layer of woodchip.
 - ii) Installation of geotextile fabric ground covering.
 - iii) Installation of scaffold boarding above the woodchip and geotextile fabric.

Reason: To protect trees during construction.

28. Construction Work Hours

- a) All works on site, including demolition and earth works, must only occur between 7am and 5pm Monday to Saturday.
- b) No work is to be undertaken on Sundays or public holidays.

Reason: To protect the amenity of neighbouring properties.

29. Street Sweeping

- a) During works and until exposed ground surfaces across the site have been stabilised, street sweeping must be undertaken following sediment tracking from the site.
- b) The street cleaning service must utilise a 'scrub and dry' method and be undertaken for the full extent of any sediment tracking.

Reason: To minimise impacts to the natural environment.

30. Council Property

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

Reason: To protect public land.

31. Landfill not Permitted

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

Reason: To minimise environmental impacts from landform modification.

32. Excavated Material

All excavated material removed from the site must be classified by a suitably qualified environmental consultant in accordance with the NSW Environment Protection Authority's Waste Classification Guidelines and Protection of the Environment Operations (Waste) Regulation 2014 prior to disposal to a licensed waste management facility. Tipping dockets for the total volume of excavated material that are received from the licensed waste management facility must be provided to the principal certifying authority prior to the issue of an Occupation Certificate.

Reason: To ensure the appropriate disposal of excavated material.

33. Maintenance of public footpaths

Public footpaths must be maintained for the duration of works to ensure they are free of trip hazards, displacements, breaks or debris to enable pedestrians to travel along the footpath safely.

Reason: To maintain safe pedestrian movement.

34. Building Materials and Site Waste

The stockpiling of building materials, the parking of vehicles or plant, the disposal of cement slurry, waste water or other contaminants must be located outside the tree protection zones as prescribed in the conditions of this consent of any tree to be retained.

Reason: To protect trees during construction.

35. Unexpected Finds

Should the presence of asbestos or soil contamination, not recognised during the application process be identified during any stage of works, the applicant must immediately notify the PCA and Council.

Reason: To ensure the appropriate removal and disposal of contaminated materials.

REQUIREMENTS PRIOR TO THE ISSUE OF A SUBDIVISION CERTIFICATE

36. Sydney Water - s73 Certificate

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

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

Reason: To ensure compliance with the requirements of Sydney Water.

37. Construction of engineering works.

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

Reason: To ensure engineering works are completed.

38. Damage to Council Assets

To protect public property and infrastructure, any damage caused to Council's assets as a result of the construction or demolition of the development must be rectified by the applicant in accordance with AUS-SPEC

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

Reason: To ensure public infrastructure and property is maintained.

39. Replacement Tree Requirements

- a) The trees approved for removal under this consent, being trees numbered T5, T8, T9, T24, T26, T35 and T36 must be offset through replacement planting of a minimum of 8 trees.
- b) All replacement plantings must be species selected from the 'Trees Indigenous to Hornsby Shire (as of 1 September 2011)' document available for viewing on the Hornsby Council's website <http://www.hornsby.nsw.gov.au/environment/flora-and-fauna/tree-management/indigenous-trees>
- c) The location and size of tree replacement planting must comply with the following:
 - i) All replacement trees must be located in either front or rear setbacks and planted 4 metres or greater from the foundation walls of the approved development.
 - ii) The pot size of the replacement trees must be a minimum 45 litres.
 - iii) All replacement trees must be a minimum of 3 metres in height.
 - iv) All replacement trees must have the potential to reach a mature height greater than 10 metres.

Reason: To ensure replacement planting to maintain tree canopy.

40. Final Certification

- a) The AQF 5 Project arborist must submit to the Principal Certifying Authority a certificate that includes the following:
- b) All tree protection requirements complied with the as approved tree protection plan for the duration of demolition and/or construction works.
- c) All completed works relating to tree protection and maintenance have been carried out in compliance with the conditions of consent and approved plans.
- d) Dates, times and reasons for all site attendance.
- e) All works undertaken to maintain the health of retained trees.

- f) Details of tree protection zone maintenance for the duration of works.

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

Reason: To ensure compliance with tree protection commitments.

41. Creation of Easements

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

- a) A sewer easement over each of the burdened lots.
- b) The creation of a “*Positive Covenant*” over the proposed Lot 2 and Lot 3 requiring that any future development is to provide an on-site detention system on each lot. The on-site detention system is to have a storage capacity of 5 cubic metres and a maximum discharge of 8 litres per second into Council’s drainage system in accordance with Council’s prescribed wording.
- c) The creation of a “*Positive Covenant*” over the proposed Lot 2 and Lot 3 requiring that any future development is to provide a turning area within the site in accordance with the B85 vehicle turning template outlined in Australian Standards AS 2890.1 to ensure all vehicles can enter and leave the site in a forward direction, for the safety of school children.

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

Reason: To create legal entitlements to facilitate the proper use and management of land.

- END OF CONDITIONS -

ADVISORY NOTES

The following information is provided for your assistance to ensure compliance with the Environmental Planning and Assessment Act, 1979, Environmental Planning and Assessment Regulation 2021, other relevant legislation and Council’s policies and specifications. This information does not form part of the conditions of development consent pursuant to Section 4.17 of the Act.

Environmental Planning and Assessment Act 1979 Requirements

The *Environmental Planning and Assessment Act 1979* requires:

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

Dial Before You Dig

Prior to commencing any works, the applicant is encouraged to contact Before You Dig Australia (BYDA) at www.byda.com.au for free information on potential underground pipes and cables within the vicinity of the development site.

Telecommunications Act 1997 (Commonwealth)

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

Tree and Vegetation Preservation

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

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

Fines may be imposed for non-compliance with the HDCP.

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

Subdivision Certificate Requirements

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

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

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

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

Fees and Charges - Subdivision

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

House Numbering

The house numbering for this subdivision shall be:

Lot	Street Number	Street Name	Street Type	Locality
1	2	Balaclava	Road	Berowra
2	2	Hillcrest	Road	Berowra
3	4	Hillcrest	Road	Berowra

ITEM 6

ATTACHMENT 1 - ITEM 6



LOCALITY PLAN
DA/39/2023
No. 2-4 Hillcrest Road, Berowra





TaylorBrammer

HERITAGE IMPACT STATEMENT



Nearmap Aerial photograph of site sourced 26 April 2021

2 - 4 Hillcrest Road
Berowra

Project Reference: 21-029s
May 2021
Updated December 2022

ATTACHMENT 4 - ITEM 6

1 Introduction

Matthew Taylor of Taylor Brammer Landscape Architects Pty Ltd has been requested by the client Kim Burke to assess the garden at 2-4 Hillcrest Avenue, Berowra in reference to the proposed subdivision for the site. The site is on the corner of Hillcrest Road and Balaclava Road, Berowra Heights. It is the author's understanding that the house has been vacant for some time prior to its recent sale and that the garden has been poorly maintained in the interim. The client has undertaken basic maintenance of the property, mowing of grass, trimming of shrubs and has had approval from Hornsby Council for the trimming and removal of dead trees on the property. The report dated May 2021, has been updated to reflect the findings of the Arboricultural Impact Report prepared by Bolans Tree Services (received December 2022)

2 Authorship

This report has been prepared by D Matthew Taylor, Director Taylor Brammer Landscape Architects Pty Ltd, specialist heritage landscape architect and consultant. Unless noted, drawings and photographs have been prepared by Taylor Brammer Landscape Architects Pty Ltd.

3 Report Structure

This report has been prepared in accordance with guidelines outlined in the Australia ICOMOS Charter for Places of Cultural Significance, 2013, known as The Burra Charter, and the New South Wales Heritage Office (now the Heritage Division of the NSW Office of Environment and Heritage) publication, NSW Heritage Manual.

The Burra Charter provides definitions for terms used in heritage conservation and proposes conservation processes and principles for the conservation of an item. The terminology used, particularly the words place, cultural significance, fabric, and conservation, is as defined in Article 1 of The Burra Charter. The NSW Heritage Manual explains and promotes the standardisation of heritage investigation, assessment and management practices in NSW.

4 Existing Heritage Listing

The existing heritage listing is Item 170 under Hornsby Council LEP. The listing consists of the garden only and not the house. The garden is visually prominent to both Hillcrest Road and Balaclava Road with mature plantings planted to the periphery of the property.

The Statement of Significance:

A remarkably intact house and garden representing architectural and horticultural styles of the 1950s, with local historical, aesthetic and technical/research values. The interior is apparently largely intact from the 1950s and warrants further investigation.

Category: Residential garden

Item Name: Garden

Item Type: Landscape

Physical Description:

Single-storey brick house with tiled roof set well back on large square lot on southeast corner of Hillcrest Road and Balaclava Road, Berowra, adjacent to grounds of Berowra Public School, with vehicle drive along southern side and extensive lawn in front of house. House, built c1949 for the late Geoff Hore, retains many original features inside and out, including garden structures such as timber arbour over vehicle entry, pergola at southeast corner of house and sandstone seat and bird bath. Front boundary has timber post and rail fence. Trees and shrubs along front boundary include a large specimen of Pinus radiata (Radiata Pine, Monterey Pine) at north west corner, Pittosporum undulatum (Sweet Pittosporum), Ochna serrulata (Mickey Mouse plant), Cotoneaster sp.,

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Stenocarpus sinuatus (Queensland Firewheel tree), *Yucca* sp., *Brachychiton acerifolius* (Illawarra Flame Tree). There is a timber arbour over the vehicle entry with purple flowered *Bougainvillea glabra* over it, and a large specimen of *Syzygium* sp. beside drive entry. Along the southern boundary, plantings include *Jasminum mesnyi* (Winter Jasmine), *Cotoneaster* sp., *Syzygium* sp., variegated form of *Arundo donax* (Giant Reed) and a large specimen of *Cedrus deodara* (Deodar) which overhangs the single garage located towards the southeast corner of the lot. Specimens in this part of the garden include *Archontophoenix cunninghamiana* (Bangalow Palm), *Solandra maxima* (Honolulu Lily), *Macadamia* sp. and a specimen of *Sorbus aucuparia* (Rowan tree) at rear of garage/laundry. Towards the southeast corner of the lot is a small area of lawn with an unusual 'windmill' original rotary clothes hoist branded "Artee" by RT, Box Hill, Victoria. There is a large specimen of *Camellia sasanqua* next to the hoist and a specimen of *Brachychiton acerifolius* (Illawarra Flame Tree) with diseased leaves in the southeast corner. There is a particularly beautiful pink *Camellia japonica* near the rear door to the house. Plantings along the rear boundary include *Hibiscus rosa-sinensis* and *Fraxinus* sp. (Ash Tree). Beside the front verandah on the northern side of the house is a particularly fine specimen of *Acer palmatum* (Japanese Maple) and a cypress. Surviving on the verandah are original 'butterfly chairs' (without their original canvas covers). Plantings along the northern boundary include a large specimen of *Liquid amber styraciflua* (Liquid amber, Sweet Gum), *Pittosporum undulatum* (Sweet Pittosporum), *Cotoneaster* sp. and *Arundo donax*. Specimens on the front lawn include *Cedrus deodara* (Deodar), *Jacaranda mimosifolia* (Jacaranda), *Hibiscus rosa-sinensis*, *Agave attenuata*, *Ulmus* sp. (an elm) and a cultivar of *Malus sylvestris* (Crab apple).

Reference: Hornsby Council Heritage Review 5 (2012) Study by: Godden Mackay Logan

5 Historical Evolution and Description of the Property

It would appear that the garden was essentially established by the late Geoff Hore with the building of the house around 1949. The location of the house was deliberately sited to face Balaclava Road and immediately adjacent to the eastern boundary (rear) of the property. This appears to have made provisions for the potential subdivision of the site with the remains of the property being an open garden with the main emphasis of the major tree planting being located to the periphery of the property. It would appear that all the major trees being the Liquid amber trees and the Lilly Pillies date from the 1950s and represent establishment planting of the garden. There is one major tree to the centre of the garden being a Himalayan Cedar. (17) This tree is a semi mature species and not as mature as the Himalayan Cedar adjacent to the garage. A (dead) Radiata Pine tree to the corner of Hillcrest and Balaclava Roads appears to pre date the establishment of the garden in the 1950s and may have been evidence of a former line of trees along Hillcrest Avenue with some pine trees evident further to the north on Hillcrest Road.

Supplementary plantings of smaller ornamental trees are grouped around the house leaving much of the garden to the west of the house open. These trees are generally in poor condition.

There is a concrete bird bath to the front garden and an unusual clothes hoist to the rear of the garage, this being noted in the heritage listing. A fence, painted mission brown is a typical style of the 1970s with stone flagging making up to the area below the fence to the street faces both roads. The fence is in poor condition. A concrete strip driveway leads from Hillcrest Road to the single garage. The concrete strips have been disrupted by existing tree roots and require replacement. There is a concrete walkway from the drive to the front door of the house that passes by the only established garden bed that is closely aligned with the western side of the house. Other garden beds to the periphery of the property are in poor condition with a number of shrubs, trees and self-sown plants making an informal margin to the street fronts.

Overall, the garden represents a mature landscape that has been established in the 1950s. The species as identified and are noted on the key plan are typical of post WWII gardens. The major trees being the Lilly Pillies, Himalayan Cedars and Liquid ambers are found across the LGA. The garden does not have the further layering of detailed garden beds that are typical of post WWII gardens with only a minor bed of Pineapple plants to the corner of the garden adjacent to Hillcrest and Balaclava Roads.

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ATTACHMENT 4 - ITEM 6



Front fence to Hillcrest Road (Image author May 2021)



Front fence to Hillcrest Road showing mature vegetation
(Image author May 2021)



Driveway entry off Hillcrest Road showing poor condition
of concrete drive (Image author May 2021)



View of site from Balaclava Road showing existing
vegetation
(Image author May 2021)

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View of garage and Himalayan Cedar in senescent state
(Image author May 2021)



View of north west garden showing dead pine tree
(Image author May 2021)



Bird bath in lawn (Image author May 2021)



Front of house facing Balaclava Road (Image author May 2021)

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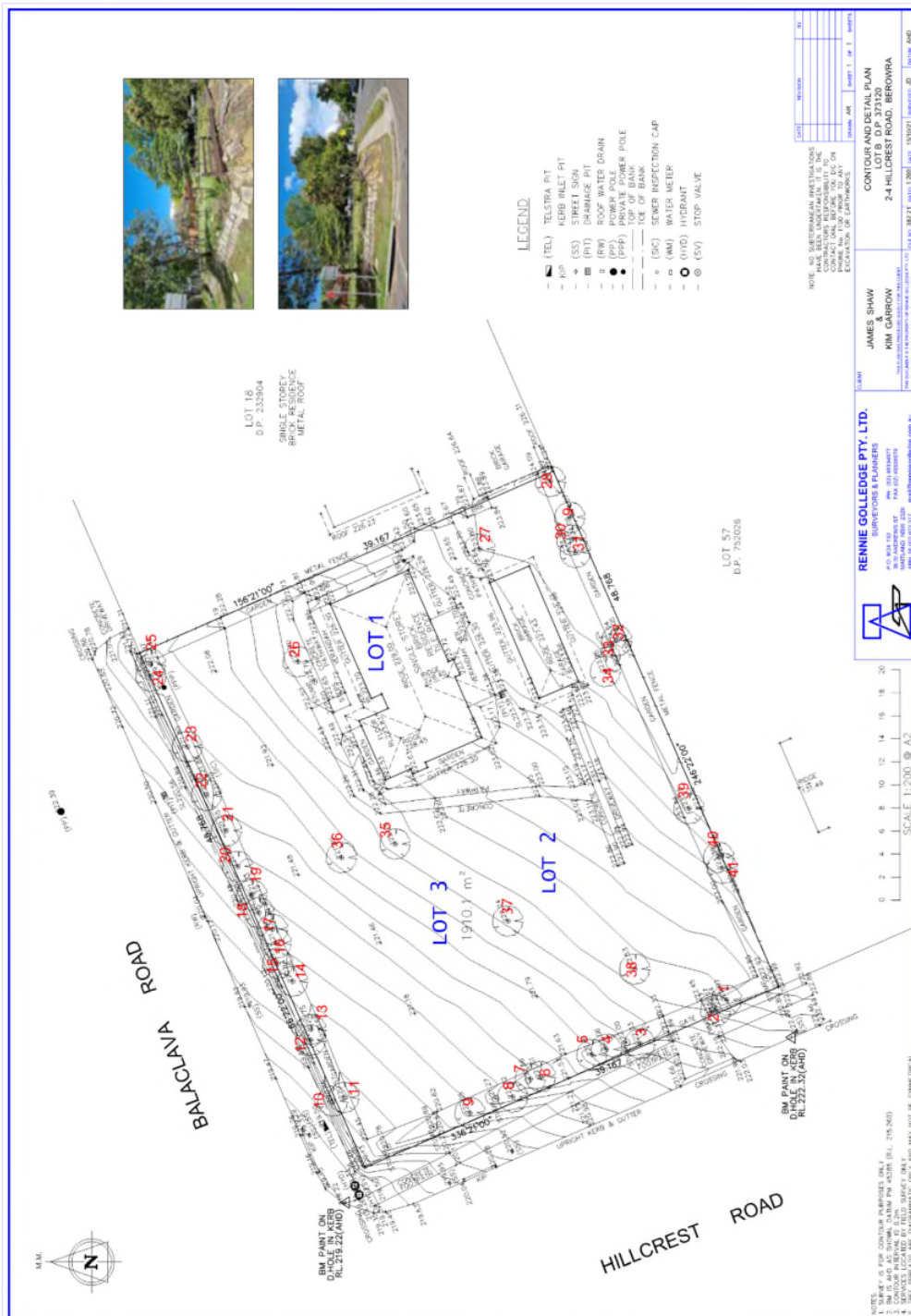
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ATTACHMENT 4 - ITEM 6



Contour and Detail Plan prepared by Rennie Golledge Pty Ltd

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6 Comparative Analysis

In reviewing the reasons for the listing of the garden at 2-4 Hillcrest Road, a comparative analysis was undertaken to review the heritage listings for gardens in the LGA and in some cases house and garden to clearly comprehend the qualities of the garden at 2-4 Hillcrest Road as a heritage item.

A review was made of heritage listed gardens across the LGA. The listed gardens range from well established gardens in the older areas of the LGA to more recent examples. A cross section of areas were selected from Asquith, in the Berowra area to older established areas of Epping, Cheltenham and Beecroft.

The gardens in these areas display a range of horticultural expressions that represent the eras that they have been established. For example, 26 Royston Parade, Asquith is very overgrown and unkempt with the values of the place not evident. 183 Beecroft Road, Cheltenham is representative of earlier in the 20th century with key plantings of wine glass palms and a Himalayan Cedar that was introduced post WWII. Both 46 and 48 The Crescent, Cheltenham feature mature cypresses and formal garden character that is characteristic of post WWII gardens. The grounds of the Cheltenham Recreation Club are characterised by mature specimen trees such as a very substantial Liquid amber tree to the street front.

Many of the listed gardens exhibit evolving characteristics that reflect horticultural character of the time. Earlier gardens with an established character that reflect the house style, such as 183 Beecroft Road, Cheltenham have incorporated later horticultural plantings with popular plants and trees of later decades, these plantings diluting the form and character of the garden. These gardens exhibit the typical characteristics of the gardens with a direct relationship between house and garden. The house and garden are formed in a particular setting to be viewed as a complete entity with a direct relationship between formal rooms (such as living and dining rooms) to engage with the depth and breadth of the site. 2-4 Hillcrest Road does not exhibit this relationship as noted below.

7 Assessment - 2-4 Hillcrest Road, Berowra Listing of Garden as a Local Heritage Item

The listing refers to the house in its description, however the listing is for the garden only. Further, as noted, the house is well setback from Hillcrest Road and is orientated to Balaclava Road. The relationship of the house and garden is not consistent with the other examples of local listings for the LGA. The understanding of house and setting, that the garden contributes to siting of the house and that there is a clear relationship between the built form and the scale and proportion of the garden. 183 Beecroft Road, Cheltenham is a prime example of this relationship. Located on a corner site, as is the subject site, the garden, paths, veranda and detailed outcomes support the scale and character of the place.

The subject site, with a modest house sited to the rear boundary and facing Balaclava Road forms a deliberate relationship with Balaclava Road and not Hillcrest Road as the formal front to the house, despite the drive being accessed from Hillcrest Road. The substantial lawn to the west of the house is not viewed from the house, the main access to the garden through the front and rear doors that related substantially to the Balaclava Road frontage and the garage to the rear.

The detailing of the general garden, garden beds, ornamental shrubs and groundcovers, the development of the garden as a place of repose and display of horticultural variety is markedly absent, with a substantial lawn to the west of the house as noted above, not directly accessed or viewed from the house. Evidence of more detailed horticultural input relates to the immediate surrounds to the house (azalea bushes and the like) with these horticultural themes not evident in the broader landscape.

The substantial mature trees of Liquid amber, Lilly Pillies and Himalayan Cypress are all located with the exception of a smaller Himalayan Cypress to the periphery of the site. This leads to a void of the garden to the western side with very little horticultural elements to form focal elements to the garden. Supplementary smaller trees are generally poor in health and do not contribute in a substantial way to the overall garden layout, being planted in seemingly occasional locations and in many cases crowding other small trees and shrubs so that the plants cannot reach their full potential.

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The fencing to the street front is typical of the 1970s with broad timber boards and painted mission brown. The fence is in poor condition and needs to be replaced with the frame over the drive, in disrepair. Much of the supplementary planting to the periphery of the garden is overgrown or has merged with other shrubs and trees. There are a number of weed species (Asparagus grass and the like) that requires the garden to be further maintained.

The concrete pedestrian paths are in reasonable condition with the driveway in poor condition with much of the drive displaced by tree roots. The concrete bird bath is typical of the 1960s and is seen in a range of gardens. The clothes line is of special note, it is unusual 'windmill' rotary clothes line branded Artee by RT, Box Hill, Victoria.

Due to the predominance of the mature trees to the periphery and street front of the site, the substantial mature form of the trees provide an aesthetic contribution to the streetscape.

8 Assessment of Heritage Impact

The location of the house to the rear of the site and its poor relationship with the garden, its direct relationship with Balaclava Road with the main living room windows facing to this street questions the siting of the house in relation to the whole of the site. The lack of garden detail, planting beds located to the immediate periphery of the house indicates a more detailed relationship in terms of scale and use with immediate surrounds to the house, leaving the western and more open portion of the garden as a separate entity. The plantings on the site are of a typical suburban nature and found across the LGA. The deliberate planting of the most significant trees to the periphery of the site contributes in an aesthetic value to the streetscape of both Hillcrest and Balaclava Roads. The tree species are found throughout the LGA and are not specific to this site. The rotary clothes line is of scientific value and may be considered to be moveable heritage, located for the broader populace in a place of community access. The proposed subdivision of the site does not impact on the heritage values of the place that have been identified for the site.

9 Conclusion

1. The Development Application for a sub-division of Lot B DP373120 2-4 Hillcrest Road, Berowra from 1 lot into 3 lots being Lot 1, Lot 2 and Lot 3. This is outlined on the attached plan.
2. The major portion of the sub-division relates to Lot 1, which includes a new driveway and the removal of 1 Tree known as a Ligustrum lucidum (Broad Leaf Privet). This species is an environmental weed.
3. In general, the proposed sub-division does not affect the heritage values of the garden. The garden does not display any vegetation that is exceptional in its rarity. All species are typical of the planting styles of the LGA with the plant species found in many gardens across the LGA. The research values of the place are focused on the rotary clothes hoist that may be considered moveable heritage and be able to be relocated in a more community orientated location in the LGA.

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NAME

D MATTHEW TAYLOR

RESPONSIBILITY

Director

EDUCATION AND PROFESSIONAL QUALIFICATIONS

Bachelor of Landscape Architecture (UNSW, 1983)
 Master of the Built Environment (Building Conservation) (UNSW, 1990)
 Registered Landscape Architect
 Associate of the Australian Institute of Landscape Architecture (1987)
 Chair - AILA Heritage Committee
 Expert in the Land and Environment Court of New South Wales
 Panel member Independent Hearing & Assessment Panel (IHAP) Liverpool City Council (2002-Present)
 Panel member for Local Planning Panel (FLPP) Fairfield City Council (2002-Present)
 Bayside Council Design Review Panel
 Liverpool Design Excellence Panel
 Blue Mountains Local Planning Panel
 Campbelltown Design Excellence Panel
 Hornsby Shire Council Design Excellence Panel
 NSW State Design Review Panel
 Burwood Urban Design Review Panel
 NSW State Design Review Panel
 NSW Government Department of Planning - Metro Greenspace Grant and Places to Roam

COMMUNITY ORGANISATIONS

Member of the Australian Garden History Society
 Member of the National Trust of Australia

PROFESSIONAL EXPERIENCE

A registered landscape architect with over 37 years' experience, Matthew Taylor has worked on diverse range of projects both nationally and internationally. He has specialist expertise in heritage landscapes, master planning, residential subdivisions and the adaptive reuse of former heritage listed industrial sites. His work has been recognised by national design awards from the Australian Institute of Landscape Architects for the ANZAC Commemorative Site in Gallipoli, Turkey and the Kiera View Ponds at the University of Wollongong as well as a number of professional awards.

EMPLOYMENT SUMMARY

2001 – Current	Director Taylor Brammer Landscape Architects Pty Ltd
1988 – 2001	Director D M Taylor Landscape Architects Pty Ltd
1985 – 1988	Senior Landscape Architect Landscan Pty Ltd
1983 – 1985	Senior Landscape Architect Travis Partners Pty Ltd

AWARDS

2021	AILA NSW Award of Excellence for Cultural Heritage - Red Point, Port Kembla
2021	ACT Master Builders & Asset Construction Hire Excellence Awards - Uniting Amala, ACT
2020	Greater Sydney Planning Awards - Great Community Collaboration
2020	AILA Health & Education Award - UoW Early Start Children's Discovery Centre
2019	UDIA NSW Award for Excellence - Aged Care Service: Mayflower Gerrigong
2016	UDIA NSW Award for Excellence - Aged Care Service: Mark Moran Vaulcluse
2014	UDIA National Award for Excellence- High Density Housing: Top Ryde City Living
2013	UDIA NSW Award for Excellence- Concept Design: Eastlakes Town Centre
2008	State Award -The Australian Institute of Landscape Architects (NSW Group) Category: Landscape Design- Cockatoo Island Northern Apron
2002	National Awards -The Australian Institute of Landscape Architects Category of Heritage – ANZAC Commemorative Site, Gallipoli, Turkey
1994	National Awards-The Australian Institute of Landscape Architects Category of Infrastructure and Buildings Settings – Kiera View Ponds Uni of Wollongong
2001	UDIA NSW Award for Excellence - Retirement Lifestyle Development Award - Waterbrook at Yowie Bay
2001	National and NSW Award for the Oz Nouveau Courtyard at the Melbourne Flower and Garden Show
2000	Winner of Olympic Tribute Wall Competition, Illawarra for Australian Olympic Committee

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SEMINAR
PRESENTATIONS

- NICHE-IPM 2016 - Neo International Conference on Habitable Environments: "An Urban World"
- UNSW Faculty of the Built Environment (Heritage Planning) 2009: "The Role of Heritage in an Evolving World"
- Neerg Seminars 2009: "Landscape Requirements for DA's"
- Landscape Contractors Association 2008: "Heritage Preservation and Site Conservation"
- Neerg Seminars 2008: "Heritage Landscaping- Does it Matter?"
- Neerg Seminars 2008: "Landscaping- A Priority, Not an Afterthought"
- Australian Garden Society 2008: "Modernism and Post-Modernism in a Regional World"
- AILA 1985 Cityscape Steering Committee member

SPECIAL PROJECTS

- **ANZAC Commemorative Site, North Beach, Gallipoli, Turkey**
Winner of National Merit Award from the Australian Institute of Landscape Architects
Design, planning and detailing of significant international site on the Gallipoli Peninsula in Turkey for commemorative activities and cultural visitation to a major battlefield of World War 1.
- **Australian Corps Park, Le Hamel France - National Monument**
Design, planning and detailing of World War One Memorial in the battlefields of Somme, France.
- **Kokoda Track Memorial Walkway, Concord**
Landscape design, planning and detailing of memorial walkway and centerpiece along the foreshores of the Parramatta River to the centre of Sydney Metropolitan area.

HERITAGE

- **Admiralty House, Kirribilli**
Ongoing Landscape design, documentation and construction supervision for the upgrading to the grounds of the Sydney residence of the Governor General
- **Kirribilli House, Kirribilli**
Landscape heritage advice for the upgrading of the grounds of the Sydney residence of the Prime Minister of Australia
- **Parramatta Park, Parramatta**
Mitigation of Potential View Impact
- **Macquarie Field House, Macquarie Fields**
Visual analysis and landscape heritage input into CMP
- **Government House, Canberra**
Design and documentation for new directional signage and outdoor furniture
- **Brush Farm House Heritage Curtilage Upgrade**
Landscape heritage design and documentation for the upgrade of this State Heritage listed property to allow for expanded community use, functions and Council events.
- **Graythwaite, North Sydney**
Landscape heritage masterplan, landscape detailed design and documentation for this State Heritage listed property to provide facilities for Sydney Church of England Grammar School
- **Garden Island Public Headquarters for the Royal Australian Navy**
Landscape heritage advice, design and implementation of the public access strategy for the Department of Defence
- **NPWS Lighthouses, for NSW National Parks and Wildlife Service**
Conservation and Cultural Tourism Plan Landscape analysis, management plan and landscape strategies
- **ANZAC Memorial Park, Townsville, Queensland**
Conservation and Cultural Tourism Plan Landscape analysis, management plan and landscape strategies
- **Hillview, Sutton Forest, New South Wales**
Conservation and Open Space Management Plan for the former summer residence of the State Governor of New South Wales
- **Dame Eadith Walker Estate, Concord**
Conservation and Open Space Management Plan for extensive Edwardian Estate for the Department of Health
- **Bantry Bay former Explosives Depot, Sydney**
Landscape analysis, management plan and landscape strategies
- **Victoria Barracks, Headquarters for the Australian Army**
Landscape Heritage Management Plan
- **Silverwater Correctional Centre**
Conservation Management Plan and Implementation

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RESIDENTIAL /
COMMERCIAL

- **Bomera and Tarana**
Landscape conservation plan and strategy for two maritime villas former Naval Properties
- **Pyrmont/Ultimo Heritage Study**
Landscape analysis, inventory and report
- **RAAF Stores Depot, Dubbo**
Landscape heritage advice to Conservation Plan
- **Boomerang, Elizabeth Bay**
Landscape analysis and upgrading on major residential heritage property
- **Rona, Bellevue Hill**
Landscape report and analysis of prominent heritage listed house
- **Warringah Heritage Study**
Landscape report and inventory to regional zone of Sydney Metropolitan area
- **Wyang Heritage Study**
Landscape report and inventory to regional area of New South Wales
- **Windmill Hill Conservation Plan for Sydney Water**
Landscape report and conservation policies and guidelines to historic property in regional New South Wales

MASTER PLANNING

- **Sydney Workshop Company, Botany**
Design of surrounds to new facility for the Australian Army incorporating landscape guidelines and incorporation of cultural landscape features of the area
- **Morisset Shopping Centre (Coles Myer)**
Design and documentation for extension to existing shopping mall.
- **The Ridge Sports Complex club house, Lucas Heights**
Landscape design and documentation for new community facility.
- **Cabravale Diggers RSL Club**
Concept design and design development for alterations to existing RSL club.
- **Zenix Apartments, Sydney Park Rd**
Landscape design and documentation for a 150 unit development
- **Top Ryde City Living, Top Ryde Shopping Centre**
Landscape design and documentation for 480 units for Crown International
- **Monument, Oxford Street, Darlinghurst**
Landscape design and documentation for a 190 unit development
- **Sanderson Park Residential development, Moss Vale**
Landscape masterplan for new residential subdivision, incorporating heritage landscape aspects, riparian zone, pedestrian, cycle and vehicular accessways, boundary treatments, view corridors.
- **Potts Hill Waterboard Reservoir Site**
Landscape masterplan for the resubdivision of existing reservoir site to allow for continuation of use by Waterboard, new residential subdivision, new commercial and light industrial subdivision. Heritage issues, landforms and massing, avenue plantings and vehicular access.
- **Kelman Estate - Pokolbin, Hunter Valley**
Overall landscape plan and implementation for residential estate set in grapevines in the Hunter Valley, NSW.
- **Allandale Downs Golf Course and Tourist Development**
Site planning, landscape concepts for resort in Hunter Valley
- **Port Kembla Heritage Park**
Master Plan for proposed heritage park

ENVIRONMENTAL

- **Kellys Bush Landscape and Management Plan**
Research, development, landscape design and management guidelines of original "Green Ban" site. Team leader and coordinator
- **Wilcannia - Creative Village**
Landscape design, planning and guidelines for isolated country town developed for the Arts Council of New South Wales
- **Mt Piper to Marulan Transmission Line Study**
Report for the visual analysis of proposed transmission line
- **Cabin Ride Taronga Zoo**
Statement of environmental effects for new transportation amenity
- **Gap Bluff Watsons Bay**
Incorporation of cultural landscape items for additional building on a visually sensitive site. Including maintenance manual and guidelines to traffic management and signage

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