



MINUTES OF LOCAL PLANNING PANEL MEETING

HOSTED VIA TELECONFERENCE
on Wednesday 28 August 2024
at 4:00pm



PRESENT

Chairperson - Stephen Leathley

Expert Panel Member - Greg Flynn

Expert Panel Member - Heather Warton

Community Member - Amanda Anderson

STAFF PRESENT

Director Planning Division - James Farrington

Manager, Development Assessments - Rod Pickles

Major Development Manager - Cassandra Williams

Team Co-Ordinator - Caroline Maeshian

Senior Town Planner - George Papworth

Senior Town Planner - Tim Buwalda

Town Planner - Amelia Xu

Consultant Planner - Henry Burnett, DFP Planning

THE MEETING commenced at 4.00pm.

AUDIO RECORDING OF LOCAL PLANNING PANEL MEETING

Statement by the Chairman:

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

APOLOGIES / LEAVE OF ABSENCE

NIL

POLITICAL DONATIONS DISCLOSURE

NIL

ADDRESSES TO THE PANEL

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

LOCAL PLANNING PANEL

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|----------|--|---------|
| 1 | LPP18/24 DA/1022/2021 - Staged Torrens title and community title subdivision of 1 Lot into 64 - 36-56 David Road, Castle Hill | |
| | Katherine Burnett | Against |
| | Graeme Cutler | Against |
| | Jan Primrose (Protecting Your Suburban Environment Inc) | Against |
| | Peter Brown | Against |
| | Nitsan Taylor (applicant/ town planner) | For |
| | Phil Diversi (engineer) | For |
| | Jeremy Pepper (ecology) | For |
| | Bayzid Khan (traffic engineer) | For |
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| 2 | LPP12/24 DA/1251/2023 - Torrens title subdivision of 1 lot into 2, construction of a new driveway and associated earthworks - 6 Clovelly Road Hornsby | |
| | Steven Zhou | Against |
| | Tudor Goode | Against |
| | Chris Cole | Against |
| | Daniel McNamara (town planner) | For |
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 | | |
| 3 | LPP19/24 DA/1003/2023 - Further Report - Construction of a dwelling house and swimming pool - 11A Malton Road, Beecroft | |
| | Patricia Brown (Byles Creek Valley Union Inc) | Against |
| | Jan Primrose (Protecting Your Suburban Environment Inc) | Against |
| | Stefano Di Lorenzo (applicant) | For |
| | Michael Edwards (heritage) | For |
| | Teresa Allouche (arborist) | For |

IN ACCORDANCE WITH CLAUSE 3.3(5.b) OF SCHEDULE 1 OF THE OPERATIONAL PROCEDURES DIRECTIONS ISSUED 1 FEBRUARY 2023.

The Panel Chair closed the public meeting at 5:26pm.

PUBLIC MEETING ITEMS

- 1 LPP18/24 DA/1022/2021 - Staged Torrens title and community title subdivision of
1 lot into 64 - 36-56 David Road, Castle Hill**

(DA/1022/2021)

RECOMMENDATION

THAT the Hornsby Local Planning Panel, exercising the functions of Council as the consent authority, approve Development Application No. DA/1022/2021 for the staged Torrens and community title subdivision at Lot 2 DP 565458, No. 36-56 David Road Castle Hill, subject to the conditions of consent in Attachment 2 of LPP Report No. LPP18/2024.

PANEL'S CONSIDERATION AND DETERMINATION

The Panel considered the matters raised in the written submissions and by the speakers at the meeting including traffic and parking impacts, removal of native trees, flora and fauna impacts, heritage and contamination.

The Panel resolved to adopt the consultant's report recommendation and approve the proposed development subject to the conditions contained in Attachment 2 of the report and the following amendments:

Amend description of land to which the consent relates to include:

Lot 3099 DP 838371, Tahlee Park 21X Parkwood Close Castle Hill

Amend condition No. 10 to read:

10. Amendment of Plans

1. To protect the environmental features of the site, the Preliminary Construction Environment Management Plan Rev B, prepared by Diversi Consulting dated 6 December 2022 must be amended in accordance with the following:
 - a. Incorporate the recommendations of the following documents:
 - i. Biodiversity Development Assessment Report Ref: 630.031493-R01-v4.0 prepared by SLR Consulting Australia dated 17 April 2024.
 - ii. Biodiversity Management Plan Ref: 630.13053-R02-v2.2 prepared by SLR Consulting dated 9 July 2024.
 - iii. Arboricultural Impact Assessment prepared by Tree Management Strategies dated 18 March 2024.
 - b. Appointment of a Project Ecologist (development site), Project Arborist (development site) and Project Bush Regenerator (Biodiversity Management Plan area)
 - c. Identify areas of bushland and individual trees that are to be retained as outlined in the following documents:
 - i. Biodiversity Development Assessment Report Ref: 630.031493-R01-v4.0 prepared by SLR Consulting Australia dated 17 April 2024.
 - ii. Biodiversity Management Plan Ref: 630.13053-R02-v2.2 prepared by SLR Consulting dated 9 July 2024.
 - iii. Arboricultural Impact Assessment prepared by Tree Management Strategies

dated 18 March 2024.

- d. Construction impacts must be restricted to the development site and must not encroach into areas of retained native vegetation and habitat. All materials stockpiles, vehicle parking, machinery storage and other temporary facilities must be located within the areas for which biodiversity impacts were assessed in the BDAR.
 - e. Include fauna impact avoidance and minimisation measures prior to the removal of any vegetation on the site including:
 - i. A suitably qualified and experienced ecologist must undertake pre-clearance surveys of vegetation and habitat features on the site for the purposes of locating any resident native fauna. Consideration of habitat features must include, but are not limited to, natural features such as hollow bearing trees, tree fissures, rock escarpments/outcrops/caves and built structures such as stormwater pipes and culverts.
 - ii. If resident native fauna is observed on the site, then a Fauna Management Plan (provided as an Appendix by the Project Ecologist) must be prepared describing methods to avoid, minimise and mitigate impacts on that native fauna. The Fauna Management Plan must be submitted to Council for approval prior to the removal of any vegetation on the site.
 - iii. A suitably qualified and experienced ecologist shall be on site to supervise all vegetation and habitat clearance and disturbance works.
 - iv. A suitably qualified and experienced wildlife handler shall be in attendance during all vegetation and habitat clearance and disturbance works on this site to rescue any injured wildlife.
 - v. Hollow bearing trees are to be felled in sections, with all hollow bearing sections gently lowered to the ground to maintain the integrity of the hollow and for the protection of any fauna that may be resident in the hollow.
 - vi. If found native animals shall be removed and relocated to the retained portion of the subject land, in accordance with best practice methods for that species. If appropriate, they may be relocated offsite to suitable habitat if none is available within the subject property.
 - f. Clean machinery of soil and debris before entering the site to prevent the spread of weeds and fungal pathogens.
 - g. Identify all measures proposed in the BDAR to mitigate and manage impacts on biodiversity including performance measures and timing of each commitment during the construction stage through to the issue of the Subdivision Certificate.
2. The approved landscape plans are to be amended as follows:
- a. The street trees identified 'ER' *Elaeocarpus reticulatus* (Blueberry Ash) are to be substituted with *Syncarpia glomulifera* (Turpentine).
 - b. The street trees identified 'TL' *Tristaniopsis laurina* (Water Gum) are to be

substituted with *Buckinghamia celsissima* (Ivory Curl tree).

- c. All street trees are to be installed at 75 litre pot size.
 - d. The footpath connection across the community association lot is to be deleted and access from the perpendicular car parking spaces to proposed Lot 100 Marymount Forest Conservation Reserves is to be via the public road reserve pedestrian footpath network.
3. The approved Waste Management Plan prepared by Holmes Dyer Pty Ltd, dated 23 September 2021 is to be amended to require all masonry, brick and sandstone material to be recycled.
 4. These amended plans/ documents must be submitted with the application for the Subdivision Works Certificate.

Reason: To require minor amendments to the approved plans and supporting documentation following assessment of the development.

Amend condition No. 35 to read:

35. Waste Management

All work must be carried out in accordance with the approved waste management plan as amended by condition No. 10 part 3.

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

New condition No. 36A, 53A and 92A to read:

xxA. Archaeological Discovery During Works

Should any historical or Aboriginal relic be discovered on the site during demolition, remediation, earth works, excavation or site preparatory works, all excavation or disturbance to the area is to stop immediately and the Heritage Council of NSW must be informed in accordance with the provisions of the *Heritage Act 1977* and/or the *National Parks and Wildlife Act 1974*. Works must not recommence until such time as approval to recommence is given in writing by Council or a permit from the Director of the National Parks and Wildlife is issued.

Reason: To prevent the unnecessary destruction or removal of unrecorded historical or Aboriginal relics.

Amend condition No. 69 to read:

69. Public Footpaths in David Road and Internal Roads to be Dedicated to Council

A separate approval must be obtained from Council for all works within the public road reserve under S138 of the *Roads Act*. A concrete shared footpath across the full frontage of the subject site in David Road shall be designed in accordance with Civil and Stormwater Drawings Project No. 20065 Drawing DA009 Rev G prepared by Diversi Consulting Pty Ltd,

dated 12 March 2024 and DA010 Rev H prepared by Diversi Consulting Pty Ltd, dated 12 March 2024, AUS-SPEC Specifications (www.hornsby.nsw.gov.au/property/build/aus-spec-terms-and-conditions) and the following requirements:

1. Amended as required by Council's Development Engineer.
2. Pouring of the concrete footpath along the full frontage of the subject site.
3. The land adjoining the footpath to be fully turfed.
4. The pathway steps to Phoenix Close shall be designed in accordance with Council's Standard Drawing No.7.
5. Retaining walls required to support the stairs to Phoenix Close to be in accordance with the requirements of a chartered structural engineer.
6. Any public utility adjustments to be carried out at the cost of the applicant and to the requirements of the relevant public authority.
7. The perpendicular car parking spaces within the public road reserve and the addition of a footpath verge to the eastern side of the perpendicular car parking spaces are to be included.

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

Amend condition No. 75 to read:

75. Works in Council Land - Tahlee Park

Final design, detailing and documentation for work to Tahlee Park is to be submitted to Council for approval by Council's Manager Parks, Trees and Recreation prior to the issue of a Subdivision Works Certificate.

The Tahlee Park Works in Council Land Plan must include the following details:

1. A Landscape Plan for works within the park including but not limited:
 - a. Earthwork, regrading and levels plan
 - b. Surface finishes plan
 - c. Planting plans
 - d. Pedestrian Lighting and park signage
 - e. Landscape details and specifications.
2. Details of an accessible pedestrian path in compliance with requirements of Australian Standards AS1428:2021 Design for access and mobility General requirements for access - New building work is to be provided into Tahlee Park from Parkwood Close.
3. Details of the emergency access driveway within Tahlee Park to be constructed using 'Grasscrete' or similar product as nominated by the engineering plans.
4. Amendments to the emergency access driveway within Tahlee Park to retain tree No. 455 as identified in Appendix 4 contained in the Arboricultural Impact Assessment prepared

by Tree Management Strategies dated 18 March 2024, where possible.

Reason: To ensure infrastructure works are designed and constructed to appropriate standards.

Amend condition No. 88 to delete the reference to tree No. 455.

The reasons for this decision are:

- The panel is satisfied that the proposed development complies with the requirements of the relevant environmental planning instruments and the Hornsby Development Control Plan 2024.
- The Panel is satisfied that the proposed development is consistent with the relevant provisions of State Environmental Planning Policy (Resilience and Hazards) 2021, State Environmental Planning Policy (Transport and Infrastructure) 2021 and State Environmental Planning Policy (Biodiversity and Conservation) 2021.
- The Panel is of the opinion that approval of the proposed application is not inconsistent with s7.16(2) of the *Biodiversity Conservation Act 2016* as assessment has determined that impacts from the development are not serious and irreversible.
- The proposed development does not create unreasonable environmental impacts to adjoining development with regard to visual bulk, solar access, amenity or privacy, subject to the recommended conditions of consent.
- The development is supported by a voluntary Planning Agreement (PA) which delivers material public benefit including:
 - The Marymount Forest shall be managed and supported with long term funding as a conservation reserve to provide an element of education on the flora and fauna in the Forest as well as a place for reflection and recreation.
 - A significant extension to Tahlee Park to be dedicated as a public reserve.
- The Panel notes that:
 - Tahlee Park is classified as community land with a community land category of park.
 - The proposed development is consistent with the District 8 - Community Land and Crown Reserves Generic Plan of Management in relation to the works in Tahlee Park.
 - Works for an emergency access way are not inconsistent with the plan and the development will result in a substantial increase in the size of Tahlee Park which would offset the inclusion of the emergency access way.

VOTING OF THE PANEL MEMBERS

FOR: Stephen Leathley, Greg Flynn, Heather Warton, Amanda Anderson

AGAINST: NIL

2 LPP12/24 DA/1251/2023 - Torrens Title Subdivision of 1 Lot into 2, Construction of a New Driveway and Associated Earthworks - 6 Clovelly Road Hornsby

(DA/1251/2023)

RECOMMENDATION

THAT Development Application No. DA/1251/2023 for Torrens title subdivision of one lot into two and reconstruction and extension of driveway at Lot 30A DP 5262, No. 6 Clovelly Road, Hornsby be approved, subject to the conditions of consent detailed in Attachment 1 of LPP Report No. LPP12/24.

PANEL'S CONSIDERATION AND DETERMINATION

The Panel considered the matters raised in the written submissions and by the speakers at the meeting including landslip, bushfire, flooding, stormwater runoff and overland flow, and tree removal.

The Panel resolved to adopt the officer's recommendation and approve the proposed development subject to the conditions contained in Attachment 1 of the report and the following amendments:

Amend condition No. 84 to read:

84. Creation of Easements

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

1. A right of access and easement for services over the access corridor.
2. An inter-allotment drainage easement(s) over each of the burdened lots.
3. The creation of an appropriate "Positive Covenant" and "Restriction as to User" over the constructed on-site detention/retention systems and outlet works, within the lots in favour of Council in accordance with Council's prescribed wording. The position of the on-site detention system is to be clearly indicated on the title.
4. To register the OSD easement, the restriction on the use of land "works-as-executed" details of the on-site-detention system must be submitted verifying that the required storage and discharge rates have been constructed in accordance with the design requirements. The details must show the invert levels of the on-site detention system together with pipe sizes and grades. Any variations to the approved plans must be shown in red on *the "works-as-executed" plan* and supported by calculations.
5. The creation of a 'Positive Covenant' over the proposed Lot 1 and 2 requiring that any future development is to discharge all stormwater from the proposed development to the existing on-site detention system.
6. An easement for letterboxes shall be created over Lot 2 benefiting Lot 1. The 88b instrument shall be worded to reflect the obligations and responsibilities of the benefiting and burdening parties.
7. The creation of an appropriate "Positive Covenant" over Lot 1 and 2 is required to ensure both lots are responsible for the on-going maintenance of the internal traffic signal management system identified in the Assessment of Internal Circulation Arrangements prepared by Stanbury Traffic Planning dated 4 April 2024.
8. The creation of an appropriate "Positive Covenant" over Lot 1 is required to ensure future dwellings are to be constructed within the 'Proposed Building Envelope' shown on the subdivision layout titled: Potential Building Envelope Plan, job no.: 230428, revision: 2

prepared by Total Surveying Solutions, dated 6 November 2023.

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.

The reasons for this decision are:

- The Panel is satisfied that the proposed development complies with the requirements of the relevant environmental planning instruments and the Hornsby Development Control Plan 2024.
- The proposed development does not create unreasonable environmental impacts to adjoining development with regard to solar access, amenity or privacy, subject to the recommended conditions of consent.
- The Panel has considered the submissions made by the adjoining residents in relation to stormwater and notes that there has been a stormwater management plan submitted and assessed by Council's engineer that provides for the onsite detention of stormwater which would result in a reduction in downstream impacts due to the installation of OSD system for the existing development on the site.
- The Panel was also advised that submissions have been made to Council's Works Division regarding upgrades to the existing infrastructure which would address stormwater impacts.

VOTING OF THE PANEL MEMBERS

FOR: Stephen Leathley, Greg Flynn, Heather Warton, Amanda Anderson

AGAINST: NIL

3 LPP19/24 DA/1003/2023 - Further Report - Construction of a Dwelling House and Swimming Pool - 11A Malton Road, Beecroft

(DA/1003/2023)

RECOMMENDATION

THAT the Hornsby Local Planning Panel, exercising the functions of Council as the consent authority, approve Development Application No. DA/1003/2023 for demolition of existing structures and construction of a dwelling house and swimming pool at Lot 5 DP 4551, No. 11A Malton Road, Beecroft subject to the conditions of consent in Attachment 1 of LPP Report No. LPP19/24.

PANEL'S CONSIDERATION AND DETERMINATION

The Panel considered the matters raised in the written submissions and by the speakers at the meeting including consideration of the Byles Creek draft planning proposal; removal of trees, unsympathetic to the HCA, bulk and scale; setbacks and flora and fauna impacts.

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

The reasons for this decision are:

- The Panel is satisfied that the proposed development complies with the requirements of the relevant environmental planning instruments and the Hornsby Development Control Plan 2024.
- The Panel notes that in accordance with Section 4.14(1)(b) of the *Environmental Planning Assessment Act 1979*, a certificate has been provided to the consent authority by a person who is recognised by the NSW Rural Fire Service as a qualified consultant in bush fire risk assessment stating that the development conforms to the relevant specifications and requirements of Planning for Bush Fire Protection.
- The proposed development does not create unreasonable environmental impacts to adjoining development with regard to visual bulk, solar access, amenity or privacy, subject to the recommended conditions of consent.

VOTING OF THE PANEL MEMBERS

FOR: Stephen Leathley, Greg Flynn, Heather Warton, Amanda Anderson

AGAINST: NIL

ELECTRONIC DETERMINATION ITEMS

- 4 LPP17/24 DA/114/2024 - Construction of a commercial building comprising two health service facilities and associated works - 939 Old Northern Road, Dural**

(DA/114/2024)

RECOMMENDATION

THAT the Hornsby Local Planning Panel, exercising the functions of Council as the consent authority, refuse Development Application No. DA/114/2024 for demolition and construction of a commercial building comprising two health service facilities and associated works at Lot 1 DP 711920, No. 939 Old Northern Road, Dural for the reasons detailed in Attachment 1 of LPP Report No. LPP17/24.

PANEL'S CONSIDERATION AND DETERMINATION

The Panel considered the matters raised in the written submissions.

The Panel resolved to adopt the officer's recommendation and refuse the proposed development for the reasons detailed in Attachment 1 of the report, subject to reversal of the order of Reason 1 and 2 in the Notice of Determination.

The reasons for this decision are:

- The Panel has considered the Clause 4.6 written request from the applicant to contravene Clause 6.6 of the Hornsby Local Environmental Plan 2013 which contains a development standard that applies to the site restricting certain development in Dural Village to a maximum gross floor area of 100m² and is not satisfied that the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3).
- The Panel is not satisfied that the proposed development has legal access to Old Northern Road.
- The Panel is not satisfied that sufficient information has been submitted to demonstrate that:
 - The proposed development is provided with adequate car parking.
 - The proposed development is provided with adequate effluent disposal system.
 - The proposed method of stormwater disposal for the site is satisfactory.

VOTING OF THE PANEL MEMBERS

FOR: Stephen Leathley, Greg Flynn, Heather Warton, Amanda Anderson

AGAINST: NIL

- 5 LPP20/24 Reporting Development Applications for Determination by the Hornsby Local Planning Panel over 180 Days**

(F2013/00295-004)

RECOMMENDATION

THAT the contents of LPP Report No. LPP20/24 be received and noted.

PANEL'S CONSIDERATION AND DETERMINATION

The Panel resolved to receive and note the report.

VOTING OF THE PANEL MEMBERS

FOR: Stephen Leathley, Greg Flynn, Heather Warton, Amanda Anderson

AGAINST: NIL

THE MEETING concluded at 6.52pm.



Chairperson