



# **SUPPLEMENTARY BUSINESS PAPER**

**(Late Item Memo Item 1)  
LOCAL PLANNING PANEL MEETING**

**Wednesday 26 March 2025  
at 4:00 PM**



## TABLE OF CONTENTS

### SUPPLEMENTARY ITEMS

Item 1	LM5/25 DA/1021/2024 - Torrens title subdivision of one lot into three and construction of dwelling on each lot- 59 Hewitt Avenue, Wahroonga .....	1
--------	--	---

**ITEM 1**      **LPP1/25** - DA/1021/2024 - Torrens title subdivision of 1 lot into 3 and construction of dwellings on each lot - 59 Hewitt Avenue, Wahroonga

*Additional information with **NO CHANGE** to Recommendation*

The Panel requested further information with regards to matters raised in the public meeting regarding stormwater disposal through a downstream property and the requirement for a Biodiversity Development Assessment Report (BDAR) due to Blue Gum High Forest on the adjoining properties.

Council's Engineer and Ecologist have provided the following responses.

**1.      STORMWATER DISPOSAL**

Council's Senior Engineer has undertaken two calculations to determine that the existing pipe located at No. 29 Exter Road, Wahroonga has adequate capacity. The calculations are provided below:

Estimation of the existing pipe capacity of 225mm diameter located at rear of 57 Hewitt Ave, Wahroonga

The WAE indicates that a diameter of 225 mm UPVC constructed at:

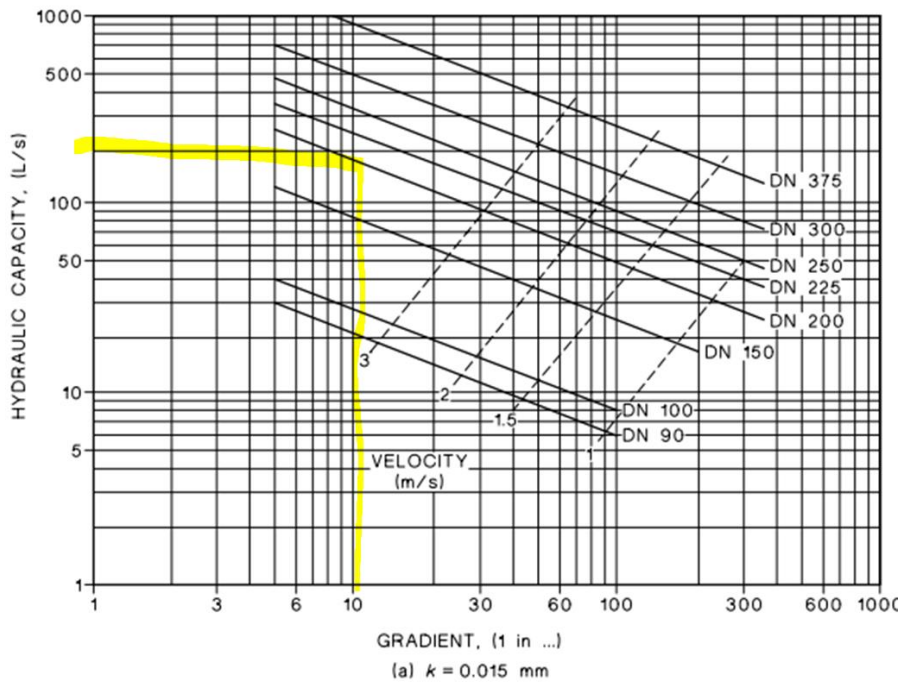
$$\text{Slope} = (163.96 - 161) / 22 = 13.5\%$$

**1.1      Method 1: AS3600.3-2003 Plumbing & Drainage Code**

- (d) If the hydraulic capacity is less than the design flow, assume a new DN for the pipe drain and repeat Step (c) until the hydraulic capacity exceeds the design flow. To reduce the possibility of overflow from stormwater pits due to increased energy losses, the full-pipe velocity in the outlet pipe is recommended not to exceed 1.5 m/s and shall not exceed 2.0 m/s.

**TABLE 5.6**  
**COLEBROOK-WHITE ROUGHNESS COEFFICIENT (k)**

Pipe material	Typical values for k, mm
Copper, copper alloys, stainless steel	0.015
All plastic pipelines having a smooth (non-profiled) internal bore	0.015
Fibre-reinforced concrete (FRC)	0.15
Cast iron, ductile iron, galvanized steel and malleable cast iron	0.6
Vitrified clay, precast concrete	0.6
Corrugated aluminium and steel	3.0



**1.2 Method 2: Ingeniir Website Design Tool**

By using the calculators provided on this website you agree to Ingeiir's Privacy Policy, Terms & Conditions and End User Licence Agreement.  
 This website or its third party tools use cookies, which are necessary to its functioning and required to achieve the purposes illustrated in the cookie policy. Please read the cookie policy. By clicking a link or continuing to browse otherwise, you agree to the use

Both of the above methods confirm that the existing pipe has a minimum capacity of 153/s.

Given that the total flow from the existing subdivision at No. 57 Hewitt Avenue is 46 l/s, and the proposed discharge from the new subdivision at No. 59 Hewitt Avenue is 30l/s, the existing pipe line is capable of taking the additional water from the proposed development.

Accordingly point 2 of the Deferred Commencement condition can be deleted.

**2. BIODIVERSITY ASSESSMENT**

The following advice has been provided by Council’s Senior Biodiversity Planning and Assessment Officer:

**2.1 Biodiversity Offset Scheme threshold review**

The Biodiversity Offset Scheme (BOS) can apply to a variety of development proposals, of relevance in this case, the BOS can apply to Part 4 developments under the NSW *Environmental Planning and Assessment Act 1979* (EP&A Act). The Council officer’s role in the BOS in this instance would be to determine the development application and set any offset obligations.

A list of the key considerations for officers when assessing if the BOS applies to Part 4 developments are:

Consideration
Does the proposal involve vegetation clearing or other biodiversity impacts?
Do any exemptions apply?
Is there native vegetation clearing on the Biodiversity Values Map?
Does the clearing of native vegetation exceed the area threshold?
Is the development likely to significantly affect threatened species entities?

In summary:

- The BOS may apply to Part 4 developments under the EP&A Act
- Council officers need to consider several factors that determine if the BOS applies
- Under the BOS, Council officers would need to assess the impacts of development and set offset obligations

**ITEM 1**

## 2.2 BOS thresholds

### 2.2.1 Biodiversity Values Map

The first threshold is the Biodiversity Values (BV) Map and consideration must be given to whether native vegetation is being cleared from an area in the BV Map (clause 7.1(1)(b) of the BC Reg).

#### **Biodiversity Conservation Regulation 2017**

##### **7.1 Biodiversity offsets scheme threshold**

- (1) Proposed development exceeds the biodiversity offsets scheme threshold for the purposes of Part 7 of the Act if it is or involves—
- (b) the clearing of native vegetation, or other action prescribed by clause 6.1, on land included on the *Biodiversity Values Map* published under clause 7.3.

The clearing of any native vegetation on an area mapped on the BV Map will trigger the BOS and require submission of a Biodiversity Development Assessment Report (BDAR) with the development application.

The BV Map is accessible online and a Biodiversity Values Map and Threshold Tool (BMAT), also available online, can be used to determine the BV Map triggers.

### 2.2.2 Area clearing threshold

The second of the thresholds considered is an area clearing threshold using an area of native vegetation cleared (clause 7.1(1)(a) of the BC Reg). The area cleared limit varies based on the minimum lot size (clause 7.2 of the BC Reg).

#### **Biodiversity Conservation Regulation 2017**

##### **7.1 Biodiversity offsets scheme threshold**

- (1) Proposed development exceeds the biodiversity offsets scheme threshold for the purposes of Part 7 of the Act if it is or involves—
- (a) the clearing of native vegetation, or other action prescribed by clause 6.1, on land included on the *Biodiversity Values Map* published under clause 7.3.

Clearing of native vegetation in excess of the above area of clearing limit will trigger the requirement to submit a BDAR for a development application.

### 2.2.3 Likely to Significantly Impact on Threatened Entities

The third threshold considered is whether the development is likely to significantly affect a threatened

#### **Biodiversity Conservation Act 2016**

##### **7.2 Development or activity “likely to significantly affect threatened species”**

- (1) For the purposes of this Part, development or an activity is ***likely to significantly affect threatened species*** if—
- (a) it is likely to significantly affect threatened species or ecological communities, or their habitats, according to the test in section 7.3

species entity (clause 7.2(1)(a) of the BC Act).

Clause 7.3 of the BC Act lists matters to be taken into account under the above 'test of significance'.

### 2.3 DA/1021/2024 59 Hewitt Avenue, Wahroonga

The BOS thresholds must be considered for local development assessed under Part 4 of the EP&A Act (clause 7.7 of the BC Act). As the above application is to be assessed under Part 4 of the EP&A Act, consideration must be given to the BOS thresholds. A summary of these thresholds is included in the Environment Branch response memo as shown below:

The NSW *Biodiversity Conservation Regulation 2017* (BC Reg) sets out thresholds for when the

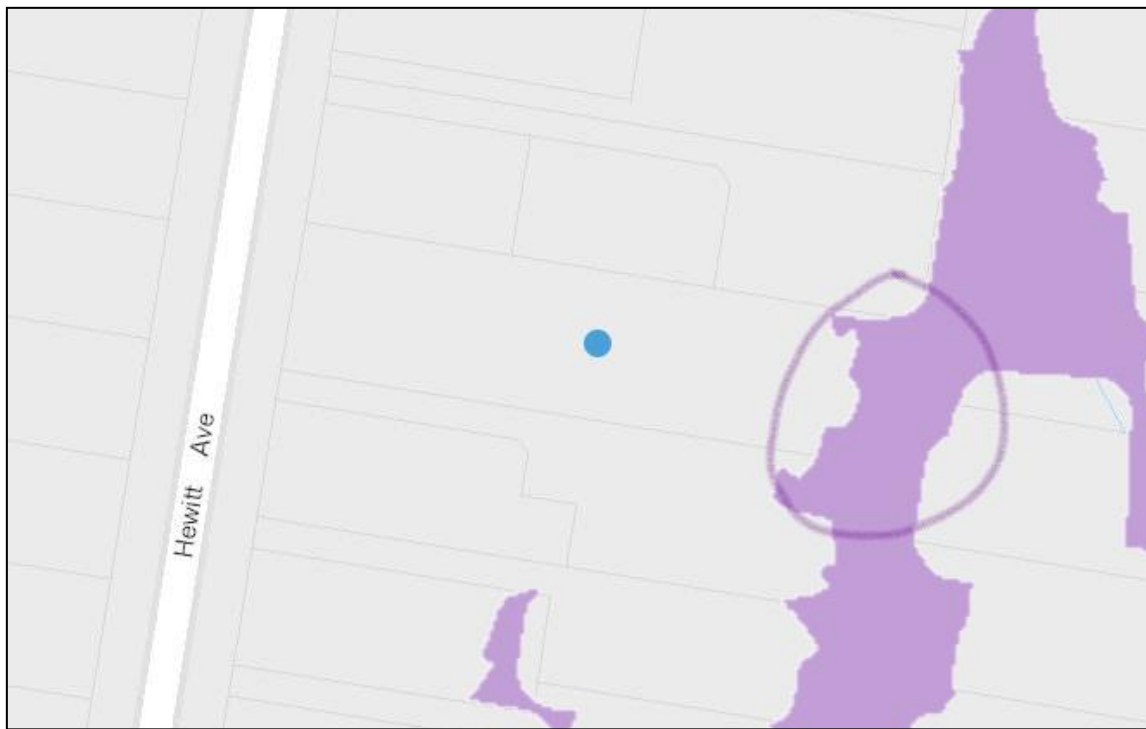
<b>Biodiversity Conservation Regulation 2017</b>	
<b>7.2 Clearing of area of land that exceeds threshold</b>	
<b>Column 1</b>	<b>Column 2</b>
<b>Minimum lot size of land</b>	<b>Area of clearing</b>
Less than 1 hectare	0.25 hectare or more
Less than 40 hectares but not less than 1 hectare	0.5 hectare or more
Less than 1,000 hectares but not less than 40 hectares	1 hectare or more
1,000 hectares or more	2 hectares or more

Biodiversity Offsets Scheme (BOS) would be triggered. The application does not trigger the BOS:

<a href="#">Biodiversity Values Map</a>	Not triggered
<a href="#">Area threshold</a>	Not triggered
<a href="#">Likely to significantly affect threatened species</a>	Not triggered

#### 2.3.1 Biodiversity Values Map

An extract from the BV Map is included below and indicates that the rear portion of the subject lot is affected by the map.



The BV Map threshold is triggered by the clearing of native vegetation within the mapped area. On review of the technical reports, and in particular the Arboricultural Impact Assessment (AIA) or Tree Protection Specification provided by Tree Survey (30 August 2024, D08965712) trees 28-31 are the trees defining the area of the BV Map on the adjoining property. These trees have not been identified for removal. The AIA has concluded that these native trees are to be retained.

Based on this information, no native vegetation is to be cleared within the area included on the BV Map, and therefore the BV Map threshold has not been triggered.

### **2.3.2 Area Clearing Threshold**

The area clearing threshold needs to consider the area of native vegetation proposed to be cleared and assess against the criteria listed in the Table under clause 7.2 of the BC Regulation. As discussed above, there is no native vegetation proposed to be removed and as such the area clearing threshold is not triggered.

### **2.3.3 Likely to Significantly Impact on Threatened Entities**

The 'test of significance' is used to consider the significance of impacts on threatened entities. As shown in the BV Map extract the extent of biodiversity values mapped on the subject property is minimal when compared with the remaining extent on surrounding properties. The development is not proposing to remove native vegetation. The AIA notes that there will be minor encroachments within tree protection zones of trees 28, 30 and 31 and that these encroachments will not significantly impact the health or stability of the trees.

Based on this information the proposal is unlikely to have a significant impact on threatened entities and this threshold is not triggered.

On review of the above thresholds, none of them have been triggered and as such the BOS is not triggered and a BDAR is not required to be submitted with the development application.

### **2.4 Serious and Irreversible Impact Entities**



The consideration of serious and irreversible impact (SAIL) entities is directed by clause 6.5 of the BC

### **Biodiversity Conservation Act 2016**

#### **6.5 Serious and irreversible impacts on biodiversity values**

- (1) The determination of serious and irreversible impacts on biodiversity values for the purposes of the biodiversity offsets scheme is to be made in accordance with principles prescribed by the regulations.
- (2) The Environment Agency Head may provide guidance on the determination of any such serious and irreversible impacts, and for that purpose may publish, from time to time, criteria to assist in the application of those principles and lists of potential serious and irreversible impacts.

Act.

Of particular note is clause 6.5(1) which states that the determination of SAIL is only for the purposes of the BOS. Therefore, if the BOS does not apply then there is no need to consider SAIL. As the proposal does not trigger BOS there is no requirements to consider SAIL.

#### **2.5 Flora and Fauna Report**

It is noted that the development application has not submitted a specific ecological assessment. As previously discussed as the proposal does not trigger BOS there is no requirement to submit a BDAR. Flora and Fauna reports (or similar ecological assessment reports) are typically used to assess the ecological impacts of development outside of the BOS.

Hornsby Development Control Plan, specifically the notes under element 1.3.1.1 Biodiversity, states:

*A flora and fauna assessment may be required for development that involves the clearing, removal or alteration of other native vegetation*

As this proposal does not involve the removal of native vegetation and the remaining vegetation to be removed comprises garden plantings it is considered that a flora and fauna report would not be required as part of the development application documentation. In these instances, where there is minimal vegetation and habitat clearing, Council officers are able to undertake an on-site assessment for consideration of the application.

#### **conclusion**

Councils engineering assessment has concluded that the existing pipe located at No. 29 Exter Road, Wahroonga has adequate capacity. Accordingly it is advised that point 2 of the deferred commencement condition is no longer required and new condition No. 3A be imposed to ensure no works are undertaken on Lot 11 DP 30101, No. 29 Exeter Road, Wahroonga as per the below recommended wording:

#### **A. Deferred Commencement**

Pursuant to Section 4.16(3) of the Environmental Planning and Assessment Act 1979, this consent does not operate until:

1. An Easement to Drain Water over Lot 3 DP 1072181 (No. 57B Hewitt Avenue, Wahroonga) and Lot 11 DP 30101 (29 Exeter Road, Wahroonga) has been

registered with the NSW Land Registry Services (NSW LRS) in favour of the development site.

Such information must be submitted within 36 months of the date of this notice.

Upon Council's written satisfaction of the above information, the following conditions of development consent apply:

*Reason: To ensure the allotments of land are created prior to the operation of the consent.*

**3A. No Works on Adjoining Property**

This consent does not authorise any works on the adjoining property Lot 11 DP 30101, No. 29 Exeter Road, Wahroonga.

*Reason: To ensure works are located wholly within the subject site and No. 57B Hewitt Avenue, Wahroonga only.*

Council's biodiversity assessment has concluded that none of the thresholds for the BOS have been triggered and therefore no BDAR is required to be submitted with this application.

Accordingly, it is recommended that the above condition edits be imposed, with no change to the recommendation.

**RECOMMENDATION**

THAT the Hornsby Local Planning Panel, exercising the functions of Council as the consent authority, approve Development Application No. DA/1021/2024 for demolition of existing structures, Torrens title subdivision of one lot into three and construction of dwelling houses and swimming pools on each lot as staged development at Lot 5 DP 37299, No. 59 Hewitt Avenue, Wahroonga as a deferred commencement pursuant to Section 4.16(3) of the *Environmental Planning and Assessment Act 1979* subject to the conditions of consent in Schedule 1 of LPP Report No. LPP1/25.

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

ROD PICKLES  
Manager - Development Assessments  
Planning and Compliance Division

**Attachments:**

There are no attachments for this report.

File Reference: DA/1021/2024

Document Number: D09096555

**ITEM 1**