



# **SUPPLEMENTARY BUSINESS PAPER**

**(Late Item Memo – Item 1 & 2)**

## **LOCAL PLANNING PANEL MEETING**

**Wednesday 27 August 2025  
at 4:00 PM**



## TABLE OF CONTENTS

### ITEMS

|        |   |   |
|--------|---|---|
| Item 1 | LM11/25 Late Item Memo - DA/1407/2024 - Demolition, Torrens Title<br>Subdivision of One Lot into Four - 19A & 21 Day Road, Cheltenham ..... | 1 |
| Item 2 | LM10/25 Late Item Memo - DA/85/2025 - Demolition and Construction of a<br>Dwelling House - 316 & 318 Malton Road, North Epping .....        | 5 |

**ITEM 1      LPP19/25 - DA/1407/2024 - Demolition and Torrens Title Subdivision of one Lot into Four - 19A and 21 Day Road, Cheltenham**

|   |
|---|
| <p><i>Additional information with No Change to Recommendation</i></p> |
|---|

**Section 4.15(1)(a)(iv) - Provisions of Regulations**

Section 61 of the 2021 EP&A Regulation contains matters that must be taken into consideration by a consent authority in determining a development application, with the following matters being relevant to the proposal:

- (1) *In determining a development application for the demolition of a building, the consent authority must consider the Australian Standard AS 2601—2001: The Demolition of Structures.*
- (2) *In determining a development application for the carrying out of development on land that is subject to a subdivision order under the Act, Schedule 7, the consent authority must consider—*
  - (a) *the subdivision order, and*
  - (b) *any development plan prepared for the land by a relevant authority under that Schedule.*
- (3) *In determining a development application for development on the following land, the consent authority must consider the Dark Sky Planning Guideline—*
  - (a) *land in the local government area of Coonamble, Gilgandra, Warrumbungle Shire or Dubbo Regional,*
  - (b) *land less than 200 kilometres from the Siding Spring Observatory, if the development is—*
    - (i) *State significant development, or*
    - (ii) *designated development, or*
    - (iii) *development specified in State Environmental Planning Policy (Planning Systems) 2021, Schedule 6.*
- (4) *In determining a development application for development for the purposes of a manor house or multi dwelling housing (terraces), the consent authority must consider the Low Rise Housing Diversity Design Guide for Development Applications published by the Department in July 2020.*
- (5) *Subsection (4) applies only if the consent authority is satisfied there is not a development control plan that adequately addresses the development.*

- (6) *In determining a development application for development for the erection of a building for residential purposes on land in Penrith City Centre, within the meaning of Penrith Local Environmental Plan 2010, the consent authority must consider the Development Assessment Guideline: An Adaptive Response to Flood Risk Management for Residential Development in the Penrith City Centre published by the Department on 28 June 2019.*

This application proposes the demolition of the existing dwelling house. In recommending consent, Council has imposed specific conditions to ensure that the demolition of structures complies with Australian Standard AS 2601-2001 Demolition of structures.

Subsections, (2)-(6) are not required to be considered as part of this application.

Therefore, subject to conditions, Council is satisfied that the application complies with AS2601 and meets the requirements of Clause 61 of the Environmental Planning and Assessment Regulation 2021.

### **State Environmental Planning Policy (Resilience and Hazards) 2021**

Section 2.3.1 of LPP/19/25 assesses the application against Chapter 4 of the State Environmental Planning Policy (Resilience and Hazards) 2021.

This supplementary report recommends the following amendments (as bolded).

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.

**Council is satisfied that the site is not contaminated and further assessment against chapter 4 of the Resilience and Hazards SEPP is not required.**

### **Section 5.1.8 Access to Adjoining Property**

This supplementary report recommends that Section 5.1.8 **Access to Adjoining Property** be amended as follows:

Submissions have been received raising concern that access to the adjoining property No. 19 Day Road which utilises the existing driveway would be impacted during construction.

In response to this condition, it is noted that access to No. 19 Day Road will be impeded during the construction of the driveway noting the existing driveway has to be demolished and replaced.

However, a Construction Management Plan (CMP) condition has been imposed which requires approval from Council prior to any works commencing. This CMP would be required to address the access impacts to the adjoining property to ensure **adjoining properties are not unreasonably impacted.**

Furthermore, a condition is recommended ensuring that the driveway levels match the internal driveway levels of No. 19 Day Road to ensure that No. 19 Day Road can use the driveway once constructed as they are benefitted by the Right of Access.

Recommend that condition 15(2) be amended to include part (g) as follows:

- (g) Management measures for consultation (including minimum 7 days' notice) with the adjoining property Lot 62 DP 517168, No. 19 Day Road prior to the access driveway being demolished and replaced to ensure the adjoining property No. 19 Day Road has sufficient notification and are not unreasonably impacted during these works.

This supplementary report recommends that Section 2.2.2 of the report be amended as follows:

### **2.2.2 Chapter 6 Water Catchments**

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

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

Subject to the implementation of sediment and erosion control measures and stormwater management to protect water quality, the proposal would have minimal potential to impact on the Sydney Harbour Catchment and would comply with the requirements of chapter 6 of the Biodiversity and Conservation SEPP.

The supplementary report recommends that Section 6 of LPP19/25 be amended as follows (as bolded):

*The application proposes the demolition of structures and Torrens title subdivision of one lot into four.*

*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 15 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:*

- *Subject to the recommended conditions, the consent authority is satisfied that the proposed development adequately addresses the requirements of flood planning pursuant to Clause 5.21 (2) and (3) of the Hornsby Local Environmental Plan 2013.*
- *The proposed development generally 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 amenity or privacy.*

- The consent authority is satisfied that the development meets the objectives of Chapter 6 of the State Environmental Planning Policy (Biodiversity and Conservation) 2021.
- The consent authority is satisfied the provisions of State Environmental Planning Policy (Resilience and Hazards) 2021 have been met.
- Subject to the conditions of consent, the consent authority is satisfied that the demolition of structures would comply with Australian Standard AS 2601-2001 Demolition of structures.

**RECOMMENDATION**

THAT the Hornsby Local Planning Panel, exercising the functions of Council as the consent authority, approve Development Application No. DA/1407/2025 for demolition and Torrens title subdivision of one lot into four at Lots 1 and 2 DP 1298219, Nos. 19A and 21 Day Road, Cheltenham, subject to the conditions of consent in Schedule 1 of LPP Report No. LPP19/25.

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/1407/2024/PUBLICACCESS  
Document Number: D09201438

**ITEM 2      LPP17/25 - Further Report - DA/85/2025 - Demolition of Structures and Construction of a Dwelling House - 316 & 318 Malton Road, North Epping**

|   |
|---|
| Additional information with NO CHANGE to Recommendation |
|---|

**Section 4.15(1)(a)(iv) - Provisions of Regulations**

Section 61 of the 2021 EP&A Regulation contains matters that must be taken into consideration by a consent authority in determining a development application, with the following matters being relevant to the proposal:

- (1) *In determining a development application for the demolition of a building, the consent authority must consider the Australian Standard AS 2601—2001: The Demolition of Structures.*
- (2) *In determining a development application for the carrying out of development on land that is subject to a subdivision order under the Act, Schedule 7, the consent authority must consider—*
  - (a) *the subdivision order, and*
  - (b) *any development plan prepared for the land by a relevant authority under that Schedule.*
- (3) *In determining a development application for development on the following land, the consent authority must consider the Dark Sky Planning Guideline—*
  - (a) *land in the local government area of Coonamble, Gilgandra, Warrumbungle Shire or Dubbo Regional,*
  - (b) *land less than 200 kilometres from the Siding Spring Observatory, if the development is—*
    - (i) *State significant development, or*
    - (ii) *designated development, or*
    - (iii) *development specified in State Environmental Planning Policy (Planning Systems) 2021, Schedule 6.*
- (4) *In determining a development application for development for the purposes of a manor house or multi dwelling housing (terraces), the consent authority must consider the Low Rise Housing Diversity Design Guide for Development Applications published by the Department in July 2020.*
- (5) *Subsection (4) applies only if the consent authority is satisfied there is not a development control plan that adequately addresses the development.*

- (6) *In determining a development application for development for the erection of a building for residential purposes on land in Penrith City Centre, within the meaning of Penrith Local Environmental Plan 2010, the consent authority must consider the Development Assessment Guideline: An Adaptive Response to Flood Risk Management for Residential Development in the Penrith City Centre published by the Department on 28 June 2019.*

This application proposes the demolition of the two existing dwelling houses and ancillary structures. In recommending consent, Council has imposed specific conditions to ensure that the demolition of structures complies with Australian Standard AS 2601-2001 Demolition of Structures.

Subsections, (2)-(6) are not required to be considered as part of this application.

Therefore, subject to conditions, Council is satisfied that the application complies with AS2601 and meets the requirements of Clause 61 of the Environmental Planning and Assessment Regulation 2021.

#### **State Environmental Planning Policy (Resilience and Hazards) 2021**

Section 2.3.1 of LPP/17/25 assesses the application against Chapter 4 of the State Environmental Planning Policy (Resilience and Hazards) 2021.

This supplementary report recommends the following amendments (as bolded).

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.

**Council is satisfied that the site is not contaminated and further assessment against chapter 4 of the Resilience and Hazards SEPP is not required.**

#### **Clarification regarding discussion in landscaping section:**

The first paragraph on Page 14 under Section 2.6.3 Landscaping in the report states the following:

*The proposed front fence/gate features and pillars proposed along the Malton Road frontage that would be a maximum of 2m in height. The height of the fence is not supported as it would be incompatible and uncharacteristic with the Malton Road streetscape which typically incorporates lower height fencing of 1.2m. Accordingly, an amended plan condition is recommended requiring the fence to be a maximum 1.2m along the Malton Road frontage.*

This section of the delegated report is included in error as this reflects the superseded proposal which has since been amended to comply with this regard. All front fencing proposed along the front boundary and front setback area would be a maximum of 1.2-metres in height and satisfy Councils landscaping controls.



**Condition pertaining to new 2.2m wall**

A new condition is recommended regarding structural details for the 2.2m wall prior to obtaining the construction certificate. A new condition is recommended under the heading 'Prior to issue of construction certificate' as follows:

**23A. 2.2m Masonry Wall**

1. *To ensure the stability of the site, structural details of the new 2.2m wall at the north-eastern elevation must be submitted with the application of the Construction Certificate.*

*Reason: To ensure the stability of the site and adjoining properties.*

**Condition No. 9 Surrender of Development Application No. DA/880/2023**

Condition No. 9 states the following:

**Surrender of Development Application No. DA/880/2023**

Development Application No. DA/880/2023 is to be voluntarily surrendered pursuant to Clause 4.63 of the *Environmental Planning and Assessment Act 1979*.

*Reason: To ensure the allotments are consistent with the approved plans.*

This has been recommended to replace the word "Clause" to "Section" to address a typographical error.

**Surrender of Development Application No. DA/880/2023**

Development Application No. DA/880/2023 is to be voluntarily surrendered pursuant to **Section** 4.63 of the *Environmental Planning and Assessment Act 1979*.

*Reason: To ensure the allotments are consistent with the approved plans.*

Detail regarding the recommendation for this condition is as follows:

On 8 November 2023, Development Application No. DA/880/2023 was approved for demolition of structures, subdivision of one allotment into two and construction of a swimming pool at No. 316 Malton Road, subject to conditions. This consent has not yet been acted upon and no subdivision works certificate is issued.

Condition 9 was recommended to ensure the subdivision approved under DA/880/2023 did not conflict with the consent of the subject application for the new dwelling house.

The supplementary report recommends that Section 6 of LPP17/25 be amended as follows (as bolded):

The application proposes demolition of structures and construction of a 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 **129** 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 2024.
- 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 conditions of consent, the consent authority is satisfied that the demolition of structures would comply with Australian Standard AS 2601-2001 Demolition of structures.**
- **The consent authority is satisfied the provisions of State Environmental Planning Policy (Resilience and Hazards) 2021 have been met.**

#### RECOMMENDATION

THAT the Hornsby Local Planning Panel, exercising the functions of Council as the consent authority, approve Development Application No. DA/85/2025 for demolition of structure and construction of a dwelling house at Lot 6A DP 27021 and Lot 7 DP 21101, Nos. 316 & 318 Malton Road, North Epping subject to the conditions of consent in Schedule 1 of LPP Report No. LPP17/25.

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/85/2025  
Document Number: D09201431