



# **SUPPLEMENTARY BUSINESS PAPER**

**Local Planning Panel meeting**

**Thursday 26 February 2026**

**at 4:00 PM**



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## TABLE OF CONTENTS

### SUPPLEMENTARY ITEMS

Item 1	LM1/26 DA/800/2025 - Alterations & Additions - Inclinators - Swimming Pool - Cabana - 136 Riverview Avenue, DANGAR ISLAND NSW 2083.....	1
Item 3	LPP5/26 DA/1202/2025 - Alterations and additions to Beecroft Community Centre - 111 Beecroft Road, Beecroft.....	3
Item 4	LPP6/26 DA/1140/2025 - Alterations and additions to a dwelling - 27 Belinda Crescent, North Epping.....	6
Item 5	LPP8/26 DA/1300/2025 - Alterations and additions to a dwelling - 23 North Street, Mount Colah.....	39

**ITEM 1**      **LPP4/26** - DA/800/2025 - Alterations and additions to a dwelling - 136 Riverview Avenue, Dangar Island

*Additional information with NO CHANGE to Recommendation*

A late submission received on 25 February 2026 prepared by an air quality consultant raised concerns with respect to the proposed fireplace. This submission and the application was referred to Council's Certification Team who recommended the following revised conditions to Schedule 1 of LPP Report No LPP4/26 to minimise air quality impacts and ensure residential amenity is maintained:

**Replace condition No. 58 with the following wording:**

**58. Certification of Domestic Solid Fuel Burning Appliance**

Certification must be provided to the Principal Certifier prior to issue of the Occupation Certificate, stating that:

1. The installation of the domestic solid fuel heating appliance including the chimney and flue was completed by an appropriately experienced and qualified person in accordance with Part 12.4 of the 2022 NCC (Building Code of Australia) and Australian Standard 2918-2018 - Domestic Solid Fuel Burning Appliances - Installation; and
2. The model of the domestic solid fuel heating appliance installed complies with:
  - a. Australian Standard AS4013-2025 Domestic solid fuel burning appliances - Method for determination of flue gas emission; and
  - b. Australian Standard AS4012-2025 Domestic solid fuel burning appliances - Method for determination of power output and efficiency.

*Reason: To ensure compliance with appropriate environmental standards to maintain air quality.*

**Insert new Condition No. 75**

**75. Operation and Maintenance**

The domestic solid fuel heating appliance must be operated and maintained in accordance with:

1. The Protection of the Environment Operations (Clean Air) Amendment (Solid Fuel Heaters) Regulation 2016; and
2. The NSW Environment and Protection Authority (EPA) Environmental guidelines for selecting, installing and operating domestic solid fuel heaters, which states:
  - a. Only clean, dry, well-seasoned and untreated hardwood should be used as fuel in the heating appliance.

- b. Firewood should be stored clear of the ground, in a dry ventilated area, under a roof with open sides and ends.
- c. Freshly cut firewood should be seasoned for approximately six to twelve months before use.
- d. The heating appliance should not smoulder overnight.
- e. Sufficient air should be provided in the heating appliance to maintain a flame; and
- f. The chimney and flue should be cleaned regularly, at least at the end of every heating season.

*Reason: To ensure compliance with appropriate environmental standards to maintain air quality.*

## CONCLUSION

Councils' assessment has concluded that condition No. 58 be amended and new condition No. 75 be imposed to maintain appropriate residential amenity by minimising air quality impacts.

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/800/2025 for alterations and additions to a dwelling including a swimming pool, cabana and inclinor at Lot 233 DP 11921, No. 136 Riverview Avenue, Dangar Island 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. LPP4/26 as amended by Late Memo LM1/26.

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/800/2025  
Document Number: D09324369

**3 DA/1202/2025 - ALTERATIONS AND ADDITIONS TO BEECROFT COMMUNITY CENTRE - 111 BEECROFT ROAD, BEECROFT**

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**DA No:** DA/1202/2025 (PAN-580114 - Lodged on 5 November 2025)

**Description:** Alterations and additions to Beecroft Community Centre

**Property:** Lot 1 DP 121947, Beecroft Community Centre, No. 111 Beecroft Road, Beecroft

**Applicant:** Ann Fallon

**Owner:** Hornsby Shire Council

**Estimated Value:** \$55,000

**Ward:** C Ward

**Clause 4.6 Request:** Not applicable

**Submissions:** Nil

**LPP Criteria:** Council

**Author:** Donna Clarke, Landmark Planning Pty Ltd

**COI Declaration:** No Council staff involved in the assessment of this application have declared a Conflict of Interest.

**RECOMMENDATION**

THAT the Hornsby Local Planning Panel, exercising the functions of Council as the consent authority, approve Development Application No. DA/1202/2025 for alterations and additions to Beecroft Community Centre at Lot 1 DP 121947, Beecroft Community Centre, No. 111 Beecroft Road, Beecroft subject to the conditions of consent in Attachment 2 of LPP Report No. LPP5/2026.

## EXECUTIVE SUMMARY

- The application involves alterations and additions to Beecroft Community Centre.
- The site is owned by Council. In accordance with Council's adopted Policy '*Conflict of Interest Policy for Proposed Council Development and Applications Involving Council Staff or Councillors*' an independent assessment of the development application has been undertaken by Landmark Planning.
- Nil submissions have been received in respect of the application.
- The assessment report by Landmark Planning is attached to this report for the Hornsby Local 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 the development includes land owned by Council. The report by Landmark Planning is held at Attachment 1 of this report.

## CONCLUSION

The application proposes alterations and additions to the Beecroft Community Centre.

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 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 development in accordance with the recommendations in the report prepared by Landmark Planning and the conditions of consent held at Attachment 2 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.  Consultant Report
2.  Draft Conditions of Consent
3.  Architectural Plans
4.  Heritage Impact Statement

File Reference: DA/1202/2025/PUBLICACCESS

Document Number: D09299331

**4 DA/1140/2025 - ALTERATIONS AND ADDITONS TO A DWELLING - 27 BELINDA CRESCENT, NORTH EPPING**

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<b>DA No:</b>	DA/1140/2025 (PAN-580403 - Lodged on 18 October 2025)
<b>Description:</b>	Alterations and additions to a dwelling
<b>Property:</b>	Lot 10 DP 211420, No. 27 Belinda Crescent, North Epping
<b>Applicant:</b>	Stefan Stanowski
<b>Owner:</b>	Pedram Heshmati and Farin Naad
<b>Estimated Value:</b>	\$401,500
<b>Ward:</b>	C Ward
<b>Clause 4.6 Request:</b>	Clause 4.3 'Height of buildings' in Hornsby Local Environmental Plan 2013
<b>Submissions:</b>	Nil
<b>LPP Criteria:</b>	Proposal contravenes a development standard by more than 10%
<b>Author:</b>	Jacqui Turner, Town Planner
<b>COI Declaration:</b>	No Council staff involved in the assessment of this application have declared a Conflict of Interest.

**RECOMMENDATION**

- A. THAT the Hornsby Local Planning Panel, exercising the functions of Council as the consent authority, contravene Clause 4.3 Height of buildings Development Standard pursuant to Clause 4.6 of the Hornsby Local Environmental Plan 2013, as it is satisfied that the applicant has demonstrated that the provisions of Clause 4.6(3)(a) and (b) have been met.
- B. THAT the Hornsby Local Planning Panel, exercising the functions of Council as the consent authority, approve Development Application No. DA/1140/2025 for alterations and additions to a dwelling at Lot 10 DP 211420, No. 27 Belinda Crescent, North Epping subject to the conditions of consent in Schedule 1 of LPP Report No. LPP6/26.

## EXECUTIVE SUMMARY

- The application involves alterations and additions to an existing dwelling comprising of amendments to the existing ground floor and a first floor addition.
- The proposal does not comply with the Clause 4.3 'Height of buildings' of the Hornsby Local Environmental Plan 2013. 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.
- No 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 would contravene the Hornsby Local Environmental Plan 2013 'Height of buildings' development standard by more than 10%.
- It is recommended that the application be approved.

## SITE

The site is located on the south eastern side of Belinda Crescent, North Epping and contains an existing part one to two storey dwelling. The site is surrounded by similar low density development, and the Lane Cove National Park is located opposite the site. An access handle adjoins the north eastern side and rear boundaries of the site at No. 25 Belinda Crescent.

The irregular shaped allotment has an area of 777.8m<sup>2</sup> and is mapped as containing steep lands with a gradient in excess of 20%. The site experiences an overall significant fall of 12.96m (average gradient of 27.5%) from the rear southern corner to the front north western boundary.

The site is bushfire prone.

The site is not identified as flood prone land.

The site is not burdened by any easements or restrictions.

The site is not identified as containing ecologically endangered communities.

The site is located in a developed suburban area and is serviced by existing road, power, water, sewer and stormwater infrastructure.

## PROPOSAL

The application proposes alterations and additions to an existing dwelling house, involving amendments to the existing ground floor and a first floor addition.

The ground floor would comprise of a front verandah, entry hall, open plan living, dining and kitchen, bedroom with ensuite, media room, WC and laundry. Clothes drying area and associated retaining walls are proposed within the south western side setback.

Four bedrooms, two ensuites, a bathroom, a combined hall and rumpus room and a front balcony would be located on the first floor. A 5.93m x 12.5m deck is proposed at the rear of the first floor which would extend to the existing natural slope, providing a step to access the rear yard. The deck would include screens below at either side extending to the ground, and a void with balustrades over a proposed garden below.

The existing roof, majority of the ground floor; and a retaining wall and external stairs in the rear yard are proposed to be demolished. The existing ground floor building platform would be retained.

No trees would be removed or impacted by the proposed development.

## 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 North District Plan includes priorities and actions for Northern District over the next 20 years.

The identified challenge for Hornsby Shire will be to provide 5,500 new completed homes by 2029 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.

### 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 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 9.365m (10.2% contravention) 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 below in Section 2.1 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 8.5m maximum building height control in Clause 4.3 'Height of buildings' of the HLEP.

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, and*
- (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.

#### 2.1.1 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 DFP Planning Consultants, dated 5 January 2026 provides a detailed assessment of the proposal with respect to the development standard sought to be contravened. The request argues that:

- **Visual privacy** - *The area of height exceedance is limited to a parapet wall and a small portion of the roof towards the north-western section of the building. Notably, no windows or balconies are proposed within these areas. As a result, the height exceedance will not give rise to any adverse visual privacy impacts including the overlooking of adjoining properties.*
- **Overshadowing** - *The proposed development will not result in any overshadowing of neighbouring properties due to building setbacks and the topography of the site and surrounding land. While the southern adjoining property at 29 Belinda Street would typically be most susceptible to overshadowing, it is located approximately 6 metres higher in elevation, allowing it to maintain solar access.*
- **Scale and Built Form** - *The design of the proposed development is not excessive in scale and built form as demonstrated by the flat roof and a floor to ceiling height of 2.7m at the ground floor and 2.5m at the first floor. Furthermore, the area of building height exceedance does not excessively contribute to additional bulk and scale of the development as the proposed height is to exceed by a maximum of 0.865m or 10.2% within a small section of the parapet wall and roof largely resultant from historic excavation; and*
- **Streetscape and character** - *The proposed development retains various existing external walls as well as the existing building platform. This provides that the development will remain consistent with the established location of the existing building.*

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

*"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 proposed over maximum building height contravention is a result of the historic excavation that occurred to accommodate the existing garage currently positioned on the lower ground floor.
- The site is constrained and there is limited space to practically extend the existing dwelling towards the rear due to an extremely steep rock shelf 1.74m in height with an average gradient of 91%.

- The first floor is proposed to be constructed on top of the existing building platform and deletion of the non-compliant portion above the lower ground garage would result in a poor building form and internal layout.
- The development would have a similar street facing elevation design within the streetscape, such as at No. 43 Belinda Crescent.
- The proposal would not create any adverse environmental impacts to neighbouring properties or the streetscape, subject to an amendment of plan condition to add a privacy screen to the first floor front balcony along the north eastern side elevation.

For the reasons outlined above, it is considered that the written request to contravene the height of building standard adequately demonstrates that the objectives of the 8.5m maximum height of buildings development standard contained within Clause 4.3 of the HLEP are achieved, notwithstanding non-compliance with the standard.

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

#### 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:

- **Historic Excavation:** *the variation results from historic excavation, and the proposed development would provide a lesser exceedance if an interpolated ground level were used as documented on the submitted architectural plans.*
- **Responding to Topography:** *the historic excavation and current design respond to the site's steep topography.*
- **Sustainability:** *the utilisation of the existing building promotes sustainable development objectives by minimising use of materials.*
- **Site Coverage:** *the provision of an upper floor addition minimises the building platform extent which improves the environmental performance of the site including minimising site coverage.*
- **Minor Nature of Variance:** *minor nature of the variance.*
- **Streetscape:** *being consistent with the prevailing streetscape pattern.*
- **Interface with 25 Belinda Street:** *Rear and side boundary interfaces to the adjoining property at 25 Belinda Street are to internal access driveways only resulting in nil or negligible amenity impacts; and*
- **Interface with Lane Cove National Park:** *There are no residential properties on the other side of Belinda Street minimising the visual impact. The interface with Lane Cove National Park is considered acceptable and the dwelling house appropriately setback in line with existing residential development.*

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.

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%.

Accordingly, it is considered that the written request satisfactorily responds to the relevant matters required to be addressed under Clause 4.6(3) and that the Panel, as the consent authority, may rely upon the written request and grant consent to the proposed development.

### 2.1.2 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.

### 2.1.3 Earthworks

The objective of Clause 6.2 Earthworks of the HLEP is to ensure that earthworks for which development consent is required will not have a detrimental impact on environmental functions and processes, neighbouring uses, cultural or heritage items or features of the surrounding land.

The application proposes excavation associated with the proposed veggie garden and footings for the rear deck. This excavation would entail the removal of 1.27m<sup>3</sup> of material which would be disposed of onsite. At its deepest point, the excavation would be 1.1m below the existing ground level, with the majority of the excavation works being confined behind the existing dwelling for the proposed veggie garden.

An assessment against the relevant criteria is provided below:

Matter for Consideration	Comment
(a) the likely disruption of, or any detrimental effect on, drainage patterns and soil stability in the locality of the development	The proposed development is unlikely to have any detrimental effect on drainage patterns or soil stability. An appropriate condition is recommended for the stormwater system to be designed by a qualified hydraulic engineer.
(b) the effect of the development on the likely future use or redevelopment of the land	It is generally considered that the proposed earthworks would not restrict the future development of the site.
(c) the quality of the fill or the soil to be excavated, or both	Appropriate conditions are recommended that prior to fill material being imported to the site, a Waste Classification Certificate shall be obtained; and that all excavated material removed from the site must be classified by a suitably qualified person and disposed of at an approved

	waste management facility.
(d) the effect of the development on the existing and likely amenity of adjoining properties	It is generally considered that the development would have negligible amenity impacts to the adjoining properties.
(e) the source of any fill material and the destination of any excavated material	Appropriate conditions are recommended that prior to fill material being imported to the site, a Waste Classification Certificate shall be obtained; and that all excavated material removed from the site must be classified by a suitably qualified person and disposed of at an approved waste management facility.
(f) the likelihood of disturbing relics	Council has no record of any historical items or events of note on the subject site, of either Aboriginal or European Heritage. It is therefore considered that the proposed works are unlikely to disturb any relics.
(g) the proximity to, and potential for adverse impacts on, any waterway, drinking water catchment or environmentally sensitive area	There is no drinking water catchment within close proximity to the site. Appropriate sediment and erosion control measures are required as a condition of consent to minimise the impacts of the development.
(h) any appropriate measures proposed to avoid, minimise or mitigate the impacts of the development	Appropriate measures have been included as conditions of development consent in Schedule 1 of this report to avoid, minimise and mitigate the impacts of the development.

## 2.2 State Environmental Planning Policy (Biodiversity and Conservation) 2021

The application has been assessed against the requirements of Chapters 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 aims to protect the biodiversity and amenity values of trees within non-rural areas of the state.

Part 2.9 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 1.2.6.1 of the HDPC prescribes works that can be undertaken with or without consent to trees and objectives for tree preservation.

The application does not propose tree removal therefore an assessment in accordance with Part 1.2.6.1 of the HDPC is not required.

### 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.

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.

### **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 Council is satisfied that the land is suitable for the proposed use and that further assessment under Chapter 4 of the Resilience and Hazards SEPP is not required.

### **2.4 State Environmental Planning Policy (Sustainable Buildings) 2022**

The application has been assessed against the requirements of Chapter 2 of State Environmental Planning Policy (Sustainable Buildings) 2022 which seeks to encourage the design and delivery of more sustainable buildings.

Chapter 2 sets out the Standards for residential development. The proposal includes a BASIX certificate (No. A1809440\_03 - issued 4 September 2025) 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 energy and water use, and thermal performance.

The proposal is acceptable in this regard.

### **2.5 Draft Environmental Planning Instrument**

There are no current draft environmental planning instruments.

### **2.6 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.

## 2.7 Hornsby Development Control Plan 2024

The proposed development has been assessed having regard to the relevant desired outcomes and prescriptive requirements within the Hornsby Development Control Plan 2024 (HDCP). The following table sets out the proposal's compliance with the prescriptive requirements of the Plan:

<b>HDCP - Part 3.1 Dwelling Houses</b>			
<b>Control</b>	<b>Proposal</b>	<b>Requirement</b>	<b>Complies</b>
Site Area	777.8m <sup>2</sup>	N/A	N/A
Building Height	9.365m	max. 8.5m	No
No. storeys	3	max. 2 + attic	No
Site Coverage	21.1%	max. 50%	Yes
Floor Area	303.6m <sup>2</sup>	max. 380m <sup>2</sup>	Yes
Setbacks			
- <i>Front</i>	9.95m	7.6m	Yes
- <i>Side (north-east)</i>			
<i>Lower ground floor</i>	Unchanged	0.9m	Yes
<i>Ground floor</i>	Unchanged	1.5m	Yes
<i>First floor</i>	1.5m	1.5m	Yes
- <i>Side (south-west)</i>			
<i>Ground floor</i>	Unchanged	1.5m	Yes
<i>Ground floor (retaining wall)</i>	1.74m	1.5m	Yes
<i>First floor</i>	1.79m	1.5m	Yes
- <i>Rear</i>			
<i>Ground floor</i>	> 3m	3m	Yes
<i>First floor</i>	16.41m	8m	Yes
Landscaped Area (30% of lot size)	428.36m <sup>2</sup>	min. 233.34m <sup>2</sup>	Yes

Private Open Space			
- <i>minimum area</i>	>24m <sup>2</sup>	24m <sup>2</sup>	Yes
- <i>minimum dimension</i>	>3m	3m	Yes
Car Parking	1 space	2 spaces	No

As detailed in the above table, the proposed development generally complies with the prescriptive measures within the HDCP with the exception of building scale and car parking. A brief discussion on compliance with relevant performance requirements is provided below and Part 1.3 General Controls are addressed in Section 3 of the report.

### 2.7.1 Scale

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.”*

The desired outcome is supported by the prescriptive measure set out in Table 3.1.1-a: Translations of Height to Storeys, which prescribes maximum storeys of dwelling houses to be 2 storeys + attic.

The application proposes alterations and additions to an existing dwelling, involving retention of the existing lower ground garage, amendments to the existing ground floor and a first floor addition.

The addition of the first floor would result in a part two to three storey dwelling which does not comply with the prescriptive measure.

In support of the non-compliance, it is noted that a portion of the proposed first floor addition would be positioned over an existing excavated area which contains a garage on the lower ground floor. The garage is cut into the steep slope and is partially considered as a basement level. Deletion of the non-compliant portion above the lower ground garage would result in a poor building form and internal layout. Furthermore, the development would have a similar street facing elevation design within the streetscape, such as at No. 43 Belinda Crescent.

The proposed third storey portion would not create any adverse environmental impacts to neighbouring properties or the streetscape, subject to an amendment of plan condition to add a privacy screen to the first floor front balcony along the north eastern side elevation.

For the reasons discussed above, the proposal generally meets the desired outcome of Part 3.1.1 Scale of the HDCP and is considered acceptable subject to conditions.

### 2.7.2 Sunlight Access

The desired outcomes of Part 3.1.5 Sunlight Access of the HDCP are to encourage *“dwellings designed to provide solar access to open space areas”* and *“development 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 percent of the required principle private open space should receive 3 hours of unobstructed sunlight access between 9 am and 3 pm.*

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

The application proposes alterations and additions to the existing dwelling, consisting of a first floor addition.

The proposal is supported by shadow diagrams at 9am, 12pm and 3pm on the day of the Winter Solstice.

The diagrams demonstrate that between 12 noon and 3pm the proposal would create shadowing over portions of the rear yard and proposed deck, however the private open space of the subject site would maintain a minimum of 50% sunlight access between 9am and 3pm.

At 9am the first floor addition would result in a minor amount of shadowing to the north eastern side elevation on the south western side adjoining property at No. 29 Belinda Crescent. Notwithstanding, the sunlight access to the private open space on this neighbouring property would be unaffected by the proposed development.

The proposal satisfies Part 3.1.5 Sunlight Access of the HDCP and is considered acceptable.

### 2.7.3 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 prescriptive measures (b) and (d) that states:

- b. *“A proposed window in a dwelling 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.”*
- 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.”*

The application proposes alterations and additions to the existing dwelling, involving amendments to the existing ground floor and a first floor addition.

On the existing ground floor, replacement living and dining room windows are proposed, and the existing master bedroom would be converted to a media room. The first floor addition would include bedrooms, bathrooms, a combined hall and rumpus room, a front balcony and a rear deck.

#### Windows

The proposed ground floor living and dining windows (W01 and W02) on the north eastern side elevation would replace existing windows (WX02 and WX03), therefore these two windows would not increase any existing privacy impacts. The media room would face the street and would be adequately setback.

The proposed windows on the first floor would be for bedrooms and bathrooms which are defined as ‘non-habitable’ rooms, therefore are not required to be screened.

### Rear Deck

The proposed first floor rear deck would be mostly positioned more than 600mm above the existing ground level. The proposed deck would not face a window, balcony or private open space within 9m to the north eastern or south eastern adjoining properties. The south western adjoining property at No. 29 Belinda Crescent is positioned at a higher elevation therefore the proposed deck would result in minimal privacy impacts to this neighbouring property. Furthermore, existing vegetation along the south western side boundary of the subject site would obscure the proposed deck from No. 29 Belinda Crescent.

### Front Balconies

The proposed first floor front balcony would be located within 7.9m of the deck on the north eastern property at No. 23 Belinda Crescent and would result in potential overlooking. Accordingly, an amendment of plan condition has been recommended in Schedule 1 of this report, for a privacy screen to be added along the north eastern side elevation of the proposed first floor balcony.

Whilst it is noted the existing front verandah is located more than 600mm above the existing ground level, the application proposes to maintain the existing size and finished floor level of this verandah and only replace the balustrade which would not increase any existing privacy impacts.

Subject to the recommended amendment of plan condition, the proposal meets the desired outcomes of Part 3.1.6 Privacy of the HDCP and is considered acceptable.

## **2.8 Section 7.12 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.

## **2.9 Planning Agreements**

Section 4.15 (1) (a)(ii) of the Act requires Council to consider the provisions of any planning agreement. The development does not include a Planning Agreement.

## **2.10 Environmental Planning and Assessment Regulation 2021**

Section 61 of the Environmental Planning and Assessment Regulation 2021 (the Regs) 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:

- If demolition of a building proposed - provisions of AS2601

Section 62 (consideration of fire safety) and Section 64 (consent authority may require upgrade of buildings) of the Regs are not relevant to the proposal.

Section 63 (considerations for erection of temporary structures) of the Regs are not relevant to the proposal.

These provisions of the Regs have been considered and are addressed in the recommended draft conditions (where necessary).

## **3. ENVIRONMENTAL IMPACTS**

Section 4.15(1)(b) of the Act requires Council to consider *“the significant 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 application does not propose tree removal.

#### **3.1.2 Stormwater Management**

The desired outcomes of Part 1.3.1.2 Stormwater Management of the HDCP are *“development that protects waterways from erosion, pollution and sedimentation, and maintains or improves water quality and aquatic habitats”* and *“water management systems that minimise the effects of flooding and maintains natural environmental flows.”*

The application proposes alterations and additions to the existing dwelling, consisting of a first floor addition on top of the existing building footprint.

The architectural plans submitted with the application prepared by Artin Design, dated 10 September 2025, shows the proposed locations of down pipes that would drain to the existing internal stormwater drainage system and an additional drain to the kerb. Appropriate conditions are recommended in Schedule 1 of this report for the stormwater system to be designed by a qualified hydraulic engineer, be gravity drained and discharge at the street gutter in Belinda Crescent.

Subject to conditions, the proposal meets the desired outcomes of Part 1.3.1.2 Stormwater Management of the HDCP and is considered acceptable.

#### **3.1.3 Earthworks**

The desired outcomes of Part 1.3.1.4 Earthworks and Slope of the HDCP is to encourage *“development that is designed to respect the natural landform characteristics and protects the stability of land”* and *“development that limits landform modification to maintain the amenity of adjoining properties and streetscape character.”*

This is supported by the prescriptive measure (e) that states *“sloping sites with a gradient in excess of 20% require certification from a geotechnical engineer as to the stability of the slope in regard to the proposed design.”*

The site is mapped as containing steep lands with a gradient in excess of 20% and a portion of the proposed development area has a maximum gradient of 91%.

The application proposes minor earthworks for the proposed veggie garden and footings for the rear deck. At the highest point, the proposed excavation would 1.1m below the existing ground level with a total of 1.27m<sup>3</sup> of excavated material. Appropriate conditions have been included in Schedule 1 of this report for a suitably qualified Project Geotechnical Engineer to be appointed to ensure that the stability of the land during works and structural engineering plans are to be submitted to the principal certifier prior to the issue of a construction certificate.

Subject to conditions, the proposal meets the desired outcomes of Part 1.3.1.4 Earthworks and Slope of the HDCP and is considered acceptable.

#### **3.1.4 Bushfire**

The desired outcomes of Part 1.3.3.1 Bushfire of the HDCP are to encourage *“development that is located and designed to minimise the risk to life and property from bushfires”* and *“development that balances the conservation of native vegetation and bushfire protection.”*

This is supported by the prescriptive measure that states *“development on land identified as bushfire prone on Council’s Bushfire Prone Land Map should address the bush fire protection measures in the publication Planning for Bushfire Protection (2019).”*

The site is bushfire prone.

A bushfire assessment report prepared by Bushfire Environmental Management Consultancy, dated 26 September 2025 was submitted with the application and recommended that the bushfire attack level (BAL) category for the proposed addition to be BAL-40 and BAL-FZ.

The proposed development is required to be built to the minimum standards required in accordance with the guidelines of Planning for Bushfire Protection 2019 (PBP) and Australian Standard AS3959-2018 Construction of buildings in bushfire prone areas.

The proposal was referred to the NSW Rural Fire Service (RFS) for comment in accordance with Section 4.14(1A) of the *Environmental Planning and Assessment Act 1979*, who raised no objections subject to conditions including the following:

- New construction must comply with Section 3 (excluding section 3.5) and Section 9 (BAL FZ) of Australian Standard AS3959-2018 Construction of buildings in bushfire-prone areas
- The existing dwelling must be upgraded to improve ember protection

Subject to the recommended conditions, the proposal meets the desired outcomes of Part 1.3.3.1 Bushfire of the HDCP and is considered acceptable.

## **3.2 Built Environment**

### **3.2.1 Built Form**

The proposal would result in a maximum height of 9.365m. However, the built form is considered acceptable as discussed in Section 2.1 of this report.

### **3.2.2 Car Parking**

The desired outcomes of Part 1.3.2.1 Transport and Parking of the HDCP are to encourage:

- “Development that manages transport demand around transit nodes to encourage public transport usage.*
- Car parking and bicycle facilities that meet the requirements of future occupants and their visitors.*
- Development with simple, safe and direct vehicular access.*
- To encourage and support the use of electric vehicles.”*

The desired outcomes are supported by prescriptive measure (o) that sets out in table 1.3.2-c: On Site Car Parking Rates, which prescribes for dwelling houses with three or more bedrooms, a minimum of two car parking spaces.

The application proposes alterations and additions to an existing dwelling that would include one additional bedroom. The site includes an existing single lock up garage with an internal width of 5.1m and no additional parking is proposed.

In support of the single car parking space, it is noted that the existing dwelling currently consists of three bedrooms with a single parking space, therefore the existing parking will be maintained. Furthermore, due to the steep slope of the site, the site is constrained and there is limited space to provide additional parking.

The proposal meets the desired outcomes of Part 1.3.2.1 Transport and Parking of the HDCP and is considered acceptable.

### **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 is bushfire prone and has not been identified as flood prone land. Subject to the recommended NSW Rural Fire Service (RFS) conditions, 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 27 October and 10 November 2025 (inclusive) in accordance with the Hornsby Community Engagement Plan. During this period, Council received nil submissions. The map below illustrates the location of those nearby landowners who were notified.



**NOTIFICATION PLAN**

	PROPERTIES NOTIFIED	<b>X</b>	SUBMISSIONS RECEIVED		PROPERTY SUBJECT OF DEVELOPMENT	
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**5.2 Public Agencies**

The development application was referred to the following Agencies for comment:

**5.2.1 Rural Fire Service**

The development application was referred to the NSW RFS for comment in accordance with Section 4.14(1A) of the *Environmental Planning and Assessment Act 1979*, and no objections were raised to the proposed development subject to the recommended conditions of consent which is discussed in greater detail in section 3.1.4 of this report above.

**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 additions to a dwelling.

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*.

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

The reasons for this decision are:

- In accordance with Clause 4.6 of the Hornsby Local Environmental Plan 2013, Council is satisfied that the applicant's written request has adequately addressed the matters required to be demonstrated by clause 4.6(3)(a) and (b) of the Hornsby Local Environmental Plan 2013 that:
  - Compliance with the development standards is unreasonable and unnecessary in the circumstances of the case, and
  - There are sufficient environmental planning grounds to justify contravening the development standard.
- The proposed development generally complies with the requirements of the relevant environmental planning instruments and the Hornsby Development Control Plan 2024.
- 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.

*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

ROD PICKLES  
Manager - Development Assessments  
Planning and Compliance Division

Planning and Compliance Division

**ITEM 4**

**Attachments:**

1.  Clause 4.6 Request
2.  Architectural Plans

File Reference: DA/1140/2025/PUBLICACCESS

Document Number: D09299335

## SCHEDULE 1

# GENERAL CONDITIONS

**ITEM 4**

Condition
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### 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
A108 - Issue C	Plan and Section 2 Demolition	Artin Design	10.09.2025	
A110 - Issue C	Proposed Site and Landscape Area Analysis	Artin Design	10.09.2025	
A112 - Issue D	Ground Floor Plan Proposed	Artin Design	11.01.2026	
A113 - Issue C	First Floor Plan Proposed	Artin Design	10.09.2025	
A115 - Issue C	Roof Plan Proposed	Artin Design	10.09.2025	
A116 - Issue C	Section 1, Section 2 Proposed	Artin Design	10.09.2025	
A116a - Issue A	Section 3, Part Roof Plan	Artin Design	11.01. 2026	
A117 - Issue C	Elevations Proposed	Artin Design	10.09.2025	
A118 - Issue C	Elevations Proposed	Artin Design	10.09.2025	
A121 - Issue C	Schedules (Window Door)	Artin Design	10.09.2025	

#### Supporting Documentation

Document Title	Prepared by	Dated	Council Reference
Storm Water Management Plan No. A111 - Issue C	Artin Design	10.09.2025	D09293698
Finishes Schedule Plan No. A120 - Issue C	Artin Design	10.09.2025	D09293698
Sediment Erosion and Waste Management Plan No. A109 Iss. C	Artin Design	10.09.2025	D09293698
BASIX Certificate No. A1809440_03	Stefan Stanowski	4.09.2025	D09232838
Bush Fire Assessment Report Ref: 252730	Bushfire Environmental Management Consultancy	26.09.2025	D09232840
Waste Management Plan	Artin Design	6.09.2025	D09232980

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

## 2. No Clearing of Vegetation

1. Unless otherwise exempt, no vegetation is to be cleared prior to issue of a Construction Certificate.
2. Details demonstrating compliance are to be submitted to the Certifier prior to issue of Construction Certificate.

*Reason: To protect vegetation on the site.*

## 3. Amendment of Plans

1. To comply with Councils requirement in terms of privacy, the approved plans are to be amended as follows:
  - a. A 1.5m high close-form louvre or solid privacy screen above the finished floor level must be erected along the north eastern elevation of the first floor balcony as indicated in red on the approved First Floor, Elevation North-East & Elevation North-West plans (Drawing Nos. A113 & A117 Issue C, dated 10 September 2025) and Section 3 plan (A116a - Issue A, dated 11 January 2026) prepared by Artin Design.
  - b. The screen must have no individual openings more than 30mm wide and have a total of all openings less than 30% of the surface area of the screen.
2. These amended plans must be submitted with the application for the Construction Certificate.

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

## 4. Construction Certificate

1. A Construction Certificate is required to be approved by Council or a Principal Certifier prior to the commencement of any construction works under this consent.
2. A separate approval must be obtained from Council for all works within the public road reserve under S138 of the *Roads Act 1993*.
3. 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.*

## 5. Section 7.12 Development Contributions

1. 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, **\$4,015.00** must be paid towards the provision, extension or augmentation of public amenities or public services, based on development costs of **\$401,500.00**.
2. The value of this contribution is current as of **2 February 2026**. 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:

$$\mathbf{\$C_{PY}} = \frac{\mathbf{\$C_{DC} \times CPI_{PY}}}{\mathbf{CPI_{DC}}}$$

Where:

$\mathbf{\$C_{PY}}$  is the amount of the contribution at the date of Payment

$\mathbf{\$C_{DC}}$  is the amount of the contribution as set out in this Development Consent

$\mathbf{CPI_{PY}}$  is the latest release of the Consumer Price Index (Sydney – All Groups) at the date of Payment as published by the ABS.

$\mathbf{CPI_{DC}}$  is the Consumer Price Index (Sydney – All Groups) for the financial quarter at the date of this Development Consent.

3. The monetary contributions shall be paid to Council:
  - a. Prior to the issue of the Subdivision Certificate where the development is for subdivision; or
  - b. Prior to the issue of the first Construction Certificate where the development is for building work; or
  - c. Prior to issue of the Subdivision Certificate or first Construction Certificate, whichever occurs first, where the development involves both subdivision and building work; or
  - d. Prior to the works commencing where the development does not require a Construction Certificate or Subdivision Certificate.

*Note: Should the cost of works increase at Construction Certificate stage, a revised contribution amount will be calculated in accordance with the Hornsby Shire Council Section 7.12 Development Contributions Plan.*

*Note: It is the professional responsibility of the Principal Certifier 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](http://www.hornsby.nsw.gov.au) or a copy may be inspected at Council's Administration Centre during normal business hours.*

*Note: To arrange a Payment Advice for the monetary contributions, please contact Council's Customer Service Team on 9847 6666.*

*Reason: To address the increased demand for community infrastructure resulting from the approved development.*

## 6. Compliance with Other Department, Authority or Service Requirements

The development must be carried out in compliance with all recommendations and requirements, excluding general advice, within the following:

Other Department, Authority or Service	Document Title/ Ref	Dated	Council Reference
NSW Rural Fire Service	DA20251022004269-Original-1 (CNR-88315)	10 November 2025	D09259071

(NOTE: For a copy of the above referenced document/s, please see Application Enquiry System on Council's website [www.hornsby.nsw.gov.au](http://www.hornsby.nsw.gov.au))

Reason: To ensure the work is carried out in accordance with the determination and the statutory requirements of other departments, authorities or bodies.

## BUILDING AND DEMOLITION WORK BEFORE ISSUE OF A CONSTRUCTION CERTIFICATE

### Condition

#### 7. 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).

#### 8. 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).

#### 9. 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 Certifier for the development to which the work relates (not being Council) has given Council written notice of the following information:

1. In the case of work for which a principal contractor is required to be appointed:
  - a. The name and licence number of the principal contractor; and
  - b. The name of the insurer by which the work is insured under Part 6 of that Act.
2. In the case of work to be done by an owner-builder:
  - a. The name of the owner-builder; and
  - b. 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 Certifier 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).*

#### **10. Sydney Water Building Plan Approval**

The plans must be approved by Sydney Water prior to demolition, excavation or construction works commencing. This allows Sydney Water to determine if sewer, water or stormwater mains or easements will be affected by any part of your development. Any amendments to plans will require re-approval. Please go to [Sydney Water Tap in](#)® to apply.

*Note: Sydney Water recommends developers apply for a Building Plan Approval early as to reduce unnecessary delays to further referrals or development timescales.*

*Reason: To ensure the development complies with the requirements of Sydney Water.*

#### **11. 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 in accordance with the following requirements:

1. Connected to the existing internal drainage system and directly to Council's street drainage system.
2. Roof water must be connected to a rainwater tank having a minimum capacity of 3,500 L (in addition to any BASIX requirements).
3. The stormwater drainage system must be designed by a qualified hydraulic engineer.

*Reason: To ensure appropriate provision for management and disposal of stormwater.*

#### **12. Appointment of a Project Geotechnical Engineer**

An appropriately qualified Geotechnical Engineer shall be appointed to ensure that the stability of the land and any remedial works to the existing boulders are undertaken.

*Reason: To ensure the stability of the site.*

#### **13. Geotechnical Requirements**

Geotechnical design details of the development are to be provided to the Principal Certifier with the application for a Construction Certificate.

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

#### **14. Footings**

Structural details from a suitably qualified structural engineer must be prepared for the footing system for the proposed dwelling and deck and must be submitted with the application for the Construction Certificate.

*Reason: To ensure the stability of the site.*

**15. 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.*

**BEFORE BUILDING AND DEMOLITION WORK COMMENCES**

Condition
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**16. Site Sign**

1. A sign must be erected in a prominent position on any site on which any approved work involving excavation, erection or demolition of a building is being carried out detailing:
  - a. The name, address, and telephone number of the Principal Certifier.
  - b. 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
  - c. Unauthorised entry to the work site is prohibited.
2. The sign must be maintained during excavation, demolition and building 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).*

**17. Asbestos Removal Signage**

Before demolition or remediation work commences involving the removal of asbestos, a standard commercially manufactured sign containing the words 'DANGER: Asbestos removal in progress' (measuring not less than 400mm x 300mm) must be erected in a prominent position at the entry point/s of the site and maintained for the entire duration of the removal of the asbestos.

*Reason: To alert the public to any danger arising from the removal of asbestos.*

**18. Protection of Adjoining Areas**

1. 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); and.

2. Council's separate written approval is required prior to the erection of any temporary hoarding, fence or awning on or over public land. The erection of a hoarding must be applied for via Council's Online Services Portal together with details showing the location and type of hoarding.

*Note: The Hoarding/ Temporary Fencing application 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: My Applications > New Applications > Under 'Application Types': Hoarding/ Temporary Fencing Applications.*

3. Where any part of the road or footpath is required to be occupied or closed during any stage of works, including demolition, excavation, construction or remediation, a temporary full / partial road or footpath closure permit must be approved by Council. The permit must be applied for via Council's Online Services Portal.

*Note: A Temporary Road/ Footpath Closure application 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: Under 'Roads, Traffic and Parking': Temporary Full/ Partial Road Closure.*

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

#### **19. Notice of Commencement for Demolition**

At least one week before demolition work commences, written notice must be provided to council and the occupiers of neighbouring premises of the work commencing. The notice must include:

1. Name
2. Address,
3. Contact telephone number,
4. Licence type and license number of any demolition waste removal contractor and, if applicable, asbestos removal contractor,
5. The contact telephone number of council and
6. The contact telephone number of SafeWork NSW (4921 2900).

*Note: The written notice to Council can be sent to [devmail@hornsby.nsw.gov.au](mailto:devmail@hornsby.nsw.gov.au).*

*Reason: To advise neighbours about the commencement of demolition work and provide contact details for enquiries.*

#### **20. Toilet Facilities**

1. 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.
2. Each toilet must:
  - a. Be a standard flushing toilet connected to a public sewer; or

- b. Be a temporary chemical closet approved under the *Local Government Act 1993*.

*Reason: To ensure adequate toilet facilities are provided.*

## 21. Erosion and Sediment Control Measures

Install and maintain adequate sediment and erosion control measures for the duration of all works, until such a time that sediment, sediment laden water or any other material/substance can no longer migrate from the premises. The measures are to be installed and maintained in such a manner as to prevent sediment, sediment-laden water, or any other materials and substances migrating from the site onto neighbouring land, the roadway, waters and/or into the stormwater system, and in accordance with:

1. The publication *Managing Urban Stormwater: Soils and Construction 2004* (4th edition) - 'The Blue Book'.
2. *Protection of the Environment Operations Act 1997*; and
3. The approved plans

Controls are to be monitored and adjusted where required throughout the works to ensure compliance with the above

*Note: On the spot penalties may be issued for any non-compliance with this requirement without any further notification or warning. If you are unsure in how to achieve compliance with this condition during works, you may need to engage the services of a suitably qualified environmental, soil or geotechnical consultant to assist.*

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

## 22. Waste Management Details

Prior to the commencement of any works, the on-going waste collection service must be cancelled, and the bins retrieved by the waste collection service provider.

*Note: For residential properties, Council is the waste collection service provider.*

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

## 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.

1. The garbage receptacle must have a tight fitting lid and be suitable for the reception of food scraps and papers.
2. The receptacle lid must be kept closed at all times, other than when garbage is being deposited.
3. 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.*

## DURING BUILDING AND DEMOLITION WORK

Condition
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### 24. Hours of Work

1. All work on site (including remediation, demolition, construction, earth works and removal of vegetation), must only occur between 7am and 5pm Monday to Saturday.
2. No work is to be undertaken on Sundays or public holidays.

*Reason: To protect the amenity of neighbouring properties.*

### 25. Demolition

To protect the surrounding environment, all demolition work must be carried out in accordance with Australian Standard AS2601-2001 The Demolition of Structures and the following requirements:

1. 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
2. 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
3. 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.*

### 26. Handling of Asbestos

While demolition or remediation work is being carried out, any work involving the removal of asbestos must comply with the following requirements:

1. Only an asbestos removal contractor who holds the required class of Asbestos Licence issued by SafeWork NSW must carry out the removal, handling, and disposal of any asbestos material.
2. Asbestos waste in any form must be disposed of at a waste facility licensed by the NSW Environment Protection Authority to accept asbestos waste; and
3. Any asbestos waste load over 100kg (including asbestos contaminated soil) or 10m<sup>2</sup> or more of asbestos sheeting must be registered with the EPA on-line reporting tool WasteLocate.

*Reason: To ensure that the removal of asbestos is undertaken safely and professionally.*

**27. Environmental Management (Air Pollution)**

The Applicant must take all reasonable steps to minimise dust generated during all works (including remediation, demolition, earthworks and construction) authorised by this consent. During works, the Applicant must ensure that:

1. All trucks entering or leaving the site with loads have their loads covered.
2. Trucks associated with the development do not track dirt onto the public road network.
3. Public roads used by these trucks are kept clean; and
4. Land stabilisation works are carried out progressively on site to minimise exposed surfaces.

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

**28. Street Sweeping**

During works (including remediation, demolition, earthworks and construction) 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.

*Note: The above Item does not permit for sediment and/or any other materials/substances to exit the site in a way that constitutes water pollution as defined in the Protection of the Environment Operations Act 1997 or in a manner that contravenes other conditions in this consent.*

*Reason: To minimise impacts to the natural environment.*

**29. Compliance with Geotechnical Requirements**

The project Geotechnical Engineer must be on-site during the installation of footings and all other earthworks.

*Reason: To ensure the stability of the site.*

**30. Council Property**

To ensure that the public reserve is kept in a clean, tidy, and safe condition during remediation, demolition, excavation and construction works:

1. No building materials, skip bins, concrete pumps, cranes, machinery, temporary traffic control, signs or vehicles associated with the development shall be stored or placed on Council's footpath, nature strip, roadway, park or reserve without the prior approval being issued by Council under section 138 of the *Roads Act 1993*.

2. All work, loading and unloading associated with the development are to occur entirely within the property boundaries, unless otherwise approved by Council under section 138 of the *Roads Act 1993*.

*Reason: To protect public land.*

### **31. 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 fees payable for the restoration of any public asset damaged to be repaired by Council shall be at the applicant's full expense.

*Note: The Road Opening Permit must be applied for via Council's Online Services Portal at: <https://www.hornsby.nsw.gov.au/property/build/apply-for-a-permit/road-openings>*

*Reason: To ensure public infrastructure and property is maintained.*

### **32. 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.*

### **33. Soil Management (Excavation and Fill)**

While site work is being carried out, the Principal Certifier or Council (where a principal certifier is not required) must be satisfied all soil removed from or imported to the site is managed in accordance with the following requirements:

1. All excavated material removed from the site must be classified in accordance with the EPA's Waste Classification Guidelines before it is disposed of at an approved waste management facility and the classification, and the volume of material removed must be reported to the Principal Certifier or Council (where a principal certifier is not required).
2. Tipping docket for the total volume of excavated material that are received from the licensed waste management facility must be provided to the Principal Certifier prior to the issue of an Occupation Certificate.
3. Prior to fill material being imported to the site, a Waste Classification Certificate shall be obtained from a suitably qualified environmental consultant confirming all fill material imported to the site must be:
  - a. Virgin Excavated Natural Material as defined in Schedule 1 of the Protection of the Environment Operations Act 1997, or
  - b. A material identified as being subject to a resource recovery exemption by the NSW EPA, or
  - c. A combination of Virgin Excavated Natural Material as defined in Schedule 1 of the Protection of the Environment Operations Act 1997 and a material identified as being subject to a resource recovery exemption by the NSW EPA.

4. The required Waste Classification Certificate must be provided to the Principal Contractor prior to fill being imported to the site and made available to Council at its request.

*Reason: To ensure soil removed from the site is appropriately disposed of and soil imported to the site is not contaminated and is safe for future occupants.*

#### **34. Removal of Trees**

1. No consent is granted for the removal of any trees as they 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 1.2.6 Tree and Vegetation Preservation of the Hornsby Development Control Plan 2024.*

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

#### **35. Survey Report**

A report(s) must be prepared by a registered surveyor and submitted to the Principal Certifier:

1. Prior to the pouring of concrete at each level of the building certifying that:
  - a. The building, deck, retaining walls and the like have been correctly positioned on the site; and
  - b. 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.*

#### **36. 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.*

#### **37. Building Materials and Site Waste**

The stockpiling of building materials, the parking of vehicles or plant, the disposal of cement slurry, wastewater 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.*

#### **38. 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 Principal Certifier and Council ([compliance@hornsby.nsw.gov.au](mailto:compliance@hornsby.nsw.gov.au)).

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

#### **39. Erosion and Sediment Control**

1. Works are not to result in the discharge of sediment and or run-off onto the adjoining properties or public land.

2. The person having the benefit of this consent must ensure that sediment and other materials are not tracked onto the roadway by vehicles leaving the site.

*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 neighbouring properties and public land.*

#### **40. Soil and Water Management (Stockpiles)**

1. Stockpiles of topsoil, sand, aggregate, soil or other material shall be protected with adequate sediment controls and must not be located on any drainage line or easement, natural watercourse, footpath or roadway.
2. The storage of stockpiled topsoil, sand, aggregate, soil or other materials must not result in the discharge of sediment or run-off onto the adjoining properties or public land.

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

#### **41. Storage and Removal of Waste**

1. All demolition and/or construction waste must be stored in a waste receptacle and be removed from the site at frequent intervals. Materials are to be wholly contained within the waste receptacle and not overflowing.
2. All garbage and recyclable materials generated during work must be stored in a waste receptacle and be removed from the site at frequent intervals. Materials are to be wholly contained within the waste receptacle and not overflowing.

*Reason: To ensure the site is maintained to an appropriate standard cleanliness and prevent any nuisance or danger to health, safety or the environment.*

## **BEFORE ISSUE OF AN OCCUPATION CERTIFICATE**

Condition
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#### **42. 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.*

#### **43. 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 Principal 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.*

#### **44. 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](http://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.*

#### **45. Retaining Walls**

All retaining walls must be constructed as part of the development and prior to the issue of an Occupation Certificate.

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

#### **46. Submission of Excavated Material Tipping Dockets to Principal Certifier**

Tipping docket for the total volume of excavated material that are received from the licensed waste facility must be provided to the Principal Certifier prior to the issue of an Occupation Certificate.

*Reason: To confirm appropriate disposal of excavated material.*

#### **47. 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 Occupation Certificate.

*Reason: To ensure engineering works are completed.*

#### **48. Certification of RFS Requirements**

A Certificate prepared by a BPAD accredited Bushfire Consultant is to be provided to the Principal Certifier (PC) certifying the completion of the following works required by the NSW RFS conditions of concurrence prior to the issue of the Occupation Certificate:

1. Asset Protection Zones
2. Water and Utility Services
3. Landscaping Assessment

*Reason: To ensure all bushfire protection measures are implemented to protect life and property.*

#### **49. Certification from Geotechnical Engineer**

Prior to the issue of an occupation certificate, a certificate by a qualified geotechnical engineer must be submitted to the Principal Certifier.

*Reason: To ensure the stability of the site.*

**- END OF CONDITIONS -**

**5 DA/1300/2025 - ALTERATIONS AND ADDITIONS TO A DWELLING - 23 NORTH STREET, MOUNT COLAH**

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**DA No:** DA/1300/2025 (PAN-593670 - Lodged on 27 November 2025)

**Description:** Alterations and additions to a dwelling

**Property:** Lot 115 DP 207557, No. 23 North Street, Mount Colah

**Applicant:** JJ Drafting Australia Pty Ltd

**Owner:** Ashiwini Ajay Dharammali and Mr Ajay Natthuji Dharammali

**Estimated Value:** \$413,050

**Ward:** A Ward

**Clause 4.6 Request:** Clause 4.3 Height of buildings in the HLEP R2 Low density residential zone

**Submissions:** Nil

**LPP Criteria:** Proposal contravenes a development standard by more than 10%

**Author:** Elvin Keung, Town Planner

**COI Declaration:** No Council staff involved in the assessment of this application have declared a Conflict of Interest.

**RECOMMENDATION**

- A. THAT the Hornsby Local Planning Panel, exercising the functions of Council as the consent authority, contravene Clause 4.3 Height of buildings development standard pursuant to Clause 4.6 of the Hornsby Local Environmental Plan 2013, as it is satisfied that the applicant has demonstrated that the provisions of Clause 4.6(3)(a) and (b) have been met.
- B. THAT the Hornsby Local Planning Panel, exercising the functions of Council as the consent authority, approve Development Application No. DA1300/2025 for alterations and additions to a dwelling at Lot 115 DP 207557, No. 23 North Street, Mount Colah subject to the conditions of consent in Schedule 1 of LPP Report No. LPP8/26.

## EXECUTIVE SUMMARY

- The application involves alterations and additions to a dwelling house.
- The proposal does not comply with the Clause 4.3 'Height of buildings' of the Hornsby Local Environmental Plan 2013. 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.
- No 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 would contravene the Hornsby Local Environmental Plan 2013 Height of buildings development standard by more than 10%.
- It is recommended that the application be approved.

## BACKGROUND

On 27 November 2025, DA/1300/2025 was lodged with Council.

On 20 January 2025, a request for information letter was sent to the applicant requesting:

- An amended Clause 4.6 request, including the correct calculation of height, a clear demonstration of how the height was calculated, the nominated percentage contravention, and specifically addressing of the unreasonable or unnecessary requirement.
- Privacy screens on some openings on the north-eastern elevation.
- The correction of some typographical errors on the architectural plans.

On 28 and 30 January 2026, amended documents were submitted which addressed the above items.

## SITE

The 967.5m<sup>2</sup> site is located on the western side of North Street and contains a part two-storey weatherboard dwelling with detached outbuilding and pergola.

The site experiences a 6.5m fall over a distance of 57.5m from the north-western rear boundary towards the south-eastern front boundary. This results in a gradient of approximately 11%.

The site is mapped as bush fire prone land, situated within the vegetation buffer zone. It is not mapped as flood prone.

The site does not contain a heritage listed item and is not within a heritage conversation area (HCA), nor is it located in the vicinity of a heritage item or HCA.

The site is not burdened by any easements.

The site does not contain any ecologically endangered species.

## PROPOSAL

The application proposes alterations and additions to a dwelling house as follows:

- Construction of a first floor addition
- Minor internal and external alterations to the lower ground and ground floors
- A portion of a patio will be enclosed to form a larger entrance foyer with closet

- Construction of a new staircase

The lower ground floor (unchanged) comprises: a double garage, a laundry and storage spaces.

The upper ground floor would comprise: an open plan kitchen, living and dining room; a bedroom with walk in wardrobe and ensuite; 3x bedrooms; a bathroom; and an entrance room with closet.

The first floor would comprise: a rumpus room, a bedroom with walk in wardrobe, a bedroom, a bathroom, and a storage room.

Minor demolition of the existing dwelling is proposed to facilitate the proposed works. All detached structures are proposed to be retained.

No trees would be removed or impacted by the proposed development.

## 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 North District Plan includes priorities and actions for Northern District over the next 20 years.

The identified challenge for Hornsby Shire will be to provide 5,500 new completed homes by 2029 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.

### 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 10.13m which represents a contravention of 1.63m (19.17%) 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 below in Section 0 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 Clause 4.3 Height of buildings development standard.

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, and*
- (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 JJ Drafting Australia Pty Ltd, dated 29 January 2026 provides a detailed assessment of the proposal with respect to the development standard sought to be contravened.

Figures 1 and 2 depict the extent of the contravention of the height of buildings development standard, being a maximum of 1.63m (19.17%).

This is calculated as follows:

- The finished floor level of the garage and subfloor area is at RL174.4. The slab is assumed to be 150mm thick therefore the excavated ground level is taken to be RL174.25.
- The highest part of the roof above the excavated subfloor is at RL184.38 thereby having a height of 10.13m.
- This constitutes a variation of 19.17% from the 8.5m development standard.

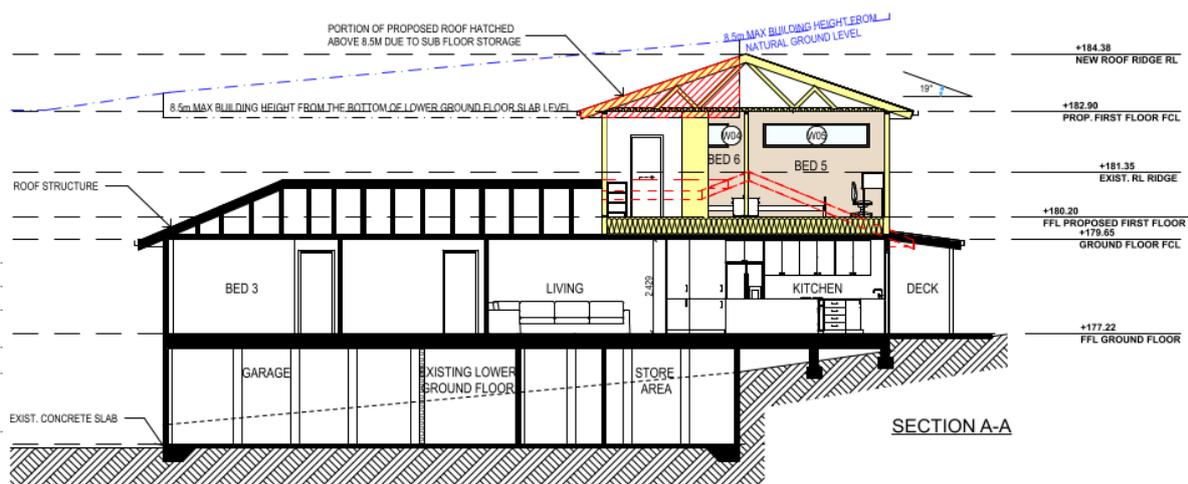


Figure 1: Section plan showing area of non-compliance shaded in red.



Figure 2: Height plan diagram showing extent of non-compliance.

The request argues that:

*“This is due to an existing sub floor store area, an extension to the garage had been excavated into the ground many years ago and thus bringing the height level which requires it to be measured from the excavated level and not the natural ground level, otherwise it would have been compliant.*

*This portion of the roof is located directly above the existing excavated store area which the building height level requires to be taken from and therefore makes it non-compliant with the building height.*

*When viewed from the streetscape the proposed addition is in line with the building height of the adjoining property no.21. Even though the proposed new ridge height is slightly higher than that of the adjoining property No.21 it will not be noticed.*

*The objectives as listed above and below, of the development standard have been achieved notwithstanding the non-compliance.”*

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

*“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 site contains an existing excavated storage area which causes the existing ground level to be lower than the surrounding land.
- If the height were taken from the surrounding non-excavated level, the proposed addition would be fully compliant with the height development standard.

- The site falls towards the street with the addition being proposed at the rear.
- The addition is at the rear portion of the dwelling and when viewed from the street, would not present as an over height structure.
- The new ridge level is similar to the adjoining dwelling to the south-west (No. 21 North Street) as the land naturally slopes up in that direction.
  - Proposed ridge: RL 184.38
  - 21 North Street ridge: RL 183.95

For the reasons outlined above, it is considered that the written request to contravene the height of building standard adequately demonstrates that the objectives of the Height of buildings development standard contained within Clause 4.3 of the HLEP are achieved, notwithstanding non-compliance with the 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 small portion of the roof that breaches the building height is only due to the existing excavated sub floor area which is lower than the natural ground level.*
- *The proposal will not affect adjoining properties in view loss, privacy or solar access. The scale of the proposed development is consistent with the adjoining residential lots and sits well within the streetscape.*
- *The proposal has been designed in a manner where it is located at the rear portion of the existing dwelling which predominately is only single storey when viewed from any sides of the dwelling. One would assume that there is no additional level below this section of the existing portion of the house.*
- *The first floor addition allows the existing landscaping area to remain without any disturbance.*

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.

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%.

Accordingly, Council is satisfied that the written request satisfactorily responds to the relevant matters required to be addressed under Clause 4.6 and the Panel, as the consent authority, may rely upon the written request and grant development consent to the development application.

#### **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 required.

#### **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 foundations of the dwelling house will be utilised for the proposed alterations and additions. 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.

### **2.2 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 aims to protect the biodiversity and amenity values of trees within non-rural areas of the state.

Part 2.9 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 1.2.6.1 of the HDPC prescribes works that can be undertaken with or without consent to trees and objectives for tree preservation.

The application does not propose tree removal therefore an assessment in accordance with Part 1.2.6.1 of the HDPC is not required.

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

The site is located within the catchment of the Hawkesbury-Nepean River. The aim of this chapter is to protect the environment of the Hawkesbury-Nepean River system by ensuring that the impacts of development are considered in the regional context. Part 6.2 of this Plan contains general planning considerations and strategies requiring Council to consider the impacts of development on water quality, aquaculture, significant vegetation habitats, extraction, environmental heritage and scenic quality, recreation and tourism, and agriculture.

The plan addresses matters related to biodiversity, ecology and environment protection; public access to, and use of, foreshores and waterways; 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 not impact on the water quality of the catchment and would comply with the requirements of chapter 6 of the Biodiversity and Conservation SEPP.

### **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 Council is satisfied that the land is suitable for the proposed use and that further assessment under chapter 4 of the Resilience and Hazards SEPP is not required.

### **2.4 State Environmental Planning Policy (Sustainable Buildings) 2022**

The application has been assessed against the requirements of chapter 2 of State Environmental Planning Policy (Sustainable Buildings) 2022 which seeks to encourage the design and delivery of more sustainable buildings.

Chapter 2 sets out the Standards for residential development. The proposal includes a BASIX certificate (A1823048) 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 energy and water use, and thermal performance.

The proposal is acceptable in this regard.

### **2.5 Draft Environmental Planning Instrument**

There are no current draft environmental planning instruments.

### **2.6 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.

## 2.7 Hornsby Development Control Plan 2024

The proposed development has been assessed having regard to the relevant desired outcomes and prescriptive requirements within the Hornsby Development Control Plan 2024 (HDPCP). The following table sets out the proposal's compliance with the prescriptive requirements of the Plan:

<b>HDPCP - Part 3.1 Dwelling Houses</b>			
<b>Control</b>	<b>Proposal</b>	<b>Requirement</b>	<b>Complies</b>
Site Area	967.5m <sup>2</sup>	N/A	N/A
Building Height	10.13m	8.5m	No
No. storeys	3	max. 2 + attic	No
Site Coverage	16%	40%	Yes
Floor Area	328m <sup>2</sup>	430m <sup>2</sup>	Yes
Setbacks			
- <i>Front</i>	Existing (10.4m)	6m	Yes
- <i>Side (north-eastern)</i>			
- <i>Ground floor</i>	Existing (2.1m)	1.5m	Yes
- <i>First floor</i>	3.15m	1.5m	Yes
- <i>Side (south-western)</i>			
- <i>Ground floor</i>	Existing (1.5m)	1.5m	Yes
- <i>First floor</i>	1.5m	1.5m	Yes
- <i>Rear</i>			
- <i>Ground floor</i>	Existing (>3m)	3m	Yes
- <i>First floor</i>	>8m	8m	Yes
Landscaped Area (40% of lot size)	Existing (>387m <sup>2</sup> )	min. 387m <sup>2</sup>	Yes
Private Open Space			

- <i>minimum area</i>	>24m <sup>2</sup>	24m <sup>2</sup>	Yes
- <i>minimum dimension</i>	>3m <sup>2</sup>	3m	Yes
Car Parking	Existing (2 spaces)	2 spaces	Yes

As detailed in the above table, the proposed development generally complies with the prescriptive measures within the HDCP with the exception of building height and number of storeys. A brief discussion on compliance with relevant performance requirements is provided below and Part 1.3 General Controls are addressed in Section 3 of the report.

### 2.7.1 Height

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 is supported by the prescriptive measure that states the maximum height permissible is 8.5m comprised of 2 storeys + attic. The proposal would cause the structure to have a maximum of 3 storeys. This is limited to the section of the first floor addition directly above the existing lower ground floor, specifically the laundry.

Whilst this would technically cause the structure to be three storeys, the overall height and bulk of the dwelling would be consistent with a two storey structure on a sloping site. The justification for the height non-compliance in Section 0 of this report provides further discussion on the suitability of the proposed development.

### 2.7.2 Sunlight Access

The desired outcome of Part 3.1.5 Sunlight Access of the HDCP is to encourage *“development designed to provide reasonable sunlight to adjacent properties”*.

This is supported by the prescriptive measure that states *“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”*.

The application is supported by shadow diagrams which demonstrate that the proposal would cause a minor increase in the level of overshadowing to the adjoining property to the south-west. However, the increase in overshadowing caused by the first floor addition is minimal. The adjoining property would still receive beyond the minimum required level of sunlight access. Therefore, the proposal addition maintains reasonable sunlight to adjacent properties.

As such, the proposal meets the desired outcome of Part 3.1.5 Sunlight Access of the HDCP and is considered acceptable.

### 2.7.3 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 measure that requires privacy screen for certain windows and raised decks if certain triggers are met.

The proposed rumpus room on the first floor has a window (W09) which faces the north-eastern neighbour and is 3.15m from the boundary. Since the rumpus room is an entertaining area and is located on the first floor, it would cause potential overlooking impacts to the adjoining neighbour. The rumpus room balcony is also open on the north-eastern side which similarly presents privacy concerns.

Following a request for additional information, the application was amended to convert window W09 to a high sill design and provide a 1.7m high privacy screen for the north-eastern elevation of the rumpus room balcony. This satisfactorily resolves the privacy concerns. As such, the proposal meets the desired outcome of Part 3.1.6 Privacy of the HDCP and is considered acceptable.

## **2.8 Section 7.12 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.

## **2.9 Planning Agreements**

Section 4.15 (1) (a)(ii) of the Act requires Council to consider the provisions of any planning agreement. The development does not include a Planning Agreement.

## **2.10 Environmental Planning and Assessment Regulation 2021**

Section 61 of the Environmental Planning and Assessment Regulation 2021 (the Regs) contains matters that must be taken into consideration by the consent authority in determining a development application, with the following matters being relevant to the proposal:

- If demolition of a building proposed - provisions of AS2601

Section 62 (consideration of fire safety) and Section 64 (consent authority may require upgrade of buildings) of the Regs are not relevant to the proposal.

Section 63 (considerations for erection of temporary structures) of the Regs are not relevant to the proposal.

These provisions of the Regs have been considered and are addressed in the recommended draft conditions (where necessary).

## **3. ENVIRONMENTAL IMPACTS**

Section 4.15(1)(b) of the Act requires Council to consider *“the significant 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 does not require the removal of any trees from the site.

#### **3.1.2 Stormwater Management**

The application proposes to dispose of stormwater by connecting to the existing drainage system which drains to the street. The site slopes naturally towards the street; therefore, there would be minimal risk of runoff impacts to adjoining residential sites. Appropriate conditions have been recommended.

### **3.1.3 Bushfire**

The subject site is mapped as bush fire prone land and a Bushfire Assessment Report was submitted to support the development application as the proposed alterations and additions would be located within an area with a Bushfire Attack Level (BAL) of BAL-40. The proposal was referred to the NSW Rural Fire Service (RFS) in accordance with Section 4.14(1A) of the Act for comment.

The RFS raised no objections to the development, subject to the conditions recommended in the Schedule 1. All newly constructed alterations and additions are to conform to BAL-40 construction standards as stated in the Bushfire Assessment Report.

As such, the proposal meets the desired outcomes of Part 1.3.3.1 Bushfire of the HDCP and is considered acceptable.

## **3.2 Built Environment**

### **3.2.1 Built Form**

The proposal would result in a maximum height of 10.13m. However, the built form is considered acceptable as discussed in Section 0 of this report.

### **3.2.2 Traffic**

The proposal being for alterations and additions to a dwelling house would not have any adverse impact on traffic generation.

## **3.3 Social Impacts**

The alterations and additions to a dwelling house result in a positive social contribution by providing for the housing needs of the community within a low-density residential environment.

## **3.4 Economic Impacts**

The alterations and additions to a dwelling house would not have any detrimental economic impact upon the locality.

## **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 is capable of accommodating the proposed development. The scale of the proposed development is consistent with the capability of the site and is considered acceptable.

### **4.1 Bushfire Risk**

As noted in Section 3.1.3 of this report, the subject site is identified as being bushfire prone and was referred to the RFS for comment in accordance with Section 4.14(1A) of the Act.

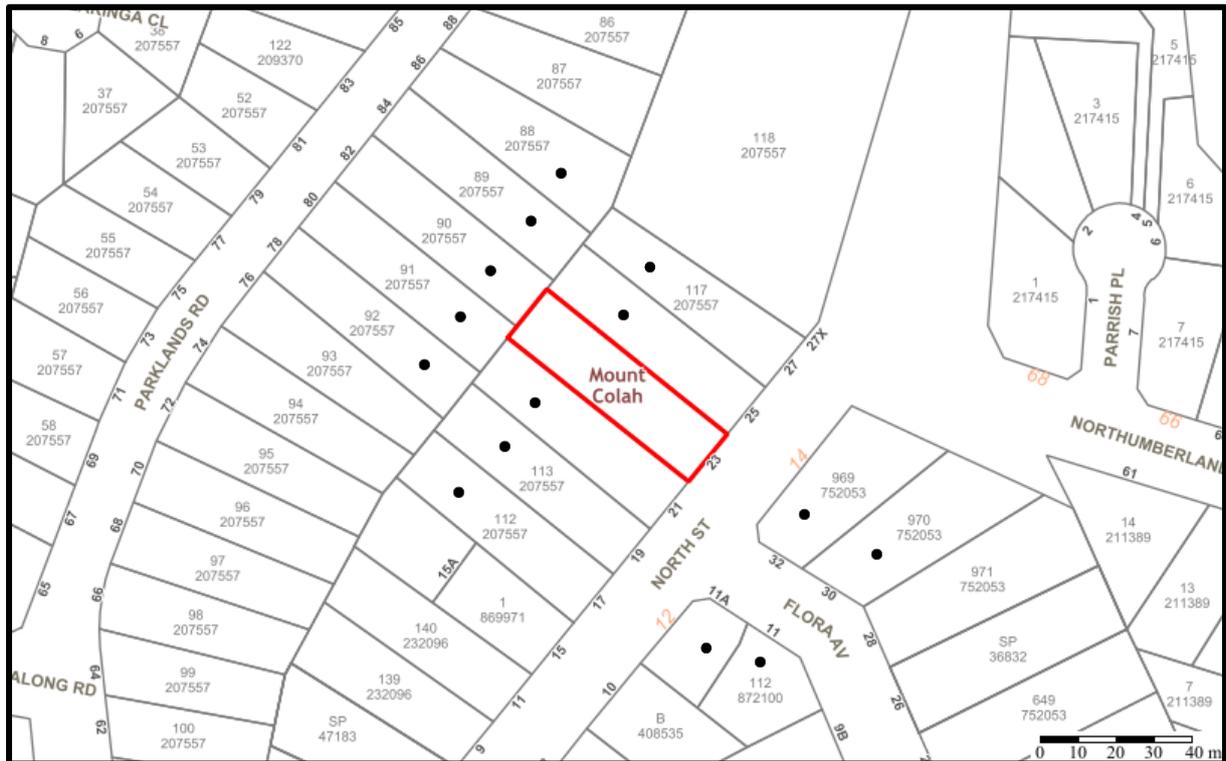
Conditions provided by RFS have been included in the conditions of consent in Schedule 1.

**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 3 December 2025 and 17 December 2025 in accordance with the Hornsby Community Engagement Plan. During this period, Council received nil submissions. The map below illustrates the location of those nearby landowners who were notified.



**NOTIFICATION PLAN**

• PROPERTIES NOTIFIED	X SUBMISSIONS RECEIVED	 PROPERTY SUBJECT OF DEVELOPMENT	
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**5.2 Public Agencies**

The development application was referred to the following Agencies for comment:

**5.2.1 Rural Fire Service**

The development application was referred to the NSW Rural Service for comment. The RFS agreed with the submitted bushfire assessment report and no objections were raised to the proposed development subject to the recommended conditions of consent.

**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 additions to 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*.

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

The reasons for this decision are:

- In accordance with Clause 4.6 of the Hornsby Local Environmental Plan 2013, Council is satisfied that the applicant’s written request has adequately addressed the matters required to be demonstrated by clause 4.6(3)(a) and (b) of the Hornsby Local Environmental Plan 2013 that:
  - Compliance with the development standards is unreasonable and unnecessary in the circumstances of the case, and
  - There are sufficient environmental planning grounds to justify contravening the development standard.
- 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.

*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

ROD PICKLES  
Manager - Development Assessments  
Planning and Compliance Division

Planning and Compliance Division

**ITEM 5**

**Attachments:**

1.  Clause 4.6 Request
2.  Architectural Plans

File Reference: DA/1300/2025/PUBLICACCESS

Document Number: D09299342

## SCHEDULE 1

# GENERAL CONDITIONS

**ITEM 5**

- Condition

### 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
- DA.01, Rev I	- Site Plan	- JJ Drafting	- 21.01.2026	-
- DA.06, Rev I	- Demolition Ground Floor Plan	- JJ Drafting	- 21.01.2026	-
- DA.07, Rev I	- Ground Floor Plan	- JJ Drafting	- 21.01.2026	-
- DA.08, Rev I	- First Floor Plan	- JJ Drafting	- 21.01.2026	-
- DA.09, Rev I	- North East Elevation	- JJ Drafting	- 21.01.2026	-
- DA.10, Rev I	- South West Elevation	- JJ Drafting	- 21.01.2026	-
- DA.11, Rev I	- North West Elevation	- JJ Drafting	- 21.01.2026	-
- DA.12, Rev I	- South East Elevation	- JJ Drafting	- 21.01.2026	-
- DA.13, Rev I	- Section	- JJ Drafting	- 21.01.2026	-
- DA.16, Rev I	- Erosion & Sediment Control Plan	- JJ Drafting	- 21.01.2026	-

#### Supporting Documentation

- Document Title	- Prepared by	- Dated	- Council Reference
- BASIX Certificate A1823048	- JJ Drafting Australia Pty Ltd	- 21.11.2025	- D09267977
- Bushfire Assessment Report Ref: BR-2025-01581-A	- Bushfire Planning & Design	- 18.11.2025	- D09267978
- Waste Management Plan	- Jitka Jankovec	- 03.11.2025	- D09268009
- Detail Survey	- Bissett & Wright	- 19.08.2025	- D09268008

- Document Title	- Prepared by	- Dated	- Council Reference
	Pty Ltd		

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

## 2. Removal of Trees

No consent is granted for the removal of trees as part of this application.

*Note: The removal of any other trees from the site requires separate approval by Council in accordance with Part 1.2.6 Tree and Vegetation Preservation of the Hornsby Development Control Plan 2024.*

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

## 3. Construction Certificate

1. A Construction Certificate is required to be approved by Council or a Principal Certifier prior to the commencement of any construction works under this consent.
2. 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.*

## 4. Section 7.12 Development Contributions

1. 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, \$4,130.50 must be paid towards the provision, extension or augmentation of public amenities or public services, based on development costs of \$413,050.
2. The value of this contribution is current as of 23 January 2026. 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<sub>PY</sub>** is the amount of the contribution at the date of Payment
- \\$C<sub>DC</sub>** is the amount of the contribution as set out in this Development Consent
- CPI<sub>PY</sub>** is the latest release of the Consumer Price Index (Sydney - All Groups) at the date of Payment as published by the ABS.
- CPI<sub>DC</sub>** is the Consumer Price Index (Sydney - All Groups) for the financial quarter at the date of this Development Consent.

3. The monetary contributions shall be paid to Council:
- Prior to the issue of the Subdivision Certificate where the development is for subdivision; or
  - Prior to the issue of the first Construction Certificate where the development is for building work; or
  - Prior to issue of the Subdivision Certificate or first Construction Certificate, whichever occurs first, where the development involves both subdivision and building work; or
  - Prior to the works commencing where the development does not require a Construction Certificate or Subdivision Certificate.

*Note: Should the cost of works increase at Construction Certificate stage, a revised contribution amount will be calculated in accordance with the Hornsby Shire Council Section 7.12 Development Contributions Plan.*

*Note: It is the professional responsibility of the Principal Certifier 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](http://www.hornsby.nsw.gov.au) or a copy may be inspected at Council's Administration Centre during normal business hours.*

*Note: To arrange a Payment Advice for the monetary contributions, please contact Council's Customer Service Team on 9847 6666.*

*Reason: To address the increased demand for community infrastructure resulting from the approved development.*

## 5. Compliance with Other Department, Authority or Service Requirements

The development must be carried out in compliance with all recommendations and requirements, excluding general advice, within the following:

- Other Department, Authority or Service	- Document Title/ Ref	- Dated	- Council Reference
- NSW Rural Fire Service	- RFS Determination Letter DA20251128005001-Original-1	- 17.12.2025	- D09285066

(NOTE: For a copy of the above referenced document/s, please see Application Enquiry System on Council's website [www.hornsby.nsw.gov.au](http://www.hornsby.nsw.gov.au))

Reason: To ensure the work is carried out in accordance with the determination and the statutory requirements of other departments, authorities or bodies.

## BUILDING WORK

### BEFORE ISSUE OF A CONSTRUCTION CERTIFICATE

- Condition

#### 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. 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 Certifier for the development to which the work relates (not being Council) has given Council written notice of the following information:

1. In the case of work for which a principal contractor is required to be appointed:
  - a. The name and licence number of the principal contractor; and
  - b. The name of the insurer by which the work is insured under Part 6 of that Act.
2. In the case of work to be done by an owner-builder:
  - a. The name of the owner-builder; and

- b. 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 Certifier 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. 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 in accordance with the following requirements:

1. Connected to the existing internal drainage system.

*Reason: To ensure appropriate provision for management and disposal of stormwater.*

## **BEFORE BUILDING WORK COMMENCES**

- |   |
|---|
| <ul style="list-style-type: none"> <li>• Condition</li> </ul> |
|---|

#### **10. Site Sign**

1. A sign must be erected in a prominent position on any site on which any approved work involving excavation, erection or demolition of a building is being carried out detailing:
  - a. The name, address, and telephone number of the Principal Certifier.
  - b. 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
  - c. Unauthorised entry to the work site is prohibited.
2. The sign must be maintained during excavation, demolition and building 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).*

#### **11. Asbestos Removal Signage**

Before demolition or remediation work commences involving the removal of asbestos, a standard commercially manufactured sign containing the words 'DANGER: Asbestos removal in progress' (measuring not less than 400mm x 300mm) must be erected in a prominent position at the entry point/s of the site and maintained for the entire duration of the removal of the asbestos.

*Reason: To alert the public to any danger arising from the removal of asbestos.*

#### **12. Protection of Adjoining Areas**

1. 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); and.
2. Council's separate written approval is required prior to the erection of any temporary hoarding, fence or awning on or over public land. The erection of a hoarding must be applied for via Council's Online Services Portal together with details showing the location and type of hoarding.

*Note: The Hoarding/ Temporary Fencing application 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: My Applications > New Applications > Under 'Application Types': Hoarding/ Temporary Fencing Applications.*

3. Where any part of the road or footpath is required to be occupied or closed during any stage of works, including demolition, excavation, construction or remediation, a temporary full / partial road or footpath closure permit must be approved by Council. The permit must be applied for via Council's Online Services Portal.

*Note: A Temporary Road/ Footpath Closure application 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: Under 'Roads, Traffic and Parking': Temporary Full/ Partial Road Closure.*

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

### **13. Notice of Commencement for Demolition**

At least one week before demolition work commences, written notice must be provided to council and the occupiers of neighbouring premises of the work commencing. The notice must include:

1. Name
2. Address,
3. Contact telephone number,
4. Licence type and license number of any demolition waste removal contractor and, if applicable, asbestos removal contractor,
5. The contact telephone number of council and
6. The contact telephone number of SafeWork NSW (4921 2900).

*Note: The written notice to Council can be sent to [devmail@hornsby.nsw.gov.au](mailto:devmail@hornsby.nsw.gov.au).*

*Reason: To advise neighbours about the commencement of demolition work and provide contact details for enquiries.*

#### **14. Toilet Facilities**

1. 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.
2. Each toilet must:
  - a. Be a standard flushing toilet connected to a public sewer; or
  - b. Be a temporary chemical closet approved under the *Local Government Act 1993*; or
  - c. Have an on-site effluent disposal system approved under the *Local Government Act 1993*.

*Reason: To ensure adequate toilet facilities are provided.*

#### **15. Erosion and Sediment Control Measures**

Install and maintain adequate sediment and erosion control measures for the duration of all works, until such a time that sediment, sediment laden water or any other material/substance can no longer migrate from the premises. The measures are to be installed and maintained in such a manner as to prevent sediment, sediment-laden water, or any other materials and substances migrating from the site onto neighbouring land, the roadway, waters and/or into the stormwater system, and in accordance with:

1. The publication *Managing Urban Stormwater: Soils and Construction 2004* (4th edition) - 'The Blue Book'.
2. *Protection of the Environment Operations Act 1997*; and
3. The approved plans

Controls are to be monitored and adjusted where required throughout the works to ensure compliance with the above

*Note: On the spot penalties may be issued for any non-compliance with this requirement without any further notification or warning. If you are unsure in how to achieve compliance with this condition during works, you may need to engage the services of a suitably qualified environmental, soil or geotechnical consultant to assist.*

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

#### **16. Garbage Receptacle**

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

1. The garbage receptacle must have a tight fitting lid and be suitable for the reception of food scraps and papers.

2. The receptacle lid must be kept closed at all times, other than when garbage is being deposited.
3. 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.*

## DURING BUILDING WORK

- |             |
|-------------|
| • Condition |
|-------------|

### 17. Hours of Work

1. All work on site (including remediation, demolition, construction, earth works and removal of vegetation), must only occur between 7am and 5pm Monday to Saturday.
2. No work is to be undertaken on Sundays or public holidays.

*Reason: To protect the amenity of neighbouring properties.*

### 18. Demolition

To protect the surrounding environment, all demolition work must be carried out in accordance with Australian Standard AS2601-2001 The Demolition of Structures and the following requirements:

1. 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
2. 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
3. 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.*

### 19. Handling of Asbestos

While demolition or remediation work is being carried out, any work involving the removal of asbestos must comply with the following requirements:

1. Only an asbestos removal contractor who holds the required class of Asbestos Licence issued by SafeWork NSW must carry out the removal, handling, and disposal of any asbestos material.
2. Asbestos waste in any form must be disposed of at a waste facility licensed by the NSW Environment Protection Authority to accept asbestos waste; and

3. Any asbestos waste load over 100kg (including asbestos contaminated soil) or 10m<sup>2</sup> or more of asbestos sheeting must be registered with the EPA on-line reporting tool WasteLocate.

*Reason: To ensure that the removal of asbestos is undertaken safely and professionally.*

## **20. Environmental Management (Air Pollution)**

The Applicant must take all reasonable steps to minimise dust generated during all works (including remediation, demolition, earthworks and construction) authorised by this consent. During works, the Applicant must ensure that:

1. All trucks entering or leaving the site with loads have their loads covered.
2. Trucks associated with the development do not track dirt onto the public road network.
3. Public roads used by these trucks are kept clean; and
4. Land stabilisation works are carried out progressively on site to minimise exposed surfaces.

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

## **21. Council Property**

To ensure that the public reserve is kept in a clean, tidy, and safe condition during remediation, demolition, excavation and construction works:

1. No building materials, skip bins, concrete pumps, cranes, machinery, temporary traffic control, signs or vehicles associated with the development shall be stored or placed on Council's footpath, nature strip, roadway, park or reserve without the prior approval being issued by Council under section 138 of the *Roads Act 1993*.
2. All work, loading and unloading associated with the development are to occur entirely within the property boundaries, unless otherwise approved by Council under section 138 of the *Roads Act 1993*.

*Reason: To protect public land.*

## **22. 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.*

## **23. 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.*

## **24. Survey Report**

A report(s) must be prepared by a registered surveyor and submitted to the Principal Certifier:

1. Prior to the pouring of concrete at each level of the building certifying that:

- a. The building, retaining walls and the like have been correctly positioned on the site; and
- b. 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.*

## **25. 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.*

## **26. 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 Principal Certifier and Council (compliance@hornsby.nsw.gov.au).

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

# **BEFORE ISSUE OF AN OCCUPATION CERTIFICATE**

- |             |
|-------------|
| • Condition |
|-------------|

## **27. 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.*

## **28. 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 Principal 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.*

## **29. 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](http://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.*

## **30. Certification of RFS Requirements**

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A Certificate prepared by a BPAD accredited Bushfire Consultant is to be provided to the Principal Certifier (PC) certifying the completion of the following works required by the NSW RFS conditions of concurrence prior to the issue of the Occupation Certificate:

1. Asset Protection Zones
2. Water and Utility Services

*Reason: To ensure all bushfire protection measures are implemented to protect life and property.*

**- END OF CONDITIONS -**

**ITEM 5**