



# **BUSINESS PAPER**

## **LOCAL PLANNING PANEL MEETING**

**Wednesday 25 March 2026  
at 10:30 AM**



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**1 DA/978/2025 - CONSTRUCTION OF A MULTI PURPOSE HALL AND ALTERATIONS & ADDITIONS TO A PLACE OF WORSHIP - 444 GALSTON ROAD, DURAL**

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**DA No:** DA/978/2025 (PAN-567365 - Lodged on 8 September 2025)

**Description:** Construction of a multi-purpose hall and alterations and additions to a Place of Worship

**Property:** Lot 22 DP 239110, No. 444 Galston Road, Dural

**Applicant:** St Mary & St Sydhom Bishay Coptic Orthodox Church

**Owner:** Coptic Orthodox Church (NSW) Property Trust

**Estimated Value:** \$12,498,182

**Ward:** A Ward

**Submissions:** 5 objections and 147 in support

**LPP Criteria:** Regional Significant Development Criteria (now requires determination by LPP)

**Author:** George Papworth, Senior Town Planner

**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/978/2025 for the construction of a multi-purpose hall and alterations and additions to a place of worship at Lot 22 DP 239110, No. 444 Galston Road Dural subject to the conditions of consent in Schedule 1 of LPP Report No. LPP10/26.

## EXECUTIVE SUMMARY

- The application involves the construction of a multi-purpose hall and alterations and additions to a place of worship.
- A total of 150 submissions have been received in respect of the application, with a 147 in support and 5 objections.
- The application is required to be determined by the Hornsby Council Local Planning Panel as the proposal meets the Regionally Significant Development criteria under State Environmental Planning Policy (Planning Systems) 2021.
- It is recommended that the application be approved.

## BACKGROUND

On 17 March 2004, Council granted consent to a development application (DA/1021/2003) for alterations and additions to an existing dwelling and change of use of part of the site to a place of worship.

On 21 February 2005, Council approved the Section 96 application (DA/1021/2003/A) to modify the approved alterations and additions including changes to the roof/ awning, internal changes and new doors and window locations. The modification included changes to the approved surface to the car park area and time illumination of the crucifix on the front façade.

On 15 November 2006, Council refused the Section 96 application (DA/1021/2003/B) to modify the approved hours of operation on the following grounds:

1. *The proposal is unsatisfactory in respect to the provisions of Section 79C(1)(a) of the Environmental Planning and Assessment Act 1979, as the proposal does not comply with the requirements of the Rural Lands Development Control Plan, in particular, the element controls for 'Acoustics', 'Effluent Disposal' and 'Fences and Gates'.*
2. *The proposal is unsatisfactory in respect to the provisions of Section 79C(1)(a) of the Environmental Planning and Assessment Act 1979, as the proposal does not comply with the requirements of the Community Uses Development Control Plan, in particular, the element control for 'Acoustics'.*
3. *Insufficient information has been provided regarding the proposed acoustic impacts and the recommended acoustic barrier to enable a comprehensive assessment of the application.*
4. *The applicant has not demonstrated that the proposal will not have a detrimental acoustic impact upon the adjoining residential properties.*
5. *Insufficient information has been provided regarding the capacity of the existing effluent disposal system and its capability with respect to the proposed increase in hours of operation.*
6. *The applicant has not demonstrated that the wastewater generated on the premises is disposed of in a manner consistent with the land capability of the site and that prevents negative impacts on the environment and public health.*
7. *The Coptic church has not complied with the existing approved hours of use, and any further time as requested would be detrimental to the well being of the neighbours.*

On 8 March 2007, A Class 1 appeal in respect to the refusal of the Section 96 application (DA/1021/2003/B) was filed in the Land and Environment Court. On 30 August 2007, the court upheld the appeal and agreed to modify the hours of operation for the church.

On 20 April 2007, Council refused a development application (DA/601/2006) for construction of a new building for use as a Sunday school and amenities at the subject property, generally on grounds that:

1. *The proposal is unsatisfactory in respect to the provisions of Section 79C(1)(a) of the Environmental Planning and Assessment Act, 1979, as the proposal does not comply with the requirements of the Rural Lands Development Control Plan, in particular, the element controls for 'Setbacks', 'Acoustics' and 'Effluent Disposal'.*
2. *The proposal is unsatisfactory in respect to the provisions of Section 79C(1)(a) of the Environmental Planning and Assessment Act, 1979, as the proposal does not comply with the requirements of the Community Uses Development Control Plan, in particular, the element control for 'Density', 'Setbacks', 'Parking and Access' and 'Acoustics'.*
3. *Insufficient information has been provided regarding the proposed acoustic impacts and the recommended acoustic barrier to enable a comprehensive assessment of the application.*
4. *The applicant has not demonstrated that the proposal will not have a detrimental acoustic impact upon the adjoining residential properties.*
5. *Insufficient information has been provided regarding the capacity of the existing effluent disposal system and its capability with respect to the proposed development.*
6. *The applicant has not demonstrated that the wastewater generated on the premises is disposed of in a manner consistent with the land capability of the site and that prevents negative impacts on the environment and public health.*
7. *Insufficient information has been provided regarding traffic generation and provision of car parking for the existing and proposed development.*

On 6 August 2008, Council approved the Section 96 application (DA/1021/2003/C) to increase the congregation numbers from 80 persons to 140 persons and upgrade the existing carpark.

On 27 July 2017, Council approved a development application (DA/222/2017) for construction of an educational facility ancillary to a place of public worship.

## **SITE**

The site has an area of 2.024ha and has frontage to Galston Road Dural. It comprises land identified as Lot 22 DP 239110, known as No. 444 Galston Road, Dural. The property is located on the western side of Galston Road to the north of its intersection with Old Northern Road and 145m to the south is the intersection of Carters Road and Galston Road adjacent to a bend in Galston Road.

Lot 22 is generally rectangular in shape with a splayed frontage to Galston Road of 71.39m. The site has northern and southern boundaries of approximately 304m and 331m, respectively.

A single-storey brick/tile dwelling/church (St Mary and St Sydhom Bishay Coptic Orthodox Church) is set back approximately 150m from Galston Road. The building is located on a ridge with drainage to Galston Road, over an average slope down the site of 5%.

The approved hours of use for the chapel under DA/1021/2003/C, including earliest arrivals and the latest departures of the congregation attending services, are restricted to:

- Weekdays from 8.30am to 9.30pm
- Saturdays from 8.30am to 9.30pm
- Sundays and Public Holidays from 8.30am to 6.30pm

- Midnight mass on 6 January (Christmas Eve for the Coptic Orthodox Church)
- Midnight mass on Easter Eve.

The above times in points 1, 2 and 3, include the feast day anniversary of the Galston Church Patron Saint Sydhom Bishay depending on which day it occurs. Midnight mass referred to in points 4 and 5 above to commence at 7.00pm and the service to conclude at 12.00am. Hours of approval for Midnight mass are to be extended to require all departures of the congregation attending the service to have left the property by no later than 12.30am.

Formal parking is provided for 71 cars surrounded by landscaped gardens in accordance with the approval plans under DA/1021/2003/C.

A Sunday School, consisting of two demountable buildings and an attached deck, is located to the rear of the church building and operates ancillary to the existing place of worship, between the hours of 11am and 2pm within the approved hours of operation of the site.

The properties surrounding the site are rural residential in character and the site is located within the vicinity of heritage listed houses at Nos. 429 and 431 Galston Road, Dural (Item Nos. 336 and 337) and a heritage listed garden at No. 452 Galston Road (Item No. 339) identified to be local significance under Schedule 5 (Environmental heritage) of the Hornsby Local Environmental Plan 2013 (HLEP).

## PROPOSAL

The proposed development seeks consent for the partial demolition of the existing church building and carpark, and demolition of the existing driveway, kids play area, basketball court, Sunday school building, outdoor pergola and decking, external storage and septic tank. The consent also seeks approval for the construction of a new church, multi-purpose hall with basement carparking, new children's play space, rearrangement to existing carpark space, new driveway, on-site wastewater treatment system and extension to the existing on-site detention basin.

The proposed development does not seek to increase the existing approved patron numbers of 150 persons (condition No. 65A in Development Consent No. DA/1021/2003/C), however amendments to the operating hours are proposed as detailed below:

- The hours of operation of the Churches would be restricted to those times listed below:
  - Monday to Saturday 7:00am to 10:00pm
  - Sunday 8:00am to 1:00pm
- The hours of operation of the Multipurpose Hall would be restricted to those times listed below:
  - Thursday to Friday 7:00pm to 10:00pm (Religious Service)
  - Sunday 11:30am to 1:00pm (Sunday School Service)
- The hours of operation of the premise would be restricted to those times listed below:
  - Passion Week Morning 9:00pm to 1:00pm
  - Passion Week Evening 5:00pm to 9:00pm
  - Covenant Thursday 6:00am to 2:00pm
  - Good Friday 7:00am to 5:00pm
  - Resurrection Feast 6:00pm to 10:00pm

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- |   |                  |                    |
|---|------------------|--------------------|
| ○ | Nativity Service | 6:00pm to 10:00pm  |
| ○ | New Year's Eve   | 6:00pm to 11:00pm  |
| ○ | Funeral Services | 10:00am to 12 noon |

No trees would be removed for 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.

Part 3 of the strategy relates to 'Infrastructure and Collaboration', and a key objective is to provide services and infrastructure to meet communities' changing needs. Further, the strategy cites changing demographics will affect the types and distribution of services required in neighbourhoods.

The proposed place of worship and multi-function hall would be consistent with the objectives of the strategy by providing social infrastructure to support a growing population.

### 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 Planning Systems Reforms Act 2025

The *Environmental Planning and Assessment Amendment (Planning System Reforms) Act 2025* (Reforms Act) commenced on Monday 15 December 2025 (commences in stages through a series of proclamations). From 16 January 2026, all Regionally Significant Development Applications (RSDA) that did not fit the following criteria were 'returned' through the NSW Planning Portal mechanism to Council's Local Planning Panel (LPP) for determination under these reforms.

- >500 days
- Council assessment report finalised and published on the portal
- Existing court appeal

Given this application does not meet the above criteria, the determining authority for the subject RSDA application is the Hornsby Local Planning Panel and the Sydney North Regional Planning Panel transferred the application accordingly.

## **2.2 Hornsby Local Environmental Plan 2013**

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

### **2.2.1 Zoning of Land and Permissibility**

The subject land is zoned RU2 Rural landscape under the HLEP. The objectives of the RU2 zone are:

- *To encourage sustainable primary industry production by maintaining and enhancing the natural resource base.*
- *To maintain the rural landscape character of the land.*
- *To provide for a range of compatible land uses, including extensive agriculture.*
- *To encourage land uses that support primary industry and align with the rural character of the area, including agritourism and tourist and visitor accommodation.*
- *To ensure that development does not unreasonably increase the demand for public infrastructure, services or facilities.*

The proposed development is defined as a '*place of public worship*' and is permissible in the RU2 zone with Council's consent.

### **2.2.2 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 10.5m. The proposal has a maximum height of 10.48m which complies with this provision.

### **2.2.3 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. The site is located within the vicinity of the following heritage items:

- Item 336 'Koombahla' at No. 429 Galston Road Dural
- Item 337 House at No. 431 Galston Road Dural
- Item 339 Garden at No. 452 Galston Road Dural
- Item 831 Oak tree at No. 458 Galston Road Dural

The site of the proposed development sits within a rural locality with large allotments and a mixed form of development. The proposed development is located in the rear portion of the site, physically and visually separated from the heritage items by an arterial road, existing development and/ or landscaping, resulting in no adverse impact.

The proposed development has been designed with an appropriate height, bulk, scale and setbacks which do not alter the existing views from Galston Road.

Accordingly, the proposed development would not impact on the heritage significance or setting of the items.

#### 2.2.4 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 predominantly with the construction of the multipurpose hall with minor earthworks required for the new church building.

This excavation would entail the removal of 761m<sup>3</sup> of material from the site. At its deepest point, the excavation would be approximately 2.7m below the existing ground level, with the majority of the excavation works being confined to the basement car park area and associated external access staircase to the multi-purpose hall. As the multi-purpose hall steps up towards the front of the site excavation depth reduces with some fill being proposed for the front portion of the building to create a level building platform. Minor landscaping work is also proposed.

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 excavations are unlikely to have a detrimental effect on the drainage patterns given that all stormwater from the multi-purpose hall would be directed to an absorption trench to the rear and the stormwater from the new church would be directed to the existing OSD basin at the front of the property.  With respect to soil stability, appropriate conditions of consent have been recommended under Schedule 1 for during the construction phase of the development. Upon completion of the development, it is anticipated that there will be no ongoing soil stability issues.
(b) the effect of the development on the likely future use or redevelopment of the land	The earthworks are required to facilitate the proposal which would allow the full development potential of the site to be realised.
(c) the quality of the fill or the soil to be excavated, or both	A condition is recommended to ensure that no fill material is imported to the site, and all excavated material exported 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	Appropriate conditions have been recommended in Schedule 1 of this report to limit amenity impacts during the construction period.
(e) the source of any fill material and the destination of any excavated material	A condition has been recommended 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	The proposed works would not be located in proximity to any environmentally sensitive area. Subject to appropriate erosion and sediment conditions, it is considered that any adverse impacts can be mitigated.
(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.

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

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

### 2.1.1 Chapter 2 Vegetation in Non-Rural Areas

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

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

Section 2.9.2 of this report provides an assessment in accordance with Part 1.2.6.1 of the HDCP.

### 2.1.2 Chapters 3 & 4 Koala Habitat Protection

Chapter 3 of this policy does not apply as lands within Hornsby Shire are excluded as indicated in Schedule 1.

Chapter 4 applies as the site has an area of at least one hectare and Hornsby Shire is listed in Schedule 2 with an asterisk. Chapter 4 requires Council to consider whether development upon land with an area greater than 1 hectare would have an adverse impact upon potential koala habitat. The proposed development would be located within an already cleared area of the site, and no trees are proposed to be removed.

Accordingly, Council is satisfied that the development is likely to have low or no impact on koalas or koala habitat.

### 2.1.3 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. This chapter 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.

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

The application has been assessed against the requirements of chapter 3 of State Environmental Planning Policy (Sustainable Buildings) 2022 which seeks to encourage the design and delivery of more sustainable buildings.

Chapter 3 sets out the Standards for non-residential development. The site is zoned RU2 Rural landscape and therefore Chapter 3 does not apply.

## **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 and more recently for a place of worship. 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 (Transport and Infrastructure) 2021**

The application has been assessed against the requirements of chapter 2 of State Environmental Planning Policy (Transport and Infrastructure) 2021.

### **2.4.1 Frontage to a Classified Road**

The application is subject to assessment under Section 2.119 of the SEPP given the proposal has a frontage to a classified road being Galston Road.

Section 2.119(2) of the Policy states:

- (2) *The consent authority must not grant consent to development on land that has a frontage to a classified road unless it is satisfied that:*
  - (a) *where practicable, vehicular access to the land is provided by a road other than the classified road, and*

- (b) *the safety, efficiency and ongoing operation of the classified road will not be adversely affected by the development as a result of:*
  - (i) *the design of the vehicular access to the land, or*
  - (ii) *the emission of smoke or dust from the development, or*
  - (iii) *the nature, volume or frequency of vehicles using the classified road to gain access to the land, and*
- (c) *the development is of a type that is not sensitive to traffic noise or vehicle emissions, or is appropriately located and designed, or includes measures, to ameliorate potential traffic noise or vehicle emissions within the site of the development arising from the adjacent classified road.*

In regard to Section 2.119(2)(a), vehicle access to the site is facilitated via an existing entry to Galston Road with no alternative available, which satisfies this requirement.

In regard to Section 2.119(2)(b), Council's Traffic and Road Safety Team assessed the proposed design and raised no objections to the proposed application as there would be no increase in the number of patrons visiting the site and no change to the existing access arrangement.

Subject to these conditions, Council is satisfied that the safety, efficiency and operation of the classified road would not be adversely impacted by the proposal.

In regard to Section 2.119(2)(c), the development is a type that is not sensitive to traffic noise or vehicle emissions and is appropriately setback over 100m from the classified road.

#### **2.4.2 Impact of road noise or vibration on non-road development**

Section 2.120 applies to development for a place of public worship that is on land in or adjacent to any other road with an annual average daily traffic volume of more than 20,000 vehicles (based on the traffic volume data published on the website of TfNSW) and that the consent authority considers is likely to be adversely affected by road noise or vibration.

The TfNSW traffic volume data for Galston Road for 2026 has an average daily traffic volume of 12,470 and therefore Section 2.120 does not apply.

#### **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 (HDCCP). The following table sets out the proposal's compliance with the prescriptive requirements of the Plan:

HDCCP - Part 7.1 Community Uses			
Control	Proposal	Requirement	Complies
Site Area	2.024ha	N/A	N/A
Building Height	10.48m	10.5m	Yes
No. storeys	2 storeys	max. 2 + attic	Yes
Site Coverage	11%	On merit	Yes
Setbacks			
- Front	>30m	30m	Yes
- Side	10m	10m	Yes
- Side	10m	10m	Yes
- Rear	40m	15m	Yes
Building Separation (with vegetation buffer)	26m and 40m	20m	Yes
Car Parking	94 spaces	30 spaces	Yes

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

### 2.7.1 Site Requirements

The desired outcome of 7.1.1 Site Requirements of the HDCCP is to encourage *“Community uses located to be readily accessible to users, promote the health and safety of the future occupants of the facility and minimise potential land use conflicts.”*

This is supported by the prescriptive measure (g) which states that *‘Within the rural areas of the Shire, community facilities should comply with the minimum separations between intensive rural land uses and sensitive land uses as detailed in Section 2.2 of the DCP’.*

The subject site benefits from existing vegetation buffers along the side and rear boundaries. The proposed development does not seek consent for any trees to be removed, with additional planting proposed to enhance the tree canopy across the site. The minimum building separation to the neighbouring dwellings would be 20m in accordance with Table 2.2.1-a.

The proposed buildings would have minimum separation of 26m to the west side, 40m to the east side and 86m to the rear which complies with the minimum 20m prescriptive measure.

The proposed development is considered to meet the desired outcomes of Part 7.1.1 Site requirements of the HDCCP and is considered acceptable.

### 2.7.2 Scale

The desired outcome of 7.1.2 Scale of the HDCP is to encourage *“Development with a height, scale and intensity that is compatible with the character of the area”*.

This is supported by prescriptive measures that state *‘the scale of buildings should be in accordance with Table 7.1.2-a’*.

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 10.5m. The proposal has a maximum height of 10.48m which complies with this provision.

There are no Floor Space Ratio (FSR) provisions for the site.

The proposed site coverage of 11% is considered acceptable for the rural setting with complying setbacks provided in accordance with Table 2.1.2-a.

The proposed development is considered to meet the desired outcomes of Part 7.1.2 Scale of the HDCP and is considered acceptable.

### 2.7.3 Setback

The desired outcome of 7.1.3 Setbacks of the HDCP is to encourage *‘setbacks that are compatible with adjacent development and complement the streetscape and setbacks that allow for the retention of significant landscape features and respect site constraints.’*

This is supported by prescriptive measures that state *‘minimum setbacks of all buildings and structures to the boundaries of the site are prescribed in Table 7.1.3-a’*.

The proposed multi-purpose hall and alterations and additions to the church building comply with the minimum setbacks as prescribed in Table 7.1.3-a.

A proposed awning connecting the multi-purpose hall with the existing church would encroach into the west side setback and would have a non-compliant side setback of 7m. The structure would be a lightweight open structure and would be of a scale that is compatible with the character of the area.

The proposed driveway along the eastern side setback encroaches into the side boundary setback, however, in accordance with prescriptive measure (g), driveways between the on-site car parking and public road is a permissible encroachment.

The proposal includes three sets of staircases, two along the eastern side setback and one along the western side setback that encroach into the side boundary 10m setback, however, in accordance with prescriptive measure (g), staircases to the ground floor level are a permissible encroachment.

The proposed development is considered to meet the desired outcomes of Part 7.1.3 Setback of the HDCP and is considered acceptable

### 2.7.4 Landscaping

The desired outcome of 7.1.4 Landscaping of the HDCP is to encourage *‘landscaping that is compatible with the character of the locality and landscaping that retains existing landscape features.’*

The proposed development retains the existing landscape features by the use of tree sensitive construction methods.

The proposal includes a detailed landscaping plan which includes the planting of 12 trees and 295m<sup>2</sup> of shrubs which would be compatible with the character of the locality, which is predominately cleared sites with sporadic tree canopy.

The proposed development is considered to meet the desired outcomes of Part 7.1.4 Landscaping of the HDCP and is considered acceptable.

### **2.7.5 Privacy, Security and Sunlight**

The desired outcomes of Part 7.1.6 Privacy, Security and Sunlight of the HDCP are to encourage *“development designed to provide reasonable privacy and sunlight to adjacent properties”* and *“development designed to provide high levels of security”*.

The prescriptive measures state that *‘on 22 June, 50% of the principal private open space on any adjoining residential property should receive 3 hours of unobstructed solar access between 9am and 3pm’*.

An assessment of the shadow diagrams provided by the applicant illustrate that the subject site and the adjacent neighbours, would still receive at least 3 hours of unobstructed sunlight access to 50 per cent of their private open space located to the rear of the dwellings between 9am and 3pm on the day of the winter solstice.

The proposed development generally meets the desired outcomes of Part 7.1.6 of the HDCP and is considered acceptable.

### **2.7.6 Vehicle Access and Parking**

The desired outcomes of Part 7.1.7 Vehicle Access and Parking of the HDCP are to encourage *“development with simple, safe and direct vehicular and pedestrian access”* and *“Carparking that meets the requirements of future occupants and their visitors”*.

Additionally, further controls relating to transport and parking are contained within Part 1.3.2.1 Transport and Parking of the HDCP.

Part 1.3.2.1 of the HDCP prescribes the following parking rates for a Places of Public Worship:

- 1 space per 5 seats min (subject to parking study)
- The applicant provided a Transport and Parking assessment Report, prepared by Hemanote Consultants dated October 2023 which detailed vehicular access arrangement and parking at the site.

Council’s Traffic and Road Safety Team assessed the proposal and noted the following:

- *Vehicle access will be maintained via the existing two-way driveway.*
- *It is proposed to increase the parking supply from the existing 71 spaces to 94 spaces with 72 provided at grade and 22 in a basement car park beneath the proposed multi-purpose hall.*
- *As it is not proposed to increase patronage to the church, traffic generation is not considered an issue with the proposed development.*

Accordingly, no objections were raised to the proposed development on traffic and safety grounds.

The proposed development generally meets the desired outcomes of Part 7.1.7 of the HDCP and is considered acceptable.

### 2.7.7 Use

During the assessment of the application, Council issued several requests for additional information to clarify the proposed use of the site, in particular clarification on the use of the site for wedding and/or funeral receptions and special events.

Appropriate conditions of consent have been recommended to ensure that the site is limited to carrying out one wedding ceremony only at a time; no wedding and/or funeral receptions are permitted at any time, detailed hours of operation for the church (new and existing), multi-purpose hall and special services in the new church only; and no increase in the maximum number of 150.

These recommended conditions of consent were shared with the applicant who raised no objections to the proposed conditions of consent in relation to the use of the premises and hours of operation.

### 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 relevant to the proposal.

Section 63 (considerations for erection of temporary structures) of the Regs are not relevant to the proposal. Section 64 (upgrade of buildings) is relevant to the proposal.

Part 4, Division 2 of the Regs requires the consent authority to consider 'Prescribed conditions' of development consent with the following matters being relevant to the proposal.

- Compliance with BCA and insurance requirements under Home Building Act (s.69 - only compliance with the BCA is relevant)
- Erection of signs (s.70)
- Fulfilment of BASIX commitments (s.75)

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**

All trees within the Hornsby Shire are protected under Part 1.2.6.1 of the HDCP, with the exception trees listed as exempt and identified within Table 1.2.6-a.

The applicant originally sought consent for the removal of 12 trees along the property boundary adjacent to the existing car parking area. An amended Arboricultural Impact Assessment (AIA) was provided that confirmed all trees were sought to be retained with appropriate tree sensitive construction techniques proposed.

In particular, the retention of trees numbered 34-50 can be achieved through the implementation of tree sensitive construction methods despite their major or moderate Tree Protection Zone (TPZ) encroachments, including areas of Structural Root Zone (SRZ) impact. The proposed driveway would be constructed by removing the existing pavement only, with no alteration to existing gradients or excavation within the TPZs of trees numbered 34-50. The new pavement would be installed at the existing levels to avoid disturbance to underlying root systems.

The submitted Landscape Plans (LD-DA100 and LD\_DA110 Rev 3) prepared by Scott Carver, dated 15 September 2023 include the planting of 12 trees and 295m<sup>2</sup> of shrubs.

Accordingly, appropriate conditions of consent have been recommended in Schedule 1 of this report to ensure tree sensitive construction techniques are implemented and tree protection measures to the retained trees are maintained.

The proposal meets the prescriptive measures of Part 1.2.6.1 Tree Preservation of the HDCP and is considered acceptable, subject to conditions.

#### **3.1.2 Stormwater Management**

The proposed development would not impact on the existing drainage patterns given that all stormwater from the multi-purpose hall would be directed to an absorption trench to the rear and the stormwater from the new church would be directed to the existing OSD basin at the front of the property.

The existing on-site detention basin at the front of the site would be extended 14.5 metres towards the centre of the site. The existing pool type fence would be extended around the perimeter of the extended OSD basin.

The basin would be in a location that would not impact upon the visual or recreational amenity of residents and would be screened from view from the street.

Conditions of consent have been recommended to ensure appropriate provision for management and disposal of stormwater.

#### **3.1.3 Earthworks**

This excavation would entail the removal of 761m<sup>3</sup> of material from the site. At its deepest point, the excavation would be approximately 2.7m below the existing ground level, with the majority of the excavation works being confined to the basement car park area and associated external access staircase to the multi-purpose hall. As the multi-purpose hall steps up towards the front of the site excavation depth reduces with some fill being proposed for the front portion of the building to create a level building platform. Minor landscaping work is also proposed.

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.

### **3.1.4 Waste Management**

An Onsite Wastewater Report has been prepared by GSL Environmental, the report provided is satisfactory.

The report recommends the installation of a new AWTS system onsite to treat the calculated flowrate of 2000L/day, and the installation of a surface irrigation effluent dispersal field of a minimum 1125m<sup>2</sup> within the rear of the premises.

Appropriate conditions of consent have been recommended to ensure the required licences and approvals for the wastewater system are obtained.

## **3.2 Built Environment**

### **3.2.1 Built Form**

The proposed new church building and multi-purpose comply with the maximum building heights and prescribed setbacks. The buildings would be setback over 100m from Galston Road and would not impact on the local character.

### **3.2.2 Traffic and Parking**

Council's Traffic and Road Safety Team assessed the proposal and noted the following:

- *Vehicle access will be via the existing two-way driveway.*
- *It is proposed to increase the parking supply from the existing 71 spaces to 94 spaces with 72 provided at grade and 22 in a basement car park beneath the proposed multi-purpose hall.*
- *There is overflow parking available at the rear of the site, and a review of aerial photos shows overflow parking also occurs at the front of the property.*
- *As it is not proposed to increase patronage to the church, traffic generation is not considered an issue with the proposed development.*

Accordingly, no objections were raised to the proposed development on traffic and safety grounds.

### **3.2.3 Noise and Vibration**

The desired outcome of Part 1.3.2.5 Noise and Vibration of the HDCP encourages *“development designed and managed to minimise noise and vibration impacts on the occupants of residential dwellings and other noise sensitive land uses.”*

An amended Church Environmental Noise Assessment (Acoustic Report), prepared by Acoustic Logic dated 29 January 2026 has been submitted with the proposal.

The Acoustic Report satisfactorily demonstrates the noise emissions associated with operation of the proposed Place of Worship can comply with the project noise trigger levels. Council's Environmental Protection officer raised no concerns, subject to appropriate conditions recommended in Schedule 1 of this report.

The application also include a Plan of Management dated 30 January 2026 to support the ongoing operation of the site.

The proposed development generally meets the desired outcome of Part 1.3.2.5 Noise and Vibration of the HDCP and is considered acceptable.

### 3.3 Social Impacts

The development would make a positive social contribution to the local community by providing a purpose built place of public worship and multi-purpose hall.

### 3.4 Economic Impacts

The proposed development has an estimated development cost of \$12,498,182 and 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 which would contribute to the local economy.

## 4. SITE SUITABILITY

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

The subject site has been identified as containing parcels of bushfire prone land. The site is considered to be capable of accommodating the proposed development. The scale of the proposed development is consistent with the capability of the site and is considered acceptable.

### 4.1 Bushfire Risk

The north-western and south-eastern corners of the site are identified as bushfire prone land (vegetation buffer). The proposed development would be located wholly outside of the bushfire prone mapped area on the site.

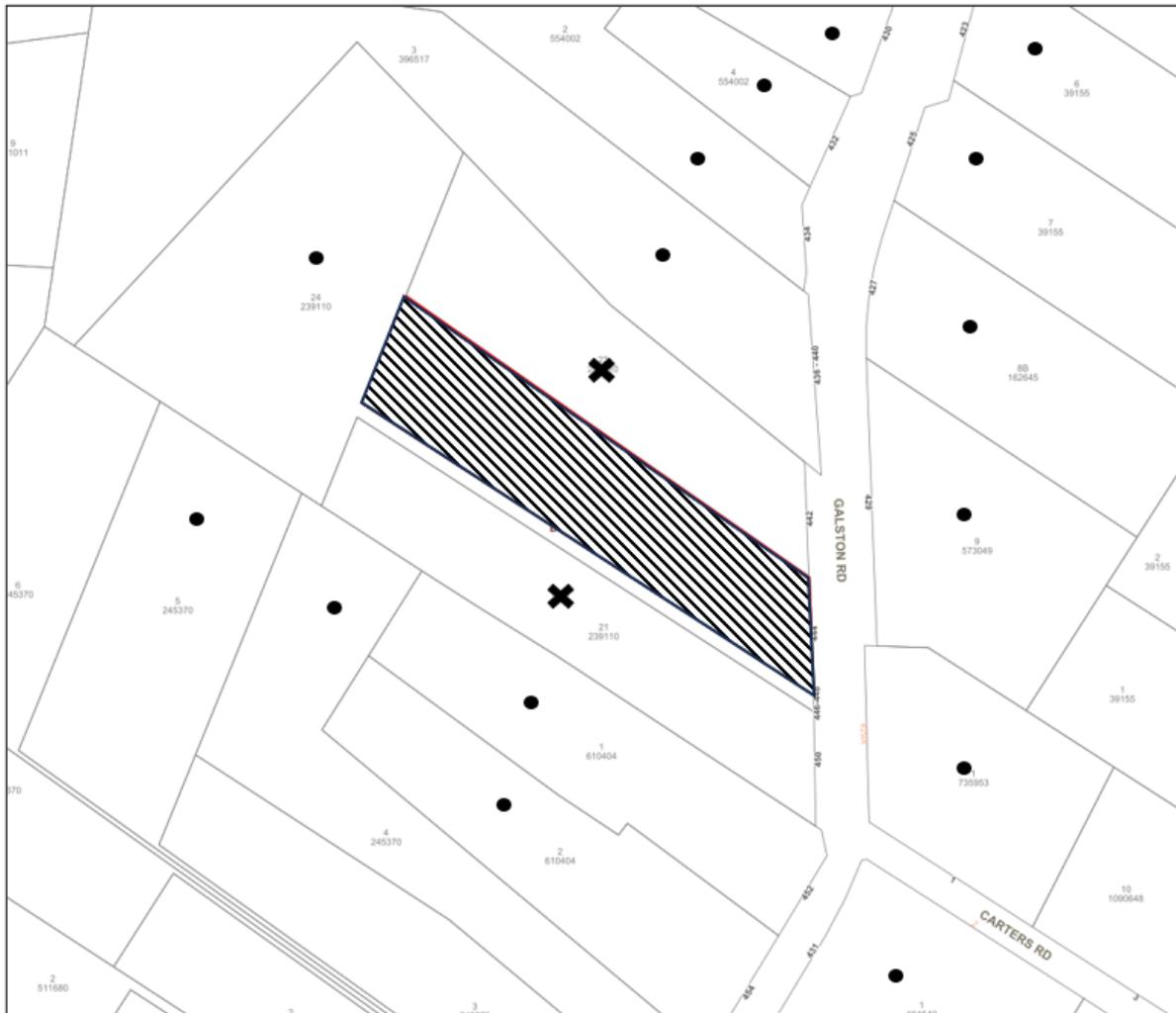
As no *development*, as defined in Section 1.5 of the EP&A Act, is proposed within the portion of the site that is mapped as bushfire prone land, Council is satisfied that the proposal conforms to the specifications and requirements as prescribed in Section 4.14 of the Act.

## 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 15 September 2025 and 29 September 2025 in accordance with the Hornsby Community Engagement Plan. During this period, Council received 150 submissions, of which 147 were in support and 5 made objections (3 from the same person). The map below illustrates the location of those nearby landowners who made a submission that are in close proximity to the development site.



**NOTIFICATION PLAN**

<ul style="list-style-type: none"> <li>• PROPERTIES NOTIFIED</li> </ul>	<ul style="list-style-type: none"> <li>✕ SUBMISSIONS RECEIVED</li> </ul>	 PROPERTY SUBJECT OF DEVELOPMENT	
1 SUBMISSION RECEIVED OUT OF MAP RANGE			

Five unique submissions objected to the development, generally on the grounds that the development would result in:

- The rural land zone should be preserved for agricultural purposes
- Impact on climate change due to extensive use of concrete
- Landscape plan requested
- Light pollution from existing church cross
- Impact on local traffic network
- Impact from noise pollution
- Unacceptable bulk and scale
- Insufficient community consultation

- Impacts from increased stormwater run-off
- On-site wastewater management

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

There were 147 submissions in support of the development and made the following observations:

- The development would provide a benefit to the community

## 5.2 Public Agencies

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

## 6. THE PUBLIC INTEREST

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

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

The application is considered to have satisfactorily addressed Council's 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 the construction of a multi-purpose hall and alterations and additions to a Place of Worship.

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

Council received 150 submissions during the public notification period. The matters raised have been addressed in the body of the report.

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

The reasons for this decision are:

- The proposed development 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  
Planning and Compliance Division

ROD PICKLES  
Manager - Development Assessments  
Planning and Compliance Division

**ITEM 1**

**Attachments:**

1.  Architectural Plans
2.  Landscape Plan
3.  Plan of Management

File Reference: DA/978/2025

Document Number: D09304261

## SCHEDULE 1

# GENERAL CONDITIONS

**ITEM 1**

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
AD-DA0013 Rev 3	Existing Site Plan	Scott Carver	18/09/2023	
AD-DA0014 Rev 3	Demolition Plan	Scott Carver	18/09/2023	
AD-DA0017 Rev 4	Proposed Site Plan	Studio.SC	28/07/2025	
AD-DA0019 Rev 2	Proposed Cut and Fill	Studio.SC	28/07/2025	
AD-DA0020 Rev 1	Proposed Pedestrian Connection	Studio.SC	28/07/2025	
AD-DA1010 Rev 5	Multi Purpose Floor Plan - Lower Ground	Studio.SC	29/10/2025	
AD-DA1011 Rev 5	Multi Purpose Floor Plan - Ground	Studio.SC	29/10/2025	
AD-DA1012 Rev 4	Multi Purpose Floor Plan - Level 1	Studio.SC	28/07/2025	
AD-DA1013 Rev 4	Multi Purpose Roof Plan	Studio.SC	28/07/2025	
AD-DA1020 Rev 3	Church Floor Plan - Ground	Scott Carver	18/09/2023	
AD-DA1021 Rev 3	Church Roof Plan	Scott Carver	18/09/2023	
AD-DA1030 Rev 5	Eucharist Floor Plan - Ground and Roof Plan	Scott Carver	29/10/2025	
AD-DA2000 Rev 4	Elevations & Sections	Studio.SC	28/07/2025	
AD-DA2010 Rev 4	Multi Purpose Detail Elevations	Studio.SC	28/07/2025	
AD-DA2011 Rev 4	Multi Purpose Detail Elevations	Studio.SC	28/07/2025	
AD-DA2012 Rev 3	Multi Purpose Detail Sections	Studio.SC	18/09/2023	
AD-DA2020 Rev 3	Church Detail Elevations	Scott Carver	18/09/2023	
AD-DA2021 Rev 3	Church Detail Sections	Scott Carver	18/09/2023	
AD-DA2030 Rev 3	Eucharist Prep Room Elevations and Sections	Studio.SC	18/09/2023	
AD-DA6000 Rev 3	External Finishes Schedule	Scott Carver	18/09/2023	

Supporting Documentation

Document Title	Prepared by	Dated	Council Reference
Church Environmental Noise Assessment Ref: 20260129RFA_R3	Acoustic Logic	29/01/2026	D09305705
Plan of Management	-	30/01/2026	D09305718
Groundwater Infiltration Assessment Report Ref: G25417-1	Geotechnical Consultants Australia	11/11/2025	D09258077
Amended Waste Management Plan Ref: 22296	Dickens Solutions	Oct 2025	D09256516
Arboricultural Impact Assessment Ref: AIA27/10/2025 v1	Arbor Express	30/10/2025	D09256512
Traffic and Parking Impact Assessment	Hemanote Consultants	06/10/2023	D09202448
Civil Engineering Design for DA	C&M Consulting Engineers	03/07/2023	D09261149

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

**2. Amendment of Plans**

1. To comply with Councils requirement in terms of waste collection vehicle access, the approved plans are to be amended as follows:
  - a. The Civil Engineering Design plans must be amended to show the turning head/ loading bay at the end of the driveway/ accessway for medium rigid waste collection vehicles (MRV) and other service vehicles to turn around and must be consistent with the Traffic Report.
2. To ensure the operational measures implemented protect the amenity of the local area, the Plan of Management is to be amended as follows:
  - a. Rows 2 and 3 of the broader time table of events on Page 5 is to be amended so that a maximum number of persons on the landholding does not exceed 150 persons at any time.
3. 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.*

**3. 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.*

#### 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. 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, **\$124,981.80** must be paid towards the provision, extension or augmentation of public amenities or public services, based on development costs of **\$12,498,182.00**
2. The value of this contribution is current as of **27 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:

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

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:
  - 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.*

**ITEM 1**

## DEMOLITION WORK

### BEFORE DEMOLITION WORK COMMENCES

Condition
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#### 6. 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).*

#### 7. 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.*

#### 8. 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.*

#### **9. 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.*

#### **10. 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.*

#### **11. 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.*

#### **12. Installation of Tree Protection Measures**

1. Trees to be retained and numbered 34-50 as identified on the Tree Location/Protection Plan on page 18-20 of the Arboricultural Impact Assessment Ref: AIA27/10/2025 v1 prepared by Arbor Express dated 30 October 2025 (D09256512) must have tree protection measures for the ground, trunk and canopy installed by the project arborist as follows:
  - a. For the duration of demolition works, in accordance with the Tree Protection Plan on page 18-20 of the Arboricultural Impact Assessment Ref: AIA27/10/2025 v1 prepared by Arbor Express dated 30 October 2025.
2. Tree protection fencing for the trees to be retained must be installed by the engaged AQF 5 project arborist and consist of 1.8m high temporary fencing panels installed in

accordance with Australian Standard AS4687-2007 Temporary fencing and hoardings.

3. The installation of all required tree protection fencing must include shade cloth attached to the fencing to reduce transport of dust, particulates, and liquids from entering the tree protection zone.
4. All tree protection zones must have a layer of wood-chip mulch at a depth of between 150mm and 300mm.

*Reason: To protect trees during construction.*

### **13. 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 DEMOLITION WORK**

Condition
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### **14. 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.*

### **15. 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.*

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

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

#### **17. 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.*

#### **18. 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.*

#### **19. 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.*

#### **20. Prohibited Actions within the Fenced Tree Protection Zone**

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

1. Soil cutting or filling, including excavation and trenching.
2. Soil cultivation, disturbance, or compaction
3. Stockpiling storage or mixing of materials
4. The parking, storing, washing, and repairing of tools, equipment, and machinery.
5. The disposal of liquids and refuelling
6. The disposal of building materials
7. The siting of offices or sheds
8. Any action leading to the impact on tree health or structure.

*Reason: To protect trees during construction.*

#### **21. Maintaining the Health of Trees Approved for Retention**

The appointed project arborist must monitor and record any and all necessary actions required to maintain tree health and condition for all trees to be retained identified on the Tree Location/ Protection Plan in 18-20 of the Arboricultural Impact Assessment Ref: AIA27/10/2025 v1 prepared by Arbor Express dated 30 October 2025.

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

#### **22. Maintaining Tree Protection Measures**

Tree Protection Measures must be maintained by the project arborist for the duration of works.

*Reason: To protect trees during construction.*

#### **23. Approved Works within Tree Protection Zone Incursions**

1. Where tree root pruning is required for the installation of piers, driveway or underground services, the pruning must be overseen by the AQF 5 project arborist and must be undertaken as follows:
  - a. Using sharp secateurs, pruners, handsaws, or chainsaws with the final cut being clean.
  - b. The maximum diameter of roots permitted to be cut is 40 mm.
2. No changes of grade within the Tree Protection Zone of trees to be retained on the approved plans, are permitted.
3. To minimise impacts within the Tree Protection Zone (TPZ) of trees to be retained, the installation of services must be undertaken as follows:
  - a. The AQF 5 project arborist must be present to oversee the installation of any underground services which enter or transect the tree protection.
  - b. The installation of any underground services which either enter or transect the designated TPZ must be undertaken manually.

*Reason: To protect trees during construction.*

#### **24. 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.*

## ON COMPLETION OF DEMOLITION WORK

Condition
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### 25. 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.*

## BUILDING WORK

### BEFORE ISSUE OF A CONSTRUCTION CERTIFICATE

Condition
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### 26. 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).*

### 27. 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.*

### 28. Car Parking and Deliveries

All car parking must be constructed and operated in accordance with Australian Standard AS 2890.1-2004 Off Street Car Parking and Australian Standard AS2890.2-2002 Off Street Commercial and the following requirement:

1. All parking areas and driveways must be sealed to an all-weather standard, line marked and signposted.

2. Car parking, loading and manoeuvring areas must be used solely for nominated purposes.
3. Vehicles awaiting loading, unloading, or servicing must be parked on site and not on adjacent or nearby public roads; and
4. All vehicular entry on to the site and egress from the site must be made in a forward direction.

*Reason: To ensure parking facilities and vehicle manoeuvring areas are designed in accordance with Australian Standards.*

## **29. Stormwater Drainage**

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. The stormwater drainage system shall be designed generally in accordance with Drawing Nos. 02735\_201, 202, 203, 501 and 601 Revision 02 drawn by C&M Consulting Engineers, dated 3 July 2023.
2. The stormwater drainage must be disposed of 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)) and the following requirements:
  - a. The proposed discharge to Galston Road shall be via an On-Site Detention in accordance with the requirements of TfNSW. In this regard, TfNSW approval shall be obtained prior to the issue of a construction certificate.
  - b. The stormwater drainage system must be designed by a qualified hydraulic engineer.

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

## **30. On-Site Stormwater Detention**

An on-site stormwater detention system must be designed by a chartered civil engineer in accordance with the following requirements:

1. The On-Site Detention shall be designed to limit the discharge from the site to the existing on-site detention system for all storms up to the 5% AEP (1 in 20 Year ARI) or limited to the maximum discharge rate to the requirements of TfNSW whichever is lower.
2. Have a surcharge/inspection grate located directly above the outlet.
3. Discharge from the detention system must be controlled via 1 metre length of pipe, not less than 50 millimetres diameter or via a stainless plate with sharply drilled orifice bolted over the face of the outlet discharging into a larger diameter pipe capable of carrying the design flow to an approved Council system.
4. Where above ground and the average depth is greater than 0.3 metres, a 'pool type' safety fence and warning signs must be installed; and
5. Not be constructed in a location that would impact upon the visual or recreational amenity of residents.

*Reason: To manage stormwater flows to minimise potential flooding.*

### **31. Internal Driveway/Vehicular Areas**

The driveway and parking areas on site must be designed, and a Construction Certificate issued in accordance with Australian Standards AS2890.1, AS2890.2, AS3727 and the following requirements:

1. The driveway must be sealed to an all-weather standard.
2. The driveway pavement be a minimum 3 metres wide, 0.15 metres thick reinforced concrete with F72 steel reinforcing fabric and a 0.15 metre sub-base.
3. Longitudinal sections along both sides of the access driveway shall be submitted to the Principal Certifier in accordance with the relevant sections of AS 2890.1. The maximum grade shall not exceed 1 in 4 (25%) with the maximum changes of grade of 1 in 8 (12.5%) for summit grades and 1 in 6.7 (15%) for sag grades. Any transition grades shall have a minimum length of 2 metres. The longitudinal sections shall incorporate the design levels obtained by Council.

*Reason: To provide safe vehicle and pedestrian access.*

### **32. Fire Safety Schedule**

A schedule of all proposed essential fire safety measures to be installed in the building (e.g. hydrants, hose reels, emergency warning systems etc.) shall be submitted with the construction certificate application. The schedule shall distinguish between existing and proposed fire safety measures.

*Reason: To ensure all fire safety measures are identified to protect life and property.*

### **33. Construction Management Plan**

To assist in the protection of the public, the environment and Council's assets, a separate Construction Management Plan must be prepared by a suitably qualified environmental consultant in consultation with a qualified traffic engineer and AQF 5 arborist and approved by Council's Compliance Team via Council's Online Services Portal prior to issue of a Construction Certificate.

The Construction Management Plan (CMP) must include the following details:

1. Description of the works
  - a. A description of the scope of works for all stages of development.
  - b. Site plans for all stages of works including the location of site sheds, concrete pump, and crane locations, unloading, and loading areas, waste and storage areas, existing survey marks, vehicle entry, surrounding pedestrian footpaths and hoarding (fencing) locations.
  - c. The CTMP plans shall be in accordance with all other plans submitted to Council as part of this development proposal.
  - d. A statement confirming that no building materials, work sheds, vehicles, machines, or the like shall be allowed to remain in the road reserve area without the written consent of Hornsby Shire Council.

- e. If there is a requirement to obtain a Work Zone, Out of Hours permit, partial Road Closure or Crane Permit, the Plan must detail these requirements and include a statement that an application to Hornsby Shire Council will be made to obtain such a permit.
  - f. The Plan must state that the applicant and all employees of contractors on the site must obey any direction or notice from the Principal Certifier or Hornsby Shire Council in order to ensure the above.
  - g. The CMP must detail all responsible parties ensuring compliance with the document and include the contact information for developers, builder, Principal Certifier, and any emergency details during and outside work hours.
2. A Construction Traffic Management Plan (CTMP) including the following:
- a. The order of construction works and arrangement of all construction machines and vehicles being used during all stages.
  - b. The CTMP plans shall be in accordance with all other plans submitted to Council as part of this development proposal.
  - c. The Plan shall be in compliance with the requirements of the Roads and Maritime Services *Traffic control at work sites Manual 2018* and detail:
    - i. Public notification of proposed works.
    - ii. Long term signage requirements.
    - iii. Short term (during actual works) signage.
    - iv. Vehicle Movement Plans, where applicable.
    - v. Traffic Management Plans.
    - vi. Pedestrian and Cyclist access and safety.
  - d. Traffic controls including those used during non-working hours. Pedestrian access and two-way traffic in the public road must be able to be facilitated at all times.
  - e. Details of parking arrangements for all employees and contractors, including layover areas for large trucks during all stages of works. The parking or stopping of truck and dog vehicles associated with the development will not be permitted other than on the site and the plan must demonstrate this will be achieved.
  - f. Proposed truck routes to and from the site including details of the frequency of truck movements for all stages of the development.
  - g. Swept path analysis for ingress and egress of the site for all stages of works.
  - h. The total quantity and size of trucks for all importation and exportation of fill on site throughout all stages of works, and a breakdown of total quantities of trucks for each stage of works.
  - i. The number of weeks trucks will be accessing and leaving the site with excavated or imported fill material.

- j. The maximum number of trucks travelling to and from the site on any given day for each stage of works.
  - k. The maximum number of truck movements on any given day during peak commuting periods for all stages of works.
  - l. If there is a requirement to obtain a Work Zone, Out of Hours permit, partial Road Closure or Crane Permit, the Plan must detail these requirements and include a statement that an application to Hornsby Shire Council will be made to obtain such a permit.
3. A Construction Waste Management Plan detailing the following:
- a. A table of information detailing cut and in-situ fill calculations for all stages for works. The table must include specified dimensions (WxLxD) and total cubic metres
  - b. Details of the importation or excavation of soil and fill, the classification of the fill, disposal methods and authorised disposal depots that will be used for the fill.
  - c. A scaled site plan including levels of the extent of cut and fill on the site, forming part of the proposed development.
  - d. Asbestos management requirement and procedures for removal and disposal from the site in accordance with AS 2601-2001 The Demolition of Structures, and the Protection of the Environment Operations (Waste) Regulation 2005.
  - e. General construction waste details including construction waste skip bin locations and litter management for workers.
4. A Tree Protection Plan (TPP) prepared by an AQF 5 Arborist in accordance with any approved Arboricultural Impact Assessment and tree location plans, detailing the following:
- a. A site plan showing tree protection zones (TPZ) and structural root zones (SRZ) of trees to be retained and specific details of tree protection measures inclusive of distances (in metres) measured from tree trunks.
  - b. Construction methodology to avoid damage to trees proposed to be retained during construction works.
  - c. Specifications on tree protection materials used and methods within the TPZ or SRZ.
  - d. Location of dedicated material storage space on site outside of TPZ's and SRZ's for retained trees.
5. A Construction Noise and Vibration Management Plan (CNMP) which includes:
- a. Existing noise and vibration levels within the proximity of the proposed development site.
  - b. Details of the extent of rock breaking or rock sawing works forming part of the proposed development works.
  - c. The maximum level of noise and vibration predicted to be emitted during each stage of construction.

- d. The duration of each stage of works where the maximum level of noise and vibration are predicted to be emitted for.
  - e. Details of mitigation measures, inclusive of respite periods, that will meet acoustic standards and guidelines at each stage of works.
  - f. Details of a complaints handling process for the surrounding neighbourhood for each stage of works.
6. An Erosion and Sediment Control Plan (ESCP) that describes all erosion and sediment controls to be implemented in accordance with the publication Managing Urban Stormwater: Soils & Construction (4<sup>th</sup> Edition), which includes:
- a. A site survey which identifies contours and approximate grades and the direction(s) of fall.
  - b. Locality of site and allotment boundaries.
  - c. Location of adjoining road(s) and all impervious surfaces.
  - d. Location of site access and stabilisation of site access.
  - e. Provision for the diversion of run off around disturbed areas.
  - f. Location of material stockpiles.
  - g. Proposed site rehabilitation and landscaping; staging of construction works.
  - h. Maintenance program for erosion and sediment control measures.
  - i. Provide a plan of how all construction works will be managed in a wet-weather events (i.e. storage of equipment, stabilisation of the Site)
7. A de-watering plan that describes all controls to be implemented for the disposal of water that accumulates within any site excavation areas.
8. The CMP must detail all responsible parties ensuring compliance with the document and include the contact information for developers, builder, Principal Certifier, and any emergency details during and outside work hours.

*Note: Advice on developing a suitable construction management plan or erosion sediment control plan can be obtained from Council's guides available at [www.hornsby.nsw.gov.au/property/build/construction](http://www.hornsby.nsw.gov.au/property/build/construction).*

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

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

### **34. Waste Management Details**

The following waste management requirements must be complied with before the issue of the construction certificate:

1. Should there be any conflict or confusion between approved plans and/or consent conditions related to the waste management system or waste collection vehicle access, then written clarification must be obtained from Council.

2. A design certificate and detailed plans are to accompany any Construction Certificate application, which demonstrate that all bin carting routes (including but not limited to from the bin storage room to the waste collection vehicle loading bay) are continuous accessible paths of travel in accordance with AS1428 Design and Access for Mobility and have been designed to be constructed in accordance with the Waste Minimisation and Management Guidelines and including the following requirements:
  - a. The path must be smooth hard non-slip surface. Concrete pavement or tiles for example are acceptable, but carpet, mulch, pebbles, stepping stones, grass etc is not acceptable.
  - b. The path must be no less than 2 metres wide (including through any gates or doors).
  - c. The path must be sufficiently wide to allow the waste, bins and any carting equipment to easily pass through without scraping (especially around corners/bends, through gates/doors and past parked cars).
  - d. There must not be any steps, lips, kerbs, walls or other obstacles or obstructions or protrusions on any bin carting route. Ramps and service lifts are acceptable.
  - e. The gradient must be no steeper than 1:14 for 240L bins and 1:30 for 660L or 1100L bins.
  - f. Bin carting routes must be safe and well lit.
  - g. Bin carting routes must be direct and as short as possible and must be wholly within the property boundaries (does not include the public footpath or road).
  - h. Bin carting routes must not cross into a private lot or pass through any habitable room.
  
3. A design certificate and detailed plans are to accompany any Construction Certificate application, which demonstrate that the bin storage room has been designed to be constructed in accordance with the Waste Minimisation and Management Guidelines and including the following requirements:
  - a. The room(s) must be roofed.
  - b. The room(s) must not be used for any other purposes, including for the storage of equipment used in the management of waste (which must have its own lockable storage).
  - c. Meters, communications and electrical distribution boards/control panels, pipework and other obstacles must not be located in waste rooms.
  - d. Waste rooms must be free from obstructions and protrusions.
  - e. Any ceiling mounted elements (e.g. pipes, fire sprinkler system, ventilation ducting) must not interfere with waste management operations and must not project so low as to render the room a hard hat zone under Workplace health and safety legislation (Acts, Regulations and codes of practice).
  - f. The floor must be constructed of concrete at least 75mm thick and adequately graded to drain to sewer through a Sydney Water approved

- drainage fitting with bucket trap to sewer. It must not discharge into a stormwater drain.
- g. The floor must be finished so that it is non-slip when wet, sealed and impervious, and has a smooth and even surface coved at all intersections with walls.
  - h. There must be no step or lip between the room and the access path. The floor of the room must transition smoothly through the door opening to the pathway.
  - i. The ceilings and walls must be masonry or other thermally insulated fire-rated material finished with sealed smooth faced durable non-absorbent material capable of being cleaned.
  - j. The room(s) must be well lit and have artificial lighting available 24 hours a day controlled by a switch located inside the room adjacent to the entrance doorway.
  - k. The room(s) must be provided with adequate mechanical ventilation in compliance with *AS1668.2 The use of ventilation and air-conditioning in buildings Part 2: Mechanical ventilation*, including a continuous exhaust flow rate of 5 litres per second per square metre of floor area with a minimum rate of 100 litres per second and no less than 6 air changes per hour. The room exhaust venting must be located away from doors, windows and air intakes of other rooms.
  - l. Noise associated with the room is not to give rise to “offensive noise” as defined under the Protection of the Environment Operations Act 1997.
  - m. The room(s) must be provided with a cleaner’s sink (allow 600mm wide by 500mm deep) and an adequate supply of hot and cold water mixed through a centralised mixing valve with hose cock located in a position where it cannot be damaged.
  - n. The doors must be robust, close fitting and self-closing. The doors must be lockable and be able to be opened from inside the room without a key. The room must have double doors or roller door with door opening no less than 2000mm wide. The doors must not be obstructed by bin placement. The door swing must not block access to the bins and must not block the pathway for moving bins to the waste collection room or waste collection vehicle. Swing doors should open outwards 180 degrees and must be able to be locked open.
  - o. The room(s) must be designed and constructed to prevent the entry of insects, vermin, birds and other nuisance species.
  - p. The room(s) must be designed to restrict or deter access by unauthorised persons.
  - q. Fire protection measures (e.g., extinguishers, sprinklers, alarms) must be in accordance with the National Construction Code.
  - r. Fire escape routes must not pass through the room.

- s. Construction must be in compliance with the National Construction Code.
  - t. The room(s) must be integrated into the overall design of the development and landscaping to minimise impact on the streetscape.
  - u. The room(s) must provide screening of the bins by a visual barrier to a height of no less than 1.5 m. Screening must not rely on the growth of plants, but they may supplement it. Bins must not be visible from the public domain.
  - v. The internal dimensions of the bin storage room must be no less than 4.5m by 4.5m. Internal dimensions do not include wall thickness, support columns, ventilation shafts etc for which additional space must be allowed with consideration of the bin layout.
4. All food preparation areas must include waste and recycling stations with separate receptacles for recycling, food scraps, and general waste.

*Reason: To ensure all necessary infrastructure is provided for the safe, efficient and effective management of waste for the full operational life of the development.*

### **35. Waste Collection Vehicle Access**

The following requirements must be complied with before the issue of the construction certificate:

1. The access way (including ramp, vehicle turning area, loading bay and site entry/exit) to be used by waste collection vehicles, must be designed in compliance with Australian Standard AS2890.2-2002 Parking Facilities Part 2: Off-street Commercial Vehicle Facilities for medium rigid vehicles.

*Note: AS2890.2-2002 includes a maximum gradient of 1:6.5 for forward travel and 1:8 for reverse travel, a minimum vertical clearance of 4.5 m, and minimum loading dock/service bay dimensions of 3.5 m x 8.8 m. These dimensions do not include wall thickness, support columns, ventilation shafts etc. AS2890.2-2002 also requires that when a loading dock/service bay is of minimum width a driver needs to be able to place the body of the vehicle or trailer into its final alignment at the point of entry into the bay. Vehicle performance assessments using Council's waste collection vehicles have shown gradients steeper than 1:6.5 are not safe in all conditions so are not suitable for use by waste collection vehicles.*

2. A design certificate from a qualified traffic engineer and detailed plans are to accompany the Construction Certificate application that confirms that the waste can be directly collected from onsite as detailed in the Waste Management Plan and the Traffic Report. The design certificate is to specifically confirm that the:
  - a. Waste collection vehicle can enter the site in a forward direction, adequately manoeuvre into position near the bins, load bins and exit the site in a forward direction.
  - b. Vertical clearance of 4.5m is provided along the entire route of travel of the waste collection vehicle on site and loading bay
  - c. The installation of overhead lights, signs etc will not reduce the vertical clearance of the waste collection vehicle travel path on site to less than 4.5 m.

- d. The waste collection vehicle must be able to manoeuvre on site with limited need for reversing.
  - e. The grades along the entire travel path of the waste collection vehicle on site must not exceed the maximum grades of AS2890.2 for a medium rigid vehicle. The maximum gradient of 1:6.5 for forward movements and 1:8 for reverse movements must not be exceeded. Vehicle performance assessments using Council's waste collection vehicles have shown gradients steeper than 1:6.5 are not safe in all conditions so are not suitable for use by waste collection vehicles.
  - f. The vehicle ground clearance is sufficient to prevent scraping.
  - g. All pavement has been designed to carry the load of the medium rigid vehicle.
3. The electrical transformer/substation enclosure and the fire hydrant booster enclosure must be located such that compliance is achieved with the Australian Standard AS2890.2 sight distance requirements for the approved medium rigid waste collection vehicle exit manoeuvre turning path. In applying the Australian Standard, the driveway/accessway must be regarded as one-way for the medium rigid waste collection vehicle movements.
  4. The Landscape Plan must be such that ground level landscape elements do not and will not with future plant growth, impact compliance with the Australian Standard AS2890.2 sight distance requirements for the approved medium rigid waste collection vehicle exit manoeuvre turning path.
  5. Details of the Operational Traffic Control Plan are to be submitted to Council for approval before the issue of a Construction Certificate. The Operational Traffic Control Plan must include:
    - a. Flashing light visible to vehicles approaching to enter the site notifying incoming vehicles that the loading bay is occupied. This is to prevent trucks entering the site and finding they are unable to turn around because the loading bay is occupied, then having to reverse all the way out and onto the public road.
    - b. Convex mirrors, stop/ giveaway signs etc. where appropriate.

*Reason: To ensure appropriate access for waste collection.*

**BEFORE BUILDING WORK COMMENCES**

Condition
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**36. 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).*

### **37. 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.*

### **38. 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.*

### **39. 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.*

### **40. Installation of Tree Protection Measures**

1. Trees to be retained and numbered 34-50 as identified on the Tree Location/Protection Plan on page 18-20 of the Arboricultural Impact Assessment Ref: AIA27/10/2025 v1 prepared by Arbor Express dated 30 October 2025 must have tree protection measures for the ground, trunk and canopy installed by the project arborist as follows:
  - a. For the duration of construction works, in accordance with Tree Protection Plan on page 18-20 of the Arboricultural Impact Assessment Ref: AIA27/10/2025 v1 prepared by Arbor Express dated 30 October 2025.
2. Tree protection fencing for the trees to be retained must be installed by the engaged AQF 5 project arborist and consist of 1.8m high temporary fencing panels installed in accordance with Australian Standard AS4687-2007 Temporary fencing and hoardings.

3. The installation of all required tree protection fencing must include shade cloth attached to the fencing to reduce transport of dust, particulates, and liquids from entering the tree protection zone.
4. All tree protection zones must have a layer of wood-chip mulch at a depth of between 150mm and 300mm.

*Reason: To protect trees during construction.*

#### **41. 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.*

#### **42. 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.*

## **DURING BUILDING WORK**

Condition
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#### **43. 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.*

#### **44. 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. Exposed surfaces and stockpiles are suppressed by regular watering.

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

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

#### **45. 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.*

#### **46. 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.*

#### **47. Soil Management (Excavation)**

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 dockets 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.

*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.*

#### **48. 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.*

#### **49. Compliance with Construction Management Plan**

The Council approved Construction Management Plan (CMP) must be complied with for the duration of works, unless otherwise approved by Council.

*Reason: To ensure implementation of construction measures to protect the public and the surrounding environment.*

#### **50. 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.
2. Confirming that the waste collection vehicle turning area complies with Australian Standard AS2890.1-2004 and AS20890.2-2002 for medium rigid vehicles (MRV).

*Reason: To ensure buildings are positioned in the approved location and at the correct height.*

#### **51. 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.*

#### **52. De-watering of Excavated Sites**

Water that accumulates within an excavation must be removed and disposed of in a manner that does not result in the pollution of waters, nuisance to neighbouring properties, or damage to neighbouring land and/or property.

*Reason: To document the safe removal of water during work to protect the public and the surrounding environment.*

#### **53. 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.*

#### **54. 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.*

#### **55. 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.*

#### **56. Maintain Waste Removal Records**

For all waste removal from the site, written records must be maintained detailing the following information. Such information must be made available to Council at its request and is to be submitted to the Principal Certifying Authority within fourteen days of the date of completion of the works with the Construction/Demolition Waste Report:

1. The identity and driver's licence details of the person removing the waste.
2. The waste carrier vehicle registration.
3. Date and time of waste collection.
4. A description of the waste (type of waste and estimated quantity).
5. Details of the site to which the waste is to be taken.
6. The corresponding weighbridge tip docket/receipt from the site to which the waste was transferred (noting date and time of delivery, vehicle registration, description (type and quantity) of waste).
7. Whether the waste is expected to be reused, recycled or go to landfill.

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

*Reasons: To ensure waste removed from the site is appropriately disposed of and to protect the environment and local amenity during work.*

#### **57. 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.
3. All waste must be stored within the boundaries of the development site at all times.
4. Litter and illegal dumping must be promptly removed from public land adjacent to the development site.

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

#### **58. Waste Collection Vehicle Onsite Travel Path**

For the approved waste collection vehicle travel path on site, the following requirements must be complied with:

1. Prior to the pouring of concrete for the waste collection vehicle travel path on site (including but not limited to the driveway and turning head), the principal certifying authority must receive a report prepared by a registered surveyor that certifies the gradient of the finished pavement will be no greater than 1:6.5.
2. The driveway and vehicular ramp concrete pavement should be rough textured and should not be sealed. If sealing is necessary, then the coating must include anti-slip aggregates.
3. The installation of overhead or ceiling mounted cable trays, pipes, ventilation ducting, signs, light fittings, awnings, roller doors etc must not reduce the vertical clearance over the waste collection vehicle travel path on site to less than 4.5 metres.
4. Do not construct any walls, support columns or other structure within the onsite travel path or low speed manoeuvring clearance of the waste collection vehicle.

*Reason: To ensure appropriate access for waste collection.*

#### **59. Prohibited Actions within the Fenced Tree Protection Zone**

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

1. Soil cutting or filling, including excavation and trenching.
2. Soil cultivation, disturbance, or compaction
3. Stockpiling storage or mixing of materials
4. The parking, storing, washing, and repairing of tools, equipment, and machinery.
5. The disposal of liquids and refuelling
6. The disposal of building materials
7. The siting of offices or sheds
8. Any action leading to the impact on tree health or structure.

*Reason: To protect trees during construction.*

#### **60. Maintaining the Health of Trees Approved for Retention**

The appointed project arborist must monitor and record any and all necessary actions required to maintain tree health and condition for all trees to be retained identified on the Tree Location/ Protection Plan on page 18-20 of the Arboricultural Impact Assessment Ref: AIA27/10/2025 v1 prepared by Arbor Express dated 30 October 2025.

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

#### **61. Maintaining Tree Protection Measures**

Tree Protection Measures must be maintained by the project arborist for the duration of works.

*Reason: To protect trees during construction.*

**62. Approved Works within Tree Protection Zone Incursions**

1. Where tree root pruning is required for the installation of piers, driveway or underground services, the pruning must be overseen by the AQF 5 project arborist and must be undertaken as follows:
  - a. Using sharp secateurs, pruners, handsaws, or chainsaws with the final cut being clean.
  - b. The maximum diameter of roots permitted to be cut is 40mm.
2. No changes of grade within the Tree Protection Zone of trees to be retained on the approved plans, are permitted.
3. To minimise impacts within the Tree Protection Zone (TPZ) of trees to be retained, the installation of services must be undertaken as follows:
  - a. The AQF 5 project arborist must be present to oversee the installation of any underground services which enter or transect the tree protection.
  - b. The installation of any underground services which either enter or transect the designated TPZ must be undertaken manually.

*Reason: To protect trees during construction.*

**63. 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.*

**BEFORE ISSUE OF AN OCCUPATION CERTIFICATE**

Condition
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**64. Sydney Water - Section 73 Compliance Certificate**

1. A compliance certificate must be obtained from Sydney Water, under Section 73 of the Sydney Water Act 1994. The Sydney Water assessment will determine the availability of water and wastewater services, which may require extensions, adjustments, or connections to their mains. Sydney Water recommends that an early application for the certificate be made, as there may be assets to be built and this can take some time.

2. A Section 73 Compliance Certificate must be obtained from Sydney Water and submitted to the Principal Certifier before an Occupation Certificate or Subdivision Certificate will be issued.
3. Applications can be made either directly to Sydney Water or through a Sydney Water accredited Water Servicing Coordinator.

*Note: Go to the [Sydney Water website](#) or call 1300 082 746 to learn more about applying through an authorised WSC or Sydney Water.*

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

#### **65. 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.*

#### **66. Creation of Easements**

The following matter(s) must be nominated on the plan of subdivision under s88B or s88E of the *Conveyancing Act 1919*:

1. The creation of an appropriate "Positive Covenant" and "Restriction as to User" over the constructed on-site detention/retention systems and outlet works, within the lots in favour of Council in accordance with Council's prescribed wording. The position of the on-site detention system is to be clearly indicated on the title.
2. To register the OSD easement, the restriction on the use of land "works-as-executed" details of the on-site-detention system must be submitted verifying that the required storage and discharge rates have been constructed in accordance with the design requirements. The details must show the invert levels of the on site system together with pipe sizes and grades. Any variations to the approved plans must be shown in red on the "works-as-executed" plan and supported by calculations.

*Note: Council must be nominated as the authority to release, vary or modify any easement, restriction, or covenant.*

*Reason: To create legal entitlements to facilitate the proper use and management of land.*

#### **67. Preservation of Survey Marks**

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

*Reason: To protect the State's survey infrastructure.*

#### **68. 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.*

#### **69. 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.*

#### **70. 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.*

#### **71. Wastewater System Approval**

1. Prior to the installation of an on-site sewage management system, Council approval must be obtained in the form of an 'Approval to Install' licence issued pursuant to the Local Government Act 1993.
2. The on-site sewage management system must be commissioned and certified by a licensed plumber in accordance with Australian Standard AS1547 Onsite domestic wastewater management (2012) and Environment & Health Protection Guidelines - Onsite Sewage Management for Single Households (1998).
3. Prior to the operation of the on-site sewage management system, Council approval must be obtained in the form of an 'Approval to Operate' licence issued pursuant to the Local Government Act 1993, and a copy submitted to the Principal Certifier prior to the issue of an Occupation Certificate.

*Reason: To ensure the required licences and approvals for the wastewater system are obtained.*

#### **72. Certification of Acoustic Measures**

Before the issue of an occupation certificate, a suitably qualified person must provide a compliance report to the Principal Certifier and Council demonstrating that the acoustic measures have been installed in accordance with the recommendations of the Church Environmental Noise Assessment Ref: 20260129RFA\_R3, prepared by Acoustic Logic, dated 29 January 2026.

*Reason: To protect the amenity of the local area.*

#### **73. Fire Safety Statement - Final**

In accordance with the Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021, upon completion of the building, the owner must provide Council with a certificate in relation to each fire safety measure implemented in the building.

*Reason: To ensure all fire safety measures are implemented to protect life and property.*

#### **74. Garbage Collection Easement**

For the purpose of waste collection, an easement entitling Council, its servants and agents and persons authorised by it to enter upon the subject land and to operate thereon, vehicles and other equipment for the purposes of waste collection must be granted to Council by the owner of the land. The waste collection easement must be registered with the NSW Land Registry Services prior to issue of the occupation certificate or the use commencing, whichever is earlier.

*Note: The easement must be in a form prescribed by Council and must include covenants to the effect that parties will not be liable for any damage caused to the subject land or any part thereof or to any property located therein or thereon by reason of the operation thereon of any vehicle or other equipment used in connection with the collection of garbage and to the effect that the owner for the time being of the subject land shall indemnify the Council, its servants, agents and persons authorised by it to collect garbage against liability in respect of any such claims made by any person whomsoever. Standard terms of easement are available on Council's website.*

*Reason: To ensure appropriate access for waste collection*

#### **75. Waste Management Facilities**

Prior to the issue of any occupation certificate or the use commencing, whichever is earlier, the following waste management requirements must be complied with:

1. Prior to an Occupation Certificate being issued or the use commencing, whichever is earlier, the Principal Certifying Authority must have written evidence that:
  - a. An Agreement/Contract has been signed for delivery of commercial bins for the on-going use of the commercial tenancies and for regular scheduled commercial waste collection services to commence within 7 days of occupation of the commercial tenancies.
  - b. Arrangements are in place for a site caretaker/cleaner with waste management responsibilities to commence employment at the site before or no later than 7 days after the issue of the Occupation Certificate.

2. All bin carting routes must be devoid of steps.

*Note: Ramps and service lifts between different levels are acceptable*

3. All lockable doors and gates, both pedestrian and vehicular, that are required to be opened by the waste collection contractor in the provision of waste collection services, must be able to be opened using a pin code. That is, locks requiring keys, remote controls, key fobs etc are not acceptable.
4. The doors to the bin storage room must be robust, close fitting and self-closing. The doors must be lockable and capable of being opened from the inside without a key. The doors must be able to be opened using a PIN code. Any door swing must not block access to the bins and must not block the pathway for moving bins to the

collection vehicle. Swing doors should open outwards 180 degrees and must be able to be locked open. No bins are to be stored within the door swing.

5. All bin storage room(s) must be free from meters, power boards, piping and any other obstructions.
6. The bin storage room must include a cleaner's sink with water for cleaning, graded floors with drainage to sewer, smooth sealed and impervious surfaces, and have artificial lighting, mechanical ventilation in compliance with AS1668.2.

*Reason: To ensure all necessary infrastructure is provided for the efficient and effective management of waste for the full operational life of the development.*

#### **76. Construction and Demolition Waste Report**

Within 14 days of the completion of each stage of works, a report must be prepared by an appropriately qualified person and submitted to the principal certifying authority, certifying the following:

1. A comparison of the estimated quantities of each waste type against the actual quantities of each waste type.

*Note: Explanations of any deviations to the approved Waste Management Plan is required to be included in this report, including what can be done to improve the management of waste in future projects.*

2. That at least 80% of the waste generated during the demolition and construction phase of the development was reused or recycled.

*Note: If the 80% diversion from landfill cannot be achieved in the Construction or Demolition Stage, the Report is to include the reasons why this occurred, what can be done to improve diversion from landfill in future projects, and certify that appropriate work practices were employed to implement the approved Waste Management Plan. The Report must be based on documentary evidence such as tipping dockets/receipts from recycling depots, transfer stations and landfills, audits of procedures etc. which are to be attached to the report.*

3. All waste was taken to site(s) that were lawfully permitted to accept that waste.

*Note: Records of waste removed from the site must be matched to tipping dockets/receipts from recycling depots, transfer stations and landfills to verify the destination of all waste removed from the site (which are to be attached to the report), along with a licence check or similar verification that the site was lawfully permitted to accept that waste.*

*Reason: to verify all waste removed from the site was appropriately disposed of.*

#### **77. Completion of External Works and Waste Infrastructure**

1. Before the first Occupation Certificate is issued or the use commences, whichever is earlier, all external works including but not limited to the vehicular crossover, must be completed. A temporary vehicular crossover is not acceptable.
2. For staged occupation or where the Occupation Certificate will be limited to a portion of the development:

- a. Prior to the issue of the occupation certificate or the use commencing, whichever is earlier, the waste management system for the portion of the development covered by the occupation certificate, must be completed. The waste management system includes but is not limited to the bin storage facilities, the road/accessway and vehicular crossover, loading bay and truck turning area, as applicable.
- b. Once any part of the development has been occupied or the use has commenced, whichever is earlier, all areas used by the waste collection vehicle and personnel to service that occupied section or use, must be maintained in a condition acceptable to Council during all subsequent construction work.

*Reason: To ensure appropriate access for waste collection.*

#### **78. Waste Collection Vehicle On-Site Access**

The following requirements must be complied with before the issue of any occupation certificate or the use commencing, whichever is earlier:

1. A survey of the finished access way (including ramp, waste collection vehicle turning area, loading bay and site entry/exit) to be used by the waste collection vehicle, must be carried out by a registered surveyor and submitted to the principal certifying authority and to Council.
  - a. The survey is to include dimensions, gradients and vertical clearance.
  - b. Written confirmation must be submitted to Council and to the Principal certifying authority from a qualified Traffic Engineer, that this survey confirms the finished access way within the waste collection vehicle travel path was designed and constructed in compliance with Australian Standard AS2890.2-2002 Parking Facilities Part 2: Off-street Commercial Vehicle Facilities for medium rigid vehicles (for layout, dimensions, manoeuvring clearances, gradients, rates of change of grade, vertical clearance, vehicle ground clearance).
  - c. Vehicle performance assessments using Council's waste collection vehicles have shown gradients steeper than 1:6.5 are not safe in all conditions so are not suitable for use by waste collection vehicles.
2. The access way (including ramp, vehicle turning area, loading bay and site entry/exit) to be used by waste collection vehicles, must comply with Australian Standard AS2890.2-2002 Parking Facilities Part 2: Off-street Commercial Vehicle Facilities for Medium rigid vehicles.

*Note: AS2890.2-2002 includes a maximum gradient of 1:6.5 for forward travel, 1:8 for reverse travel and a minimum vertical clearance of 4.5 m. Encroachments of the medium rigid vehicle turning path and low speed manoeuvring clearance (300 mm both sides) into parking spaces cannot be tolerated. Vehicle performance assessments using Council's waste collection vehicles have shown gradients steeper than 1:6.5 are not safe in all conditions so are not suitable for use by waste collection vehicles.*

3. The 4.5 metre clearance height within the waste collection vehicle travel path must not be reduced by ducting, lights, pipes or anything else.
4. "No parking" signs must be erected to prohibit parking in the waste collection loading bay and turning area.
5. Site security measures implemented on the property, including electronic gates, must not prevent access to the collection point by waste removal services.
6. A warning system that indicates if the loading bay is occupied must be visible to vehicles about to enter the site.
7. The traffic safety measures in the approved operational traffic control plan must be installed and operational.

*Reason: to ensure appropriate access for waste collection.*

#### **79. Final Certification by Project Arborist**

The AQF 5 Project arborist must submit to the Principal Certifier a certificate that includes the following:

1. All tree protection requirements complied with the as approved tree protection plan for the duration of demolition and/or construction works; and
2. All completed works relating to tree protection and maintenance have been carried out in compliance with the conditions of consent and approved plans; and
3. Dates, times, and reasons for all site attendance; and
4. All works undertaken to maintain the health of retained trees; and
5. Details of tree protection zone maintenance for the duration of works.
6. Replacement trees are planted in accordance with AS 2303 - 2018 Tree Stock for Landscape Use.

*Note: Copies of monitoring documentation may be requested throughout the development works.*

*Reason: To ensure compliance with tree protection commitments.*

## **OCCUPATION AND ONGOING USE**

Condition
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#### **80. Use of Premises**

1. The development approved under this consent shall be used for 'place of public worship' and not for any other purpose without Council's separate written consent.
2. Wedding Ceremonies are only permitted to be carried out within the Churches, only within approved hours of operation, and only one wedding ceremony is permitted to be carried out at any one time on the landholding.

3. This approval does not permit the use of the premises for wedding and/ or funeral receptions. Separate consent is required to be obtained prior to the use of the premises for wedding and/ or funeral receptions.

*Reason: To ensure the use is undertaken with the terms of this consent.*

#### **81. Number of Patrons**

The number of persons permitted on the landholding at any one time must not be exceed 150.

*Reason: To ensure the operational measures implemented protect the amenity of the local area.*

#### **82. Hours of Operation - Church Buildings**

The hours of operation of the Churches are restricted to those times listed below:

Monday to Saturday	7:00am to 10:00pm
Sunday	8:00am to 1:00pm

*Reason: To protect the amenity of the local area.*

#### **83. Hours of Operation - Multipurpose Hall**

The hours of operation of the Multipurpose Hall are restricted to those times listed below:

Thursday to Friday	7:00pm to 10:00pm (Religious Service)
Sunday	11:30am to 1:00pm (Sunday School Service)

*Reason: To protect the amenity of the local area.*

#### **84. Hours of Operation - Special Church Services**

The hours of operation of the premise are restricted to those times listed below:

Passion Week Morning	9:00am to 1:00pm
Passion Week Evening	5:00pm to 9:00pm
Covenant Thursday	6:00am to 2:00pm
Good Friday	7:00am to 5:00pm
Resurrection Feast	6:00pm to 10:00pm
Nativity Service	6:00pm to 10:00pm
New Year's Eve	6:00pm to 11:00pm
Funeral Services	10:00am to 12:00pm

*Reason: To protect the amenity of the local area.*

#### **85. Compliance with Plan of Management (PoM)**

All control measures and procedures nominated in the Plan of Management, dated 30 January 2026, must be implemented.

*Note: Any future amendments to the PoM must be submitted to Council for review and written approval. The amended PoM must be lodged via Council's Online Services Portal at: [Online services portal | Hornsby Shire Council](#) and by selecting the following menu options:*

*Planning Related Applications > Submit an Application > Under 'Application Types':  
Management Plans.*

*Reason: To ensure the operational measures implemented protect the amenity of the local area.*

#### **86. Operational Noise - Multipurpose Hall**

The ongoing use of the premises including any plant or equipment installed on the premises must not cause:

1. The LA10(15minute) noise emitted from the use of the multipurpose hall (patrons, music and mechanical plant) shall not exceed the background noise level (LA90) by more than 5dBA in any octave band frequency (31.5Hz to 8 kHz inclusive), when measured at the boundary of any affected residence during the Day & Evening Periods, being 7:00am to 6:00pm, and 6:00pm to 10:00pm.

*Reason: To maintain appropriate amenity to nearby occupants.*

#### **87. Operational Noise - Churches (New & Existing)**

The ongoing use of the premises including any plant or equipment installed on the premises must not cause:

1. The LA10(15minute) noise emitted from the use of the Churches (patrons, music and mechanical plant) shall not exceed the background noise level (LA90) in any octave band frequency (31.5Hz to 8 kHz inclusive), when measured at the boundary of any affected residence at any time.

*Reason: To maintain appropriate amenity to nearby occupants.*

#### **88. Maintenance of Wastewater Device**

All wastewater and stormwater treatment devices (including drainage systems, sumps and traps) must be regularly maintained in order to remain effective. All solid and liquid wastes collected from the device must be disposed of in accordance with the Protection of the Environment Operations Act 1997.

*Reason: To ensure systems are maintained to protect the environment.*

#### **89. Fire Safety Statement - Annual**

On at least one occasion in every 12 month period following the date of the first 'Fire Safety Certificate' issued for the property, the owner must provide Council with an annual 'Fire Safety Certificate' to each essential service installed in the building.

*Reason: To ensure fire safety measures are maintained to protect life and property.*

#### **90. Food Premises Compliance**

1. The fit out of the premises is to comply with the relevant provisions of Australian Standard AS4674-2004 Design and fit out of food premises, the Food Act 2003, Food Regulation 2025 and the Australia New Zealand Food Authority Food Standards Code.
2. Prior to the commencement of the business, the operator is required to contact Council's Public Health Team to arrange for a Health Officer to carry out an inspection of the premises to ensure compliance with the Australian Standard

AS4674-2004 Design and fit out of food premises, the Food Act 2003, Food Regulation 2025 and the Australia New Zealand Food Standards Codes.

3. A letter of compliance provided by Hornsby Shire Council's Health Officer must be submitted to the Principal Certifier prior to an occupation certificate being issued.

*Note: Council's Public Health team can be contacted at [publichealth@hornsby.nsw.gov.au](mailto:publichealth@hornsby.nsw.gov.au).*

*Reason: To ensure the premises is designed and constructed for the safe preparation and storage of food.*

#### **91. Notice of Food Business**

Before the issue of an Occupation Certificate, council must be notified of the food business in accordance with the NSW Food Act 2003 and the Australia New Zealand Food Standards Code - 3.2.2 - Food Safety Practices and General Requirements.

*Note: The notification form can be accessed through the following link: [Food Premises Notification Form - Retail Premises | Hornsby Shire Council](#).*

*Reason: To enable council to ensure compliance with the consent when the business is operating.*

#### **92. Certify Fit Out Complies with Food Safety Standards**

Certification must be provided to the Principal Certifier, prior to occupation, that the fit-out of the food premises has been completed in accordance with plans complying with food safety standards prescribed under the Food Act 2003, and the requirements of Australian Standard AS4674-2004 Design, construction and fit-out of food premises.

*Reason: To ensure construction and fit out of the premises is in accordance with the approved plans.*

#### **93. Grease Trap Installation**

An application must be submitted to Sydney Water for the installation of a grease trap and dry basket arrestor (floor and sink) in accordance with the 'Guidelines for the On-Site Pre-Treatment of Trade Wastewater Discharges - Sydney Water (May 2004)'.

*Reason: To ensure the correct disposal of trade waste to protect the environment.*

#### **94. Waste Collection Vehicle Access**

1. Access for waste collection vehicles must be maintained at all times.
2. All surfaces trafficable by the waste collection vehicle must be kept in good and substantial repair.
3. The waste collection vehicle travel path must be kept clear of obstructions.
4. Vegetation adjacent to the driveway/accessway/roadway must be regularly pruned to maintain a 4.5m vertical clearance over the driveway/accessway/roadway and to ensure the vegetation does not encroach on the vehicular travel path.
5. Overhead power and communication lines, signs etc. over the driveway/accessway/roadway must be maintained such that they do not encroach the 4.5m vertical clearance required for the waste collection vehicle.
6. All signage and equipment required in the operational traffic control plan must be provided and available for use for the life of the development and must be regularly

checked and maintained in effective and efficient working order in accordance with the manufacturer's instructions by trained service technicians.

*Reason: To ensure appropriate access for waste collection.*

#### **95. Commercial Waste Management**

During occupation and use, waste management on site must be in accordance with the following requirements:

1. All commercial tenant(s) must keep written evidence on site of a valid and current contract with a licensed waste contractor(s) for the regular collection and disposal of the waste and recyclables that are generated on site. The contract must include a detailed description of the collection process which aligns with the submitted Operational Waste Management Plan and consent conditions. The contract must stipulate that services will only take place during the approved collection times. Where applicable, specialist waste collection contractors must be engaged to collect and lawfully dispose of hazardous and special wastes, hygienic sanitary waste, liquid waste (e.g. waste oil), clinical and sharps waste, etc. A copy of the contract must be provided to relevant authorities including Council officers on request.
2. If the sum of meat, seafood and poultry waste generated per day is at least 50 litres, then waste collections must take place daily if the bin storage room is not refrigerated.
3. All waste and recyclables must be stored within bins.
4. All commercial tenant(s) must have a sufficient number of bins to contain the volume of waste and recycling expected to be generated between collection services.
5. The lid of each bin must be kept closed at all times, other than when waste is being deposited.
6. No waste storage containers are to be located or placed where they are visible from the street.
7. The bin storage and surrounding areas must be kept in a clean and tidy condition at all times.
8. Adequate signage is to be provided and maintained on how to use the waste management system and what materials are acceptable for recycling within all waste storage areas of the development. Signage is also to be provided and maintained which clearly identifies which bins (and containers) are to be used for general waste, food organics waste and recycling and what materials can be placed in each bin. Signage is also to be provided in locally appropriate culturally and linguistically diverse (CALD) community languages.
9. In these consent conditions, recycling and recyclables refers to all waste streams that are recycled (including but not limited to mixed recycling (glass and plastic bottles, steel and aluminium cans etc), paper/cardboard, food organics, and garden organics) and are collected separately from general waste (garbage) that goes to landfill.

*Reason: to ensure the efficient and effective on-going management of waste for the operational life of the development.*

**- END OF CONDITIONS -**

**2 DA/1383/2025 - CONVERSION OF EXISTING STRATA SUBDIVISION TO A TORRENS TITLE - 6 OAKHILL DRIVE, CASTLE HILL**

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<b>DA No:</b>	DA/1383/2025 (PAN-599111 - Lodged on 5 January 2026)
<b>Description:</b>	Torrens title subdivision of an existing strata titled property comprising two detached dwellings
<b>Property:</b>	CP SP 50726, No. 2 Mensa Place and No. 6 Oakhill Drive, Castle Hill
<b>Applicant:</b>	Hammond Smeallie Surveyors
<b>Owner:</b>	Owners Corporation - SP 50726
<b>Estimated Value:</b>	\$3,300
<b>Ward:</b>	C Ward
<b>Clause 4.6 Request:</b>	Clause 4.1 of Height of Buildings of HLEP- R2 Low density residential zone
<b>Submissions:</b>	Nil
<b>LPP Criteria:</b>	Proposal contravenes a development standard by more than 10%
<b>Author:</b>	Katrina Maxwell, Senior 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, support the contravention of Clause 4.1 Minimum Lot Size 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/1383/2025 for Torrens title subdivision of an existing strata titled property comprising two detached dwellings at CP SP 50726, No. 6 Oakhill Drive, Castle Hill subject to the conditions of consent in Schedule 1 of LPP Report No. LPP3/26.

## EXECUTIVE SUMMARY

- The application proposes the Torrens title subdivision of an existing strata titled site comprising two detached dwellings.
- The proposal does not comply with Clause 4.1 'Minimum Subdivision Lot Size' of the Hornsby Local Environmental Plan 2013 (HLEP). The applicant has made a submission in accordance with Clause 4.6 'Exceptions to development standards' of the HLEP to contravene the 500m<sup>2</sup> minimum lot size development standard. The submission is considered well founded and is supported.
- The application is required to be determined by the Hornsby Local Planning Panel as the proposal would contravene the HLEP development standard for minimum subdivision lot size by more than 10 percent (37% contravention).
- No public submissions were received in respect of the application.
- It is recommended that the application be approved.

## BACKGROUND

On 8 June 1993, Council approved Development Application No. DA/780/1992 for the erection of a single storey dwelling to the rear of the existing dwelling and Torrens title Subdivision under Sydney Regional Environmental Plan 12 – Dual Occupancy.

On 26 April 1994, Council approved Section 4.55 Modification No. DA/780/1992/A to make minor plan amendments.

On 6 June 1995, Council approved Section 4.55 Modification No. DA/780/1992/B to amend the subdivision from Torrens title subdivision to strata title subdivision as "*the water board's requirements for the location of the sewer would have affected the siting of the house*" which made Torrens title subdivision unfeasible at the time.

The strata plan was registered on 4 September 2025.

## THE SITE

The 825.3m<sup>2</sup> site is located on the corner of Oakhill Drive and Mensa Place and contains a strata titled dual occupancy which was approved under development consent No. DA/780/1992 for the erection of a single storey dwelling to the rear of the existing dwelling under SREP 12. The site was subsequently subdivided under strata title.

The site is not bushfire prone.

A small portion of the site is affected by the 1%AEP flood extent and Probable Maximum Flood (PMF) mapping.

An easement for overhang is contained in the 88B Instrument for the property and reads as follows.

*An easement for overhanging eave and gutter limited in height and depth to 0.2 metres below and 0.5 metres above the underside of the eave and gutter attached to the building erected on the lot benefited to overhang the lot burdened in the position indicated on the above-mentioned plan"*

The sewer point connection to the site is on Oakhill Drive. Both lots are adequately serviced by gas, telecommunications, electricity, reticulated water, and stormwater drainage.

The site is not a heritage item, not in the vicinity of a heritage item and is not within a Heritage Conservation Area.

The site is opposite Oakhill Drive Public School which is on the southwestern side of Oakhill Drive.



Figure 1: Aerial photo of site

**PROPOSAL**

The application proposes the Torrens title subdivision of an approved strata titled dual occupancy comprising 2 detached dwellings.

- Proposed Lot 1 would have an area of 512.6m<sup>2</sup> and would contain the existing two storey brick dwelling. Vehicular access to Lot 1 would be via Oakhill Drive. Proposed Lot 1 is currently known as No. 6 Oakhill Drive.
- Proposed Lot 2 would have an area of 312.7m<sup>2</sup> and would contain a single storey brick dwelling. Vehicular access to Lot 2 would be via Mensa Place. Proposed Lot 2 is currently known as No. 2 Mensa Place.

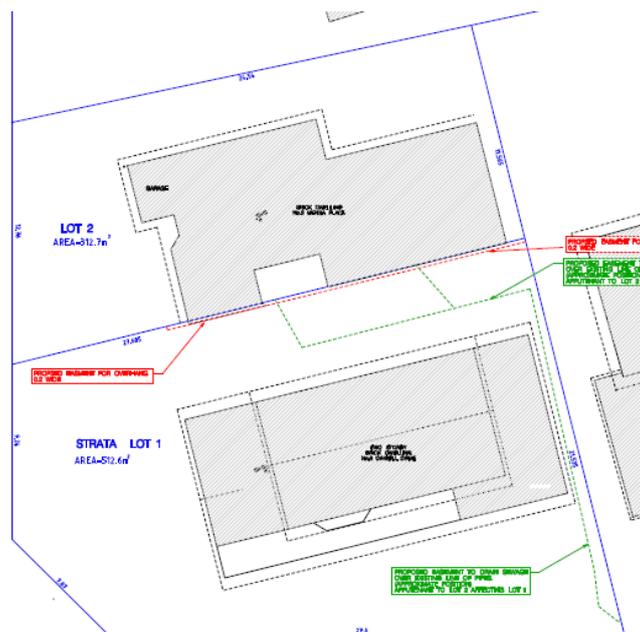


Figure 2: Extract of Plan of Proposed Subdivision

No physical works and no amendments to the existing stormwater management system are proposed.

No trees would be removed or impacted by the development.

An easement for sewerage would be created benefitting Lot 2, burdening Lot 1 over the existing sewer line.

## **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 not be inconsistent 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 meets the objectives of the R2 Low density residential zone by providing flexibility in housing choice close to services such as schools and shops, whilst maintaining the low-density residential character of the area.

### **2.1.2 Permissibility**

The existing dual occupancy on the site was approved in 1993 under Sydney Regional Environmental Plan No. 12 - Dual Occupancy. Upon repeal of this environmental planning instrument in 1997, dual occupancy development was prohibited in the 2A Residential "A3" Zone.

The Hornsby Local Environmental Plan 2013 was amended on 31 October 2025, to permit the development of dual occupancies in the R2 Low Density Residential Zone.

Notwithstanding, once the Torrens title subdivision is registered, each lot would contain a standalone dwelling house on its own lot which is permissible in the R2 Low density residential zone.

### **2.1.3 Minimum Lot Size**

Clause 4.1 of the HLEP prescribes that the minimum subdivision lot size is not to be less than shown for the land on the minimum Lot Size Map, which is 500m<sup>2</sup>.

This development application was initially lodged for the subdivision of a dual occupancy under Clause 4.1D Minimum Subdivision Lot Size for Dual Occupancies in Zone R2 of HLEP which has a minimum lot size of 400m<sup>2</sup>. This would have meant that Lot 2 contravened the minimum lot size by 21%.

Pursuant to Clause 4.1D(5) a lawfully constructed dual occupancy cannot be subdivided unless the minimum lot size of 400m<sup>2</sup> is met. The development standard cannot be contravened using Clause 4.6 Exceptions to development standards of the HLEP.

However, the Torrens title subdivision of this dual occupancy has merit as the site is already strata subdivided. The existing lot boundaries are not proposed to change. Therefore, the applicant was requested to submit a Section 4.6 written request to contravene the conventional minimum lot sizes for subdivision of 500m<sup>2</sup> under Clause 4.1 of the HLEP.

The proposed subdivision would result in Lot 2 having an area of 312.7m<sup>2</sup> which would result in a 37% contravention to the minimum lot size development standard. Proposed Lot 1 would have an area of 512.6m<sup>2</sup> which would comply with the minimum lot size development standard.

The application is supported by a submission pursuant to Clause 4.6 of the HLEP to contravene the minimum 500m<sup>2</sup> allotment size development standard, which is discussed below in Section 2.1.4 of this report.

### **2.1.4 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 does not meet the minimum lot size requirements specified in HLEP Clause 4.1 'Minimum subdivision lot size' which requires a minimum lot size, as per the 'Lot Size Map' of 500m<sup>2</sup>.

The Objectives of Clause 4.1 of HLEP are as follows:

(1) *The objectives of this clause are as follows—*

- i. *To provide for the subdivision of land at a density that is appropriate for the site constraints, development potential and infrastructure capacity of the land,*
- ii. *To ensure that lots are of a sufficient size to accommodate development.*

The application seeks to contravene the development standard by 37% (187.3m<sup>2</sup>). The applicant has made a submission in support of the contravention of 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.

#### **2.1.4.1 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 Natalie Richter (Consultant Planner) and Gary Skow (Registered Surveyor) Hammond Smeallie Surveyors, dated 4 February 2026 provides a detailed assessment of the proposal with respect to the development standard sought to be contravened. The request argues that:

- *Other adjoining smaller/undersized Torrens Title subdivisions exist in the area. Therefore, the proposed variation and Torrens Title conversion is not out of character with surrounding R2 density/lot patterns.*

- *Dual occupancy developments are now permissible under state legislation in the R2 zone, with lot sizes for detached dual occupancy dwellings of 400m<sup>2</sup>. The proposed variation is generally consistent with this new density and the variation is closer/less significant having regard to this relevant change. One lot is larger (consistent with dwelling houses standards) and one is slightly smaller (consistent with dual occupancy standards).*
- *The existing dwellings on the site (and proposed Torrens lots) are consistent in size with the smaller size of adjoining lots (4 and 4A Oakhill Drive DA/132/1994).*
- *The streetscape character and consistency with the R2 Zone and lot size objectives will not change.*
- *Smaller lot sizes and variety in lot sizes provides housing to suit different household sizes, budgets and needs in accordance with housing planning objectives.*
- *The housing density will not change. The proposal involves a practical conversion of title, with no physical changes. The subdivision merely converts the existing physical arrangement into independent Torrens Title lots.*
- *No physical works are proposed, no change to the dwellings or open spaces, boundaries or streetscape presentation. As the proposal is a change in tenure only, there will be no environmental impacts.*
- *The proposal seeks simply to convert the existing legally defined strata lots into Torrens Title lots which makes practical sense, will improve the value, independent tenure and sales ability for the owners, removing the need for requirements imposed by Strata schemes. The current strata plan is outdated, undesirable due to administrative issues and requires replacement. This is achievable and is now consistent with new dual occupancy provisions. Torrens Title, being allowed for dual occupancies and being consistent with the area is considered to result in a better planning outcome. Removal benefits both owners and reduces administrative issues.*
- *Following the subdivision of the site, the two lots can (if so desired) be sold separately which will allow potential home buyers the opportunity for buying land that has proven to be of a suitable size for residential purposes.*
- *The ongoing imposition of a Strata scheme for only two detached dwellings is considered unreasonable and unnecessary in this context. This approach is considered to be no longer reasonable and necessary when dual occupancy developments can be divided under Torrens Title.*
- *Strict compliance would constrain the ability to convert the properties to Torrens Title and remove the administrative issues. This would not provide any environmental benefits and would impose unreasonable and adverse impacts upon the landowners with no particular environmental planning benefit or change.*
- *The two dwellings have operated as independent properties for decades with separate open space, access, services and amenity. No change is proposed.*
- *The development capacity of the land remains unchanged.*
- *No additional dwelling entitlements are created.*
- *The proposed development will not impact on the residential capacity of the subject site.*

- *The proposal will not alter the residential character, streetscape, density, or amenity of Oakhill Drive or Mensa Place and the proposal is entirely consistent with planning objectives for the R2 zone and the Minimum Lot size Clause/s within the HLEP.*
- *The variation does not undermine the intent of the minimum lot size standard, as both dwellings demonstrably function on the existing lots, providing space, amenity, planting and R2 area consistency.*
- *As noted, the proposal would be consistent with other approved small/undersized Torrens Title lots in the area and is reasonable.*
- *The underlying objectives or purpose would be defeated or thwarted if compliance was required, as strict compliance with the development standard would result in a missed opportunity to create independent living with each owner responsible for decisions for their own property. Therefore, strict numeric compliance given the historical background and lot pattern context is unreasonable.*

Council notes that the objectives of Clause 4.1 of the HLEP are as follows:

- (1) *The objectives of this clause are as follows—*
- To provide for the subdivision of land at a density that is appropriate for the site constraints, development potential and infrastructure capacity of the land,*
  - To ensure that lots are of a sufficient size to accommodate development.*

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 4.1. In reaching this conclusion the following points are noted:

- The lots are already strata titled and share no common accesses or services (other than a sewer connection for which an easement would be created).
- No physical works would be required to facilitate the subdivision.
- As the proposed lots are on a corner both dwellings face different streets and consist of different architectural styles and therefore bear no relationship to one another.
- Council previously approved the Torrens title subdivision of this site in 1993. However, the Applicant elected to amend the proposal to strata subdivision through a Section 102 Application (now Section 4.55).
- There is precedent of smaller lot sizes in the vicinity of the site. The adjoining sites of 4 and 4A Oakhill Drive have been subdivided by Torrens title creating lot sizes of 361.8m<sup>2</sup> and 386.3m<sup>2</sup> respectively.
- This development application was initially lodged for the subdivision of a dual occupancy under Clause 4.1D Minimum subdivision lot size for dual occupancies in the R2 zone of HLEP 2013, which requires a minimum lot size of 400m<sup>2</sup>. The intention of Clause 4.1D is not to create new dual occupancy allotments under the minimum lot size. However, this situation is different as the site is already strata subdivided. Therefore, the applicant was requested to submit a Section 4.6 written request to contravene the minimum lot sizes for subdivision of 500m<sup>2</sup>.

For the reasons outlined above, it is considered that the written request to contravene the minimum lot size development standard adequately demonstrates that the objectives of the minimum lot size

development standard contained within Clause 4.1 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 environmental planning grounds for the contravention of the development standard:

- *Existing dwellings on both lots meet planning controls relating to solar access, privacy, setbacks, open space, parking and streetscape. The conversion to Torrens Title does not alter any environmental outcomes. No physical change is proposed.*
- *Dwelling/site density is unchanged. It is just the title system from Strata to Torrens Title which is proposed to change which recognises and would separate the existing dwelling on each existing lot size/layout. This would allow independence and separation and release the need for 2 detached homes and gardens under Strata title/requirements.*
- *The dwellings have functioned successfully for 30 years, no change is proposed except the title type allowing the separation of the 2 homes in a similar way to others in the area.*
- *The proposed lot areas correspond exactly to existing Strata lots, meaning no intensification, modification or adverse impact is involved.*
- *The proposal does not create any matter of State or regional significance.*
- *The proposal is consistent with housing objectives, providing for choice.*
- *This is an infill subdivision/technical legal title adjustment with no environmental change or impact.*
- *Strata subdivision was the only appropriate title for some of the older dual occupancy developments approved in the 1990s. Now that Torrens Title subdivision is available for dual occupancy uses, the proposed simple conversion from Strata to Torrens Title is considered reasonable given the physical and planning context, particularly given that no physical change or change to dwelling density is proposed. This involves the delineation of existing dwellings. No change to separation, housing offerings or the streetscape.*
- *The proposed conversion is considered to make practical sense and is considered to accord with existing and expected densities.*
- *The lot pattern is consistent with the area pattern, including the directly adjoining subdivided lots at 4 and 4A Oakhill Drive which are similar in size to the proposed subdivision. There are numerous other examples of smaller lot sizes in this area, and the proposal would not have a detrimental or unintended effect on density.*
- *As noted, recent reforms allow detached dual occupancies in the R2 zone with 1 detached dual occupancy dwelling able to be subdivided to a child lot of 400m<sup>2</sup>. When considering this change to planning controls and future density, the proposed numeric variation (involved for a historic dual occupancy typology) is significantly less and certainly not out of character with*

*intended future outcomes. Proposed Lot 1 at 512.6m<sup>2</sup> is larger than required and fully consistent with the surrounding detached housing pattern and proposed Lot 2 at 312.7m<sup>2</sup> is much closer to the 400m<sup>2</sup> minimum site size now permissible for detached dual occupancy developments.*

- *Torrens Title subdivision enhances property management, legal clarity and owner autonomy, aligning with planning objectives relating to orderly 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%.

#### **2.1.5 Heritage Conservation**

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

#### **2.1.6 Earthworks**

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

The application does not propose any physical works and is consistent with Clause 6.2 of the HLEP.

#### **2.1.7 Flood Planning**

Clause 5.21 Flood Planning of the HLEP applies to the proposal as the site is identified as flood prone. No physical or engineering work is proposed as part of this development application.

A small portion of the southwestern corner of the site is mapped as being affected by the 1%AEP flood extent. Council's engineering assessment raised no objections to the proposal on flood planning grounds and subject to the recommended conditions, Council is satisfied the development meets the provisions of Clause 5.21 of the HLEP.

### **2.1 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.

#### **2.1.1 Chapter 2 Vegetation in Non-Rural Areas**

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

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

As no physical or engineering works are proposed, no trees or vegetation will be removed or impacted by this development. Therefore, no further assessment is required under Chapter 2 of the Biodiversity and Conservation SEPP.

### **2.1.2 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. This chapter 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.

As no physical works are proposed, 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.

### **2.2 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.

#### **2.2.1.1 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.

### **2.3 Draft Environmental Planning Instrument**

There are no current draft environmental planning instruments.

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

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

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

## 2.5 Hornsby Development Control Plan 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:

HDCP - Part 6.1 Subdivision			
Control	Proposal	Requirement	Complies
Site Area	825m <sup>2</sup>	N/A	N/A
Lot Area			
- Lot 1 (6 Oakhill Dr)	512m <sup>2</sup>	500m <sup>2</sup>	Yes
- Lot 2 (2 Mensa Pl)	312.7m <sup>2</sup>	500m <sup>2</sup>	No
Lot Width			
- Lot 1	16.9m	min. 12m	Yes
- Lot 2	12.4m	min. 12m	Yes

### Dwelling House on Lot 1 (6 Oakhill Drive)

HDCP - Part 3.1 Dwelling Houses			
Control	Proposal	Requirement	Complies
Site Area	512.6m <sup>2</sup>	N/A	N/A
Site Coverage	22% (114m <sup>2</sup> )	max. 50% (506m <sup>2</sup> )	Yes
Floor Area	202m <sup>2</sup>	330m <sup>2</sup>	Yes
Setbacks			

- <i>Front</i>	9.1m	6m	Yes
- Northern Eastern Side			
<i>Ground floor</i>	1.5m	900mm	Yes
<i>First floor</i>	4.1m	1.5m	Yes
- <i>Secondary Street</i>	3m	3m	Yes
- <i>Rear</i>			
<i>Ground floor</i>	1.1	3m	No
<i>First floor</i>	4.1m	8m	No
Landscaped Area (% of lot size)	60% (309m <sup>2</sup> )	min. 20% (106m <sup>2</sup> )	Yes
Private Open Space			
- <i>minimum area</i>	104m <sup>2</sup>	24m <sup>2</sup>	Yes
- <i>minimum dimension</i>	m	3m	Yes
Car Parking	2 spaces	2 spaces	Yes

Dwelling House on Lot 2 (2 Mensa Place)

<b>HDCCP - Part 3.1 Dwelling Houses</b>			
<b>Control</b>	<b>Proposal</b>	<b>Requirement</b>	<b>Complies</b>
Site Area	312.7m <sup>2</sup>	N/A	N/A
No. storeys	1	max. 2 + attic	Yes
Site Coverage	42% (132m <sup>2</sup> )	max. 55% (171.9m <sup>2</sup> )	Yes
Floor Area	132m <sup>2</sup>	270m <sup>2</sup>	Yes
Setbacks			
- Northern Eastern Side	3.3m	900mm	Yes
- <i>Southern Western Side</i>	Nil	900mm	Yes
- <i>Front</i>	6m	6m	Yes
- <i>Rear</i>	1m	3m	No
Landscaped Area (% of lot size)	27% (86m <sup>2</sup> )	min. 15% (46.9m <sup>2</sup> )	Yes

**ITEM 2**

Private Open Space			
- <i>minimum area</i>	48m <sup>2</sup>	24m <sup>2</sup>	Yes
- <i>minimum dimension</i>	5.4m	3m	Yes
Car Parking	2 spaces	2 spaces	Yes

As detailed in the above tables, the proposed development generally complies with the prescriptive measures within the HDCP with the exception of minimum lot size for proposed Lot 2, side setback for Lot 2 and rear setbacks for Lots 1 and 2. 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.

### 2.5.1.1 Lot Size and Width

The desired outcomes of Part 6.2.1 Residential Subdivision of HDCP 2013 are to ensure “*subdivision design should maintain appropriately shaped lots to accommodate a dwelling and associated development that is compatible with a low-density residential environment*” and “*subdivision design should provide setbacks to developable areas that will complement the streetscape, provide for landscaping, protect landscape features, and provide separation between existing and future dwellings*”.

The existing dual occupancy development demonstrates that the site is of sufficient size and shape to accommodate two dwelling houses. The proposed Torrens title subdivision would not alter the intensity or scale of the existing development on the site. Once the Torrens title subdivision is registered, the dual occupancy will be treated as two separate dwelling houses, and therefore the HLEP and HDCP controls pertaining to dwelling houses would continue to apply.

Despite the departure to the minimum lot size control for Lot 2, the development complies with the prescriptive control for minimum lot width. The minimum lot width for a 500m<sup>2</sup> lot in the R2 zone is 12m<sup>2</sup>. The width of proposed Lot 1 is 16.9m and the width of proposed Lot 2 is 12.4m.

The proposal would not have a detrimental impact on the existing streetscape or the amenity of adjoining properties and is considered acceptable in this regard.

The proposal complies with Part 6.2.1 Residential Subdivision of the HDCP 2024 and is considered acceptable.

### 2.5.1.2 Setbacks

The desired outcomes of Part 3.1.2 of HDCP are to encourage “*setbacks that are compatible with adjacent development and complement the streetscape*” and “*setbacks that allow for canopy trees to be retained and planted along the front and rear property boundaries*”.

#### Side Setbacks

A ground floor of a dwelling in a dual occupancy or dwelling house is required to be setback at least 900mm from the side boundaries of the site.

The dwelling on Lot 2 would have a nil setback to the proposed common property boundary (southwestern elevation). An easement for eave overhang benefitting Lot 2 and burdening Lot 2 exists on the existing strata plan and would continue to be maintained under the Torrens title subdivision. However, this was approved as part of the development application for the dual

occupancy. It was determined at that time that the placement of the dwelling house complied with building separation requirements under the Building Code of Australia. The subdivision boundary is not proposed to change location. It was suggested to the Applicant that the boundary be relocated to create a compliant side setback and a larger Lot 2 (smaller contravention to minimum lot size). However, the Applicant provided advice that this would create complexity between the two properties, particularly as it would have a detrimental impact on the retaining wall and garden on Lot 1.

### Rear Setbacks

Part 3.1.2 Setbacks of the HDCP requires a minimum rear setback to a ground floor of 3m and a minimum rear setback to a first storey of 8m.

Proposed Lot 1 contains a two-storey dwelling house and would have 1.1m rear setback to the ground floor. The first floor would be setback 4.1m from the rear boundary. There are no windows on the rear elevation of the first floor. The dwelling house on Proposed Lot 1 was constructed sometime between 1991 and 1994, pre-dating HSLEP 1994 and HLEP 2013 and subordinate development control plans. The Applicant has demonstrated that there is adequate space between the rear elevation of this dwelling and the rear property boundary to facilitate an easement for sewerage.

Proposed Lot 2 contains a single storey dwelling house and would have a 1m rear setback to the ground floor. The only windows on the rear elevation are bedroom windows and therefore there are no privacy issues to No. 4A Oakhill Drive at the rear of the site.

Both proposed lots would have adequate north facing private open space on the northeastern side of the respective lots.

It would be unreasonable and unnecessary to modify the existing dwellings to meet numerical compliance with the setback controls. The proposal generally complies with the desired outcomes of Part 3.1.2 of the HDCP and is considered acceptable.

### **2.5.1.3 Landscaping**

The desired outcome of Part 3.1.3 of the HDCP are to encourage "*landscaping that integrates the built form with soft canopy and retains and enhances the tree canopy*" and "*development that retains the existing landscape features*". These desired outcomes are supported by prescriptive controls requiring a minimum of 30% of the site area being landscaped on Lot 1, and a minimum of 20% of Lot 2 being landscaped.

Notwithstanding the departure to minimum lot size development standard under HLEP, both proposed lots comply with their respective minimum landscaping requirements for dwelling houses under Part 3.1.3 of HDCP.

The proposed lot configuration makes Lot 1 the larger lot, which allows for increased landscaping opportunities to frame and enhance the dwelling house on Lot 1. The lot configuration also ensures that the landscaped retaining wall remains on Lot 1. Lot 1 is the corner allotment and therefore more visually dominant than Lot 2 which only faces Mensa Place.

The proposal complies with Part 3.1.3 of HDCP and is considered acceptable

### **2.5.1.4 Open Space**

The desired outcome of Part 3.1.4 Open Space of the HDCP is "*private open space that functions as an extension to the dwelling house*". This desired outcome is supported by the prescriptive control that each lot have a minimum of 24m<sup>2</sup> of private open space, with a minimum width of 3m.

Notwithstanding the departure to the minimum lot size development standard under HLEP, both proposed lots comply with their respective minimum private open space requirements for dwelling houses under Part 3.1.4 of HDCP. Both private open space areas enjoy northern/northern-eastern solar aspect.

The proposal complies with Part 3.1.4 Open Space of the HDCP and is considered acceptable.

### **2.5.1.5 Vehicular Access and Parking**

The desired outcome of Part 1.3.2.1 Transport and Parking of HDCP is “*car parking and bicycle facilities that meet the requirements of future occupants and their visitors*” and “*development with simple, safe and direct vehicular access*”.

The desired outcome of Part 3.1.7 Vehicle Access and Parking of HDCP is “*development that provides sufficient and convenient parking for residents with vehicular access that is simple, safe and direct*”. This desired outcome is supported by prescriptive controls requiring that the provision of “*car parking for dwelling houses should be provided behind the front building line*” and “*a paved driveway should be provided between the required on-site car parking area and a public road*”.

Both lots will continue to be served by separate vehicle crossings. Lot 1 would have vehicle access to Oakhill Drive. Lot 2 would have vehicle access to Mensa Place.

When the original development application was approved in 1993 under Sydney Regional Environmental Plan 12 - Dual Occupancy, the dwelling on Lot 1 was required to have two car parking spaces. The dwelling on Lot 2 was required to have one car parking space.

Council’s current car parking rate pursuant to Part 1.3.2.1 Transport and Parking of HDCP requires two car parking spaces per dwelling containing three or more bedrooms. The dwelling house on Lot 1 contains four bedrooms and is serviced by a double garage. The dwelling house on Lot 2 contains three bedrooms and is serviced by a single garage. An additional car parking space can be accommodated wholly within the site on the 6m long driveway. Therefore, the proposal meets the car parking requirements under Part 1.3.2.1 Transport and Parking of HDCP.

The proposal complies with Part 1.3.2.1 Transport and Parking and Part 3.1.7 Vehicle Access and Parking and is considered acceptable.

## **2.6 Section 7.11 Contributions Plan**

A Section 7.11 Contribution is not applicable to this development as the development would not increase demand for services, and no additional dwellings are proposed as the existing dual occupancies are to be retained as approved under Development Application No. DA/780/1992.

## **2.7 Housing and Productivity Contribution**

The Housing and Productivity Contribution does not apply to the development as the proposal would not result in an additional dwelling or residential lots. Accordingly, the requirement for a monetary Housing and Productivity contribution is not required to be imposed as a condition of consent.

## **2.8 Planning Agreements**

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

## **2.9 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 on land subject to subdivision order under Schedule 7, provisions of that order and any development plan.

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.

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**

No trees or vegetation would be removed or impacted by this development.

#### **3.1.2 Stormwater Management**

A Servicing Plan was provided by Hammond Smeallie and Co (dated 26 February 2026). Stormwater for both lots would continue to be conveyed to Mensa Place.

#### **3.1.3 Flooding**

A small portion of the western corner of the site is mapped within the 1% AEP flood. However, no physical works are proposed. The finished floor levels of both dwellings would be at least 500mm above the flood level. Council’s Development Engineer has reviewed the development application and has no objections to the proposal.

### **3.2 Built Environment**

#### **3.2.1 Built Form**

There will no change to the built form of the site as a result of this Torrens title subdivision.

#### **3.2.2 Traffic**

The proposal to convert the existing strata subdivision to Torrens title will not generate any additional traffic movements or car parking demand.

### **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 remove the burden of maintaining the cost of a strata scheme and improve the economic value of the property.

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

**4. SITE SUITABILITY**

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

The subject site has not been identified as bushfire prone. Part of the land the subject of the development is identified as being below the 1:100-year flood extent.

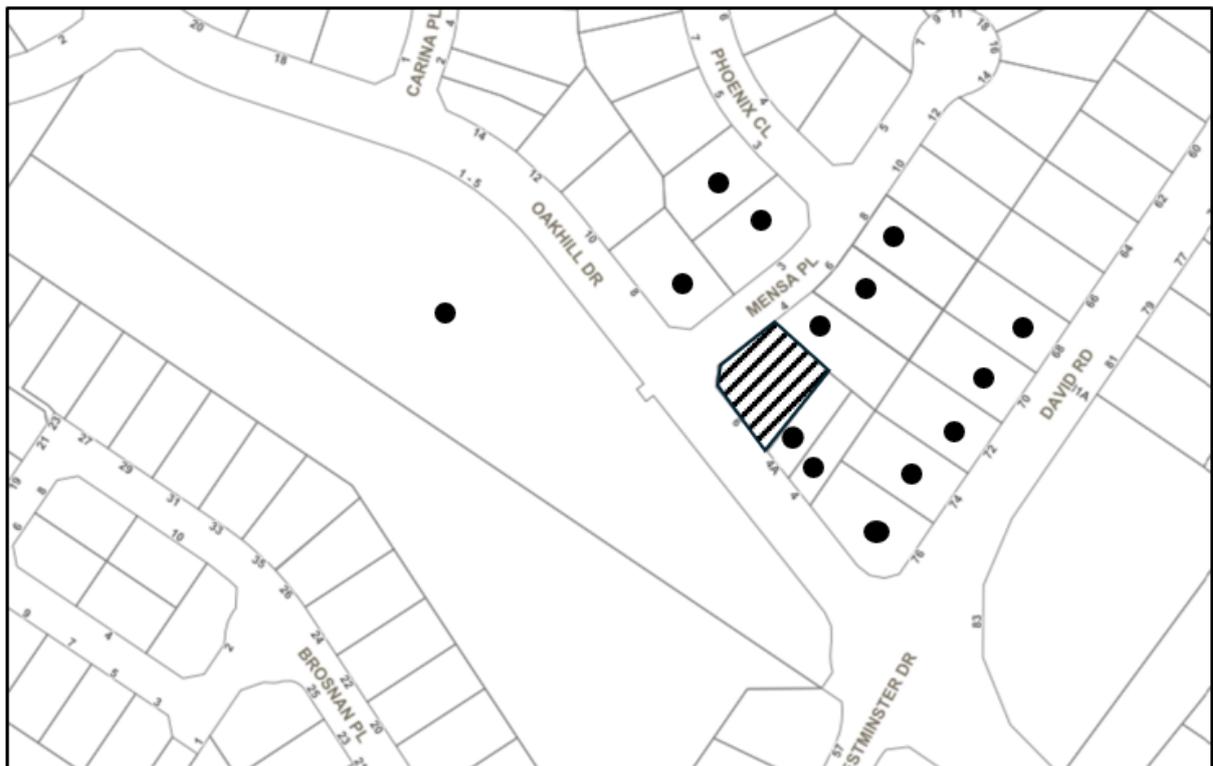
Notwithstanding, the site is considered to be capable of accommodating the proposed development. The scale of the proposed development is consistent with the capability of the site and is considered acceptable.

**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 5 February 2026 and 19 February 2026 in accordance with the Hornsby Community Engagement Plan. During this period, Council did not receive any submissions. The map below illustrates the location of those nearby landowners were notified of the development.



**NOTIFICATION PLAN**

<ul style="list-style-type: none"> <li>• PROPERTIES NOTIFIED</li> </ul>	<ul style="list-style-type: none"> <li>X SUBMISSIONS RECEIVED</li> </ul>	 PROPERTY SUBJECT OF DEVELOPMENT	
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## 5.2 Public Agencies

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

## 6. THE PUBLIC INTEREST

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

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

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

## CONCLUSION

The application proposes the Torrens title subdivision of an existing strata titled dual occupancy, comprising two detached dwellings at No. 6 Oakhill Road and No. 2 Mensa Place Castle Hill.

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 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  
Planning and Compliance Division

ROD PICKLES  
Manager - Development Assessments  
Planning and Compliance Division

**Attachments:**

1.  Clause 4.6 Written Request
2.  Subdivision Plan
3.  Servicing Plan

File Reference: DA/1383/2025

Document Number: D09292777

## SCHEDULE 1

# GENERAL CONDITIONS

**ITEM 2**

## 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
15972 Issue A	Plan of Proposed Subdivision Including Detail and Levels	Hammond Smealie & Co Pty Ltd	27/02/2026	

#### Supporting Documentation

Document Title	Prepared by	Dated	Council Reference
Plan Showing Existing Utility Services for Each Dwellings	Hammond Smealie & Co Pty Ltd	26/02/2026	D09325747

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

## LAND SUBDIVISION

[where subdivision work is not involved]

### BEFORE ISSUE OF A SUBDIVISION CERTIFICATE

## Condition

### 2. Subdivision Certificate Application

A Subdivision Certificate Application is required to be lodged with Council, which is to include a completed Subdivision Certificate form and checklist, a final plan of subdivision prepared in accordance with the requirements of the Conveyancing Act 1919 and the following information:

1. A surveyor's certificate certifying that all structures within the subject land comply with the development consent in regard to the setbacks from the new boundaries.
2. A surveyor's certificate certifying that all services, drainage lines or access are located wholly within the property boundaries. Where services encroach over the new boundaries, easements are to be created.
3. Certification that the requirements of relevant utility authorities have been met.

4. A surveyor's certificate certifying finished ground levels are in accordance with the approved plans.

*Note: The fee payable is to be in accordance with Council's fees and charges.*

*Note: Council will not issue a Subdivision Certificate until all conditions of the development consent have been completed.*

*Note: At the present time Hornsby Shire Council is the only authority that can be appointed as a PC for subdivision works within the Shire.*

*Reason: Statutory requirement of the Conveyancing Act 1919.*

### **3. Sydney Water - Section 73 Compliance Certificate**

1. A compliance certificate must be obtained from Sydney Water, under Section 73 of the Sydney Water Act 1994. The Sydney Water assessment will determine the availability of water and wastewater services, which may require extensions, adjustments, or connections to their mains. Sydney Water recommends that an early application for the certificate be made, as there may be assets to be built and this can take some time.
2. A Section 73 Compliance Certificate must be obtained from Sydney Water and submitted to the Principal Certifier before an Occupation Certificate or Subdivision Certificate will be issued.
3. Applications can be made either directly to Sydney Water or through a Sydney Water accredited Water Servicing Coordinator.

*Note: Go to the [Sydney Water website](#) or call 1300 082 746 to learn more about applying through an authorised WSC or Sydney Water.*

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

### **4. Creation of Easements**

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

1. An inter-allotment drainage easement(s) over each of the burdened lots if required.
2. Any sewer easement(s) over each of the burdened lots.
3. The creation of an appropriate "Positive Covenant" and "Restriction as to User" over any constructed on-site detention/retention systems and outlet works, within the lots in favour of Council in accordance with Council's prescribed wording. The position of the on-site detention system is to be clearly indicated on the title.
4. To register the OSD easement, the restriction on the use of land "works-as-executed" details of the on-site-detention system must be submitted verifying that the required storage and discharge rates have been constructed in accordance with the design requirements. The details must show the invert levels of the on-site system together with pipe sizes and grades. Any variations to the approved plans must be shown in red on the "works-as-executed" plan and supported by calculations.

*Note: Council must be nominated as the authority to release, vary or modify any easement, restriction, or covenant.*

*Reason: To create legal entitlements to facilitate the proper use and management of land.*

**5. House Numbering**

The house numbering for this subdivision shall be:

<b>Lot</b>	<b>Street Number</b>	<b>Street Name</b>	<b>Street Type</b>	<b>Locality</b>
<i>Lot 1</i>	<i>6</i>	<i>Oakhill</i>	<i>Drive</i>	<i>Castle Hill</i>
<i>Lot 2</i>	<i>2</i>	<i>Mensa</i>	<i>Place</i>	<i>Castle Hill</i>

*Reason: To maintain property numbering in accordance with Australian Standards.*

**- END OF CONDITIONS -**

**ITEM 2**

**1 REPORTING DEVELOPMENT APPLICATIONS FOR DETERMINATION BY THE HORNSBY LOCAL PLANNING PANEL OVER 180 DAYS**

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**EXECUTIVE SUMMARY**

- In accordance with the Local Planning Panels Directions - Operational Procedures, Council is required to monitor development applications to be determined by the Panel that may be experiencing unreasonable delays of over 180 days from lodgement.
- A list of out outstanding development applications in excess of 180 calendar days from lodgement is attached for the Hornsby Local Planning Panel's advice.

**RECOMMENDATION**

THAT the contents of LPP Report No. LPP13/26 be received and noted.

## PURPOSE

The purpose of this report is to advise the Hornsby Local Planning Panel of development applications required to be determined by the Panel that are over 180 calendar days from lodgement.

## DISCUSSION

In 2019 the NSW Productivity Commission conducted a review of the Independent Planning Commission (IPC). The review recommended several actions to streamline processes to optimise efficiency, output and performance.

The planning panel changes were implemented on 1 August 2020 to incorporate a number of the NSW Productivity Commission 's recommendations to the way Local Planning Panels work to make them more efficient and to improve the assessment and determination times of development applications and maintain panel oversight of sensitive and contentious applications.

These changes were made as part of the Planning Acceleration Program to support the State's immediate and long-term economic recovery from the COVID-19 crisis.

The changes will speed up panel determinations by:

1. Reducing the need to conduct public panel meetings for non-contentious matters by applying a '10-or-more' objection trigger for public meetings.
2. Reducing the amount of modifications going to panels.
3. Obliging panel chairs to more actively manage development applications (DAs) coming to the panels to reduce panel deferrals and assessment timeframes.
4. Allowing chairs to bring forward determination on DAs that are experiencing unreasonable delays of over 180 days from lodgement.
5. Introducing panel performance measures.

The Local Planning Panels Directions - Operational Procedures has been amended to:

- Require panels to make determinations within two weeks of being provided an assessment report.
- Require panels to hold a public meeting only where the Development Application has attracted 10 or more unique submissions by way of objection.
- Allow, at the Chair's discretion, applicants to attend a briefing, along with council staff, to explain complex matters or present confidential or commercially sensitive material.
- Oblige panel chairs to work with council to ensure key issues are addressed during assessment in order to minimise deferrals by the panels at determination stage.
- Require the panels to provide reasons for deferring a decision and set timeframes in which any additional information must be provided in order to finalise the determination.
- Give panel chairs the ability to require council to report a DA to the panel within four weeks for determination if the application has experienced unreasonable delays in excess of 180 calendar days from lodgement.

In accordance with Point 6 of the Local Planning Panels Directions - Operational Procedures, attached is a list of development applications required to be determined by the Panel that are over 180 calendar days from lodgement.

**CONCLUSION**

Council is required to monitor development applications to be determined by the Panel that are over 180 calendar days from lodgement. This report provides advice to the Local Planning Panel on DAs that are experiencing unreasonable delays of over 180 days from lodgement.

**RESPONSIBLE OFFICER**

The officer responsible for the preparation of this report is the Major Development Manager, Cassandra Williams.

KATHERINE VICKERY

Director - Planning and Compliance

Planning and Compliance Division

**Attachments:**

1. DAs over 180 days



File Reference: F2013/00295-005

Document Number: D09332780

**ITEM 3**