



BUSINESS PAPER

Local Planning Panel meeting

**Wednesday 23 September 2026
at 4:00 PM**



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AGENDA AND SUMMARY OF RECOMMENDATIONS

PRESENT

ACKNOWLEDGEMENT OF COUNTRY

Statement by the Chairperson:

"Council recognises the Traditional Owners of the lands of Hornsby Shire, the Darug and Guringai peoples, and pays respect to their Ancestors and Elders past and present and to their Heritage. We acknowledge and uphold their intrinsic connections and continuing relationships to Country."

AUDIO RECORDING OF LOCAL PLANNING PANEL MEETING

Statement by the Chairperson:

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

APOLOGIES / LEAVE OF ABSENCE

POLITICAL DONATIONS DISCLOSURE

Statement by the Chairperson:

"In accordance with Section 10.4 of the Environmental Planning and Assessment Act 1979, any person or organisation who has made a relevant planning application or a submission in respect of a relevant planning application which is on tonight's agenda, and who has made a reportable political donation or gift to a Councillor or employee of the Council, must make a Political Donations Disclosure Statement."

If a Councillor or employee has received a reportable political donation or gift from a person or organisation who has made a relevant planning application or a submission in respect of a relevant planning application which is on tonight's agenda, they must declare a non-pecuniary conflict of interests to the meeting, disclose the nature of the interest and manage the conflict of interests in accordance with Council's Code of Conduct."

DECLARATIONS OF INTEREST

Clause 52 of Council's Code of Meeting Practice (Section 451 of the Local Government Act, 1993) requires that a councillor or a member of a Council committee who has a pecuniary interest in a matter which is before the Council or committee and who is present at a meeting of the Council or committee at which the matter is being considered must disclose the nature of the interest to the meeting as soon as practicable. The disclosure is also to be submitted in writing (on the form titled "Declaration of Interest").

The Councillor or member of a Council committee must not be present at, or in sight of, the meeting of the Council or committee:

- (a) at any time during which the matter is being considered or discussed by the Council or committee.*
- (b) at any time during which the Council or committee is voting on any question in relation to the matter.*

Clause 51A of Council's Code of Meeting Practice provides that a Councillor, Council officer, or a member of a Council committee who has a non pecuniary interest in any matter with which the Council is concerned and who is present at a meeting of the Council or committee at which the matter is being considered must disclose the nature of the interest to the meeting as soon as practicable. The disclosure is also to be submitted in writing (on the form titled "Declaration of Interest").

If the non-pecuniary interest is significant, the Councillor must:

- a) remove the source of conflict, by relinquishing or divesting the interest that creates the conflict, or reallocating the conflicting duties to another Council official.*

OR

- b) have no involvement in the matter by absenting themselves from and not taking part in any debate or voting on the issue as if the provisions of Section 451(2) of the Act apply.*

If the non-pecuniary interest is less than significant, the Councillor must provide an explanation of why they consider that the interest does not require further action in the circumstances.

CONFIRMATION OF MINUTES

THAT the Minutes of the Local Planning Panel meeting held on 26 August, 2026 be confirmed; a copy having been distributed to all Councillors.

GENERAL BUSINESS

- *Items for which there is a Public Forum Speaker*
- *Balance of General Business items*

LOCAL PLANNING PANEL

Page Number 1

**Item 1 LPP21/26 DA/800/2025/B - SECTION 4.55(2) MODIFICATION FOR APPROVED
ALTERATIONS AND ADDITIONS TO A DWELLING - 136 RIVERVIEW AVENUE,
DANGAR ISLAND**

RECOMMENDATION

THAT the Hornsby Local Planning Panel, exercising the functions of Council as the consent authority, pursuant to Section 4.55(2) of the *Environmental Planning and Assessment Act 1979*, amend Development Application No. DA/800/2025/B for alterations and additions to a dwelling house including a swimming pool and deck at Lot 233 DP 11921, No. 136 Riverview Avenue, Dangar Island as detailed in Schedule 1 of LPP Report No. LPP21/26.

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**Item 2 LPP25/26 QUARTERLY REPORTING OF DEVELOPMENT APPLICATIONS FOR
DETERMINATION BY THE HORNSBY LOCAL PLANNING PANEL OVER 180 DAYS**

RECOMMENDATION

THAT the contents of LPP Report No. LPP25/26 be received and noted.

SUPPLEMENTARY AGENDA

1 DA/800/2025/B - SECTION 4.55(2) MODIFICATION FOR APPROVED ALTERATIONS AND ADDITIONS TO A DWELLING - 136 RIVERVIEW AVENUE, DANGAR ISLAND

DA No:	DA/800/2025/B (PAN-660326 - Lodged on 28 July 2026)
Description:	Section 4.55(2) application to modify the approved development to include the proposed swimming pool, deck and ancillary landscaping works
Property:	Lot 233 DP 11921, No. 136 Riverview Avenue, Dangar Island
Applicant:	Ms Jane Maxine Cotes
Owner:	Ms Jane Maxine Cotes & Ms Constantine Laptev
Estimated Value:	\$1,709,400.00 (unchanged)
Ward:	A Ward
Submissions:	15
LPP Criteria:	Application proposes amendment to a condition imposed by HLPP 10 or more unique submissions were received by way of objection
Author:	Sophie Valentine, 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, pursuant to Section 4.55(2) of the *Environmental Planning and Assessment Act 1979*, amend Development Application No. DA/800/2025/B for alterations and additions to a dwelling house including a swimming pool and deck at Lot 233 DP 11921, No. 136 Riverview Avenue, Dangar Island as detailed in Schedule 1 of LPP Report No. LPP21/26.

EXECUTIVE SUMMARY

- The modification application seeks to include the proposed swimming pool, deck and associated retaining walls and to modify the approved steps.
- The modification application seeks amendment to conditions originally imposed by the Hornsby Local Planning Panel (HLPP) requiring deletion of the swimming pool and ancillary structures at the rear of the site.
- A total of 15 submissions have been received in respect of the application, of which 14 submissions were received within the prescribed notification period.
- The application is required to be determined by the Hornsby Council Local Planning Panel as the application proposes an amendment to a condition imposed by the panel and 10 or more unique submissions were received by way of objection.
- It is recommended that the modification application be approved.

BACKGROUND

On 26 February 2026, the Hornsby Local Planning Panel (HLPP) approved Development Application No. DA/800/2025 for alterations and additions to a dwelling house, subject to conditions.

Approval of DA/800/2025 was subject to the deletion of the swimming pool, deck, and cabana as indicated in red on the approved plans.

Minutes of the Panel stated the following:

The Panel considered the matters raised in the written submissions and by the speakers at the meeting.

The Panel considered the provisions of section 61 Demolition of buildings of the Environmental Planning and Assessment Regulation 2021 and is satisfied that the recommended conditions of consent ensure the provisions are addressed.

The Panel is satisfied that the development has adequately met the provisions of State Environmental Planning Policy (Resilience and Hazards) 2021.

The panel understands the applicant's desire for private open space including a pool; however, the proposed pool and associated structures are not supported in the current design due to impacts on the scenic quality of the Riverine Scenic Area and the extent of site disturbance. Should the applicant wish to pursue an alternate design a further application could be submitted.

The Panel resolved to adopt the officer's recommendation and approve the proposed development subject to the conditions contained in Schedule 1 of the report, the amended wording for condition No. 58 and new condition No. 75 relating to the solid fuel heater installation as detailed in the Late Memo LM1/26 and the following amendments:

Amend description of the proposed development to delete the reference to swimming pool cabana:

Description of development: Alterations and additions to a dwelling and inclinor

Amend condition No. 1 to replace Plan No. LA01 Rev D with the following plans in the approved plans table:

Plan No.	Plan Title	Drawn by	Dated	Council Reference
LA01 Rev E	Landscape and Tree Protection Plan	Wardarchitecture	Nov 2025	
LA02 Rev A	Landscape Plant Selection & Details	Wardarchitecture	Nov 2025	

New condition No. 1A to read:

1A. Works Not Approved under this Consent

The following proposed works shown on the plans are not approved under this consent:

1. *The boatshed and associated works are not included in the approved works.*
2. *All works associated with the swimming pool, pergola and cabana structure.*

New condition No. 1B to read:

1B. Amendment of Plans

1. *The approved plans are to be amended to delete the boatshed and all works associated with the swimming pool, pergola and cabana structures.*
2. *To provide suitable landscaping and satisfy the requirements landscaping on bushfire prone land, the approved Landscape Plans (Plan No. LA01 Rev. E and LA02 Rev. A) prepared by wardarchitecture dated November 2025 are to be amended as follows:*
 - a. *Clearly demonstrate the provision of the maximum allowable replacement trees and shrubs to be planted in conjunction with the retention of natural vegetation. The replacement planting is to be in accordance with Planning for Bushfire Protection 2019 and to be in consultation with a BPAD accredited bushfire consultant.*
 - b. *The amended landscape plans are to be prepared in consultation with a BPAD accredited bushfire consultant to ensure the proposed planting satisfies the requirements of Planning for Bushfire Protection 2019 and the Inner Protection Area (IPA) required by the NSW Rural Fire Service.*
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.

The reasons for this decision are:

- *The proposed development generally complies with the requirements of the relevant environmental planning instruments, the Hornsby Local Environmental Plan 2013 and the Hornsby Development Control Plan 2024.*
- *The Panel notes that subject to the recommended conditions, the Panel can be satisfied that the proposed development conforms to the specifications and requirements of the document titled Planning for Bush Fire Protection 2019 prepared by the NSW Rural Fire Service in accordance with the requirements of Section 4.14(1)(a) of the Environmental Planning Assessment Act 1979.*

- *The proposed development does not create unreasonable environmental impacts to adjoining development with regard to visual bulk, solar access, amenity or privacy, subject to the recommended conditions of consent as amended by the Panel.*
- *The Panel is satisfied that the existing riverine scenic area and proposed development can exist together in harmony without having the same density, scale or appearance, subject to the recommended conditions of consent as amended by the Panel.*

On 28 July 2026, the subject Section 4.55(2) modification application No. DA/800/2025/B was lodged to Council.

SITE

The 765.1m² (by title) waterfront site is located on the eastern side of Riverview Avenue and slopes steeply down towards the Hawkesbury River to the east. The site is directly adjacent to Kiparra Park comprising dense bushland owned by Council to the west and is generally surrounded by low density waterfront residential development to the north and south.

Dangar Island is located within the lower reach of the Hawkesbury River and is approximately 1km north-east of Brooklyn and is directly south of the Wondabyne region in the Central Coast (see Image 1 below courtesy of NSW Fisheries).

The site is zoned C4 Environmental Living. All works proposed under the subject application are located wholly within the lot boundaries of the subject site.



Figure 1: Aerial of Dangar Island (source: Nearmaps)

Available historic imagery indicates that the subject site and surrounding properties have been occupied since at least 1961.

The site contains native vegetation, rock outcrops and a dwelling with boat shed and jetty on the waterfront. The site is accessed from Riverview Avenue and contains steps across the site to the existing dwelling and jetty.

The site experiences a 22m fall from the western boundary fronting Riverview Avenue towards the eastern foreshore boundary.

The site is mapped as bushfire and flood prone land and is mapped as containing Class 1 and 5 Acid Sulfate Soils (ASS).

The site does not contain a heritage listed item nor is in a heritage conservation area (HCA). The site is however adjacent Landscape Heritage Item No. 333 and 334, namely "Roadworks" and "Kiparra Park Bushland", respectively, at Riverview Avenue identified under Schedule 5 of the Hornsby Local Environmental Plan 2013 (HLEP).

Whilst the site is not mapped as containing critically endangered ecological communities, supporting documentation indicates the site supports growth of Blackbutt which is protected under the Hornsby Development Control Plan 2024. The site is directly adjacent remnant Blackbutt-Rough barked Apple Forest which is a regionally significant community.

The site is serviced by the reticulated sewer system of Sydney Water.

APPROVED DEVELOPMENT

The approved development DA/800/2025 is for alterations and additions to a dwelling house as follows:

- External and internal demolition of walls, windows and roofing of the dwelling and demolition of a landing, southern stairs.
- Re-instatement of and dwelling additions comprising an open kitchen-dining-living area, laundry, entry on the ground floor and new upper addition comprising three bedrooms, a bathroom and ensuite.
- External works comprise of an inclinator, stairways, retaining walls and associated earthworks.

Ten trees were approved to be removed to facilitate development works and establishment of the Asset Protection Zone (APZ).

The approved development would retain the existing dwelling building envelope, wall structures and flooring.

PROPOSAL

The Section 4.55(2) modification application proposes the following:

- Construction of a swimming pool and deck
- Associated retaining walls, earthworks and civil works
- Relocation of the northern side steps 800mm north from the location originally approved.

The application seeks amendment to the following conditions:

- Amendment to Condition No. 1A to delete subsection 2 as follows:

1A. Works Not Approved under this Consent

The following proposed works shown on the plans are not approved under this consent:

1. *The boatshed and associated works are not included in the approved works.*
2. ~~*All works associated with the swimming pool, pergola and cabana structure.*~~

Reason: To ensure all parties are aware of the works that apply to the development.

- Amendment to Condition No. 1B to delete subsection 1 as follows:

1B. Amendment of Plans

1. ~~The approved plans are to be amended to delete the boatshed and all works associated with the swimming pool, pergola and cabana structures.~~
2. To provide suitable landscaping and satisfy the requirements landscaping on bushfire prone land, the approved Landscape Plans (Plan No. LA01 Rev. E and LA02 Rev. A) prepared by wardarchitecture dated November 2025 are to be amended as follows:
 - a. Clearly demonstrate the provision of the maximum allowable replacement trees and shrubs to be planted in conjunction with the retention of natural vegetation. The replacement planting is to be in accordance with Planning for Bushfire Protection 2019 and to be in consultation with a BPAD accredited bushfire consultant.
 - b. The amended landscape plans are to be prepared in consultation with a BPAD accredited bushfire consultant to ensure the proposed planting satisfies the requirements of Planning for Bushfire Protection 2019 and the Inner Protection Area (IPA) required by the NSW Rural Fire Service.
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.

The application would also require amendments to the following associated conditions:

- Amend condition No. 1 (Approved stamped plans and supporting documentation) to update the consent to refer to updated supporting material.
- Amend condition No. 70 (Swimming pool requirements) to include swimming pool requirements to ensure compliance with relevant swimming pool safety and construction requirements.
- Amend condition No. 73 (Swimming pool noise requirements) to recommend noise controls regarding the use of the swimming pool to maintain residential amenity.

ASSESSMENT

The development application has been assessed having regard to the Sydney 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 Sydney Plan

The Sydney Plan has been prepared by the NSW State Government to guide land use planning decisions over the next 20 years (to 2046). 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 identified challenge for Hornsby Shire will be to provide 5,500 new completed homes by 2029 with further strategic supply targets to be identified.

These targets are consistent with the Greater Sydney Region Plan - A Metropolis of Three Cities and the North District Plan that the original consent was considered against. As such the proposed modification would be consistent with the Sydney Plan, by contributing to achieving the dwelling targets for the region.

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 Certain bush fire prone land

Section 4.14(1) of the Act states *“the consent authority, before granting development consent for the carrying out of development on bush fire prone land, being land for the time being recorded as bush fire prone land on a relevant map certified under section 10.3(2), must consider the relevant Bush Fire Protection Planning guide.”*

No changes are sought to bushfire recommendations of Planning for Bushfire Protection 2019.

No concurrence is required under State Environmental Planning Policy (Planning Systems) 2021 as specified in Section 4.11(3)(c)(i).

Further assessment against Bushfire controls is detailed in Section 3.1.4 of this report.

2.2 Environmental Planning and Assessment Act 1979 - Section 4.55(2)

The proposal constitutes a modification under Section 4.55(2) of the *Environmental Planning and Assessment Act 1979*.

(2) **Other modifications** A consent authority may, on application being made by the applicant or any other person entitled to act on a consent granted by the consent authority and subject to and in accordance with the regulations, modify the consent if—

- (a) *it is satisfied that the development to which the consent as modified relates is the same or substantially the same development as the development for which consent was originally granted and before that consent as originally granted was modified (if at all), and*
- (b) *(Repealed)*
- (c) *it has notified the application in accordance with—*
 - (i) *the regulations, if the regulations so require, or*
 - (ii) *a development control plan, if the consent authority is a council that has made a development control plan that requires the notification or advertising of applications for modification of a development consent, and*
- (d) *it has considered any submissions made concerning the proposed modification within the period prescribed by the regulations or provided by the development control plan, as the case may be.*

Subsections (1) and (1A) do not apply to such a modification.

- (3) *In determining an application for a modification of a consent under this section, the consent authority must take the following into consideration—*
- (a) *the matters referred to in section 4.15(1), but only so far as the matters are of relevance to the application,*
 - (b) *the reasons given by the consent authority for the grant of the consent sought to be modified, but only so far as the reasons are of relevance to the application.*
- (3A) *Section 4.15(1C) extends to an application for a modification under this section of a consent for targeted assessment development.*

Note—

Section 4.15(1C) provides that a consent authority, in determining a development application for targeted assessment development, must take into consideration only the matters referred to in section 4.15(1)(a) and (d) as are of relevance to the development.

- (3B) *Section 4.13 extends to an application under subsection (1A) or (2) as if the application were a development application if an environmental planning instrument provides that the consent authority is required to notify, consult with or obtain the concurrence of a person before determining the application for modification.*
- (4) *The modification of a development consent in accordance with this section is taken not to be the granting of development consent under this Part, but a reference in this or any other Act to a development consent includes a reference to a development consent as so modified.*
- (5) *To avoid doubt, a consent authority is not prevented from modifying a consent under subsection (1), (1A) or (2) merely because the modification only modifies a condition of consent and would not result in a change to the development the subject of the consent.*

2.2.1 Substantially the same development

With respect to (2)(a), it is considered that the proposal as amended is substantially the same as the development originally approved.

Submissions were received that raised concerns that the proposal is not considered substantially the same as originally approved.

A discussion regarding Clause 4.55 of the Act is provided below.

In accordance with the NSW Land and Environment Court decision *Moto Projects (No 2) Pty Ltd v North Sydney Council* (1999), paragraphs 55 and 56, Bignold J described the process for consideration of a proposed modification of development as follows:

- “55. *The requisite factual finding obviously requires a comparison between the development, as currently approved, and the development as proposed to be modified. The result of the comparison must be a finding that the modified development is “essentially or materially” the same as the approved development.*
56. *The comparative task does not merely involve a comparison of the physical features or components of the development as approved and modified where that comparative exercise is undertaken in some type of sterile vacuum. Rather, the comparison involves an appreciation, qualitative, as well as quantitative, of the developments being compared in their*

proper contexts (including the circumstances in which the development consent was granted)."

Therefore, in order for Council to consider a Section 4.55 application to be substantially the same as the development originally approved, the following must be considered:

- (i) Consideration of the numerical differences in all key aspects of the development;
- (ii) Consideration of the non-numerical factors (e.g. in visual impact, traffic impacts or changed land uses); and
- (iii) Consideration of any changes relating to a material and essential feature of the approved development.

With regards to (i), the numerical difference of the amended proposal is negligible relative to the approved development.

With respect to (ii), changes to land use, intensity and traffic relative to the application originally approved are not applicable in this instance. The principal use of the application would be unchanged, being a dwelling house for residential purposes. The proposed swimming pool would be ancillary to the dwelling house, being a subservient purpose for the dominant residential use.

With regards to (iii), no significant changes are proposed to materials or essential features of the approved development.

There would be no change in the characterisation of use, with the modification to have negligible change to environmental and amenity impacts as compared to the development originally approved, subject to conditions.

With respect to *Canterbury-Bankstown Council v Realize Architecture Pty Ltd* [2024] NSWLEC, Preston CJ commented at [26]: *"Th[e] comparison [in the 'substantially the same' test] can involve an appreciation, qualitative, as well as quantitative, of the developments being compared in their proper context" ... But the comparison required by s 4.55(2)(a) remains a holistic one of the two developments being compared – the modified development and the originally approved development. The opinion of satisfaction that s 4.55(2)(a) requires is that the two developments being compared are substantially the same development, not that either the quantitative features or the qualitative features of the two developments are substantially the same."*

In consideration of the above judgement with respect to the modified proposal in its riverfront, residential context, the proposed pool and associated deck, retaining wall and earthworks are considered substantially the same as the alterations and additions originally approved DA/800/2025. The swimming pool and landscaping works would be ancillary to the residential alterations and additions approved under DA/800/2025 and Council is satisfied that the subject modification application would be substantially the same development pursuant to Section 4.55(2) of the Act.

A submission was received with respect to the judgement of *Hunter Development Brokerage Pty Ltd v Singleton Council* [2022] NSWLEC 64.

It is acknowledged in the case of *Hunter Development Brokerage Pty Ltd v Singleton Council* [2022], the intended nature of works relative to what was originally approved was not considered substantially the same in this context as the modified proposal had two co-dependent interrelated purposes. In this case, the modification application seeking consent for the disposal of coal tailings and the consequential generation of electricity were inconsistent with the material and essential elements of the original 1994 consent. The modification application the subject of this report does not seek to change the approved use as a dwelling house and ancillary structures

The submission also raised two other caselaw examples in *Vacik Pty Ltd v Penrith City Council* [1992] NSWLEC 8 and *Sydney City Council v Michael Standley & Associates Pty Ltd* (1998) 43 NSWLR 468. The relevance of the subject modification application to each of the above two judgements is not specified in the submission.

Council's assessment is that the findings in the circumstances of the case against relevant planning controls is that the proposal is substantially the same in accordance with Section 4.55(2) of the Act.

2.2.2 Notification

With respect to (2)(c) and (2)(d), the amended application was notified in accordance with the regulations, and 14 submissions were received objecting to the proposal during the prescribed period. One submission was received after the prescribed period and matters raised were also considered in the assessment.

Submissions raised concerns that the proposal was not notified in accordance with the Hornsby Shire Council Community Engagement Strategy.

In response, Council is satisfied that the proposal was notified in accordance with this strategy and is supported by sufficient evidence demonstrating this. The application was notified via the following means:

- DA notification sign displayed for the duration of the prescribed period at the Riverview Avenue frontage.
- Notification letters posted to 11 property owners of surrounding sites, plus an additional seven letters to those that lodged a submission regarding the original development application.
- Exhibition on Council's online DA tracker for the duration of the prescribed notification period.

The remainder of the concerns raised in the submissions are discussed in the body of the report.

2.2.3 Matters of relevance

In accordance with Section 4.55(3), the Act requires Council as the consent authority must take into consideration "*the matters referred to in section 4.15(1) [‘Matters of consideration - general’ under the Act] and the reasons given by the consent authority for the grant of the consent sought to be modified, but only so far as the matters are of relevance to the application*".

The reasons given by the HLPP for approval of the original application are:

- *The proposed development generally complies with the requirements of the relevant environmental planning instruments, the Hornsby Local Environmental Plan 2013 and the Hornsby Development Control Plan 2024.*
- *The Panel notes that subject to the recommended conditions, the Panel can be satisfied that the proposed development conforms to the specifications and requirements of the document titled Planning for Bush Fire Protection 2019 prepared by the NSW Rural Fire Service in accordance with the requirements of Section 4.14(1)(a) of the Environmental Planning Assessment Act 1979.*
- *The proposed development does not create unreasonable environmental impacts to adjoining development with regard to visual bulk, solar access, amenity or privacy, subject to the recommended conditions of consent as amended by the Panel.*

- *The Panel is satisfied that the existing riverine scenic area and proposed development can exist together in harmony without having the same density, scale or appearance, subject to the recommended conditions of consent as amended by the Panel.*

With respect to an assessment of the matters of relevance to the application referred to in Section 4.15(1) of the Act, these matters are generally addressed within the body of the original assessment report.

All of the above reasons are required to be considered in the assessment of the modification and are addressed under the relevant headings of the assessment report.

It is noted that the application has amended the proposed design of the swimming pool and deck area in response to concerns of visual massing originally raised by the HLPP and as discussed in the report, the proposed modification would continue to meet the desired outcomes of Council's planning controls and the matters for consideration under Section 4.15 of the *Environmental Planning and Assessment Act 1979*.

2.3 Hornsby Local Environmental Plan 2013

The proposed modification would not alter the permissibility or original assessment of the development against the Hornsby Local Environmental Plan 2013 (HLEP). The proposal would continue to align with the zone objectives as prescribed in the HLEP.

Notwithstanding, relevant matters are discussed as follows:

2.3.1 Zoning of Land and Permissibility

The subject land is zoned C4 Environmental Living under the HLEP. The objectives of the C4 zone are:

- *To provide for low-impact residential development in areas with special ecological, scientific or aesthetic values.*
- *To ensure that residential development does not have an adverse effect on those values.*
- *To permit development that is compatible with the character, infrastructure capacity and access limitations of the area.*

Submissions received raised concerns regarding compatibility of the development with zoning objectives.

The modifications proposed are ancillary to the existing dwelling house and are permissible in the C4 zone with Council's consent. On balance, the proposal would meet the objectives of the C4 zone by providing a low-impact residential development.

The modifications proposed would not have an adverse effect on the area's ecological, scientific or aesthetic values. The development is compatible with the limited access and infrastructure of the area.

The application is recommended to be supported on merit, with detailed assessment of compliance against relevant planning controls detailed in the body of the report.

2.3.2 Floor Space Ratio

The proposal is subject to a maximum Floor Space Ratio (FSR) of 0.3:1 as specified in Clause 4.4 of the HLEP.

No changes are sought to the proposed FSR of 0.297:1 which complies with the FSR development standard.

Accordingly, no concerns are raised with respect to Clause 4.4 of the HLEP.

2.3.3 Clause 6.2 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 modification application proposes combined cut and fill for the proposed swimming pool/deck area and associated retaining walls.

Submissions were received regarding earthworks, including site stability, landslip risk and safety.

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

Councils' consideration of Clause 6.2(3) of the HLEP is provided below:

- (a) *The likely disruption of, or any detrimental effect on, drainage patterns and soil stability in the locality of the development.*

Comment: The amended proposal is supported by Geotechnical Report Ref: S1772_01_SCS_Rev2 prepared by Fortify Geotech dated 21 July 2026, and Stormwater Management Plan Revision E prepared by GNG Design Pty Ltd dated 22 August 2026.

Subject to conditions, the proposed earthworks are unlikely to result in unacceptable impact to the drainage patterns or soil stability in the locality. It is considered that this would allow stormwater drainage at an acceptable grade to dispose of water to the river via a rainwater tank and existing energy dissipator.

Recommended conditions have been included in Schedule 1 requiring construction in accordance with the recommendations of the Geotechnical Report and Stormwater Management Plan. The Geotechnical Report notes that permanent groundwater is expected to be below all proposed excavation.

- (b) *The effect of the development on the likely future use or redevelopment of the land.*

Comment: The earthworks proposed under the subject modification would not likely restrict future use or redevelopment of the land. The works would be to accommodate the residential use of the site, which is unchanged from the existing use.

- (c) *The quality of the fill or the soil to be excavated, or both.*

Comment: Conditions are 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 and that a construction management plan be provided prior to the issue of a construction certificate. No consent is granted for fill to be imported to the site.

- (d) *The effect of the development on the existing and likely amenity of adjoining properties.*

Comment: The level of earthworks proposed as part of the subject modification application is unlikely to have an unreasonable effect on the existing and likely amenity of adjoining properties given it would largely be constrained to the existing building envelope and immediate surrounds. Earthworks would be sufficiently separated from adjoining properties and trees.

The area of the pool would be limited by areas of where the pool shell limits earthworks as well as the pool pump room below.

(e) *The source of any fill material and the destination of any excavated material.*

Comment: Conditions are 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. No consent is granted for fill to be imported to the site as this is not necessitated by the proposal. The area of fill would re-use excavated material from the dwelling house and pool footprint.

(f) *The likelihood of disturbing relics.*

Comment: Council records, as well as the Aboriginal Due Diligence Report provided with the original application DA/800/2025 do not indicate that any relics are likely to occur on site. No changes are anticipated with respect to the modified application.

(g) *The proximity to, and potential for adverse impacts on, any waterway, drinking water catchment or environmentally sensitive area.*

Comment: The site is directly adjacent the Hawkesbury River to the east. The site slopes steeply towards the Hawkesbury River where stormwater would be disposed of via gravity and be dispersed by an energy dissipator to reduce scouring impacts to the natural environment.

(h) *Any appropriate measures proposed to avoid, minimise or mitigate the impacts of the development.*

Comment: No changes are sought to recommended conditions requiring sediment and erosion controls be in place prior to the commencement of any works and are to be managed appropriately on an ongoing basis during development works. This would form part of the construction management plan requiring Council approval prior to issue of the construction certificate.

In summary, the proposal subject to conditions is regarded to be acceptable in consideration of Clause 6.2 of the HLEP.

Further assessment of earthworks against the HDCP controls is provided in Section 3.1.3 of this report.

2.4 Other Environmental Planning Instruments

The proposed modification would not alter the original assessment of the application against the following Environmental Planning Instruments (EPIs):

- State Environmental Planning Policy (Biodiversity and Conservation) 2021
- State Environmental Planning Policy (Resilience and Hazards) 2021

With respect to State Environmental Planning Policy (Sustainable Buildings) 2022, a revised BASIX Certificate (No. A1816162_02) was submitted with the application and would supersede the BASIX Certificate originally approved.

2.5 Draft Environmental Planning Instrument

There are no current draft environmental planning instruments applicable to the modified proposal.

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

Section 3.42 of the *Environmental Planning and Assessment Act 1979* states that a DCP provision will have no effect if it prevents or unreasonably restricts development that is otherwise permitted and

complies with the development standards in relevant Local Environmental Plans and State Environmental Planning Policies.

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

2.7 Hornsby Development Control Plan 2024

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

HDCP - Part 8.1 River Settlement Land				
Control	Proposed	Approved	Requirement	Complies
Site Area	Unchanged	765.1m ²	N/A	N/A
Building Height	Unchanged	8.9m	10.5m	Yes
No. storeys	Unchanged	2 storeys	max. 2 storeys	Yes
Floor Area				
- dwelling	Unchanged	231.5m ²	max. 180m ²	As approved
- boat shed (existing)	Unchanged	49.5m ²	30m ²	N/A
GFA of all buildings on site	Unchanged	225.3m ²	max. 229.5m ²	Yes
Floor Space Ratio	Unchanged	0.294:1	max. 0.3:1	Yes
Site Coverage	Unchanged	220.2m ²	max.90m ² per element/pavilion	As approved
Setbacks				
- Foreshore building line				
dwelling	Unchanged	0m	min. 6m	As approved
steps & water tank	Unchanged	2.5m	min.6m	As approved
- Side (North)				

<i>dwelling</i>	Unchanged	1.8m	min. 2m	As approved
<i>steps</i>	3.7m	4.8m	min.2m	Yes
<i>pool</i>	9.1m	N/A	min. 2m	Yes
<i>retaining walls</i>	Unchanged	0m	min.2m	As approved
- <i>Side (South)</i>				
<i>dwelling</i>	Unchanged	2m	min. 2m	Yes
<i>deck</i>	Unchanged	800mm	min.2m	As approved
<i>stairs</i>	Unchanged	200mm	min. 2m	As approved
<i>pool</i>	2.6m	N/A	min.2m	Yes
<i>retaining walls</i>	Unchanged	0m	min. 2m	As approved
- <i>Riverview Avenue</i>	18.1m	14.6m	On merit	Yes
Private Open Space				
- <i>minimum area</i>	Unchanged	>24m ²	min. 24m ²	Yes
- <i>minimum dimension</i>	Unchanged	>3m	min. 3m	Yes

ITEM 1

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

2.7.1 Scale

The desired outcome of Part 8.1.2 Scale of the HDCP encourages “*development with a height, bulk and scale that protects and maintains the environmental and scenic qualities of the area*”.

It is noted that the original application DA/800/2025 proposed a rear pool and deck area with attached water-closet and outdoor BBQ area which was not supported by the HLPP on grounds visual impacts and site disturbance.

Minutes from the HLPP included the following:

The panel understands the applicant’s desire for private open space including a pool; however, the proposed pool and associated structures are not supported in the current design due to impacts on the scenic quality of the Riverine Scenic Area and the extent of site disturbance. Should the applicant wish to pursue an alternate design a further application could be submitted.

Submissions were received with respect to bulk and scale impacts.

The proposed pool design that is the subject of this modification application appropriately responds to concerns raised by the HLPP with respect to the pool/deck design proposed under DA/800/2025 as follows:

- The new pool design removes the pergola, water closet and outdoor BBQ/wet bar, minimising visual bulk.
- The new pool coping RL is reduced from 13.71 to 13.62 and sits below the dwelling maximum roof pitch of 13.64 RL.
- The new swimming pool is 6m x 2m, the original pool was 4.4m x 3.5m. 1.5m depth is unchanged.
- The new swimming pool is reduced in surface area by 3.4m² and reduced by 5.8 kilolitres in volume.
- The pool fencing has been proposed as 1.2m transparent clear fencing. Should concerns be raised with respect to the pool fencing, an alternative design of black palisade is also put forward by the applicant. The recessive colour and open elements of this fence would limit visual impacts. Given the transparent glass fencing would not adversely impact visual massing, no concerns are raised by Council regarding the clear glass pool fencing design.

Project Venture Developments v Pittwater Council (2005) NSW LEC 191 details compatibility of a proposal in the context of surrounding development and founded the Planning in considering the appropriateness of scale of development within its context.

This case notes *"It is generally accepted that buildings can exist together in harmony without having the same density, scale or appearance, though as the difference in these attributes increases, harmony is harder to achieve"*.

This case outlines that development does not have to be the same height to be compatible, and landscaping is an important contributor to urban character, of which the proposal complies with total landscaped area.

To test whether a proposal is compatible with its context, two questions should be asked:

1. *Are the proposal's physical impacts on surrounding development acceptable? The physical impacts include constraints on the development potential of surrounding sites.*
2. *Is the proposal's appearance in harmony with the buildings around it and the character of the street?*

Councils' assessment of the above two questions is that the modified proposal, being the swimming pool and associated landscaping physical impact on surrounding development is on balance, acceptable, and would not result in unreasonable impacts to surrounding existing and future development. The physical appearance, in the context of the site, would be compatible with the character of the surrounding structures given minimal visual impact, recessive colours and materials that integrate with the natural environment. Sufficient separation and varied elevations would exist between the dwelling and from surrounding developments.

Accordingly, Council is satisfied that the modified proposal meets desired outcome of Part 8.1.2 Scale of the HDCP.

2.7.2 Landscaping

2.7.3 Privacy and Views

The desired outcomes of Part 8.1.7 Privacy and Views of the HDCP are to encourage “*development designed to provide reasonable privacy to adjacent residential properties*” and “*development designed to ensure that views of the waterways are shared*”.

Submissions were received with respect to privacy and view impacts.

2.7.3.1 Privacy

The desired outcomes are supported by the prescriptive measures that state the following:

- c) *Living and entertaining areas of dwelling houses should be orientated towards the river and/or private open space of the dwelling-house and not side boundaries.*
- d) *A proposed window in a dwelling house should have a privacy screen if:*
 - it is a window to a habitable room, other than a bedroom, that has a floor level of more than 1 metre above existing ground level,
 - the window is setback less than 3m from a side or rear boundary, and
 - the window has a sill height of less than 1.5m.
- e) *Decks and the like that need to be located more than 600 millimetres above existing ground level should not face a window of another habitable room, balcony or private open space of another dwelling located within 9 metres of the proposed deck unless appropriately screened*

The application proposes a new swimming pool and associated deck at the rear of the dwelling.

Submissions were received regarding privacy impacts.

It is noted that the original application DA/800/2025 proposed a rear pool and deck area with attached water-closet and outdoor BBQ area which was not supported by the HLPP on grounds visual impacts and site disturbance.

The pool and deck finished floor level would be elevated up to a maximum of 1.6m from existing ground level. In considering the surrounding spaces of this area within 9m subject to privacy consideration, it is noted that this area would be orientated towards the waterfront where views would overlook the subject site dwelling roof and the Hawkesbury River. The southern side of the pool is of reduced width and would be used for passive access

Regarding privacy impacts to the north, known as No. 138 Riverview Avenue, it is noted that the POS of this property is located >10m of this property at the waterfront side. This space would be screened from the proposal largely by the existing dwelling house. Areas to the rear of this site are reduced in size and would be screened by the existing excavation/retaining walls as well as the dwelling roof of this dwelling and the subject dwelling at No. 136 Riverview Avenue.

Regarding privacy impacts to the south, known as No. 134 Riverview Avenue, given that the forward facing balcony, private open space at 134 Riverview would be RL 21.13 and the proposed pool/deck finished RL would be 13.62 RL, the vertical difference of 7.51m would offer appropriate separation which would not result in unreasonable visual or acoustic privacy impacts. Furthermore, it is noted that areas within 9m laterally of this private open space would be a reduced area for passive access and the swimming pool itself and not the deck area.

Any fixed privacy measures may adversely and unnecessarily impact views for surrounding properties and visual massing from the Hawkesbury River.

Regarding privacy impacts to any other residential property, including No. 140 Riverview Avenue, it is noted that the new deck and pool area would be separated from the dwelling house by over 9m. This private open space would be separated from No. 140 Riverview Avenue by over 20m and therefore is not considered that unreasonable privacy affectation would arise and does not warrant privacy measures.

In responding to concerns raised from the original application impacts on the scenic quality of the riverine scenic area, the new swimming pool and deck area would be at a reduced height relative to the pool area originally proposed, reducing from 13.71 to 13.62. Whilst this new pool design no longer includes a southern solid wall and cabana which may have offered additional visual and acoustic separation, given the vertical separation as detailed above to neighbour's private open space, privacy impacts would be considered negligible. This structure was no longer proposed on balance of visual massing in the riverfront context in response to the previous HLPP concerns raised in this respect.

2.7.3.2 Views

The desired outcomes are supported by the prescriptive measures which state the following:

- a. Development should allow for the reasonable sharing of significant views, including water views and iconic views, in particular:*
- *views that have not already been obscured,*
 - *views from front and rear boundaries whilst in a standing position, and*
 - *views from living and entertainment areas (including kitchens).*
- b. Development should allow for the reasonable sharing of significant views by:*
- *appropriately siting the building,*
 - *appropriately designing the bulk of the building,*
 - *using open materials for balustrades on balconies and decks,*
 - *new landscaping comprising a light open foliage, and*
 - *incorporating the design details in Section 8.1.8."*

Submissions were received regarding impacts to views with respect to the modification application.

View sharing Principles were established by the Land and Environmental Court judgement in Tenacity Consulting Pty Ltd v Warringah [2004].

The Principle sets out questions and considerations that can help determine whether view sharing is reasonable in the specific context of the development as follows:

- 1. Identify and consider the nature and value of views, where the views are enjoyed from and the extent of the impact.*
- 2. The reasonableness of the proposal causing the impact, including design alternatives that may avoid the impact.*

In consideration of the modification application in the context of the topography and existing development within the site and surrounding sites with views of the Hawkesbury River directly to the east, the extent of impacts from development would be negligible given surrounding properties would continue to benefit from waterfront views.

Notwithstanding the above, the proposed pool relative to the originally proposed pool/deck improves view impacts by reducing the deck/coping RL from 13.71 to 13.62, below the roof pitch RL of 13.64. The southern wall and cabana structure has also been deleted from the proposal.

View impacts from the property to the south known as No. 134 Riverview Avenue would not be unreasonably impacted given the elevation difference of private open space areas. The floor level and deck area of this property has an RL of 21.13m, whereas the upper dwelling roof of No. 136 Riverview would be RL 13.64.

Views from the adjacent northern property known as No. 138 Riverview Avenue would not be affected due to the foreshore siting of this dwelling and private open space area.

Adjacent and nearby waterfront dwelling houses to the north and south of the subject site would continue to benefit from generally unobstructed views of the Hawkesbury River and surrounds.

Accordingly, Council is satisfied that the modified proposal meets the desired outcomes of Part 8.1.7 Privacy and Views of the HDCP and is considered acceptable on balance.

2.7.4 Landscaping

The desired outcome of Part 8.1.4 Landscaping of the HDCP encourage *“landscaping which screens building undercroft areas”* and *“landscaping that retains the natural landscape features of the riverine scenic areas.”*

Submissions were received regarding landscaping elements of the modification application.

Retaining walls

The desired outcomes are supported by prescriptive measures which state:

- a. *Setback areas should be landscaped and designed to:*
 - *retain indigenous bushland and landscape features as prescribed in Part 1 of this DCP,*
 - *retain indigenous trees and comply with AS 4970,*
 - *incorporate the planting of indigenous species rather than lawns, and*
 - *not be terraced or contain retaining walls unless it is demonstrated necessary to achieve a high quality built outcome or to reduce erosion. Where retaining walls or terracing is proposed, rough stone, natural timber or other natural materials which blend with the landscape should be used. Such work should not disturb remnant bushland, particularly on the foreshore.”*

The application includes a retaining wall within the 2m prescribed southern side setback area between the pool and dwelling house.

This wall would be to provide a high quality built outcome for the proposed swimming pool and deck.

Fencing

The desired outcomes are supported by the following prescriptive measures which state:

- “b. *To maintain the riverine scenic quality of the area and facilitate the sharing of views, fences should not be constructed between the building and the water. Visual separation between dwellings should be achieved through landscape planting.*

- c. *Fencing is discouraged along Riverview Avenue, to maintain the Island's bushland character.*
- d. *Where required, fences should be constructed from lightweight materials and dark neutral tones. Colorbond fencing is discouraged."*

The application proposes a 1.2m high clear glass balustrade fencing around the pool perimeter as part of the modification application.

A submission was received objecting to the glass balustrading around the pool due to risk to birds within a flight path.

As the fence is clear and would maintain providing for views, minimising visual impact.

The fencing is not considered to be along the Riverview Avenue frontage as the fence is separated to the front boundary by 18m laterally and approximately 8-9m vertically below.

Steps

The modified design has amended the material of the steps which would be steel garden steps which include open surfaces.

No concerns are raised in this respect given this would be constructed from lightweight elements and would be consistent with the natural topography, aligning with relevant HDCP prescriptive measures for an environmentally compatible design.

As such, the modified proposal meets the desired outcomes of Part 8.1.7 Privacy and Views of the HDCP and is considered acceptable.

2.8 Section 7.12 Contributions Plans

Hornsby Shire Council Section 7.12 Contributions Plan 2019-2029 applies to the development as the estimated costs of works is greater than \$100,000. The cost of works for the proposed development is unchanged as the original proposal included the construction of a pool and deck. The existing condition of consent requires 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

Part 4, Division 2 of the Regs requires the consent authority to consider 'Prescribed conditions' of development consent. These matters have been addressed via a condition of consent.

Section 36 and 94 of the Regs allow Council to request additional information. Additional information was requested and subsequently received.

Section 61 of the Regs requires the consent authority to consider AS 2601-2001 The Demolition of Structures. This matter has been addressed via a condition of consent.

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 69 of the Regs requires the consent authority to consider insurance requirements under the *Home Building Act 1989*. This matter has been addressed via a condition of consent.

Section 69 of the Regs requires the consent authority to consider the provisions

3. ENVIRONMENTAL IMPACTS

Section 4.15(1)(b) of the Act requires Council to consider *“the significant likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality”*.

3.1 Natural Environment

3.1.1 Tree and Vegetation Preservation

The prescriptive measures of Part 1.2.6.1 Tree Preservation of the HDCP state that:

- a) *“the prescribed trees that are protected by the Vegetation SEPP and/or Clause 5.10 of the HLEP and this section of the DCP include:*
 - *all trees except exempt tree species in Hornsby Shire as listed in Table 1.2.6-a or subject to a Biodiversity Offset Scheme,*
 - *all trees on land within a heritage conservation area described within the HLEP, and*
 - *all trees on land comprising heritage items listed within the HLEP.*
- b) *To damage or remove any tree protected under the HDCP is prohibited without the written consent of Council, except in accordance with the exemptions prescribed in this part (under the heading ‘Exempt Tree Work’).”*

Submissions were received regarding tree preservation and removal.

The proposed modification seeks to relocate rear stairs towards the north in closer proximity to two trees known as Tree Nos. 15 and 5.

The modification application is supported by an RFI response prepared by the consulting AQF Level 5 accredited arborist of Accurate Tree Assessment dated 16 July 2026 which states the following:

- *“The approved site plan shows the stairs at 4.77m setback and the pool at 6.54m from Tree 5 Eucalyptus pilularis causing a moderate encroachment calculated at 19.9% of the NRZ.*
- *The new plan shows a slightly reduced setback of 4.195m and the pool at 5.95m which will cause an increase in the encroachment to 21.5% which is still considered a moderate encroachment under the provisions of AS4970-2025.*
- *Noting that the structures will be adapted to preserve the existing rock outcrops the increased encroachment is negligible and therefore unlikely to cause any adverse impact to Tree 5. Please do not hesitate to contact me for clarification of my recommendations if required.”*

Whilst the arborist report dated from March 2025 is provided with the addendum and no changes to recommendations are made, given this was superseded by the arborist report from October 2025, no changes to the referenced arborist report are recommended.

No other changes are sought to tree removal/impact proposed to facilitate works relative to the approved development.

The modification application was referred to Councils Tree Management Team who raised no objection to the application, subject to conditions.

On balance, 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 Biodiversity

The desired outcomes of Part 1.3.1.1 Biodiversity of the HDCP are to encourage *“development that provides for the conservation of biodiversity including threatened species and populations, endangered ecological communities, remnant indigenous trees, regionally and locally significant terrestrial and aquatic vegetation”* and *“development that maintains habitat for native wildlife and wildlife corridors to provide for the movement of fauna species”*.

Submissions were received regarding biodiversity impacts.

In considering the biodiversity impacts of the amended design, the outcome of assessment of biodiversity controls is unchanged from the original approval.

Regarding the biodiversity impacts to accommodate the APZ, this is not impacted by the proposed pool and was a requirement as part of the original approval, irrespective of the required deletion of the swimming pool. This was to achieve APZ requirements specified in appendix 4 of PFBP 2019.

The proposal meets the desired outcomes of Part 1.3.1.1 Biodiversity of the HDCP and is considered acceptable, subject to conditions.

3.1.3 Earthworks

Clause 6.2 of the HLEP is supplemented by Part 1.3.1.4 Earthworks and Slope of the HDCP.

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

Submissions were received regarding earthworks and associated risks, including environmental and safety risks.

The amended proposal is supported by a Site Classification & Slope Stability Risk Assessment Report prepared by Fortify Geotech consulting engineers dated 21 July 2026.

The originally approved 260m³ of cut and 11m³ of fill, a net volume of 249m³ cut. The revised application seeks a total of 159m³ cut and 30m³ of fill, a net volume of 129m³. The modified application reduces the extent of earthworks by 100m³. By proposing balanced cut and fill at the pool/deck footprint, environmental impacts are minimised and residential amenity is appropriately maintained.

Amendments to conditions referencing the originally approved geotechnical report are recommended to update these references to the revised geotechnical report submitted with the modification application.

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

3.1.4 Bushfire

Section 4.14 of the Act is supplemented by Part 1.3.3.1 Bushfire of the HDCP.

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

Submissions were received regarding bushfire.

In consideration of Planning for Bushfire Protection (PFBP) requirements, the original application included a bushfire report prepared by a BPAD accredited practitioner which included assessment of a rear swimming pool, attached deck and associated landscaping.

Whilst the panel did not support the rear pool/deck and associated landscaping features for planning reasons other than bushfire, irrespective of this recommendation to delete these works, the required APZ to meet PFBP requirements necessitated the same tree and vegetation impacts to appropriately mitigate bushfire risk.

Accordingly, no changes are sought to assessment and conditions associated with bushfire risk.

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

3.2 Built Environment

3.2.1 Built Form

The built form impacts of the proposal were considered in Council's original assessment and remain unchanged, being that 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.

The location of the development is in reasonably close proximity to a local commercial centre, recreational and education facilities for future residents, including via access to surrounding areas including Brooklyn.

3.3 Social Impacts

No changes are anticipated to social impacts of the proposal, being that 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.

The location of the development is in close proximity to a local commercial centre, recreational, health and education facilities for future residents, including via boat access from the jetty within the site to services at the mainland.

3.4 Economic Impacts

No changes are anticipated to economic impacts of the proposal, being that 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 original application included detailed assessment of flood and bushfire related considerations against Clause 5.21 of the HLEP and Section 4.14 of the Act, respectively.

No modifications are proposed that would alter Council's original assessment and satisfaction of compliance to HLEP bushfire and flood planning controls. It is further noted that a swimming pool and deck area were considered in the assessment of the original application and associated supporting material.

Whilst Section 4.14(1) of the Act was updated since the determination of DA/800/2025 to require the consent authority's consideration of Planning for Bushfire Protection 2019 (PFBP), as detailed above, no concerns are raised with respect to bushfire.

5. PUBLIC PARTICIPATION

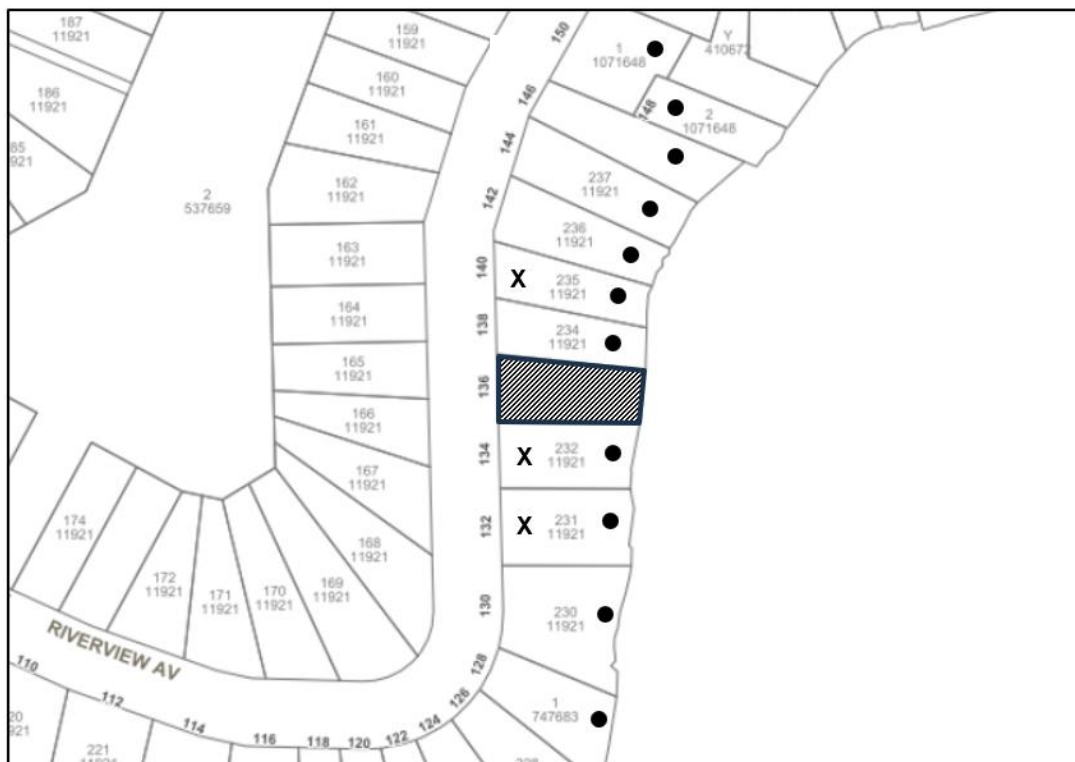
Section 4.15(1)(d) of the Act requires Council to consider *"any submissions made in accordance with this Act"*.

5.1 Community Consultation

The proposed development was placed on public exhibition and was notified for 14 days to adjoining and nearby landowners between 5 August 2026 and 19 August 2026 in accordance with the Hornsby Community Engagement Plan. Property owners who lodged a submission to the original development application DA/800/2026 were also notified.

During this period, Council received 15 submissions, including one late submission received outside of the prescribed period.

The map below illustrates the location of those nearby landowners who made a submission that are in close proximity to the development site. Note that multiple submissions were received from some properties.



NOTIFICATION PLAN

• PROPERTIES NOTIFIED	X SUBMISSIONS RECEIVED		PROPERTY SUBJECT OF DEVELOPMENT	
7 SUBMISSIONS RECEIVED OUT OF MAP RANGE				

All 15 submissions objected to the proposed modification, generally on the grounds that the development would result in:

- Development that is uncharacteristic of the locality and inconsistent with zone objectives.
- Adverse tree and biodiversity impacts
- Development that is excessive in bulk and scale.
- Privacy impacts and view loss
- Earthworks impacts
- Amenity impacts of the swimming pool

The merits of the matters raised in community submissions have been addressed in the body of the report with the exception of the following:

5.1.1 Unauthorised Works

Submissions were received with respect to alleged unauthorised works.

In response, a Building Information Certificate (BIC) regarding the boatshed works and use is currently under investigation by Council's Compliance Team for appropriate action. The outcome of this compliance investigation is independent from the subject modification application and therefore would not impact the outcome of the assessment.

Any other concerns of unauthorised work(s), including related evidence may be submitted to Council's compliance team for investigation by lodging a service request.

5.1.2 Noise Impacts

Submissions were received concerning noise impacts.

In response, low density development of this nature would not require additional assessment of noise and vibration prior to approval of the application in this instance. Notwithstanding, a construction management plan is required to be approved by Council prior to the issue of a Construction Certificate which is to contain information regarding noise and vibration and associated mitigation measures. Conditions requiring reasonable steps to be taken to minimise dust generated during all works are recommended.

Suitable conditions have been recommended in the original approval to maintain residential amenity, including restricting demolition and construction work to prescribed times and days, as well as ongoing use noise restrictions consistent with the Noise Policy for Industry 2017 and Protection of the Environment Operations (Noise Control) Regulation 2017.

5.1.3 Integrity of Statement of Supporting Documentation

Submissions were received concerning the integrity of supporting material provided with the application.

In response, no objections are received regarding the integrity of supporting plans and documentation to appropriately assess the subject modification application. The assessment involved consideration of supporting material provided by the applicant, site inspection, consideration of submissions raised and other available material to assess the modification application.

5.1.4 Introduction of Precedence of Similar Developments

Submissions were received concerning establishing a precedence of similar developments.

In response, each Development Application is assessed on its merits against relevant planning controls in their own right within their own unique context and circumstances.

5.1.5 Objection to original development approval DA/800/2025

Submissions were received objecting to the original development application DA/800/2025.

In response, this is not a matter of consideration for the subject modification application. Matters of concern raised at the time of this assessment were considered during the assessment and are detailed in the assessment report.

5.1.6 Risk of pool fence obstructing bird flight paths

A submission was received raising concerns that the glass pool fence would obstruct bird flight paths.

In response, this is not a relevant matter for consideration for the subject modification application.

5.1.7 Other matters in Submissions

Other matters raised in submissions are discussed in the body of this report under the relevant section headings referenced below:

- Zoning - refer to Section 2.3.1
- Earthworks - refer to Sections 2.3.3 & 3.1.3
- Bulk and Scale - refer to Section 2.7.1
- Privacy & Views - refer to Section 2.7.3
- Bushfire - refer to Sections 2.1 and 3.14
- Tree Preservation & Removal - refer to Section 3.1.1
- Biodiversity Impacts - refer to Section 3.1.2

5.2 Public Agencies

The modification 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 modification 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 Section 4.55(2) modification application proposes construction of a swimming pool, deck and associated landscaping ancillary to a dwelling house.

The modification 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 14 submissions during the public notification period, plus one late submission. The matters raised have been addressed in the body of the report.

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

The reasons for this decision are:

- The proposed modification is substantially the same as the approved development.
- Subject to the recommended conditions, the proposed development complies with the relevant specifications and requirements of Planning for Bush Fire Protection in accordance with the requirements of Section 4.14(1) of *Environmental Planning and Assessments Act 1979*.
- The proposed modification generally complies with the requirements of the relevant environmental planning instruments and the Hornsby Development Control Plan 2024.
- The proposed modification 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.  Architectural Plans

File Reference: DA/800/2025/B
Document Number: D09821943

ITEM 1

SCHEDULE 1

Date of this modification (Mod B):	
Details of this modification:	Construction of a swimming pool and associated landscaping
Conditions Added:	Nil
Conditions Deleted:	Nil
Conditions Modified:	1, 1A, 1B, 19, 70, 73

ITEM 1

GENERAL CONDITIONS

Condition

1. Approved Plans and Supporting Documentation (Mod B)

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
DA04 Rev D	Site & Roof Plan - Proposed	Wardarchitecture	Nov 2025	D09330158
DA07 Rev E	Existing Boatshed Level Plan - Showing Extent of Demolition & Proposed Boatshed Level Plan	Wardarchitecture	Nov 2025	D09330158
DA08 Rev E	Existing Ground Level Plan - Showing Extent of Demolition & Proposed Ground Level Plan	Wardarchitecture	Nov 2025	D09330158
DA09 Rev D	Upper Level - Proposed	Wardarchitecture	Nov 2025	D09330158
DA10 Rev D	Pool Level - Proposed	Wardarchitecture	Nov 2025	D09330158
DA11 Rev D	East Elevation - Existing & Proposed	Wardarchitecture	Nov 2025	D09330158
DA12 Rev D	West Elevation, Section A-A, B-B	Wardarchitecture	Nov 2025	D09330158
DA13 Rev D	North Elevation, Section C-C	Wardarchitecture	Nov 2025	D09330158
DA14 Rev D	South Elevation, Section D-D	Wardarchitecture	Nov 2025	D09330158
DA15 Rev D	Pool Cabana Elevations	Wardarchitecture	Nov 2025	D09330158
DA17 Rev D	Materials Palette	Wardarchitecture	Nov 2025	D09330158
DA23 Rev D	Inclinor Plan and Elevation	Wardarchitecture	Nov 2025	D09330158
DA24 Rev B	Retaining Walls North and South	Wardarchitecture	Nov 2025	D09330158
LA01 Rev E	Landscape and Tree Protection Plan	Wardarchitecture	Nov 2025	D09330158
LA02 Rev A	Landscape Plant Selection & Details	Wardarchitecture	Nov 2025	D09330158
DA04, Rev.	Site Plan	Wardarchitecture	August	

Plan No.	Plan Title	Drawn by	Dated	Council Reference
G			2026	
DA10, Rev. G	Pool Deck and Pool Pump Room	Wardarchitecture	August 2026	
DA13, Rev. G	North Elevation & Perspective	Wardarchitecture	August 2026	
DA14, Rev. G	South Elevation & Perspective	Wardarchitecture	August 2026	
LA01, Rev. G	Landscape and Tree Protection Plan	Wardarchitecture	August 2026	
LA02 Rev G	Landscape Plant Selection & Details	Wardarchitecture	August 2026	

Supporting Documentation

Document Title	Prepared by	Dated	Council Reference
BASIX Certificate No. A1816162	Melissa Ward	08.10.2025	D09231854
BASIX Certificate No. A1816162_02	Ms Melissa Ward	17.07.2026	D09816365
Waste Management Plan	Unknown	08.10.2025	D09231850
Site Classification & Slope Stability Risk Assessment Report Ref: JS/S1772 Rev 1	Fortify Geotech	09.10.2025	D09231856
Site Classification & Slope Stability Risk Assessment Report Ref: S1772_01_SCS_Rev2	Fortify Geotech	21.07.2026	D09816370
Arboricultural Impact Assessment	Accurate Tree Assessment	October 2025	D09231833
Bush Fire Assessment Report Ref: GO: 24943A Ver 4	Clarke Dowdle & Associates	30.09.2025	D09231830
Aboriginal Heritage Due Diligence Report Ref: 27193	Ravi Sharma	10.10.2025	D09231845
Dwg No. 22.G30-SMP-1 Rev. C Stormwater Management Plan Site and Roof Plan	GNG Design Pty Ltd	18.12.2025	D09289447
Dwg No. 22.G30-SMP-1 Rev. E Stormwater Management Plan Site and Roof Plan	GNG Design Pty Ltd	22.07.2026	D09816376

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

1A. Works Not Approved under this Consent (Mod B)

The following proposed works shown on the plans are not approved under this consent:

1. The boatshed and associated works are not included in the approved works.
2. ~~All works associated with the swimming pool, pergola and cabana structure.~~

Reason: To ensure all parties are aware of the works that apply to the development.

1B. Amendment of Plans (Mod B)

1. ~~The approved plans are to be amended to delete the boatshed and all works associated with the swimming pool, pergola and cabana structures.~~
2. To provide suitable landscaping and satisfy the requirements landscaping on bushfire prone land, the approved Landscape Plans (Plan No. LA01 Rev. E and LA02 Rev. A) prepared by wardarchitecture dated November 2025 are to be amended as follows:
 - a. Clearly demonstrate the provision of the maximum allowable replacement trees and shrubs to be planted in conjunction with the retention of natural vegetation. The replacement planting is to be in accordance with Planning for Bushfire Protection 2019 and to be in consultation with a BPAD accredited bushfire consultant.
 - b. The amended landscape plans are to be prepared in consultation with a BPAD accredited bushfire consultant to ensure the proposed planting satisfies the requirements of Planning for Bushfire Protection 2019 and the Inner Protection Area (IPA) required by the NSW Rural Fire Service.
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.

2. No Clearing of Vegetation

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

Reason: To protect vegetation on the site.

3. Construction Certificate

1. A Construction Certificate is required to be approved by Council or a Principal Certifier prior to the commencement of any construction works under this consent.
2. The Construction Certificate plans must be consistent with the Development Consent plans.

Reason: To ensure that detailed construction certificate plans are consistent with the approved plans and supporting documentation.

4. Section 7.12 Development Contributions

1. In accordance with Section 4.17(1) of the *Environmental Planning and Assessment Act 1979* and the Hornsby Shire Council Section 7.12 Development Contributions Plan 2019-2029, **\$17,094.00** must be paid towards the provision, extension or augmentation of public amenities or public services, based on development costs of \$1,709,400.00.
2. The value of this contribution is current as of 7 November 2025. If the contributions are not paid within the financial quarter that this consent is granted, the contributions payable will be adjusted in accordance with the provisions of the Hornsby Shire Council Section 7.12 Development Contributions Plan and the amount payable will be calculated at the time of payment in the following manner:

$$\text{\$C}_{PY} = \frac{\text{\$C}_{DC} \times \text{CPI}_{PY}}{\text{CPI}_{DC}}$$

Where:

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

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

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

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

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

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

Note: It is the professional responsibility of the Principal Certifier to ensure that the monetary contributions have been paid to Council in accordance with the above timeframes.

Note: In accordance with Ministerial Directions, the payment of contribution fees for development with a cost of works of over \$10 million can be deferred to prior to Occupation Certificate.

Note: The Hornsby Shire Council Section 7.12 Development Contributions Plan may be viewed at www.hornsby.nsw.gov.au or a copy may be inspected at Council's Administration Centre during normal business hours.

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

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

5. Domestic Solid Fuel Burning Appliances

1. The fire place and chimney/flue must be installed accordance with the requirements of Part 12.4 National Construction Code - Building Code of Australia.

2. The domestic solid-fuel heater must comply with the Protection of the Environment Operations (Clean Air) Regulation 2021 and Australian Standard AS 4013 Domestic solid fuel burning appliances - Method for determination of flue gas emission.

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

6. Retaining Walls

To ensure the stability of the site, structural details of all required retaining walls prepared by a suitably qualified chartered structural engineer must be submitted with the application of the Construction Certificate.

1. All elements of the retaining walls including footings must be located within the subject site.

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

7. 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.

8. Compliance with Other Department, Authority or Service Requirements

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

Other Department, Authority or Service	Document Title/ Ref	Dated	Council Reference
NSW Rural Fire Service	NSW RFS Section 4.14 Determination Letter Reference No. DA20250717002827-Original-1	04.11.2025	D09184720

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

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

BUILDING AND DEMOLITION WORK

BEFORE ISSUE OF A CONSTRUCTION CERTIFICATE

Condition

9. 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).

10. Contract of Insurance (Residential Building Work)

Where residential building work for which the *Home Building Act 1989* requires there to be a contract of insurance in force in accordance with Part 6 of that Act, this contract of insurance must be in force before any building work authorised to be carried out by the consent commences.

Reason: Prescribed condition EP&A Regulation section 69(2).

11. Notification of Home Building Act 1989 Requirements

Residential building work within the meaning of the *Home Building Act 1989* must not be carried out unless the Principal Certifier for the development to which the work relates (not being Council) has given Council written notice of the following information:

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

Note: If arrangements for doing the residential building work are changed while the work is in progress so that the information notified becomes out of date, further work must not be carried out unless the Principal Certifier for the development to which the work relates (not being Council) has given Council written notification of the updated information.

Reason: Prescribed condition EP&A Regulation section 71(2) and (3).

12. 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.

13. Flooding

In order to ensure the property and occupants are protected from flood risk the following is required:

1. Any new structure below the 1% AEP flood level shall be designed and constructed with flood compatible materials.

2. Any new structure below the 1% AEP flood level shall be designed to ensure its structural integrity to withstand the forces of floodwaters, flowing waters with debris, buoyancy, and immersion.
3. All new electrical equipment, power points, wiring, fuel lines, sewerage systems or any other service pipes and connections shall be waterproofed and/or located above the Flood Planning Level (1% AEP flood level plus 0.5 metre freeboard).
4. Storage areas for hazardous or potentially polluting materials shall not be located below the Flood Planning Level unless adequately protected from flood waters in accordance with industry standards.

Reason: To ensure appropriate provision of flood protection.

14. 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. Connected and discharged directly to Hawksbury River with energy dissipator.
2. The stormwater drainage system must be designed by a qualified hydraulic engineer.
3. Roof water must be connected to a rainwater tank having a minimum capacity as per BASIX Certificate requirements.

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

15. Construction Noise and Vibration Management Plan (CNVMP)

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

The Plan is to be developed to ensure that appropriate work practices are implemented during construction, to minimise noise impacts to surrounding receivers.

The Plan should include but not be limited to:

1. Existing noise and vibration levels within the proximity of the proposed development site. Identification of all nearby residences and other sensitive land uses.
2. Details of the extent of rock breaking or rock sawing works forming part of the proposed development works. Proposed rock breaking/sawing methods.
3. An assessment of potential noise impacts from the proposed rock breaking/sawing methods.
4. An assessment of potential noise impacts from the proposed construction vehicle movements.
5. The duration of each stage of works where the maximum level of noise and vibration are predicted to be emitted for.
6. Details of mitigation measures, inclusive of respite periods, that will meet acoustic standards and guidelines at each stage of works.

7. Details of a complaints handling process for the surrounding neighbourhood for each stage of works. Development of reactive and pro-active strategies for dealing promptly with any noise complaints, including documentation and feedback mechanisms.
8. Regular noise monitoring at nearby residences and sensitive land uses, and analysis of the results kept on site for review by Council if required.

Note: The CNVMP 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 amenity of the surrounding residential receivers.

16. Construction Management Plan (CMP) - waterfront development

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

1. Description of the works
 - a. A general description of the scope of works.
 - b. Details of any staging of works.
 - c. Location of loading and unloading areas, waste and material storage areas.
 - d. General construction waste details including construction waste storage locations and collection.
2. Construction traffic and management (including traffic management at offsite properties used to access barges)
 - a. Site access and egress for deliveries and construction vehicles from the waterfront / pontoon.
 - b. Size and types of construction vehicles
 - c. The anticipated number and frequency of any buggy, car, truck and barge movements per day over the duration of the project (i.e., throughout demolition, earthworks and construction phases)
 - d. Management measures to be implemented to minimise disruption to, and maintain the safety, of all road users.
 - e. Arrangement of all construction machines being used at the same time during construction.
3. Sediment and erosion control plan
 - a. Location where any cutting/sanding of materials will occur and details of the associated sediment and erosion control and dust suppression measures to be implemented on site during these works.

4. Details on the general operating procedures to manage environmental risk throughout all stages of works on the site.

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.

17. Acid Sulfate Soils Management Plan (ASSMP)

1. An Acid Sulfate Soils Management Plan (ASSMP) must be prepared by a suitably qualified environmental consultant in consultation with a chartered Structural Engineer and be approved by Council's Compliance Team via Council's Online Services Portal prior to issue of a Construction Certificate.
2. The ASSMP must be undertaken in accordance with the Acid Sulfate Soil Manual, Acid Sulfate Soil Management Advisory Committee, 1998.

Note: The ASSMP 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 protect the environment from the effects of acid sulfate soils.

18. Appointment of a Project Arborist

1. To ensure the trees that must be retained are protected, a project arborist with AQF Level 5 qualifications must be appointed to assist in ensuring compliance with the conditions of consent and provide monitoring reports as specified by the conditions of consent.
2. Details of the appointed project arborist must be submitted to Council and the Principal Certifier with the application for the construction certificate.

Reason: To ensure appropriate monitoring of trees to be retained.

19. Geotechnical Requirements (Mod B)

The development must be designed and carried out in accordance with the recommendations in Site Classification & Slope Stability Risk Assessment Report Ref: S1772_01_SCS_Rev2 prepared by Fortify Geotech dated 21 July 2026 (approved Geotechnical Report). Details of the implemented recommendations are to be provided to the Principal Certifier with the application for a Construction Certificate.

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

BEFORE BUILDING AND DEMOLITION WORK COMMENCES

Condition

20. 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).

21. 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.

22. 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.

23. 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.

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

24. Toilet Facilities

1. To provide a safe and hygienic workplace, toilet facilities must be available or be installed at the works site before works begin and must be maintained until the works are completed at a ratio of one toilet for every 20 persons employed at the site.
2. Each toilet must:
 - a. Be a standard flushing toilet connected to a public sewer; or
 - b. Be a temporary chemical closet approved under the *Local Government Act 1993*.

Reason: To ensure adequate toilet facilities are provided.

25. 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.

26. Impacts to Fauna Habitat

To ensure the protection of local fauna, prior to the removal of trees:

1. An arborist, ecologist or wildlife carer is to inspect all vegetation for wildlife and active habitat use including nests, hollows and decorticated bark no earlier than one day before demolition.
2. If any wildlife is identified or habitat is being actively used for nesting the tree and vegetation removal must be deferred until after inhabitants have fledged. Relocation of nests and eggs is not to be undertaken. In the event wildlife are identified, clearing is to cease until the ecologist or wildlife carer have confirmed that fauna has been relocated.
3. Trees are to be removed in sections by a qualified tree surgeon in the presence of a Wildlife Carers organisation to assist in the event of fauna presence or injury. A wildlife carer must be on site to capture any observed wildlife from the trees and relocate into adjacent bushland if the animals are unable to relocate themselves.
4. A certificate must be provided to Council (naturalresourcesplanning@hornsby.nsw.gov.au) and the Principal Certifier by a suitably qualified ecologist or wildlife carer with details of fauna relocated and the outcome of the inspection.

Note: 'WIRES' (Wildlife Rescue) volunteers can be contacted on 1300 094 737. 'Wildlife Services Sydney Metropolitan' volunteers can be contacted on 9413 4300.

Reason: To ensure the protection of resident fauna during and post works on the site.

27. Installation of Tree Protection Measures

1. Trees to be retained as identified on Appendix 11.2 Survey Plan + Tree Retention/Removal Plan on page 16 of the Arboricultural Impact Assessment provided by Accurate Tree Assessment dated October 2025 must have tree protection measures for the ground, trunk and canopy installed by the Project Arborist for the duration of demolition and construction works.
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 (Temporary Fencing and Hoardings (AS4687)).

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. Tree crown protection measures are required and must be installed by the AQF 5 Project Arborist.
5. The circumference of the trunk(s) must be wrapped in hessian material to provide cushioning for the installation of timber planks.
6. Timber planks (50 x100mm) must be spaced at 100mm intervals and must be attached using adjustable ratchet straps.
7. All tree protection zones must have a layer of wood-chip mulch at a depth of between 150mm and 300mm.
8. Where wood-chip mulch is permitted by Council instead of tree protection fencing within the tree protection zones, the woodchip must be covered with a layer of geotextile fabric and rumble boards.

Reason: To protect trees during construction.

28. Waste Management Details

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

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

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

29. 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.

30. Appointment of a Project Geotechnical Engineer

An appropriately qualified Geotechnical Engineer shall be appointed to ensure that the stability of the land and construction is undertaken generally in accordance with the recommendations outlined in the approved Geotechnical Report.

Reason: To ensure the stability of the site.

DURING BUILDING AND DEMOLITION WORK

Condition

ITEM 1

31. 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.

32. 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.

33. Handling of Asbestos

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

1. Only an asbestos removal contractor who holds the required class of Asbestos Licence issued by SafeWork NSW must carry out the removal, handling, and disposal of any asbestos material.
2. Asbestos waste in any form must be disposed of at a waste facility licensed by the NSW Environment Protection Authority to accept asbestos waste; and
3. Any asbestos waste load over 100kg (including asbestos contaminated soil) or 10m² or more of asbestos sheeting must be registered with the EPA on-line reporting tool WasteLocate.

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

34. 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.

35. Compliance with Construction Management Plan (CMP) - waterfront development

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.

36. Compliance with Construction Noise and Vibration Management Plan (CNVMP)

The Council approved Construction Noise and Vibration Management Plan (CNVMP) 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.

37. Compliance with Acid Sulfate Soil Management Plan

The Council approved Acid Sulfate Soil Management must be complied with for the duration of works, unless otherwise approved by Council.

Reason: To ensure compliance with commitments to protect the environment from the effects of acid sulfate soils.

38. 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.

39. 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.

40. 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 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.

41. 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.

42. Survey Report

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

1. Prior to the pouring of concrete at each level of the building certifying that:
 - a. The building, retaining walls and the like have been correctly positioned on the site; and
 - b. The finished floor level(s) are in accordance with the approved plans.

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

43. Waste Management

All work must be carried out in accordance with the approved waste management plan.

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

44. Maintenance of Public Footpath and Road

1. Public footpaths must be maintained for the duration of works to ensure they are free of trip hazards, displacements, breaks or debris to enable pedestrians to travel along the footpath safely.
2. Where any part of the road or footpath is required to be occupied or closed during any stage of works, including demolition, excavation or construction, 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 maintain safe pedestrian movement.

45. Removal of Trees

1. This development consent permits the removal of trees numbered Trees 1, 6-11 (inclusive), 13, 18 and 19 as identified on Appendix 11.2 Survey Plan + Tree Retention/ Removal Plan on page 16 of the Arboricultural Impact Assessment provided by Accurate Tree Assessment dated October 2025.
2. No consent is granted for the removal of trees numbered Trees 2, 3, 4, 5, 12, 14, 15, 16, 17, 20, 21, 22, 23, 24, 25, 26 and 27 as identified on Appendix 11.2 Survey Plan + Tree Retention/ Removal Plan on page 16 of the Arboricultural Impact Assessment provided by Accurate Tree Assessment dated October 2025 as these trees contribute to the established landscape amenity of the area/streetscape.

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

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

46. 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.

47. 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

Appendix 11.2 Survey Plan + Tree Retention/ Removal Plan on page 16 of the Arboricultural Impact Assessment provided by Accurate Tree Assessment dated October 2025.

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

48. 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.

49. 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. Approved excavations within the Tree Protection Zone of trees to be retained not associated with installation of services must be undertaken as follows:
 - a. Excavations associated with the basement and building footprint and within the Tree Protection Zone of trees must be overseen by the AQF 5 Project Arborist for the first 1m undertaken manually to a depth of 500mm to locate roots and allow for pruning.
 - b. Excavations for the construction and/or installation of the house/deck/driveway/piers in the Tree Protection Zone of trees to be retained on the approved plans must be supervised by the Project Arborist, undertaken manually to locate roots and allow for pruning.
3. To minimise impacts within the Tree Protection Zone (TPZ) of trees retained on the approved plans, 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.
 - c. For manually excavated trenches the AQF 5 Project Arborist must designate roots to be retained. Manual excavation may include the use of pneumatic and hydraulic tools.
4. Where scaffolding is required, ground protection must be installed beneath the scaffolding in the following order:
 - a. Installation of a 100mm deep layer of woodchip; and
 - b. Installation of geotextile fabric ground covering; and
 - c. Installation of scaffold boarding above the woodchip and geotextile fabric.

Reason: To protect trees during construction.

50. 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.

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).

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. Storage and Removal of Waste

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

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

56. Public Property

To ensure that the public reserve is kept in a clean, tidy, and safe condition during 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*.
3. No building materials, skip bins, machinery, waste or items associated with the development shall be stored or placed directly on the public foreshore below mean high water mark except for approved works in accordance with this consent.

Reason: To protect public land.

57. Archaeology and Aboriginal Heritage

1. Should any substantial intact archaeological deposits whether artefacts, relics, or occupation deposits or Aboriginal objects be discovered or uncovered, excavation and / or disturbance of the site is to immediately cease, and Hornsby Shire Council and Heritage NSW notified.
2. Additional assessment and approval pursuant to the National Parks and Wildlife Act 1974 may be required prior to works continuing in the affected area(s) based on the nature of the discovery.

Reason: To protect archaeological deposits or Aboriginal objects in the event of unexpected findings during works.

BEFORE ISSUE OF AN OCCUPATION CERTIFICATE

Condition

58. Fulfilment of BASIX Commitments

The applicant must demonstrate the fulfilment of BASIX commitments pertaining to the development.

Reason: Prescribed condition under section 75. EP&A Regulation.

59. Domestic Solid Fuel Burning Appliance Installation

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

1. The installation of the domestic solid fuel heating appliance including the chimney and flue was completed by an appropriately experienced and qualified person in accordance with Part 12.4 of the 2022 NCC (Building Code of Australia) and

Australian Standard 2918-2018 - Domestic Solid Fuel Burning Appliances - Installation; and

2. The model of the domestic solid fuel heating appliance installed complies with:
 - a. Australian Standard AS4013-2025 Domestic solid fuel burning appliances - Method for determination of flue gas emission; and
 - b. Australian Standard AS4012-2025 Domestic solid fuel burning appliances - Method for determination of power output and efficiency.

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

60. Compliance with Acid Sulfate Soil Management Plan

A report is to be submitted to the Principal Certifier by a suitably qualified Environmental Consultant in consultation with a chartered Structural Engineer prior to the issue of an Occupation Certificate, confirming compliance with all recommendations as outlined in the Acid Sulfate Soil Management Plan.

Reason: To ensure compliance with commitments to protect the environment from the effects of acid sulfate soils.

61. 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.

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

Reason: To ensure compliance with tree protection commitments.

62. 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.

63. 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)

[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.

64. Retaining Walls

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

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

65. Submission of Excavated Material Tipping Dockets to Principal Certifier

Tipping dockets 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.

66. Wastewater Connection to Sydney Water

All wastewater generated by the dwelling must be connected to Sydney Water's sewerage system.

Reason: To ensure the appropriate disposal of wastewater.

67. 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.

68. Certification from Geotechnical Engineer

Prior to the issue of an occupation certificate, a certificate by a qualified geotechnical engineer shall be submitted to the principal certifier, certifying that all works have been carried out in accordance with the recommendations in the approved Geotechnical Report.

Reason: To ensure the stability of the site.

69. Certification of RFS Requirements

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

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

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

70. Swimming Pool Requirements (Mod B)

The construction and operation of the swimming pool must comply with the provisions of the Swimming Pool Act 1992, the Swimming Pool Regulation 2018, Australian Standard AS1926.1-3 Swimming pool safety and the following requirements:

1. All wastewater from the pool's filtration system must be disposed of as follows:
 - a. Sand Filter requirements:
 - i. Where a Sydney Water sewer is available - wastewater shall be drained or pumped to the sewer
2. The motor, filter, pump, and all sound-producing equipment associated with, or forming part of, the swimming pool filtration system is to be located in a sound-proofed enclosure.
3. The applicant must participate in the 'Static Water Supply Project' initiative of the NSW Fire Brigade, to make available the water in the swimming pool for use as a static water supply for fire-fighting purposes by the NSW Fire Brigade or the NSW Rural Fire Service.
4. A certificate shall be provided to the certifying authority upon installation of any swimming pool reticulation system verifying design and installation in accordance with Australian Standard AS1926.3 Water recirculation systems.

Note: On completion of the swimming pool, the applicant is to contact the local NSW Fire Brigade Station or NSW Rural Fire Service Station to arrange the installation of a static water supply identification plate.

Reason: To ensure swimming pool safety and protect the environment and amenity of the local area.

OCCUPATION AND ONGOING USE

Condition

71. Use of Premises

The development approved under this consent shall be used for a dwelling house and not for any other purpose without Council's separate written consent.

1. No consent is granted for a secondary dwelling under this application.
2. No retrospective consent is granted for any works to the boat shed under this application.

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

72. Inclinator Noise and Vibration

The ongoing use of the inclinator installed on the premises must not cause the emission of noise that exceeds the background noise level by more than 5dBA when measured at, or computed for, the most affected point, on or within the boundary of any residential receiver. Modifying factor corrections must be applied for tonal, impulsive, low frequency or intermittent noise in accordance with the Noise Policy for Industry 2017.

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

73. Swimming Pool Noise Requirements (Mod B)

1. The noise levels associated with the use of swimming pool and spa pumps (excluding heat pump water heaters) shall not exceed more than 5dB(A) above the background noise (LA90, 15 min) level during the following times:
 - a. Between 8 am and 8 pm on any Saturday, Sunday or public holiday, or
 - b. Between 7 am and 8 pm on any other day
2. The noise levels associated with the use of spa and swimming heat pump water heaters shall not exceed more than 5dB(A) above the background noise (LA90, 15 min) level during the following times:
 - a. Between 8 am and 10 pm on any Saturday, Sunday or public holiday, or
 - b. Between 7 am and 10 pm on any other day

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

74. Bushfire Protection Zones

The required bushfire protection zone(s) around the buildings must be maintained in perpetuity in accordance with Planning for Bushfire 2019 requirements.

Reason: To ensure bushfire protection measures are maintained to protect life and property.

75. Ongoing Protection of Bushland

The natural bushland area of the site identified on the approved plans must remain undisturbed and be protected in perpetuity in accordance with the following requirements:

1. The bushland area between the front boundary and Riverview Avenue is to be kept free of noxious weeds using recognised bush regeneration methods in accordance with 'Recovering bushland on the Cumberland Plain: Best practice guidelines for the management and restoration of bushland - Department of Conservation 2005'; and
2. Machinery and fertilizer must not be used in the bushland area for maintenance purposes.

Reason: To ensure the ongoing protection of bushland.

76. Operation and Maintenance

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

1. The Protection of the Environment Operations (Clean Air) Amendment (Solid Fuel Heaters) Regulation 2016; and
2. The NSW Environment and Protection Authority (EPA) Environmental guidelines for selecting, installing and operating domestic solid fuel heaters, which states:
 - a. Only clean, dry, well-seasoned and untreated hardwood should be used as fuel in the heating appliance.
 - b. Firewood should be stored clear of the ground, in a dry ventilated area, under a roof with open sides and ends.
 - c. Freshly cut firewood should be seasoned for approximately six to twelve months before use.
 - d. The heating appliance should not smoulder overnight.

- e. Sufficient air should be provided in the heating appliance to maintain a flame;
and
- f. The chimney and flue should be cleaned regularly, at least at the end of
every heating season.

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

- END OF CONDITIONS -

ITEM 1

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

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. LPP25/26 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

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